

Disciplinary and Other NASD Actions

REPORTED FOR JANUARY

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of December 2003.

Firm Expelled, Individual Sanctioned

Kesco Securities Corp. (CRD #104243, Ft. Myers, Florida) and Scott Fine (CRD #2303062, Registered Principal, Ft. Myers, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was expelled from NASD membership and Fine was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Fine sent limited partnership partners e-mails and caused Schedule K-1 partnership tax documents that were inaccurate to be issued to partners. The findings also stated that the firm, acting through Fine, provided inaccurate information to NASD during an examination regarding the schedule of transactions assigned to an investor in the limited partnership. NASD also found that the firm and Fine failed to respond to NASD requests for documents and testimony. (NASD Case #C07030080)

Firms Fined, Individuals Sanctioned

Balfour Investors, Inc. (CRD #7382, New York, New York) and Carl Goldfarb (CRD #4263003, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$37,000, \$15,000 of which was jointly and severally with Goldfarb. Goldfarb was suspended from association with any NASD member in any capacity for nine 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 Goldfarb, prepared substitute new account forms to replace missing account forms requested by NASD and provided them to NASD without affirmatively indicating that the forms were not original, that the names on the "preparer" signature lines had been added to some of the forms without authorization or consent of those whose names were added, and the firm and its personnel lacked documentary confirmation that the substitute forms contained the same customer information, investment objectives, and risk exposure information as contained on the missing forms. The findings also stated that the firm permitted individuals to act as limited representative-equity traders and to execute transactions without being so registered. NASD also found that the firm failed to preserve for a period of not less than three years, the first two in an accessible place, brokerage order memoranda and confirmations of those orders. In addition, NASD found that the firm failed to report to NASD's Fixed Income Pricing SystemSM (FIPSSM) the firm's sell transactions in high-yield securities to public customers.

Goldfarb's suspension began January 5, 2004, and will conclude at the close of business October 4, 2004. (NASD Case #C10030103)

World Financial Capital Markets, Inc. (CRD #47747, New York, New York) and Frank Richard Bell (CRD #1425780, Registered Principal, Bradenton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$100,000—\$40,000 of which was jointly and severally with Bell—required not to post any research reports on its Web site for two years, and required to provide NASD with its revised Anti-Money Laundering (AML) Compliance Procedures within 30 days of the effective date of the AWC. The firm is also required to hire an outside consultant within 60 days of the effective date of the AWC to conduct independent testing to determine if the firm's AML procedures are in compliance with NASD Rule 3011, and to implement the consultant's recommendations not later than 30 days from the issuance of the consultant's findings and recommendations. Bell was barred from association with any NASD member in a principal capacity and suspended from association with any NASD member in any capacity for eight months.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm sold shares of a security to foreign customers through persons not registered with the firm. The findings also stated that none of the firm's registered representatives had contact with the customers prior to the transactions and failed to receive written authorization from the customers to accept the orders from unregistered persons. NASD also found that the firm, acting through Bell, knowingly accepted customer orders and recorded transactions in this manner, improperly exercising discretion in the customers' accounts, and created and maintained inaccurate books and records. In addition, the findings stated that the firm, at the direction of Bell, posted research reports on issuers that contained exaggerated, unwarranted, or misleading statements and failed to disclose material facts. Moreover, the findings stated that the firm's supervisory systems and procedures failed to adequately set forth procedures and systems reasonably designed to achieve compliance with federal securities laws and NASD rules regarding publishing and distributing research reports and the handling of customer orders placed by third persons or discretionary trading. Furthermore, the findings stated that the firm and Bell failed to establish and implement policies and procedures reasonably designed to detect and cause the reporting of suspicious transactions; failed to establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and implementing regulations thereunder; failed to provide for independent testing for compliance by member personnel or a qualified outside party; and failed to provide for ongoing training for appropriate personnel.

Bell's bar became effective November 24, 2003. Bell's suspension began January 5, 2004, and will conclude September 4, 2004. (NASD Case #CAF030057)

Firms and Individuals Fined

Financial West Group (CRD #16668, Westlake Village, California) and Jeffrey Keith Rose (CRD #1008563, Registered Principal, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Rose consented to the described sanctions and to the entry of findings that the firm, acting through Rose, failed to report, and to timely report, reportable events including customer complaints. The findings also stated that the firm, acting through Rose, failed to amend Uniform Applications for Securities Industry Registration or Transfer (Forms U4) and a Uniform Termination Notice for Securities Industry Registration (Form U5) to reflect certain reportable events within 30 days after learning of the facts or circumstances regarding these events. The findings further stated that the firm, acting through Rose, failed to establish, maintain, and enforce written procedures identifying the individual(s) responsible for ensuring the timely filing of Rule 3070 reports and amendments to Forms U4 and U5. (NASD Case #C02030070)

Greystone Securities Corporation (CRD #37792, Springfield, Missouri) and Alan Kent Suiter (CRD #1217290, Registered Principal, Nixa, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$13,000, jointly and severally. Without admitting or denying the allegations, the firm and Suiter consented to the described sanctions and to the entry of findings that the firm, acting through Suiter, permitted registered representatives to perform duties as registered persons for compensation, while their registration status was inactive due to their failure to timely complete the Regulatory Element of NASD's Continuing Education Requirements. The findings also stated that the firm, acting through Suiter, failed to establish, maintain, and enforce written supervisory procedures designed to fulfill its obligation to comply with the Regulatory Element of NASD's Continuing Education Requirements. The findings further stated that the firm, acting through Suiter, participated in a private placement contingency offering, failed to deposit investor funds in an appropriate escrow account before the minimum contingency was met, and released funds to the issuer before the minimum contingency was met, rendering false and misleading the representations in the placement memorandum that investor funds would be released only if the minimum contingency was met and would be returned if it was not reached. (NASD Case #C04030063)

Hanmi Securities, Inc. (CRD #25518, Los Angeles, California) and Eul Hyung Choi (CRD #1592055, Registered Principal, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Choi consented to the described sanctions and to the entry of findings that the firm, acting through Choi, utilized the instrumentalities of interstate commerce to engage in the securities business while failing to have and maintain sufficient net capital. (NASD Case #C02030066)

Pacific On-Line Trading & Securities, Inc. (CRD #45737, San Jose, California) and Timothy Alan McAdams (CRD #2877024, Registered Principal, San Jose, California) were censured and fined \$22,500, jointly and severally, and McAdams was required to requalify as a general securities principal. The Securities and Exchange Commission (SEC) affirmed the sanctions following an appeal of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that the firm, acting through McAdams, maintained a Web site advertisement without filing the Web site with NASD. The findings also stated that the firm, acting through McAdams, used a Web site that was false and misleading because it omitted material information concerning the risks of day trading, and contained exaggerated, unwarranted, and false statements. (NASD Case #C01000037)

Firms Fined

Barclays Capital, Inc. (CRD #19714, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report, or timely report, its short interest positions to NASD. In addition, NASD found that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the timely reporting of short interest positions. (NASD Case #CMS030262)

Birchtree Financial Services, Inc. (CRD #15014, Bloomington, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000, \$5,000 of which was jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, acting through an individual, failed to disclose reportable events within 10 business days of becoming aware of these reportable events. The findings also stated that the firm, acting through an individual, failed to file statistical and summary information disclosing the receipt of customer complaints against registered representatives of the firm on a timely basis. In addition, the

findings stated that the firm failed to file amended Forms U5 for individuals within 30 days of becoming aware of the facts or circumstances requiring the amended Forms U5. (NASD Case #C04030059)

