

Disciplinary and Other NASD Actions

REPORTED FOR SEPTEMBER

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 August 2005.

Firms Expelled, Individuals Sanctioned

Cardinal Capital Management, Inc. (CRD# 24605, Miami, Florida), Hershel Francis Smith, Jr. (CRD #427817, Registered Principal, Key Largo, Florida), and Christopher Alan Sweeney (CRD #823375, Registered Principal, Palm City, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was expelled from NASD membership. Sweeney and Smith were 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 they engaged in a course of conduct involving the unregistered offer and sale of common stock and promissory notes. The findings stated that in connection with the unregistered offer and sale of the common stock and notes, Smith and Sweeney failed to establish and maintain a supervisory system reasonably designed to achieve compliance by Cardinal Capital Management, Inc., and its registered representatives with applicable sales practice rules, and failed to reasonably supervise its registered representatives in connection therewith. The findings also stated that they failed to ensure full disclosure of all material facts, including the risks associated with the purchase of the notes, to the note purchasers. The findings further stated that the firm, acting through Smith and Sweeney, sent sales communication to shareholders that contained exaggerated statements and price predictions concerning the stock. NASD found that Smith and Sweeney personally guaranteed the repayment of the notes when they had no reasonable basis for believing that they could fulfill their obligation. In addition, the findings that the firm, acting through Smith and Sweeney, failed to prepare and preserve records for each transaction as required by Securities Exchange Act Rules 17a-3 and 17a-4, failed to reflect said transactions on the firm's books and records, and issued promissory notes to public customers without their knowledge or authorization. NASD also found that the firm, acting through Smith and Sweeney, held customer subscription funds in a firm bank account before forwarding the funds onto the issuer and failed to respond to NASD requests for information. (NASD Case #E072003004201)

Firms Suspended, Individuals Sanctioned

Hennion & Walsh, Inc. (CRD #25766, Parsippany, New Jersey), William Walter Walsh (CRD #1174993, Registered Principal, Mountain Lakes, New York) and Richard Hennion (CRD #1315386, Registered Principal, Totowa, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was fined \$35,000, including \$15,000 that was jointly and

severally with Walsh and \$15,000 that was jointly and severally with Hennion. In addition, the firm was suspended as an underwriter or selling group member for any offering of closed-end mutual funds for 30 days and required to retain an independent consultant to review and make recommendations concerning the adequacy of the firm's current policies and procedures relating to past deficiencies, as well as the firm's 3070 reporting, underwriting activities, and suitability of recommendations. Walsh and Hennion were also each suspended from association with any NASD member in a general securities principal capacity for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm failed to report written grievances from public customers on quarterly reports and reported written grievances from customers in an untimely manner. The findings also stated that the firm solicited and received payment from public customers for the purchase of shares prior to the effective date in the underwritings of closed-end mutual funds in violation of Section 5(a) of the Securities Act of 1933. NASD found that the firm, acting through Walsh and Hennion, failed to establish and maintain a supervisory system and written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules.

The firm's suspension began September 1, 2005, and will conclude at the close of business September 30, 2005. Walsh's suspension will begin November 18, 2005, and will conclude at the close of business December 2, 2005. Hennion's suspension will begin September 19, 2005, and will conclude at the close of business September 30, 2005. (NASD Case #E9B02004201)

Edgetrade.com, Inc. (CRD #42071, New York, New York) and Joel Rosenfeld (CRD #1344127, Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$30,000, including disgorgement of \$290, and required to revise its systems and procedures regarding the purchase and sale of restricted securities. Rosenfeld was fined \$10,000 including disgorgement of \$590, and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, the firm and Rosenfeld consented to the described sanctions and to the entry of findings that they participated in the public sale of unregistered securities, thereby failing to comply with Section 5 of the Securities Act of 1933. The findings also stated that the firm's supervisory system was not reasonably designed to achieve compliance with NASD rules related to the purchase and sale of restricted securities.

Rosenfeld's suspension will begin September 19, 2005, and will conclude at the close of business October 7, 2005. (NASD Complaint #EAF0401060001)

Firms and Individuals Fined

Great Eastern Securities, Inc. (CRD #2061, New York, New York) and Alphonse Mekalainas, Jr. (CRD #1276859, Registered Principal, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000, including \$5,000 that is joint and several with another individual. Mekalainas was fined \$5,000, jointly and severally, and suspended from association with any member in any principal or supervisory capacity for five days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Mekalainas failed to timely report customer complaints on registered representatives' Forms U4 (Uniform Applications for Securities Industry Registration or Transfer) that alleged one or more sales practice violations and contained a claim for compensatory damages of \$5,000 or more. The findings also stated that the firm, acting through Mekalainas, failed to timely report on registered representatives' Forms U4 a settlement of a customer complaint that alleged one or more sales practice violations and was settled for an amount of \$10,000 or more. The findings also stated that the firm permitted excessive commissions to be charged in agency transactions. In addition, the findings stated that the firm permitted its president to conduct a securities business while his securities registration was inactive due to his failure to satisfy the continuing education regulatory element in a timely manner.

Mekalainas' suspension will begin September 19, 2005, and will conclude at the close of business September 23, 2005. (NASD Case #ELI2002004801)

Gryphon Financial Securities Corp. (CRD #100420, Palm Beach, Florida) and Younis Zubchevich (CRD #2164438, Registered Principal, Royal Palm Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Zubchevich were censured, and the firm was fined \$17,500, including \$12,500 that was assessed jointly and severally with Zubchevich. Without admitting or denying the allegations, the firm and Zubchevich consented to the described sanctions and to the entry of findings that the firm, acting through Zubchevich, failed to prepare a written needs analysis and training plans for the firm element of the continuing education program, and failed to show that the training was executed and that all covered persons attended. The findings stated that the firm, acting through Zubchevich, failed to establish a bank escrow account to safeguard customer funds for contingent private placement offerings and failed to maintain records reflecting the receipt and disbursement of customer funds. The findings also stated that the firm failed to develop and implement an anti-money laundering (AML) program that was reasonably designed to

achieve and monitor compliance with the requirements of the Bank Secrecy Act and the regulations promulgated thereunder by the Department of Treasury. (NASD Case #E072004006003)

Interactive Planning Corp. (CRD #40261, Lexington, Kentucky) and **Lawrence St. John York** (CRD #1264745, Registered Principal, Lexington, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which the firm and York were censured and fined \$10,000 jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through York, entered into an account purchase contract with a public customer that contained restrictive language prohibiting the customer from disclosing any information regarding the contract to securities regulators. The findings also stated that the firm, acting through York, failed to maintain a record of the complaints filed by a customer, failed to file the customer's complaint with NASD within 10 business days, and failed to amend York's Form U4 as a securities representative to disclose a customer's complaint. (NASD Case #E052003037401)

Ridgeway & Conger, Inc. (CRD #113055, New Woodstock, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000, including \$5,000 that was assessed jointly and severally with an individual. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through a representative, it permitted an individual to maintain his securities license with the firm although he was not actively involved in its investment banking or securities business, and permitted an individual to act as the firm's FINOP, although she possessed an inactive registration status with NASD. The findings also stated that the firm reported Trade Reporting and Compliance Engine (TRACE)-eligible securities and municipal securities transactions late or with the wrong MPID. (NASD Case #E9B2004013201)

T.J. Raney & Sons, Inc. (CRD #19243, Little Rock, Arkansas), **Thomas D. Raney** (CRD #370852, Registered Principal, Little Rock, Arkansas), **Alton B. Raney, II** (CRD #1497403, Registered Principal, Little Rock, Arkansas) and **Ian Carter Malone** (CRD #2730170, Registered Principal, Little Rock, Arkansas) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$25,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Thomas Raney, Alton Raney and Ian Malone, engaged in a securities business when the firm's net capital was below the required minimum. The findings stated that the firm, acting through Thomas Raney and Ian Malone, failed to establish, maintain and enforce adequate supervisory policies and

procedures relating to the sale of variable products and mutual funds. NASD found that the firm, acting through Thomas Raney, maintained the securities registrations of representatives who were not active in the firm's investments banking or securities business. (NASD Case #E052004006001)

