

Disciplinary Actions

Disciplinary Actions Reported For November

NASD Regulation, Inc. (NASD RegulationSM) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD[®]) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of October 2001.

Firms Expelled, Individuals Sanctioned

Michael Patterson, Inc. (CRD #44361, Columbus, Ohio) and Michael William Patterson (CRD #2101227, Registered Principal, Powell, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was expelled from NASD membership and Patterson was barred from association with any NASD member in any capacity. In light of the financial status of the respondents, no monetary sanctions have been imposed. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Patterson, failed to deal fairly; charged unreasonable prices; and violated the antifraud provisions of MSRB and Securities and Exchange Commission (SEC) rules by failing to obtain the best available market price for municipal bonds, charging excessive prices, and interpositioning a member firm's inventory account between the customer and the best available market price. The findings also stated that the firm, acting through Patterson, failed to disclose to public customers that

its prices were not reasonably related to the market price of the securities and that it adhered to an exclusive trading agreement that interpositioned the inventory account between the customer and the best available price. In addition, the NASD found that the firm, acting through Patterson, charged its customers excessive markups totaling \$13,600, and fraudulent markups totaling \$5,950. Furthermore, the findings stated that the firm and Patterson knowingly, or with reckless disregard, failed to ensure that the prices paid by customers were fair and reflected the available market price and sold bonds to retail customers at prices significantly higher than the market price of the bonds. **(NASD Case #CAF010002)**

VonFeldt & Associates, Inc. (CRD #37591, Oklahoma City, Oklahoma) and Dewayne Richard VonFeldt (CRD #455630, Registered Principal, Oklahoma City, Oklahoma) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was expelled from NASD membership and VonFeldt was fined \$10,000, suspended from association with any NASD member in any capacity for one month, and barred from association with any NASD member in any principal capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through VonFeldt, engaged in a securities business when its net capital was below the required minimum. The findings also stated that VonFeldt attempted to conceal net capital deficiencies from the NASD.

VonFeldt's suspension began November 5, 2001, and will conclude at the close of business December 4, 2001. **(NASD Case #C05010044)**

Firm Suspended, Individual Sanctioned

West America Securities Corp. (CRD #35035, Westlake Village, California) and Robert Brian Kay (CRD #1133657, Registered Principal, Westlake Village, California) submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$51,371, jointly and severally. In addition, the firm was suspended from engaging in any penny stock business for one year, except the firm may effect transactions for its proprietary account and effect transactions for customers that are non-recommended. Kay was suspended from association with any NASD member as a general securities principal for 30 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 Kay, failed to comply with all of the provisions of the SEC's Penny Stock Rules with respect to securities transactions as a result of the firm's failure to establish and maintain a system to supervise the activities of various registered persons that was reasonably designed to achieve compliance with the Penny Stock Rules.

The firm's suspension began November 5, 2001, and will conclude at the close of business November 4, 2002. Kay's suspension began November 5, 2001, and will conclude at the close of business December 4, 2001. **(NASD Case #C02010051)**

Firm Fined, Individual Sanctioned

Centex Securities, Inc. (CRD #18493, La Jolla, California) and Bruce Alan Biddick (CRD #1124697, Registered Principal, Rancho Santa Fe, California) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally, and Biddick was suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Biddick, failed to file an amended Form U-4 disclosing material information on behalf of an individual registered through the firm.

Biddick's suspension began October 15, 2001, and concluded at the close of business October 19, 2001. **(NASD Case #C02010046)**

Firm And Individual Fined

Merrill Weber & Co., LLC (CRD #31799, Northfield, Illinois) and Merrill Evan Weber (CRD #2305631, Registered Principal, Chicago, Illinois) 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 they permitted an individual, who was not registered with the firm in any capacity, to engage in the investment banking or securities business of the member firm. **(NASD Case #C8A010062)**

Firms Fined

American Third Market Co., LLC (CRD #34361, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures with respect to the Order Audit Trail System (OATSSM) rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to OATS any order data for its orders for equity securities traded on The Nasdaq Stock Market[®]. The findings also stated that the firm did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the OATS rules. Specifically, the NASD found that the firm's supervisory system did not include written supervisory procedures providing for the identification of the person(s) responsible at the firm to ensure compliance with the applicable rules, a statement of the step(s) that such person(s) should take to ensure compliance, a statement as to how often such person(s) should take such step(s), and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS010157)**

CIBC World Markets Corporation (CRD #630, 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, as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers

whose quotations would be locked or crossed, entered bid or asked quotations in The Nasdaq Stock Market that caused a locked or crossed market condition to occur in each instance. **(NASD Case #CMS010158)**

Corporate Securities Group, Inc., n/k/a First Union Securities Financial Network, Inc. (CRD #11025, Boca Raton, Florida) 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 it failed to establish an adequate supervisory system of follow-up and review to ensure review of active accounts and failed to devote sufficient resources to its supervisory system to detect and prevent unsuitable activity in customer accounts. **(NASD Case #C11010029)**

Davis Distributors, LLC (CRD #7975, Tucson, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which it 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 file a Form U-4 for an individual who was engaged in securities activities that required registration but was not properly registered. The findings also stated that the firm allowed an individual whose registration was inactive due to non-compliance with the Regulatory Element of continuing education to remain associated with the firm as a mutual fund wholesaler and to engage in activities that required registration. In addition, the NASD found that the firm's written supervisory procedures were not

reasonably designed to ensure that associated persons were properly registered before engaging in securities activities and to ensure compliance with the NASD's Regulatory Element of Continuing Education. **(NASD Case # C3A010033)**

Gerard Klauer Mattison & Co., Inc. (CRD #16686, 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 the firm, as a market maker in securities, was a party to a locked or crossed market condition prior to the market opening and received a trade-or-move message in each instance through SelectNet[®], and within 30 seconds of receiving such messages, failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. **(NASD Case #CMS010153)**

Heartland Securities, Inc. (CRD #43201, Edison, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$18,000, which includes \$10,000 of the financial benefit the firm obtained by permitting representatives to conduct a securities business while unregistered. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to ensure that individuals were properly registered as equity traders in accordance with the NASD's Series 55 rule requirements. The findings also stated that the firm permitted several

registered persons to conduct a securities business while they were inactive for failing to satisfy the Regulatory Element of the NASD's Continuing Education Requirements. In addition, the NASD found that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations. **(NASD Case #C9B010082)**

Investment Services Capital Corp. (CRD #31271, Haverstraw, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures with respect to the OATS Rules. 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 The Nasdaq Stock Market that were not in the electronic form prescribed by the NASD. According to the findings, the subject reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS Web Site and the firm did not correct or replace the reports and, thus, failed to correctly report such information to OATS.

