

Disciplinary Actions

Disciplinary Actions Reported For February

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). Unless otherwise indicated, suspensions will begin with the opening of business on Tuesday, February 22, 2000. The information relating to matters contained in this *Notice* is current as of the end of January 28, 2000.

Firms Fined, Individuals Sanctioned

Hibernia Investment Securities, Inc. (CRD #17526, New Orleans, Louisiana) and Kenneth Alan Rains (CRD #2218000, Associated Person, Mandeville, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000. Rains was fined \$5,000 and suspended from association with any NASD member in any principal capacity for two weeks. Without admitting or denying the allegations, the firm and Rains consented to the described sanctions and to the entry of findings that the firm allowed Rains to be actively engaged in the management of the firm's securities business without being registered with the NASD in any capacity. **(NASD Case #C05990060)**

W&D Securities, Inc. (CRD #867, Jersey City, New Jersey) and Donald Wiese (CRD #1489608, Registered Principal, Managapan, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and

fined \$20,000, jointly and severally. Wiese was also suspended from association with any NASD member in any principal capacity for 15 days. Without admitting or denying the allegations, the firm and Wiese consented to the described sanctions and to the entry of findings that Wiese was the president and a director of the firm and actively involved in the management of the firm's exchange floor trading operations without being registered with the NASD in any capacity. The firm allowed him to act in such a manner without being registered as a general securities principal. The findings also stated that the firm, acting through Wiese, failed to establish, maintain, and enforce adequate written supervisory procedures to prevent the above violations. **(NASD Case #C9B990040)**

Firms And Individuals Fined

Brookfield Grace, Inc. (CRD #37044, Memphis, Tennessee) and Gary Kent Wunderlich, Jr. (CRD #2256877, Registered Principal, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$25,000, jointly and severally. Without admitting or denying the allegations, the firm and Wunderlich consented to the described sanctions and to the entry of findings that the firm, acting through Wunderlich, broke escrow in the escrow bank account of a mini-max private placement contingency offering prior to the receipt of all customer funds required to meet the contingency. The early release of funds by the firm and Wunderlich rendered false the representation in the offering memorandum that the offering was being made as a mini-max contingency offering. **(NASD Case #C05990055)**

Kukje Investment and Securities, Inc. (CRD #31075, Los Angeles, California) and Yojin Jung (CRD #2161964, Registered Principal, Burbank, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Jung consented to the described sanctions and to the entry of findings that the firm, acting under the direction and control of Jung, effected securities transactions when the firm failed to maintain sufficient net capital and failed to file a Form U-4 on behalf of a general securities representative who offered and sold securities without being registered with the firm. The findings also stated that the firm, acting through Jung, permitted an individual to offer and sell securities to public customers while deemed inactive for failure to complete the Regulatory Element of the NASD's Continuing Education requirements. **(NASD Case #C02990065)**

Northeast Securities, Inc. (CRD #25996, Mitchell Field, New York) and Randi Patrice Mason (CRD #722302, Registered Principal, East Norwich, New York) submitted an Offer of Settlement pursuant to which they were censured and fined \$10,500, jointly and severally. Without admitting or denying the allegations, the firm and Mason consented to the described sanctions and to the entry of findings that the firm, acting through Mason, failed to file quarterly reports with the NASD disclosing reportable customer complaints and failed to establish, maintain, and enforce written supervisory procedures designed to reasonably achieve compliance with the NASD rule pertaining to the customer complaint reporting

requirement. **(NASD Case #C10990165)**

Professional Planning & Technologies, Inc. (CRD #17234, Warwick, Rhode Island) and Harry Harootunian (CRD #237375, Registered Principal, Cranston, Rhode Island) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$20,000, jointly and severally. In addition, the firm is required to file all proposed advertising and sales literature with the NASD 15 business days prior to use for a period of three years. If the NASD submits comments on the material, it shall be immediately withheld from further circulation and distribution until the specified changes have been made unless the firm is otherwise notified. The revised material shall be refiled again 15 business days before use unless otherwise agreed to by the NASD. Without admitting or denying the allegations, the firm and Harootunian consented to the described sanctions and to the entry of findings that the firm, acting through Harootunian, distributed sales materials that contained misleading information and failed to address adequately the risks of an offering necessary to provide the reader with a sound basis for evaluating the investment. In total, the sales materials were not based on principles of fair dealing and good faith. **(NASD Case #C11990059)**

San Clemente Securities, Inc. (CRD #21895, San Clemente, California) and Cooke Baille Christopher (CRD #1590203, Registered Principal, San Clemente, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$15,000, jointly and severally. Without

admitting or denying the allegations, the firm and Christopher consented to the described sanctions and to the entry of findings that the firm, acting through Christopher, permitted a person subject to a statutory disqualification to function as an associated person of the firm without having obtained NASD approval. The findings also stated that the firm, acting through Christopher, failed to have and maintain sufficient net capital and failed to report numerous customer complaints to the NASD. **(NASD Case #C02990064)**

USA Capital, Inc. (CRD #19674, Philadelphia, Pennsylvania) and Sean Michael Sweeney (CRD #2056728, Registered Principal, Bryn Mawr, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which they were censured and fined \$14,500, jointly and severally. Without admitting or denying the allegations, the firm and Sweeney consented to the described sanctions and to the entry of findings that the firm, acting through Sweeney, failed to comply with the terms of its restrictive agreement when it effected transactions in equity securities, municipal securities, options, and government bonds. The findings also stated that the firm, acting through Sweeney, conducted general securities and municipal businesses without having either a qualified and registered financial and operations principal or a qualified and registered municipal securities principal. **(NASD Case #C9A990065)**

Wilson Stephenson Kyle, Inc. (CRD #22937, Fort Worth, Texas) and Ronald Gene Stephenson (CRD #1275757, Registered Principal, Fort Worth, Texas) submitted a Letter of Acceptance,

Waiver, and Consent pursuant to which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Stephenson consented to the described sanctions and to the entry of findings that the firm, acting by and through Stephenson, engaged in options related activities without a qualified registered options principal. The findings also stated that the firm, acting by and through Stephenson, failed to implement the Firm Element of the NASD's Continuing Education Program and failed to develop a needs analysis and training program for the firm's covered registered persons. **(NASD Case #C06990026)**

