New SEC Disclosure Rules
Target Penny Stock Market

Following up on recent legislation, the Securities and Exchange Commission (SEC) has adopted a series of seven new rules that define "penny stocks," identify exempt transactions, and require broker/dealers to disclose orally and in writing specified information prior to and at the time of confirming certain penny stock transactions.

Penny stock trading dates back to the 1880s when speculation was fueled by gold mining expansion in the western United States. Even into the early 1980s, a large portion of penny stock activity occurred in the western U.S., although a greater volume of penny stock transactions and related abuses appeared in various areas around the country. Many such abuses have been directly attributed to the unavailability of relevant price and volume information and the lack of communication between broker/dealers and their customers.

Targeting Areas of Concern
In an effort to curb abuses, the SEC, the NASD®, and other regulatory agencies have initiated investor education about penny stocks and expanded existing investigative, enforcement, and legislative activity to increase investor protection.

A House Committee on Energy and Commerce report regarding the 1990 Penny Stock Reform Act indicated the need for these expanded initiatives. The report targeted as the primary penny stock problems (1) the lack of public information available about penny stocks — a situation that contributes to price manipulation and deprives investors of the ability to make informed investment decisions — and (2) the great number of penny stock traders and issuers "who are repeat offenders of state or federal securities laws, convicted felons, and persons having strong ties to organized crime."

Mandatory Risk Disclosure
These congressional concerns ultimately led to the SEC's adoption of new penny stock rules. The new SEC rules require that a standard, unalterable risk disclosure statement be provided to broker/dealer customers prior to a penny stock transaction. To assist members with this provision, which went into effect on July 15, 1992, the NASD published the Penny Stock Risk Disclosure Document on pages 282 to 285 of August Notice To Members 92-42, which members may copy.

Effective January 1, 1993, the disclosure statement must be expanded to inform customers of the broker/dealer's obligations to provide current bid and

Continued, page 8
Bound to Be Noticed.

New Notices to Members
Bound-Volume Collection
From the NASD.*

Now you can order five years' worth of NASD Notices to Members in a permanent, soft-bound collection of reference volumes. With the Notices to Members Collection you'll have each year of Notices handy, ready to access vital information—at a moment's notice!

Only in the bound volumes, each book's table of contents lists notice numbers and topics. And what's more, the subject index for each volume is cross-referenced to previous year volumes! This series is "a dream-come-true" for policy analysts, and research and legal assistants.

Remember, the Notices Collection chronicles amended rules and regulations, legal interpretations, and compliance guidelines for each year.

Bound Volumes Are a 'Must'
For Your Office or Library Shelf!

With a bound collection of Notices in your library, the entire staff has permanent access to important records affecting your firm. You'll have new organizational tools to locate those hard-to-find facts needed to support a position or meet a deadline. And the storage space required for these volumes is significantly less than that of three-ring binders.

Order today to begin your permanent Notices Collection library. 1987 through 1991 can be yours for a series price of $600. Or, if you choose, you may order single volumes at $150 per copy. All prices include applicable taxes, handling, and shipping. Allow four to six weeks for delivery. Call NASD MediaSource™ at (301) 590-6578 for credit card orders.

For more information on NASD publications, call NASD Corporate Communications at (202) 728-6900.

☐ Yes! Please send me ______ sets of the 5-year Notices to Members Collection of bound volumes, at $600 per set, including applicable taxes, handling, and shipping. Enclosed is $ ______.

☐ Please send me individual bound copies for the following years, at $150 per copy, including applicable taxes, handling and shipping:

☐ ______ copies of 1991 Notices
☐ ______ copies of 1990 Notices
☐ ______ copies of 1989 Notices
☐ ______ copies of 1988 Notices
☐ ______ copies of 1987 Notices

Enclosed is $ ______ for individual copies.

Orders must be prepaid by check, money order, or credit card, payable to the National Association of Securities Dealers, Inc. Bulk orders are shipped UPS or book rate. Allow four to six weeks for delivery. Mail order with payment to NASD, Inc., NASD MediaSource™, P.O. Box 9403, Gaithersburg, MD 20898-9403.

☐ Charge my credit card: ☐ American Express ☐ Visa ☐ MasterCard

Expiration Date: ____________________________

Card Number: ______________________________

Cardholder's Name: ________________________

Cardholder's Billing Address: ____________________________

Cardholder's Signature: ____________________________

Telephone Number With Area Code: ____________________________

Shipping Address: Name__________________________

Title: ____________________________

Address: ____________________________

City ____________________________ State ______ Zip ______

RCA0902
Members Must File Secondary Market UIT Literature

NASD rules require members to file with the Advertising Department (within 10 days of first use) any advertising or sales literature for unit investment trusts (UITs) sold or traded in the secondary market.

Such "advertising" and "sales literature" is defined under Article III, Section 35A of the NASD Rules of Fair Practice. Filing requirements under Article III, Section 35A apply to all registered investment companies, but do not distinguish between primary offering or secondary market UIT literature. However, the NASD’s Investment Companies Committee recently clarified that members must file both types of material with the Advertising Department for review.

Members with questions about this policy may contact the Advertising Department at (202) 728-8330.

NASD Requests Final Versions of TV Ads And Videos for Compliance Review

Members filing television ads and videotape presentations are requested to send final versions of such material to the NASD Advertising Department.

Currently some members file television ad storyboards and videotape presentation scripts. However, separate storyboards or typewritten scripts do not always provide the detail needed to judge their content and visual impact.

The Advertising Department believes that examining the final copies of audiovisual materials ensures that all applicable NASD standards are met in practice. The Advertising Department cites the following problematic example:

A viewer watching a television ad is temporarily diverted from important disclosure language that only briefly flashes on a TV screen. Without viewing the final audiovisual edition, the NASD staff might not be able to determine from only a typewritten script whether the placement or prominence of such disclosure language is adequate.

What Do You Think of Our New Look?

Readers will notice a new design to NASD Regulatory and Compliance Alert beginning with this issue. We hope you find it an easier read and more appealing. If you have any questions or comments, feel free to contact Michael Budzinski at (202) 728-8945.
Regulation

Amended Rules Encourage Violator Restitution

Aiming to encourage restitution by suspended members and persons who violate NASD rules, the SEC approved an amendment that allows the placement of contingencies on a suspension.

Effective July 15, 1992, the change to the NASD Rules of Fair Practice (Article V, Section 1) added language permitting the NASD to impose a suspension that has a duration contingent on the performance of a specific act. Previously, Article V stated that the NASD could only suspend violators for a definite period of time.

Contingent suspensions may, in cases involving customer losses, provide an incentive to respondents to make restitution to victims. Hence, customers who receive restitution can avoid a separate arbitration or court proceeding in order to obtain damages.

It should be noted, too, that the amendment does not preclude a suspension of specific duration. For example, an individual could be suspended for a period of three months, and thereafter, until he or she retakes and passes a qualifying examination.

For more complete information on the amendments, see June Notice To Members 92-31.

NASDAQ Members Approve Rule Governing Client Statement Reporting

NASDAQ members approved a proposed rule that would obligate them to meet minimum statement reporting requirements. The new rule is still pending approval by the Securities and Exchange Commission (SEC).

The NASD does not currently require members to send periodic account statements to customers, though SEC Rule 15c3-2 does require quarterly reporting of any free credit customer account balance. In cases where broker/dealers only meet these minimum SEC requirements, the NASD believes that customers are not sufficiently advised of the status of their accounts.

As a result, the NASD Board of Governors approved a new rule that requires broker/dealers to send periodic account statements (at least quarterly) to customers having securities positions, funds, or any account changes since a previous statement-reporting period. Such a statement would also include a description of all securities positions, money balances, and account activity in the account.

Exempt from the provisions of the rule are NASD members who do not carry accounts or hold customer funds or securities — such as sellers of mutual

Markup/Markdown Disclosure Expanded To Nasdaq Small-Cap MarketSM Trades

Recently approved NASD By-Law amendments will require NASD members to furnish specific markup and markdown disclosure to customers on Nasdaq Small-Cap MarketSM trades.

The NASD believes that the new disclosure rules will benefit investors as well as enhance the credibility and image of the Nasdaq Small-Cap Market. The NASD also notes that the new rules appear to place no undue burden on members, because members are currently required to make similar disclosures under SEC Rule 10b-10 for Nasdaq National MarketSM securities, and many have already begun to supply customers with the additional disclosure.

As amended, Schedule D of the NASD By-Laws now requires that NASD members who are market makers must disclose on the customer’s confirmation any difference between the price of a transaction as reported to the tape and the price a customer pays. Furthermore, all broker/dealers that are not market makers must disclose markups and markdowns on riskless principal transactions.

The new NASD rule mirrors similar language in the SEC’s confirmation disclosure requirements, SEC Rule10b-10(a)(8). That rule, however, covers only Nasdaq National Market issues and not the Nasdaq Small-Cap Market.

For more complete information, see July Notice To Members 92-39.

National Association of Securities Dealers, Inc.

September 1992
funds, unit investment trusts, or variable contract insurance products. The Board feels that customers of these members are adequately informed and protected under various statutory and regulatory mechanisms already present, such as the The Investment Company Act of 1940.

Certain account activity would also be exempt from the new rule. Account activity relating to funds or securities not in control of the member, such as direct participation program (DPP) securities, is usually handled by a partner rather than the distributing broker/dealer.

For more information on the new rule, see June Notice To Members 92-30.

Transfer Agents Adopt New Rules

Earlier this year, the SEC amended the Securities Exchange Act of 1934 by adopting Rule 17Ad-15 regarding signature guarantees. This rule requires transfer agents to develop written standards for the acceptance of signature guarantors that provide for equitable treatment of all classes of institutions.

Effective October 26, 1992, transfer agents will no longer accept the current "street practice" involving signature cards. Instead, only guarantees of firms enrolled in a recognized signature guaranty program will be accepted.

By joining a recognized program, guarantors will have a surety bond and receive from the program administrator actual stamps manufactured specifically for the program. If a transfer agent receives a signature guaranteed transfer without this stamp, the transfer will be rejected. Using a unique ink and other special features, the stamp is expected to protect guarantors and agents against fraudulent guarantees.

The Securities Transfer Agent Medallion Program (STAMP) is a recognized program that is available to many NASD members. The STAMP program's administrator is Kemark Financial Services, which can be reached by calling (800) 348-2724. Other questions concerning this program may be directed to any NASD District Office.

SEC Clarifies Proxy Voting Advice Conduct for Broker/Dealers

According to a letter released by the SEC, broker/dealers may initiate contact with customers to ensure that an investor is provided with accurate information concerning shareholder proxy voting.

On May 19, 1992, SEC Chief Counsel Abigail Arms responded to an NASD request for clarification of the SEC's "safe harbor provisions" under Rule 14a-2(b)(2). The NASD sought to establish whether broker/dealers may initiate contact with customers to advise them about proxy voting matters without becoming subject to proxy filing requirements.

While broker/dealers traditionally had relied on the safe harbor provisions to protect them only when a customer asked their advice, the recent increase in partnership roll-ups that are appearing on shareholder proxy statements brought into question whether investors were being provided with proxy voting advice. The NASD's request for clarification — along with the efforts of the United States Congress, individual states, and the SEC — is part of a concerted effort to protect investors from the type of abuses that have occurred in the partnership industry in previous roll-up transactions.

Conditions for Providing Voting Advice

In affirming the broker/dealer's right to initiate contact, Arms defined several conditions for broker conduct that would not be subject to proxy filing requirements. Under the terms of anti-fraud provisions in SEC Rule 14a-9, a broker/dealer:

- Must already have provided customers with financial advice as a part of the ordinary course of business and have a business relationship with the customer at the time he or she provides proxy voting advice.
- Must disclose to the customer any significant relationship it has with the issuer, its affiliates, or any shareholder with a stated position on the particular proxy matter. This disclosure must include any material interest the broker/dealer has regarding the proxy voting matter.
- May not receive special compensation for furnishing the advice from any person other than the customer and may not rely on the safe harbor provision if the advice is being furnished on behalf of anyone actively soliciting proxies, or on behalf of anyone who is a participant in an election contest subject to SEC Rule 14a-11.

If a broker/dealer is considered to be a participant in a proxy solicitation as defined by the above instances, he or she must meet all proxy filing requirements. In her letter, Arms further warned brokers, "No amount of disclosure would allow a broker/dealer to rely on the [safe harbor provision] to furnish proxy voting advice voluntarily to a securityholder customer if he or she is acting on behalf of a person soliciting proxies, or receives compensation related, directly or indirectly, to the furnishing of advice on the matter subject to the solicitation...."

For more complete information concerning the proxy issue and the no-action letter, see June Notice To Members 92-33.
COMPLIANCE SHORT TAKES

Members who act as deposit brokers to federally insured depository institutions must now notify the Federal Deposit Insurance Corporation (FDIC) of such actions.

The new FDIC regulation defines a deposit broker as: "(a) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions, or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and (b) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a pre-arranged loan."

Under this new regulation, a deposit broker must register with the FDIC before it may solicit or place deposits with an insured depository institution. In addition, a deposit broker must keep certain records and file written reports on request with the FDIC.

The new regulation is published in the June 5, 1992 Federal Register, Volume 57, Number 109, pages 23933-44. For more information, contact William G. Hrindae, FDIC Division of Supervision at (202) 898-6892, or Valerie Jean Best, FDIC Legal Division at (202) 898-3812. Any written correspondence can be sent to FDIC, 550 17th Street, NW, Washington, DC 20429.

SEC plans to direct efforts at the largest 50 to 75 broker/dealers that carry and clear customer accounts. However, in the event of a problem with a firm that carries or holds customer accounts, the SEC will be able to monitor the risks associated with any clearing firm.

The new system — covered under SEC Rules 17h-1T and 17h-2T — will require information reporting on the financial and securities activities of holding companies, affiliates, or associated persons of major broker/dealers. This information would only be required of persons identified as "material associated persons" whose "business activities are reasonably likely to have a major impact on the financial and operational condition" of the broker/dealer's "net capital, its liquidity, or its ability to finance its operations."

The rules become fully effective on December 31, 1992. However, firms covered by the rules must maintain an organizational chart, risk management policy, and disclosure of litigation information effective September 30, 1992. The new SEC rules will be evaluated after two years for any necessary changes or modifications.

For more complete information on the new SEC rules, see August Notice To Members 92-43.

Municipal Underwriters Must File Statements Within 10 Days

The Municipal Securities Rulemaking Board (MSRB) has expressed concern that underwriters of Municipal Securities are not filing final official statements within the ten-day time frame required by MSRB Rule G-36(b)(i).

The rule reads as follows:
Each broker, dealer or municipal securities dealer that acts as an underwriter in a primary offering of municipal securities subject to Securities Exchange Act rule 15c2-12 shall send to the Board or its designee by certified or registered mail, or some other equally prompt means that provides a record of sending, within one business day after receipt of the final official statement from the issuer or its designated agent, but no later than 10 business days (emphasis added) after any final agreement to purchase, offer, or sell the municipal securities, the following documents and written information: two copies of the final official statement; and two copies of completed Form G-36 prescribed by the Board, including the CUSIP number or numbers for the issue.

Compliance with all MSRB Rules is reviewed during examinations.
Violations

Investigation Leads to Fraud Charges Against TV Personality

Uncovering a scheme that swindled investors of more than $3 million during a five-year period, the NASD's New York District Office contributed to the conviction of a local New York television personality who defrauded members of the city's Asian-Indian and Pakistani communities.