Firms Fined

American Enterprise Investment Services, Inc. (CRD #26506, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE transactions in TRACE-eligible securities within 75 minutes after execution. The findings also stated that the firm misreported to TRACE transactions on non-TRACE-eligible securities and failed to cancel such reports that resulted in an inaccurate audit trail. (NASD Case #CLG050097)

Auto Club Funds, Inc. (CRD #10580, Dearborn, Michigan) 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 develop and implement an AML program that was reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act and the regulations promulgated thereunder by the Department of Treasury. (NASD Case #E8A2004030401)

Capital Securities Management, Inc. (CRD #14169, McLean, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE transactions in TRACE-eligible securities within 75 minutes after execution as well as the correct execution time. (NASD Case #CLG050098)

Carlin Equities Corp. (CRD# 31295, 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 immediately display customer limit orders in NASDAQ securities in its public quotation, when each such order would have improved the firm's bid or offer in each such security; or when the order was priced equal to its bid or an offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each security. (NASD Case #CLG050090)

CIBC World Markets (CRD #630, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$60,000 and ordered to pay \$1,235.17, plus interest, in restitution. In addition, the firm must revise its written supervisory procedures regarding SEC Rule 11Ac1-6, best execution, anti-intimidation/coordination education, trade reporting and short sale reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through the Automated Confirmation Transaction ServiceSM (ACTSM) last sale reports of transactions in consolidated quotation service (CQS) securities and failed to designate through ACT such last sale reports as late. The findings stated that the firm failed to execute orders fully and promptly, failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm executed sale transactions and failed to correctly mark the order memorandum for each such order as long or short. 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, records documenting its supervisory reviews relating to the Order Audit Trail SystemSM (OATSSM), the 1 Percent Rule, and books and records. The findings further stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the NASD rules concerning SEC Rule 11Ac1-6, best execution, anti-intimidation/coordination education, trade reporting and short sale reporting. (NASD Case #CLG050091)

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 \$45,000 and required to revise its written supervisory procedures regarding trade reporting to the fixed income pricing system (FIPS) and TRACE within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in high-yield securities to FIPS as required during the FIPS review period. The findings stated that the firm did not report any transactions in TRACE-eligible securities to TRACE from its inception until a later time. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and NASD rules concerning FIPS and TRACE trade reporting. NASD found that the firm failed to reasonably and properly supervise the activities relating to bond transaction reporting so as to detect and prevent violation of NASD rules applicable to bond transactions reporting. (NASD Case #CLG050102)

Empire Financial Group, Inc. (CRD# 28759, Longwood, Florida) 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 failed to transmit through ACT last sale reports of transactions within 90 seconds after execution, constituting a pattern or practice of late trade reporting without exceptional circumstances. The findings stated that the firm failed to report OTC equity securities through ACT within 90 seconds after execution and to designate these as late. The findings also stated that the firm had inadequate supervisory systems and procedures that were not reasonably designed to achieve compliance with respect to applicable securities laws and regulations, and NASD rules concerning trade reporting. (NASD Case #CLG050092)

Equity Trading Online, LLC (CRD #104038, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$11,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of finding that it submitted to OATS reports regarding equity securities traded on NASDAQ that were not in the electronic form prescribed by NASD and were repairable. The findings also stated that the firm failed to report reportable order events (ROEs) to OATS in a timely manner. NASD also found that the firm's supervisory system was not reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning OATS. (NASD Case #CLG050083)

Evolution Financial Technologies, LLC (CRD #104249, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its written supervisory procedures regarding OATS reporting within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports with respect to equity securities traded on NASDAQ that were not in the electronic form prescribed by NASD and were repairable. The findings also stated that the reports were rejected by OATS and notice of such rejection was made available to the firm on the OATS Web site, but the firm failed to correct or replace 100 percent of the reports. NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning OATS. (NASD Case #2005000022901)

EWT, LLC (CRD #45986, Beverly Hills, California) submitted a Letter of Acceptance, Waiver and Consent 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 failed to report

ROEs to OATS in a timely manner. The findings stated that the firm submitted to OATS reports regarding equity securities traded on NASDAQ that were not in the electronic form prescribed by NASD and were repairable. (NASD Case #CLG050084)

Financial West Group (CRD #16668, Westlake Village, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that its written supervisory procedures outlined certain requirements for transfers of securities and funds between customer accounts, and for disbursement from customer accounts, but failed to provide for the firm's compliance department to monitor and review these transactions. The findings also stated that the firm's procedures provided requirements for customer authorization for disbursement of funds and transfers of securities between accounts, but failed to require the firm to compare customer signatures on letters of authorization with the signatures on the original new account document, and to verify customer approval of specific account transactions. (NASD Case #E0220021063-02)

First Allied Securities, Inc. (CRD# 32444, San Diego, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$408,459 and ordered to pay \$326,500 in restitution. In addition, an officer of the firm shall verify in writing to NASD that the firm has reviewed its procedures regarding market timing and has established systems and procedures reasonably designed to achieve compliance with the laws, regulations and rules concerning market timing and to ensure that prospectus fund exchange limits and provisions of selling agreements are enforced. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to supervise a registered representative's activities and failed to establish, maintain and enforce an adequate supervisory system and written procedures regarding the representative's activities. (NASD Case #EAF0300890002)

Golden Beneficial Securities Corporation (CRD #48029, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures regarding OATS reporting within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report ROEs to OATS in a timely manner. The findings stated that the firm submitted to OATS reports with equity securities traded on NASDAQ that were not in the electronic form prescribed by NASD. NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve

compliance regarding applicable securities laws and regulations, and NASD rules concerning OATS reporting. (NASD Case #CLG050105)

Goldman, Sachs & Co. (CRD #361, New York, New York) 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 effected short sales in certain securities for the firm's proprietary account(s) and failed to make/annotate an affirmative determination that the firm could borrow the securities or otherwise provide for the delivery of the securities by settlement date. The findings stated that the firm failed to correctly report to ACT riskless principal transactions in NASDAQ National Market® (NNM®) securities. The findings also stated that the firm executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier. NASD found that the firm failed to report to ACT the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt or cross for transactions in eligible securities. In addition, the findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. NASD also found that the firm's supervisory system was not reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning trade reporting, short sales and customer sale transaction reporting obligations. (NASD Case #20042000105)

Granite Financial Group, Inc., (CRD #44732, San Diego, California) 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 failed to submit required information to OATS. The findings stated that the firm failed to enforce its written supervisory procedures, which stated that a designated compliance officer would perform a daily review of the OATS Web site to ensure compliance with the firm's procedures, and perform periodic reviews of accepted OATS data for proper coding and reporting of transactional events. NASD also found that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. (NASD Case #CLG050085)

HealthPoint Capital Advisors, LLC (CRD #126546, 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 have in place an adequate system for retaining electronic mail. (NASD Case #E1020040191-01)

Herbert J. Sims & Co., Inc. (CRD #3420, Southport, Connecticut) 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, while acting as an underwriter in a primary offering of municipal securities, it failed to submit the final official statement and a Form G-36 to the Municipal Securities Rulemaking Board (MSRB) within the time period specified in MSRB Rule G-36. The findings also stated that the firm acted as a placement agent in a private offering being sold on a contingency basis with all subscription payments to be deposited in the account of a bank acting as the escrow agent, and that the firm broke escrow prematurely by disbursing funds prior to the offering being consummated. **(NASD Case #E112004015301)**