Firms Fined

DJS Securities Limited (CRD #13353, New York, New York) submitted an Offer of Settlement pursuant to which the firm was censured, fined \$15,000, and fined an additional \$2,500, jointly and severally, with a registered representative. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, acting through individuals, engaged in a municipal securities business without prior notification to the NASD in violation of the firm's membership agreement and failed to employ the services of a qualified municipal securities principal. **(NASD Case #C10990099)**

First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the

entry of findings that it failed to report the correct price of transactions to the Automated Confirmation Transaction ServiceSM(ACTSM), failed to maintain memoranda of brokerage orders, and failed to reflect the terms and conditions of orders. The findings also stated that the firm and an individual failed to establish, maintain, and enforce written supervisory procedures relating to marking-the-close activity, trade reporting, and books and records. **(NASD Case #CMS990159)**

Friedman, Billings, Ramsey & Co., Inc. (CRD #25027, Arlington, Virginia) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured, fined \$15,000, and ordered to pay \$4,625, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed customer orders to buy and sell shares and failed to use reasonable diligence to ascertain the best inter-dealer market so that the resultant price to the customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to show the terms, conditions, and correct time of execution on brokerage order memoranda. In addition, the firm failed to report transactions in Nasdaq National Market[®] (NNM) securities to ACT, failed to designate transactions as late to ACT, and failed to report the correct execution time to ACT in NNM securities. **(NASD Case #CMS990165)**

Securities & Investment Planning Company (CRD #36538, Chatham, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which the firm was censured and fined \$10,000.

Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders presented at its published bid or offer in the amount up to its published quotation size, thereby failing to honor its published quotation. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations concerning the Securities and Exchange Commission (SEC) and the NASD firm quote rules. **(NASD Case #CMS990161)**

Spear, Leeds & Kellogg (CRD #13988, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent (AWC) pursuant to which the firm was censured, fined \$40,000, and required to conduct a review of its supervisory procedures regarding registration of personnel and to submit a report to the NASD detailing its review and revised procedures within 90 days of acceptance of this AWC. The firm will implement changes to its procedures to ensure that all persons actively engaged in the firm's investment banking or securities business, or the management thereof, are properly registered with the NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to ensure that persons actively engaged in the management of the firm's investment banking or securities business were properly registered as general securities principals with the NASD. The firm also failed to establish, maintain, and enforce written supervisory procedures that would ensure proper registration of persons. **(NASD Case #C05000001)**

Individuals Barred Or Suspended

Michael Louis Accurso (CRD #1900337, Registered Principal, Brooklyn, New York) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Accurso consented to the described sanctions and to the entry of findings that he had an impostor sit for and complete the Series 7 qualification exam on his behalf. Accurso also failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C10990195)**

Irwin Morton Alickman (CRD #2363877, Registered Representative, Andover, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five months. Without admitting or denying the allegations, Alickman consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving approval from, his member firm. **(NASD Case #C11990057)**

Mark Steven Balbirer (CRD #2297951, Registered Representative, Sunrise, Florida) was fined \$15,000 and suspended from association with any NASD member in any capacity for two years. The National Adjudicatory Council (NAC) imposed the sanctions following a call for review of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Balbirer executed unauthorized trades in the account of a public customer. **(NASD Case #C07980011)**

Keith Michael Bleich (CRD #2372764, Registered Representative, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$290,868.18, which includes disgorgement of \$215,868.18 in monies earned, and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bleich consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 and Series 63 qualification exams on his behalf and failed to appear for an on-the-record interview with the NASD. **(NASD Case #C10990208)**

Byron Edward Boothe, Jr. (CRD #1498153, Registered Representative, Georgetown, Kentucky) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Boothe consented to the described sanctions and to the entry of findings that he failed to follow a public customer's instructions to effect certain transactions in his account and in an attempt to reconcile the customer's account, provided materials that misstated the actual positions and account balances. The findings also stated that Boothe provided fictitious confirmations to another customer that reflected transactions had been effected in a joint account when they had not. Boothe provided the customer with a \$28,000 check to settle the customer's complaint and failed to notify his member firm promptly. In addition, Boothe failed to follow the instructions of a third public customer to effect certain sales transactions in his account. **(NASD Case #C05990021)**

Kelly Barrett Boyd (CRD #2165856, Registered Representative, Hilton, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Boyd consented to the described sanctions and to the entry of findings that she requested a \$10,000 bank check claiming that it was to be sent to a customer, had the check made payable to attorneys representing the builder of and holder of the mortgage on her home which had been foreclosed, and provided the check to the attorneys, partially satisfying her debt and using the funds for her own benefit. The findings also stated that she altered checks totaling \$40,000 by changing the names of the payees in order to use the funds for her own benefit and to pay for personal obligations. **(NASD Case #C8B990038)**

Chris Jon Brainard (CRD #2687215, Registered Representative, Pleasantville, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000, suspended from association with any NASD member in any capacity for 20 business days, and ordered to disgorge \$4,021.35 in commissions to the NASD. Without admitting or denying the allegations, Brainard consented to the described sanctions and to the entry of findings that he submitted new customer account documents to his member firms that he knew, or should have known, were incomplete. The findings also stated that Brainard failed to make a bona fide public distribution of initial public offerings, each of which traded at a premium in the immediate secondary markets. **(NASD Case #C10990224)**

Bradford Lee Brinton (CRD #2572055, Registered Representative, St. Joseph, Missouri) was barred from association with any NASD member in any capacity. The NAC imposed the sanction following appeal of an OHO default decision. The sanctions were based on findings that Brinton forged or caused to be forged the endorsement of a customer's \$1,695.23 dividend check, deposited the check into a bank account he controlled, and converted the proceeds to his own use and benefit. **(NASD Case #C04990005)**

Erik Marcell Carey (CRD #2360041, Registered Representative, College Park, Maryland) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Carey consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving approval from, his member firm, in that he sold shares in an investment company that traded equity options to customers. **(NASD Case #C9A990061)**

