

Notice To Members

National Association of Securities Dealers, Inc.

November 1989

Number 89 - 70**Suggested Routing:***

Senior Management
 Corporate Finance
 Government Securities
 Institutional

Internal Audit
 Legal & Compliance
 Municipal
 Mutual Fund

Operations
 Options
 Registration
 Research

Syndicate
 Systems
 Trading
 Training

*These are suggested departments only. Others may be appropriate for your firm.

Subject: Automated Submission of Trading Data**EXECUTIVE SUMMARY**

As previously reported in *Notice to Members* 88-104 and 89-17, the NASD requires its members to respond to requests for trading data by using a standardized automated format. This format is consistent with that required by other self-regulatory organizations including the New York Stock Exchange (NYSE) and American Stock Exchange (Amex). This notice briefly addresses the various problems encountered by NASD staff with the submission of these data and reiterates several areas regarding compliance with these electronic filing requirements.

BACKGROUND AND EXPLANATION

In accordance with Part VI, Section 4 of Schedule D and Section 3 of Schedule H of the NASD's By-Laws, it is presently required that member firms submit trading data in a standardized automated format in response to an NASD request. The NASD employs the same automated format that was developed jointly by the NYSE, the Securities Industry Association (SIA), and the Securities and Exchange Commission (SEC). Members have been required to submit trading data to the NASD in this format since February 12, 1989.

To assist member firms in their compliance with this requirement, the following reporting options are currently available:

1. **Joint NASD/NYSE Members — Self-Clearing** — The NASD and Securities Industry Automation Corporation (SIAC) have developed a communications link that directs trading data from SIAC to the NASD Operations Center in Rockville, Maryland. This enables NASD/NYSE member firms to submit automated trading information to SIAC utilizing the same systems and procedures used when submitting trading information regarding securities listed on the NYSE.

2. **Sole NASD Member Firms — Self-Clearing** — NASD member firms that self-clear and perform internal recordkeeping through the use of an in-house, automated system may submit automated trading information via computer tape or diskette directly to the NASD Operations Center in Rockville. For these types of responses, the specifications are detailed in *Notice to Members* 89-17.

A label containing the requesting organization number (as assigned by NASD staff), a broker-dealer symbol, and security symbol must be placed on the tape or diskette prior to its mailing to the NASD.

3. **NASD and Exchange Members That Clear on a Fully Disclosed Basis** — NASD and exchange member firms that introduce their busi-

ness on a fully disclosed basis should check with their respective clearing broker-dealers to ensure that the clearing firm is able to provide automated trading information to the NASD on behalf of their firms.

EXEMPTIONS

In exceptional circumstances, the NASD will grant limited exemptions from automated submissions on an "as requested" basis. In considering such exemptions, the NASD reviews the nature of the firm's business requesting the exemption, including, but not limited to, the scope, complexity, and nature of the information requested, and the number of requests for trading information that the firm routinely receives. **The NASD will not accept manually executed submissions of trading data unless a prior written exemption has been granted.**

CURRENT TRANSMISSION PROBLEMS

Since the commencement of the automated "blue sheet" submissions, the NASD has experienced several problems with the information submitted by member firms. In order to rectify these problems, the following areas are noted below along with the appropriate method of submission.

■ **Submission of Data to SIAC** — SIAC will process only trading data submitted to it between the hours of 1 a.m. and 12 noon. Trading data submitted outside this time period will be accepted by SIAC but will not be processed and transmitted to the NASD.

■ **Requesting Organization Number** — This number is assigned by the NASD. The NASD's letter that requests trading information identifies this number. **Firms must submit the number precisely as it is reflected on the request letter.** Because the requesting organization field is left justified (i.e., this field of 15 characters should be completed from left to right with all unused characters left blank), the computer will recognize all characters and spaces between and following characters as part of the requesting organization number. That makes it essential for firms to use the organization number exactly as assigned.

■ **Requestor Code** — For SIAC submissions, it is imperative that firms input the appropriate requestor code so that the trading data can be forwarded to the correct entity that re-

quested the information. The requestor code for the NASD is **R** and must be used when submitting automated trading data to the NASD.

■ **Opposing Broker Number** — The opposing broker field has a length of four characters and should reflect the National Securities Clearing Corporation (NSCC) clearinghouse number or the appropriate regional clearing number of the broker on the other side of the trade. If a customer trade is executed from inventory, then the firm's own NSCC number must be reflected in this field. If a trade is executed on an agency basis, the contra broker's NSCC number then would be reflected in this field.

■ **Buy/Sell Code** — The buy/sell field length is one character in length. The following values represent the appropriate transaction: 0=Buy, 1=Sell, 2=Short Sale, A=Buy Cancel, B=Sell Cancel, and C=Short Sale Cancel. Values 3 to 6 and D to G are for options transactions only.

■ **Short Name** — The short name field should contain the last name of the customer followed by a comma and then as much of the first name as the remaining field length allows. This is a field that a number of firms have neglected to submit. The field length is 20 characters, and the information is required to be submitted with the trading data.

A response is not considered to be complete unless all the required fields, as detailed in *Notice to Members 89-17*, have been provided in the appropriate format.

Additionally, it is important to stress that firms must respond to all requests for trading data as a singular request and not submit responses for two securities on the same tape, diskette, or SIAC transmission.

MEMBER'S RESPONSIBILITY

The NASD considers it the responsibility of the introducing firm to ensure that requests for trading information be received by the Market Surveillance Department within the standard 10 business-day time limit. Additionally, member firms using service bureaus are responsible for submissions made on their behalf by the service bureau with regard to the accuracy of the data, proper utilization of the automated format, and the timely receipt of the information by the NASD.

All member firms that provide clearing services for introducing firms are responsible for clearly identifying to the NASD the name of the firm for which the trading information is being sub-

mitted. This may be done by furnishing, with the trading data, a key that allows the NASD to identify the introducing firm on behalf of which the data are submitted. This will enable the NASD to readily identify a specific firm's trading data. If an introducing firm has changed clearing firms, the NASD should be notified promptly of this change.