Hornor, Townsend & Kent, Inc. (CRD # 4031, Horsham, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$150,000. Without admitting or denying the allegations the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system and written procedures reasonably designed to detect and prevent late trading in mutual fund transactions. The findings stated that the firm failed to preserve certain mutual fund trading records for three years and failed to create and maintain records reflecting the time of receipt of mutual fund orders. **(NASD Case #CE2050014)**

J. Scott Securities Corporation (CRD #47007, Golden, Colorado) 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 its supervisory system and the written procedures established to implement that system were not reasonably designed to achieve compliance with rules regarding the suitability of mutual fund share class recommendations and the disclosure of all information relevant to a customer's election to purchase a particular share class. The findings stated that the firm failed to develop and implement a written AML program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act, 32 U.S.C. sec. 5311, et seq., and the regulations promulgated thereunder. NASD also found that the firm conducted securities business while failing to maintain the required net capital. **(NASD Case #E3A2004005401)**

Janney Montgomery Scott LLC (CRD #463, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$1,200,000 and required to revise its written supervisory procedures regarding

market timing, late trading, recordkeeping and responses to regulatory inquiries within 30 days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted two institutional clients to evade attempts by mutual fund companies to block or restrict the client's market timing transactions. The findings stated that the firm failed to establish and maintain a supervisory system and written procedures reasonably designed to detect and prevent late trading in mutual fund transactions. In addition, the findings stated that the firm failed to create records reflecting the time of receipt of mutual fund orders and failed to create required records showing mutual fund exchanges for certain accounts. NASD also found that the firm failed to make adequate inquiries when responding to an NASD request for information because the firm did not have a supervisory system or written procedures reasonably designed to ensure that it conducted adequate due diligence or made sufficient inquiry when responding to regulatory inquiries. **(NASD Case #EAF03009 20002)**

Jefferies & Company, Inc. (CRD #2347, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to OATS ROEs relating to orders in NASDAQ securities that were captured in the firm's electronic order management system (OMS). The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning OATS reporting. The findings also stated that firm's written supervisory procedures failed to provide a method for the OATS administrator's supervisor to perform a supervisory review of the firm's overall OATS reporting. **(NASD Case #CLG050100)**

J. P. Morgan Securities, Inc. (CRD #18718, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit official statements and/or other documents to the Municipal Securities Rulemaking Board (MSRB) in a timely manner. The findings stated that the firm failed to adequately monitor its underwriting filings with the MSRB to ensure that its filings were timely and therefore in compliance with MSRB Rule G-36. **(NASD Case #E102003026501)**

Knight Capital Markets, LLC (CRD #38379, Purchase, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,000 and required to

revise its written supervisory procedures regarding accurate trade reporting within 30 business days. 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 execution time through the NASDAQ Market Center in last sale reports of transactions in eligible securities. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning accurate trade reporting. **(NASD Case #CLG050106)**

LaBranche Financial Services, Inc. (CRD #7432, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,000 and required to revise its written supervisory procedures regarding OATS reporting within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it transmitted to OATS reports that contained inaccurate, incomplete or improperly formatted data. The findings stated that the firm failed to report ROEs to OATS in a timely manner. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning OATS reporting. **(NASD Case #2005000014402)**

Lincoln Financial Advisors (CRD# 3978, Fort Wayne, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it received notice of events that were subject to the reporting requirements of NASD Rule 3070(a), but failed to report to NASD within 10 business days after it knew or should have known of the existence of the reportable events. The findings stated that the firm failed to report customer grievances to NASD as statistical and summary information by the required deadline. The findings also stated that the firm failed to prepare and maintain adequate written supervisory procedures to ensure compliance with NASD Rule 3070(a) **(NASD Case #C8A050067)**

Merrill Lynch, Pierce, Fenner & Smith Inc. (CRD #7691, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$50,000 and required to certify to NASD that it has reviewed and established systems and procedures reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules regarding the Mortgage 100® program. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it offered information regarding a mortgage

program of an affiliate on its public Web site that constituted advertising material, and included statements and representations that were misleading or unbalanced and failed to disclose material information about the program. NASD found that the firm failed to establish any guidelines or written supervisory procedures reasonably designed to achieve compliance with the firm's activities relating to the mortgage program. In addition, NASD determined that the firm did not use any exception reports or other documents or procedures that might assist managers, compliance personnel or other staff in reviewing accounts that used the mortgage program. **(NASD Case #EAF0300610002)**

Millennium Brokerage, LLC (CRD #47728, Chatham, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$125,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed a representative to perform duties as a registered person while his registration with NASD was inactive due to his failure to complete the regulatory element of the continuing education program. The findings stated that the firm failed to establish, implement and enforce policies, procedures and internal controls that were reasonably designed to achieve compliance with all requirements imposed by the Bank Secrecy Act and books and records retention requirements. The findings also stated that the firm's supervisory system and procedures were not reasonably designed to ensure that the required written consent was obtained before pre-registration searches on Web CRD® and that the firm retained the required documentation. The findings further stated that the firm did not maintain and preserve all electronic instant messaging as required and failed to report trades within 90 seconds of execution. In addition, the findings included that the firm permitted employees to function in a capacity that required fingerprinting under SEC Rule 171-2, but failed to submit fingerprint cards to NASD. NASD found that the firm also failed to file Forms U5 for representatives in a timely manner, in contravention of Article V of NASD's By-Laws. **(NASD Case #E9B2003041708)**

Moors & Cabot, Inc. (CRD #594, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$11,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports regarding equity securities traded on NASDAQ that were not in the electronic form prescribed by NASD and were repairable. NASD found that the firm failed to enforce its written supervisory procedures, which specified that rejected reportable order events not "associated with a new order or cancel/replace report must be repaired within five business days." **(NASD Case #2005000005601)**

Murphy & Durieu (CRD #6292, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through the NASDAQ Market Center last sale reports of transactions in OTC equity securities, and failed to designate such last sale reports as late. (NASD Case #CLG050107)

Muzinich & Co., Inc. (CRD #22998, 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 permitted representatives to engage in activities that required registration without being properly registered with NASD. (NASD Case #E1020040292-01)

Newbridge Securities Corporation (CRD #104065, Fort Lauderdale, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$11,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. (NASD Case #CLG050103)

NYLIFE Securities Inc. (CRD #5167, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$200,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to adequately supervise the activities of a registered representative who violated the firm's policy involving unapproved advertising and sales material and outside business activities. NASD found that the firm failed to conduct adequate inspections of activities in a branch office. The findings also stated that the firm's review and approval of variable annuity and mutual fund transactions was deficient in that the firm failed to aggregate transactions and consider all customer holdings when reviewing individual transactions, thereby allowing a registered representative to circumvent the financial tests established by the firm. (NASD Case #E052004010401)

OTA, LLC (CRD #25816, Purchase, 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 permitted a representative to engage in activities that required registration

without being properly registered with NASD. (NASD Case #E9B20040115-01)

Schonfeld Securities, LLC (CRD #23304, Jericho, New York) submitted a Letter of Acceptance, Waiver and Consent 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 submitted to OATS reports regarding equity securities traded on NASDAQ that were not in the electronic form prescribed by NASD. The findings stated that the firm failed to show that it had enforced its written supervisory procedures. (NASD Case #2004200012001)

Scotttrade, Inc. (CRD #8206, St. Louis, Missouri) 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 regarding trade reporting within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report through ACT the correct symbol indicating whether the transaction was a buy, sell or cross in transactions in eligible securities. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning trade reporting. (NASD Case #CLG050096)