Manhattan broker/dealer Deepak Gulati, host of an investment segment entitled "You and Your Money" on the local New York program "Vision of Asia," pleaded guilty to securities fraud charges brought by the U.S. Attorney's Office in New York and also settled a separate civil fraud action brought by the SEC.

According to statements obtained by the NASD, Gulati specifically targeted fellow Asian-Indian or Pakistani Americans in what is sometimes called an "affinity scheme." In such cases, a particular ethnic or immigrant community is solicited in a fraud scheme by a fellow member of that community.

Gulati used his television appearances to encourage potential investors of Indian or Pakistani origin to attend seminars that he sponsored. Investors were urged to contact either of two investment firms Gulati ran, DTI Financial Inc. and D. Gulati and Associates. Once investors contacted the firms, they were offered securities that purportedly would pay a 12 percent annual interest rate. Much like a typical "Ponzi scheme," Gulati paid off initial investors with the money received from later investors.

After investigating preliminarily, NASD District 10 handed the case to a New York SEC office, which eventually proceeded against Gulati.

According to his settlement with the SEC, Gulati agreed to give up more than $3 million in personal profit and pay more than $5 million in penalties. He has also been barred from all securities industry practices, while the licenses of both of his companies have been revoked. Gulati could also face up to five years in prison when he is sentenced in October.

NASDAQ Suspends Datek Securities and Its Head Trader for SOES℠ Rules Violations

After the appeal of a decision rendered in an expedited remedial proceeding, the NASD announced new restrictions against Brooklyn, N.Y.-based Datek Securities Corporation and its head trader Sheldon Maschler for exceeding maximum order-size limits on the NASD's Small Order Execution System (SOES).℠

Datek may continue to act as a market maker, but is prohibited from entering orders in any execution facility operated by the NASD or its subsidiary corporations for six months through February 11, 1993. Datek's Staten Island office, where Maschler operated from, is also suspended until February 11, 1993.

In addition, Maschler was suspended in any capacity until February 11, 1993 and must requalify by examination before associating with Datek or any other NASD member firm.

Acting through Maschler, Datek violated the SOES rules and NASD Rules of Fair Practice in 690 instances involving 21 discretionary accounts. The NASD found the orders to be based on a single investment decision in each instance, and when aggregated, exceeded the maximum SOES size limit of 1,000 shares. SOES was designed by the NASD to serve public customers by providing automated execution facilities for small customer orders in Nasdaq securities.

Because the SOES trading violations in this instance were substantially similar to those found in a previous disciplinary action against Datek and Maschler, the NASD engaged in an expedited remedial proceeding.

"The expedited remedial proceeding gives the NASD the authority — when it is in the public interest — to take immediate action and impose suspensions or conditions upon the operation of a firm or individual that has engaged in previous serious misconduct, and is likely to continue to do so if not stopped," said John E. Pinto, NASD Executive Vice President of Compliance. "It is a very effective tool in protecting the investing public from improper practices."

NASDAQ Regulatory & Compliance Alert

September 1992
ask quotations, disclose the broker/dealer's and salesperson's compensation, and provide a monthly account statement showing the market value of each penny stock held in a customer's account.

Transactions listed in SEC Rule 15g-1 are exempt from the new disclosure rules. Specifically, a "limited-activity" exemption is allowed assuming the broker/dealer is not acting as a market maker in the penny stock that is the subject of the transaction, and if less than 5 percent of the broker/dealer's revenues are derived from penny stock purchases or sales during a specified period. Also exempt are institutional accredited investor transactions and private offering transactions that meet the requirements of Regulation D or Section 4(2) of the Securities Act. Transactions are also exempt from the new rules where the investor is the issuer, or is a director, officer, general partner, or direct or indirect beneficial owner of more than 5 percent of any class of security of the issuer that is the subject of the penny stock transactions. Finally, consistent with Rule 15c2-6 (the "cold call" rule), the SEC determined to exempt non-recommended transactions in penny stocks from the disclosure provisions.

For more information on the new SEC penny stock disclosure rules, see the July and August Notices to Members 92-38 and 92-42. You may also contact Daniel M. Sibears or Gary A. Carleton at (202) 728-8959.

Penny Stock Defined

The new disclosure rules apply only to those securities defined as "penny stocks." SEC Rule 3a51-1 defines a penny stock as any equity security other than the following:

a) Reported securities—those for which last-sale reports are collected and made available pursuant to an effective transaction reporting plan. Included are Nasdaq/NMS securities, securities listed on the New York Stock Exchange (NYSE) and the American Stock Exchange (Amex) (including securities listed on the Amex Emerging Company Marketplace), and securities meeting NYSE and Amex listing standards that are listed on other national stock exchanges.

b) Securities registered, or approved for registration upon notice of issuance, on a national securities exchange provided that price and volume information with respect to transactions in that security is required to be reported on a current and continuing basis and is made available to vendors pursuant to the exchange's rules, and that the security is bought or sold in a transaction effected on or through the facilities of the exchange, or is part of the distribution of the security. Currently qualifying for this exclusion are equity securities listed on the NYSE, Amex, the Boston Stock Exchange, the Cincinnati Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange, the Philadelphia Stock Exchange, and the Chicago Board Options Exchange.

c) Securities authorized or approved for authorization upon notice of issuance for quotation in the Regular Nasdaq market (known as "Nasdaq Small-Cap Market"), provided that price and volume information about transactions in the security is reported on a current and continuing basis and made available to vendors pursuant to NASD rules. This exclusion for Nasdaq Small-Cap issues was based in part on the recent commencement of last-sale price and volume reporting for those securities.

d) Securities priced at $5 per share or more, excluding any broker-dealer commission, commission equivalent, markup, or markdown.

e) Securities of an issuer having either:

1) More than $2 million of net tangible assets (total assets less intangible assets less liabilities), if the issuer has operated continuously for at least three years; or at least $5 million of net tangible assets, if the issuer has operated continuously for less than three years; or

2) Average revenue of at least $6 million for the last three years.

f) Securities issued by an investment company registered under the Investment Company Act of 1940.

g) Put and call options issued by the Options Clearing Corporation.
NASD Disciplines Individuals for Penny Stock Scheme

The NASD disciplined four former associates of member firm Dillon Securities, Inc. for numerous violations related to an elaborate scheme whereby investors were illegally sold unregisterd, over-the-counter "penny stock" securities.

William J. Riggs II, Michael L. Goldman, Thomas J. Dillon, and Mark J. Dillon of the Spokane, Washington-based firm agreed to an arrangement whereby they neither admitted or denied the allegations made against them, but submitted to NASD disciplinary actions.

Riggs and Goldman were each censured and permanently barred from associating with any member firm in any capacity. In addition, Riggs was fined $1.3 million and Goldman $200,000. Thomas Dillon agreed to a censure, a fine of $60,000, a six-month suspension in all capacities, and was barred from acting in certain specified capacities. Mark Dillon agreed to a censure, a fine of $10,000, and a 30-day suspension in all capacities.

Riggs' and Goldman's suspensions are effective immediately, while Mark and Thomas Dillon's begin on September 21, 1992 and October 30, 1992, respectively.

Targeting the Penny Stock Market
With assistance from the SEC and the Arizona Corporation Commission, the NASD's Washington D.C.-based Anti-Fraud Department and its District Business Conduct Committee in Seattle (District 3) carried out the case as part of an intensive nationwide effort to eliminate abuses in the penny stock market.

A complaint issued by the District 3 Committee alleged that the respondents defrauded investors through the illegal sale of unregistered securities — a violation of the Securities Act of 1933 (Section 5) and the NASD's Rules of Fair Practice (Article III, Section 1). Specifically, the NASD found that two over-the-counter securities, Smarty Pants, Inc. and Cancer Quest, Inc. were effectively controlled by a promoter who was also Riggs' and Goldman's father-in-law.

In accepting the respondents'settlement offers, the NASD found that Riggs and Goldman engaged in numerous private securities transactions without prior written notification to Dillon Securities. Many of these transactions were effectuated on behalf of the promoter and were executed through an "boiler room" Goldman operated in Scottsdale, Arizona. In one instance, Riggs and Goldman travelled to Taipei, at the behest of the promoter, to privately sell unregistered shares of Cancer Quest to a group of Taiwanese investors for $1.1 million. As direct compensation from the promoter, Riggs and Goldman were given free or sharply discounted stock, plus additional cash payments.

Riggs and Goldman also employed various fraudulent and deceptive sales practices, including misrepresentations, baseless price predictions, and guarantees against losses. Riggs and Goldman also required that some of their customers agree not to sell shares for a certain period and, to prevent the selling of shares through other broker/dealers, refused to provide customers with original stock certificates. Such conduct was deemed to be fraudulent and a violation of NASD Rules (Article III, Sections 1 and 18) and the Securities Exchange Act of 1934 (Section 10-b). Promoter Controlled Firm
The NASD found that Thomas and Mark Dillon entered into an agreement with the promoter to submit certain "pink sheet" price quotations and for Dillon Securities to become the leading market maker in Cancer Quest. For their firm's participation in marketing Cancer Quest, the two Dillons each received 100,000 free shares of Cancer Quest and Thomas Dillon received cash payments totalling $59, 400. This receipt of compensation for market making was found to have violated NASD Rules (Article III, Section 1). The NASD also determined that the promoter — through his involvement with all four respondents in the scheme — effectively controlled Dillon Securities. As such, certain disclosures to clients required by NASD By-Laws (Schedule E) and the Rules of Fair Practice (Article III, Sections 1 and 13) were violated by Riggs and Goldman in their relationship with Smarty Pants and Cancer Quest customers.

Thomas Dillon, as part of an agreement reached with the promoter, was also found to have initiated quotations in Cancer Quest using improper information, a violation of NASD Rules (Article III, Section 1), the 1934 Act under Section 15(c), and SEC Rule 15c2-11. Dillon also failed to supervise adequately the conduct of Riggs and Goldman in the Scottsdale branch office, another violation of NASD Rules (Article III, Sections 1 and 27). In its decision, the NASD also found that Riggs and Goldman had, in several instances, provided false and intentionally misleading information during the NASD investigation.

NASD Regulatory & Compliance Alert

September 1992
**NASD Disciplinary Actions**

In May, June, and July 1992, the NASD announced the following disciplinary actions against these firms and individuals. Publication of these sanctions alerts members and their associated persons to actionable behavior and to the penalties that may result.

**District 1—Northern California (the counties of Monterey, San Benito, Fresno, and Inyo, and the remainder of the state north or west of such counties), northern Nevada (the counties of Esmeralda and Yum., and the remainder of the state north or west of such counties), and Hawaii**

**May Actions**

Garret Brian Auld (Representative, Anderson, California) was fined $5,000 and suspended from association with any member of the NASD in any capacity for one year. In addition, Auld must satisfactorily pass an examination prior to becoming associated with any member firm and is required to obtain the permission of the Statutory Disqualification Subcouncil of the NASD’s National Business Conduct Committee (NBCC) prior to any future employment in the securities industry.

The sanction was based on findings that Auld received from two public customers' funds totaling $35,131.72 for investment purposes and misappropriated the funds for other purposes. Auld also participated in private securities transactions with investors without providing prior written notification to his member firm.

DWS Securities Corporation (Sonora, California), Stephen Michael Rangel (Registered Principal, Sonora, California), and Hugh Scott Liddle, Jr. (Registered Principal, Modesto, California) were fined $425,000, jointly and severally, and required to make written offers of settlement to investors. Any accounts that the respondents can demonstrate have been paid to the customers will be applied against the fine. In addition, the firm was expelled from membership in the NASD, and Rangel and Liddle were barred from association with any member of the NASD in any capacity. The sanctions were imposed by the NASD’s NBCC following an appeal of a decision by the District Business Conduct Committee (DBCC) for District 1. The sanctions were based on findings that the firm, acting through Rangel and Liddle, made fraudulent misrepresentations and omissions in connection with two private offerings.

The respondents have appealed this action to the Securities and Exchange Commission (SEC), and the sanctions, other than the expulsion and bars, are not in effect pending consideration of the appeal.

Eagan & Company, Inc. (San Francisco, California) and James Robinson Eagan (Registered Principal, San Francisco, California). The firm was fined $60,000 and expelled from membership in the NASD. James Eagan was fined $110,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, acting through Eagan, failed to maintain accurate books and records, filed false and inaccurate FOCUS Parts I and II A reports, and engaged in a securities business while failing to maintain its minimum required net capital.

Moreover, the firm, acting through Eagan, failed to file FOCUS Part I A reports on a timely basis and to file FOCUS Part II A reports for certain months.

In addition, the firm, acting through Eagan, failed to transmit investors' funds received from a contingent offering of limited partnership interests into a separate escrow account and to return investors' subscriptions when the contingency was not met. Eagan also acted as principal of the firm without registration as a principal in contravention of a previous order imposed by the DBCC for District 1.

**June Actions**

Pacific Integrated Group, Inc. (Santa Clara, California) was fined $13,000, jointly and severally with an individual. The sanction was based on findings that the firm participated in sales of limited partnership interests in several best efforts "all or none" offerings and received funds from investors without depositing the funds into an escrow account.

In addition, the firm represented to investors that limited partnership interests were being offered on an all-or-none basis and the consideration paid by the investors would be refunded if all units were not sold by a specified date when, in fact, funds were disbursed before all units were sold. Furthermore, the firm failed to prepare net capital computations for certain months and engaged in a securities business without maintaining the minimum required net capital.

Also, in contravention of the terms of a voluntary restriction agreement with the NASD, the firm failed to file with the NASD copies of escrow agreements in the offer and sale of limited partnership interests.

**July Actions**

Lanco Securities Corporation (Burlingame, California) and Joseph Anthony Atencio (Registered Principal, Burlingame, California) were fined $10,000, jointly and severally. In addition, Atencio was barred from association with any member of the NASD in any principal capacity. The NBCC imposed the sanctions following an appeal of a decision by the DBCC for District 1. The sanctions were based on findings that the firm, acting through Atencio, filed false and inaccurate FOCUS Parts I and II A reports and failed to maintain its required minimum net capital.

Furthermore, the firm, acting through Atencio, failed to give telegraphic notice to the NASD regarding its net capital deficiency and failed to file its FOCUS Part II A reports. Lanco, acting through Atencio, also solicited public customers to purchase restricted stock in contravention of SEC Rule 144 and failed to establish written supervisory procedures to prevent this activity. In addition, the firm, acting through Atencio, failed to carry a blanket fidelity bond.

Timothy Lane Burkes (Representative, Pleasanton, California) was fined $16,200 and suspended from association with any member of the NASD in any capacity for 180 days. The NBCC imposed the sanctions following an appeal of a decision by the DBCC for District 1. The sanctions were based on findings that Burkes caused funds totaling $16,500.54 to be transferred from his member firm’s account to his commission account. As a result, Burkes received credit for funds to which he was not entitled.

Burkes has appealed this action to the SEC, and the sanctions are not in effect pending consideration of the appeal.