Denise Lynn Crowley-DelRossi (CRD #2308457, Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which she was fined \$32,624—\$12,624 of which represents disgorgement of commissions received in connection with unsuitable trades—and barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Crowley-DelRossi consented to the described sanctions and to the entry of findings that she implemented

courses of unsuitable trading in the accounts of public customers based upon their age, disability, income needs, trading experience, investment objective, financial situation, retirement needs, or concentration of positions. **(NASD Case #C07990037)**

Robert Eugene Dettle (CRD #66370, Registered Representative, Santa Cruz, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$31,416.50, suspended from association with any NASD member in any capacity for one year, and required to requalify prior to reassociating with a member firm following his suspension. The fine is due and payable prior to reassociation with a member firm following the suspension or prior to any application requesting relief from a statutory disqualification. Without admitting or denying the allegations, Dettle consented to the described sanctions and to the entry of findings that he maintained and/or opened securities accounts at other member firms without informing them of his association with a member firm and failed to provide written notification of the existence of the accounts to his member firm. The findings also stated that Dettle purchased new issues securities at the initial public offering price which subsequently traded at a premium in the secondary market. **(NASD Case #C04990050)**

Ali Durson Eryurt (CRD #1605004, Registered Representative, Tampa, Florida) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Eryurt failed to pay a \$68,583.86 arbitration award and failed to respond to NASD requests for information. **(NASD Case #C07990032)**

Shane Tyrone Ferras (CRD #2172005, Registered Principal, Bayville, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Ferras failed to respond to NASD requests for information relating to an allegation that he effected unauthorized transactions. **(NASD Case #C10990070)**

Christopher Gordon Fike (CRD #2493817, Registered Representative, Bayshore, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for 18 months. Without admitting or denying the allegations, Fike consented to the described sanctions and to the entry of findings that he made material misrepresentations, omitted to disclose material facts, and predicted the future price of speculative securities in connection with the offer and sale of securities. The findings also stated that Fike made recommendations to a public customer that were unsuitable in light of the customer's financial situation and needs. **(NASD Case #C3A990021)**

Robert Francis Fox (CRD #1635033, Registered Representative, Jersey City, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Fox failed to appear for NASD on-the-record interviews and to respond to NASD requests for information and documents regarding the underwriting activities of a former member firm. **(NASD Case #C10990098)**

Steven Bruce Freymark (CRD #1179879, Registered Representative, Cherry Hill, New Jersey) was barred from

association with any NASD member in any capacity. The sanctions were based on findings that Freymark failed to respond to an NASD request for information regarding a customer complaint alleging that he had misappropriated the customer's funds. **(NASD Case #C9A990026)**

Anthony James Frisone (CRD #2362943, Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Frisone consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 qualification exam on his behalf and failed to complete an NASD on-the-record interview. **(NASD Case #C10990219)**

David Peter Gerstenblatt (CRD #221406, Registered Representative, Newton, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$20,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Gerstenblatt consented to the described sanctions and to the entry of findings that he misused customer funds totaling \$45,135. **(NASD Case #C11990056)**

Jeffrey Phillip Halling (CRD #2468671, Registered Representative, Eagan, Minnesota) was fined \$42,142.43 and barred from association with any NASD member in any capacity. The fine is due and payable upon reentry into the securities industry. The sanctions were based on findings that Halling received \$72,142.85 from public customers

to purchase an index annuity and mutual funds, failed to make the purchases, and deposited the funds into his personal checking account. Halling eventually returned \$30,000.42 to the customers and retained the remaining \$42,142.43 to pay personal expenses, thereby misusing and converting customer funds. The findings also stated that Halling failed to respond to an NASD request for information relating to the conversion allegations. **(NASD Case #C04990032)**

Andy Han (CRD #2601275, Registered Representative, Yorba Linda, California) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and suspended from association with any NASD member in any capacity for six months. Han also consented to testify at future NASD disciplinary proceedings related to his misconduct. Without admitting or denying the allegations, Han consented to the described sanctions and to the entry of findings that he functioned as a general securities representative, purchased and sold securities in the accounts of public customers, and received approximately \$10,000 in commissions without being registered with the NASD. The findings also stated that Han failed to respond truthfully during an NASD investigation concerning monetary compensation received in connection with the unregistered sales activities, although he later recanted the false statement. **(NASD Case #C02990068)**

James Michael Harp (CRD #1109270, Registered Representative, Evansville, Illinois) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Harp transmitted fraudulent

electronic insurance applications to his member firm and was credited with commissions for the purported sales. **(NASD Case #C8A990036)**

Terry Michael Hillegas (CRD #1823870, Registered Representative, Salisbury, Pennsylvania) submitted an Offer of Settlement pursuant to which he was censured, fined \$7,500, suspended from association with any NASD member in any capacity for three months, and required to requalify by exam before becoming registered after the suspension. Four thousand dollars of the fine shall be satisfied by paying that amount to the Maryland Securities Division in connection with the settlement of a proceeding. Without admitting or denying the allegations, Hillegas consented to the described sanctions and to the entry of findings that he engaged in the offer and sale, for compensation, of debt securities without providing prior written notice to his member firm. **(NASD Case #C9A990040)**

Robert Boyer Hutchinson (CRD #2284274, Registered Representative, Sonoma, California) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Hutchinson failed to respond to NASD requests for information regarding possible unauthorized trading. **(NASD Case #C01990004)**

John Carmine Infantino (CRD #869581, Registered Principal, Commack, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Infantino failed to respond to NASD requests for information and documents pertaining to a member firm and its books and records. **(NASD Case #C10990125)**

Douglas Fulton Kaiser (CRD #1674570, Registered Principal, Coral Springs, Florida) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$5,000 and suspended from association with any NASD member in any principal or supervisory capacity for 10 business days. Without admitting or denying the allegations, Kaiser consented to the described sanctions and to the entry of findings that he failed to reasonably supervise a registered representative to prevent or detect suitability violations in connection with options transactions effected in the account of a public customer. **(NASD Case #C07990081)**

Gordon Kerr (CRD #268444, Registered Representative, Walnut, California) was barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of a Los Angeles District Business Conduct Committee (DBCC) decision. The sanctions were based on findings that Kerr functioned as a securities principal while he was barred from acting in that capacity.