The findings also stated that the firm failed to transmit to OATS any order data for its orders for equity securities traded on The Nasdaq Stock Market, and that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the OATS Rules. Specifically, the firm's supervisory system did not include written supervisory

procedures providing for the identification of the person(s) responsible at the firm to ensure compliance with the applicable rules, a statement of the step(s) that such person(s) should take to ensure compliance, a statement as to how often such person(s) should take such step(s), and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS010140)**

National Financial Services LLC (CRD #13041, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, the firm entered bid or ask quotations in The Nasdaq Stock Market that caused a locked or crossed market condition to occur in each instance and, as a market maker in securities, caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation that locked/crossed another market maker's quotations without immediately thereafter sending through SelectNet to the market maker(s) whose quote(s) it locked or crossed a trade-or-move message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. The NASD also found that the firm, as a market maker in securities, was a party to a locked or crossed market condition prior to the market opening and received a trade-or-move message in each instance

through SelectNet and, within 30 seconds of receiving such messages, failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. **(NASD Case #CMS010144)**

Parker/Hunter Incorporated (CRD #7324, Pittsburgh, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$100,000, and required to revise its written supervisory procedures reasonably designed to prevent future violations of applicable securities laws and regulations regarding the handling of material, non-public information. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that its supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the handling of material, non-public information. Specifically, the firm's supervisory system directed analysts to consult and seek advice outside the research department from an individual, potentially disclosing material, non-public information to the individual, and placing the individual in a position to trade on the basis of that information for himself and others. In addition, the firm's supervisory system did not include written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations concerning the handling of material, non-public information. Specifically, with regard to trading on the basis of material, non-public information, the firm's written

supervisory procedures did not provide for the identification of the person(s) responsible at the firm to ensure compliance with applicable rules, a statement of the step(s) that such person(s) should take to ensure compliance, a statement as to how often such person(s) should take such step(s), and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS010134)**

Pershing Trading Company, L.P. (CRD #36671, Jersey City, New Jersey) 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 to achieve compliance with respect to applicable securities laws and regulations concerning firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size, and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quotations. According to the findings, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person(s) responsible at the firm to ensure compliance with the applicable rules, a statement of the step(s) that such person(s) should take to ensure compliance, a statement as to how often such person(s) should take such

step(s), and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS010139)**

Robertson Stephens Investment Banking (CRD #41271, San Francisco, California) 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, as a market maker in securities, it was a party to a locked or crossed market condition prior to the market opening. The NASD determined that the firm received a trade-or-move message in each instance through SelectNet and, within 30 seconds of receiving such messages, failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. **(NASD Case #CMS010155)**

Tucker Anthony, Incorporated (CRD #837, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured; fined \$78,500; required to revise its written supervisory procedures regarding the Automated Confirmation Transaction ServiceSM (ACTSM) rule compliance, best execution, limit order protection, SEC Order Execution Rules, trade reporting, Small Order Execution System (SOES), record keeping, locked and crossed markets, anti-competitive practices, front-running and short sales; and required to pay \$201.99, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of

findings that it failed to display immediately customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to its bid or 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 its bid or offer in each such security.

The findings also stated that the firm failed to contemporaneously or partially execute customer limit orders in Nasdaq securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order, 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. Furthermore, the NASD found that the firm executed short-sale transactions and failed to report each of these transactions to ACT with a short-sale modifier, entered priced broadcast orders into SelectNet that were each priced better than the firm's public quote without reflecting each such order in the firm's public quote as required by SEC Rule 11Ac1-1, and reported to Fixed Income Pricing SystemSM (FIPSSM) transactions in FIPS securities and high-yield securities incorrectly. The NASD also determined that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. Specifically, the firm's written supervisory procedures

were found to be deficient in that they did not provide for the identification of the person(s) responsible at the firm for ensuring compliance with such laws, regulations, and rules, a statement of the step(s) that such person(s) should take to ensure compliance, a statement as to how often such person(s) should take such step(s), and a statement as to how enforcement of such written supervisory procedures should be evidenced at the firm. **(NASD Case #CMS010145)**

Windsor Capital Advisors, LLC (CRD #47317, Garden City, New York) 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 the firm, as a market maker in securities, caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation that locked/crossed another market maker's quotations without immediately thereafter sending through SelectNet to the market maker(s) whose quote(s) it locked or crossed, a trade-or-move message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. The findings also stated that the firm, as a market maker in securities, was a party to a locked or crossed market condition prior to the market opening and received a trade-or-move message in each instance through SelectNet and, within 30 seconds of receiving such messages, failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. **(NASD Case #CMS010154)**

Individuals Barred Or Suspended

Salam Aburas (CRD #2969004, Registered Representative, Berwyn, Illinois) was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The sanctions were based on findings that Aburas effected an unauthorized transaction in the account of a public customer.

Aburas' suspension began October 15, 2001, and concluded at the close of business October 26, 2001. **(NASD Case #C8A010014)**

Christopher Aguado (CRD #3089463, Registered Representative, Secaucus, New Jersey) submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for two months, and required to requalify by exam before again becoming registered in any capacity. The fine must be paid before Aguado reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Aguado consented to the described sanctions and to the entry of findings that he recommended to, and effected for the securities account of a public customer, the sale and purchase of shares of common stock without having reasonable grounds for believing that such recommendation was suitable for the customer's financial situation and needs in that the recommendation involved investing the entire value of the account in a single speculative stock.