Dale M. Russell (Registered Principal, La Verne, California) was fined $33,287.45 and suspended from association with any member of the NASD in any capacity for seven days. The NBCC imposed the sanctions following an appeal of a decision by the DBCC for District 2. The sanctions were based on findings that Russell engaged in private securities transactions without giving...
Christopher Procopis (Registered Principal, Katonah, New York) submitted an Offer of Settlement pursuant to which he was fined $10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Procopis consented to the described sanctions and to the entry of findings that he converted travelers checks from his member firm for his own benefit.

Marc Barry Resnick (Registered Representative, Bell Canyon, California) was fined $11,650. The sanction was based on findings that Resnick executed purchased transactions for public customers but overcharged them by failing to give them the benefit of reduced sales charges associated with the execution of a letter of intent.

July Actions

Stephen Russell Boada (Registered Principal, Pacific Palisades, California) was fined $10,000 and ordered to qualify by examination as a financial and operations principal within 120 days or he will be barred in any principal capacity. The sanction was based on findings that Boada continued to act as a financial and operations principal for his member firm even though the NASD had ordered him to qualify in that capacity in a previous disciplinary action.

Mark Alan Helsing (Registered Representative, Tustin, California) was suspended from association with any member of the NASD in any capacity for 30 days and required to qualify by examination before associating with any member of the NASD in any capacity. The sanctions were based on findings that Helsing overcharged a customer in the sale of mutual funds. Specifically, he failed to give the customer the benefit of reduced sales charges associated with the combined purchases of securities, the execution of a letter of intent, and the rights of accumulation.

Anastasia Marie Lew (Associated Person, San Diego, California) was fined $78,520.78 and barred from association with any member of the NASD in any capacity. This fine can be reduced by $13,520.73, representing the amount of restitution Lew makes to her member firm. The sanctions were based on findings that Lew misused firm funds by causing six checks totaling $8,411 to be issued to her from her member firm’s bank account without the firm’s knowledge or consent.

In addition, Lew caused the issuance of a $2,000 check from her member firm’s checking account made payable to an affiliated company and intercepted two other checks totaling $2,992.42 representing mutual fund concessions earned by her member firm. Lew cashed these checks and converted the proceeds. She also failed to respond to NASD’s allegations.

Richard Robert Whatley (Registered Representative, Rancho Palos Verdes, California) was fined $17,500. The sanction was based on findings that Whatley failed to pay a $2,234 arbitration award in a timely manner and failed to respond to NASD requests for information.

Blake William Wilson (Registered Principal, Ojai, California) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Wilson failed to respond to NASD requests for information.

May Actions

Stanley Kim Hodges (Registered Representative, Provo, Utah) submitted an Offer of Settlement pursuant to which he was fined $12,500. Without admitting or denying the allegations, Hodges consented to the described sanctions and to the entry of findings that he recommended and executed the purchase of securities in the accounts of two public customers without having reasonable grounds for believing such recommendations were suitable for the customers considering their investment objectives. The NASD also found that Hodges executed seven unauthorized transactions in one of the two aforementioned customers’ accounts.

James Michael Hudson (Registered Representative, Everett, Washington) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Hudson consented to the described sanctions and to the entry of findings that he executed unauthorized transactions on behalf of customers. The sanctions were based on findings that these transactions were unsuitable for the customers based on their financial status, stated investment objectives, and personal circumstances and needs.

The NASD also found that Hudson filled out for the same customer a new account form that contained false information. Moreover, the NASD determined that Hudson guaranteed this customer against loss and/or shared in losses in the customer’s account.

Thomas Dale Kienlen (Registered Principal, Jasper, Oregon) was fined $10,500 and required to qualify by examination in any capacity for which he seeks to register with the NASD. The sanctions were imposed by the NASD’s NBCC following an appeal of a decision by the NBCC for District 3. The sanctions were based on findings that Kienlen recommended to a public customer an investment in a mutual fund that was managed and controlled by Kienlen’s relatives. This recommendation was made without reasonable grounds for believing that the transaction was suitable for the customer considering his financial situation and investment needs.

Lee Thomas Livingston (Registered Principal, Portland, Oregon) and Charles Horneman Niebur (Registered Principal, Beaverton, Oregon) were suspended from association with any member of the NASD as general securities principals. The May 1992 disciplinary action was based on findings that Livingston and Niebur were suspended from association with any member of the NASD in any principal capacity.

William F. Pembie (Registered Representative, Tucson, Arizona) submitted an Offer of Settlement pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Pembie consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction without providing written notice to his member firm.

Richard R. Perkins (Registered Representative, Denver, Colorado) and Michael D. Perkins (Registered Representative, Aurora, Colorado) were fined $91,500 and Pitman was fined $44,500. In addition, Perkins and Pitman were suspended from association with any member of the NASD in any capacity for two years. The sanctions were imposed by the NASD’s NBCC in an appeal of a decision by the NBCC for District 3.

The sanctions were based on findings that Perkins and Pitman caused securities transactions to be effected with retail customers at prices that were unfair, including markups ranging from 13.3 to 400 percent above the prevailing market price for these securities. In addition, Perkins caused the distribution of sales literature regarding such securities that contained material omissions or failed to contain material information. Specifically, the literature failed to discuss the risks involved, contained promotional statements, and failed to disclose that the firm’s market maker in the securities. Furthermore, Perkins failed to have this literature approved for use by his member firm prior to its distribution.}

**NASD Regulatory & Compliance Alert**

**September 1992**
William R. Sheppard (Registered Principal, Parker, Colorado) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Sheppard failed to provide information requested by the NASD's Market Surveillance Department in connection with its investigation into the trading of a security.

Wasatch Stock Trading, Inc. (Salt Lake City, Utah) and Matthew Ralph White (Registered Principal, Salt Lake City, Utah) were each ordered an Offer of Settlement pursuant to which the firm was fined $12,500, jointly and severally with other individuals. In addition, the firm agreed that it would require a registered principal, other than the firm's trader, to review trades entered in the trader's personal accounts and in the firm's trading accounts by any firm trader. Furthermore, the firm shall not take down inventory positions for registered representatives for six months. White was fined $12,500 and suspended from association with any member of the NASD in any capacity for five business days.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through White, engaged in a fraudulent scheme of "parking" securities at the end of the month in three accounts and repurchasing those securities into inventory at the beginning of the next month. The respondents engaged in the scheme in order to generate capital for the firm, to conceal the firm's true financial condition, and to circumvent the net capital requirements.

June Actions

Don Arbital (Registered Representative, Hauppaugue, New York), Ted Clark (Registered Representative, Englewood, Colorado), and Eugene Hunter (Registered Representative, Los Angeles, California) submitted an Offer of Settlement pursuant to which Arbital and Clark each were fined $2,500 and suspended from association with any member of the NASD in any capacity for five business days. Hunter was fined $15,000 and suspended from association with any member of the NASD in any capacity for six months. In addition, Arbital, Clark, and Hunter must refract by examination as general securities representatives.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Arbital, Clark, and Hunter effected transactions with customers at prices they knew or should have known, were unfair and unreasonable. Moreover, the NASD determined that the respondents failed to disclose to their customers that the prices were unfair and unreasonable.

Gabriel A. Arcuri, Jr. (Registered Representative, Stayvealls Falls, New York) was fined $2,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to respond by examination as a general securities representative.

The respondents consented to the described sanctions and to the entry of findings that the firm, acting through Arcuri, failed to maintain its minimum required net capital. Furthermore, in contravention of the Interstate Sale of Governor Concerning NASD Mark-Up Policy, the firm, acting through Arcuri, failed to follow the customer's instructions and, instead, deposited the funds into his personal account and used the funds for his own benefit.

Russell S. Brandt (Registered Representative, Blandon, Pennsylvania) and Igor Paranyk (Registered Representative, Brooklyn, New York) submitted an Offer of Settlement pursuant to which Brandt was fined $2,500 and suspended from association with any member of the NASD in any capacity for five business days. Paranyk was fined $1,000 and suspended from association with any member of the NASD in any capacity for five business days. In addition, Brandt and Paranyk must refract by examination as general securities representatives.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Brandt and Paranyk effected transactions with customers at prices that they knew or should have known were unfair and unreasonable. Moreover, the NASD determined that the respondents failed to disclose to their customers that the prices were unfair and unreasonable.

Robert J. Cargieg (Registered Representative, Centerville, Utah) was fined $30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Cargieg forged a customer's name on checks drawn on the customer's account and used the proceeds for his own benefit. In addition, Cargieg received another customer a $1,500 check representing a security. Cargieg failed to follow the customer's instructions and, instead, deposited the funds into his personal account and used the funds for his own benefit.

Cargieg also received from a different customer a certificate for 12,000 shares of securities for sale in the customer's account. Instead, he deposited the shares in his personal securities account, sold the shares, and used the proceeds of the sale for his personal benefit. Moreover, Cargieg misrepresented material facts to this customer and guaranteed the price at which securities would be sold to induce the customers to tender assets to and purchase securities.

Cargieg also engaged in private securities transactions while failing to provide prior written notice of such transactions to his member firm and failed to respond fully to NASD requests for information.

Dillon Securities, Inc. (Spokane, Washington) and Troy Dean Mo (Registered Principal, Spokane, Washington) were each fined $20,000, jointly and severally with a registered representative and fined an additional $11,200, jointly and severally with Moore. In addition, Moore was suspended from associations with any member of the NASD in any capacity for 30 business days.

The sanctions were based on findings that the firm, acting through Moore, failed to maintain its minimum required net capital. Furthermore, in contravention of the Intermediation of the Board of Governors Concerning NASD Mark-Up Policy, the firm, acting through Moore, effected principal transactions for retail customers in common stock that included markups and markdowns greater than 10 percent. The respondents also failed to disclose the markups to their customers.

Moreover, Moore issued two checks that were returned due to insufficient funds. One was a $50,000 personal check to his member firm in an addition to capital and the other was a $99,137.71 check to his clearing broker/dealer for the purchase of securities.

Brian Gregory DiJulio (Registered Representative, Kirkland, Washington) submitted an Offer of Settlement pursuant to which he was fined $20,000 and suspended from association with any member of the NASD in any capacity for 10 business days. In addition, DiJulio was ordered to participate in a continuing education course in connection with his principal's account.

Without admitting or denying the allegations, DiJulio consented to the sanctions and to the entry of findings that he engaged in principal transactions in the accounts of public customers. The NASD also found that DiJulio made unauthorized use of margin to purchase securities in a customer's account without having reasonable grounds for believing that such use of margin was suitable for the customer considering his investment objective, financial situation, and needs.

Jay Michael Fertman (Registered Representative, Englewood, Colorado) was fined $1,902.075 and barred from association with any member of the NASD in any capacity. However, Fertman's fine may be reduced by any amount of restitution he makes to customers. The NASD imposed the sanctions following an appeal of a decision by the DBBC for District 3.

The sanctions were based on findings that Fertman implemented and directed a fraudulent scheme to manipulate stock prices. Pursuant to this scheme, he sold shares of stock between accounts he controlled to give the appearance of an active trading market in the securities. This way he could disguise the arbitrary price increases and induce investors to purchase the stock thereby raising the price of the securities. As a result, the stock, owned and controlled by Fertman at nominal cost, could be sold at substantial profits.

In addition, to facilitate the aforementioned manipulation, Fertman used advertisements, "scripts," and other sales literature that contained exaggerated, unwarranted, and promissory claims, but failed to disclose the risks involved in the recommendations and omitted material facts. Fertman also maintained securities accounts at two brokers/dealers other than his member firm without first notifying such brokers/dealers of his association with a member firm.

Fertman has appealed this action to the SEC, and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

Red Armand Hatkoff (Registered Principal, Denver, Colorado) was fined $15,000 and suspended from association with any member of the NASD in any capacity for 12 months. The NASD imposed the sanctions following an appeal of a decision by the DBBC for District 3. The sanctions were based on findings that Hatkoff failed to respond to an NASD request for information pertaining to an investigation conducted by the NASD staff.

Hatkoff has appealed this action to the SEC, and the sanctions are not in effect pending consideration of the appeal.

William Todd Knowles (Registered Representative, Layton, Utah) submitted an Offer of Settlement pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Knowles consented to the described sanctions and to the entry of findings that he received from public customers totaling $5,500 intended for the purchase of securities. The NASD found that Knowles failed to purchase the insecured securities and, instead, deposited $4,900 of these funds into his personal account. The findings also stated that Knowles made misrepresentations to customers regarding the status of their securities accounts.

Ronald James Lasek (Registered Representative, Phoenix, Arizona) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Lasek executed unauthorized transactions in the accounts of public customers.

Robert Lopez (Registered Principal, Bountiful, Utah) was fined $25,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to respond by examination as a general securities principal. The sanctions were based on findings that Lopez failed to adequately supervise the activities of a registered representative.

David Stephen Markman (Registered Representative, Tucson, Arizona) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Markman sold limited partnership interest to three public customers without providing written notice of the transactions to his member firm. Markman also failed to amend his Uniform Application for Securities Industry Registration or Transfer (Form U-4) to reflect that he was the subject of a customer complaint. In addition, Markman failed to respond to NASD requests for information.
Victor Theodore Nostas (Registered Representative, Wheat Ridge, Colorado) was fined $10,000 and suspended from association with any member of the NASD in any capacity for two years. The sanctions were based on findings that Nostas failed to cover the profits and losses in a customer’s account. Nostas entered into this agreement without obtaining prior written authorization from his member firm.

John Lawrence Schultz (Registered Representative, Aurora, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $50,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Schultz consented to the described sanctions and to the entry of findings that he engaged in private securities transactions with public customers without providing the necessary notice to his member firm.

Scott Eugene Sengelman (Registered Principal, Aurora, Colorado) was suspended from association with any member of the NASD in any principal capacity for one year and required to respond to a written examination prior to acting again in any principal capacity. The NIICC imposed the sanctions on reviewing a decision by the DBCC for District 3. The sanctions were based on findings that a former member firm, acting through Sengelman, failed to prepare current and accurate books and records, and filed inaccurate FOCUS IV reports. In addition, the firm, through Sengelman, conducted a securities business while failing to maintain its minimum net capital, and Sengelman failed to adequately supervise a statutorily disqualified individual.

Thomas Markow Walker (Registered Principal, Aurora, Colorado) and John Rick Priby, Jr. (Registered Principal, Littleton, Colorado) were fined $150,000 and barred from association with any member of the NASD in any capacity. Faye submitted an Offer of Settlement pursuant to which he has been fined $150,000 and barred from association with any member of the NASD in any capacity. However, Faye may reapply for association with a member firm after five years. Without admitting or denying the allegations, Faye consented to the described sanctions and to the entry of findings of the sanctions. The sanctions were based on findings that Faye and Walker managed customer funds. Specifically, the NASD found that they sold units in a private offering totaling $2,791,000 to investors and used $788,968 of the funds for purposes not directly related the private placement memorandums.

July Actions

Roger Darrell Alvey (Registered Representative, Portland, Oregon) was fined $10,000 and suspended from association with any member of the NASD in any capacity for 10 business days. In addition, Alvey must reimburse the SEC as a general securities representative. The sanctions were based on findings that Alvey elected unauthorized transactions in the accounts of public customers. Furthermore, Alvey recommended those transactions without having reasonable grounds for believing that such recommendations were suitable for the customers in view of the size, frequency, and nature of the recommended transactions, and the customer's financial situations, circumstances, needs, and investment objectives.