STC Securities Corporation (CRD #118812, Fort Lauderdale, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$13,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it made available a report on covered orders in National Market System securities that included incorrectly published order execution information in order type/size categories and an improperly categorized buy stop limit order as a covered order. The findings stated that the firm failed to make publicly available on its order routing practices report, for a period of time, all material aspects of its order routing relationship with all significant execution venues included on such report. The findings also stated that the firm failed to report to ACT the correct symbol indicating whether it executed transactions in eligible securities in a principal, riskless principal or agency capacity. (NASD Case #2004200025301)

Stephens Inc. (CRD #3496, Little Rock, Arkansas) 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 properly prepare customer confirmations and improperly transmitted data to OATS. The findings stated that the firm's supervisory

system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning order handling and execution, best execution, trade reporting, OATS and books and records maintenance. **(NASD Case #CLG050109)**

Sterne, Agee & Leach, Inc. (CRD #791, Birmingham, Alabama) 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 failed to promptly and/or correctly display customer limit orders. The findings state that the firm failed to accurately report municipal transactions of correspondent firms by reporting the trades under the symbol "SALI" rather than reporting the trade under the symbol for the correspondent firm. The findings also stated that the firm failed to update representatives' Forms U4 to disclose customer complaints against them. In addition, NASD found that the firm failed to establish, maintain and enforce a supervisory system reasonably designed to achieve compliance with NASD rules. **(NASD Case #E052003008601)**

Sungard Institutional Brokerage, Inc., (CRD #8509, 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 submitted to OATS reports with regarding equity securities traded on NASDAQ that were not in the electronic form prescribed by NASD and were repairable. NASD also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning OATS. **(NASD Case #CLG050086)**

TD Securities (USA) L.L.C. (CRD #18476, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$11,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it transmitted to OATS reports that contained inaccurate timestamps. **(NASD Case #CLG050087)**

Track Data Securities Corporation (CRD #103802, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent 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 executed short sales in listed securities on a minus or zero-minus tick. The findings stated that the firm failed to enforce its written supervisory procedures, which provide for periodic reviews for compliance with applicable

securities laws and regulations, and NASD rules concerning best execution, limit order display, ACT reporting, bid test, tick test, Regulation ATS 5% and 20%, and OATS compliance. **(NASD Case #CLG050088)**

UBS International, Inc. (CRD #107726, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures regarding TRACE trade reporting within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE transactions in TRACE-eligible securities within 30 minutes after execution. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning TRACE trade reporting. **(NASD Case #2005000456401)**

UBS Securities LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$2,100,000 and required to review its procedures regarding the preservation of electronic communications for compliance with NASD rules and the federal securities laws. The amount paid to NASD by the firm shall be reduced by \$700,000 pursuant to a civil money penalty paid to the U.S. Treasury, and by \$700,000 pursuant to a fine paid to the New York Stock Exchange (NYSE) in related proceedings with the NYSE and the U.S. Securities Exchange Commission (SEC). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to keep electronic communications for three years and/or failed to preserve electronic mail communications for the first two years in an accessible place. The findings stated that the firm lacked adequate supervisory systems and procedures that were not reasonably designed to achieve compliance with Section 17(a), Rule 17a-4 and NASD Rule 3110. **(NASD Case #CE1050008)**

WM Financial Services, Inc. (CRD #599, Irvine, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$21,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE transactions in TRACE-eligible securities within 75 minutes after execution. The findings stated that the firm misreported to TRACE transactions on non-TRACE-eligible securities and failed to cancel such reports during the review period resulting in an inaccurate audit trail. NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD rules concerning timely reporting to TRACE. **(NASD Case #2004200011001)**

Individuals Barred or Suspended

Thomas Way Bayley, III (CRD #1833753, Registered Representative, Vienna, West Virginia) submitted an Offer of Settlement in which he was fined \$29,966 and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Bayley consented to the described sanctions and to the entry of findings that he engaged in business activities outside the scope of his association with his member firm and failed to give prompt written notice of his outside business activities to his member firm.

Bayley's suspension will begin September 19, 2005, and will conclude at the close of business October 18, 2005. (NASD Case #C9A040063/ E9A2002073703)

Edward Carlsen, Sr. (CRD #40698, Registered Representative, Lancaster, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$40,000 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Carlsen reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Carlsen consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers and made unsuitable use of margin in their accounts without having reasonable grounds for believing that those recommendations and resultant transactions were suitable based on the customers' financial situation, investment objectives and needs. The findings also stated that Carlsen exercised discretion in the accounts of public customers without written authorization.

Carlsen's suspension will begin September 19, 2005, and will conclude March 18, 2007. (NASD Case # E9B2004019101)

Michael Charles Caska (CRD #1275838, Registered Principal, New York, New York) 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 15 business days. Without admitting or denying the allegations, Caska consented to the described sanctions and to the entry of findings that he actively engaged in the management of a former member firm's investment banking or securities business without being registered as a general securities principal. The findings also stated that Caska, acting on behalf of his member firm, failed to file an application with NASD prior to transferring 25 percent or more of the firm's assets or brokerage business to another NASD member firm.

Caska's suspension began August 29, 2005, and will conclude at the close of business September 19, 2005. (NASD Case #E102004102902)

Susan M. Castro (CRD #4661014, Associated Person, Greendale, Wisconsin) 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, Castro consented to the described sanction and to the entry of findings that she affixed the signature of her supervisor to insurance policy loan checks totaling \$53,000, and to checks drawn on her supervisor's business checking account totaling \$41,728 without the supervisor's knowledge and consent. The findings stated that Castro improperly used her supervisor's funds and made the checks payable to herself or to a third party that provided a benefit to her. In addition, the findings stated that Castro refused to appear for an on-the-record interview with NASD. (NASD Case #E8A2004104301)

Val Dee Christoffersen (CRD #1072274, Registered Principal, West Jordan, Utah) 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, Christoffersen consented to the described sanction and to the entry of findings that he received \$109,500 from public customers for investment purposes, deposited \$85,000 into an account he controlled and used \$24,500 for his own use and benefit. (NASD Case # E3A2004025201)

Rebecca Ann Clayton (CRD #3228952, Registered Representative, New London, Minnesota) was barred from association with any NASD member in any capacity. The sanction was based on the findings that Clayton received checks totaling \$5,883.18 from public customers for investment purposes, but Clayton instead endorsed the checks without the customer's knowledge, consent or authorization and converted the proceeds to her own use. The findings also stated that Clayton failed to respond to NASD requests for information. (NASD Case #C04050003)

Richard Arnold Collins (CRD #2632137, Registered Representative, Waterford, 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, Collins consented to the described sanction and to the entry of findings that he prepared and submitted falsified documents by affixing public customers' signatures without their knowledge or consent that purported to show that they had received financial plans on fictitious dates, for which the customers had previously paid \$9,200, but had not been delivered to the customers. (NASD Case #E8A2003098301)

Blesilda A. Daluz (CRD #2952407, Registered Representative, Fairfax, Virginia) 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, Daluz consented to the described sanction and to the entry of findings that she failed to respond to NASD requests for information. (NASD Case #E9B2004055501)

Steven James Davis (CRD #1141258, Registered Representative, Williamsville, 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, Davis consented to the described sanction and to the entry of findings that he failed to execute a public customer's instructions, and failed to respond to NASD requests for information. (NASD Case #E9B2004039101)

Lara Debry (CRD #1720653, Registered Representative, Salt Lake City, Utah) was barred from association with any NASD member in any capacity. The sanction was based on findings that she converted funds from a public customer to her own use without the customer's knowledge or consent. (NASD Case #C3A040049)

Frank Demolfetto (CRD #4312473, 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, Demolfetto consented to the described sanction and to the entry of findings that he failed to comply with an NASD request to appear for an on-the-record interview. (NASD Case #ELI20040103-01)

Edward Thomas Dold (CRD #1584675, Registered Supervisor, Lubbock, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any member in any capacity. Without admitting or denying the allegations, Dold consented to the described sanction and to the entry of findings that he operated a fraudulent Ponzi scheme by which he raised \$2,204,500 from public customers. The findings stated that Dold solicited customers to invest in a fictitious entity by providing them with documents that he prepared on his member firm's letterhead, and that he provided bogus periodic statements on his member firm's letterhead that showed growth in their accounts. NASD found that he commingled the customers' funds and used them to make purported profit payments to earlier investors and for his personal use and benefit without the customers' knowledge, authorization or

consent. The findings further stated that Dold failed to respond to NASD requests for information. (NASD Case #E062004025101)

Anthony Francis Dudzinski, Jr. (CRD #1043511, Registered Principal, Middletown, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any NASD member in a principal capacity for 30 days. In light of the financial status of Dudzinski, no monetary sanctions have been imposed. Without admitting or denying the allegations, Dudzinski consented to the described sanction and to the entry of findings that he failed to reasonably and properly supervise his member firm's activities relating to bond transaction reporting to detect and prevent violations of NASD rules regarding bond transaction reporting.