B. Riley & Company, Inc. (CRD #40355, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$13,500, and required to revise its written supervisory procedure concerning trade reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct time of execution through the Automated Confirmation Transaction ServiceSM (ACTSM) in last-sale reports of transactions in NASDAQ National Market[®] (NNM[®]) securities, failed to designate as ".T" through ACT last-sale reports of transactions in NNM securities executed outside normal market hours, and incorrectly designated as ".SLD" through ACT last-sale reports of transactions in NNM securities reported to ACT within 90 seconds of execution. The findings also stated that the firm failed to show the time of entry and execution on the memorandum of brokerage orders. In addition, NASD found that the firm failed to preserve, for a period of not less than three years, the first two in an accessible place, the memoranda of brokerage orders. Furthermore, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning trade reporting. Moreover, the findings stated that the firm failed to reasonably and properly supervise the firm's trade reporting activities. (NASD Case #CMS030279)

Continental Broker-Dealer Corp. (CRD #14048, Carle Place, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$12,500, and required to revise its written supervisory procedures with respect to the routing of non-directed orders in covered securities and timely reporting of Reportable Order Events (ROEs) to NASD. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to make publicly available for the first calendar quarter of 2002 a report on its routing of non-directed orders in covered securities during that quarter. The findings also stated that the firm failed to timely report to the Order Audit Trail SystemSM (OATSSM). In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning timely OATS reporting. (NASD Case #CMS030273)

Empire Securities Corporation of Southern California (CRD #2826, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to

the entry of findings that it permitted registered persons to act in capacities requiring registration while their NASD registrations were inactive due to a failure to complete in a timely manner the Regulatory Element of the Continuing Education Requirement. (NASD Case #C02030069)

Essex National Securities, Inc. (CRD #25454, Napa, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000, including disgorgement of \$7,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed individuals to engage in a securities business, for compensation, while not properly registered with NASD. (NASD Case #C10030112)

EWT, LLC f/k/a Pioneer Capital Corp. (CRD #45986, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures with respect to OATS. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning OATS. (NASD Case #CMS030274)

Fifth Third Securities, Inc. (CRD #628, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$20,000, and required to revise the firm's written supervisory procedures regarding compliance with Municipal Securities Rulemaking Board (MSRB) Rule G-14. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct time of execution to the MSRB in transactions for which the firm had recording and reporting obligations. The findings also stated that, during the review period, the firm had no written supervisory procedures to ensure compliance with MSRB Rule G-14, and relied entirely on the procedures and representations regarding trade reporting provided by the firm's clearing broker. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and MSRB rules concerning transaction reporting. (NASD Case #CMS030258)

Hanover Capital Securities, Inc. (CRD #24706, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to respond timely to NASD requests for information. (NASD Case #CMR030001)

Jefferies & Company, Inc. (CRD #2347, Los Angeles, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, while it was a market maker in securities, an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size, and it failed to execute the orders upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm, a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered a bid or asked quotation in The Nasdaq Stock Market that caused a locked or crossed market condition to occur in each instance. The findings also stated that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in Consolidated Quotation Service (CQS) and Over-the-Counter (OTC) Equity securities. In addition, NASD found that the firm, within 90 seconds after execution, failed to transmit through ACT last-sale reports of transactions in CQS and OTC equity securities, and failed to designate through ACT some last-sale reports as late. (NASD Case #CMS030277)

M. H. Meyerson & Co., Inc. f/k/a Crown Financial Group, Inc. (CRD #540, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$16,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to document quotations from each dealer contacted on the brokerage order. The findings also stated that the firm incorrectly reported riskless principal transactions to ACT for public dissemination. In addition, NASD found that the firm executed short-sale transactions and failed to report each of these transactions to ACT with a short-sale modifier. Furthermore, NASD found that the firm was a registered market maker in securities, and an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size and failed to execute the orders upon presentment, thereby failing to honor its published quotation. (NASD Case #CMS030267)

M. H. Meyerson & Co., Inc. f/k/a Crown Financial Group, Inc. (CRD #540, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$62,500, and required to revise its written supervisory procedures with respect to SEC Rule 15c2-11, NASD Marketplace Rule 6740, Best Execution (Inter-positioning, Three Quote Rule, and Frontrunning), Firm Quote Compliance, and Short Sales (Bid Test, Affirmative Determination, and ACT reporting). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published quotations for an OTC Equity Security,

or, directly or indirectly, submitted such quotations for publication, in a quotation medium, and did not have in its records the documentation required by SEC Rule 15c2-11(a) (Paragraph (a) information); did not have a reasonable basis under the circumstances for believing that the Paragraph (a) information was accurate in all material respects; or did not have a reasonable basis under the circumstances for believing that the sources of the Paragraph (a) information were reliable. The quotations did not represent a customer's indication of unsolicited interest.

The findings also stated that the firm failed to file a Form 211 for each quotation with NASD at least three business days before the firm's quotations were published or displayed in a quotation medium. In addition, the findings stated that the firm incorrectly designated as ".PRP" through ACT last-sale reports of transactions in an NNM security, a NASDAQ SmallCapSM security, and OTC Equity securities. In addition, the findings stated that the firm executed short-sale transactions and failed to report each of these transactions to ACT with a short-sale modifier, executed long-sale transactions and incorrectly reported each of these transactions to ACT with a short-sale modifier, and failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity. Furthermore, the findings stated that the firm failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis amount in relation to the size associated with its bid or offer in each such security. Moreover, the findings stated that the firm was a market maker in securities, and an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size, and failed to execute the orders upon presentment thereby failing to honor its published quotation.

In addition, NASD found that the firm was a party to a locked or crossed market condition prior to the market opening and received a Trade-or-Move Message in each instance through SelectNet, and, within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move Message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. Furthermore, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning SEC Rule 15c2-11, NASD Marketplace Rule 6740, Best Execution (Inter-positioning, Three Quote Rule, and Frontrunning), Firm Quote Compliance, and Short Sales (Bid Test, Affirmative Determination, and ACT reporting). (NASD Case #CMS030268)

Morgan Stanley DW, Inc. (CRD #7556, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,000, and required to prepare and implement, by June 1, 2004, written procedures and computer exception reports reasonably designed to detect and prevent the mis-marking of order tickets regarding the solicitation of securities transactions with public customers where the firm did not provide research for the securities. In the interim, the firm shall undertake to reiterate to its registered representatives the importance of its policies regarding solicited and unsolicited trades. The firm shall also provide NASD with a copy of its written supervisory procedures within 30 days after they are implemented, together with a certification that the procedures have been implemented.

Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that registered representatives in a branch office of the firm solicited public customers to purchase shares in a start-up technology company for which the firm did not provide research, and falsely recorded the solicited trades as "unsolicited" in the books and records of the firm. The findings also stated that the registered representatives' false reporting of the trades caused the firm to fail to keep accurate books and records related to its business. (NASD Case #CAF030066)

Redsky Securities, LLC (CRD #38455, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to OATS. The findings also stated that the firm failed to enforce its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning OATS. (NASD Case #CMS030265)

Ryan Beck & Co. (CRD #3248, Livingston, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted individuals to perform duties as registered persons while their registration status with NASD was inactive due to their failure to timely complete the Regulatory Element of NASD's Continuing Education Rule. The findings also stated that the firm failed to promptly display customer limit orders and failed to disclose the markup/markdown charged to the customer in principal transactions. NASD also found that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to ensure compliance with SEC Rule 10b-10 (review of confirmations). In addition, NASD determined that the firm's order tickets for equity trades reflected the incorrect time of execution, or failed to record any execution time. (NASD Case #C9B030083)

Shields & Co. (CRD #11053, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to respond timely to NASD requests for information. **(NASD Case #CMR030002)**

Stone & Youngberg LLC (CRD #795, San Francisco, California) submitted an Offer of Settlement in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted an individual to engage in municipal securities transactions totaling \$33,389,407.05, for compensation, during a period in which the individual was deemed inactive for failing to satisfy the Regulatory Element of Continuing Education. **(NASD Case #C01030024)**

Timber Hill LLC (CRD #33319, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it was a party to a locked or crossed market condition prior to the market opening and received a Trade-or-Move Message in each instance through SelectNet, and, within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move Message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. **(NASD Case #CMS030259)**

Individuals Barred or Suspended

Michael Nelson Barnett (CRD #1127188, Registered Supervisor, St. Albans, West Virginia) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Barnett consented to the described sanctions and to the entry of findings that he failed to reasonably and properly supervise an individual so as to detect and prevent violations of NASD rules regarding discretionary power.

Barnett's suspension began December 22, 2003, and concluded at the close of business January 6, 2004. **(NASD Case #C9A030029)**

Michael Stewart Berardi (CRD #838565, Registered Representative, Lebanon, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the

allegations, Berardi consented to the described sanctions and to the entry of findings that he paid \$526,250 to unregistered entities in connection with securities business referrals that he received.

Berardi's suspension began January 5, 2004, and concluded at the close of business January 26, 2004. **(NASD Case #C9B030079)**

Jay Stuart Berkman (CRD #2308190, Registered Principal, Weston, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Berkman consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C10030108)**

Larry Joseph Bolden (CRD #2073064, Registered Representative, Austin, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Bolden forged the signature of a public customer on letters of authorization to transfer funds to an account he controlled without the customer's authorization, knowledge, or consent. The findings also stated that Bolden transferred at least \$23,466 from the customer's account to his own account and used the converted funds to his own use and benefit. NASD also found that Bolden failed to respond to NASD requests for information and documents. **(NASD Case #C06030010)**

John Paul Borbi (CRD #2574784, Registered Principal, Northville, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Borbi consented to the described sanction and to the entry of findings that he prepared and submitted documents bearing the forged signatures of public customers to effect the transfer of funds in excess of \$607,000 from the customers' managed money accounts without their knowledge and consent. The findings also stated that Borbi converted public customer funds by using forged documents to transfer \$487,750 from a public customer's managed money account into the credit union account of his family members from which Borbi obtained the funds for his own use or benefit. In addition, NASD found that Borbi misused public customer funds by using forged documents to transfer \$99,000 from the managed money accounts of different customers to disguise trading losses in those accounts without their knowledge and consent. Furthermore, NASD found that Borbi failed to timely respond to NASD requests for information. **(NASD Case #C8A030085)**

Robert Edward Bouch (CRD #2769718, Registered Representative, Factoryville, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Bouch converted \$469,396.88 from public customers for his own use and benefit. The findings also stated that Bouch willfully failed to disclose material facts on his Form U4 and failed to respond to NASD requests for information. (NASD Case #C10030056)

Paul Kendall Bouldin (CRD #843667, Registered Representative, Maitland, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,400, including disgorgement of \$2,400 in commissions received, and suspended from association with any NASD member in any capacity for 120 days. The fine must be paid before Bouldin reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bouldin consented to the described sanctions and to the entry of findings that he purchased \$150,000 in mutual funds for a public customer without his authorization, and then entered into an agreement with the customer wherein he agreed to reimburse the customer for any damages resulting from the transactions. The findings also stated that Bouldin failed to disclose to his member firm that he had entered into an agreement until the customer demanded that Bouldin fulfill his obligations.

Bouldin's suspension began December 1, 2003, and will conclude at the close of business March 29, 2004. (NASD Case #C07030077)

Kenneth Arthur Burns (CRD #1609793, Registered Representative, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Burns consented to the described sanction and to the entry of findings that he converted \$50,295.03 from a public customer for his own use and benefit. NASD also found that Burns failed to respond to NASD requests for documents and information. (NASD Case #C10030111)

Shellie G. Cohen (CRD #2751854, Registered Representative, Highland Park, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Cohen consented to the described sanctions and to the entry of findings that she affixed the signature of a public customer on a letter addressed to a fund without the customer's knowledge or consent. The findings also stated that the letter instructed the fund to change the broker/dealer for the customer's mutual fund account to Cohen's member firm with Cohen as the registered representative for the account.

Cohen's suspension began January 5, 2004, and will conclude April 4, 2004. (NASD Case #C8A030083)

Calvin Livingston Coolidge, II (CRD #1029033, Registered Supervisor, Milford, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500, suspended from association with any NASD member in any capacity for six months, and ordered to pay \$20,384, plus interest, in restitution to a public customer. The fine and restitution must be paid before Coolidge reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Coolidge consented to the described sanctions and to the entry of findings that he recommended and effected securities transactions in the account of a public customer that were unsuitable. The findings also stated that Coolidge recommended and effected various transactions in Class B mutual funds for the customer that were unsuitable because Class A shares should have been recommended, as the customer would have received breakpoints reducing the cost of the Class A front-end sales charges, paid lower ongoing expenses, and avoided contingent deferred sales charges if Class A shares had been recommended and purchased.

Coolidge's suspension began January 5, 2004, and will conclude July 4, 2004. (NASD Case #C9B030080)

Peter N. Dechowicz (CRD #1706074, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 90 days. The fine must be paid before Dechowicz reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dechowicz consented to the described sanctions and to the entry of findings that he forged the signatures of public customers on documents in connection with the customers' purchase of insurance policies without the customers' knowledge, authorization, or consent.

Dechowicz' suspension began January 5, 2004, and will conclude April 3, 2004. (NASD Case #C10030109)

Paul Samuel Ehrenstein (CRD #76229, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Ehrenstein consented to the described sanctions and to the entry of findings that he advised his member firm to prepare substitute new account forms for missing account forms requested by NASD during an examination. The findings also stated that the new forms were furnished to NASD without Ehrenstein's participation and without affirmatively indicating

that the forms were not original, the names on the “preparer” signature lines had been added without authorization or consent of those whose names were added, the forms were backdated, and that the firm and its personnel lacked documentary confirmation that the substitute forms contained the same information. NASD also found that Ehrenstein failed to ensure that the firm would advise NASD that the forms were not originals and of the manner in which the forms had been prepared prior to the production of the substitute forms.

Ehrenstein’s suspension began January 5, 2004, and will conclude at the close of business January 16, 2004. **(NASD Case #C10030104)**

Maria Luisa Ellis (CRD #1188525, Registered Representative, Chatham, New Jersey) submitted an Offer of Settlement in which she was fined \$7,500 and suspended from association with any NASD member in any capacity for 45 business days. Without admitting or denying the allegations, Ellis consented to the described sanctions and to the entry of findings that she failed to respond to NASD requests for information in a timely manner.