James C. Dunlap (Registered Representative, Scottsdale, Arizona) submitted an Offer of Settlement pursuant to which he was fined $35,000 and barred from association with any member of the NASD in any capacity. In addition, Dunlap must pay $15,000 in restitution to a public customer to compensate for unauthorized transactions in the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Dunlap consented to the described sanctions and to the entry of findings that he received from a public customer a $15,000 check intended for the purchase of securities. According to the findings, Dunlap endorsed the check and deposited the money into his personal bank account.

Alvey Joseph Jeanneau (Registered Representative, Lake Oswego, Oregon) was fined $5,000 and barred from association with any member of the NASD in any capacity until he pays a total of $6,340 in arbitration awards. The sanctions were based on findings that Jeanneau failed to pay a $6,140 NASD arbitration award and the remaining $200 balance of a $10,200 arbitration award.

Craig Stanton Norton (Registered Representative, Castle Rock, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $12,500. Without admitting or denying the allegations, Norton consented to the described sanction and to the entry of findings that a former member firm, acting through Norton, charged excessive markups to retail customers in the sale of securities.

Stephen Alan Roche (Registered Representative, Redmond, Washington) was fined $5,500 and suspended from association with any member of the NASD in any capacity for one business day. In addition, Roche must respond to a written examination as a general securities representative. The NIICC imposed the sanctions following an appeal of a decision by the DBCC for District 3. The sanctions were based on findings that Roche recommended securities transactions in the account of a public customer without having reasonable grounds for believing such recommendations were suitable for the customer.

David Lloyd Schumock (Registered Representative, Sumner, Washington) was fined $50,000, suspended from association with any member of the NASD in any capacity for six months, and required to respond to a written examination as a general securities representative. The fine can be reduced by $10,000, provided Schumock makes a payment of restitution to the customer's estate or beneficiaries. The sanctions were based on findings that Schumock recommended the purchase and sale of securities in a public customer's account. These recommendations were made without having reasonable grounds for believing that such transactions were suitable for the customer.

District 4—Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota

May Actions

Larry Dean Brockway (Registered Principal, Willoughby, Ohio) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined by association with any member of the NASD in any capacity. Without admitting or denying the allegations, Brockway consented to the described sanction and to the entry of findings that he converted customer funds totaling $305,836.68 to his own use and benefit by forging endorsements and obtaining policy loans without the knowledge or consent of the public customers. The sanctions were based on findings that a former member firm, acting through Brockway, utilized an iterate account to conduct securities business while failing to maintain its minimum net capital. In addition, Brockway was fined $20,000 and suspended from association with any member of the NASD in any capacity.

Stephen Ellen Hersh (Registered Principal, Howell, New Jersey) was fined $20,000. The sanctions were based on findings that a former member firm, acting through Hersh, utilized an iterate account to conduct securities business while failing to maintain its minimum net capital. In addition, Hersh was affiliated and associated as a financial and operations principal of the same firm without proper registration with the NASD in that capacity.

Lars Dean Omlid (Registered Representative, Manchester, Missouri) was fined $5,000, suspended from association with any member of the NASD in any capacity for 90 days, and required to make restitution to his member firm. The sanctions were imposed by the NASD's NBCC following an appeal of a decision by the DBCC for District 4. The sanctions were based on findings that, without the knowledge or consent of his member firm, Omlid received checks totaling $136,651 that were issued by another representative. The check was endorsed, deposited in his joint bank account, and converted to personal expenses.

Robert Alan Purschon (Registered Representative, Ankeny, Iowa) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Purschon consented to the described sanctions and to the entry of findings that, without the knowledge or consent of public customers, Purschon forged the customers' names on applications for additional life insurance coverage and submitted the applications to his member firm. As a result, the customers' accounts were charged for additional life insurance premiums.

Robert Morton Russell (Registered Representative, West Des Moines, Iowa) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. In addition, Russell must demonstrate that he has paid $42,000 in restitution to all parties entitled to seek recovery from the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Russell consented to the described sanctions and to the entry of findings that, through unauthorized address and ownership changes, and subsequent partial-surrender withdrawals from public customers' life insurance policies, he converted $42,000 without the knowledge or consent of the customers.

July Actions

James Patrick Connaughton, Jr. (Registered Representative, St. Louis, Missouri) submitted an Offer of Settlement pursuant to which he was fined $50,000 and barred from association with any member of the NASD in any capacity. In addition, Connaughton must pay $74,751.18 in restitution to a public customer before seeking re-entry to the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Connaughton consented to the described sanctions and to the entry of findings that he converted customer funds totaling $74,751.18 to his own use and benefit, without the customer's knowledge or consent. Specifically, the findings stated that Connaughton withdrew funds from the customer's securities account and deposited the proceeds to his personal bank account. In addition, Connaughton failed to respond to NASD requests for information in a timely manner.

James Patrick Connaughton, Sr. (Registered Principal, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was suspended from association with any member of the NASD in a principal capacity for 90 days and required to respond to a written examination as a general securities principal. Without admitting or denying the allegations, Connaughton consented to the described sanctions and to the entry of findings that he was registered as a general securities principal and he was registered as a registered representative adequately and properly to assure compliance with applicable rules and regulations.

Anthony Stanley King (Registered Representative, Washington, District of Columbia) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that King failed to respond to NASD requests for information concerning his termination from a member firm.

District 5—Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, and Tennessee

May Actions

Atlanta-One, Inc. (Irvin, California), Kevin Michael McCarthy (Registered Principal, Newport Beach, California), and Thomas William Blodgett (Registered Principal, Irvine, California) the firm was fined $100,000 and suspended from membership in the NASD for 90 days. McCarthy was fined $30,000 and suspended from association with any member of the NASD in any capacity for 30 days. Blodgett was fined $30,000 and suspended from association with any member of the NASD in any capacity for 30 days. In addition, McCarthy and Blodgett must reapply for registration before again acting in any capacity requiring qualification. Furthermore, the fines will be reduced by any amounts of restitution that the respondents have paid to customers.

The sanctions were imposed by the NASD's NBCC following an appeal of a decision by the DBCC for District 2. The sanctions were based on findings that the
firm, acting through McCarthy and Blodgett, charged unfair commissions in 353 foreign-currency options transactions. Specifically, the respondents charged commissions ranging from $50 to $35 per option contract, which represented between 16 and 89 percent of the customer’s investments.

The firm, McCarthy and Blodgett have appealed this action to the SEC and the sanctions are not in effect pending consideration of the appeal.

Earl Stanley Foster (Registered Principal, Covington, Kentucky) was fined $7,500 jointly and severally with a member firm, and suspended from association with any member of the NASD for one year. The sanctions were based on findings that a member firm, acting through Foster, engaged in a securities business while failing to maintain its required minimum net capital. Foster, acting on behalf of the same firm, also failed to register an individual with the NASD as a principal and allowed the firm to operate as a broker-dealer without such registration. In addition, the firm, acting through Foster, failed to comply with the requirements of the act that it changed its exemptive status without obtaining prior written approval from the NASD.

PaineWebber Incorporated (New York, New York), John A. Day (Registered Representative, Birmingham, Alabama), Jerry W. Payne (Registered Principal, Germantown, Tennessee), David L. Arnold (Registered Representative, Birmingham, Alabama), and William D. East (Registered Representative, Birmingham, Alabama) submitted an Offer of Settlement pursuant to which the firm was fined $75,000. Day was fined $100,000 and barred from association with any member of the NASD in any capacity. Payne was fined $10,000, barred from association with any member of the NASD as a compliance registered options principal and required to register by examination as a general securities principal. Arnold was fined $5,000 and suspended from association with any member of the NASD in any capacity. In addition, Arnold was fined $3,000 and suspended from association with any member of the NASD in any capacity. Day and East was fined $15,000.

With respect to denying the allegations, the respondents consent to the described sanctions and to the entry of findings that Day exercised discretionary power in the accounts of a public customer without obtaining prior written authorization from the customer. The firm failed to promptly provide PaineWebber’s branch office with any allocation tickets that it was not prevented from accurately determining the number of the block transactions. The sanctions further determined that Arnold and East obtained personal loans from two public customers and Day and East failed to disclose to PaineWebber these activities and that East was sharing the profits in his account with Day. Furthermore, Day, Payne, and Arnold failed to respond to NASD requests for information. Also, the firm, acting through Payne, failed to establish, maintain, and enforce written supervisory procedures and failed to supervise Day, Arnold, East and reasonably and properly, according to the findings.

Charles R. Reeves, Jr. (Representative, Covington, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Reeves consented to the described sanctions and to the entry of findings that, while registered with a member firm, he sold certificates of deposit or deposit notes to public customers through another firm and accepted $4,205 in compensation without providing written notice to his member firm.

The Riverview Corporation (Knoxville, Tennessee), Andrew E. Caffery, Jr. (Registered Principal, Knoxville, Tennessee), and John M. Hancock (Associated Person, Knoxville, Tennessee) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined $51,000 and barred from association with any member of the NASD 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 Caffery and Hancock, received $66,278.50 from public customers for investment purposes. However, the NASD found that the funds were deposited in the firm’s general operating account, commingled with the firm’s own funds, and used, in part, to pay normal operating expenses of the firm without the knowledge or consent of the customer.

The NASD also found that the firm, acting through Caffery and Hancock, failed to prepare accurate books and records, and engaged in a general securities business with public customers while failing to maintain its required minimum net capital. In addition, the firm failed to key word the notice of its failure to maintain its books of account and of its net capital deficiency. The findings also stated that the firm, acting through Caffery and Hancock, engaged a general securities business with public customers without proper registration as a broker-dealer with the SEC. According to the findings, the firm, acting through Caffery and Hancock, failed to comply with the provisions of Article II, Section 3(b) of the NASD Rules in that Hancock, an individual convicted of a felony, was associated with the firm.

In addition, the firm, acting through Caffery and Hancock, conducted a general securities business with public customers residing in the state of Tennessee but failed to renew its registration with the Tennessee Securities Commission, according to the findings. Also, the NASD found that Riverview, acting through Caffery and Hancock, failed to file an audited financial statement, to pay its general assessment fees to the Securities Investor Protection Corporation in a timely manner, and to keep current and accurate its Uniform Application for Broker-Dealer Registration. Furthermore, the firm, acting through Caffery and Hancock, failed to respond to NASD requests for information.

The findings also stated that Caffery engaged in transactions with public customers without the knowledge or consent of the customer. Furthermore, in contravention of Schedule C of the NASD’s By-Laws, the NASD determined that Hancock acted in the capacity of a general securities principal without being qualified and failed to be fingerprinted.

June Actions

Michael K. Johnson (Representative, Clarksville, Tennessee) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $15,000 and barred from association with any member of the NASD in any capacity. In addition, Johnson must pay $2,000 in restitution to a public customer if he seeks re-entry to the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Johnson consented to the described sanctions and to the entry of findings that he made a false and unauthorized application on a subscription request form for a $2,000 loan against a public customer’s insurance policy. According to the findings, he also requested that the address and name on the policy be changed to his. As a result, the NASD determined that Johnson made the requested change and deposited it in his personal checking account.

Charles R. Moore, Jr. (Registered Principal, Douglas, Georgia) was fined $3,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Moore engaged in a private securities transaction with public customers that was outside the regular course or scope of his association with a member firm. He also failed to provide written notification to his firm of his intention to engage in such transactions. In addition, Moore failed to respond to NASD requests for information.

Samuel F. Polo (Registered Representative, Gretna, Louisiana) was fined $30,000, suspended from association with any member of the NASD for one year, and required to qualify by examination as a general securities representative. The sanctions were based on findings that Polo exercised discretionary power in the account of a public customer while failing to obtain prior written authorization from the customer and without prior written acceptance of the account as discretionary by his member firm.

Kenneth R. Shelton (Registered Representative, Birmingham, Alabama) submitted an Offer of Settlement pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. In addition, Shelton must pay $385 in restitution to a public customer if he seeks to re-enter the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Shelton consented to the described sanctions and to the entry of findings that he received $385 from a public customer for automobile insurance. He converted the funds to his own use without the customer’s knowledge or consent. In addition, Shelton failed to respond to NASD requests for information.

Ronald G. Stone (Registered Representative, Barlowtown, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $2,500 and suspended from association with any member of the NASD in any capacity for one week. Without admitting or denying the allegations, Stone consented to the described sanctions and to the entry of findings that he caused $30,000 in losses to public customers while failing to charge them with the required delivery fees.

Dewin L. Vandergriff (Registered Representative, Ooltewah, Tennessee) submitted an Offer of Settlement pursuant to which he was fined $50,000 and barred from association with any member of the NASD in any capacity for one year. Without admitting or denying the allegations, Vandergriff consented to the described sanctions and to the entry of findings that he exercised discretionary power in the joint account of public customers while failing to obtain prior written authorization and without prior written acceptance of the account as discretionary by his member firm.

The findings also stated that Vandergriff received $31,000 from a public customer for investment in municipal bonds that he deposited into a bank account he controlled, thereby converting the funds to his own personal use. Furthermore, the NASD found that Vandergriff obtained $538,500 from public customers by representing that he would purchase suitable investments for the customers and that such purchases would take place outside of his association with his member firm. Instead, Vandergriff converted the funds to his own use without the customers’ knowledge or consent. In addition, Vandergriff failed to respond to NASD requests for information.

July Actions

Gary P. Adams (Registered Representative, Nashville, Tennessee) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $15,000, suspended from association with any member of the NASD in any capacity for two months, and required to qualify by examination as a general securities representative. Without admitting or denying the allegations, Adams consented to the described sanctions and to the entry of findings that he exercised discretion in the
account of a public customer without prior written authoriza-
tion from the customer or written acceptance of the account as discretionary by his member firm.

Furthermore, the findings stated that Adams exercised trades in the account causing the margin debit balance to exceed $5,000 in contravention of the customer's written instructions.

Richard D. Collins (Registered Representative, Tulsa, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Collins consented to the described sanctions and to the entry of findings that he sold unregistered securities.

In addition, the findings stated that Collins engaged in private securities transactions without prior written notice to and approval from his member firm.

Robbin C. Collins (Registered Representative, Louisville, Kentucky) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $2,500 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Collins consented to the described sanctions and to the entry of findings that he sold unregistered securities.

In addition, the findings stated that Collins engaged in private securities transactions without prior written notice to and approval from his member firm.

William S. Flournoy (Registered Representative, Lawton, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Flournoy consented to the described sanctions and to the entry of findings that he sold unregistered securities.

In addition, the findings stated that Flournoy engaged in an options strategy in the account of another customer without having reasonable grounds for believing that the account had been cleared for this level of options trading by his member firm.

The NASD also found that Miller engaged in an options strategy in the account of another customer without having reasonable grounds for believing that the account had been cleared for this level of options trading by his member firm.

Gary S. Smith (Registered Principal, Knoxville, Tennessee) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he misrepresented $17,591.84 of his member firm's funds without the firm's knowledge or consent.

William D. Wade (Registered Representative, Paducah, Kentucky) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $2,500 and suspended from association with any member of the NASD in any capacity for one month. Without admitting or denying the allegations, Wade consented to the described sanctions and to the entry of findings that he guaranteed a public customer against loss and thereby reimbursed the customer for losses he incurred.

Mickey W. Watkins (Registered Representative, Jackson, Mississippi) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,000 and suspended from association with any member of the NASD in any capacity for six months. Without admitting or denying the allegations, Watkins consented to the described sanctions and to the entry of findings that he recommended and caused a series of unsuitable purchases and sales transactions involving mutual funds to be executed in the account of a public customer. These transactions had similar investment objectives and cost the customer $6,782.42 in sales charges.