Aguado's suspension began October 15, 2001, and will

conclude at the close of business on December 14, 2001. **(NASD Case #C9B010045)**

Gary Irving Berman (CRD #2413745, Registered Principal, Jersey City, 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, Berman consented to the described sanction and to the entry of findings that he willfully failed to disclose a material fact on a Form U-4. The findings also stated that Berman submitted a false and/or misleading written statement to the NASD when he falsely stated that he had inadvertently accessed his former member firm's proprietary account and effected a trade. The NASD determined that the statement was false and/or misleading in light of Berman's on-the-record testimony wherein he testified that without authorization he intentionally used his former supervisor's system log-on identification rather than his own to access accounts. **(NASD Case #C9B010075)**

Christopher Michael Block (CRD #2073057, Registered Principal, Houston, Texas) and Jeffrey Schwartz Burke (CRD #2007369, Registered Principal, Houston, Texas). Block was fined \$50,000 and barred from association with any NASD member in any capacity. Burke was fined \$15,000, suspended from association with any NASD member in any principal or supervisory capacity for 30 days, and required to requalify by exam as a general securities principal. The National Adjudicatory Council (NAC) imposed the sanctions following appeal and review of an Office of Hearing Officers (OHO) decision. The sanctions were based on

findings that Block failed to keep accurate books and records, operated his member firm while it failed to maintain minimum required net capital, filed inaccurate FOCUS Part IIA reports, and failed to provide notification that the firm's net capital was below the required minimum. The findings also stated that Block induced the purchase of stock by including false and misleading information in a stock purchase agreement. The NASD also found that Burke operated his member firm while the firm failed to maintain minimum required net capital and failed to supervise properly the firm's financial and operations principal.

Burke's suspension began October 1, 2001, and concluded at the close of business October 30, 2001. **(NASD Case #C05990026)**

Shafeqah Bakir Calder (CRD #4286879, Registered Representative, Newark, 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, Calder consented to the described sanction and to the entry of findings that she willfully failed to disclose material facts on her Form U-4. The NASD also found that Calder failed to respond to NASD requests for information. **(NASD Case #C9B010080)**

Michael Caso (CRD #2222058, Registered Principal, Brooklyn, 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, Caso consented to the described sanction and to the entry of findings that he executed unauthorized trades in the accounts

of public customers, and failed to disclose to the customers that his recommendations to purchase securities were for highly speculative securities or that there were risks associated with the purchase of his recommended securities. The NASD found that Caso made purchase and sale transactions in the accounts of public customers without having properly obtained discretionary authority over the accounts. The findings also stated that Caso failed to execute an order in the account of a public customer and made material misrepresentations and omissions in the accounts of public customers concerning price predictions and information that would have been material to a reasonable investment decision by a reasonable investor. In addition, the NASD found that Caso completed and signed a new account form for a public customer in which he knowingly, willfully, or recklessly stated a false income for the customer. Furthermore, the NASD found that Caso failed to respond to NASD requests for information and to appear for an on-the-record interview. **(NASD Case #CAF990019)**

James Burling Chase (CRD #368743, Registered Representative, Milwaukee, Wisconsin) was fined \$25,000, suspended from association with any NASD member in any capacity for one year, and ordered to requalify as a general securities representative before re-entering the industry. The NAC imposed the sanctions following the appeal of an OHO decision. The sanctions were based on findings that Chase recommended and effected transactions in a public customer's account without a reasonable basis for believing that such recommendations were suitable for the customer due to the nature

of the securities, the concentration of the securities in the account, and the customer's investment objectives, financial situation, and needs.

Chase has appealed this action to the SEC, and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C8A990081)**

Stephen Roy Connors, Sr. (CRD #726642, Registered Representative, Castaic, California) was barred from association with any NASD member in any capacity and ordered to pay \$20,000, plus interest, in restitution to a public customer. The sanctions were based on findings that Connors guaranteed a customer against loss. **(NASD Case #C02000062)**

Ernest Leroy Dahlen, III (CRD #720666, Registered Principal, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for six months. In light of the financial status of Dahlen, no monetary sanctions have been imposed. Without admitting or denying the allegations, Dahlen consented to the described sanction and to the entry of findings that a member firm, acting through Dahlen, failed to get the best price and best execution on dealer-to-dealer trades in high-yield municipal bond transactions. The findings also stated that the member firm, acting through Dahlen, knew, or was reckless in not knowing, that the prices charged for the bonds and the interpositioning of the firm's inventory account as required by a trading agreement would result in excessive prices being charged to retail customers. In addition,

the NASD found that Dahlen intentionally, or with reckless disregard, misled a registered representative by failing to disclose the actual cost basis of the bonds.

Dahlen's suspension began November 5, 2001, and will conclude at the close of business May 4, 2002. **(NASD Case #CAF010023)**

James Newton Darwin, II (CRD #1779045, Registered Representative, Spicewood, Texas) 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, Darwin consented to the described sanction and to the entry of findings that he created, forged, and submitted fraudulent applications for tax sheltered annuities to an insurance company that contained the names of fictitious persons and addresses. The findings also stated that Darwin received \$24,000 in advance commissions and used the funds for his own benefit. Darwin also willfully failed to disclose a material fact on his Form U-4. **(NASD Case #C06010026)**

Glenmore F. Diaz (CRD #11015945, Associated Person, Northridge, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Diaz received a \$10,283.15 check from a public customer to purchase bonds on the customer's behalf, cashed the check, and converted the funds for his personal benefit. **(NASD Case #C02010026)**

Joseph Doria (CRD #2356685, Registered Representative, Franklin Square, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Doria received \$60,000 from a public customer to invest in the stock market and, instead, converted the funds to his own use and benefit without the customer's prior knowledge, authorization, or consent. **(NASD Case #C10010060)**

Michael John Fleyzor (CRD #1928099, Registered Representative, Clark, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,200, which includes disgorgement of \$200 in commissions in partial restitution to the customer, and suspended from association with any NASD member in any capacity for 30 days. The fine and disgorgement must be paid before Fleyzor reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Fleyzor consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction, in that he sold a promissory note without prior written notice to, or approval from, his member firm.

