

Disciplinary Actions

Disciplinary Actions Reported For July

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of June 23, 2000.

Firms Expelled, Individuals Sanctioned

Liberty National Securities, Inc. (CRD #17955, Dundee, Michigan) and Robert James Guyer (CRD #1292105, Registered Principal, Dundee, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was expelled from membership with the NASD and Guyer was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Guyer, permitted a statutorily disqualified person to be associated with the firm. **(NASD Case #C8A000032)**

USA Investments Incorporated (CRD #41280, Morristown, New Jersey), Richard Paul Rodgers (CRD #501208, Registered Principal, Morris Plains, New Jersey), and John Henry Suhre (CRD #1670360, Registered Principal, Fairless Hills, Pennsylvania). The firm was expelled from membership with the NASD, suspended from membership in the NASD for two years, and fined \$160,000. Rodgers was suspended from association with any NASD member in any capacity for two years, barred from association with any NASD mem-

ber in any capacity, and fined \$185,000. Suhre was barred from association with any NASD member in any capacity and fined \$30,000. The fines must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that the firm and Rodgers filed Secured Demand Note Collateral Agreements (agreements) with the NASD that contained material misrepresentations to obtain approval to permit the firm to classify the agreements as equity capital, instead of debt, in order to avoid being subject to the debt-equity requirements. In addition, the firm, acting through Rodgers, gave false testimony during an on-the-record interview; falsified the firm's corporate books and records; and provided the NASD with false, forged corporate resolutions purporting to reflect the issuance of one share of preferred stock to the lenders listed in the agreements. Moreover, the firm, acting through Rodgers, failed to maintain required net capital and filed a false and misleading FOCUS Part IIA report. Rodgers also failed to respond truthfully during his on-the-record interview and failed to respond completely to an NASD request for information. Also, the firm, acting through Rodgers, permitted individuals to maintain their securities registrations with the firm even though they were not active in the firm's securities business, and the firm, acting through Rodgers and Suhre, improperly held Suhre out as the firm's registered financial and operations principal (FINOP), even though he did not perform the functions of a FINOP.

The firm and Rodgers' suspensions began June 19, 2000, and will conclude at the close of business on June 18, 2002. **(NASD Case #C9B990029)**

Firms Fined, Individuals Sanctioned

Joseph Stevens & Company, Inc. (CRD #35459, New York, New York) and **Joseph Sorbara (CRD #1001403, Registered Principal, Muttontown, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm and Sorbara were fined \$75,000, jointly and severally. The firm was also censured and ordered to disgorge \$796,907 to the NASD. Sorbara was also suspended from association with any NASD member in any capacity, including clerical or ministerial functions, for 75 days. Without admitting or denying the allegations, the firm and Sorbara consented to the described sanctions and to the entry of findings that the firm, acting through Sorbara, purchased warrants from the firm that was the lead underwriter for the initial public offering (IPO), sold nearly all the warrants to public customers within 45 minutes, and did virtually no trading in any other securities. The findings also stated that the firm's sales force received higher than normal compensation for the warrant sales that were of substantial magnitude and accompanied by special selling efforts and methods so as to constitute a distribution. The findings further stated that the firm, acting through Sorbara, made a market in this security in violation of Securities and Exchange Commission (SEC) and NASD rules and created a public offering without filing the required documents and information with the NASD for review. In addition, the respondents failed to obtain an opinion from the NASD that it had no objections to the underwriting and other terms and arrangements. Moreover, as a result of this transaction constituting a public offering receiving an unreasonable amount of underwriting

compensation, the firm and Sorbara failed to disclose all items of underwriting compensation in a prospectus or similar document and, as a result, the firm received \$871,907 in excessive underwriting compensation.

Sorbara's suspension began on June 19, 2000, and will conclude at the close of business on September 1, 2000. **(NASD Case #CAF000006)**

Stonebridge Securities, Inc. (CRD #38602, Lynbrook, New York) and **Joseph Giulio Chiulli (CRD #1149276, Registered Principal, Lynbrook, New York)** submitted an Offer of Settlement in which the firm and Chiulli were censured and fined \$75,000, jointly and severally. Chiulli was also barred from association with any NASD member in any principal capacity and barred from association with any NASD member in any capacity with the right to reapply for association in a non-principal capacity after three years from the date of acceptance of the Offer. Payment of the fine shall be a prerequisite before Chiulli seeks to reassociate with a member firm or requests relief from any statutory disqualification. Without admitting or denying the allegations, the firm and Chiulli consented to the described sanctions and to the entry of findings that they violated the firm's restriction agreement by effecting proprietary and equity trades, transferring customer accounts from other firms to Stonebridge, and opening an account for a new customer. The findings also stated that the firm and Chiulli failed to respond truthfully to the NASD regarding proprietary trading, new customer account forms, bank accounts not previously disclosed, the source of entries in the firm's cash blotter, and sources of revenue. The firm and Chiulli also

created false entries in the firm's cash blotter to hide revenues generated by equity trading activities and filed an inaccurate FOCUS Part II report. In addition, they operated a securities business while failing to maintain the required minimum net capital and failed to notify NASD of the firm's net capital violations. Furthermore, the firm and Chiulli failed to respond to NASD requests for information and documentation. **(NASD Case #C10960211)**

Firm And Individual Fined

Arka Securities, Inc. (CRD #19920, San Diego, California) and **Denise Yvette Filotas (CRD #2519444, Registered Principal, San Diego, California)** submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$20,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through Filotas, engaged in the securities business while failing to have and maintain sufficient net capital. **(NASD Case #C02000029)**

Firms Fined

CIBC Oppenheimer (CRD #630, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to have in place a supervisory system adequate to oversee and monitor the activities of individuals acquiring and selling certificates of participation and failed to have supervisory procedures for the sale of unrated municipal securities. The findings also stated that the firm

failed to establish and maintain a system to supervise the activities of each registered representative and associated person that was reasonably designed to achieve compliance with federal securities laws and NASD rules. **(NASD Case #CAF000020)**