District 6—Texas

May Actions

Trevor Derek Ling (Registered Representative, Houston, Texas) and Gregory Labadie Feste (Registered Representative, Houston, Texas) were fined $7,000, jointly and severally, and suspended from association with any member of the NASD in any capacity for one business day. The sanctions were based on findings that Ling and Feste exercised effective control over the accounts of a public customer. Furthermore, they recommended to this customer securities transactions that were unsuitable in view of the size and frequency of the transactions, the type of securities, and the customer's security holdings, financial situation, and needs.

Charles E. Raley (Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Raley consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without advising his member firm in writing or receiving written authorization to engage in such activity from his member firm.

June Actions

Darrell Renard Williams (Registered Representative, San Antonio, Texas) submitted an Offer of Settlement pursuant to which he was fined $2,500 and barred from association with any member of the NASD in any capacity until he pays a $4,000 arbitration award plus interest. Without admitting or denying the allegations, Williams consented to the described sanctions and to the entry of findings that he failed to pay the arbitration award.

July Actions

Martha Jane Adams (Registered Representative, Dallas, Texas) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Adams misappropriated and converted to her own use customer funds totaling $83,004.36. In addition, Adams failed to respond to NASD requests for information.

Michael Anthony Durham (Registered Principal, Houston, Texas) was fined $51,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Durham withdrew checks totaling $465,190 from the accounts of public customers without their knowledge or consent, and converted the funds to his own use and benefit. In addition, Durham failed to respond to NASD requests for information.

Mohammad Forouzmand (Registered Representative, Phano, Texas) was fined $81,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Forouzmand converted to his own use and benefit customer funds totaling $31,000 that were intended for the purchase of securities and to open an IRA account.

Jeri Lynn Lane (Associated Person, Houston, Texas) was fined $1,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Lane published and used unauthorized reference material during a qualifications examination.

Texas Independent Securities, Inc. (Arlington, Texas) and Jimmy Ray Carter (Registered Principal, Arlington, Texas) were fined $300,000, jointly and severally. Carter was also barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, through acting through Carter, sold to public customers shares of common stocks that were neither registered under the Securities Act of 1933 nor exempt from registration.

In contravention of the NASD's Mark-Up Policy, the firm, acting through Carter, effected corporate securities transactions as principal with retail customers at prices which were unfair and unreasonable. In addition, the firm, acting through Carter, effected transactions in securities without maintaining its required minimum net capital.

District 7—Florida, Georgia, North Carolina, South Carolina, Puerto Rico and the Canal Zone, and the Virgin Islands

May Actions

Century Capital Corp. of South Carolina (Greenville, South Carolina) and John W. Brown, III (Registered Principal, Travellers Rest, South Carolina) were fined $10,000, jointly and severally, and Brown was suspended from association with any member of the NASD in any capacity for 90 days. In addition, the firm was suspended from effecting principal transactions with retail customers for 30 days and required to pay $23,514 in restitution to public customers. The sanctions were imposed by the NASD's NRECC. Following an appeal of disbarment by the DBCC for District 7. The sanctions were based on findings that, in contravention of the NASD's Mark-Up Policy, the firm, acting through Brown, effected principal transactions in common stocks with public customers at prices that were unfair. The markup on these transactions ranged from 5.63 to 133.33 percent above the prevailing market price.

The firm and Brown have appealed this action to the SEC, and the sanctions are not in effect pending consideration of the appeal.

Kimbridge & Co., Inc. (Boca Raton, Florida) and C. Joseph Marino (Registered Principal, Boca Raton, Florida) were fined $5,000, jointly and severally. In addition, the firm was expelled from membership in the NASD, and Marino was barred from association with any
member of the NASD in any capacity. The sanctions were based on findings that the firm and Marro failed, jointly and severally, to pay a $3,064 arbitration award and a $100 filing fee.

Morgan Gladstone & Co., Inc. (Boca Raton, Florida) and Richard J. Gladstone (Registered Principal, Boca Raton, Florida). The firm was expelled from membership in the NASD. Gladstone was fined $100,000 and barred from association with any member of the NASD in any capacity. In addition, the respondents must demonstrate that they have paid $5,876 in restitution, jointly and severally, to public customers should they seek re-entry to the securities industry through the NASD’s eligibility proceedings. The sanctions were imposed by the NASD’s NBCC following an appeal of a decision by the DBCC for District 7.

The sanctions were based on findings that the firm, acting through Gladstone, effected principal transactions in over-the-counter corporate securities with public customers at prices that were unfair and unreasonable. The markups on these transactions ranged from 25 to 150 percent above the prevailing market price in contravention of the NASD’s Mark Up Policy. In addition, Gladstone failed to adequately supervise the activities of the firm’s representatives to assure compliance with the NASD’s rules and policies with respect to fair pricing.

O.R. Securities, Inc. (Chesterfield, Missouri) was expelled from membership in the NASD. The sanction was based on findings that the firm failed to respond to an offer of settlement pursuant to which he was fined $7,500 and suspended from association with any member of the NASD in any capacity for 30 days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm had maintained a checkbook for which it had insufficient funds to cover the checks.

Evan Jay Beren (Registered Representative, Chatsworth, California) was fined $68,509.54 and barred from association with any member of the NASD in any capacity. The fine may be reduced by $13,509.54, should Beren make restitution of that amount to his member firm. The sanctions were based on findings that, without a customer’s knowledge or consent, Beren opened check accounts totaling $6,500 to his member firm to cover transactions in his personal securities account, and then withdrew moneys from his bank account so that the account would not have sufficient funds to cover the checks.

John Harold Ashley (Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement pursuant to which he was fined $10,000 and barred from association with any member of the NASD in any capacity for 30 days. Without admitting or denying the allegations, Ashley consented to the described sanctions and to the entry of findings that he had maintained personal checks totaling $5,600 to his member firm to cover transactions in his personal securities account, and then withdrew moneys from his bank account so that the account would not have sufficient funds to cover the checks.

July Actions

John Harold Ashley (Registered Representative, Boca Raton, Florida) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that he failed to pay a $10,000 arbitration award.

Michael P. Harris (Registered Representative, Bradenton, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. In addition, Harris must pay $5,500 in restitution to his member firm before seeking re-entry to the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Harris consented to the described sanctions and to the entry of findings that he had maintained personal checks totaling $5,500 to his member firm to cover transactions in his personal securities account, and then withdrew moneys from his bank account so that the account would not have sufficient funds to cover the checks.

J. Kyle Howie (Registered Representative, Palm Harbor, Florida) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Howie failed to pay a $10,000 arbitration award.

Fred Herman Jones, Jr. (Registered Representative, Atlanta, Georgia) was fined $22,500 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Jones effected the purchase and sale of shares of common stocks for the securities account of a public customer without his knowledge or consent. Jones also misrepresented to the same customer that the trades had been reversed and that a certificate for the sale of common stock was in transfer to him. In addition, Jones failed to respond to an NASD request for information.

Andrew L. Marcus (Registered Representative, Summit, New Jersey) submitted an Offer of Settlement pursuant to which he was fined $10,000. Without admitting or denying the allegations, Marcus consented to the described sanctions and to the entry of findings that he had purchased and sold municipal bonds in the accounts of public customers without their knowledge or authorization. The sanctions were based on findings that Marcus effected the purchase of municipal bonds in the accounts of public customers without their prior written authorization to act on a discretionary basis.

Cameron Garth Miller (Registered Representative, Ft. Lauderdale, Florida) submitted an Offer of Settlement pursuant to which he was fined $12,500 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Miller consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction without providing notification to his member firm. In addition, Miller failed to respond to an NASD request for information.

Philip L. Mosley (Registered Representative, Marietta, Georgia) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000 and suspended from association with any member of the NASD in any capacity for 15 days. In addition, Mosley must pay $17,600 in restitution to public customers within 90 days of his suspension.

Without admitting or denying the allegations, Mosley consented to the described sanctions and to the entry of findings that he had engaged in a private securities transaction without providing notification to his member firm.

Michael Ehrlich (Registered Representative, Coral Springs, Florida) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Ehrlich failed to respond to an NASD request for information concerning a customer complaint.

Enrico Joseph Giordano (Registered Representative, Deerfield Beach, Florida) was fined $5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Giordano failed to pay a $21,977.18 arbitration award. In its findings, the NASD determined that Giordano could not re-enter the securities industry prior to demonstration that the arbitration award was paid. Giordano’s bar commenced June 5, 1992 and was lifted June 26, 1992.

Guardian International Securities Corp. (Miramar, Florida) was fined $20,000 and expelled from membership in the NASD. The sanctions were based on findings that the firm failed to pay a $1,579 arbitration award.

Michael P. Harris (Registered Representative, Bradenton, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Peck failed to respond to NASD requests for information concerning a customer complaint.

John L. Winternheimer (Registered Representative, Indian Rocks Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000. Without admitting or denying the allegations, Winternheimer consented to the described sanctions and to the entry of findings that through the use of false letters of authorization, he withdrew $35,000 from the mutual fund account of a public customer and converted $15,000 of the fund to his own use and benefit without the customer’s knowledge or consent.

John A. Wolf (Registered Principal, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000. Without admitting or denying the allegations, Wolf consented to the described sanctions and to the entry of findings that he had authorized the purchase and sale of shares of common stock for the account of public customers without their prior written authorization to act on a discretionary basis.

Emilie Maria Wu (Registered Representative, Hilltop, Georgia) was fined $10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Wu consented to the described sanctions and to the entry of findings that she had recommended questionable sales of uncovered put and call option contracts to public customers without having reasonable grounds for believing that such transactions were suitable for the customers. In addition, the NASD found that Wu failed to disclose or misrepresented the risks of selling uncovered option contracts to public customers.

Felix M. Zaniga (Registered Representative, Coral Gables, Florida) submitted an Offer of Settlement pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Zaniga consented to the described sanctions and to the entry of findings that he caused his member firm to issue a report totaling $257,697.50 drawn on the accounts of two public customers without their knowledge or approval and applied the proceeds to his own use and benefit.

The findings also stated that Zaniga created and furnished his member firm with false letters of authorization containing forged signatures of these customers authorizing the aforementioned withdrawals. In addition, the NASD determined that in an attempt to conceal the conversion of funds, Zaniga created and furnished one customer with a false account statement that purported to show the purchase of a common stock when no such pur-
chase had been made. Furthermore, Zangas failed to respond to an NASD request for information.

District 9—Illinois, Indiana, Michigan, part of upstate New York (the counties of Livingston, Monroe, and Steuben, and the remainder of the state west of such counties), Ohio, and Wisconsin

May Actions

Gall Frances Aird (Registered Representative, Deiray Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined $75,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Aird consented to the described sanctions and to the entry of findings that she engaged in private securities transactions and failed to give written notice to her member firm of her intention to engage in such activities. The findings also stated that Aird failed to respond to NASD requests for information.

James C. Boekel (Registered Representative, Feversail, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $50,000 and barred from association with any member of the NASD in any capacity. In addition, Boekel must submit to the firm a Uniform Application for Registration Forms to his member firm requesting cash surrender checks from a public customer's life insurance policy. The NASD found that, without the customer's knowledge or consent, Boekel received two checks totaling $7,040.10 made payable to the customer. According to the findings, Boekel also stated that he deposited the monies into an account in which he had a beneficial interest, and used the proceeds for his personal benefit. The NASD also found that Boekel failed to disclose the aforementioned activities on a Uniform Application for Securities Industry Registration (Form U-4).

John J. Cody (Registered Representative, Glen Ellyn, Illinois) submitted an Offer of Settlement pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Cody consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, seven transactions in the account of a public customer in the absence of written or oral authorization to exercise discretion in the account. According to the findings, Cody gave the customer an account statement and confirmations that contained false information concerning certain purported transactions in the customer's account. In addition, the NASD found that Cody failed to follow a customer's instructions to purchase 5,400 shares of stock, and, instead, bought only 1,700 shares. Moreover, the NASD determined that Cody delivered, or caused to be delivered, to this customer those confirmations representing that a total of 5,400 shares had been purchased when, in fact, only 1,700 shares had been purchased.

Guy A. Imbruglia (Registered Representative, Ashtabula, Ohio) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. In addition, Imbruglia must demonstrate that he has made restitution to his member firm should he seek re-entry to the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Imbruglia consented to the described sanctions and to the entry of findings that he submitted to his member firm a payroll deduction form and enrollment forms, purportedly signed by public customers, for the purchase of annuities without the knowledge, authorization, or consent of the customers. In addition, Imbruglia failed to respond to NASD requests for information.

Kevin R. Janisko (Registered Representative, Suffield, Ohio) submitted an Offer of Settlement pursuant to which he was fined $35,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Janisko consented to the described sanctions and to the entry of findings that he executed payables in the form of authorization forms to his member firm to receive funds from the paychecks of public customers without the authorization, knowledge, or approval of the customers. In addition, Janisko failed to respond to NASD requests for information.

Carole J. Leavel (Registered Representative, Haber Heights, Ohio) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined $25,000 and barred from association with any member of the NASD in any capacity. In addition, Leavel must demonstrate that she has paid $3,905.25 in restitution to a public customer she should seek re-entry to the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Leavel consented to the described sanctions and to the entry of findings that she received a $3,905.25 check from a public customer for an annual premium payment on a variable life policy. Instead, Leavel deposited the check into her bank account, according to the findings.

Charles David Murray (Registered Representative, Middletown, Ohio) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. In addition, Murray must demonstrate that he has made restitution to the customer in the amount of $120,000. Murray also exercised discretion in the account of a public customer without obtaining written discretionary authorization from the customer and without written acceptance of the account as discretionary by his member firm, according to the findings.

Eric F. Schiros (Registered Representative, Cleveland, Ohio) was fined $46,000 and barred from association with any member of the NASD in any capacity. In addition, Schiros must demonstrate that he has paid $10,000 in restitution to a public customer should he seek re-entry to the securities industry through the NASD's eligibility proceedings. The sanctions were based on findings that Schiros directed the transfer of funds totaling $10,000 from the securities account of a public customer to the bank account of a representative firm and thereafter converted the funds to his own use. In addition, Schiros failed to respond to NASD requests for information.

James Paul Stroth (Registered Representative, Greensburg, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $75,000 and barred from association with any member of the NASD in any capacity. In addition, Stroth must demonstrate that he has paid $55,000 in restitution to public customers should he seek re-entry to the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Stroth consented to the described sanctions and to the entry of findings that he misappropriated and converted to his own use customer funds totaling $55,000.

Cyrus Veval (Registered Representative, Troy, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,000 and suspended from association with any member of the NASD in any capacity for three business days. Without admitting or denying the allegations, Veval consented to the described sanctions and to the entry of findings that he prepared and delivered sales literature to the public without obtaining prior approval by a registered principal. According to the findings, the literature contained exaggerated, promissory, and misleading statements. Specifically, it implied that the investment offered earnings of 16 percent per annum and failed to reflect any risks of fluctuating prices and the uncertainty of yield. The NASD also found that the sales literature implied that a prospectus was available, when one did not exist, and failed to identify the name of Veval's broker/dealer.