Dudzinski's suspension began September 6, 2005, and will conclude at the close of business October 5, 2005. (NASD Case #CLG050101)

Brian David Durham (CRD #4558363, Registered Representative, Lafayette, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two months. The fine must be paid before Durham reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Durham consented to the described sanctions and to the entry of findings that he affixed the signature of a public customer without the customer's approval or knowledge on an acknowledgement form, essentially authorizing an insurance company to obtain the customer's medical history.

Durham's suspension will begin September 19, 2005, and will conclude at the close of business November 18, 2005. (NASD Case #E8A2004088301)

Judith Margaret Engle (CRD #2956944, Registered Representative, Eugene, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any NASD member in any capacity for 15 business days. In light of the financial status of Engle, no monetary sanctions have been imposed. Without admitting or denying the allegations Engle consented to the described sanction and to the entry of findings that she exercised discretion in the account of a public customer without prior written authorization from the customer and without written consent from her member firm.

Engle's suspension will begin September 19, 2005, and will conclude at the close of business October 7, 2005. (NASD Case #E3B2004007501)

Vladimir William Feldman (CRD #4238992, Registered Principal, Brooklyn, New York) and Robert Neal Meyer (CRD #1912267, Associated Person, Studio City, California) were barred from association with any NASD member in any capacity, and Feldman was ordered to pay \$107,701.53, plus interest, in restitution to public customers. The sanctions were based on findings that Feldman engaged in fraudulent sales practices and made material misrepresentations and omissions regarding securities, including unsubstantiated price predictions. Feldman also made unsuitable recommendations to his public customers to purchase securities without having reasonable grounds for believing that the investment was suitable for the customers based on their other security holdings, financial situations and needs. The findings also stated that Meyer engaged in securities activities requiring registration and failed to register as a representative and principal with a member firm. **(NASD Case #CMS040049)**

Jarl Glenn Ferko (CRD #2879418, Registered Representative, Willow Street, Pennsylvania) 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 60 days. The fine must be paid before Ferko reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ferko consented to the described sanctions and to the entry of findings that he recommended and effected the purchases of various securities on margin in the account of a public customer without reasonable grounds to believe that the recommendations were suitable based on the customer's financial situation, needs and other circumstances.

Ferko's suspension will begin September 19, 2005, and will conclude at the close of business November 17, 2005. **(NASD Case #E9A2004025901)**

Gary Nicholas Ferraro (CRD #2470858, Registered Representative, Buffalo Grove, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$136,733, including disgorgement of \$68,366.34 in commissions, and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Ferraro reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ferraro consented to the described sanctions and to the entry of findings that he facilitated the deceptive efforts of his public customers to engage in market timing transactions in mutual funds that exceeded the limits of the funds' prospectuses.

Ferraro's suspension began August 1, 2005, and will conclude April 30, 2006. **(NASD Case #EAF0300890003)**

Anne Elizabeth Finley (CRD #4499125, Registered Representative, Ridgewood, New Jersey) 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, Finley consented to the described sanction and to the entry of findings that she signed a customer's signature on a variable life insurance illustration without the customer's knowledge, authorization or consent. The findings also stated that Finley failed to respond to NASD requests for information. **(NASD Case #E9B2004043101)**

Alfonso Forero (CRD #2797194, Registered Representative, Port Reading, 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, Forero consented to the described sanction and to the entry of findings that he caused \$72,000 to be withdrawn from public customers' bank accounts and used these funds to pay other customers or for his own personal benefit without the authorization or consent of the customers. **(NASD Case #2005000886301)**

James Ralph Frith (CRD #4394217, Registered Representative, Cave Creek, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$30,000, plus interest, to a public customer. Restitution must be paid before Frith reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Frith consented to the described sanctions and to the entry of findings that he made improper use of customer funds totaling \$85,000 received for investment purposes. **(NASD Case #E3A2004025901)**

Gregory Ian Gatto (CRD #2815275, Registered Principal, 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, Gatto consented to the described sanction and to the entry of findings that he engaged in outside business activities and failed to provide prompt written notice to his member firm. The findings stated that Gatto appeared for an on-the-record interview and failed to cooperate by refusing to answer NASD's questions. **(NASD Case #E1020032137-01)**

Gordon Trevor Gibson (CRD #2698717, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any NASD member in a financial and operations principal (FINOP) capacity for two

months. The fine must be paid before Gibson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gibson consented to the described sanctions and to the entry of findings that he failed to ensure that his member firm accurately computed its net capital and complied with its minimum net capital requirement.

Gibson's suspension began September 6, 2005, and will conclude November 5, 2005. **(NASD Case #E102003022304)**

Yoland Gonzalez (CRD #4766497, Associated Person, San Diego, California) 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, Gonzalez consented to the described sanction and to the entry of findings that she willfully failed to disclose material information on her Form U4 and failed to respond to NASD requests for information. **(NASD Case #E022004037401)**

Izzeteen Hanif (CRD #1777495, Registered Representative, Weston, Florida) submitted an Offer of Settlement in which she was fined \$8,500, including disgorgement of \$6,000, and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Hanif reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hanif consented to the described sanctions and to the entry of findings that she recommended transactions to a public customer without having reasonable grounds to believe that such transactions were suitable based on the nature of recommended transactions, the costs associated with the transactions, and the customer's financial situation, investment objectives circumstances and needs.

Hanif's suspension began September 6, 2005, and will conclude at the close of business December 5, 2005. **(NASD Case #C9B040086)**

Kristin Stockmar Hetzer (CRD #1098705, Registered Supervisor, San Pedro, California) submitted an Offer of Settlement in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Hetzer reassociates with any NASD member following suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hetzer consented to the described sanctions and to the entry of findings that she filed an anonymous complaint on the SEC's and NASD's Web sites, posing as a public customer, without the customer's knowledge or consent. The findings also stated that in addition to falsely

identifying herself as the customer, the material allegations in the NASD and SEC Web site postings were false.

Hetzer's suspension will begin September 19, 2005, and will conclude at the close of business November 18, 2005. **(NASD Case #C02040049)**

Michael Patrick Hood (CRD #4442895, Registered Representative, Toledo, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member any capacity for 60 days. The fine must be paid before Hood reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hood consented to the described sanctions and to the entry of findings that he affixed the name of a public customer on a financial services agreement without the customer's knowledge or consent.

Hood's suspension will begin September 19, 2005, and will conclude at the close of business November 17, 2005. **(NASD Case #E8A2004075901)**

Douglas Mark Houtstra (CRD #3252204, Registered Representative, Ada, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, ordered to pay \$280,000 in disgorgement and suspended from association with any NASD member in any capacity for two years. The fine and disgorgement must be paid before Houtstra reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Houtstra consented to the described sanctions and to the entry of findings that he failed to give written notice of his intention to participate in the sales of promissory notes to his member firm, and failed to receive written approval from his firm prior to engaging in such activities.