All firms that respond to the NASD's request for trading information in an automated format are requested to provide the Market Surveillance Department with a confirmation letter stating the date on which the transmission was made to SIAC.

To assist member firms in meeting the 10 business-day response requirement, the Association's Market Surveillance Department's requests for trading information will be forwarded to member firms by FAX. Member firms should provide Market Surveillance with a telephone number

at which telefax transmissions may be received. Accordingly, please use the attached response form to provide the staff with the appropriate FAX number and include the person's name to whom all requests should be directed. Market Surveillance should be notified promptly if this information changes.

Questions concerning the technical aspects of this notice should be directed to Robert A. Hitchcock, Assistant Director, Information Systems Development, at (301) 590-6631. Questions concerning the requirements in general should be directed to James M. Cangiano, Vice President, Market Surveillance, at (301) 590-6424.

Copies of *Notices to Members* 88-104 and 89-17 are available to members without charge by calling Jackie Davis in NASD Administrative Services at (202) 728-8302.

Reply Form for FAX Number

Firm Name _____

Firm Symbol _____

Contact Person _____

Title _____

Address _____

Telephone Number _____

FAX Number _____

Please Return Form To: NASDAQ Market Surveillance
9513 Key West Avenue
Rockville, Maryland 20850-3389

Notice To Members

National Association of Securities Dealers, Inc.

November 1989

Number 89 - 71

Suggested Routing:*

- | | | | |
|---|--|--|------------------------------------|
| <input checked="" type="checkbox"/> Senior Management | <input type="checkbox"/> Internal Audit | <input checked="" type="checkbox"/> Operations | <input type="checkbox"/> Syndicate |
| <input type="checkbox"/> Corporate Finance | <input checked="" type="checkbox"/> Legal & Compliance | <input type="checkbox"/> Options | <input type="checkbox"/> Systems |
| <input type="checkbox"/> Government Securities | <input type="checkbox"/> Municipal | <input type="checkbox"/> Registration | <input type="checkbox"/> Trading |
| <input type="checkbox"/> Institutional | <input type="checkbox"/> Mutual Fund | <input type="checkbox"/> Research | <input type="checkbox"/> Training |

*These are suggested departments only. Others may be appropriate for your firm.

Subject: SEC Approval of Amendments to Article IV, Section 1, and Article VI of the Rules of Fair Practice on Notice to Membership of Disciplinary Actions, Publication of Sanctions, and Availability of *NASD Manual* — Effective September 19, 1989

EXECUTIVE SUMMARY

The Securities and Exchange Commission recently approved amendments to Article IV, Section 1, and Article VI of the Rules of Fair Practice. Article VI allows the NASD to provide notice of disciplinary actions in *Notices to Members*, which are issued monthly, rather than in the *NASD Manual*, which is updated quarterly. Article VI leaves unchanged the current requirement that a list of members be provided to each member, but permits the member to make distribution within the firm as it deems necessary. Article IV, Section 1 requires that the *NASD Manual* be maintained in each branch office of a member. The amendments became effective September 19, 1989.

The Board of Governors also approved an amendment to the Resolution of the Board of Governors that follows Article V, Section 1 of the Rules of Fair Practice to permit the NASD to provide notices to the membership and releases to the press of all orders and decisions issued by the NASD by means other than including such notices in the *NASD Manual*.

BACKGROUND AND SUMMARY

Recently, two changes occurred that warranted amendments to Article IV, Section 1, and Article VI of the Rules of Fair Practice. First, the *NASD Manual* is now being updated quarterly rather than monthly. Second, the NASD is now providing notice of the previous month's final disciplinary actions on a monthly basis by way of a *Notice to Members* that is distributed to all NASD members. Prior to the institution of this new procedure, the NASD provided notification to the membership of disciplinary actions and notification of

suspensions and expulsions of firms for failure to pay monetary sanctions or failure to file financial information by including these notices in the monthly update to the *NASD Manual*.

The previous procedure under Article VI of the Rules of Fair Practice required the Secretary of the Association to furnish every office of every member of the Association with a list of all members of the Association and, by amendments to the list, to keep every office of every member advised of all new members and of all suspensions and cancellations of membership. This list was provided to

members of the Association in monthly updates to the *NASD Manual*, and members were entitled to rely on this list as last amended for purposes of complying with Article III, Section 25 of the Rules of Fair Practice. Article IV, Section 1 of the Rules of Fair Practice required "every office" of a member to maintain an *NASD Manual*.

The resolution of the Board of Governors that was issued in connection with Article V, Section 1 of the Rules of Fair Practice contemplated that notice to the membership and press of any disciplinary action resulting in a suspension, bar, or monetary sanction in excess of \$10,000 would be included in the Changes to the List of Members section of the *NASD Manual*.

Under the amended Article VI of the Rules of Fair Practice, the list of all members of the Association will be provided to each member, but each member will be required to distribute the list within the firm as may be necessary. Article VI as amended also substitutes the words "pertinent Rules of Fair Practice" in place of "Rule 25" to clarify that members may need to rely on a current membership list in order to comply with other Rules of Fair Practice.

The previous Article IV, Section 1 of the Rules of Fair Practice required that the *NASD Manual* be maintained in "every office" of a member. To clarify this requirement, particularly in light of the new definition of "branch office," effective on April 13, 1989, Article IV, Section 1 of the Rules of Fair Practice was amended to state that the *NASD Manual* will be required to be maintained in each *branch* office of the member.

The amendment to the resolution eliminates the requirement that notification to the membership and releases to the press regarding suspensions, expulsions, revocations, and monetary sanctions in excess of \$10,000 be included in the supplement to the list of members in the *NASD Manual*, and permits these notifications to be disseminated by way of *Notices to Members*. Publication of these matters in *Notices to Members* will substitute for inclusion in *NASD Manual* updates and will provide the membership with more timely notification of disciplinary actions.

Questions concerning this notice can be directed to Shirley H. Weiss, Attorney, NASD Office of General Counsel, at (202) 728-8844.