Kemper Distributors, Inc. (CRD #37306, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent (AWC) in which the firm was censured, fined \$100,000 to be paid within 10 days of notice of acceptance by the National Adjudicatory Council (NAC) of this AWC, and required to pre-file with the NASD all advertisements depicting performance information through the use of graphs, bar charts, or pie charts for approval 15 days prior to their initial use for six months from the date of acceptance by the NAC of this AWC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published advertisements that failed to depict accurately performance of several mutual funds underwritten and distributed by the firm. The findings also stated that the firm failed to obtain approval from a registered principal prior to the use of certain of the advertisements. In addition, the firm failed to file, or filed in an untimely manner, a number of the advertisements with the NASD. Moreover, the firm failed to establish and maintain procedures reasonably designed to achieve compliance with the NASD's principal approval and filing requirements. **(NASD Case #CAF000012)**

Pan-American Financial Advisors (CRD #15578, New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and

fined \$7,500, jointly and severally with an individual. The firm was fined an additional \$5,000 and required to conduct an internal audit to ensure that all mutual fund liquidation transaction commissions incorrectly charged to the customer were properly refunded within 90 days of acceptance of the AWC by the NAC and to report the audit results, in writing, to the NASD. Without admitting or denying the allegations, the firm consented to the described allegations and to the entry of findings that the firm, acting through an individual, engaged in a securities business while failing to maintain the required minimum net capital and failed to give immediate telegraphic notice that its net capital was below the required minimum. The findings also stated that the firm, acting through the individual, failed to record aggregate receivables due from its clearing firm, inaccurately reported the firm's net capital on FOCUS Part I and Part II reports, and charged commissions to customer accounts in connection with mutual fund liquidation transactions without disclosing that the transactions would have been free if they had been conducted directly with the mutual fund. In addition, the firm allowed an individual to act in the capacity of a general securities principal while not properly registered with the NASD due to the firm's failure to file a Form U-4. **(NASD Case #C05000025)**

Individuals Barred Or Suspended

Mark Steven Balbirer (CRD #2297951, Registered Representative, Sunrise, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Balbirer effected an unauthorized transaction in a customer account. **(NASD Case #C07000001)**

Greg Spencer Barton (CRD #2336541, Registered Principal, Redmond, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$4,000 and suspended from association with any NASD member as a general securities representative for 10 days. Without admitting or denying the allegations, Barton consented to the described sanctions and to the entry of findings that he failed to provide prompt written notice to his member firm, although he was given opportunities to do so, that he had provided investment advisory services to public customers and received compensation totaling \$24,777.

Barton's suspension began July 3, 2000, and concluded at the close of business on July 12, 2000. **(NASD Case #C3B000008)**

Jeffrey Dale Bates (CRD #2386066, Registered Representative, Stephens City, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bates consented to the described sanction and to the entry of findings that he received a \$6,500 check from a public customer to be deposited into new accounts for the benefit of the customer's son, failed to deposit the funds, and, instead, deposited the check into the account of another customer to offset previous losses incurred in the account, without the first customer's knowledge or consent. **(NASD Case #C05000027)**

James Oakley Baxter, Jr. (CRD #1176297, Registered Representative, Norfolk, Virginia) was barred from association with any NASD member in any capacity.

The NAC imposed the sanction following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Baxter invested customer funds in limited liability companies without customer authorization. Baxter also failed to respond to an NASD request for information. **(NASD Case #C07990016)**

Kurt Francis Chatham (CRD #33296, Registered Representative, Hobe Sound, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegation, Chatham consented to the described sanction and to the entry of findings that he made improper use of approximately \$20,000 in funds of a public customer, fabricated an account statement, and provided a copy of that statement to the customer. According to the findings, the fabricated statement indicated that the customer's funds were in an account titled in her name, which was untrue, and also listed Chatham as the account executive, when he was not registered or associated with the member firm carrying the account.

Chatham's suspension began June 19, 2000, and will conclude at the close of business on June 18, 2002. **(NASD Case #C07000031)**

Victor Andrew Chu (CRD #2170077, Registered Principal, Costa Mesa, California) submitted an Offer of Settlement in which he was fined \$12,500, suspended from association with any NASD member as a general securities principal for two years, and ordered to requalify by examination as a general securities principal. Without admitting or denying the allegations, Chu con-

sent to the described sanctions and to the entry of findings that he permitted his firm's principal owner and sole director to actively engage in the management of the firm's securities business without being registered with the NASD in a principal capacity. The findings also stated that Chu recommended to public customers the purchases of limited partnership interests without having reasonable grounds for believing that they were suitable for the customers, and failed to establish or follow procedures reasonably designed to carry out the supervision of sales representatives to ensure compliance with applicable securities rules and regulations. Moreover, Chu failed to respond adequately in a supervisory capacity when confronted with, or exposed to, various red flags which indicated that the recommendations by sales representatives were unsuitable.

Chu's suspension began June 19, 2000, and will conclude at the close of business on June 18, 2002. **(NASD Case #C02970012)**

Patrice Cohen (CRD #1643865, Registered Representative, Tampa, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cohen consented to the described sanction and to the entry of findings that she completed change forms for client accounts that modified the amounts invested by each client through automatic payroll deductions into tax-deferred annuity accounts, without the authorization or knowledge of her clients. The findings also stated that Cohen forged her clients' names to the change forms and received thousands of dollars in unearned commissions from her member firm. **(NASD Case #C07000036)**

Brian Lamont Dale (CRD #2521526, Registered Representative, South Holland, Illinois) was barred from association with any NASD member in any capacity, and ordered to repay his member firm \$2,798.56 in insurance commissions. The sanctions were based on findings that Dale used another agent's name and code number to submit insurance applications in order to wrongfully receive commissions totaling \$2,798.56 from the firm. Dale also failed to respond to NASD requests for information. **(NASD Case #C8A990043)**