Ellis’ suspension began January 5, 2004, and will conclude at the close of business March 9, 2004. **(NASD Case #C10030034)**

Thomas Jayson Feight (CRD #3169520, Registered Representative, Howard Beach, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Feight consented to the described sanction and to the entry of findings that he aggressively solicited his member firm’s customers to purchase shares of stock in a company with questionable business operations, virtually no assets, and little or no revenue. The findings also stated that Feight failed to research the company’s financial condition and knew virtually nothing about the company. In addition, the findings stated that Feight used high-pressure sales practices; made repeated telephone calls; knowingly and recklessly employed fraudulent misrepresentations, including baseless price predictions and guarantees; and omitted to state material facts about the precarious financial condition of the company to induce customers to purchase shares of the company. NASD also found that Feight’s knowing and reckless false claims to customers he solicited included the flatly untrue assertion that respected institutions were investing in the company, that he had attended meetings with bankers who would obtain financing for the company and, that its per-share value would rise to \$5.00 in six months and double in a year. Furthermore, NASD found that Feight failed to inform his customers that he knew almost nothing about the company and had no basis for making his strong and repeated recommendations to customers to purchase shares of the company. The findings also stated that Feight

admitted in on-the-record testimony that he failed to inform himself, and thus his customers, of the precarious financial condition of the company, including the fact that its most recent SEC filing showed its total cash-on-hand was only \$356 and contained a “going concern” clause. **(NASD Case #CMS030261)**

Dale Evans Frett (CRD #2623236, Registered Representative, Bronx, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Frett reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Frett consented to the described sanctions and to the entry of findings that he effected an unauthorized transaction in the account of a public customer without the customer’s prior knowledge, authorization, or consent. The findings also stated that Frett reimbursed the customer approximately \$274 to settle the customer’s complaint without informing and obtaining authorization from his member firm.

Frett’s suspension began December 15, 2003, and will conclude at the close of business January 28, 2004. **(NASD Case #C10030097)**

Corey Lshon Fuller (CRD #3103436, Registered Representative, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fuller consented to the described sanction and to the entry of findings that he converted customer funds given to him for investment purposes to his own use. The findings also stated that Fuller failed to respond to an NASD request to appear for an on-the-record interview. **(NASD Case #C07030079)**

John Carroll Gallo (CRD #1892609, Registered Representative, Indialantic, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 15 days, and ordered to pay disgorgement of \$25,122 in commissions in partial restitution to a public customer. Without admitting or denying the allegations, Gallo consented to the described sanctions and to the entry of findings that he recommended to a public customer that it purchase over \$2 million in Class B mutual fund shares on the basis that the customer would not pay any up-front sales charges. The findings stated that Gallo’s recommendations were unsuitable based on the dollar amount being invested by the customer, as the customer could have invested in Class A shares without paying any up-front sales charges and the Class A shares have lower on-going expenses than Class B shares and no contingent deferred sales charge.

Gallo's suspension began January 5, 2004, and will conclude at the close of business January 19, 2004. (NASD Case #C07030081)

Dean Daniell Giasi (CRD #2573690, Registered Principal, Staten Island, New York) and Emanuele Anthony Scarso (CRD #2080536, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which Giasi was fined \$7,000 and suspended from association with any NASD member in any capacity for 14 business days. Scarso was fined \$10,000 and suspended from association with any NASD member in any capacity for two months. Giasi and Scarso were also ordered to pay \$3,384, plus interest, in restitution to a public customer and to disgorge \$500 in commissions received to NASD, jointly and severally. Without admitting or denying the allegations, Giasi and Scarso consented to the described sanctions and to the entry of findings that they caused to be effected a transaction in the account of a public customer without the customer's prior knowledge, authorization, or consent.

Giasi's suspension began January 5, 2004, and will conclude at the close of business January 23, 2004. Scarso's suspension will begin March 25, 2004, and will conclude at the close of business May 24, 2004. (NASD Case #C10030100)

Orville Eugene Hill (CRD #1046273, Registered Representative, Middleburg, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Hill reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hill consented to the described sanctions and to the entry of findings that he engaged in business activities outside the scope of his employment with his member firm and failed to provide prompt written notice to his member firm.

Hill's suspension began December 1, 2003, and will conclude at the close of business November 30, 2004. (NASD Case #C07030078)

Tommy Lee Huff, Jr. (CRD #1323465, Registered Principal, West Monroe, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years and ordered to pay \$51,235 in deferred restitution. Satisfactory proof of payment of restitution must be made before Huff reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Huff consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm. The findings also stated

that Huff participated in outside business activity, for compensation, without providing prior written notice to his member firm.

Huff's suspension will begin January 20, 2004, and will conclude at the close of business January 19, 2006. (NASD Case #C05030058)

Jeffrey Alan Jones (CRD #2853736, Registered Representative, Lafayette, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Jones reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm. The findings also stated that Jones participated in outside business activity, for compensation, without providing prior written notice to his member firm.

Jones' suspension will begin January 20, 2004, and will conclude at the close of business July 19, 2004. (NASD Case #C05030060)

Mark Warren Lamb (CRD #1437554, Registered Representative, Woodside, California) and David Scott Cacchione (CRD #1941729, Registered Representative, Woodside, California) submitted an Offer of Settlement in which Lamb was fined \$50,000 and suspended from association with any NASD member in any capacity for 30 days. Cacchione was fined \$35,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Lamb and Cacchione consented to the described sanctions and to the entry of findings that they, as agents of their member firm, effected the sale of unregistered securities to public customers while the firm acted as an underwriter. The findings also stated that Lamb received order tickets for the purchase of securities and failed to promptly inform his firm's trading department so that the trades could be reported within 90 seconds of execution as required by NASDAQ Marketplace Rules. NASD also found that Lamb and Cacchione failed to disclose material facts during the offer and sale of stock to public customers, including that the shares were neither registered nor exempt from registration and that an unauthorized third party was involved in the sale and pricing of the stock. In addition, NASD found that Lamb failed to disclose that the prices given to certain customers who purchased the stock were materially different from prices given to other customers who purchased the stock at virtually the same time, and that his firm delayed the inputting and trade reporting of the sales of stock for several hours after customers agreed to purchase the stock.

Lamb's suspension began January 5, 2004, and will conclude at the close of business February 3, 2004. Cacchione's suspension began January 5, 2004, and will conclude at the close of business February 3, 2004. (NASD Case #CAF020053)

Eric Joseph Laucius (CRD #2898681, Registered Principal, Huntington Valley, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Laucius failed to respond to questions during an NASD on-the-record interview. (NASD Case #C9A030017)

Olu T. Lawal (CRD #3143202, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity with the right to apply for reinstatement after two years. Without admitting or denying the allegations, Lawal consented to the described sanction and to the entry of findings that he willfully failed to disclose material facts on his Form U4. (NASD Case #C07030046)

Gary Allen Levari, Jr. (CRD #2814326, Registered Representative, Vineland, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Levari consented to the described sanction and to the entry of findings that he effected purchases of securities in his personal bank account and either made the requisite payment by depositing a check drawn on a bank account that did not hold sufficient funds, or made the requisite payment with proceeds from the sale of the securities he purchased. The findings also stated that Levari failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C9A030038)

Patrick Michael McGowan (CRD #1196998, Registered Representative, Minnetrista, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before McGowan reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, McGowan consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in the account of a public customer without the customer's knowledge, authorization, or consent.

McGowan's suspension began January 5, 2004, and will conclude at the close of business February 3, 2004. (NASD Case #C04030061)

Carmen George Paris, Sr. (CRD #2671001, Associated Person, Apopka, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Paris caused his member firm to fail to maintain the

minimum required net capital and to notify the SEC and NASD of its net capital deficiencies. In addition, Paris caused his firm to fail to prepare and maintain accurate books and records, including general ledgers and FOCUS reports. The findings also stated that Paris caused his member firm to file FOCUS reports that inaccurately stated the firm's net capital. NASD also found that Paris failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C07030032)

Pietro Joseph Passalacqua (CRD #2299676, Registered Principal, Hillsborough, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Passalacqua consented to the described sanctions and to entry of findings that, without authorization from his member firm, he paid a total of \$215,000 in commissions to a registered representative based on referred variable annuity transactions.