AMENDMENT TO ARTICLE IV, SECTION 1 OF THE NASD RULES OF FAIR PRACTICE

Availability to Customers to Certificate, By-Laws, Rules and Code of Procedure

(Note: New text is underlined.)

Sec. 1. Every member of the corporation shall keep in each branch office maintained by him, in the form to be supplied by the Board of Governors, a copy of the Certificate of Incorporation, By-Laws, Rules of Fair Practice, and Code of Procedure of the corporation and all additions and amendments from time to time made thereto, and of all published interpretive rulings made by the Board of Governors, all of which shall be available for the examination of any customer who makes requests therefore.

AMENDMENT TO ARTICLE VI OF THE NASD RULES OF FAIR PRACTICE

(Note: New text is underlined; deleted text is in brackets.)

Current Membership List

The Secretary of the Corporation shall furnish every [office of every] member of the Corporation a list of all members of the Corporation, and shall currently keep every [office of every] member advised, by amendments to the list or otherwise, of all new members and of all suspensions and cancellations of membership. Each member shall be responsible for providing such information to its offices and associated persons as appropriate. For purposes of complying with [Rule 25] pertinent Rules of Fair Practice, a member shall be entitled to rely on [such list as last amended] the information provided by the Corporation.

AMENDMENT TO RESOLUTION OF THE BOARD OF GOVERNORS ARTICLE V, SECTION 1 OF THE NASD RULES OF FAIR PRACTICE

Note: (Deleted text is in brackets.)

Notice to Membership and Press of Suspensions, Expulsions and Revocations

Paragraphs 1-8 — No change.

Notices to the membership and releases to the press referred to above shall identify the sec-

tion of the Association's Rules and By-Laws or the Securities and Exchange Commission Rules violated, and shall describe the conduct constituting such violation. Notices may also identify the member with which an individual was associated at the

time the violations occurred if such identification is determined by the Association to be in the public interest. [Notice of all orders and decisions referred to above shall be included in the supplement to the list of members next published.]

Notice To Members

National Association of Securities Dealers, Inc.

November 1989

Number 89 - 72

Suggested Routing:*

- | | | | |
|---|--|--|------------------------------------|
| <input checked="" type="checkbox"/> Senior Management | <input type="checkbox"/> Internal Audit | <input checked="" type="checkbox"/> Operations | <input type="checkbox"/> Syndicate |
| <input type="checkbox"/> Corporate Finance | <input checked="" type="checkbox"/> Legal & Compliance | <input type="checkbox"/> Options | <input type="checkbox"/> Systems |
| <input type="checkbox"/> Government Securities | <input type="checkbox"/> Municipal | <input checked="" type="checkbox"/> Registration | <input type="checkbox"/> Trading |
| <input type="checkbox"/> Institutional | <input type="checkbox"/> Mutual Fund | <input type="checkbox"/> Research | <input type="checkbox"/> Training |

*These are suggested departments only. Others may be appropriate for your firm.

Subject: Broker-Dealer and Agent Renewals for 1989-90

EXECUTIVE SUMMARY

The 1989-90 NASD broker-dealer and agent registration renewal cycle will begin in early November. This program allows for simplification of the renewal process through the payment of one invoice amount that includes fees for NASD personnel assessments, NASD branch-office fees, New York Stock Exchange (NYSE) and American Stock Exchange (ASE) maintenance fees, state agent renewal fees, and state broker-dealer renewal fees. Members should read this notice and the instruction materials included in the forthcoming invoice package to ensure continued eligibility to do business in the states effective January 1, 1990.

INITIAL RENEWAL INVOICES

On or about November 10, 1989, initial renewal invoices will be mailed to all member firms. The invoices will include fees for NASD personnel assessments, NASD branch-office fees, New York Stock Exchange (NYSE) and American Stock Exchange (ASE) maintenance fees, state agent renewal fees, and state broker-dealer renewal fees. The NASD must receive full payment of the November invoice **no later than**

December 18, 1989.

This year's NASD personnel assessment is \$10 per person. NASD branch-office fees remain at \$50 per branch office. All NASD branch offices listed as active on Schedule E of a firm's Form BD as of September 30, 1989, will be assessed.

Agent renewal fees for NYSE, ASE, and state affiliations will be listed in a table enclosed with each invoice. The table includes a list of state broker-dealer renewal fees for states that are participating in this year's broker-dealer renewal program. NYSE and ASE maintenance fees — collected by the NASD for firms that are registered with NYSE/ASE as well as the NASD — are based on the number of NYSE- and ASE-registered personnel employed by the member.

If a state is not participating in this year's broker-dealer renewal program, members registered in that state must contact the state directly to assure compliance with renewal requirements. In addition, some participating states may require steps beyond the payment of renewal fees to complete the broker-dealer renewal process. Members should contact states directly for further information on state renewal requirements.

Payment of the initial invoice should be in the form of a check drawn on the member firm's account with the firm Central Registration Depository (CRD) number included on the check. Submit the check with the top portion of the in-

voice and mail it in the return envelope provided with the invoice. To ensure prompt processing, the renewal invoice payment should not be included with other forms or fee submissions. Members should be aware that failure to return payment to the NASD by the December 18 deadline will mean a loss of eligibility to do business in the states effective January 1, 1990.

FILING FORM U-5

Members may wish to avoid unwanted renewals by filing Form U-5 for agent terminations in one or more affiliations. Because of the increased convenience and flexibility reported by members that used predated Form U-5 for renewals in the previous two years, the NASD will again process predated agent terminations this year. From November 1 to December 18, the NASD will accept and process Forms U-5 (both partial and full terminations) with **predated dates of termination**. Under this procedure, if the U-5 indicates a termination date of December 31, 1989, an agent may continue doing business in a jurisdiction until the end of the calendar year without being assessed renewal fees for that jurisdiction. Please ensure that Forms U-5 are filed by the renewal deadline date of December 18, 1989. Also, predated U-5s cannot be processed if the date of termination indicated is January 1, 1990, or after.