June Actions

William T. Bales (Registered Principal, Whitehouse, Ohio) and David A. Bondy (Registered Representative, Maumee, Ohio) were each fined $5,000 and suspended from association with any member of the NASD in any capacity for 30 days. The NASD imposed the sanctions following an appeal of a decision by the DRCC for District 8. The sanctions were based on findings that Bales and Bondy engaged in private securities transactions with public customers without providing prior written notice to or obtaining written consent from their member firm.

Frank J. Custable, Jr. (Registered Representative, Glendale Heights, Illinois) was fined $100,000 and barred from association with any member of the NASD in any capacity. The NASD imposed the sanctions following an appeal of a decision by the DRCC for District 8. The sanctions were based on findings that Custable executed unauthorized transactions in the accounts of public customers.

In addition, Custable used deceptive or fraudulent practices to induce customers to pay for securities. Specifically, Custable guaranteed the customers a profit and informed them that they could pay their customers back on their money when, in fact, the company had suffered financial hardships and its stock had been delisted. Custable has already appealed this action to the SEC. The sanctions, other than the bar, are not in effect pending consideration of the appeal. The SEC refused to grant Custable's request for a stay of the bar.

Eric William Hermanos (Registered Representative, Green Bay, Wisconsin) submitted an Offer of Settlement pursuant to which he was fined $50,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Hermanos consented to the described sanctions and to the entry of findings that he obtained a $15,262.80 check from a public customer for the purchase of an insurance policy. The NASD found that, without the customer's knowledge or consent, Hermanos used only $2,446 of the funds for the purchase of the policy and retained the remaining $12,816.80 for his own use and benefit.

The NASD also determined that Hermanos obtained a $15,000 check from two public customers and two additional checks totaling $5,000 issued by his member firm; payable to these customers representing proceeds of an insurance product owned by the customers. According to the findings, the customers instructed Hermanos to transfer these funds to another insurance product. Without their knowledge or consent, Hermanos failed to transfer the funds and, instead, retained them for his own use and benefit. The NASD found that Hermanos failed to respond to NASD requests for information.

John David Maines (Registered Representative, Indianapolis, Indiana) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Maines obtained from a public customer a $25,000 check intended for investment purposes. Maines deposited only $20,000 into the investment and retained the remaining $5,000 for his personal use and benefit.

Freddie T. Powell (Registered Representative, Milford, Indiana) was barred from association with any member of the NASD in any capacity. The sanction was based on findings that Powell signed customers' names to seven checks totaling $3,950.44 that he caused to be issued from customers' insurance policies. Powell then used the funds for his own benefit and other persons' policies without the customers' knowledge or consent.

In addition, Powell received a $1,451.18 check from a public customer with instructions to deposit the check to a variable appreciable life insurance policy. Instead, he deposited only $400 of the funds to the policy and used the remaining $1,411.18 for his personal ben-
Charles Spencer Schilliba (Registered Representative, Country Club Hill, Illinois) was fined $50,000 and barred from association with any member of the NASD in any capacity. Schilliba must submit to NASD a plan of restitution totaling $45,194 with any future application for association with a member firm. The sanctions were based on findings that Schilliba obtained confidential information with a member firm and failed to return it to the securities industry through the NASD’s eligibility proceedings. The sanctions were based on findings that Schilliba misappropriated and converted to his own benefit $5,000 in customer funds. Schilliba also failed to respond to NASD requests for information.

Phil Bernhard Tasselmeyer (Registered Representative, Lockport, New York) was fined $30,000 and barred from association with any member of the NASD in any capacity. In addition, Tasselmeyer must pay $5,000 in restitution to a public customer if he seeks to re-enter the securities industry through the NASD’s eligibility proceedings. The sanctions were based on findings that Tasselmeyer misappropriated and converted to his own benefit $5,000 in customer funds. In addition, Tasselmeyer failed to respond to NASD requests for information.

July Actions

Baron & Brown, Inc. (Chicago, Illinois) David G. Piscirino (Registered Principal, Chicago, Illinois), and Brett S. Briggs (Registered Principal, Chicago, Illinois) submitted an Offer of Settlement pursuant to which the firm was fined $25,000. Piscirino was fined $50,000, barred from association with any member of the NASD in any capacity, and required to pay $30,000 in restitution to a customer seeking re-entry to the securities industry through the NASD’s eligibility proceedings. Briggs was fined $10,000 and suspended from association with any member of the NASD in any capacity for six months.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Piscirino and Briggs, failed to maintain its required minimum net capital. In addition, the NASD found that Piscirino, acting through Piscirino and Briggs, failed to maintain an adequate net capital computations and filed inaccurate FOCUS Parts I and II A reports. The findings also stated that the firm, acting through Piscirino, failed to file FOCUS Part II A reports in a timely manner, and to file mid-month financial reports promptly.

Furthermore, the NASD determined that Piscirino accepted $30,000 in a public customer’s investment proceeds and failed to follow the customer’s instruction. Instead, he used the funds for his personal benefit and the benefit of Baron & Brown, according to the findings. Piscirino also failed to respond to NASD requests for information.

Howard N. Barlow (Registered Representative, Glendale Heights, Illinois) submitted an Offer of Settlement pursuant to which he was fined $10,000 and suspended from association with any member of the NASD in any capacity for five business days. Without admitting or denying the allegations, Barlow consented to the described sanctions and to the entry of findings that he engaged in securities transactions for the account of a public customer without the customer’s knowledge or consent to exercise discretion in the account.

James R. Barlow (Registered Representative, Park Forest, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $3,000 and barred from association with any member of the NASD in any capacity. In addition, Barlow must pay $497.70 in restitution to public customers before seeking re-entry to the securities industry through the NASD’s eligibility proceedings. Schilliba also failed to respond to NASD requests for information.

Without admitting or denying the allegations, Schilliba consented to the described sanctions and to the entry of findings that he obtained from public customers in cash totaling $497.70 intended as payment for their insurance policies. However, the NASD found that Barlow used the funds for other purposes.

Thomas Eugene Feely (Registered Representative, Franklin, Indiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $1,500 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Feely consented to the described sanctions and to the entry of findings that he obtained six checks totaling $361.64 issued to public customers representing repayments of premiums. The NASD found that, without the knowledge or consent of the customers, Feely retained the money for six months before returning it to the customers.

Michael D. Huwe (Registered Representative, Peoria, Illinois) was fined $400 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Huwe received a public customer’s check for $1,420.28 in cash for life insurance policy payments. Huwe used only $2,167.42 as instructed and used $3,256.58 for other purposes. In addition, Huwe failed to respond to NASD requests for information.

Lonnie Hyde, Jr. (Registered Representative, Woodridge, Illinois) was fined $8,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hyde obtained two checks totaling $17,118.17 representing a request for a loan against a customer’s life insurance policy and the cash surrender of another customer’s life insurance policy. Hyde failed to forward the checks to the customers and, instead, deposited the funds in a checking account for which the beneficial owner was another individual. Hyde also failed to respond to NASD requests for information.

James Robert Linneweber (Registered Representative, Indianapolis, Indiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $1,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Linneweber consented to the described sanctions and to the entry of findings that he received $75 in cash from public customers for the purchase of an insurance product. The NASD found that Linneweber misappropriated the $75 and retained the funds for his own use and benefit.

Steve M. Long (Registered Representative, Fort Wayne, Indiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $30,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Long consented to the described sanctions and to the entry of findings that he obtained $1,242.20 in cash from public customers in private securities transactions with public customers without providing prior written notice to his member firm.

Matthew Andrew Look (Registered Representative, Milwaukee, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $22,000 and barred from association with any member of the NASD in any capacity. In addition, Look must pay $1,242.20 in restitution to public customers before seeking re-entry to the securities industry through the NASD’s eligibility proceedings.

Without admitting or denying the allegations, Look consented to the described sanctions and to the entry of findings that he obtained from two public customers funds totaling $1,242.20 and the payment of insurance premiums on policies owned by the customers. The NASD found that Look, without the customers’ knowledge or consent, misappropriated the funds and retained the money for his own use and benefit.

Richard W. McFayden, Jr. (Registered Representative, Checketown, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $12,000 and barred from association with any member of the NASD in any capacity. In addition, McFayden must pay $63,635 in restitution to his member firm before seeking re-entry to the securities industry through the NASD’s eligibility proceedings.

Without admitting or denying the allegations, McFayden consented to the described sanctions and to the entry of findings that he misappropriated $63,635 in customers’ funds without their knowledge or consent. Specifically, the NASD found that McFayden submitted false loan application forms on the customers’ insurance policies, obtained possession of the loan proceeds checks, endorsed the checks, and deposited the funds into a bank account over which McFayden had signatory authority. The NASD also found that McFayden failed to respond to an NASD request for information.

Eugene F. Shareef (Registered Principal, Livonia, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity.

Without admitting or denying the allegations, Shareef consented to the described sanctions and to the entry of findings that he received a $1,000 check from a public customer with instructions to invest it in a bond fund. The NASD found that Shareef failed to follow the customer’s instructions, cashed the check, and used the funds for his personal use for six months later when he invested the $1,000 as previously requested by the customer.

Roger H. Simmons (Registered Representative, Garner, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $35,000 and barred from association with any member of the NASD in any capacity. In addition, Simmons must pay $15,729 in restitution to public customers before seeking re-entry to the securities industry through the NASD’s eligibility proceedings.

Without admitting or denying the allegations, Simmons consented to the described sanctions and to the entry of findings that he signed a customer’s name to disbursement request forms without the customer’s knowledge or consent. This activity resulted in a surrender of the customer’s paid-up additions to his insurance policy totaling $10,324.96. Moreover, the NASD determined that Simmons obtained checks on the aforementioned customer’s personal account made payable to his half-sister, deposited the checks in an account in which he had a beneficial interest, and used the money to pay premiums on other insurance policies.

In addition, the findings stated that Simmons signed the same customer’s name to disbursement request forms without the customer’s knowledge or consent resulting in loans against the customer’s insurance policy totaling $2,954.04. The NASD found that Simmons applied these funds to pay premiums on two other insurance policies.

In addition, the findings also stated that Simmons received a $250 check made payable to his mother as a result of a loan from another customer’s life insurance policy that was surrendered without the customer’s knowledge or consent. The NASD determined that Simmons deposited the funds into an account in which he had a beneficial interest and used the money to pay premiums on other insurance policies.

Daniel J. Steffen (Registered Representative, Wauwatosa, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $30,000 and barred from association with any member of the NASD in any capacity. In addition, Steffen must pay restitution to public customers before seeking re-entry to the securities industry through the NASD’s eligibility proceedings.

Without admitting or denying the allegations, Steffen consented to the described sanctions and to the entry of findings that he accepted personal checks totaling $187,600 from two public customers with instructions to use the funds as payment for single premium annuities. The NASD found that Steffen failed to follow the customers’ instructions and used the funds for other purposes.

The findings also stated that Steffen received $162,220 in personal checks from two other customers with instructions to deposit the funds into a guaranteed fund. According to the findings, Steffen instead deposited the funds into insurance service accounts for the customers and purchased insurance policies in the cus-
tomer's names. Furthermore, the NASD determined that Steffen made withdrawals totaling $77,710 from the accounts for purposes other than for the benefit of customers.

James F. Turner, Jr. (Registered Representative, Milwaukee, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. In addition, Turner must pay restitution to a public customer before seeking re-entry to the securities industry through the NASD's eligibility proceedings.

Without admitting or denying the allegations, Turner consented to the described sanctions and to the entry of findings that he received $4,215.72 from a public customer for the purchase of a life insurance policy. The NASD found that Turner failed to follow the customer's instructions promptly and made only 11 monthly payments on the policy totaling $2,538.80.

Mark Fitzgerald Verr (Registered Representative, Brookfield, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $200,000 and barred from association with any member of the NASD in any capacity. In addition, Verr must pay $160,000 in restitution to public customers before seeking re-entry to the securities industry through the NASD's eligibility proceedings.

Without admitting or denying the allegations, Verr consented to the described sanctions and to the entry of findings that he obtained a total of $160,407 from three customer accounts without the customers' knowledge or consent. Specifically, the findings stated that Verr submitted to his member firm requests to withdraw funds from the customers' accounts and retained the monies for his own use and benefit. Verr also failed to respond to NASD requests for information.

John A. Zdanecis (Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver, and Consent pursuant to which he was fined $27,500 and barred from association with any member of the NASD in any capacity. In addition, Zdanecis must pay $1,250 in restitution to a public customer before seeking re-entry to the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Zdanecis consented to the described sanctions and to the entry of findings that he misappropriated and converted customer funds totaling $1,250 to his own use. In addition, Zdanecis failed to respond to NASD requests for information.

Gary G. Barton (Registered Principal, Englewood, Colorado) and Carol Barton, his wife, were each fined $10,000 and barred from association with reasonable grounds for believing that such transactions were suitable for the customers.

District 9—Delaware, District of Columbia, Maryland, southern New Jersey (the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monoc, Ocean, and Salem), Pennsylvania, Virginia, and West Virginia

May Actions

Escalator Securities, Inc. (Palm Harbor, Florida) and Howard A. Scala (Registered Principal, Tarpon Springs, Florida) were fined $50,000, jointly and severally. In addition, Scala was suspended from association with any member of the NASD in any capacity for one month and required to repay by examination before acting as a principal. The sanctions were imposed by the NASD's NBCC following an appeal of a decision by the DJBC for District 9.

The sanctions were based on findings that Scala, acting through Escala, failed to pay principal sales of a non-Nasdaq, over-the-counter security to public customers at unfair prices, including markups ranging from 68.2 to 147.5 percent above the firm's contemporaneous costs.

Furthermore, the firm, acting through Scala, charged its customers $33 per transaction in addition to the fee charged for any security. Without admitting or denying the allegations, Scala consented to the described sanctions and to the entry of findings that he referred to customers for the purchase and sale of securities in the account of his firm. In addition, the firm failed to execute two mutual fund subscriptions promptly.

Elevator Securities and Scala have appealed this case to the SEC, and the sanctions are not in effect pending consideration of the appeal.

June Actions

Christopher J. DiBenedetto (Registered Representative, Sebastian, Florida) was fined $5,000 and suspended from association with any member of the NASD in any capacity for three months. The sanctions were based on findings that DiBenedetto engaged in the offer and sale of securities outside the normal course of business with a member of the NASD and failed to give his member firm prior written notice of such activity. Furthermore, in the offer and sale of securities, DiBenedetto failed to exercise reasonable diligence to ascertain the financial soundness and operating history of the issuer and engaged in the offer and sale while a registration statement had not been filed for such securities.

July Actions

Floyd A. Cardwell, Jr. (Registered Representative, Edgewood, Maryland) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Cardwell falsified insurance applications and submitted initial premiums for 11 fictitious persons to his member firm to generate commissions. Cardwell also failed to respond to NASD requests for information.

Anthony J. Falcone (Registered Representative, Annandale, Virginia) submitted an Offer of Settlement pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Falcone consented to the described sanctions and to the entry of findings that he forged signatures on insurance forms and submitted these forms to his member firm.

Manuel D. Gana, Sr. (Registered Representative, Vienna, Virginia) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Gana failed to respond to NASD requests for information regarding transactions he effected for the accounts of public customers.

Thommy H. Hodges (Registered Representative, Alexandria, Virginia) submitted an Offer of Settlement pursuant to which he was fined $42,000 (less any amount of restitution he paid to customers) and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Hodges consented to the described sanctions and to the entry of findings that he recommended the redemption of recently purchased shares of a mutual fund. According to the findings, he made this recommendation without having reasonable grounds for believing the transaction was suitable for the customer.