Kerr has appealed this action to the SEC. The bar is in effect pending consideration of the appeal. **(NASD Case #C02980051)**

Michael Lee Eng King (CRD #2319364, Registered Principal, Portland, Oregon) was fined \$30,000, barred from association with any NASD member in any capacity, and ordered to pay \$29,760, plus interest, in restitution to a public customer. The sanctions were based on findings that he engaged in excessive trading in the account of a public customer and engaged in unsuitable recommendations through a significant amount of short selling in

the account that was not consistent with the customer's investment objectives and experience. **(NASD Case #C3B980022)**

Michael Kogan (CRD #2802077, Registered Principal, Warrington, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$15,000, suspended from association with any NASD member in any capacity for 18 months, and required to pay \$12,500 in restitution to a public customer. Satisfactory proof of payment of restitution, or of reasonable and documented efforts undertaken to effect restitution, shall be provided to the NASD within 120 days after acceptance of this AWC. Without admitting or denying the allegations, Kogan consented to the described sanctions and to the entry of findings that he signed the names of public customers on forms used to transfer and open brokerage accounts for the customers without their knowledge or consent. The findings also stated that Kogan effected a transaction involving the purchase of stock in a speculative private placement offering for a customer's account and did not have reasonable grounds for believing that the recommendation and resultant transaction were suitable based on the customer's financial situation, investment objectives, and needs. In addition, Kogan failed to supervise a sales representative adequately in that the representative made unsuitable recommendations to a customer and Kogan failed to take adequate steps to confirm that the transactions were proper. **(NASD Case #C9A990063)**

Daniel Charles Krueger (CRD #1583786, Registered Representative, Fond Du Lac, Wisconsin) was barred from

association with any NASD member in any capacity. The sanctions were based on findings that Krueger failed to respond to NASD requests for information regarding possible outside business activities. **(NASD Case #C04990031)**

John Joseph Lee (CRD #1264054, Registered Principal, West Babylon, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for nine months. Without admitting or denying the allegations, Lee consented to the described sanctions and to the entry of findings that he was directly engaged in the management, direction, or supervision of an underwriting when he was not qualified as a municipal securities principal. The findings also stated that he represented himself to be an authorized officer of his firm at the closing of the issue when, in fact, he was not. In addition, Lee provided false information to the NASD when questioned as to who had been the firm's municipal securities principal at the time of the undertaking.

Because Lee is already serving a previous suspension, his suspension for the above Offer will commence on August 4, 2000, and will conclude on May 4, 2001. **(NASD Case #C10990037)**

Boutros Fouad Mansour (CRD #2426615, Registered Principal, Manchester, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity and ordered to disgorge \$52,450, plus interest, in ill-gotten gains to his member firm and public customers.

Without admitting or denying the allegations, Mansour consented to the described sanctions and to the entry of findings that he improperly converted \$52,450 belonging to clients for his own use and benefit. **(NASD Case #C11990055)**

Armand John Mastraccio (CRD #1504679, Registered Representative, Utica, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$23,072, which includes disgorgement of \$18,072 in commissions earned, and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Mastraccio consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving approval from, his member firm and received \$18,072 in commissions as a result of these transactions. **(NASD Case #C11990054)**

Mark Alan McGee (CRD #2422551, Registered Representative, Newcastle, Washington) was barred from association with any NASD member in any capacity. The sanctions were based on findings that McGee converted \$31,079 that he received from public customers for investment purposes and fraudulently obtained \$26,000 of these funds by misrepresenting the existence of a specific investment product. The findings also stated that McGee failed to respond to NASD requests for information concerning customer complaints. **(NASD Case #C3B990017)**

LeRoy Kenneth Messenger (CRD #815653, Registered Principal, Elk Grove Village, Illinois) submitted a Letter of Acceptance,

Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Messenger consented to the described allegations and to the entry of findings that he failed to respond to an NASD request to testify in an investigation into activities of his member firm. **(NASD Case #C8A990080)**

Miguel Anibal Millan, III (CRD #1798177, Registered Representative, San Antonio, Texas) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Millan failed to respond to NASD requests for information regarding customer complaints alleging forgery, fraud, unauthorized trading, and conversion. **(NASD Case #C06990005)**

Keith Laurence Mohn (CRD #1085092, Registered Representative, West Bloomfield, Michigan) was censured, fined \$50,000, and barred from association with any NASD member in any capacity. The SEC substantially affirmed the sanctions following appeal of a January 1999 NAC decision. The sanctions were based on findings that Mohn participated in private securities transactions without providing prior written notice to his member firm. **(NASD Case #C8A960063)**

Vaughn Miles Mungin (CRD #1507144, Registered Principal, Bowie, Maryland) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000, suspended from association with any NASD member in any capacity for two months, and required to pay \$22,500 in restitution to public customers.

Satisfactory proof of payment of restitution, or of reasonable and documented efforts undertaken to effect restitution, shall be submitted to the NASD within 120 days of acceptance of this AWC. Without admitting or denying the allegations, Mungin consented to the described sanctions and to the entry of findings that he exercised effective control over the account of a public customer and recommended numerous purchases and sales of securities without having reasonable grounds for believing the transactions were suitable in view of the size and frequency of the transactions and the nature of the account. The findings also stated that Mungin effected a transaction involving the purchase of stock in a speculative private placement offering for the account of another public customer without reasonable grounds for believing the recommendation and resultant transaction were suitable based on the customer's financial situation, investment objectives, and needs. **(NASD Case #C9A990062)**

Jamie Patrash (CRD #2744189, Registered Representative, Jacksonville, Florida) was barred from association with any NASD member in any capacity. The sanctions are based on findings that Patrash altered checks given to him to purchase mutual funds by changing the payee from his member firm to himself, cashed the checks, and converted the funds to his own use and benefit. The findings also stated that Patrash altered and cashed checks given to him by individuals to become independent contractors with one of his firm's affiliated companies and stole cash from other individuals applying to be independent contractors. The findings also stated that Patrash converted approximately \$2,841 in total. **(NASD Case #C07990052)**

Roger Stevenson Peavey (CRD #1510419, Registered Principal, Marshall, Minnesota) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for one year and six months. Without admitting or denying the allegations, Peavey consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving written approval and/or acknowledgment from, his member firms. **(NASD Case #C04990023)**