Members should exercise care when submitting predated Forms U-5. The NASD will process these forms as they are received but cannot withdraw a predated termination once processed. To withdraw a predated termination, a member would have to file a new Form U-4 **after** the termination date. Meanwhile, members would remain obligated to update the Form U-5 with any disciplinary information received after the U-5 filing.

FILING FORMS BDW

Procedures regarding the filing for Forms BDW to terminate broker-dealer registrations in one or more affiliations will differ from those in past years. Because the CRD Phase II program has now been implemented, firms requesting terminations (either full or state only) will be able to file their Forms BDW with the CRD in order to avoid the assessment of renewal fees in those jurisdictions that are designated on the Form BDW, **provided that the jurisdiction is a CRD Phase II participant**. Currently, there are nine jurisdictions

or entities that are **not** participating in Phase II. They are *Arizona, Arkansas, Florida, Michigan, New Hampshire, New Jersey, Puerto Rico, the American Stock Exchange, and the New York Stock Exchange*.

Firms requesting termination in any of the above-listed jurisdictions must submit a Form BDW directly to the jurisdiction.

The deadline for receipt of Forms BDW by the CRD for firms desiring to terminate an affiliation before year-end 1989 is **December 18, 1989**. **This same date applies to the filing of Forms BDW with the jurisdictions that are not participating in Phase II.** Predated Forms BDW filed with the CRD will be accepted and processed in the same manner as predated Forms U-5.

REMOVING OPEN REGISTRATIONS

For the third year, the NASD will include in the initial invoice package a roster of firm agents whose NASD registration is either terminated or purged but who have approved registrations with states. This roster should aid in the reconciliation of personnel registrations prior to year's end. Firms may terminate obsolete state registrations through the submission of a Form U-5 or reinstate NASD licenses through the filing of a Page 1 of Form U-4. No roster will be included if a firm does not have agents within this category.

BILLING CODE BREAKDOWN

This year's final invoice package will again include a breakdown of fees assessed by billing code for firms that use billing codes in the registration process. This breakdown will aid the firm in its internal research and allocation of fees.

FINAL ADJUSTED INVOICES

On or about January 12, 1990, the NASD will mail final adjusted invoices to members. These invoices will reflect the final status of firm and agent registrations as of December 31, 1989. Any adjustments in fees owed as a result of registration terminations or approvals subsequent to the initial invoice mailing will be made in this final reconciled invoice. If a member has more agents registered at year's end than it did on the November invoice date, additional fees will be assessed. If a member has fewer registered personnel at year's end than it did in November, a credit will be issued.

Included with this adjusted invoice will be the

member renewal rosters, which will list all renewed personnel registered with the NASD, NYSE, ASE, and each state. Persons whose registration is approved in any of these jurisdictions during November and December automatically will be included in this roster, while registrations that are pending approval or are deficient at year's end **will not** be included in the renewal process. Firms also will receive an NASD branch-office roster that lists all branches for which they have been assessed.

Firms then will have a two-month period in which to reconcile any discrepancies on the rosters. All jurisdictions should be contacted directly in writing. Specific information and instructions concerning the final adjusted invoice package will appear in the January 1990 issue of *Notices to Members*, as well as on the inside cover of the renewal roster.

Questions concerning this notice may be directed to NASD Information Services at (301) 590-6500.

Notice To Members

National Association of Securities Dealers, Inc.

November 1989

Number 89 - 73**Suggested Routing:*** Senior Management Corporate Finance Government Securities Institutional Internal Audit Legal & Compliance Municipal Mutual Fund Operations Options Registration Research Syndicate Systems Trading Training

*These are suggested departments only. Others may be appropriate for your firm.

Subject: Revisions to Certain NASD Qualification Examinations

The Securities and Exchange Commission recently approved revisions to several of the NASD's qualification examinations. These changes become effective January 1, 1990. The revised examinations include the following:

- Investment Company Products/Variable Contracts Representative Examination (Series 6)
- Direct Participation Programs Representative Examination (Series 22)
- General Securities Principal Examination (Series 24)
- Financial and Operations Principal Examination (Series 27)
- Direct Participation Programs Principal Examination (Series 39)

The revised testing programs incorporate the many product and regulatory changes that have occurred in recent years. In addition, the grading method for the Direct Participation Program Principal Examination (Series 39) will be changed to require a minimum passing score of 70 percent on both the entire examination *and* on an expanded

Section 4 — Financial Responsibility Rules. A candidate who fails either the whole test or Section 4 will be required to take and pass the entire Series 39 examination, subject to the aforementioned dual grading standard, before registration as a direct-participation programs principal can be effected.

Availability of Study Outlines

The study outlines for the revised examination programs may be purchased from NASD Information Services, 9513 Key West Avenue, Rockville, MD 20850, or from any of the NASD's 14 district offices. The Series 6, 22, and 39 outlines are \$4 each; and the Series 24 and 27 outlines are \$10 each (add 20 percent if the outlines are to be shipped first class).

Questions regarding this notice may be directed to Carole Hartzog, Senior Qualifications Analyst, at (301) 590-6696 or Mark Costley, Qualifications Analyst, at (301) 590-6697 in the NASD Qualifications Department.

Notice To Members

National Association of Securities Dealers, Inc.

November 1989

Number 89 - 74

Suggested Routing:*

- Senior Management
- Corporate Finance
- Government Securities
- Institutional

- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund

- Operations
- Options
- Registration
- Research

- Syndicate
- Systems
- Trading
- Training

*These are suggested departments only. Others may be appropriate for your firm.

Subject: Thanksgiving Day: Trade Date-Settlement Date Schedule

Securities markets and the NASDAQ System will be closed on Thursday, November 23, in observance of Thanksgiving Day. "Regular way" transactions made on the business days noted below will be subject to the following schedule.