Yan Dikshteyn (CRD #2528880, Registered Representative, Chicago, Illinois) and **Igor M. Fleyshmakher (CRD #2102367, Registered Principal, Chicago, Illinois)** submitted an Offer of Settlement in which they were barred from association with any NASD member in any capacity. In light of the financial status of the respondents, no monetary sanction has been imposed. Without admitting or denying the allegations, Dikshteyn and Fleyshmakher consented to the described sanction and to the entry of findings that they engaged in fraudulent sales practices that resulted in substantial harm to public customers and engaged in extensive and egregious unauthorized trading. The findings also stated that Dikshteyn made baseless price predictions and other misrepresentations to induce customers to purchase securities or to ratify unauthorized trades. **(NASD Case #CAF990044)**

John Patrick DiPre (CRD #1223670, Registered Representative, Solon, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$32,453.77, which included disgorgement of \$17,453.77, and suspended from

association with any NASD member in any capacity for two years. The fine must be paid prior to reassociation with a member firm following the suspension or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, DiPre consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers away from his member firm and received \$17,453.77 in commissions. DiPre failed to provide his firm with written notice describing the transactions and his role and also failed to receive written approval from his firm to participate in the transactions. The findings also stated that DiPre did not respond completely to NASD requests for information and documents.

DiPre's suspension began June 19, 2000, and will conclude at the close of business on June 18, 2002. **(NASD Case #C8B000007)**

Michael Robblee Ferguson (CRD #2220143, Registered Representative, East Amherst, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Ferguson consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C8B000006)**

Thomas Patrick Gorman (CRD #3144585, Registered Representative, Springfield, Massachusetts) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gorman consented to

the described sanction and to the entry of findings that he received \$30,626.81 in cash and checks from a public customer to invest in mutual fund accounts, failed to deposit the funds as directed, forged the customer's name to the checks, and took the cash in order to convert and misappropriate the funds for his own use and benefit. The findings also stated that Gorman failed to respond to NASD requests to provide information. **(NASD Case #C11000003)**

Robert Mark Gray (CRD #1504190, Registered Representative, Oceanside, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gray consented to the described sanction and to the entry of findings that he caused the execution of transactions in a public customer's account without the customer's knowledge or consent. **(NASD Case #C10000080)**

Roland Imre Greenspan (CRD #1453740, Registered Principal, Loxahatchee, Florida) and **Joseph David Belcastro (CRD #1415745, Registered Principal, Amityville, New York)** submitted Offers of Settlement in which Greenspan was fined \$10,000 and suspended from association with any NASD member in any principal or supervisory capacity for two years. Belcastro was fined \$6,000 and suspended from association with any NASD member in the capacity of a FINOP for 15 business days. The fines must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, the respondents consented to the described

sanctions and to the entry of findings that Greenspan failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance by his member firm with applicable laws, rules, and regulations relating to marketmaking and unauthorized transactions in customer accounts. The NASD also found that Greenspan failed to report customer complaints received by his member firm and failed to take reasonable measures to address, investigate, and resolve numerous customer complaints of unauthorized trades filed against an individual or to prevent such misconduct by the individual. The findings also stated that Belcastro permitted his member firm to conduct a securities business while failing to meet its minimum net capital requirement, failed to file notices of net capital deficiencies within the required time period, and filed an incomplete notice for a net capital deficiency.

Greenspan's suspension began June 19, 2000, and will conclude at the close of business on June 18, 2002. Belcastro's suspension began June 19, 2000, and concluded at the close of business on July 11, 2000. **(NASD Cases #C07000008 and #C07000025)**

Mark Andrew Greven (CRD #1453418, Registered Representative, Roswell, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fines must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Greven consented to the described sanctions and to the

entry of findings that he intercepted a customer complaint that was faxed to his branch manager and failed to disclose it to his branch manager.

Greven's suspension began June 19, 2000, and will conclude at the close of business on June 18, 2001. **(NASD Case #C07000035)**

Stephen William Guercio (CRD #1523331, Registered Representative, Staten Island, New York) submitted an Offer of Settlement in which he was fined \$15,000, suspended from association with any NASD member in any capacity for 30 days, and required to pay \$15,000 in restitution to public customers. Without admitting or denying the allegations, Guercio consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in the accounts of public customers and failed to execute customer sale orders.

Guercio's suspension began on July 3, 2000, and will conclude at the close of business on August 1, 2000. **(NASD Case #C10000026)**

Patrick Brian Hammons (CRD #1030468, Registered Principal, Mesa, Arizona) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, Hammons consented to the described sanctions and to the entry of findings that he failed to file an amended Form U-4 disclosing that he was named as a respondent in a civil action alleging that he had converted funds belonging to an estate and seeking to enjoin him in connection with investment related activity. The findings also stated

that Hammons failed to timely provide information and documentation requested by the NASD.

Hammons' suspension began June 19, 2000, and will conclude at the close of business on August 3, 2000. **(NASD Case #C01990020)**

Gregory James Hill (CRD #1799748, Registered Principal, Aurora, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$7,500, suspended from association with any NASD member in a supervisory capacity for 45 days, and required to requalify by exam as a principal (Series 24) prior to resuming duties as a supervisor. Without admitting or denying the allegations, Hill consented to the described sanctions and to the entry of findings that he received a \$12,500 loan from a public customer to fund his wholesale trading account for which the customer was to receive 70 percent of the profits generated in the account. The findings also stated that Hill gave the customer a document purportedly reflecting a \$826 profit generated in Hill's wholesale trading account but was unable to provide documentation supporting the assertion of a profit.

Hill's suspension began on July 3, 2000, and will conclude at the close of business on August 16, 2000. **(NASD Case #C3A000021)**

Marcus Kevin Hughes (CRD #1602626, Registered Principal, Chicago, Illinois) was barred from association with any NASD member in any capacity and ordered to pay \$834,103.64 in restitution to public customers. The sanctions were based on findings that Hughes made misrepresentations of material facts to investors and potential investors in connection

with the purchase or sale of securities and effected private securities transactions. In addition, Hughes permitted an unregistered person to sell securities. **(NASD Case #C8A990032)**

Adam Harold Kaplan (CRD #2436956, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for 90 days. Without admitting or denying the allegations, Kaplan consented to the described sanctions and to the entry of findings that he executed transactions in the account of a public customer without the prior knowledge, authorization, or consent of the customer or an individual acting on behalf of the customer's estate. The findings also stated that Kaplan entered into a settlement agreement with the customer's estate that prohibited cooperation with NASD inquiries in violation of SEC and NASD rules.