Houtstra's suspension will begin September 19, 2005, and will conclude at the close of business September 18, 2007. **(NASD Case # E8A2003076501)**

Alan John Justin, Jr. (CRD #1132041, Registered Principal, Lancaster, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member as a supervisor or principal and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Justin consented to the described sanctions and to the entry of findings that he failed to adequately supervise a registered representative of his member firm.

Justin's suspension began June 6, 2005, and will conclude at the close of business June 5, 2007. **(NASD Case #C8A050028)**

Jeffrey Michael Knutsen (CRD #2767219, Registered Principal, Bellingham, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Knutsen consented to the described sanction and to the entry of findings that he caused funds to be withdrawn from the brokerage account of a public customer in the form of automated clearing house payments totaling \$89,973.16 without the customer's knowledge, consent or authorization. The findings also stated that Knutsen caused the payments to be made from the customer's account to Knutsen's credit card accounts, thereby converting \$89,973.16 of customer funds to his own use and benefit. **(NASD Case #C3B050014)**

Brian Wallace Laing (CRD #2128928, Registered Representative, Elyria, Ohio) 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 Laing reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Laing consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

Laing's suspension began September 6, 2005, and will conclude at the close of business October 5, 2005. **(NASD Case #E8A2004054201)**

John Li (CRD #2651168, Registered Representative, Lansdale, Pennsylvania) 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, Li consented to the described sanction and to the entry of findings that he wrongfully obtained a credit card in the name of individuals without the individuals' knowledge or consent, and used the cards to obtain cash advances for his own benefit. The findings also stated that Li failed to respond to NASD requests for information. **(NASD Case #2005000479801)**

Gou Zhan Ma (CRD #4855611, Associated Person, New York, 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 30 business days. Without admitting or denying the allegations, Ma consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information in a timely manner.

Ma's suspension will begin September 19, 2005, and will conclude at the close of business October 28, 2005. **(NASD Case # ELI2004040001)**

Clay Katsumi Matsuda (CRD #2541661, Registered Representative, Montebello, California) 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, Matsuda consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for documents and information. **(NASD Case #E0220040688-01)**

David Bruce Medansky (CRD #4626553, Registered Representative, Phoenix, Arizona) 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, Medansky consented to the described sanction and to the entry of findings that he obtained a credit card in the name of an individual by submitting an application and representing himself to be the individual. The findings stated that Medansky used the credit card to obtain goods, services or funds for his own benefit. The findings also stated that he made payments on the card's balance due, accepted an offer of a second credit card, and cashed a \$500 promotional check drawn on the account of the credit card company payable to the individual. **(NASD Case #E3A2004024201)**

Terrence Michael Meter (CRD #1386223, Registered Representative, Beverly Hills, Michigan) 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 three months. The fine must be paid before Meter reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Meter consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation without giving prompt written notice to his member firm.

Meter's suspension will begin September 19, 2005, and will conclude December 18, 2005. **(NASD Case #E8A2002124004)**

Harry Robert Monsky (CRD #1420260, Registered Principal, Jacksonville Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$35,000 and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Monsky consented to the described sanctions and to the entry of findings that he entered limit orders to sell shares out of his individual retirement account (IRA), then entered a near-simultaneous limit order to buy the same number of shares in his taxable margin account. The findings stated that the limit orders were placed at identical prices in the after-hours market, which was lower than the closing price. The findings also stated that he entered limit

orders to sell shares out of his taxable margin account and entered near-simultaneous limit orders to buy the same number of shares in his IRA. The findings further stated that Monsky entered a limit order to sell shares that was higher than the closing price and his broker routed these orders to the ECN, which matched his limit orders, executing the trades between his accounts. NASD determined that his trading knowingly or recklessly created a false appearance of market activity in the stock, in trades effected at prices that did not reflect the true supply and demand for the stock.

Monsky's suspension will begin September 19, 2005, and conclude at the close of business on October 18, 2005. (NASD Case #CLG050080)

Amanda Moon (CRD #4358745, Registered Representative, Morris Plains, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any member of NASD in any capacity for three months. The fine must be paid before Moon reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Moon consented to the described sanctions and to the entry of findings that she engaged in business activities outside the scope of her business relationship with her member firm without providing her firm with prompt written notice of these activities.

Moon's suspension will begin September 19, 2005, and will conclude December 18, 2005. (NASD Case #E9B2004058401)

Patrick John Moran (CRD #1496354, Registered Principal, Paradise Valley, Arizona) 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, Moran consented to the described sanction and to the entry of findings that he failed to respond to an NASD request for information. (NASD Case #E3A2004033801)

Joel Ellis Moskowitz (CRD #500460, Registered Representative, Boca Raton, Florida) was fined \$12,500 and suspended from association with any NASD member in any capacity for 35 business days. The sanctions were based on the findings that Moskowitz disseminated, or attempted to disseminate, options communications to the public without obtaining advance approval from his employer and NASD, and such communications failed to comply with the content requirements for options communications.

Moskowitz's suspension began August 1, 2005, and will conclude at the close of business September 19, 2005. (NASD Case #C9B040093)

Craig Ross Myers (CRD #3187909, Registered Representative, Dearborn, Michigan) 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 Myers reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Myers consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation without giving prompt written notice to his member firm.

Myers' suspension will begin September 19, 2005, and will conclude March 18, 2006. (NASD Case #E8A2002124003)

Tanveer Ahmad Paracha (CRD #4601108, Registered Representative, Chicago, Illinois) was barred from association with any NASD member in any capacity and ordered to pay \$16,078 in restitution to a public customer. The sanction was based on findings that Paracha effected transactions in the account of a public customer without the customer's knowledge or consent and without having a reasonable basis for believing that the recommendations were suitable for the customer based on the nature of the customer's account, financial situation and needs. The findings also stated that Paracha failed to respond to NASD requests for on-the-record interviews. (NASD Case #C9B050001)

Jygnesh Rohit Patel (CRD #2387765, Registered Principal, Glenview, Illinois) 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, Patel consented to the described sanction and to the entry of findings that he misrepresented to a public customer that a securities account would be opened for the customer into which \$50,000 of the customer's investment funds would be deposited and carried, and that the investment would be protected by his member firm's fidelity bond and other insurance. The findings also stated that Patel created and sent to the customer a purported account statement from his firm falsely showing that the customer's funds had been deposited into an account in his name at the firm. NASD found that Patel failed to open a securities account for the customer at this firm and failed to deposit the customer's funds in the account. The findings also stated that Patel failed to respond to an NASD request for information. (NASD Case #C0705000303)

Chris Howard Pipkin (CRD #4357879, Registered Supervisor, Cedar Rapids, Iowa) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Pipkin

reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Pipkin consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

Pipkin's suspension began September 6, 2005, and will conclude at the close of business September 5, 2007. **(NASD Case #E042004015901)**

David Francis Polus (CRD #365423, Registered Representative, Grosse Pointe Farms, Michigan) 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 Polus reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Polus consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation without giving prior written notice to his member firm.

Polus' suspension will begin September 19, 2005, and will conclude March 19, 2006. **(NASD Case #E8A2002124002)**

Robert Edmond Pompey (CRD #2121635, Registered Representative, Holt, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500, ordered to pay \$79,447 in disgorgement and suspended from association with any NASD member in any capacity for one year. The fine and disgorgement must be paid before Pompey reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Pompey consented to the described sanctions and to the entry of findings that he participated in private securities transactions for compensation without providing written notice, and failed to receive written approval from his member firm prior to engaging in such activities. The findings also stated that Pompey failed to timely respond to NASD requests for information.