Trade Date	Settlement Date	Reg. T Date*
November 13	20	22
14	21	24
15	22	27
16	24	28
17	27	29
20	28	30
21	29	December 1
22	30	4
23	Markets Closed	—
24	December 1	5

These settlement dates should be used by brokers, dealers, and municipal securities dealers

for purposes of clearing and settling transactions pursuant to the NASD Uniform Practice Code and Municipal Securities Rulemaking Board Rule G-12 on Uniform Practice.

Questions regarding the application of these settlement dates to a particular situation may be directed to the NASD Uniform Practice Department at (212) 858-4341.

Note: November 10, 1989 (the celebration of Veteran's Day), is considered a business/settlement date since the nation's banking institutions will be open.

*Pursuant to Sections 220.8(b)(1) and (4) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within seven (7) business days of the date of purchase or, pursuant to Section 220.8(d)(1), make application to extend the time period specified. The date by which members must take such action is shown in the column entitled "Reg. T Date."

Notice To Members

National Association of Securities Dealers, Inc.

November 1989

Number 89 - 75

Suggested Routing:*

<input type="checkbox"/> Senior Management	<input checked="" type="checkbox"/> Internal Audit	<input checked="" type="checkbox"/> Operations	<input type="checkbox"/> Syndicate
<input type="checkbox"/> Corporate Finance	<input type="checkbox"/> Legal & Compliance	<input type="checkbox"/> Options	<input checked="" type="checkbox"/> Systems
<input type="checkbox"/> Government Securities	<input type="checkbox"/> Municipal	<input type="checkbox"/> Registration	<input checked="" type="checkbox"/> Trading
<input type="checkbox"/> Institutional	<input type="checkbox"/> Mutual Fund	<input type="checkbox"/> Research	<input type="checkbox"/> Training

*These are suggested departments only. Others may be appropriate for your firm.

Subject: NASDAQ National Market Additions, Changes, and Deletions as of October 12, 1989

As of October 12, 1989, the following nine issues joined the NASDAQ National Market, bringing the total number of issues to 2,718:

Symbol	Company	Entry Date	SOES Execution Level
VCOR	Vencor, Incorporated	9/19/89	1000
APPB	Applebee's International, Inc.	9/20/89	1000
CITY	First City Bancorp, Inc.	9/21/89	500
FAXM	Hotelecop, Inc.	9/29/89	1000
SLTI	Surgical Laser Technologies, Inc.	9/29/89	1000
ERTS	Electronic Arts	10/3/89	1000
ENCL	EnClean, Inc.	10/3/89	1000
SRBC	Sunrise Bancorp, Inc.	10/3/89	500
DGII	Digi International Inc.	10/5/89	1000

NASDAQ National Market Pending Additions

The following issues have filed for inclusion in the NASDAQ National Market upon effectiveness of their registration statements with the SEC or other appropriate regulatory authority. Their inclusion may commence prior to the next regularly scheduled phase-in date.

Symbol	Company	Location	SOES Execution Level
AMTK	Amtech Corporation	Dallas, TX	1000
BVFSP	Bay View Capital Corporation (Pfd)	San Mateo, CA	200
EBPI	Employee Benefit Plans, Inc.	Minneapolis, MN	1000
EXBT	Exabyte Corporation	Boulder, CO	1000
IMNR	Immune Response Corporation (The)	San Diego, CA	1000
PBCI	Pamrapo Bancorp, Inc.	Bayonne, NJ	500
RLLY	Rally's, Inc.	Louisville, KY	1000
RECPZ	Receptech Corporation	Seattle, WA	500
STSN	Sierra Tucson Companies, Inc.	Tucson, AZ	1000

NASDAQ National Market Symbol and/or Name Changes

The following changes to the list of NASDAQ National Market securities occurred since September 14, 1989:

New/Old Symbol	New/Old Security	Date of Change
ONBK/ONBK	ONBANCorp, Inc./Onondaga Savings Bank	9/18/89
FAMRA/FAMR	First American Financial Corporation (The) (Cl A)/First American Financial Corporation (The)	9/19/89
NYMG/NYMG	NYMAGIC, Inc./New York Marine and General Insurance Company	10/2/89
CODA/CHPN	Coda Energy, Inc./Chapman Energy, Inc.	10/10/89

NASDAQ National Market Deletions

Symbol	Security	Date
KEAN	Keane, Inc.	9/15/89
PFDR	Preferred Risk Life Insurance Company	9/18/89
AMEA	A.M.E., Inc.	9/21/89
SRFI	Super Rite Foods, Inc.	9/21/89
BISH	Bishop Incorporated	9/22/89
BAYLC	Bayly Corp.	9/26/89
EQBK	Equity Bank (The)	10/2/89
LLSI	LSI Logic Corporation	10/2/89
MAXEW	Max & Erma's Restaurants, Inc. (Wts)	10/2/89
WWGPY	Ward White Group plc	10/2/89
FCFIE	First Capitol Financial Corporation	10/3/89
JUDY	Judy's, Inc.	10/3/89
BRLYS	Bradley Real Estate Trust	10/5/89
SCHC	R. P. Scherer Corporation	10/6/89
TYLN	Tylan Corporation	10/6/89
FEXCR	First Executive Corporation (Rts)	10/10/89
TWSTQ	Twistee Treat Corporation	10/11/89

Questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Leon Bastien, Assistant Director, NASD Market Surveillance, at (301) 590-6429.

Disciplinary Actions

National Association of Securities Dealers, Inc.

November 1989

Disciplinary Actions Reported for November

The NASD is taking disciplinary actions against the following firms and individuals for violations of the NASD Rules of Fair Practice and/or the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions began with the opening of business on Monday, November 6, 1989. The information relating to matters contained in this notice is current as of the 20th of the month preceding the date of the notice. Information received subsequent to the 20th is not reflected in this publication.

FIRMS EXPELLED, INDIVIDUALS SANCTIONED

First Securities Group of California (Beverly Hills, California) and **Louis Fernando Vargas (Registered Principal, Marina del Rey, California)**. The firm was fined \$15,000, jointly and severally with Vargas, and expelled from membership in the NASD. Vargas was also barred from association with any member of the NASD in any capacity. The sanctions were based on findings that First Securities Group and Vargas failed to provide information to the NASD in connection with an investigation into sales of securities following requests for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice.