Kaplan's suspension began June 19, 2000, and will conclude on September 16, 2000. **(NASD Case #C10000026)**

Mazen Jim Kherdeen (CRD #2989920, Registered Representative, Denver, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid prior to any application for reassociation with a member firm following the suspension. Without admitting or denying the allegations, Kherdeen consented to the described sanctions and to the entry of findings that he submitted a Form U-4 and failed to provide a "yes" answer to Question

22B although charges previously been filed against him warranted a “yes” answer.

Kherdeen’s suspension began July 3, 2000, and will conclude at the close of business on August 14, 2000. **(NASD Case #C3A000017)**

William Arthur Kittredge, Jr. (CRD #2852820, Registered Representative, Georgetown, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. In light of the financial status of the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, Kittredge consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior notice to, or approval from, his member firm. **(NASD Case #C11000010)**

Christos Kiziriglou (CRD #2472959, Registered Principal, San Diego, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD as a general securities principal for one year. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Kiziriglou consented to the described sanctions and to the entry of findings that he permitted a person subject to an NASD supervisory bar order to become and remain associated with his member firm in a principal and supervisory capacity in violation of the bar order.

Kiziriglou’s suspension began June 19, 2000, and will conclude at the close of business on June 18, 2001. **(NASD Case #C02000028)**

Evan Harrison Lasher (CRD #2186676, Registered Representative, Syosset, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity with the right to reapply for association after five years from acceptance of the AWC. In light of the financial status of the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, Lasher consented to the described sanction and to the entry of findings that he manipulated the prices of securities in the aftermarket trading of the securities, pre-arranged aftermarket demand, sold repurchased IPO shares to pre-arranged aftermarket purchasers at manipulated prices, and repurchased securities for his firm’s account prior to the completion of the distribution. The findings also stated that Lasher failed to report the repurchases in a timely manner. **(NASD Case #CAF000017)**

Stephen Roger Lennox, Jr. (CRD #2613210, Registered Representative, Smyrna, Georgia) was barred from association with any NASD member in any capacity. The sanction was based on findings that Lennox effected unauthorized transactions in a customer’s account and made unsuitable recommendations to the customer. **(NASD Case #C07990063)**

Marc Alan Luxenberg (CRD #2091350, Registered Principal, North Bellmore, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any principal capacity for two years and suspended from association with any NASD member in any capacity

for 30 days. Without admitting or denying the allegations, Luxenberg consented to the described sanctions and to the entry of findings that while he was the compliance director at a member firm, he failed to take sufficient steps to ensure customer sell orders were executed on a timely basis and failed to recommend sufficient disciplinary action against individuals alleged to have committed sales practice violations. Luxenberg failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules.

The suspensions began on June 19, 2000. The suspension in any principal capacity will conclude at the close of business on June 18, 2002. The suspension in any capacity will conclude at the close of business on July 19, 2000. **(NASD Case #CAF000018)**

John Joseph Margiotta (CRD #1742811, Registered Principal, Larchmont, New York) submitted an Offer of Settlement in which he was fined \$30,000, barred from association with any NASD member in any principal capacity, and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Margiotta consented to the described sanctions and to the entry of findings that he improperly encouraged his firm’s sales force to solicit aftermarket orders prior to the completion of an IPO. The findings also stated that Margiotta enforced a “no-net sale” policy that discouraged brokers from allowing customers to sell a house stock when they so desired, absent a corresponding order to purchase a different house stock. Margiotta also failed to investigate or remedy

the firm's fraudulent sales practices in connection with the sale of low-priced, highly speculative securities.

Margiotta's suspension began June 26, 2000, and will conclude on December 25, 2000. **(NASD Case #C10970143)**

Kenneth Scott Milne (CRD #2828038, Registered Representative, Ypsilanti, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid prior to reassociation with a member firm following the two-year suspension or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding. Without admitting or denying the allegations, Milne consented to the described sanctions and to the entry of findings that he affixed the signatures of at least 92 individuals, all of whom were public customers, on documents associated with a variable annuity products, without the customers' knowledge or consent.

Milne's suspension began June 19, 2000, and will conclude at the close of business on June 18, 2002. **(NASD Case #C8A000028)**

Richard Emmet Monroe (CRD #1005672, Registered Representative, Petaluma, California) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid either prior to reassociation with a member firm following the one-year suspension or prior to any

application for request for relief from any statutory disqualification from this or any other event or proceeding, whichever is earlier. Without admitting or denying the allegations, Monroe consented to the described sanctions and to the entry of findings that he recommended unsuitable purchases and sales of mutual funds to public customers and effected these transactions in the customers' accounts. The transactions were unsuitable for the customers in light of the transaction costs involved; the availability of intra-fund exchange privileges; and the customers' other security holdings, financial situations, and needs.

Monroe's suspension began July 3, 2000, and will conclude at the close of business on July 2, 2001. **(NASD Case #C01970014)**

Anthony Stephen Mundy (CRD #2077841, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 20 days, and ordered to pay \$10,000 in restitution to a public customer. Satisfactory proof of payment of the restitution must be submitted to the NASD no later than 120 days after acceptance of this Offer. Without admitting or denying the allegations, Mundy consented to the described sanctions and to the entry of findings that he executed transactions in the accounts of public customers without their authorization, knowledge, or consent. The findings also stated that Mundy failed to execute customer sell orders.

Mundy's suspension began July 3, 2000 and will conclude on July 22, 2000. **(NASD Case #C10000026)**

Sylvia Bonin Perez (CRD #1558521, Registered Representative, Lafayette, Louisiana) submitted an Offer of Settlement in which she was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Perez consented to the described sanctions and to the entry of findings that she accepted \$185,000 in currency from public customers for the purchase of securities, retained possession of the currencies for up to two months prior to purchasing the securities or returning a portion of the amount to the customers. The findings also stated that Perez failed and neglected to report the receipts of currency to her member firm as required by the SEC.