Passalacqua's suspension began December 18, 2003, and concluded at the close of business January 2, 2004. (NASD Case #C9B030082)

Bryan Edward Pifer (CRD #1916858, Registered Principal, Loveland, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Pifer consented to the described sanction and to the entry of findings that he affixed the signature of a public customer on an annuity application, annuity application supplements, and a client benefit summary and disclosure form. The findings also stated that Pifer affixed the signature of a public customer on a check made payable to the customer for \$97,772.90 without the customer's knowledge or consent. (NASD Case #C8B030028)

William Poinsette (CRD #2926889, Registered Representative, Pikesville, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Poinsette consented to the described sanction and to the entry of findings that he received checks totaling \$114,903.14 from a public customer for the purpose of making an investment in a variable life insurance policy. The findings also stated that Poinsette deposited the checks into his personal bank account, applied \$104,999.99 of the funds for the investment, kept the remaining \$9,903.15 in his personal account, and used the funds for his own purposes. (NASD Case #C9A030039)

Daniel Timothy Pszanka (CRD #2499042, Registered Representative, Denver, Colorado) was barred from association with any NASD member in any capacity. The sanction was based on findings that Pszanka engaged in private securities

transactions and failed to provide prior written notice to, or receive written permission from, his member firm. The findings also stated that Pszanka engaged in outside business activities and failed to provide his member firm with prompt written notice. NASD also found that Pszanka used manipulative, deceptive, or other fraudulent devices in connection with the purchase of interests in a limited partnership by public customers. In addition, NASD found that Pszanka made material misrepresentations and omissions to public customers that he had invested his own money in the limited partnership when, in fact, he had not, and was skeptical of all claims regarding investment returns. Moreover, NASD found that Pszanka created and provided investment account statements to public customers that contained purported information regarding the amount of their principal investments, the performance of their investments, and their percentage of return on investment but instead negligently misrepresented the truth to the customers. (NASD Case #C10020090)

Wayne Richardson (CRD #2074676, Registered Representative, Smithtown, New York) submitted an Offer of Settlement in which he was fined \$1,500 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Richardson consented to the described sanctions and to the entry of findings that he exercised discretion over the account of a public customer and effected, or caused to be effected, transactions without reasonable grounds for believing that the level of activity represented by such transactions was suitable for the customer based upon the customer's financial circumstances and needs.

Richardson's suspension began January 5, 2004, and will conclude at the close of business January 26, 2004. (NASD Case #C10030021)

Brian James Rogers (CRD #402667, Registered Principal, Randolph, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000 and suspended from association with any NASD member in any principal capacity for 30 days. Without admitting or denying the allegations, Rogers consented to the described sanctions and to the entry of findings that he failed to be aware of the solicitation to purchase shares of stock of a start-up technology company not covered by Rogers' member firm by registered representatives of a branch office of his firm, and failed to take reasonable action to assure that registered representatives had a reasonable basis for recommending the stock. The findings also stated that Rogers failed to enforce the firm's policies regarding the solicitation of securities and failed to take reasonable steps to prevent and detect the falsification of firm records by the registered representatives. NASD also found that Rogers orally delegated supervisory responsibilities over inexperienced

registered representatives to one of the registered representatives engaged in the solicitation of the stock, but failed to act reasonably to ensure that the representative was carrying out those delegated responsibilities.

Rogers' suspension will begin January 20, 2004, and will conclude at the close of business February 18, 2004. (NASD Case #CAF030065)

Melvin Rokeach (CRD #4124577, Registered Representative, Demarest, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Rokeach consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U4.

Rokeach's suspension began January 5, 2004, and will conclude July 4, 2004. (NASD Case #C10030106)

Rahman Rose (CRD #4466642, Registered Representative, Central Islip, New York) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rose consented to the described sanction and to entry of findings that he effected, or caused to be effected, excessive transactions in the account of a public customer. NASD found that Rose, directly or indirectly, by the use of the means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly used or employed manipulative or deceptive devices or contrivances in connection with the purchase or sale of securities; and knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. The findings also stated that Rose, while exercising effective control over the account of a public customer, recommended numerous purchases and sales transactions in various securities without having reasonable grounds for believing that the transactions were suitable for the customer in view of the size and frequency of the transactions, the nature of the account, and the customer's financial situation and needs. NASD also found that Rose failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C9B030063)

David Keith Rust (CRD #3256546, Registered Representative, Seagoville, Texas) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rust consented to the described sanction and to the entry of findings that he directed public customers to make withdrawals from their securities accounts in the form of checks totaling \$436,000, and instructed the customers to endorse the

checks and give them to him to invest on the customers' behalf. The findings also stated that Rust endorsed the customers' checks, thereby converting the funds to his own use and benefit, without the customers' knowledge or consent. In addition, NASD found that Rust failed to respond to NASD requests for information and documentation. **(NASD Case #C06030023)**

Stephen Vincent Samo (CRD #2905525, Registered Representative, Coarsegold, California) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Samo consented to the described sanction and to the entry of findings that he participated in private securities transactions for compensation without prior written notification to, and approval from, his member firm. The findings also stated that Samo engaged in outside business activities, for compensation, without providing prompt written notification to his member firm. **(NASD Case #C01030020)**

John Herman Schmidt (CRD #1456723, Registered Representative, Lawrence, Kansas) and Patsy L. Schmidt (CRD #3223961, Registered Representative, Lawrence, Kansas) submitted a Letter of Acceptance, Waiver, and Consent in which John Schmidt was barred from association with any NASD member in any capacity and Patsy Schmidt was suspended from association with any NASD member in any capacity for six months. In light of the financial status of the respondents, no monetary sanction has been imposed. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that John Schmidt engaged in private securities transactions without requesting and receiving prior written approval from his member firm. The findings also stated that John and Patsy Schmidt engaged in outside business activities without requesting and receiving prior written approval from their member firms, and that John Schmidt engaged in a securities business without being properly registered with NASD.

Patsy Schmidt's suspension began January 5, 2004, and will conclude July 4, 2004. **(NASD Case #C04030060)**

Joseph Brian Shevlin, Jr. (CRD #2125060, Registered Representative, Glen Cove, New York) was barred from association with any NASD member in any capacity and ordered to pay \$12,890.62, plus interest, in restitution to public customers. The sanction was based on findings that Shevlin made material misrepresentations and omissions in connection with the purchase and sale of securities, and made baseless predictions about the prices of speculative securities. The findings also stated that Shevlin effected unauthorized transactions in the accounts of public customers. **(NASD Case #C10020075)**

Ilan Shteinberg (CRD #3208021, Registered Representative, Marlboro, New Jersey) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Shteinberg consented to the described sanction and to the entry of findings that he failed to respond completely to NASD requests for information during an on-the-record interview. **(NASD Case #CMS030034)**

Josana Siegel (CRD #1242343, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Siegel consented to the described sanction and to the entry of findings that she effected securities transactions for the account of a public customer without the prior authorization or consent of the customer. NASD also found that Siegel failed to respond to NASD requests to appear to testify. **(NASD Case #C9B030084)**

Allen K. Sihatrai (CRD #4547044, Associated Person, Shreveport, Louisiana) was barred from association with any NASD member in any capacity. The sanction was based on findings that Sihatrai failed to respond to NASD requests for information. The findings also stated that Sihatrai failed to disclose a material fact on his Form U4. **(NASD Case #C05030030)**

Hin Chun Tang (CRD #4613667, Registered Representative, Flushing, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Tang reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Tang consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4.