Pompey's suspension will begin September 19, 2005, and will conclude at the close of business September 18, 2006. **(NASD Case # E8A2004094801)**

Gregory Martin Power (CRD #1342377, Registered Principal, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,000, suspended from association with any NASD member in any capacity for 15 business days and required to requalify by exam as a general securities principal prior to acting again in that capacity. The fine must be paid before Power reassociates

with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Power consented to the described sanctions and to the entry of findings that he failed to advise any of his superiors that his member firm was not accurately reporting electronic order management system (OMS) information to OATS. The findings stated that Power realized that significant modifications were required to his firm's OATS reporting system before it could accurately report OMS information to OATS, and suppressed OATS reporting of OMS information while modifications were being made without consulting anyone at his firm. NASD found that by suppressing the OATS reporting, Power caused his firm to fail to report to OATS ROEs relating to orders in NASDAQ securities that were captured in OMS.

Power's suspension began September 6, 2005, and will conclude at the close of business September 26, 2005. **(NASD Case #2004200002101)**

Ralph Guadalope Primo Jr. (CRD #1001021, Registered Representative, Santa Monica, California) 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, Primo consented to the described sanction and to the entry of findings that he willfully failed to disclose a material fact on his Form U4. **(NASD Case #E0220040538-01)**

Ignacio Leon Restrepo, Jr. (CRD #3008679, Registered Representative, Corona, 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, Restrepo consented to the described sanction and to the entry of findings that he converted \$34,101 by making unauthorized withdrawals from the bank accounts of public customers that were linked to their brokerage accounts at Restrepo's member firm. NASD also found that Restrepo failed to respond to NASD requests for information. **(NASD Case #C1020050059)**

Michael George Robinson (CRD #3018670, Registered Representative, San Diego, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Robinson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Robinson consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

Robinson's suspension began September 6, 2005, and will conclude at the close of business December 5, 2005. (NASD Case #2005000790201)

Keith Adam Rogers (CRD #4523445, Registered Representative, Franklin Square, 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, Rogers consented to the described sanction and to the entry of findings that he failed to respond NASD requests for documents and information. (NASD Case #C10050008)

Kenneth Vincent Rosato (CRD #725629, Registered Supervisor, Eatontown, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$370,000, including disgorgement of \$185,000 in commissions, and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Rosato reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rosato consented to the described sanctions and to the entry of findings that he assisted institutional clients in evading the restrictions placed on market timing by mutual funds. The findings stated that Rosato suggested deceptive strategies that could be employed by the customers to evade restrictions of mutual funds on market timing, opened multiple accounts for the clients to enable them to market time the mutual funds without detection, used different broker numbers and different addresses for the accounts, and placed trades in related accounts to escape detection by the mutual funds. The findings also stated that the clients received approximately \$1 million in profits and Rosato received \$185,000 in commissions.

Rosato's suspension began September 6, 2005, and will conclude at the close of business September 5, 2006. (NASD Case #EAF0300920003)

Linda Mary Rosato (CRD #1085831, Registered Representative, Long Beach, 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, Rosato consented to the described sanction and to the entry of findings that she failed to appear for an NASD on-the-record interview. (NASD Case #EAF0300290004)

William Randal Sabo (CRD #2045150, Registered Representative, Gibsonia, Pennsylvania) 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, Sabo consented

to the described sanction and to the entry of findings that he withdrew \$86,000 from a public customer's bank account and used the funds for his own purposes without the authorization or consent of customer. (NASD Case #2005001352102)

Jayant H. Shahani (CRD #4533103, Registered Representative, Fort Lee, 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, Shahani consented to the described sanction and to the entry of findings that he found a bank debit card belonging to a public customer, took possession of the card and, in contravention of the rights and interests of the card owner, gave it to another person, intending that the person to whom he gave the card would use it, and the person did thereafter use the debit card for their own benefit. (NASD Case #2005001605401)

David Allan Skjerven (CRD #1414499, Registered Representative, Moorhead, Minnesota) 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, Skjerven consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. (NASD Case #E0420040464-03)

Luwana J. Smith (CRD #4018994, Associated Person, Riverhead, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Smith reassociates with any NASD member following the suspension, or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that she failed to disclose material facts on her Form U4.

Smith's suspension began August 1, 2005, and concluded at the close of business August 30, 2005. (NASD Case #ELI2004024201)

Francisco R. Torres (CRD #4341453, Associated Person, Miami, Florida) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Torres reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Torres consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4.

Torres' suspension began September 6, 2005, and will conclude March 5, 2006. (NASD Case #C07050032)

Victor Thomas Travaglianti (CRD #2994825, Registered Representative, Lake Ronkonkoma, 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 nine months. The fine must be paid before Travaglianti reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Travaglianti consented to the described sanctions and to the entry of findings that he signed or affixed customer signatures on firm account documentation for public customers as an accommodation to the customers in question and failed to disclose this fact to his member firm.

Travaglianti's suspension began September 6, 2005, and will conclude at the close of business June 5, 2006. (NASD Case #ELI20040403-03)

Charles Arvin Utter (CRD #841231, Registered Representative, Broomfield, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, including disgorgement of \$8,800, and suspended from association with any NASD member in any capacity for five months. Without admitting or denying the allegations, Utter consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm. The findings also stated that Utter continued to engage in outside business activity knowing that his member firm disapproved of this activity.

Samuel John Trigillo (CRD #1303837, Registered Representative, Spled, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Trigillo affixed a customer's signature to securities related documents without the customer's knowledge or consent. The findings stated that Trigillo transferred a customer's funds from a fixed annuity to a variable annuity without the customer's knowledge or consent. NASD also found that Trigillo affixed another registered representative's signature on customer forms without the registered representative's knowledge or consent. In addition, NASD determined that Trigillo engaged in outside business activity without providing prompt written notice to his member firm. (NASD Case #C8A040082)

Utter's suspension began September 6, 2005, and will conclude February 5, 2006. (NASD Case #E3A2004030701)

Glen Michael Varkoly (CRD #4147851, Registered Representative, Smyrna, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 90 days. The fine must be paid before Varkoly reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Varkoly consented to the described sanctions and to the entry of findings that he forged a customer's signature on a request form to withdraw funds from the customer's variable annuity account and transfer them to the customer's checking account.

Varkoly's suspension began September 6, 2005, and will conclude December 4, 2005. (NASD Case #E07200489201)

James Robert Vura, Jr. (CRD #2318119, Registered Representative, Addison, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Vura reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Vura consented to the described sanctions and to the entry of findings that he failed to disclose material facts on his Form U4.

Vura's suspension began September 6, 2005, and will conclude at the close of business December 5, 2005. (NASD Case #E8A20040925)

Kathryn Veness Wilcher (CRD #4783371, Associated Person, Jacksonville, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Wilcher consented to the described sanction and to the entry of findings that she converted funds from a bank customer totaling \$1,900. (NASD Case #E072004067501)

John Foster Wilkinson (CRD #2156376, Registered Representative, Birmingham, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Wilkinson consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation without giving prior written notice to his member firm.

Wilkinson's suspension will begin September 19, 2005, and will conclude at the close of business October 18, 2005. (NASD Case #E8A2002124005)

Complaints Filed

NASD issued the following complaints. 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.