J.L. Henry & Co., Inc. (Miami, Florida) and **Henry I. Otero (Registered Principal, Miami, Florida)**. The firm was fined \$30,000, jointly and severally with Otero, and expelled from membership in the NASD. Otero is barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, acting through Otero, made improper use of a customer's funds by converting \$45,000 to its own use and benefit. Also, the firm, acting through Otero, effected transactions in nonexempt securities while failing to maintain the required net capital. In addition, the firm and Otero effected mutual fund transactions by wire order and accepted customers' funds in payment in contravention of the terms of the firm's voluntary restrictive agreement.

FIRMS SUSPENDED, INDIVIDUALS SANCTIONED

Biscayne Securities Corp. (Lauderhill, Florida) and **Alvin Rosenblum (Registered Principal, Plantation, Florida)** were fined \$20,000,

jointly and severally. The firm was suspended from membership in the NASD for 10 business days, and Rosenblum was suspended from association with any member of the NASD in any capacity for 10 business days. The sanctions were based on findings that the firm, acting through Rosenblum, effected transactions with retail customers in over-the-counter corporate securities as principal at prices that were not fair.

Triton Securities (Danville, California) and **Delwin George Chase (Registered Principal, Danville, California)** submitted an Offer of Settlement pursuant to which the firm and Chase were fined \$10,000, jointly and severally. The firm was suspended from membership in the NASD for 30 days, and Chase was suspended from association with any member of the NASD in any capacity for 30 days. Without admitting or denying the allegations, they consented to the described sanctions and findings that, in order to close an offering of units in a limited partnership, the firm, acting through Chase, participated in a series of transactions using affiliates of the partnership's general partner to purchase units when no funds were available to pay for them. The firm, acting through Chase, failed to establish an escrow account and made misrepresentations about the general partner's or an affiliate's commitment to purchase units to meet the minimum contingency in connection with a best-efforts offering. As a result of its guarantee of \$19 million in loans, the firm, acting through Chase, violated the net capital rule and filed inaccurate FOCUS Part IIA reports with the NASD. And the firm, acting through Chase, permitted one individual to act as a principal and another as a representative without being properly

registered with the NASD.

FIRMS FINED, INDIVIDUALS SANCTIONED

Crane & Company Securities, Inc. (Mt. Clemens, Michigan) and Glenn R. Crane (Registered Principal, Sterling Heights, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$10,000, jointly and severally. Also, Crane must requalify by examination as a direct-participation principal within 60 days of the acceptance of the Letter of Acceptance, Waiver and Consent. Without admitting or denying the allegations, the firm and Crane consented to the described sanctions and findings that Crane & Company, acting through Crane, pursuant to its participation in four contingent offerings of securities, failed to deposit investors' funds into an escrow account and, instead, deposited the funds in an account under the control of the issuer; and failed to return subscribers' funds when the offering contingency was not met. The firm, acting through Crane, effected transactions and attempted to induce purchases or sales of securities when it did not maintain the required minimum net capital. Also, the firm, acting through Crane, filed an inaccurate FOCUS Part IIA report; failed to record in its books and records the date of receipt and transmittal of customer checks; filed a late annual audit report; and failed to have its financial statements audited by a certified public accountant.

First Commonwealth Securities Corporation (New Orleans, Louisiana) and Kenneth J. Canepa (Registered Principal, New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$10,000, jointly and severally, and Canepa was suspended from association with any member of the NASD in a principal capacity for two weeks. Without admitting or denying the allegations, they consented to the described sanctions and findings that First Commonwealth, acting through Canepa, inaccurately represented to a municipal authority the amount of the firm's net capital. The firm, acting through Canepa, maintained inaccurate books and records, inaccurate monthly net capital computations, and inaccurate FOCUS Part I and II reports. Also, the firm, acting through Canepa, conducted a securities business while failing to maintain the required minimum net capital.

Weatherly Securities Corp., Inc. (New

York, New York), Dell Eugene Keehn (Registered Principal, Mercer Island, Washington), William Northy Prater, Jr. (Registered Principal, Mercer Island, Washington) and Thomas Albert McFall (Registered Principal, Red Bank, New Jersey) submitted an Offer of Settlement pursuant to which they were fined \$20,000, jointly and severally. Without admitting or denying the allegations, they consented to the described sanctions and findings that Weatherly, acting through respondents Keehn, Prater, and McFall, failed to return funds to customers after the required number of units were not sold in a limited partnership contingency offering. Thereafter, additional units were sold, and funds were received from, but not returned to, customers. In connection with that contingency offering, funds were disbursed before the contingency was met as a result of a loan of \$420,000 to the partnership by the firm's parent. This loan raised the escrow balance to the minimum required.

W. N. Whelen & Co., Inc. (Georgetown, Delaware) and William N. Whelen, Jr. (Registered Principal, Georgetown, Delaware). The firm and Whelen were prohibited from transacting principal trades with customers for 90 days and were fined \$15,000, jointly and severally. Whelen was also required to requalify by examination as a general securities principal within 90 days. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision rendered by the District Business Conduct Committee for District 11. The sanctions were based on findings that W.N. Whelen, acting through Whelen, effected sales of equity securities to public customers at prices that were unfair in relation to the market price of the securities; improperly netted fails-to-receive and fails-to-deliver on its stock-position record, and failed to reflect accurate yields to maturity on municipal securities confirmations. Also, the firm, acting through Whelen, failed to disclose on customer confirmations the commission equivalent charged to the customer in retail transactions, and in four instances failed to comply with Regulation T of the Federal Reserve Board by failing to cancel or liquidate customer securities positions.

FIRMS FINED

Shearson Lehman Hutton (New York, New York) submitted an Offer of Settlement pursuant to

which it was fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and findings that it failed to respond in a timely manner to the NASD's requests for information, made pursuant to Article IV, Section 5 of the Rules of Fair Practice, concerning a customer complaint.