Fleyzor's suspension began November 5, 2001, and will conclude at the close of business December 4, 2001. **(NASD Case #C9B010078)**

Antonia Geronimo (CRD #2757476 Registered Representative, Overland Park, Kansas) 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, Geronimo consented to the described sanction and to the entry of findings that she caused a \$3,000 check to be issued from the customer's Individual Retirement Account (IRA), payable to a third party, sent to an address not that of the customer, and applied the funds to an account in her name held at the third party. The NASD found that by doing so, Geronimo converted and used the funds for her own benefit or for some purpose other than the benefit of the customer. Geronimo also failed to respond to NASD requests for information. **(NASD Case #C04010034)**

Howard Jay Goldman (CRD #1088882, Registered Representative, Marlboro, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Goldman made false statements to his member firm about certain short sell orders. Goldman also failed to respond to NASD requests for information. **(NASD Case #C9B010004)**

Timothy Earl Grant Sr. (CRD #1965947, Registered Representative, Sangerville, Maine) 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, Grant consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm. **(NASD Case #C11010031)**

Duane Wilson Grenier (CRD #1049916, Registered Representative, Moline, Illinois) submitted a Letter of Acceptance,

Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years. In light of the financial status of Grenier, no monetary sanction has been imposed. Without admitting or denying the allegations, Grenier consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing written notice to, or receiving permission to participate from, his member firm. The NASD also found that Grenier received compensation for participating in business financing activities without providing his member firm prompt written notice of outside business activity.

Grenier's suspension began November 5, 2001, and will conclude at the close of business November 4, 2003. **(NASD Case #C3A010037)**

Richard Craig Hammill (CRD #1596644, Registered Representative, Edmond, Oklahoma) 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 10 business days. Without admitting or denying the allegations, Hammill consented to the described sanctions and to the entry of findings that he effected unauthorized transfers in the accounts of public customers without their knowledge or consent.

Hammill's suspension began November 5, 2001, and will conclude at the close of business November 16, 2001. **(NASD Case #C05010043)**

Mary Hendricks (CRD #4130511 and #1354303, Associated Person, Pompano Beach, Florida) was barred from association with any NASD

member in any capacity. The sanction was based on findings that Hendricks provided her member firm with a false social security number and failed to disclose past criminal charges against her on certain employment forms. The findings also stated that Hendricks failed to respond to NASD requests for information. **(NASD Case #C07010025)**

Paul William Inman, II (CRD #1724573, Registered Representative, Roseville, 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, Inman consented to the described sanction and to the entry of findings that he executed securities transactions in the accounts of public customers without their prior knowledge or consent. The findings also stated that Inman acted in the capacity of a general securities representative registered to conduct business in two states while not being registered in such capacity, thereby circumventing state registration laws. In addition, Inman intercepted a written complaint from a public customer which he failed to refer to his branch office manager. **(NASD Case #C05010041)**

Michael Charles Jones (CRD #1320040, Registered Representative, Gambrills, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, ordered to pay \$12,000 in disgorgement, and suspended from association with any NASD member in any capacity for one year. Payment of the fine and proof of disgorgement shall be a prerequisite before Jones reassociates with any NASD

member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Jones' suspension began November 5, 2001, and will conclude at the close of business November 4, 2002. **(NASD Case #C9A010038)**

Jeffrey Alan Katz (CRD #1321299, Registered Representative, Glendale, Arizona), Gennaro Chiappetta (CRD #1933002, Registered Representative, Glendale, Arizona), and Jeffrey Schwertfeger (CRD #2719032, Registered Representative, Sun City, California) submitted Offers of Settlement in which Katz and Chiappetta each were fined \$10,000 and suspended from association with any NASD member in any capacity for 90 days. Schwertfeger was fined \$30,000, suspended from association with any NASD member in any capacity for 120 business days, and required to pay \$4,745.17, plus interest, in restitution to public customers (husband and wife). Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Katz and Chiappetta negligently employed devices in reliance on, amongst others, their compliance officer's advice, which resulted in misunderstandings regarding the sale of certificates of deposit (CDs) to public customers.

According to the findings, Katz and Chiappetta distributed to public customers a one-page document

prepared by their member firm that they should have known misrepresented to the customers that their commission would be paid by an entity identified in the document as the "institution" when, in fact, the firm deducted miscellaneous commissions and fees, including commissions ultimately paid to Katz and Chiappetta, from the total amounts paid by the customers before investing the balance of their principal investments in the CDs, and that Katz and Chiappetta did not receive any monies until after the CD at issue was purchased and issued to the customers. Katz and Chiappetta should have known that the commissions and fees charged would be taken "up front" from the customers' principal, and not from the earnings on their investments. Moreover, the NASD found that Katz and Chiappetta failed to disclose that only a portion of the customers' funds would actually be sent to the bank to be invested in the CDs, and presented an offer sheet to the customers at the time of their purchase which inferred that the full amounts given by the customers would be Federal Deposit Insurance Corporation (FDIC) insured when they should have known and should have disclosed that a portion of the full principal amounts paid by the customers would be taken out as commissions and fees which would not be FDIC insured. The NASD also determined that Katz and Chiappetta disclosed to the customers that the CD purchased would be issued in the name of the CD's issuer and would have a confirmation number on the CD that would correlate to the customers although they should have known, and failed to disclose, that the customers would most likely be incapable of giving instructions to, or making direct inquiries regarding the CD with, the issuing bank. They also failed

to disclose that any insurance proceeds paid by the FDIC would be paid directly to the issuer and not to the customers, and, if necessary, the customers would have to rely on the issuer in turn to provide any insurance proceeds to them. Furthermore, the NASD found that Katz and Chiappetta provided the customers with CD receipts that they should have known could cause customers to believe that they would earn certain yields (average annual yield), when, in fact, those yields could only be realized in the event the CDs were held to maturity, and they provided the customers with CD receipts that displayed inaccurately the customers' investment amount.