Peter Charles Pessoni, Jr. (CRD #2188339, Registered Representative, West Islip, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Pessoni failed to respond to NASD requests for information regarding a customer complaint alleging possible misrepresentations and the failure to execute a sell order. **(NASD Case #C10990091)**

Mark Robert Polakowski (CRD #2789210, Registered Representative, Hackensack, New Jersey) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Polakowski consented to the described sanctions and to the entry of findings that he signed a customer's name on an insurance policy delivery receipt form although the customer never received the policy, without the customer's knowledge or consent. The findings also stated that Polakowski failed to respond to NASD requests for information. **(NASD Case #C9B990032)**

Michele Edwardia Posey (CRD #2435628, Registered Representative, Chicago Heights, Illinois) was barred from association with any NASD member in any capacity and required to pay \$12,500 in restitution. The sanctions were based on findings that Posey withdrew \$12,500 from the accounts of public customers and used the funds for some purpose other than for the benefit of the customers. The findings also stated that Posey failed to respond fully to NASD requests for information concerning withdrawals from customers' accounts and financial documentation. **(NASD Case #C8A990059)**

Peter John Quartararo, Jr. (CRD #1727697, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was fined \$42,000 and barred from association with any NASD member in any capacity with a right to reapply after two years. Without admitting or denying the allegations, Quartararo consented to the described sanctions and to the entry of findings that he executed trades against his member firm's trading account whereby he or his customers profited at the firm's expense. The findings also stated that the trades involved purchases at, around, or below the market bid price and the subsequent sales of the same securities back to the firm's trading account at, around, or above the market ask price. Quartararo achieved profits for his personal accounts and those of his customers at the expense of his firm, breaching his fiduciary duty to his firm. In addition, the findings also stated that Quartararo failed to report transactions through ACT in a timely manner. **(NASD Case #C07990038)**

Sean Eric Radetich (CRD #2613626, Registered Representative, East Norwich, New York) was fined \$20,000 and suspended from association with any NASD member in any capacity for two years for settling a customer complaint away from the firm and fined \$20,000 and barred from association with any NASD member in any capacity for failing to respond truthfully to NASD requests for information. The fines are due upon reentry into the securities industry. The sanctions were based on findings that Radetich signed a \$21,500 joint promissory note to settle a customer complaint of unauthorized trading without the knowledge or approval of his member firm. The findings also stated that Radetich failed to respond truthfully to NASD requests for information concerning the customer complaint, the settlement, and his termination from a member firm. **(NASD Case #C01980020)**

Jason Thane Reddish (CRD #2516090, Registered Representative, Woodbury, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Reddish consented to the described sanctions and to the entry of findings that he recommended and engaged in transactions in the account of a public customer and did not have reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customer on the basis of financial situation, size and frequency of the transactions, nature of the accounts, investment objectives, and needs. **(NASD Case #C9B990038)**

Karl Eton Roberts (CRD #2368514, Registered Representative, Westbury, New York) submitted an Offer of Settlement pursuant to which he was fined \$3,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Roberts consented to the described sanctions and to the entry of findings that he failed to respond in a timely manner to NASD requests for information. **(NASD Case #C10990150)**

Ryan Leslie Rothstein (CRD #2400151, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$50,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$697,197.80 to the NASD. Without admitting or denying the allegations, Rothstein consented to the described sanctions and to the entry of findings that he had an impostor take the Series 7 qualification exam on his behalf and failed to appear for an NASD on-the-record interview. **(NASD Case #C10990207)**

James Edward Rufo (CRD #1219023, Registered Representative, Clifton, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rufo consented to the described sanctions and to the entry of findings that he made improper use of \$28,768 belonging to a client. **(NASD Case #C11990060)**

Earl John Rusnak (CRD #1503669, Registered Principal,

Highland Park, New Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Rusnak failed to respond to NASD requests for information about a customer complaint concerning unauthorized purchases of a particular stock. **(NASD Case #C9B990018)**

Nathaniel Lee Sain (CRD #2618922, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Sain failed to respond to NASD requests for information regarding a customer complaint concerning unauthorized trading. **(NASD Case #C10990064)**

Galen Dwight Skramstad (CRD #1454841, Registered Representative, Marshall, Minnesota) submitted an Offer of Settlement pursuant to which he was suspended from association with any NASD member in any capacity for eight months. Without admitting or denying the allegations, Skramstad consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or prior written approval and/or acknowledgment from, his member firm. **(NASD Case #C04990023)**

Michael Van Smith (CRD #2651979, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$10,000, which includes disgorgement of \$261.50 in commissions earned; suspended from association with any NASD member in any capacity for 30 business days; ordered to pay

\$6,625.85, plus interest, in restitution to public customers; and required to requalify by exam as a general securities representative within 90 days of issuance of this AWC. If Smith fails to requalify within this time period, he cannot associate with any NASD member firm in any capacity until he does requalify. The fine, disgorgement, and restitution are due and payable prior to reassociation following the suspension or prior to any application or request for relief from any statutory disqualification. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he executed transactions for the joint account of public customers without their prior knowledge, authorization, or consent. **(NASD Case #C10000008)**

Harry H. Son (CRD #2878916, Registered Representative, Great Neck, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined \$7,500, suspended from association with any NASD member in any capacity for two years, and required to requalify by exam as a general securities representative. If Son becomes registered after completion of his suspension, his member firm must adopt and implement compliance programs and procedures to monitor his conversations with public customers and incoming/outgoing mail between Son and public customers to ensure compliance with federal securities laws and NASD rules and regulations for a period of 12 months. The fine is due and payable upon reentry or prior to any application for relief from statutory disqualification. Without admitting or denying the allegations, Son consented to the described sanctions and to the entry of

findings that, during a telephone solicitation to a public customer, he gave false and misleading information and misrepresented his identity by using the name of another registered representative. **(NASD Case #C1000001)**

Dan Calvin Steingruber, Jr. (CRD #2340541, Registered Representative, Laguna Niguel, California) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Steingruber engaged in private securities transactions without providing prior written notification to his member firm of his participation in the transactions. The findings also stated that Steingruber failed to respond to NASD requests for information. **(NASD Case #C02990040)**