Tang's suspension began January 5, 2004, and will conclude at the close of business January 4, 2005. **(NASD Case #C10030105)**

Robert Gregory Templeton (CRD #2630728, Registered Representative, Neeses, South Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 120 days. Without admitting or denying the allegations, Templeton consented to the described sanctions and to the entry of findings that, in connection with the sale of a variable annuity, he assisted a client in the completion of an application for the annuity that greatly overstated the client's net worth, and, with full knowledge of the inaccurate information on the application, submitted it to his member firm for processing.

Templeton's suspension began January 5, 2004, and will conclude at the close of business May 3, 2004. (NASD Case #C07030083)

Thomas Harris Thorp (CRD #2745965, Registered Representative, Peoria, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Thorp failed to respond to NASD requests for information. The findings also stated that Thorp intentionally and/or recklessly induced public customers to invest in a scheme that had no legitimate investment purpose. In addition, the findings stated that Thorp failed to apply a public customer's funds as directed. Furthermore, the findings stated that Thorp participated in private securities transactions and failed to provide prior notice to his member firm. (NASD Case #C8A030043)

Rafael Villard (CRD #1929937, Associated Person, Roselle, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on allegations that Villard failed to respond to NASD requests for information. The findings also stated that Villard failed to disclose information on his Form U4. (NASD Case #C9B030029)

Heather Jean West (CRD #4534939, Registered Representative, Newark, Delaware) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, West consented to the described sanctions and to the entry of findings that she willfully misrepresented a material fact on her Form U4.

West's suspension will begin January 20, 2004, and will conclude at the close of business January 19, 2005. (NASD Case #C8A030088)

Monica Doyle Woolard (CRD #3092159, Registered Representative, Joliet, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Woolard wrote checks payable to herself from the accounts of her employers and used the funds without their knowledge or consent. The findings also stated that Woolard failed to respond to NASD requests for information. (NASD Case #C8A030044)

Victor O. Zevallos (CRD #4079033, Registered Representative, Maynard, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Zevallos consented to the described sanction and to the entry of findings that, without the knowledge or consent of his member firm, Zevallos created fictitious documents using the firm's letterhead that he sent to a public customer that misrepresented that he had made

a partial repayment of a personal loan from the customer by depositing funds in the customer's brokerage account at his member firm when, in fact, he had made no such payments. The findings also stated that the documents were undated and falsely represented that funds were transferred into or credited to the customer's account. (NASD Case #C11030040)

Decision Issued

The following decision has been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the NAC as of December 5, 2003. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notice to Members*.

VMR Capital Markets US (CRD #38755, Beverly Hills, California) and Todd Michael Ficeto (CRD #1927084, Registered Principal, Malibu, California) were fined \$25,000, jointly and severally, and Ficeto was suspended from association with any NASD member in any supervisory capacity for 15 business days. The sanctions were based on findings that the firm, acting through Ficeto, failed to take appropriate action to supervise a new employee who engaged in excessive and unsuitable trading in the accounts of public customers.

Respondents have appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C02020055)

Complaints Filed

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

Richard Juan Adams (CRD #2896069, Registered Representative, Houston, Texas) was named as a respondent in an NASD complaint alleging that he received \$2,000 from a public customer for the purpose of opening an individual retirement account (IRA), but the account was never opened and the \$2,000 was never invested in an IRA. The complaint also alleges that Adams failed to respond to NASD requests for information. (NASD Case #C06030025)

Christopher John Borgo (CRD #2377439, Registered Principal, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he recommended to public customers the purchase of a common stock and, based on his recommendation, customers agreed to invest in the stock. The complaint also alleges that Borgo conducted no independent investigation into the merits of the stock prior to recommending the stock to his customers, and was unaware of the materially adverse information concerning the stock that Borgo either intentionally or recklessly failed to disclose to customers in connection with his recommendation that they purchase the stock. In addition, the complaint alleges that Borgo, by use of the means of instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, employed a device, scheme, or artifice to defraud; omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or a course of business which operated, or could operate, as a fraud or deceit upon persons in connection with the recommendations he made to customers to purchase a stock. (NASD Case #C3A030048)

Michael Lewis Boyd (CRD #1504646, Registered Representative, Bayville, New York) was named as a respondent in an NASD complaint alleging that he received \$263,025 from public customers for investment purposes and converted the funds to his own use or benefit or for the benefit or use of a third party. The complaint also alleges that Boyd converted funds by submitting forms to his member firm on behalf of a public customer, without the customer's authorization, and by requesting that the firm wire \$4,500 from one of the customer's accounts to a bank account owned or controlled by Boyd, causing his firm to wire the funds to Boyd's account without the customer's authority or knowledge. The complaint further alleges that Boyd failed to respond to NASD requests for information and documents. (NASD Case #C10030098)

Xi Chen (CRD #2961748, Registered Representative, Williamsville, New York) was named as a respondent in an NASD complaint alleging that, without the knowledge or consent of public customers, he signed the signatures of the customers to documents directing the transfer of funds or securities from their accounts into the accounts of Chen's relatives, and transferred funds or securities from the customers' accounts into the accounts of Chen's relatives. The complaint also alleges that Chen failed to respond to NASD requests for documents and information. (NASD Case #C8B030027)

Eloy Gomez (CRD #4393584, Associated Person, Mission, Texas) was named as a respondent in an NASD complaint alleging that he received \$158 from a public customer for a premium payment for the customer's homeowner's insurance policy but failed to apply the funds in the manner intended by

the customer, resulting in the cancellation of the policy for non-payment of the premium. The complaint also alleges that Gomez received checks totaling \$1,414 from public customers made payable to his member firm for premium payments of customers' insurance, and, without their authorization, knowledge, or consent, he inserted his name as payee on the checks, endorsed them, and cashed the checks. The complaint further alleges that Gomez applied \$600 to an insurance policy, thereby converting the remainder of the funds to his own use and benefit. The complaint also alleges that Gomez failed to respond to NASD requests for information. (NASD Case #C06030028)

Kevin Richard Johnson (CRD #1369794, Registered Principal, Princeton, New Jersey) and **Ryan Goolcharan (CRD #288404, Registered Representative, South Brunswick, New Jersey)** were named as respondents in an NASD complaint alleging that they failed to disclose material information regarding a security to public customers, and acted intentionally or, at a minimum, recklessly in making material misrepresentations and omitting material facts. The complaint also alleges that Johnson and Goolcharan recommended that public customers purchase shares in the security without having a reasonable basis for recommending the stock to any customers, thus recommending unsuitable securities to public customers. In addition, the complaint alleges that Johnson and Goolcharan solicited public customers to buy a stock not covered by their member firm's research analysts or otherwise excepted from the approval requirement requiring due diligence by research analysts. (NASD Case #CAF030064)

Ram Kapara (CRD #2589146, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he effected private securities transactions without providing prior written notice to his member firm. The complaint also alleges that Kapara provided NASD with a copy of his purported resignation letter from his member firm that was false and misleading because it contained a false date of resignation. In addition, the complaint alleges that, in connection with investments in shares of a security, Kapara misrepresented the issuer's type of business and affiliation to public customers. The complaint further alleges that Kapara exercised discretion in the account of a public customer without the customer's prior written authorization and his firm's written acceptance of the account as discretionary. Moreover, the complaint alleges that Kapara failed to respond to NASD requests for information and documents and to appear for an on-the-record interview. (NASD Case #C10030110)