The NASD also found that Schwertfeger sold two CDs through his member firm to public customers (husband and wife) and failed to observe the high standards of commercial honor. The findings stated that, in this regard, Schwertfeger distributed member firm approved documents to the customers that he should have known were not sufficiently clear as to how the customers would pay commission, fees, and costs to the firm, the issuer of the CD, and to Schwertfeger; the exact amount of the customers' principal investment in each CD prior to maturity; certain yield information related to the interest rate for the CDs; the nature and extent of the issuer's role in the transactions; and certain yield information in advertising approved by the member firm.

Katz's suspension began October 15, 2001, and will conclude at the close of business January 11, 2002. Chiappetta's suspension will begin January 16, 2002, and will conclude at the close of business April 15, 2002. Schwertfeger's

suspension began September 18, 2001, and will conclude at the close of business March 7, 2002. **(NASD Case #C02000042)**

Neal Bruce Kearley, Jr. (CRD #1068410, Registered Representative, Clearview, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member firm in any capacity for three months. In light of the financial status of Kearley, no monetary sanction has been imposed. Without admitting or denying the allegations, Kearley consented to the described sanction and to the entry of findings that he participated in a private securities transaction without providing prior written notice to, or receiving permission to participate from, his member firm.

Kearley's suspension began October 15, 2001, and will conclude at the close of business January 14, 2002. **(NASD Case #C3A010035)**

Patrick Eugene Keeney (CRD #2259850, Registered Representative, Centreville, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Keeney consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C9A010041)**

Thomas Knudsen (CRD #4190461, Associated Person, New York, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Knudsen failed to disclose

material information on his Form U-4 and failed to respond to NASD requests for information. **(NASD Case #C10010058)**

Michael Anthony Lara (CRD #2926115, Registered Representative, Naples, Florida) 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, Lara consented to the described sanction and to the entry of findings that he caused checks totaling \$643,044.75 to be issued from the accounts of public customers without authorization. The NASD found that Lara obtained these checks, forged the endorsements of public customers, and converted the proceeds to his own use and benefit. The findings also stated that Lara failed to respond to NASD requests for information. **(NASD Case #C07010066)**

Charles Edward Ledbetter, III (CRD #1284694, Registered Representative, San Antonio, Texas) 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, Ledbetter consented to the described sanction and to the entry of findings that he arranged for loans totaling \$34,771.95 against the life insurance policy of a public customer, forged the customer's signature on the checks, and converted the funds to his own use and benefit without the customer's knowledge or consent. The findings also stated that Ledbetter received \$15,000 from public customers as an insurance premium payment and to increase an insurance policy.

In addition, the findings stated that Ledbetter failed and neglected to submit and apply the funds on behalf of the customers and instead misused the funds without the customers' knowledge or consent. The NASD also found that Ledbetter failed to respond to NASD requests to appear for an on-the-record interview and for information. **(NASD Case #C05010038)**

James Kevin Matter (CRD #2252552, Registered Representative, Montgomery, Alabama) 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, Matter consented to the described sanction and to the entry of findings that he withdrew checks totaling \$146,911.10 from the annuity accounts of public customers, forged the customers' signatures to withdrawal agreement forms, and submitted the documents to his member firm. The NASD found that Matter deposited the checks into his personal bank account, thereby converting the funds to his own use and benefit without the customers' knowledge or consent. The findings also stated that Matter received checks totaling \$153,094.82 from public customers for insurance premium payments, failed to submit the funds to his member firm, and converted the funds to his own use and benefit without the customers' knowledge or consent. In addition, the findings stated that Matter failed to respond to NASD requests for information. **(NASD Case #C05010039)**

Robert Arthur McDuffie (CRD #3128686, Registered Representative, Port Charlotte, Florida) was barred from association with any NASD member in any

capacity. The sanction was based on findings that McDuffie received a \$2,000 check from a public customer for investment purposes, and instead of investing the funds, endorsed and cashed the check, thereby converting the funds to his own use and benefit. McDuffie also failed to respond to NASD requests for information. **(NASD Case #C07010022)**

Theodore Richard Miller (CRD #2760427, Registered Representative, Madison, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to disgorge \$49,295 in commissions earned to public customers. Satisfactory proof of payment of disgorgement must be made before Miller reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Miller consented to the described sanctions and to the entry of findings that he participated, for compensation, in private securities transactions by participating in the sale of securities in the form of promissory notes to public customers. The NASD found that Miller failed and neglected to give written notice of his intention to engage in such activities to, and receive written approval from, his member firm prior to engaging in such activities. **(NASD Case #C8A010049)**

Steven Richard Moody (CRD #3158815, Registered Representative, Yorba Linda, 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, Moody consented to the

described sanction and to the entry of findings that he obtained \$33,000 in public customer funds under false pretenses and used the funds for his own personal benefit. According to the findings, Moody told customers that his member firm was engaged in the issuance of an initial public offering (IPO) of equity securities and that by providing funds directly to him, the customers could participate in the offering through an allotment available to him. The NASD found that no such offering existed. **(NASD Case #C02010052)**

Keith Gregory Nelson (CRD #2745776, Registered Principal, Middle Village, 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, Nelson consented to the described sanction and to the entry of finding that he failed to respond to NASD requests to appear for an on-record interview. **(NASD Case #C3A010032)**

Nancy Lucille Nichols (CRD #2517723, Registered Representative, Rocky Face, Georgia) 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, Nichols consented to the described sanction and to the entry of findings that she accepted \$1,500 in cash from a public customer to open an account with a bank affiliated with her member firm. The NASD found that Nichols converted \$500 of the funds to her own use and deposited the funds in her personal bank account without authorization from the customer. **(NASD Case #C07010068)**

Elaine Lucille Pearson (CRD #4072006, Registered Representative, Elizabeth, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Pearson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Pearson consented to the described sanctions and to the entry of findings that she willfully failed to disclose material facts on her Form U-4.