Perez's suspension began June 19, 2000, and concluded at the close of business on June 30, 2000. **(NASD Case #C05990057)**

William Lewis Petitta (CRD #2726426, Registered Representative, Draper, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$10,000, and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, Petitta consented to the described sanctions and to the entry of findings that he forged the signature of a public customer to an account transfer form for the purpose of expediting the transfer of the customer's account from one firm to another without the customer's authority.

Petitta's suspension began July 3, 2000, and will conclude at the close of business on July 31, 2000. **(NASD Case #C3A000020)**

Stephen Douglass Pratt (CRD #803598, Registered Representative, West Des Moines, Iowa) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 31 days. The fine must be paid prior to reassociation with a member firm following the suspension. Without admitting or denying the allegations, Pratt consented to the described sanctions and to the entry of findings that he sent sales literature via e-mails to members of the public concerning the prospects for the market price of shares of stock, and he failed to submit the sales literature to a registered principal of his member firm prior to sending the e-mails to the public. Furthermore, the NASD found that one of the e-mails contained statements and claims that were exaggerated, unwarranted, and misleading. Pratt also failed to respond to NASD requests for information.

Pratt's suspension began on July 3, 2000, and will conclude at the close of business on August 2, 2000. **(NASD Case #C8A000033)**

Jeffrey Wyatt Puckett (CRD #2270409, Registered Principal, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,000 and suspended from associating with any member of the NASD as a FINOP for 30 business days. The fine must be paid either prior to reassociation with any NASD member in any capacity or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier. Without admitting or denying the allegations, Puckett consented to the described sanctions and to the

entry of findings that he engaged in the securities business while failing to have and maintain sufficient net capital. The findings also stated that Puckett failed to accurately make, keep current, and preserve certain books and records which delayed the NASD's ability to examine his member firm's compliance with the net capital rules.

Puckett's suspension began June 19, 2000, and will conclude at the close of business on July 31, 2000. **(NASD Case #C02000026)**

Vikram Randhawa (CRD #2498370, Registered Representative, Albertson, New York) was fined \$50,000, suspended from association with any NASD member in any capacity for one year, barred from association with any NASD member in any capacity, and ordered to requalify by examination before reassociating with any member firm. The fine must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that Randhawa sold shares of stock to public customers in states that he was not registered. Furthermore, Randhawa arranged for a coworker who was registered in the states to take credit for the sales by misrepresenting that he was the registered representative for these securities transactions on his member firm's records. Randhawa also failed to respond to NASD requests for information.

Randhawa's suspension began June 19, 2000, and will conclude at the close of business on June 18, 2001. **(NASD Case #C9B990028)**

Richard Valentino Rizzo (CRD #2497077, Registered Representative, Oceanside, New York) submitted a Letter of Acceptance, Waiver, and Consent

in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Rizzo consented to the described sanctions and to the entry of findings that he effected various purchases of stock in the accounts of public customers without the knowledge or consent of the customers.

Rizzo's suspension began July 3, 2000, and will conclude at the close of business on July 17, 2000. **(NASD Case #C02000030)**

Andrew Ruscio, Jr. (CRD #2595323, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and required to pay \$18,012.50, plus interest, in restitution to public customers. Proof of restitution will be a prerequisite prior to reassociation with a member firm or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Ruscio consented to the described sanctions and to the entry of findings that he engaged in unauthorized transactions in the accounts of public customers and failed to execute a customer's sale order. **(NASD Case #C10000026)**

Steven Owen Sahagian (CRD #1392244, Registered Representative, Oradell, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five days. Without admitting or denying the allegations, Sahagian consented to the described sanctions and to the entry of findings that, at the direction of his

sales manager, Sahagian signed his name on a life insurance policy application that falsely represented that he had witnessed a customer sign such application.

Sahagian's suspension began July 3, 2000, and concluded at the close of business on July 7, 2000. **(NASD Case #C9B000016)**

Brian William Spencer (CRD #2262929, Registered Principal, Lexington, Kentucky) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any principal capacity for six months and required to requalify as a general securities principal by taking and passing the Series 24 exam. If Spencer fails to requalify within the six-month period, he will be suspended in that capacity until he does complete and pass the exam. In light of the financial status of the respondent, no monetary sanction has been imposed. Without admitting or denying the allegations, Spencer consented to the described sanctions and to the entry of findings that he failed and neglected to exercise reasonable and proper supervision of his firm's associated person and its registered representative.

Spencer's suspension began June 19, 2000, and will conclude at the close of business on December 18, 2000. **(NASD Case #C05000006)**

Richard Stephan Taylor (CRD #1894258, Registered Representative, Spokane, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Taylor consented to the described sanction and to the entry of findings that he participated in

investments made by a public customer and failed to provide prior written notice to his member firm describing in detail the proposed transactions, his proposed role, and stating whether he would receive selling compensation in connection with the transactions. **(NASD Case #C3B000009)**

Robert L. Tisinai (CRD #2823214, Registered Representative, Harwood Heights, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Tisinai consented to the described sanctions and to the entry of findings that he affixed the signatures of public customers on takeover forms without the customers' knowledge or consent.