Brett Aaron Jurica (CRD #2535339, Registered Principal, Scottsdale, Arizona) was named as a respondent in an NASD complaint alleging that he completed and submitted applications to establish trust accounts in his name and that of a public customer at a broker-dealer other than his member firm, and named himself as the trustee and authorized agent for the accounts. The complaint alleges that Jurica transferred funds or securities from the customer's account to the account he opened under his name without the knowledge, authorization or consent of the customer. The complaint also alleges that Jurica willfully failed to provide written notification to the broker-dealer of his association with a member firm, and did not provide notification to his member firm of his transactions with the broker-dealer. In addition, the complaint alleges that Jurica failed to respond to NASD requests for information. (NASD Case #E3A2004031001)

Robert W. Krusec (CRD #4633666, Associated Person, Bolingbrook, Illinois) was named as a respondent in an NASD complaint alleging that he caused the electronic transfer of funds totaling \$129,173 from his member firm's affiliate to his own personal bank accounts without the knowledge and approval of his member firm's affiliate, and converted the funds to his own personal use. In addition, the complaint alleged that Krusec failed to appear for an on-the-record interview with NASD. (NASD Case #C8A050061)

Kenneth James Nemetz (CRD #1299654, Registered Principal, The Woodlands, Texas) was named as a respondent in an NASD complaint alleging that he received a \$23,000 check payable to him from public customers for investment purposes, but Nemetz endorsed the customers' check and deposited it into a bank account that he controlled without the customers' knowledge, authorization or consent. (NASD Case #E0620030534-02)

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

Mills, Jeffrey Johnathan
W. Orange, New Jersey
(August 5, 2005)

Individuals Suspended Pursuant to NASD Rule 9552 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.)

Bago, Mario
Long Island City, New York
(July 25, 2005)

Bonney, Michael James
Pompano Beach, Florida
(July 25, 2005)

Elliott, Michael Scott
Sarasota, Florida
(July 25, 2005)

Esposito Sr., Jeffrey Marc
Dallas, Texas
(August 17, 2005)

Miranda, Eduardo Jose
Lutz, Florida
(July 13, 2005)

Individuals Barred Pursuant to NASD Rule 9552 for Failure to Provide Information Requested under NASD Rule 8210

Christensen, Brian Andrew
Bradenton, Florida
(August 8, 2005)

Crippen, Toni Gail
Medford, Oregon
(August 3, 2005)

Donnauro, Frank Charles
Freehold, New Jersey
(August 17, 2005)

Dvorznak, James Anthony
Dix Hills, New York
(July 12, 2005)

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.)

Bila, James Leonard
Holbrook, New York
(July 21, 2005)

Eminente, Christian Luciano
Delray Beach, Florida
(July 18, 2005)

Galicki, Brian Eric
Monmouth Junction, New Jersey
(July 18, 2005)

Garfinkel, David Abbot
New Rochelle, New York
(August 19, 2005)

Lamberts, Ross Edwin
La Center, Washington
(July 20, 2005)

Langston, Paul Anthony
New York, New York
(July 12, 2005)

Palmiere, Robert Anthony
Boca Raton, Florida
(July 15, 2005)

Smith, Judson Darryl
Portland, Maine
(July 18, 2005)

Smith, Michael Christopher
Netcong, New Jersey
(August 10, 2005)

Taylor, Patience Lane
Plymouth, Massachusetts
(July 20, 2005)

Turner, John David
N. Wilkesboro, North Carolina
(July 20, 2005)

NASD Fines Hantz Financial \$675,000 for Fraud, Misrepresentations Related to Undisclosed Revenue Sharing Arrangements

Firm's Owner/CEO Censured, Fined and Suspended

NASD fined Michigan-based Hantz Financial Services, Inc., \$675,000 for fraud and misrepresentations relating to undisclosed revenue sharing arrangements, as well as other violations. John Hantz, the firm's President, CEO, founder and primary owner, was censured and fined \$25,000 for failing to supervise the firm's revenue sharing activities and suspended from acting in a supervisory capacity for 30 days.

The firm also agreed to implement substantial remedial measures, including making specific and immediate disclosures on its Web site about its potential conflicts, updating its policies, procedures and training, and retaining an independent consultant who will verify that Hantz Financial has completed the appropriate remedial activities.

NASD found that while Hantz Financial represented itself to clients as an independent firm offering a range of product choices from a variety of suppliers, the firm in fact had a single "preferred supplier" for each product category and directed the vast majority of sales to those preferred suppliers—in exchange for millions of dollars in marketing fees or special cash compensation. In representing itself to preferred suppliers, Hantz Financial emphasized that it had a proprietary rather than independent sales force, that it could determine what its employees sold and that it expected 90 percent of its sales of each investment product to be the preferred supplier's product.

"This firm portrayed itself as independent, unbiased and armed with a myriad of product alternatives to meet its clients' needs—when in fact it was captive to a few preferred suppliers," said Barry Goldsmith, NASD Executive Vice President and Head of Enforcement. "Hantz Financial failed to meet its fundamental obligation to put its customers' interests first, and to disclose material conflicts of interest arising from revenue sharing arrangements, not to hide them."

NASD's investigation showed that from 2002 to 2004, Hantz Financial misrepresented to its clients that the firm and its financial advisors (brokers) were "independent," "objective" and not "captive to one or a few product companies." A script brokers generally followed closely in their initial conversations with clients stated:

"I am an independent financial consultant. Do you know what that means? To be an independent financial consultant means a lot more freedom and flexibility to offer a number of different products and services without being captive to one or

a few product companies. It allows me to better service my clients to help them reach their financial goals because there is more objectivity."

However, in confidential presentations to its preferred suppliers, Hantz Financial conceded that it was not "independent." NASD found that the firm entered into arrangements with a single "preferred supplier" in each product category, then encouraged its brokers to focus their sales almost exclusively upon its preferred suppliers' products. As Hantz Financial stated in a confidential marketing presentation to its preferred suppliers:

"Since [Hantz Financial's] entire sales force are employees, not independent contractors, [Hantz Financial] can dictate how they do business... Unlike independent broker/dealer firms, almost all of [Hantz Financial's] new hires come from outside the industry, so [Hantz Financial] can train them to do business its way."

NASD found that Hantz Financial's brokers successfully directed between 81 percent and 99 percent of their sales in each product category to the designated preferred suppliers. The firm did not disclose to its customers that, contrary to its representations, it had preferred suppliers, or that it was selling their products almost exclusively. Hantz Financial also failed to disclose that it had negotiated deals with the preferred suppliers that allowed it to collect revenue sharing payments on sales of the preferred products. Between 2002 and 2004, Hantz Financial collected more than \$4.2 million in marketing fees. The revenue sharing was so important to the firm's profitability that, without it, Hantz Financial's net profits in 2002 would have fallen from over \$1 million to just \$57,602. By 2004, its annual income from marketing fees had doubled and accounted for seven percent of the firm's overall revenues.

NASD also found that when Hantz Financial learned that its mutual fund preferred supplier was no longer willing to pay the firm marketing fees in 2002, it dropped that mutual fund firm as a preferred supplier and effectively stopped recommending its products to its customers. After signing an agreement to collect marketing fees from a new preferred supplier, Hantz Financial's sales of the new preferred supplier's mutual funds skyrocketed.

NASD's investigation also revealed that Hantz Financial recommended that thousands of its customers refinance their home mortgages through its affiliated mortgage broker, Tranex Financial, while mischaracterizing or not adequately disclosing its relationship with Tranex, the substantial compensation its brokers received for referring customers to Tranex and the role Hantz Financial brokers played in the mortgage process. Hantz Financial suggested to both its customers and its mortgage regulators that the Hantz Financial brokers did not receive

referral fees for directing mortgage loans to Tranex. In fact, Hantz Financial paid its brokers 25 percent of the net yield spread that Tranex earned on each loan that they referred. Hantz Financial did not disclose these conflicts of interest to its customers. NASD therefore found that Hantz Financial's misrepresentations and omissions concerning its mortgage activity violated NASD rules.

In settling this matter, Hantz Financial and John Hantz neither admitted nor denied the charges, but consented to the entry of NASD's findings.