Pearson's suspension began November 5, 2001, and will conclude at the close of business May 4, 2002. **(NASD Case #C9B010081)**

Brian Prendergast (CRD #825814, Registered Principal, Englewood, Colorado) was censured and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of a July 1999 NAC decision. The sanctions were based on findings that Prendergast invested funds from the sale of securities offered pursuant to a private placement memorandum in a manner that was inconsistent with representations in the memorandum and solicited certain securities transactions using a private placement memorandum that contained material misrepresentations and omissions, and distributed communications to purchasers that failed to conform to NASD general and specific standards for sales literature. In addition, Prendergast caused an advertisement to be placed in a newspaper that constituted a general solicitation prohibited

by the SEC and the NASD. Prendergast also failed to provide proper notice to his member firm that he had opened an account with another firm and failed to inform the executing member firm that he was associated with another firm. Moreover, Prendergast failed to respond to NASD requests for information and to provide on-the-record testimony. **(NASD Case #C3A960033)**

Quentin Thomas Quintana (CRD #2317118, Registered Representative, Brooklyn, New York) was fined \$10,000 and suspended from association with any NASD member in any capacity for 90 days for the issuance of false statements and barred from association with any NASD member in any capacity and ordered to pay \$1,707.50, plus interest, in restitution for unauthorized transactions. The fine must be paid before Quintana reassociates with any NASD member or before requesting relief from any statutory disqualification. The sanctions were based on findings that Quintana effected transactions in the accounts of public customers without the customers' authorization. The findings also stated that Quintana issued a false and misleading document to a public customer indicating that a stock had been sold.

Quintana's bar became effective September 20, 2001. **(NASD Case #C10000046)**

David Wayne Rash (CRD #1560976, Registered Representative, Valencia, 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, Rash consented to the described sanction and to the

entry of findings that he completed a margin account application and an option account agreement and application for a customer, and signed the customer's name to these forms without authorization. **(NASD Case #C07010069)**

Walter Ray Reinhardt (CRD #2468084, Registered Representative, Hillsborough, North Carolina) was fined \$20,000, suspended from association with any NASD member in any capacity for two years, and ordered to requalify by exam as an investment company and variable contracts products representative before re-entering the securities industry for forgery, and barred from association with any NASD member in any capacity for engaging in private securities transactions. The fine must be paid before Reinhardt reassociates with any NASD member. The sanctions were based on findings that Reinhardt engaged in private securities transactions for compensation without giving prior written notice to, and receiving written approval from, his member firm. Reinhardt also forged the signature of a public customer on several account transfer documents without prior authorization from the customer.

Reinhardt's bar became effective September 20, 2001. **(NASD Case #C07000090)**

Bruce William Rhodes (CRD #2690462, Registered Representative, Rochester, Illinois) was barred from association with any NASD member in any capacity. The sanction was based on findings that Rhodes received \$795,500 from a public customer for investment in certificates of deposit and/or government bonds and, instead, invested some of the money in mutual funds and used

\$103,323.83 for some purpose other than to benefit the customer. In addition, Rhodes failed to respond to NASD requests for information. **(NASD Case #C8A010025)**

Zachary Mesch Samuels (CRD #2571775, Registered Representative, Denver, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. In light of the withheld profits by Samuels' former member firm, no monetary sanction has been imposed. Without admitting or denying the allegations, Samuels consented to the described sanction and to the entry of findings that he executed "backdated" purchase transactions in his variable annuity and processed corresponding money transfers between sub-accounts. Specifically, the findings stated that Samuels would transfer money from his fixed-interest sub-account to purchase shares in a fund sub-account or other stock-based sub-accounts and backdated the purchase date for the fund sub-account or other stock-based sub-accounts. Samuels would backdate the trades because he knew "yesterday's" price and "today's" price for the funds, and by backdating the purchase date at "yesterday's" price, he could lock in a risk-free profit by entering a simultaneous sell ticket at "today's" price. The NASD determined that Samuels would subsequently transfer the proceeds back to the fixed-interest sub-account, and as a result of his "backdated" transactions, he generated a gross profit of approximately \$56,738. **(NASD Case #C3A010038)**

Kenneth Eugene Schaub (CRD #1601008, Registered Representative, Gilbert, 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, Schaub consented to the described sanction and to the entry of finding that he participated in private securities transactions without providing prior written notice of his intention to participate in these transactions to his member firm. **(NASD Case #C3A010034)**

William Carl Seitz (CRD #418331, Registered Representative, Madison, Wisconsin) was barred from association with any NASD member in any capacity. The sanction was based on findings that Seitz failed to disclose material facts on his Form U-4. **(NASD Case #C8A010015)**

Richard Joseph Shanks (CRD #1470671, Registered Representative, San Diego, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for seven days. Without admitting or denying the allegations, Shanks consented to the described sanctions and to the entry of findings that, contrary to a firm's policy restricting its employees and their family members from purchasing or selling shares of the company's stock during certain periods, he entered into an agreement with a friend to purchase and sell shares of stock in the firm in which Shanks' spouse was employed, shared in the profits or losses related to the stock, and failed to obtain prior written authorization from the firm to share in the profits or losses in the account.

Shanks' suspension began November 5, 2001, and concluded November 11, 2001. **(NASD Case #CMS010151)**

Charles Joseph Smercina (CRD #1915915, Registered Representative, Solon, Ohio) submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for three months, and required to requalify by exam prior to acting again in any capacity requiring registration. The fine must be paid before Smercina reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Smercina consented to the described sanctions and to the entry of findings that he received stock certificates and checks from a public customer to establish an IRA account and failed to establish the account. The findings also stated that Smercina retained the certificates and checks, totaling \$5,435.34, until he returned them to the customer at a later date.

Smercina's suspension began November 5, 2001, and will conclude at the close of business February 4, 2002. **(NASD Case #C8B010013)**

Lawrence Elliott Smith (CRD #1139782, Registered Representative, Laguna Niguel, California) 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 10 business days. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he made unsuitable recommendations to a public customer without having

reasonable grounds for believing that such recommendations were suitable in light of the nature of the transactions; the facts disclosed by the customer as to her other securities holdings, financial situation, circumstances, and needs; and in further light of the size and frequency of the transactions and the nature of the account.