INDIVIDUALS BARRED OR SUSPENDED

Andrew Derel Adams (Registered Representative, Killeen, Texas) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Adams received a \$7,000 check from a public customer for the purchase of mutual fund shares and, without the customer's knowledge or consent, deposited the check in his personal account and converted the funds to his own use and benefit. Adams also failed to respond to the NASD's requests for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice concerning the circumstances surrounding his termination from a member firm.

John Francis Angier, Jr. (Registered Representative, Reddington Shores, Florida) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Angier solicited and received checks totaling \$53,500 from public customers for the purchase of "commercial CDs," surreptitiously opened an account in the name of his member firm, and deposited the checks into the account and converted the funds to his own use and benefit.

Mark Anthony (Registered Principal, Arlington Heights, Illinois) and **William Stirlen (Registered Financial and Operations Principal, Arlington Heights, Illinois)**. Anthony was fined \$10,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to requalify by examination before acting in a principal capacity. Stirlen was fined \$7,500, suspended from association with any member of the NASD in any capacity for 30 days, and required to requalify by examination as a financial and operations principal. The sanctions were based on findings that a member firm, acting through Anthony and Stirlen, effected transactions in securities when it failed to maintain the required minimum net capital; filed inaccurate FOCUS Part I and IIA reports; and failed to prepare and/or

preserve bank-account and clearing-account reconciliations for certain months. In addition, a member firm, acting through Anthony, effected three purchases and one sale of corporate securities with public customers at prices that were not fair and reasonable.

Fred W. Bonnell (Financial and Operations Principal, Boulder, Colorado) was fined \$2,500, jointly and severally with his member firm, suspended from association with any member of the NASD as a financial and operations principal for six months, and required to requalify by examination prior to acting in that capacity. The sanctions were based on findings that a member firm, acting through Bonnell, failed to maintain deposits of cash or qualified securities in the amounts required by SEC Rule 15c3-3 in its special reserve bank account for the exclusive benefit of customers.

Michael J. Boorse (Registered Representative, Horsham, Pennsylvania) was barred from association with any member of the NASD in any capacity. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision rendered by the District Business Conduct Committee for District 11. The sanctions were based on findings that Boorse failed to honor a \$9,300 arbitration award.

David Chiodo (Registered Principal, Dallas, Texas) was fined \$5,000, jointly and severally with his member firm, barred from association with any member of the NASD in a principal capacity, and required to requalify by examination as a registered representative. The sanctions were based on findings that a member firm, acting through Chiodo, permitted a registered representative to sell options and corporate equity securities to customers without being properly registered. In connection with sales of a contingent offering of common stock, a member firm, acting through Chiodo, failed to maintain records to demonstrate prompt deposit of customer checks to the escrow account as well as proof that customer funds were returned when the contingency was not satisfied. The firm, acting through Chiodo, failed to maintain fidelity bond coverage; caused an advertisement to be published without filing it with the NASD beforehand; filed its annual audit four days late; and changed auditors without prior notice to the NASD. Also, in connection with a contingency offering, the firm, acting through Chiodo, deposited

investors' funds into an account that was not a bona fide escrow or trust account. The firm, acting through Chiodo, effected transactions in securities while failing to maintain the required minimum net capital and executed transactions in municipal securities prior to payment of its initial fee to the Municipal Securities Rulemaking Board.

Edward L. Cole (Registered Representative, Jackson, Mississippi) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Cole consented to the described sanctions and findings that he failed to comply with instructions from a customer to invest \$2,000 in a mutual fund. Instead, he converted the funds to his own use and benefit without the customer's knowledge or consent.

Camille Chafic Cotran (Registered Representative, London, England) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Cotran instructed a French broker-dealer to direct all mail concerning an inactive account to Cotran's attention, without the knowledge or consent of his member firm. Cotran maintained the inactive account as a personal account and entered numerous securities transactions in the account without the knowledge or consent of his member firm. He also failed to respond to the NASD's requests for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice concerning the termination of his employment.

Rita Rae Cross (Registered Representative, Denver, Colorado) and **Thomas Richard Meinders (Registered Principal, Colorado Springs, Colorado)** submitted an Offer of Settlement pursuant to which Cross was fined \$2,500 and suspended from association with any member of the NASD in any capacity for 30 days; Meinders was fined \$2,000 and suspended from association with any member of the NASD in any capacity for five days and in a principal capacity for eight months. Without admitting or denying the allegations, Cross and Meinders consented to the described sanctions and findings that Cross recommended numerous purchase and sales transactions for the account of a customer without having reasonable grounds for believing that the recom-

mendations were suitable for the customer. Meinders failed to properly supervise the activities of Cross so as to prevent the unsuitable trading.

John William Curry (Registered Representative, Plainview, Texas) was fined \$5,000, ordered to disgorge \$30,000, and suspended from association with any member of the NASD in any capacity for one year. The sanctions were based on findings that Curry participated in private securities transactions without providing prior written notice to his member firm.

Ronald A. Cutrer (Registered Representative, Baton Rouge, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000 and suspended from association with any member of the NASD in any capacity for one month. Without admitting or denying the allegations, Cutrer consented to the described sanctions and findings that he sold unregistered securities in a series of private securities transactions to 57 public customers, without giving prior written notice to his member firm.

John William Davis (Registered Principal, Colonsville, Mississippi) was fined \$200,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that a member firm, acting through Davis, engaged in the purchase and sale of securities with public customers from its own account at prices that were unfair and unreasonable.

Jeffrey Gerard Dompierre (Registered Representative, Valrico, Florida) was fined \$5,000, suspended from association with any member of the NASD in any capacity for 10 business days, and must requalify by examination. The sanctions were based on findings that Dompierre effected unauthorized transactions and exercised discretionary power in customers' accounts without the knowledge or consent of the customers or his member firm. Also, he agreed in writing to share in losses sustained in customers' accounts without obtaining his member firm's prior written authorization.