Tisinai's suspension began June 19, 2000, and will conclude at the close of business on December 18, 2000. **(NASD Case #C8A990082)**

Michael Allen Usher (CRD #734581, Registered Principal, Greeley, Colorado) was fined \$25,000, barred from association with any NASD member as a general securities principal, and ordered to disgorge \$3,914.70, plus interest, to the NASD. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Usher conducted a securities business while his and his member firm's registrations were suspended for failure to pay an arbitration award. **(NASD Case #C3A980069)**

Edward Paul Walunas (CRD #706319, Registered

Representative, Wilsonville, Oregon) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Walunas consented to the described sanction and to the entry of findings that he participated in investments totaling \$469,705 made by individuals in limited partnership units and failed to provide prior written notice to his member firm describing in detail the proposed transactions, his proposed role, and stating whether he would receive selling compensation. The findings also stated that Walunas continued to participate in the offering and sale of the limited partnership units after orally asking his firm whether such activity was permissible and his firm responded that any such request would be denied. **(NASD Case #C3B000006)**

Joel Mark Warren (CRD #2676655, Registered Principal, Hyattsville, Maryland) was barred from association with any NASD member in any capacity. The sanction was based on findings that Warren caused the withdrawal of \$286,000 from an account maintained by a public customer and transferred the funds to other bank accounts without the customer's authorization. The findings also stated that Warren failed to respond to NASD requests for information. **(NASD Case #C9A000004)**

Robert Gordon Wathen, Sr. (CRD #1007396, Registered Representative, Ft. Mitchell, Kentucky) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the

allegations, Wathen consented to the described sanction and to the entry of findings that he received a \$2,451.61 check from a public customer for deposit in her Individual Retirement Account (IRA) account, failed and neglected to deposit the funds, and, instead, made improper use of the funds by retaining the proceeds of the check for 14 months without the customer's knowledge or consent. **(NASD Case #C05000024)**

Bryce Johnson Winkel (CRD #2108104, Registered Principal, Beaverton, Oregon) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 10 days, and required to requalify as an investment company products/variable contracts principal (Series 26) within 90 days of acceptance of the AWC. If Winkel fails to requalify, he will be precluded from acting in any capacity requiring a Series 26 license until he passes the exam. Without admitting or denying the allegations, Winkel consented to the described sanctions and to the entry of findings that he made a \$5,000 investment in a private placement of securities and failed to provide prior written notice to his member firm describing the proposed transaction, his proposed role, and stating whether he would receive selling compensation in connection with the transaction. The findings also stated that Winkel failed to timely or adequately supervise an individual to ensure that the individual ceased to be connected with the unsupervised sales of unapproved products away from his/her member firm and to ensure the individual's termination from the firm.

Winkel's suspension began July 3, 2000, and concluded at the close of business on July 12, 2000. **(NASD Case #C3B000007)**

Howard Charles Zelin (CRD #1616516, Registered Principal, Boynton Beach, Florida) submitted an Offer of Settlement in which he was censured, fined \$20,000, and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Zelin consented to the described sanctions and to the entry of findings that during the course of his member firm's pre-membership interview, he failed to disclose a \$100,000 subordinated loan to the firm, an additional \$50,000 contributed by third parties, and substantial reductions in the firm's capital due to withdrawals by himself and others. The findings also stated that Zelin operated a securities business with a net capital deficiency and permitted an individual to be employed by the firm without the written permission of the NASD as required by a restriction agreement.

Zelin's suspension began June 19, 2000, and will conclude at the close of business on June 18, 2002. **(NASD Case #C10950102)**

Peter Girard Zimmerman (CRD #2679422, Registered Representative, Leicester, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Zimmerman consented to the described sanction and to the entry of findings that he forged customer signatures on IRA applications and transfer request forms effecting the transfer of

customer funds from a variable annuity contract to an IRA without customer consent. **(NASD Case #C11000009)**

Individual Fined

Neil Lewis Kiperman (CRD #1971451, Registered Principal, New York, New York) submitted an Offer of Settlement in which he was censured and fined \$41,950, which includes disgorgement in the amount of \$36,950. The fine and disgorgement must be paid prior to Kiperman's reassociation with a member firm or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Kiperman consented to the described sanctions and to the entry of findings that, in violation of the NASD's venture capital restrictions, he sold shares of an IPO that he owned within 90 days following the effective date of the offering. **(NASD Case #C10950051)**

Decision Issued

The following decision has been issued by the District Business Conduct Committee (DBCC) or the OHO and has been appealed to or called for review by the NAC as of June 9, 2000. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Vincent Grieco (CRD #1568462, Registered Principal, W. Islip, New York) was fined \$500,000, barred from association with any NASD member in any capacity, and ordered to pay \$589,466.88, plus interest, in restitution to public

customers. The sanctions were based on findings that Grieco directed a boiler room operation at the branch which he co-owned and enforced fraudulent sales practices, unauthorized transactions, and a refusal policy to effect customer sell orders.

Grieco has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #CAF990008)**

Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Richard Philip Chingos (CRD #2504767, Registered Representative, Long Island City, New York) was named as a respondent in an NASD complaint alleging that he executed transactions in the accounts of public customers without their prior knowledge, authorization, or consent and failed to respond truthfully or accurately during an NASD on-the-record interview. **(NASD Case #C10000095)**

Michael Dabney (CRD #500768, Registered Representative, Plainsboro, New Jersey) was named as a respondent in an NASD complaint alleging that he received from a public customer checks totaling \$10,000 for the

purchase of stock, and, instead of using the funds to purchase stock for the customer as he had represented, he converted these funds to his own use and benefit without the customer's knowledge or consent. The complaint also alleges that in an effort to conceal his conversion and to mislead the customer about the status of his investment, Dabney presented a subscription agreement to the customer that was not genuine but had been created and altered by Dabney to deceive the customer. Furthermore, the complaint alleges that Dabney made misrepresentations and omissions regarding the stock and failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C9B000015)**

Martin Yungshu Fang (CRD #2934646, Registered Representative, Monterey Park, California) was named as a respondent in an NASD complaint alleging that he executed unauthorized purchases and sale transactions in the accounts of public customers. The complaint also alleges that Fang failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C02000021)**

Harold B. J. Gallison, Jr. (CRD #1040211, Registered Principal, Las Vegas, Nevada) was named as a respondent in an NASD complaint alleging that he became and remained associated with a member firm in a principal and supervisory capacity after a supervisory bar order was issued. **(NASD Case #C02000027)**

Barrett Trent Hill (CRD #2712469, Registered Representative, Charlotte, North Carolina) was named as a respondent in an

NASD complaint alleging that he received a \$625 check from a public customer to open a retirement account, endorsed and cashed the check, and converted the funds to his own use. **(NASD Case #C07000034)**