Smith's suspension will begin November 19, 2001, and will conclude at the close of business December 3, 2001. **(NASD Case No. C02010047)**

Margot Rae Tomasella (CRD #4006221, Registered Representative, Williamsport, Pennsylvania) 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, Tomasella consented to the described sanction and to the entry of findings that she failed to respond to NASD requests for information. **(NASD Case #C9A010039)**

Deviaut Ung (CRD #3113409, Associated Person, Richmond, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ung provided false responses on his Form U-4. The findings also stated that Ung failed to respond to NASD requests for information. **(NASD Case #C02010011)**

Michael Anthony Visbal (CRD #1305080, Registered Representative, Pacific Palisades, California) submitted an Offer of Settlement 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 Visbal reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Visbal consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing his member firm with prior written notice of his intention to participate in the transactions, a description of the proposed transactions, his role therein, and whether or not he would receive compensation for his participation. The NASD found that Visbal established securities accounts at a member firm that was not his member firm, effected transactions in the accounts, failed to advise his member firm of the accounts in writing, and failed to advise the carrying member in writing that he was associated with a member firm.

Visbal's suspension began October 15, 2001, and will conclude at the close of business April 14, 2002. **(NASD Case #C3A000056)**

Susan Mary Waterhouse (CRD #1287276, Registered Representative, Newport, Michigan) and Barbara Andrus Grose (CRD #2180730, Registered Representative, Trenton, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which Waterhouse was fined \$6,500, which includes the disgorgement of \$1,500 commissions earned, and suspended from association with any NASD member in any capacity for 30 business days. Grose was fined \$10,250, which includes the disgorgement of \$5,250 in commissions earned, and suspended from association with any NASD member in any capacity for 45 business days.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they participated, for compensation, in private securities transactions by participating in the sale of securities in the form of promissory notes without giving written notice of their intention to engage in such activities to their member firm and failed to receive written approval from the member firm prior to engaging in such activities.

Waterhouse's suspension began November 5, 2001, and will conclude at the close of business December 17, 2001. Grose's suspension began November 5, 2001, and will conclude at the close of business January 9, 2002. **(NASD Case #C8A010064)**

Trisha Stephens Wyatt (CRD #3122798, Registered Representative, Tooele, Utah) 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, Wyatt consented to the described sanction and to the entry of findings that she accepted checks from public customers representing funds intended to be applied to the payment of insurance premiums and a check made payable to an insured drawn on the account of the insurance company with which she was affiliated, deposited the funds into a bank account she controlled, and used the funds for her personal benefit prior to making the premium payments by money orders on behalf of the insured. **(NASD Case #C3A010040)**

Individuals Fined

Robert David Mayfield (CRD #2386752, Registered Representative, Sun City, California) submitted an Offer of Settlement in which he was censured, fined \$8,451.50, and ordered to pay \$2,219.50 in restitution to public customers. Without admitting or denying the allegations, Mayfield consented to the described sanctions and to the entry of findings that he recommended to public customers the purchase and sale of securities without having reasonable grounds for believing that such recommendations were suitable for the customers in light of the nature of the transactions and the facts disclosed by the customers as to their other securities holdings, financial situation, investment objectives, circumstances, and needs. The findings also stated that Mayfield engaged in unethical conduct in that he provided the customers and his member firm with a materially false and misleading mutual fund switch form, negatively impacting their ability to assess the suitability of the transactions accurately. **(NASD Case #C02010003)**

Andrea Joyce Wagner (CRD #1096651, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which she was censured and fined \$10,000. Without admitting or denying the allegations, Wagner consented to the described sanctions and to the entry of findings that she failed to ensure that individuals to whom she delegated supervisory responsibilities performed their duties diligently and failed to take adequate and appropriate supervisory action reasonably designed to prevent a representative's violations and to achieve compli-

ance with applicable securities laws, regulations, and NASD rules. **(NASD Case #C11010030)**

Decision Issued

The following decision has been issued by the DBCC or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of October 5, 2001. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Manuel Martin Bello (CRD #1557140, Registered Principal, Kinnelon, New Jersey) was barred from association with any NASD member in any capacity with the condition that the bar shall become a 120-day suspension in all capacities if, within 60 days of the date the decision becomes final, Bello submits to the NASD requested wire instructions or a notarized letter from a bank officer, on bank stationery, representing that records do not exist or cannot be produced by Bello. If Bello complies with the above condition, he shall also requalify by exam for a Series 24 license. The sanctions are based on findings that Bello failed to respond completely to NASD requests for information.

This decision has been called for review by the NAC, and the sanctions are not in effect pending consideration of the review. **(NASD Case #CAF000030)**

Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings

as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Jeffrey Charles Bruteyn (CRD #2575306, Registered Representative, Dallas, Texas) was named as a respondent in an NASD complaint alleging that he executed unauthorized transactions in the account of a public customer without the customer's prior knowledge or authorization. In addition, the complaint alleges that Bruteyn guaranteed the securities account of a customer against loss of the principal investment amount in exchange for the customer granting the respondent discretionary authority over her account. The complaint also alleges that Bruteyn failed to follow customer instructions and made misrepresentations to a customer. **(NASD Case #C06010029)**

John Perez (CRD #1093871, Registered Representative, Alhambra, California) was named as a respondent in an NASD complaint alleging that he converted to his own use and benefit \$5,000 given to him by a public customer to be invested. The complaint also alleges that Perez failed to respond to NASD requests for information. **(NASD Case #C07010067)**

Stephanie Ann Scott (CRD #3121358, Registered Representative, Oklahoma City, Oklahoma) was named as a respondent in an NASD complaint alleging that she issued corporate cashier checks to herself totaling

\$520. The complaint alleges that in order to fund these checks, Scott executed an advance in the amount of \$520 on the line of credit of a public customer without his knowledge or consent. Scott allegedly negotiated one of the cashier checks for \$260 and destroyed remaining checks prior to negotiation. The complaint also alleges that Scott debited her firm's general ledger account totaling \$200 and converted these funds to her own use and benefit. In addition, the complaint alleges that Scott failed to respond to NASD requests for information. **(NASD Case #C05010042)**