Malek Paul Tawil (CRD #2329493, Registered Representative, Palm Beach Gardens, Florida) was fined \$60,000 and barred from association with any NASD member in any capacity. The fine is due upon reentry to the securities industry. The sanctions were based on findings that Tawil effected unauthorized transactions in the accounts of public customers and failed to respond to an NASD request for information. **(NASD Case #C07990053)**

Joseph Teseo (CRD #2182666, Registered Representative, Atlantic Beach, New York) was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. The fine is due upon reentry to the securities industry. The sanctions were based on findings that Teseo failed to respond in a timely manner to NASD requests for information about a customer complaint. **(NASD Case #C10990089)**

Louis Jahi Walthall (CRD #2856591, Registered Representative, Wyandanch, New York) submitted an Offer of Settlement pursuant to which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Walthall consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information regarding a customer complaint. **(NASD Case #C10990167)**

Daniel Earl Wood (CRD #2134937, Registered Representative, LaJolla, California) was fined \$28,535 and suspended from association with any NASD member in any capacity for two years for private securities transactions and barred from association with any NASD member in any capacity for failure to respond. The sanctions were based on findings that Wood participated in private securities transactions without providing prompt written notice to, and receiving written approval from, his member firm. The findings also stated that Wood failed to respond to NASD requests for information. **(NASD Case #C02990043)**

Christopher John Zekakos (CRD #2466593, Registered Representative, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Zekakos failed to respond to NASD requests for information regarding a customer complaint alleging he engaged in fraudulent advertising and sales practices. **(NASD Case #C10990071)**

Chester Edward Zyskowski (CRD #1180609, Registered Representative, Bayonne, New

Jersey) was barred from association with any NASD member in any capacity. The sanctions were based on findings that Zyskowski received cash payments totaling \$240 from a public customer to be applied in payment of premiums for life insurance policies, failed to forward these payments to his member firm, and improperly used the funds. The findings also stated that Zyskowski failed to respond to an NASD request for information. **(NASD Case #C10990156)**

Individuals Fined

Scott Thomas Fleming (CRD #1326991, Registered Principal, New Canaan, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$70,000 which includes the disgorgement of about \$60,000 in financial benefit received. Without admitting or denying the allegations, Fleming consented to the described sanctions and to the entry of findings that, while registered as a general securities principal of a firm, he opened a personal securities account at another firm and purchased shares in initial public offerings that traded at a premium upon the commencement of the secondary market and as such were considered "hot issues." **(NASD Case #C11990058)**

Thomas Joseph Graham (CRD #716766, Registered Principal, Lutherville, Maryland) submitted an Offer of Settlement pursuant to which he was censured and fined \$15,300 which includes disgorgement of \$1,800 in commissions earned. Without admitting or denying the allegations, Graham consented to the described sanctions and to the entry of findings that he falsely

represented on public customer variable annuity applications and other investment forms that he was the “registered representative” for the sales when, in fact, they were sold by another registered representative. **(NASD Case #C9B990009)**

Gary Keith Imus (CRD #1328490, Registered Representative, Tucson, Arizona) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was censured and fined \$17,000. Without admitting or denying the allegations, Imus consented to the described sanctions and to the entry of findings that he made recommendations for the purchase and sale of securities to public customers that were unsuitable in view of the frequency of the recommended transactions and the use of margin in connection with the transactions. **(NASD Case #C3B990035)**

Decision Issued

The following decision has been issued by the DBCC or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of January 14, 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*.

Daniel Richard Howard (CRD #1112346, Registered Representative, Cambridge, Massachusetts) was fined \$25,000 and suspended from association with any NASD member in any capacity for 180 days. The sanctions were based on findings that Howard made unsuitable recommendations to a public customer in that the recommended

securities failed to match the investment objectives and needs of the customer. The findings also stated that Howard caused the filing of an inaccurate Form U-4 and subsequently failed to update his Form U-4 to disclose a pending NASD investigation.

Howard has appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C11970032)**

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.

Mark Steven Balbirer (CRD #2297951, Registered Representative, Sunrise, Florida) was named as a respondent in an NASD complaint alleging that he effected an unauthorized purchase of stock in the account of a public customer. **(NASD Case #C07000001)**

Bryant Edward Banks (CRD #2090317, Registered Principal, Dunwoody, Georgia) was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations in the account of a public customer and implemented a course of unsuitable trading based upon her age, fixed income, income needs, short term investment horizon, and lack of

investment experience that resulted in a realized loss of over \$30,000. The complaint also alleges that Banks failed to respond to NASD requests for information. **(NASD Case #C07000002)**

Donny Menashe Bashkin (CRD #2239782, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he conducted unauthorized trading in the accounts of public customers. The complaint also alleges that Bashkin made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or engaged in acts, practices, or courses of business which operated as a fraud or deceit upon any persons in connection with the purchase or sale of securities. In addition, the complaint alleges that Bashkin effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. **(NASD Case #C10990217)**

Craig Alan Chytraus (CRD #2577574, Registered Representative, Los Angeles, California) was named as a respondent in an NASD complaint alleging that he executed transactions in the account of public customers without their prior knowledge, authorization, or consent. **(NASD Case #C02990070)**

John Patrick Clancy (CRD #2085167, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he executed transactions in the account of a public customer

without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Clancy failed to appear for an NASD on-the-record interview. **(NASD Case #C10990222)**

Kevin Charles Cole (CRD #2525945, Registered Representative, San Diego, California) was named as a respondent in an NASD complaint alleging that Cole received \$300 from a public customer for investment in a variable insurance policy, failed to apply the funds as directed, and instead, converted \$160 to his own use and benefit and used the remaining \$140 for purposes other than to invest on behalf of the customer. **(NASD Case #C02990071)**

Yan Dikshteyn (CRD #2528880, Registered Representative, Chicago, Illinois) and Igor M. Fleyshmakher (CRD #2102367, Registered Principal, Chicago, Illinois) were named as respondents in an NASD complaint alleging that they engaged in extensive and egregious unauthorized trading in the accounts of public customers that resulted in substantial harm to the customers. The complaint also alleges that Dikshteyn and Fleyshmakher induced the purchase or sale of securities by means of manipulative, deceptive, and other fraudulent devices and contrivances. The complaint further alleges that Dikshteyn made baseless price predictions and other misrepresentations to induce customers to purchase securities or to ratify unauthorized trades. **(NASD Case #CAF990044)**