Barry Alan Kaufman (CRD #2774898, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he effected, or caused to be effected, purchases in the accounts of public customers without their knowledge or authorization. The complaint also alleges that Kaufman failed to execute customer

orders, thereby failing to uphold his obligation to public customers to ensure that trades were effected in accordance with customer instructions. (NASD Case #CAF030061)

Phillip Mark McPhail (CRD #2789154, Registered Representative, Minneapolis, Minnesota) was named as a respondent in an NASD complaint alleging that, in his capacity of treasurer of a non-profit organization, McPhail wrote checks, withdrew cash, and transacted debit charges from the organization's account without its authorization, and converted and/or misused \$4,533.65 of the customer's funds intended for investment purposes, without the knowledge, authorization, or consent of the customer. The complaint also alleges that McPhail failed to respond to NASD requests for information. (NASD Case #C04030058)

John Occhiogrosso (CRD #2192496, Registered Principal, Palm City, Florida) was named as a respondent in an NASD complaint alleging that he received \$48,500 from a public customer for investment purposes, failed to provide the customer with any account statements or confirmations relating to the purported investments, and converted the funds received from the public customer to his own use without authorization from the customer. In addition, the complaint alleges that Occhiogrosso failed to respond to NASD requests for information. (NASD Case #C07030084)

Louis Enrigue Rivadeneira (CRD #2826609, Registered Representative, New York, New York) was named as a respondent in an NASD complaint alleging that he converted at least \$56,000 in funds from public customers. The complaint also alleges that Rivadeneira forged, or caused to be forged, the signatures of public customers on a firm individual retirement account distribution request form and a firm master flexible payment variable annuity surrender form. In addition, the complaint alleges that Rivadeneira failed to respond to NASD requests for information and documents and to appear for an on-the-record interview. (NASD Case #C10030107)

Jeffrey Michael Sullivan (CRD #2338939, Registered Principal, Houston, Texas) was named as a respondent in an NASD complaint alleging that he caused a public customer's annuity to be surrendered and another annuity to be purchased in its place, receiving \$11,962.22 in commissions without the customer's prior knowledge or consent, failed to complete the required forms, and failed to obtain the approval from his supervisor in connection with the transactions. The complaint also alleges that Sullivan forged the signature of a public customer on several forms needed to process the transactions without the authorization of the customer. In addition, the complaint alleges that Sullivan failed to respond to NASD requests for information and documentation. (NASD Case #C06030029)

Trautman Wasserman and Company, Inc. (CRD #33007, New York, New York) and **Gregory Owen Trautman (CRD #1837389, Registered Principal, New York, New York)** were named as respondents in an NASD complaint alleging that Trautman, acting through the firm, bid for or purchased the common stock of a covered security during the applicable restricted period by inserting bid and offer quotations in The Nasdaq Stock Market. The complaint also alleges that Trautman, acting on behalf of the firm, either intentionally or recklessly, failed to disclose or failed to take any steps to cause to be disclosed to purchasing customers the special sales credit offered to the firm's registered representatives, depriving the firm's customers of the knowledge that the registered representative might be recommending the stock based upon the registered representative's own financial interest rather than the investment value of the stock.

In addition, the complaint alleges that the firm, acting through Trautman, by use of the means or instrumentalities of interstate commerce, the mails, or of any facility of any national securities exchange, employed a device, scheme, or artifice to defraud; omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or a course of business that operated, or could operate, as a fraud or deceit upon persons in connection with the distribution of a security. Moreover, the complaint alleges that the firm failed to report the sale and purchase of a covered security and inaccurately reported a sale of shares of stock in aggregated transaction report. Furthermore, the complaint alleges that the firm reported the inaccurate execution of stock purchases to NASDAQ and effected transactions with customers in common stock that did not qualify for a transactional exemption from the SEC's Penny Stock Rules. The complaint also alleges that the firm's written supervisory procedures were not reasonably designed to achieve compliance with Regulation M of the Securities Exchange Act of 1934. (NASD Case #C3A030049)

Robert Young (CRD #2702774, Registered Representative, Houston, Texas) was named as a respondent in an NASD complaint alleging that he exercised discretionary authority in transactions in the accounts of public customers without having obtained prior written acceptance of the accounts as discretionary by his member firm and in disregard of the firm's denial of his request for acceptance of one of the accounts as discretionary. The complaint also alleges that Young failed to respond to NASD requests for information. (NASD Case #C05030059)

Firms Expelled for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Blackwood Securities, LLC
New York, New York
(November 10, 2003)

Institutional Equity Corporation
(f/k/a Redstone Securities, Inc.)
Dallas, Texas
(November 10, 2003)

Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210

(The date the bar became effective is listed after the entry.)

Hafen, Roy
Las Vegas, Nevada
(November 24, 2003)

Liao, Lewis
Rancho Palos Verdes, California
(November 13, 2003)

Lombardi, Ralph M.
Marmora, New Jersey
(November 10, 2003)

Lou, Albert
Monterey Park, California
(November 13, 2003)

Luetje, Kevin M.
Sarasota, Florida
(November 10, 2003)

Micciche, Anthony V.
Tampa, Florida
(November 17, 2003)

Wise, Stanley M.
Newport Beach, Florida
(November 17, 2003)

Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested Under NASD Rule 8210

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Hall, Frank D.
Houston, Texas
(November 10, 2003)

Lusk, Ron Alan
Bend, Oregon
(November 25, 2003)

Quattrochi, Joseph C.
Staten Island, New York
(November 12, 2003)

Williams, Trenea Y.
Bakersfield, California
(November 10, 2003)

Individuals Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Henriquez, Ian-Max
Los Angeles, California
(November 10, 2003)

Shuey, III, Robert A.
Dallas, Texas
(November 10, 2003)

Thompson, II, Dennis L.
Lafayette, Louisiana
(November 10, 2003)

Individuals Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Drohan, Vincent R.
Massapequa, New York
(November 14, 2003)

Figliozi, Robert J.
Ridgewood, New Jersey
(November 14, 2003)

Heaphy, Jr., Thomas Joseph
Palm Beach, Florida
(November 21, 2003 – December 3, 2003)

NASD Sanctions Metropolitan Investment Securities For Abusive Sales Practices and Supervisory Violations; Firm Ordered to Pay Fines and Restitution in Excess of \$4 Million and to Fund Special Escrow Account to Pay Additional Investor Claims

NASD announced that it has sanctioned Metropolitan Investment Securities, Inc., of Spokane, WA, for engaging in abusive sales practices and having inadequate supervisory procedures. Metropolitan was censured, fined \$500,000, ordered to make restitution totaling more than \$2.8 million to investors, and ordered to maintain a special escrow account for Metropolitan investors' claims at a level of \$1 million for a five-year period. Metropolitan was also required to revise its supervisory procedures to prevent recurrence of the sales practice abuses.

NASD found that, from January 2001 through March 2003, Metropolitan engaged in fraudulent and unethical sales practices in connection with the sale of debentures, investment certificates, and preferred stock issued by two affiliated companies, Metropolitan Mortgage & Securities Co., Inc., and Summit Securities, Inc. Metropolitan and the affiliated companies were controlled by a single individual and shared the same offices in Spokane. Metropolitan raised millions of dollars for these affiliated companies through representatives who made unfair and unbalanced sales presentations to investors. Its registered representatives downplayed important investment risk factors, including the risk of loss due to the companies' insufficient earnings, subordination of the securities to other obligations, and absence of an established market for the preferred stock. The failure to fully explain these risk factors to investors gave the false impression that the investments were safe.