Jason Blaine Stevens (CRD #2802938, Registered Representative, Scottsdale, Arizona) was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations to public customers without reasonable grounds for believing his recommendations were suitable based on the customers' securities holdings, financial situations, and needs of the customers. The complaint also alleges that Stevens made baseless price predictions regarding a speculative security to public customers without any reasonable basis for the predictions and made material omissions of fact in his recommendations of securities to public customers. **(NASD Case #C3A010039)**

Firms Suspended For Failure To Supply Financial Information

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and

Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Auerbach, Pollack & Richardson, Inc.,
New York, New York
(October 9, 2001)

Instipro, Inc.,
Mt. Clemens, Michigan
(September 10, 2001)

Individuals Barred Pursuant To NASD Rule 9544 For Failure To Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)

Bevacqua, Thomas P.,
Brick, New Jersey
(October 3, 2001)

Cavanaugh, David Blake,
Kernersville, North Carolina
(October 8, 2001)

Delia, Carl,
Hicksville, New York
(September 21, 2001)

Holliman, III, Joe Lewis,
Austin, Texas
(September 12, 2001)

Moran, Timothy James,
Buffalo, New York
(October 4, 2001)

Newton, Barry James,
Huntington Beach, California
(September 21, 2001)

Reyes-Rivera, Dilean,
Carolina, Puerto Rico
(October 1, 2001)

Rodriguez, Claus H.,
Union City, New Jersey
(October 4, 2001)

Rogers, Jason,
Rosedale, New York
(September 12, 2001)

Washington, Doris,
Glen Allen, Virginia
(September 12, 2001)

Winer, Maico Isaac,
North Miami Beach, Florida
(October 2, 2001)

Individuals Suspended Pursuant To NASD Rule 9541(b) For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)

Alfonseca, Jr., Pedro Julio,
Jamaica Plain, Massachusetts
(September 28, 2001)

Brouillette, Jr., Ronald D.,
La Jolla, California
(October 3, 2001)

Foster, Karl H.,
Toledo, Ohio
(September 5, 2001)

Freedman, Richard O.,
New York, New York
(September 28, 2001)

Latson, Jr., David Lee,
Miami, Florida
(September 25, 2001)

McCall, Joseph Martin,
Charlotte, North Carolina
(September 11, 2001)

Reynoso, Sujeily,
Providence, Rhode Island
(September 10, 2001)

Shiflett, Vernon W.,
Powell, Ohio
(September 24, 2001)

Yacapraro, Jr., Joseph-Anthony,
Coshocton, Ohio
(September 4, 2001)

NASD Regulation Charges Three Traders in Stock Manipulation Scheme

NASD Regulation has charged Jerome E. Rosen, with J. Alexander Securities, Inc.; Timothy R. Chamberlain, formerly at Equitrade Securities Corp.; and Robert J. Prager, formerly at Saperston Financial, Inc., with fraudulently manipulating the common stock of H & R Enterprises, Inc., a Canadian-based holding company. J. Alexander Securities, Inc. of Los Angeles, CA, and its president, James Alexander, were also charged with failing to supervise Rosen's activities.

According to NASD Regulation's complaint, Michael Mitton, a Canadian resident and U.S. fugitive, and David Heredia, a stock promoter barred from the securities industry, joined in a scheme with Rosen, Chamberlain, and Prager to manipulate the price of H & R Enterprises. Mitton obtained, for accounts under his control, nearly three million shares of H & R common stock at prices of \$0.01 and \$0.50 per share. Heredia and Mitton then sold their shares of H & R stock at inflated prices by directing the trading activity of Rosen, Chamberlain and Prager. Using Rosen, Prager, and Chamberlain, Mitton and Heredia were able to create a "daisy chain" in which H & R stock traded in a circular fashion, at ever increasing prices. The stock circulated among the three traders, other market participants, and Mitton's nominees' and associates' accounts held at Canadian brokerage firms.

The complaint further alleges that, in exchange for their participation in the fraudulent scheme, Rosen, Prager, and Chamberlain were guaranteed profits of \$0.03 to

\$0.06 per share for stock that they bought and sold at Mitton's or Heredia's direction. In addition to their guaranteed profits, Rosen and Chamberlain also accepted compensation from Mitton in the form of H & R stock that they received in nominee accounts. Sales from these nominee accounts generated profits in excess of \$317,000 for Rosen and \$43,000 for Chamberlain.

Through the circular trading of the stock, Mitton manipulated the price from about \$2.00 to \$6.75. Once this was accomplished, Mitton's nominees and associates sold their shares at the manipulated prices and refused to continue supporting the artificial price of the stock. As a result, Saperston Financial was left holding approximately 1.7 million shares that it purchased at approximately \$6.00 per share, and J. Alexander Securities was left holding approximately 600,000 shares that it bought at about \$5.50 per share. With the artificial support no longer in place, H & R's share price dropped below \$2.00 within two days. Saperston Financial could not sustain such a loss, and was forced to close because of insufficient net capital. Saperston Financial's clearing firm was obligated to cover the trades, causing it a loss of approximately \$9 million.

Earlier this year, NASD Regulation filed an enforcement action against J. Alexander Securities and James Alexander alleging that they failed to supervise two principals in the Florida branch office of the firm. The complaint in that case alleges that the firm and the two principals participated in illegal stock distributions and manipulation of the securities of 29 different shell companies, generating profits of almost \$2.75 million.

H & R Enterprises, Inc. was not charged in the complaint, and there are no allegations that it engaged in any wrongdoing.

The issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because this complaint is unadjudicated, the respondents should be contacted before drawing any conclusion regarding the allegations in the complaint.

Under NASD rules, the individuals and the firms named in the complaint can file a response and request a hearing before an NASD Regulation disciplinary panel. Possible sanctions include a fine, censure, suspension, bar, or expulsion from the NASD, in addition to the request made by NASD Regulation in the complaint that the respondents give up any illegal profits and pay restitution.