The Hamilton-Shea Group, Inc. (CRD #37526, Pompano Beach, Florida) was named as a respondent in an NASD complaint alleging that the firm—while acting

as a distribution participant in connection with a distribution of common stock—bid for, purchased, and attempted to induce others to purchase the stock. The complaint also alleges that the firm engaged in penny stock transactions that violated penny stock transaction and disclosure rules. The complaint further alleges that the firm failed to report statistical and summary information relating to written customer complaints to the NASD. Moreover, the complaint alleges that the firm, acting through an individual, failed to develop adequate written supervisory systems and procedures to monitor the firm's compliance with the penny stock transaction and disclosure rules and NASD customer complaint quarterly reporting requirements. In addition, the complaint alleges that the firm, while acting through an individual:

- failed to supervise the trading activity of its head trader to ensure compliance with SEC and NASD rules regarding prohibited conduct while participating in a stock distribution; and
- conducted a securities business while failing to maintain the minimum required net capital. **(NASD Case #CAF000002)**

Leonard Vincent Lombardo (CRD #2401363, Registered Representative, Union Beach, New Jersey) was named as a respondent in an NASD complaint alleging that he induced public customers to purchase and sell securities by making baseless price predictions and false and misleading representations without a reasonable basis. The complaint also alleges that Lombardo purchased and sold securities in the accounts of public customers without their prior knowledge, authorization, or consent. **(NASD Case #C10000006)**

Richard Alexander Preisig, Jr. (CRD #2372868, Registered Principal, Pelham Manor, New York) was named as a respondent in an NASD complaint alleging that he trained registered representatives to telemarket speculative securities that were underwritten or recommended by his member firm and directed the representatives to convey to public investors baseless predictions of price rises and other unfounded and untrue optimistic statements about the firm's stock. The complaint also alleges that Preisig directed or encouraged registered representatives to use scripts that contained material misrepresentations and price predictions and omitted to state material facts necessary in order to make the statements made, in the light of circumstances under which they were made, not misleading. The complaint further alleges that Preisig effected transactions in, or induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices and contrivances. **(NASD Case #CAF990045)**

Dmitry Slidovker (CRD #252374, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he made purchases in the accounts of public customers without their knowledge or consent and in the absence of written or oral authorization to exercise discretion in their accounts. The complaint also alleges that Slidovker made baseless price predictions and induced the purchase of a security by means of manipulative, deceptive, and other fraudulent devices and contrivances. **(NASD Case #CAF000001)**

Faramarz Steve Varasteh (CRD #1985952, Registered Representative, Scottsdale, Arizona) was named as a respondent in an NASD complaint alleging that he entered transactions in the account of a public customer without the customer's authorization. The complaint also alleges that Varasteh promised to reimburse the customer for margin interest charges and any losses that the customer incurred as a result of his recommendations. The complaint further alleges that Varasteh issued checks totaling \$19,000 to reimburse the customer for losses. In addition, the complaint alleges that Varasteh failed to respond to NASD requests for information. **(NASD Case #C3A000001)**

Firm Suspended

The following firm was 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.

Murphy & Lopes & Co., Inc., New Bedford, Massachusetts (January 4, 2000)

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

cancellations commenced is listed after the entry.

Airmark Investments, Inc., Tucker, Georgia (January 11, 2000)

G.F.B. Securities, Inc., East Meadow, New York (January 11, 2000)

M. Cornfeld, Inc., Los Angeles, California (January 11, 2000)

Muller Sports Securities, LLC, New York, New York (January 11, 2000)

Tiger Investment Group, Inc., Waltham, Massachusetts (January 11, 2000)

U.S.A. Investments Incorporated, Morristown, New Jersey (January 11, 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., Dunedin, Florida (January 7, 2000)

Remington Securities Corp., New York, New York (January 14, 2000)

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

The dates the registrations were revoked are included after each entry. If the individual has paid the

finest, costs and/or provided proof of restitution, the listing also includes the date the registration was reinstated.

Butt, Sameer Y., New York, New York (December 30, 1999)

Cohen, Michael Allen, Parsippany, New Jersey (December 30, 1999)

Dumancella, Alvaro F., Baldwin, New York (December 30, 1999 - January 6, 2000)

Haynes, Peter Steven, Boonton, New Jersey (December 30, 1999)

McKeown, Edward Michael, Santa Ana, California (December 30, 1999)

Moore, Joel Dean, Redding, California (December 30, 1999)

Reed, Toney L., Miami, Florida (December 30, 1999)

Whitaker, Steven A., Humble, Texas (December 30, 1999)

Individual Suspended Pursuant To NASD Rule Series 9510 For Failure To Comply With Arbitration Settlement Agreement

The date the registration was suspended is included after the entry. If the individual has paid the arbitration award or entered into a settlement agreement, the listing also includes the date the suspension was lifted.

Lauria, JonPaul, Coral Springs, Florida (December 29, 1999 - January 7, 2000)

NASD Regulation Charges Josephthal & Co., Inc. And Top Execs With Fraud And Unfair Dealing With Customers

NASD Regulation announced that it has issued a complaint charging Josephthal & Co., Inc., New York, NY; Dan D. Purjes, Chief Executive Officer; Paul H. Fitzgerald, Managing Director of Capital Markets; and Matthew I. Balk, former Senior Managing Director for Equity Marketing, with fraud and unfair business practices with investors in connection with securities sales.

According to NASD Regulation's complaint, in late May 1996, Josephthal violated federal securities laws and NASD conduct rules during a massive sales effort aimed at selling, from its inventory, over 1.1 million common shares of VictorMaxx Technologies, Inc. (VMAX). As the underwriter of VictorMaxx' initial public offering and Market Maker for the stock, Josephthal supported the stock from August 1995 until the beginning of May 1996. By mid-May 1996, the firm had suffered a loss of between \$3 and \$4 million on the inventory held in the stock.