Shek Wai Hui (CRD #2024873, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he misappropriated or improperly used public customer funds totaling \$38,977.01 by collecting cash, premium payments, and refund checks and using the funds without the customers' knowledge, permission, or authority. The complaint also alleges that Hui failed to respond to NASD requests for documents or information. **(NASD Case #C10000078)**

Morris Malone Johnson, Jr. (CRD #2541001, Registered Representative, Huntsville, Alabama) was named as a respondent in an NASD complaint alleging that he executed unauthorized purchases and sales of securities in the accounts of public customers and failed to respond to NASD requests for information. **(NASD Case #C05000026)**

Janet Lorraine Keitt (CRD #2764397, Registered Representative, Amityville, New York) was named as a respondent in an NASD complaint alleging that she used forged withdrawal slips to misappropriate approximately \$47,300 from the passbook savings accounts of bank customers without their knowledge, authorization, or consent. The complaint also alleges that she failed to respond to NASD requests for information and documentation. **(NASD Case #C10000081)**

Eric Peter Lesak (CRD #2390075, Registered Representative, Wantagh, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the account of a corporate customer and failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #C10000087)**

Anthony Andrew Marx, Jr. (CRD #2180220, Registered Representative, Long Island City, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the account of public customers. The complaint also alleges that Marx drew checks on the customers' account, endorsed the checks, and deposited the funds into his personal bank account, thereby converting \$13,623.71 to his own use and benefit. The complaint further alleges that Marx failed to respond to NASD requests for information. **(NASD Case #C10000100)**

Sean Peter McManus (CRD #2169076, Registered Representative, Boynton Beach, Florida) was named as a respondent in an NASD complaint alleging that he purchased, or caused to be purchased, shares of stock in the accounts of public customers without the customers' knowledge or consent. **(NASD Case #C02000025)**

Peter David Ragofsky (CRD #2066034, Registered Representative, Brooklyn, New

York) was named as a respondent in an NASD complaint alleging that he executed transactions for the accounts of public customers without their knowledge or consent and in the absence of written or oral authorization to exercise discretion in the accounts. **(NASD Case #C10000086)**

David Reynoso (CRD #2406265, Registered Representative, Westbury, New York) was named as a respondent in an NASD complaint alleging that he purchased securities in the account of a public customer without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Reynoso failed to execute the customer's order to buy securities. **(NASD Case #C10000099)**

Rick Ray Ruppert (CRD #2122885, Registered Principal, Las Vegas, Nevada) was named as a respondent in an NASD complaint alleging that he received \$3,000 in cash from public customers for investment purposes and did not apply the funds as directed by the customers. The complaint further alleges that instead, without the knowledge or consent of the customers, Ruppert failed to promptly apply the customers' funds to any investment until a later date at which time he purchased two bank cashiers checks in the amount of \$1,500 each to fund separate Roth IRA accounts for the customers. In addition, the complaint alleges that Ruppert failed to respond to NASD requests for information. **(NASD Case #C02000023)**

David Robert Scholle (CRD #2461242, Registered Representative, Pittsburgh, Pennsylvania) was named as a respondent in an NASD complaint alleging that he received approximately \$3,500 from public customers to pay insurance policy premiums, failed to pay or direct the payment of the premiums, and, instead, converted the funds to his own use and benefit without the customers' knowledge or consent. The complaint also alleges that Scholle failed to respond to NASD requests for information and documentation. **(NASD Case #C9A000021)**

Firms Canceled

The following firms were canceled from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the cancellation commenced is listed after the entry.

Continuum Capital, Inc., New York, New York (May 23, 2000)

Kensington, Bentley & Barnes, Inc., Dallas, Texas (May 23, 2000)

Retirement Foundations, Inc., Great Neck, New York (June 13, 2000)

R.P. Borgan, Inc., Biebergemund, Germany (June 13, 2000)

Firms Suspended

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Anchor Investment Securities, Ltd., Geneva, Illinois (June 8, 2000)

Caribbean Securities LLC, New York, New York (May 22, 2000 - June 2, 2000)

Daly Investment Co., Lombard, Illinois (June 8, 2000)

Millennium Capital LLC, Woodstock, Illinois (June 8, 2000)

San Clemente Securities, Inc., San Clemente, California (June 8, 2000)

Firm Suspended Pursuant To NASD Rule Series 9510 For Failure To Pay An Arbitration Award

The Golden Lender Financial Group, n/k/a J.P. Gibbons & Co., Inc., Manasquan, New Jersey (May 19, 2000)

Non-summary Suspension Imposed

The following individual has been suspended from association with any member of the NASD by a Subcommittee of the NAC pursuant to NASD Rule 8220 for failure to respond to NASD Rule 8210 notices. The suspension will end when the individual complies with the Rule 8210 investigatory requests. The date the suspension began is listed after the entry.

Fernandez, Juan Carlos, Lakeworth, Florida (June 23, 2000)

Suspensions Lifted

The NASD has lifted the suspensions from membership on the date shown for the following firms because they have complied with formal written requests to submit financial information.

First American Equities, Inc., Ft. Lauderdale, Florida (May 24, 2000)

Fuerst Securities Corporation, Grand Junction, Colorado (May 24, 2000)

Salisbury Capital Corporation, New York, New York (June 12, 2000)

Individuals Whose Registrations Were Revoked For Failure To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations

Biggs, Dudley A., Yonkers, New York (June 7, 2000)

Hart, Terrance D., Oak Park, Illinois (June 7, 2000)

Maggipinto, Gregory P., San Jose, California (June 7, 2000)

Rusch, Thomas A., Greenville, South Carolina (June 7, 2000)

NASD Regulation Fines J. P. Morgan \$200,000 For Limit Order Violations

NASD Regulation announced that it has censured and fined J. P. Morgan Securities, Inc., \$200,000 for violations of the SEC Limit Order Display Rule (Display Rule) continuing over a 21-month period, and for failing to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with the Display Rule. NASD Regulation also found other violations relating to the handling of customer transactions including best execution and limit order protection violations.