In addition, the NASD found that Hodges induced the same customer to sign forms requesting the redemption of the mutual fund shares, and directed that the checks be made payable to him and sent to his personal residence. The findings also stated that Hodges converted the funds to his own use and benefit.

Daniel W. Holmes (Registered Representative, Aurora, Colorado) was fined $30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Holmes received from public customers $1,511.67 in cash intended for payment of income taxes. Holmes failed to turn the payments over to the insurance company and, instead, retained the funds for his own use and benefit. In addition, Holmes failed to respond to NASD requests for information.

Samuel P. Jesselson (Registered Representative, Jacksonville, Florida) submitted an Offer of Settlement pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity for three months. Without admitting or denying the allegations, Jesselson consented to the described sanctions and to the entry of findings that he recommended the purchase and sale of securities in the account of a customer. According to the findings, these recommendations were made without having reasonable grounds for believing such transactions were suitable for the customer.

Barry A. Kito, Sr. (Registered Representative, St. Petersburg, Virginia) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kito made improper use of an insurance customer's funds by depositing a $1,497.67 cash surrender check intended for the purchase of a life insurance policy to his own account and using the proceeds for his own use and benefit.

Manchester Rhino Securities Corporation, Norwalk, Massachusetts, was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The action was based on the provisions of Article IV, Section 5 of the NASD Rules of Fair Practice and Article VI of the Notice of Claim of the NASD By-Laws. The date the suspension commenced is listed after each entry. If the firm has complied with the request for information, the listing also includes the date the suspension concluded.

Clement W. McLaughlin, Jr. (Registered Representative, Yardley, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $2 million and barred from association with any member of the NASD in any capacity. In addition, McLaughlin must pay restitution to investors before seeking re-entry to the securities industry through the NASD's eligibility proceedings.

Without admitting or denying the allegations, McLaughlin consented to the described sanctions and to the entry of findings that he solicited members of the public, including his customers, to invest funds through an unregistered and fictitious entity. Moreover, the NASD found that McLaughlin represented that the individuals that their funds would be invested in tax-free municipal and other securities. According to the findings, McLaughlin received more than $1.7 million from the investors and converted most of it to his personal use and benefit.

William W. Petersen (Registered Principal, Fairfax, Virginia) was fined $10,000 and barred from association with any member of the NASD in any principal capacity. The sanctions were based on findings that Petersen, as a member of a member firm, acting through Petersian, disseminated an offering memorandum to investors that failed to disclose certain material information. In addition, the firm, acting through Petersian, filed FOCUS reports and SEC reports for certain months that contained inaccurate net capital computations and filed a late annual audited report. Petersian, acting on behalf of the firm, also conducted a securities business without maintaining its minimum required net capital.

Further, Petersian failed to maintain accurate books and records in that the firm's general ledger and trial balance did not include, or inaccurately reflect, various balances and liabilities. Moreover, Petersian inaccurately computed the firm's net capital and aggregate indebtedness and failed to provide telegraphic notice of the existence of material inadequacies in the firm's internal controls.

Keith D. Renner (Registered Representative, East Millinocket, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Renner consented to the described sanctions and to the entry of findings that he received from two public customers funds totaling $4,650 intended for the purchase of a common stock. The NASD determined that Renner forwarded the funds to purchase the stock in his own name, sold shares of the stock, and used the sales proceeds for his own benefit. The findings also stated that Renner engaged in private

NASD Regulatory & Compliance Alert

September 1992

19
September 1992

NASD Regulatory & Compliance Alert

20

securities transactions while failing to provide prior writ-
ten notice to his member firm.

Mark D. Ritchauro (Registered Representative, Broomall, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined $50,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allega-
tions, Ritchauro consented to the described sanctions and to the entry of findings that he forged a public customer’s signature on a life insurance policy application and sub-
mitted the form to his member firm without the authoriza-
tion or consent of the customer.

Thomas M. Rodes (Registered Representative, Garrett Park, Maryland) submitted an Offer of Settlement pur-
suant to which he was fined $3,000 and suspended from association with any member of the NASD in any capac-
ity for 90 days. Without admitting or denying the allega-
tions, Rodes consented to the described sanctions and to the entry of findings that he participated in private securities transactions while failing to provide prior written notice to his member firms.

Ronald Earl Smits (Registered Representative, Grandville, Michigan) was fined $5,000 and barred from association with any member of the NASD in any capac-
ity. The SEC affirmed the sanctions following an appeal of a decision by the NBCC.

The sanctions were based on findings that Smits received a $100,000 check from a public customer to pur-
chase a certificate of deposit. Smits failed to follow the customer’s instructions and, instead, engaged in a fraudu-
 lent scheme to obtain the customer’s signature to purchase interests in a limited partnership without the customer’s knowledge or consent. Moreover, Smits attempted to con-
cel the unauthorized investment from the customer through a series of deceptive and misleading letters.

Mark R. Theohald (Registered Principal, Silver Spring, Maryland) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Theohald consented to the described sanctions and to the entry of findings that he opened a money market account in the name of a firm by forging the signature of the firm’s president on a new account form. According to the find-
ings, Theohald subsequently turned over possession of a $23,450.72 check issued by a life insurance company payable to the aforementioned firm. The NASD found that Theohald forged the president’s endorsement on the check and opened the newly opened money market account, and converted those funds to his own use by signing the president’s name on 16 redemption drafts.

Bradley L. Uflelder (Registered Representative, Owasso, Oklahoma) was fined $5,000 and barred from association with any member of the NASD in any capacity with the proviso that he may apply to remove the bar after he satisfied a $17,480 arbitration award. The sanctions were based on findings that he failed to pay the arbitration award.

District 10—the five boroughs of New York City and the adjacent counties in New York (the counties of Nassau, Orange, Putnam, Rockland, Suffolk, Westchester) and northern New Jersey (the state of New Jersey, except for the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem)

May Actions

Christopher John Boeckhaus (Registered Representative, Gladena, New York) was fined $25,000 and barred from association with any member of the NASD in any capacity. In addition, Boeckhaus must demonstrate that he has paid $12,510 plus interest in restitu-
tion to public customers should he seek re-entry to the securities business through the NASD’s eligibility pro-
ceedings. The sanctions were based on findings that Boeckhaus effectuated purchase transactions in the accounts of public customers without the knowledge or consent of the customers.

Educators Financial Management, Inc. (Pottstown, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined $12,500, jointly and severally. Without admit-
ting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Leco, processed customer funds through the firm’s operating account rather than through a Special Account as is the Exclusive Benefit of Customers.

The NASD also found that the firm, acting through Leco, conducted a securities business while failing to maintain its required minimum net capital. In addition, the findings stated that the firm, acting through Leco, obtained a signature guarantee stamp of a commercial bank and utilized it to force the required guarantee on customer mutual fund purchases.

First Independence Group Inc. (Garden City, New York), John Joseph Gremmo, III (Registered Principal, Babylon, New York), Frank Paul Giraldi (Registered Principal, East Norwich, New York), and Mark Steven Milana (Registered Representative, Dix Hills, New York). The firm was fined $308,677.40, and Gremmo was fined $10,000. Giraldi was fined $52,000 and barred from association with any member of the NASD in a supervisory or principal capacity; Milana was fined $40,000 and also barred from association with any member of the NASD in a supervisory or principal capacity. Both Giraldi and Milana were required to resign by examination if they desire to function in a registered represen-
tative capacity. In addition, Giraldi and Milana are prohibited from maintaining a proprietary interest in any member of the NASD other than a noncompeting interest in a member whose shares are publicly traded and subject to the reporting requirements of Section 12 of the Securities Exchange Act of 1934.

The sanctions against the firm, Giraldi, and Milana were imposed by the NASD’s NBCC following an appeal of a decision by the NBCC for District 10. The sanctions were based on findings that, in contravention of the NASD’s Mark-Up Policy, the firm, acting through Gremmo, Giraldi, and Milana, engaged in a course of conduct that operated as a fraud on customers. The firm was not a market maker in any of the securities it sold to customers, and all transactions were effected on a riskless principal basis.

The prices at which the securities were sold includ-
ed excessive and fraudulent markup ranging from 11.11 to 108.46 percent above the firm’s contemporaneous cost for the securities. The NASD found that the firm, acting through Giraldi, failed to disclose to customer con-
firmations the amount of the markups charged by the firm as required by NASD Rule 2110. In addition, the firm, acting through Giraldi, failed to establish and imple-
ment supervisory procedures to detect and prevent the aforementioned violations.

Furthermore, the firm, acting through Giraldi, failed to report through the non-Nasdaq reporting system the highest price at which it sold and the lowest price at which it purchased a common stock, as well as the total volume of purchases and sales executed in the stock. The firm, acting through Giraldi, also failed to report a beneficial trade establishing the highest price at which the firm sold and the lowest price at which the firm purchased the same common stock represented an execution with a cus-
tomer or with another broker/dealer, as required by Schedule H of the NYSE’s By-Laws.

The firm, Giraldi, and Milana have appealed this action to the SEC, and their sanctions, other than the bars in a supervisory or principal capacity, are not in effect pending consideration of the appeal. The sanctions against Gremmo are final.

Robert Ralph Frega (Registered Representative, Wayne, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. In addition, Frega must demonstrate that he has paid $3,000 in restitution to pub-
lic customers should he seek re-entry to the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Frega con-
sented to the described sanctions and to the entry of find-
ings that he received $5,000 from three public customers for the purchase of various insurance policies. According to the findings, Frega failed to apply the monies as instructed and to return the funds to the customers.

John Charles Maucere (Registered Principal, Scotch Plains, New Jersey) was fined $5,000 and barred from association with any member of the NASD in any capac-
ity for six months, and barred from association with any member of the NASD in any principal capacity. In addi-
tion, Maucere was barred from holding an equity or debt interest in a broker/dealer. The sanctions were imposed by the NASD’s NBCC following an appeal of a decision by the NBCC for District 10.

The sanctions were based on findings that Maucere, acting on behalf of a former member firm, engaged in two separate acts of parking securities to hide the firm’s owner-
ship of the securities and to enhance the net capital position of the firm, with the fraudulent intent of circumventing SEC Rule 15c3-1. Furthermore, the firm, acting through Maucere, effected securities transactions while failing to maintain its required minimum net capital. In addition, Maucere failed to disclose on his Uniform Application for Securities Industry Registration (Form U-4) that he had filed for personal bankruptcy. Maucere also failed to pay a $1,615.72 arbitration award.

Maucere has appealed this action to the SEC, and the sanctions, other than the bars, are not in effect pending consideration of the appeal.

Alexander Geils Minella (Registered Representative, White Plains, New York), Parsons Eng (Registered Principal, Jackson Heights, New York), Michael Joseph Carber (Registered Representative, Carmel, New York), Joseph Charles Zaborowski (Registered Representative, Staten Island, New York), and Darren Leon Katz (Registered Representative, Staten Island, New York). Minella was fined $1,795,000 and barred from association with any member of the NASD in any capacity, and Eng was fined $1,365,000 and barred from association with any member of the NASD in any capac-
ity. Carber was fined $1,395,000 and barred from associa-
tion with any member of the NASD in any capacity, and Zaborowski was fined $230,000 and barred from associa-
tion with any member of the NASD in any capacity. Katz was fined $20,000, suspended from association with any member of the NASD in any capacity for five business days, and required to truthfully examine by examination as a regis-
tered representative. In addition, Katz was required to make restitution to a public customer.

The sanctions were imposed by the NASD’s NBCC following an appeal of a decision by the NBCC for District 10. They were based on findings that Minella and Eng, acting through Carber, Zaborowski, and Katz, executed numerous transactions in the accounts of public customers without the knowledge, authorization, or consent of the customers. In order to make it appear that their firm was in better financial condition, Minella and Eng instructed representatives of their member firm to "park" securities in the accounts of public customers without the knowl-
dge, authorization, or consent of the customers.

Carber and Zaborowski also failed to execute cus-
tomer self orders in that Minella directed them not to accept self orders from customers unless they could find another account or established securities that sanctions were being sold. In addition, Minella, acting on behalf of a former member firm, effected securities transactions while failing to maintain its required minimum net capital. Furthermore, Carber and Zaborowski failed to file amend-
ed Form U-4 applications for securities industry registra-
tion to disclose that they were the subject of investment-related, consumer-incident investigations. Moreover, Minella failed to respond to NASD requests for information.

Vincent Michael Varano (Registered Representative, Hackensack, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $30,000 and barred from association with any member of the NASD in any capacity. In addition, Varano must demonstrate that he has paid $810,000 in restitution
to public customers should he seek re-entry to the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Varano consented to the described sanctions and to the entry of findings. In addition, Varano paid $5,000 from personal funds to purchase municipal bonds. The findings stated that Varano failed to invest the funds as instructed and to return the moneys to the customers.

June Actions

Loren H. Belford (Registered Representative, East Northport, New York) was fined $45,000 and barred from association with any member of the NASD in any capacity. In addition, Belford must pay $5,000 in restitution to a public customer seeking re-entry to the securities industry through the NASD’s eligibility proceedings. The sanctions were based on findings that Belford received $5,000 from a public customer for the purchase of real estate, charged more than the cost of the real estate to the customer, and converted the funds to his own use and benefit. In addition, Belford failed to respond to NASD requests for information.

John Twomey Booth (Registered Principal, Glen Rock, New Jersey) submitted an Offer of Settlement pursuant to which he was fined $35,000 and suspended from association with any member of the NASD as a general securities representative or principal for 180 days. Without admitting or denying the allegations, Booth consented to the described sanctions and to the entry of findings that a former member firm, acting through Booth, permitted a standardly disqualified individual to be associated with the firm and to act in capacities requiring registration without having applied for membership continuance.

Joseph DeVille (Registered Representative, Wall Township, New Jersey) was fined $90,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that DeVille executed transactions in the accounts of public customers without their prior authorization, knowledge, or consent. In addition, DeVille failed to respond to NASD requests for information.

Aloysius James Falussy (Registered Representative, Dix Hills, New York) submitted an Offer of Settlement pursuant to which he was fined $35,000 and barred from association with any member of the NASD in any capacity. In addition, Falussy must make restitution to public customers if he seeks re-entry to the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Falussy consented to the described sanctions and to the entry of findings that he failed to register transactions to be executed in the account of a public customer without the knowledge, authorization, or consent of the customer. In addition, Falussy failed to respond to NASD requests for information.

William Eugene Flower (Registered Representative, Yonkers, New York) submitted an Offer of Settlement pursuant to which he was fined $35,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to refund by examination as a general securities representative. In addition, Flower must pay $2,500 in restitution to public customers if he seeks re-entry to the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Flower consented to the described sanctions and to the entry of findings that he failed to register transactions in the accounts of public customers. The NASD also found that certain of the aforementioned unauthorized transactions were unsuitable for one of the customers given the customer’s financial situation and needs. In addition, Flower failed to respond to NASD requests for information.

Sean Anthony Gathercole (Registered Representative, Brooklyn, New York) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Gathercole failed to respond to NASD requests for information concerning a customer complaint.

Gregg L. Gordon (Registered Representative, Hot Springs, Arkansas) was fined $1,000 from association with any member of the NASD in any capacity. The sanctions were based on findings that Gordon brought written materials with him into the test area to assist him on the Series 7 examination.