In an effort to cut its losses, Purjes, Fitzgerald, and Balk decided to sell the position to the firm's customers. However, it is alleged that the firm's representatives had shown little interest in retailing the stock until mid-May when, to induce the sales force to move the stock, Purjes, Fitzgerald, and Balk paid them commissions of about 29 percent of an investor's total purchase of the stock. As a result, from May 17-May 31, 1996, the Josephthal sales force aggressively recommended VictorMaxx to its customers. During these 10 business days, Josephthal

brokers sold almost 1,000,000 shares in over 400 customer transactions at an average price of \$2.10 per share. Sales during the two-week effort represented nearly 36 percent of the tradable shares of the common stock. Josephthal remained a Market Maker in the security throughout the fraudulent sales effort.

Shortly after Josephthal sold its position, the market price of VictorMaxx tumbled. Within a month, it was below a dollar, where it has remained since. On October 24, 1996, it was delisted from the Nasdaq SmallCapSM Market and by the fourth quarter of 1996 the price ranged from \$.01 to \$.375. Thus, an investor in VictorMaxx who purchased during the May sales effort and held onto that stock for no more than 45 days would have incurred more than a 50 percent loss. According to the complaint, in violation of the firm's obligation of fair dealing, at no time did it disclose to its customers its plan to quickly dispose of its losing inventory position through a massive retail sales effort fueled by an extremely high special sales credit to its sales force.

The complaint also notes that just days before the start of the VictorMaxx sales effort, Josephthal and Purjes had settled, with the NASD, a case with almost identical violations.

NASD Regulation did not allege that VictorMaxx, Inc., which is listed on the OTC Bulletin Board[®], knew that Josephthal was selling off its stock in the marketplace or engaged in any wrongdoing.

This matter was investigated by NASD Regulation's District Office in Denver, Colorado.

NASD's National Adjudicatory Council Fines Morgan Stanley, Inc. \$495,000 For Manipulation And Locked And Crossed Markets; Fines Firm Traders

The NAC censured and fined New York-based Morgan Stanley & Co., Inc., \$495,000 for manipulating the prices of nine securities that underlie the Nasdaq 100 Index (NDX) on two separate "expiration Fridays" in 1995 and for causing locked and crossed markets to occur in nine stocks. The NDX options expire on the third Friday of every month.

Following independent review, the NAC affirmed the findings by NASD's Market Regulation Committee (MRC) that six Morgan Stanley traders, including the firm's then-OTC Desk Head Trader, manipulated the prices of the nine securities. David Robert Slaine, the former head of OTC trading at Morgan Stanley, and five other traders – Thomas Anthony Crocarno, Carl DeFelice, Joseph Louis Ferrarese, Peter William Ferriso, Jr., and Charles McMichael Simonds – were each fined \$2,500.

The NAC dismissed the charge of manipulation against Robert Scott Ranzman, thereby eliminating the sanctions imposed against him.

The cash settlement value of the NDX options was, at the time, determined by the opening print price for each of the 100 stocks. (Since April 1996, the cash settlement value of NDX options has been based on a volume-weighted average of the prices in each of the component securities, as reported during the first five minutes of trading.) Morgan Stanley, in order to ensure that the firm's Program Trading Desk did

not suffer a loss when NDX options expired, had an arrangement with the firm's OTC Desk to sell to the Program Trading Desk the exact amount of each security necessary to close out pre-existing stock positions established to hedge investments in NDX options. As part of this agreement, the Morgan Stanley OTC Desk would sell the securities to the firm's Program Trading Desk at the opening print price – the first reported trade in each of the securities. As a result of this arrangement, Morgan Stanley's OTC Desk established significant short positions in these nine securities.

The NAC affirmed the finding by the MRC that, in connection with this arrangement, prior to the market openings on March 17, 1995, and October 20, 1995, Morgan Stanley's OTC Desk improperly and fraudulently raised the prices it quoted for these nine securities, artificially moving the market for each security – and the opening print price in that security – higher. The firm raised its bids without purchasing any stock prior to the opening.

The intra-firm transactions enabled the Program Trading Desk to close its hedge positions at a price (in this case, the opening print price) that would prevent substantial losses, and the stock manipulation enabled the OTC Desk to minimize any losses it might have faced in covering its short position.

The NAC found that the prices of four securities were manipulated on March 17, 1995, and the prices of a separate set of five securities were manipulated on October 20, 1995.

Morgan Stanley aggressively raised its bid for the nine securities, before the market opened, creating the last new inside bid price prior to the opening. Morgan Stanley decreased its bid for every one of the nine securities within minutes after the market opened, and in some instances without buying any stock at all.

In addition, Morgan Stanley violated the NASD's rule regarding locked and crossed markets. A locked market occurs when the inside bid price equals the inside sell price in the same security, and a crossed market occurs when the inside bid price is greater than the inside sell price of a security. NASD rules require firms to make reasonable attempts to trade prior to locking or crossing the market during normal business hours, and there was no evidence that the traders attempted, during normal business hours, to contact and transact with other Market Makers whose quotes they locked or crossed. On March 17, the markets for three securities opened locked, and one opened crossed and on October 20, the markets in five securities opened locked. The NAC did not review the MRC's dismissal of the complaint's allegation that Morgan Stanley's written supervisory procedures were inadequate to deter locked and crossed market activity.

The NAC's decision reduced the sanctions that the MRC had ordered. The MRC had censured all respondents; fined Morgan Stanley \$1 million individually; fined Slaine \$100,000 jointly and severally with the firm and suspended him in all capacities for 90 calendar days; fined each of the other respondents \$25,000, jointly and severally with the firm, and suspended them in all capacities for a period of 30 business days; and assessed all respondents hearing costs. The MRC imposed sanctions on the firm for manipulation, but not for the violation of NASD Marketplace Rule 4613(e). Instead, the MRC treated that violation as an aggravating factor with respect to the manipulation. The NAC imposed sanctions against Morgan Stanley of a censure and a fine of \$450,000 for the manipulation and \$45,000 for the locked and crossed markets, and imposed a fine of \$2,500 against each of the six traders – David Robert Slaine, Thomas Anthony Crocarno, Carl DeFelice, Joseph Louis Ferrarese, Peter William Ferriso, Jr., and Charles McMichael Simonds. The NAC also ordered Morgan Stanley to pay the costs of the MRC hearing.

Both Morgan Stanley and the traders may appeal the NAC's decision to the SEC within 30 days of the date of the decision.

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