For a period of 21 months, J. P. Morgan Securities failed to detect and then correct problems with its display of customer limit orders, despite being told of the problems found by NASD Regulation and assuring NASD Regulation that it would correct its systems and procedures to enable the firm to comply with the Display Rule. During this time, three separate examinations uncovered multiple violations of the Display Rule.

Moreover, shortly after the firm installed an upgraded system designed to enable it to comply with the Display Rule, the head trader of the OTC trading desk had the automatic execution and display systems disabled because of problems caused by the systems. The systems remained disabled without discovery by the firm's compliance department until February 1999, when NASD Regulation staff informed the firm it was commencing an examination.

J. P. Morgan's supervision of limit order display was an institutional failure. While the firm recognized the need for an improved supervisory system with respect to display of customer limit orders in October 1997, the 1998 and 1999 Market Regulation examinations revealed that the firm failed to establish, maintain, and enforce the written supervisory procedures. After the firm upgraded its order handling system in 1998, the employee responsible for reviewing the firm's handling of customer limit orders performed initial spot checks of the new system, then stopped performing the review for limit order display. Consequently, the firm's supervisory system did not detect that the display and execution features had been disabled.

Moreover, J. P. Morgan's written supervisory procedures did not require that the reviews for limit order display be documented. Therefore, the firm's management was not able to ensure that the reviews were being performed. Indeed, the firm only discovered that the automatic display and execution systems had been disabled and that the reviews for limit order display were not being performed when it started preparation for its February 1999 NASD Regulation examination.

In settling the matter, J. P. Morgan neither admitted nor denied NASD Regulation's findings.

NASD Regulation Files Complaint Against LH Ross For Taping Rule Violation

NASD Regulation announced that it has issued a complaint charging LH Ross & Company, Inc., and its President, Franklyn Michelin, with violating the Taping Rule instituted by the NASD. The Taping Rule requires a brokerage firm to tape all

of its brokers' phone calls with existing and potential customers for a two-year period if a certain percentage of the firm's brokers were previously employed by a firm that was expelled from the securities industry for sales practice misconduct within the last three years.

On August 5, 1999, NASD Regulation notified LH Ross that it had become subject to the Taping Rule, as a result of hiring several brokers that had been employed by Biltmore Securities, Inc., previously expelled by the NASD in February 1999. LH Ross was instructed to commence taping the calls of all its brokers and establish supervisory procedures within 30 days for oversight of all telemarketing activities conducted by its brokers.

LH Ross applied for an exemption from the Taping Rule, but that application was denied by NASD Regulation. The firm appealed the decision, but the appeal was denied.

LH Ross was notified on March 17, 2000, that, once again, it had 30 days to comply with the Taping Rule. On April 18th, Michelin notified NASD Regulation that LH Ross did not intend to implement a tape-recording system as required by the Rule. To date, LH Ross has failed to comply with the provisions of the Taping Rule.

The issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD Regulation in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because this complaint is unadjudicated, the respondents should be contacted before drawing any conclusion regarding the allegations in the complaint.

NASD Regulation Fines First Union Securities, Inc. \$350,000 And Fines And Suspends Former Executives For Books And Records And Supervisory Violations Arising From Payments To Armacon Securities, Inc.

NASD Regulation announced a settlement in which it fined First Union Securities, Inc., \$350,000 for books and records violations and supervisory violations arising from inaccurately recorded municipal securities payments made to Armacon Securities, Inc. Three former senior executives of the firm were also suspended and fined a total of \$125,000. The conduct described in the settlement took place at Wheat First Securities, Inc., prior to its 1998 acquisition by First Union.

NASD Regulation found that Wheat's books and records failed to reflect accurately approximately \$1.5 million of payments made to Armacon for more than 30 municipal securities transactions from late 1991 through April 1993. During that time period, Nicholas A. Rudi, then owner of the now-defunct Armacon, directed many New Jersey municipal securities transactions to Wheat. After Wheat paid a finders fee to Armacon for three New Jersey State municipal transactions, Rudi told Wheat that he did not want to receive checks in the future for state transactions because they could be embarrassing in light of his previous business relationship with the chief-of-staff to the Governor of New Jersey. As a result, Armacon did not bill Wheat, and Wheat did not record its liability to Armacon, for numerous New Jersey state transactions Armacon directed to Wheat. Instead, Wheat paid Armacon extra amounts for several local municipal transactions to

make up for the finder's fees not billed. As a result, Wheat's books and records failed to reflect payments to Armacon on numerous municipal securities transactions, and overstated the amount that was owed and paid to Armacon for others.

Wheat also authorized a third-party broker to make payments to Armacon to reduce Wheat's outstanding balance to Armacon. Those payments reduced amounts owed by Wheat to Armacon for other transactions without recording the amounts paid to Armacon on the firm's books and records. Wheat also paid and reflected in its books and records "management fees" to Armacon for five Pennsylvania transactions where Armacon provided no underwriting

or distribution services. These fees were paid in lieu of finder's fees payments to Armacon for help in referring to Wheat specific New Jersey municipal securities offerings.

Pursuant to the settlement, First Union, as successor to Wheat, was charged with violating the supervisory provisions of the MSRB and the recordkeeping provisions of the federal securities law and the MSRB, and was fined \$350,000. James Losty, the former head of Wheat First's Public Finance Group, was charged with causing violations of the recordkeeping provisions of the MSRB and was fined \$50,000 and suspended for 30 days. NASD Regulation previously entered into a related settlement with Thomas Zoidis,

former head of Wheat First's Municipal Department, in which Zoidis was charged with violating the supervisory provisions of the MSRB and was fined \$50,000 and suspended from acting in a supervisory capacity for 30 days. Mark Gambill, the former President of Wheat First was charged with violating the supervisory provisions of the MSRB and was fined \$25,000 and suspended from acting in a supervisory capacity for 15 days.

In settling this matter, First Union, Losty, Zoidis, and Gambill neither admitted nor denied NASD Regulation's findings.

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