

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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JOSEPH R. MARDIMAN  
PRESIDENT

May 5, 1995

Mr. John Koten  
Editor  
*worth* Magazine  
575 Lexington Avenue  
New York, New York 10022

Dear Mr. Koten:

Your June cover story, "Club Nasdaq," was a McCarthy-like attack on the NASD and The Nasdaq Stock Market that was both malicious and grossly unfair. These are some of the facts that readers of *worth* should know.

First, the NASD and Nasdaq were not given a fair opportunity to participate in the story. Not only were our good faith efforts to arrange interviews of our key spokesmen by *worth* frustrated by the reporter's absences from work, we were never informed of any publication deadlines. Further, when we finally did make contact with an associate editor of *worth* on April 13, we were told that the story had already been written. It seems to us that basic fairness requires that the facts be gathered before the story is written.

Second, the NASD regulatory activities are anything but lax. The NASD brings more enforcement actions against broker/dealers and their associated persons than any other self-regulatory organization or the SEC. The numbers speak for themselves. In 1994 alone, the NASD initiated 917 formal disciplinary actions, expelled 29 firms, barred 364 individuals, suspended 11 firms and 221 individuals, and imposed fines in excess of \$35 million. Also, in discussing our arbitration service, the reporter never mentioned that the number of claims filed by investors each year with the NASD is growing rapidly while the case loads of forums operated by other self-regulatory organizations have remained flat or declined. It is unlikely that investors would be choosing the NASD to handle their arbitrations if they felt that NASD arbitration panels were treating them unfairly.

Third, the reporter repeatedly displayed a lack of understanding of how markets work and the important role of dealers in providing liquidity in all U.S. markets. For example, she said that 90 percent of the time investor orders cross on the NYSE and Amex without the participation of a

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"middleman." According to the 1994 NYSE Fact Book, exchange members participating as dealers account for 45.4 percent of volume; dealer trades by specialists alone account for 17.4 percent of volume. Indeed, it is because of dealer involvement—as a specialist, an upstairs block positioner, or a market maker—that the U.S. equity markets are considered the deepest, most liquid and efficient markets in the world.

Fourth, contrary to the impression left by the article, the NASD enjoys close working relationships with most state securities regulators. Through task forces and individual state-by-state arrangements, we conduct joint examinations of members and we assist one another in pursuing enforcement matters in various ways. We are aware that at least two state securities administrators, whose regulatory and enforcement programs are among the most active in the nation, expressed those very thoughts to your reporter. None were reflected in the article.

There are many other examples in the article of facts being ignored or distorted but space limitations do not permit us to describe them here.

If one looks hard enough, critics can be found. This is what your reporter did. She selectively used comments and anecdotes. Her piece is opinion presented as fact; the information she presented as fact was never checked. *worth* readers deserve better.

Sincerely,