Many Metropolitan customers with very conservative investment objectives or a low risk tolerance invested a significant percentage of their net worth in the securities of the affiliated companies. Metropolitan representatives dealt fraudulently and unfairly with these customers in that the representatives had no reasonable basis for recommending the securities to them. These and other investors were retired or approaching retirement. As to other investors who had a moderate risk tolerance, the representatives made unsuitable recommendations to them in light of these investors' financial situation, investment objectives, and needs.

To facilitate sales of the investments, Metropolitan representatives also employed misleading advertising and sales literature that misrepresented or omitted the risks associated with the investments.

Metropolitan also had an inadequate supervisory system that failed to prevent and detect this pattern of deceptive sales practices. The firm did not have sufficient resources to establish an effective compliance program and relied on various departments of the affiliated companies for many traditional broker/dealer operations. Metropolitan management was often unable or unwilling to take effective supervisory action in the face of red flags indicating abusive sales practices by the registered representatives. In settling this matter, Metropolitan neither admitted nor denied the allegations, but consented to the entry of findings. NASD's investigation is ongoing and may result in the filing of additional disciplinary actions.

Investors can obtain more information and the disciplinary record of any NASD-registered broker or brokerage firm by calling NASD's BrokerCheck. NASD makes available BrokerCheck at no charge to the public. In 2002, members of the public used this service to conduct more than 2.5 million searches for existing brokers or firms and requested almost 200,000 reports in cases where disclosable information existed on a broker or firm. Investors can link directly to the program by going online to www.nasdbrokercheck.com. Investors can also continue to access this service by calling 1-800-289-9999.

NASD Fines and Suspends Banc of America Securities Analyst for Overstated Research Reports and Providing Advance Notice of Price Targets and Ratings; NASD Also Censures and Fines Three Other Brokerage Firms for Issuing Misleading Research Reports

NASD announced that it fined and suspended Andrew Hamerling, a former research analyst at Banc of America Securities LLC (BAS), for issuing research reports with ratings, target prices, and substantive discussions that were contrary to his personal opinions. NASD found that Hamerling issued six research reports regarding four issuers—SBC Communications, Inc., Williams Communications Group, TyCom, Ltd., and Qwest Communications International Inc.—that violated NASD rules.

Before issuing a September 2001 SBC report, Hamerling analyzed the company's earnings per share, concluded that the earnings did not adequately reflect the company's operating results, and prepared a draft report with that analysis. NASD found that Hamerling did not publish this negative research report because he was concerned that SBC would not attend an upcoming Banc of America Securities conference and that SBC would deny him access to information in the future. NASD found that the published September report failed to disclose negative facts about the company as well as Hamerling's actual views in violation of NASD rules.

NASD also found that Hamerling published buy ratings for SBC with a \$51 target price, while he believed the stock price would decrease and, in e-mails, recommended that it be shorted. For example, Hamerling responded to a hedge fund manager's inquiry, by stating:

- ▶ "...short SBC. May sound a bit crazy, but it [SBC] has nothing fundamentally sound going for it..."

NASD also determined that Hamerling gave advance notice of his stock ratings, price targets, and substantive research to representatives of issuers that he followed. This practice furnished potentially market-sensitive information prior to public release and violated NASD's just and equitable principles rule as well as BAS' own internal policies.

NASD imposed a 9-month suspension and a \$125,000 fine payable upon his reassociation with any NASD-registered firm. Details of the violations found relating to research on Williams Communications Group, TyCom, Ltd., and Qwest Communications International Inc. can be found in the Hamerling settlement document. NASD's investigation of research and supervision issues at Banc of America Securities is continuing.

NASD also announced that it took action against several other firms and individuals for violations involving misleading research reports and press releases:

- ▶ NASD censured and fined Axiom Capital Management, Inc., of New York and three employees an aggregate of \$85,000 for publishing misleading research reports in 2001 and 2002 on Sharp Technology, Inc., American Bio Medica, Corp., and MegaPro Tools, Inc. NASD found that these research reports contained misrepresentations and omissions of material fact, exaggerated and unwarranted statements, and opinions for which there was no reasonable basis. Axiom published research reports on Sharp and American Bio Medica and failed to disclose that independent auditors had issued "going concern" opinions about the companies. NASD censured and fined the firm \$50,000. NASD also fined and suspended Jeffrey S. Goldberg and David L. Jordon for their roles in preparing the reports and fines and suspended Mark D. Martino from acting in a principal capacity for failing to reasonably supervise these activities.
- ▶ NASD censured and fined Banyan Capital Markets, LLC, of Boca Raton, Florida; its owner and President, Barry F. Goldberg; and a research analyst, Louis M. Fischler, an aggregate of \$60,000 in connection with the publication of a research report on Neptune Society, Inc. NASD found that the Neptune research report,

published by the firm in June 2001, was unbalanced and contained omissions of material fact. The research report projected that revenues would increase from \$12 million in 2000 to more than \$56 million in 2005. NASD found that the report failed to disclose the company was under a going concern qualification from its auditors and that the company had experienced a net loss in 2000 of over \$8 million. The firm was censured and fined \$10,000. Barry F. Goldberg was suspended and fined an additional \$20,000, and Fischler, who authored the report, was suspended for 45 days and fined \$30,000.

- ▶ Tejas Securities Group, Inc., of Austin, Texas, was censured and fined \$35,000 for publishing misleading statements on its Web Site and posting press releases and summaries of research reports that did not disclose risks associated with the securities discussed. Tejas was also ordered to pre-file with NASD's Advertising Regulation Department, for a period of six months, all revisions to the Web Site. NASD also suspended and fined Arnold Durant, the firm's Compliance Director, for failing to reasonably supervise the firm's advertising practices.

All four cases were settled, and the respondents did not admit nor deny the allegations, but consented to the entry of findings by NASD.

"These enforcement actions are part of NASD's continuing efforts to police research analyst conflicts of interest in the wake of the global settlement reached with 10 firms in April of this year," said Mary L. Schapiro, Vice Chairman of NASD.

NASD Charges Former U.S. Bancorp Piper Jaffray Representative with Sales Practice Violations and Failure to Cooperate in Investigation

NASD announced an enforcement action against Thomas J. O'Neill, a former U.S. Bancorp Piper Jaffray registered representative in its Butte, MT, office, charging various sales practice violations in connection with unsuitable and excessive trading in numerous customer accounts and the improper use of discretion in those accounts.

According to the complaint, O'Neill exercised improper discretion in connection with hundreds of transactions in customers' accounts over a four-year period. These transactions, NASD charged, were excessive in frequency and resulted in customers being put in overconcentrations of volatile high-risk stocks.

NASD rules require that a broker must have reasonable grounds for believing that his recommendations are suitable for a customer based upon his knowledge of the customer's financial situation and needs.

O'Neill refused to cooperate with the NASD investigation, which commenced in April 2001 at the time of his termination from Piper Jaffray. As a result, O'Neill was also charged with failing to appear for investigative testimony before NASD. The expected testimony was to cover a number of issues relating to his communications, recommendations, and interactions with specific Piper Jaffray customers. NASD's investigation of supervision issues is continuing.

Under NASD rules, an individual named in a complaint can file a response and request a hearing before an NASD disciplinary panel. Possible sanctions include a fine, order to pay restitution, censure, suspension, or bar from the securities industry.