Walter Leroy Harrah, III (Registered Representative, Sound Beach, New York) was fined $75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Harrah solicited and received from a public customer $700 for investment in a company that Harrah operated and subsequently sent statements to the customer reflecting the purported investment. Consequently, Harrah did not send further statements, nor did he return the customer’s original investment, or the purported investment earnings, thereby constituting conversion of the customer funds by Harrah.

Harrah also engaged in private securities transactions without providing his member firms with prior written notification. In addition, Harrah fraudulently indicated on monthly statements to the same public customer that the company he operated was a member of the NASD when, in fact, it was not. Moreover, Harrah failed to respond to NASD requests for information.

Andrew William Hougach (Registered Representative, Irvington, New York) was fined $75,000 and barred from association with any member of the NASD in any capacity in light of previous findings that Hougach engaged in fraudulent activities. Specifically, he caused the address on the joint account of two public customers to be changed to his sister’s address, forged one of the customer’s signatures on an Internal Revenue Service Form W-9, and effected transactions in the same account and in the account of another customer without the knowledge or consent of the customers. In addition, Hougach caused a $14,441.76 check to be drawn on the aforementioned joint account and directed that the funds be sent to his sister’s address. Hougach also failed to respond timely to NASD requests for information, according to the findings.

Joseph Jenkins, Jr. (Registered Representative, Brooklyn, New York) was fined $150,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Jenkins executed transactions in the accounts of public customers without their knowledge, authorization, or consent. Jenkins also failed to execute a public customer’s order to sell shares of a common stock, failed to respond to NASD requests for information, and failed to pay a $1,000 civil penalty.

In addition, Jenkins engaged in the investment banking and securities business as an associated person when he was not registered with and without proper registration with the NASD. Furthermore, Jenkins made fraudulent misrepresentations to a public customer in the purchase of the securities.

Michael Vincent Jones (Registered Representative, Carlstadt, New Jersey) was fined $95,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Jones effected transactions in the accounts of public customers without their knowledge, authorization, or consent. Jones also failed to pay an arbitration award and failed to respond to NASD requests for information.

Miro Robert Kameiski (Registered Representative, Hoboken, New Jersey) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kameiski presented a check to his member firm to pay the unsatisfied debit balance in his personal securities account but the check was returned due to insufficient funds. In addition, Kameiski failed to respond to NASD requests for information.

James Warren Kindberg, Jr. (Registered Representative, Brooklyn, New York) was fined $35,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kindberg purchased securities of a common stock in the accounts of public customers without their knowledge or consent. In addition, Kindberg failed to respond to NASD requests for information.

Thomas Malone (Registered Representative, Westport, New York) was fined $75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Malone caused numerous unauthorized transactions to be executed in the accounts of public customers. Malone also failed to execute a public customer’s sell order in a timely manner and failed to respond to NASD requests for information.

Paul Deldebrez Pevenonne (Registered Representative, New York, New York) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Pevenonne profited at the expense of his customers by misappropriating his personal securities account between his customers and the best available market. As a result, he overcharged them $3,150.63.

Michael Nicholas Pizzo (Registered Representative, Medford, New York) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Pizzo failed to execute a public customer’s sell order. In addition, Pizzo failed to respond to NASD requests for information.

William Anthony Reis (Registered Representative, Amityville, New York) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Reis effected unauthorized transactions in the accounts of public customers. In addition, Reis failed to respond timely to NASD requests for information in a timely manner.

Michael D. Riley (Registered Representative, New York, New York) was fined $45,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Riley caused transactions to be executed in a public customer’s account without the customers’ authorization, knowledge, or consent. Riley also failed to disclose on his Form U-4 in a timely manner that he was the subject of a personal investigation at his member firm. In addition, Riley failed to respond to NASD requests for information.

William Some (Registered Representative, Hackensack, New Jersey) submitted an Offer of Settlement pursuant to which he was fined $100,000 and barred from association with any member of the NASD in any capacity. In addition, Some must make restitution to a public customer if he seeks to re-enter the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Some consented to the described sanctions and to the entry of findings that he caused stock and option trades to be executed in the account of a public customer without the customer’s knowledge or consent. The NASD also found that Some failed to execute the same customer’s sell order in a timely manner. In addition, the findings stated that Some promised to personally refund losses sustained in the same customer’s account. Furthermore, Some failed to respond to NASD requests for information.

Joseph William Swint (Registered Representative, Brooklyn, New York) was fined $60,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Swint failed to execute sell orders for public customers. Swint also received a $2,000 check from a public customer for investment purposes, endorsed the check, and converted the proceeds to his own use and benefit. In addition, Swint opened a securities account with a member firm but failed to notify the firm of his association with another member firm. Swint also failed to respond to NASD requests for information.

Robert Wunderlich (Registered Representative, Coral Springs, Florida) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Wunderlich purchased securities for a public customer without the customer’s prior authorization, knowledge, or consent.
Wanderlich also failed to respond to NASD requests for information.

Wilbur August Zosche, Jr. (Registered Representative, Cedar Grove, New Jersey) was fined $5,000, suspended from association with any member of the NASD in any capacity for two years, and required to equalize by examination as a registered representative. The sanctions were based on findings that Zosche engaged in private securities transactions without prior written notice to his member firm. Without the knowledge or authorization of a public customer, Zosche also forged the customer’s signature on a form requesting a $20,000 loan against the customer’s variable annuity insurance policy. Zosche possessed the $25,264.08 loan check and forged the customer’s endorsement on the check, thereby misappropriating the funds.

July Actions

Bruce Nisssin Biner (Registered Representative, East Northport, New York) was fined $75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Biner effected unauthorized purchases and sales transactions in the account of a public customer. Biner also sent fictitious documents to the same customer reflecting that the unauthorized transactions had been canceled or that the securities were then being sold at a profit. In addition, Biner failed to respond to NASD requests for information.

Ron Keith Harrison (Registered Representative, Greenwood Lake, New York) was fined $75,000 and barred from association with any member of the NASD in any capacity. In addition, Harrison is required to pay $57,000 in restitution to customers. The sanctions were based on findings that Harrison received $62,500 from public customers for investment purposes, failed to follow the customers’ instructions and, instead, converted $57,000 of the funds to his own use and benefited. Harrison also effected the purchase of shares of a common stock in the joint account of public customers without their knowledge or consent. In addition, Harrison failed to respond to NASD requests for information.

Thomas Charles Martin (Registered Representative, Fair Haven, New Jersey) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Martin acted as a general securities representative and principal without becoming registered with the NASD or seeking relief from a previous bar imposed by the NASD.

William Joseph Muerger (Registered Principal, East Meadow, New York), Jay M. Vernon (Associated Person, Peachtree, New York) and Kenneth Lee Lucas (Registered Principal, Englewood, Colorado). Muerger was fined $75,000 and barred from association with any member of the NASD in any capacity. Vernon was fined $50,000 and barred from association with any member of the NASD in any capacity. Lucas submitted an offer of settlement pursuant to which he was suspended from association with any member of the NASD in any capacity.

James Charles Popken (Registered Representative, New York, New York) was fined $50,000 and suspended from association with any member of the NASD in any capacity for 30 business days. The sanctions were based on findings that Popken made unauthorized transactions in public customers’ accounts.

District 11—Connecticut, Maine, Massachusetts. New Hampshire, Rhode Island, Vermont, and New York (except for the counties of Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester; the counties of Livingston, Monroe, and Sullivan; the remainder of the state west of such counties; and the five boroughs of New York City)

July Actions

James F. Chane (Registered Principal, Rutland, Vermont) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Chane consented to the described sanction and to the entry of findings that he engaged in a course of conduct involving unauthorized transfers of customer positions in three accounts to hide customer losses.

Dean Witter Reynolds Inc. (Rutland, Vermont) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined $30,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it failed to adequately supervise a registered representative and to enforce its written supervisory procedures in a branch office.

Eric E. Goodwin (Registered Representative, Derry, New Hampshire) submitted an Offer of Settlement pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Goodwin consented to the described sanction and to the entry of findings that he forged the signatures of two employees in his member firm on payroll checks totaling $940 and deposited the checks into his personal checking account.

Daniel E. McLaughlin (Registered Representative, Portsmouth, New Hampshire) submitted an Offer of Settlement pursuant to which he was fined $10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, McLaughlin consented to the described sanction and to the entry of findings that he submitted to his member firm applications for life insurance policies on fictitious persons. In addition, McLaughlin failed to respond to NASD requests for information.

William K. Murphy (Registered Representative, Providence, Rhode Island) submitted an Offer of Settlement pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Murphy consented to the described sanctions and to the entry of findings that he issued two personal checks totaling $28,227 to his member firm as payment for two call options that he purchased in his account. However, the checks were subsequently returned for insufficient funds.

Market Surveillance Committee

May Actions

Michael Markowski (Registered Principal, New York, New York) was fined $30,000 and barred from association with any member of the NASD in any principal capacity and from maintaining a debt or equity interest in any member firm. In addition, he was suspended from association with any member of the NASD in any capacity for two years. The sanctions were imposed by the NASD’s NBCC following an appeal of a decision by the Market Surveillance Committee.

The sanctions were based on findings that Markowski failed to respond to repeated written and oral requests for information made by the NASD concerning access to his member firm’s books and records. Markowski also failed to provide the NASD with his current address.

July Actions

Kenneth L. Walker (Registered Representative, Akron, Ohio) submitted an Offer of Settlement pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. In addition, Walker must pay $4,602.36 in restitution to his member firm prior to seeking re-entry to the securities industry through the NASD’s eligibility proceedings. Without admitting or denying the allegations, Walker consented to the described sanctions and to the entry of findings that he misappropriated and converted to his own use customer funds totaling $4,602.36. Specifically, the findings stated that Walker submitted false loan applications to a customer’s variable annuity policy and changed the customer’s address to Walker’s home address.

Please direct your comments or suggestions about this publication to Michael Budzinski, Editor, NASD Regulatory & Compliance Alert, 1735 K Street, NW, Washington, DC 20006-1506, or call (202) 728-8945.

To update your mailing address, please forward any changes in writing (preferably on corporate letterhead) to Mary Barnes, NASD Operations Center, 9513 Key West Ave, Rockville, MD 20850-3389.

©1992 National Association of Securities Dealers (NASD), Inc. All rights reserved. NASD, Nasdaq, Nasdaq National Market System (Nasdaq/NMS), and the OTC Bulletin Board are registered service marks of the NASD, Inc. PORTAL, Nasdaq Workstation, SOES, Nasdaq Small-Cap Market, and The Nasdaq Stock Market are service marks of the NASD, Inc.

No portion of this publication may be photocopied, or duplicated in any form or by any means except as described below without prior written consent from the NASD. Members of the NASD are authorized to photocopy or otherwise duplicate any part of this publication without charge only for internal use by the member and its associated persons. No members of the NASD may obtain permission to photocopy internal use only through the Copyright Clearance Center (CCC) for a $5-per-page fee to be paid directly to CCC, 27 Congress Street, Salem, MA 01970. Individual subscriptions to NASD Regulatory & Compliance Alert cost $80 annually. Send a check or money order, payable to the National Association of Securities Dealers, Inc., to NASD MediaSource, P.O. Box 9403, Gaithersburg, MD 20898-9403.
We Wrote the Books on Compliance.

Compliance Check List

This popular NASD publication provides you and your firm with the current guidelines that many NASD member firms use in evaluating both operational and compliance needs! With separate sections devoted to Main and Branch Office compliance, the Check List devotes in-depth coverage to issues essential to running a sound business while also helping your firm avoid possible regulatory violations. Topics include advertising and sales literature, underwriting, options, supervisory procedures, securities handling, registration, and more. Buy your copy for only $25.

NASD Guide to Rule Interpretations

Concerning SEC net capital (15c3-1) and customer protection (15c3-3) Rules, the Guide contains current NASD and SEC-approved interpretations. This valuable summary compiles updated individual correspondences to help you better understand the current regulatory environment. The Guide includes letters from the SEC Division of Market Regulation to the NASD; letters from the SEC to other self-regulatory organizations; letters from the SEC to attorneys, accountants, members, and others; and discussions between self-regulatory organizations and the SEC. Buy this guide for only $35.

NASD Regulatory & Compliance Alert

Our newly designed, quarterly newsletter keeps you current on all matters concerned with NASD, SEC, and state compliance. The Alert handles NASD regulatory trends, developments, and updates in an easy-to-read format that quickly gets to the point of issues and rulings that are important to you. Not content to simply supply you with what is happening, the Alert provides you with the background necessary to understand the who, where, why, how, and when of regulation and compliance. The Alert also lists recent disciplinary actions by district. Save 20% with your personal $80 annual subscription!

NASD Notices to Members

Our monthly publication of NASD notices keeps you informed at every step of the process about regulatory issues, fee changes, Board of Governors actions, and more! Notices to Members not only summarizes rules changes, but also provides you with the original rule in question and any alterations to it. Member voting results and comments are also disseminated through Notices, the NASD's most frequently read newsletter. Save 25% with your $225 yearly subscription.

[Form]

☐ Yes! Please send me the following NASD compliance publications:
  ◦ copies of the Compliance Check List at $25 per copy.
  ◦ copies of NASD Guide to Rule Interpretations at $35 per copy.
  ◦ subscriptions to Regulatory & Compliance Alert at $80 per name.
  ◦ subscriptions to NASD Notices to Members at $225 per name.

Prices include applicable taxes, handling, and shipping. Attached is complete shipping information, and enclosed is $ .

Call NASD MediaSource® to place credit card orders by phone at (301) 590-6578. For more information on any NASD publication, call NASD Corporate Communications at (202) 728-6900.

Orders must be prepaid by check, money order, or credit card, payable to the National Association of Securities Dealers, Inc. Mail order with payment to: NASD, Inc., NASD MediaSource®, P.O.Box 9403, Gaithersburg, MD 20898-9403.
Register Today for the

1992 NASD
Securities Conference

Featuring Current Issues...

❖ 14 Compliance Workshops
   Advertising... Arbitration... Compliance
   Supervision... Continuing Education/RR
   Assessment... Corporate Financing... Financial
   Planners/Investment Advisers/Insurance B/Ds...
   FIPS... Market Surveillance...
   Markups/Markdowns... Mutual Funds... District
   Open Forum

❖ Post-Election Perspectives
   Leading economists discuss the future direction of
   the economy, markets, and member profitability

❖ Top Regulatory Issues
   Industry experts and regulators examine the
   adoption of a Short-Sale Rule and other major
   issues facing members today

At the Thursday general session, keynote speaker NASD President and CEO Joseph R. Hardiman will report on the state of the NASD and discuss important trends and strategic initiatives being undertaken to enable the NASD to respond to the needs of its constituents--investors, members, and issuers. Next, panels of “the industry’s best” will participate in two panels: “The Economy and the Markets: Member Profitability in a Post-Election Environment” and “Key Regulatory Issues and Concerns Facing NASD Members.”

A 10 percent Early Registration Discount is available for all registrations received on or before October 16, 1992. For more information, call Jackie Niedermayer, (202) 728-8383. For additional brochures and registration forms, fax your request and mailing address to (202) 728-6952.

November 18-20, 1992
Arizona Biltmore, Phoenix, Arizona

NASD
National Association of Securities Dealers, Inc.