Eugene Michael Felten (Registered Principal, La Canada, California), **Marion Stewart Spitler (Registered Representative, La Canada, California)**, **Stephanie Veselich Enright (Registered Representative, Rolling Hills, California)**, and **Stuart Lane Russel (Registered Principal, Glendale, California)**. Felten was fined \$25,000, ordered to disgorge \$16,072.79, and

suspended from association with any member of the NASD in any capacity for one year. Spitler was fined \$15,000, ordered to disgorge \$18,444.05, and suspended from association with any member of the NASD in any capacity for six months. Enright was fined \$2,500 and ordered to disgorge \$11,762, and Russel was fined \$2,500 and ordered to disgorge \$14,821.66. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision rendered by the District Business Conduct Committee for District 2. The sanctions were based on findings that, in connection with the offer and sale of securities to public customers, Felten and Spitler engaged in the securities business as broker-dealers without being registered as such in contravention of Section 15 of the Securities and Exchange Act of 1934. Felten, Spitler, Enright, and Russel, acting with other associated persons, engaged in private securities transactions outside the scope of their employment in contravention of the Board of Governors' Interpretation with respect to Private Securities Transactions in that they sold securities to the public without providing prior written notification to their member firm.

Victor Stanley Fishman (Registered Representative, Longwood, Florida) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Fishman solicited a total of \$106,000 from nine public customers for investment in certain high yield securities. Instead of applying the funds as directed, he prepared fictitious confirmations and account statements and converted the funds to his own use and benefit.

William Harold Floyd (Registered Representative, Houston, Texas) was fined \$100,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Floyd exercised effective control over the accounts of customers and recommended the purchase and sale of securities without having reasonable grounds for believing that the recommendations were suitable. Floyd also exercised discretion in executing transactions in the accounts of customers without obtaining proper authorization from the customers or his member firms.

Karl Grant Hale (Registered Representative, Midvale, Utah) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000 and barred from association

with any member of the NASD in any capacity. Without admitting or denying the allegations, Hale consented to the described sanctions and findings that he effected transactions in and induced the purchase of securities by means of a manipulative, deceptive, or other fraudulent device or contrivance. Hale effected the sales of unregistered securities to approximately 96 investors.

Clinton P. Hayne (Registered Principal, New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$7,500 and suspended from association with any member of the NASD in any capacity for one week. Without admitting or denying the allegations, Hayne consented to the described sanctions and findings that he exercised discretionary authority in a customer account without written authorization from the customer and acceptance by his member firm, and signed the name of a public customer to an options account agreement and margin agreement.

Michael Anthony Houston (Registered Representative, Bronx, New York) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that, without the knowledge or consent of the customers, Houston requested and received checks totaling \$741, which represented credit balances in customers' accounts. The checks were to be hand-delivered to the customers but, instead, Houston converted the funds to his and a friend's own use and benefit.

Amin Jalaalwalikraam (Registered Representative, Glenham, New York) was fined \$60,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Jalaalwalikraam directed that a dividend be paid on a customer's life insurance policy in the amount of \$4,225 and, without the knowledge or consent of the customer, converted the proceeds to his own use and benefit. In addition, Jalaalwalikraam failed to respond to the NASD's request for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice concerning his termination from a member firm.

Richard M. Kane (Registered Principal, Coconut Creek, Florida) submitted an Offer of Settlement pursuant to which he was fined \$250,000 and barred from association with any member of the NASD in any capacity. Kane may

requalify by examination as a representative after two years and as a principal after three years. Without admitting or denying the allegations, Kane consented to the described sanctions and findings that he effected 605 over-the-counter securities transactions as principal with retail customers at prices that were unfair and unreasonable.

Richard F. Knapp (Registered Representative, London, England) was fined \$10,000 and suspended from association with any member of the NASD in any capacity for 30 business days. The sanctions were based on findings that Knapp purchased and later sold 4,000 warrants of corporate bonds from his member firm's trading account for his own account, without obtaining his member firm's authorization for the transactions.

Deborah Renee Martin (Associated Person, St. Louis, Missouri) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Martin, without the knowledge or consent of her member firm, withdrew funds from the firm's petty cash and converted them to her own use and benefit. In addition, Martin failed to respond to the NASD's requests for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice concerning the termination of her employment.

John B. Merrick (Registered Representative, Aurora, Colorado) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$1,000 and suspended from association with any member of the NASD in any capacity for 10 business days. Without admitting or denying the allegations, Merrick consented to the described sanctions and findings that he caused annuity applications for two public customers to be falsified and submitted to his member firm in order to obtain commissions to which he was not entitled.

John P. Miller (Registered Representative, Baton Rouge, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$2,000 and suspended from association with any member of the NASD in any capacity for two weeks. Without admitting or denying the allegations, Miller consented to the described sanctions and findings that he participated in private securities transactions without providing written notice to his member firms.

Joseph Francis Muscolina, Jr. (Registered

Principal, Palisades Park, New Jersey) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Muscolina failed to respond to the NASD's request for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice.

Robert C. Najarian (Registered Representative, Brooklyn Park, Minnesota) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Najarian purchased and sold stock for a customer after Najarian made an oral promise to provide the customer with a written guarantee that she would not lose money on the transactions, and later he provided the customer with the written guarantee. Najarian made a second written guarantee to the same customer that her other investment of \$45,000 would be secure and profitable. Also, Najarian failed to respond to the NASD's requests for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice concerning his termination from a member firm.

Edward Robert Norwick (Registered Representative, Nesconset, New York) was fined \$30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Norwick, on three occasions, caused shares of stock to be purchased for the accounts of customers without their knowledge or consent. He also failed to respond to the NASD's requests for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice concerning the termination of his employment.

Randolph K. Pace (Registered Principal, New York, New York) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and suspended from association with any member of the NASD in any capacity for 90 days. Without admitting or denying the allegations, Pace consented to the described sanctions and findings that he refused to attend a hearing in a previous NASD proceeding in contravention of Article IV, Section 5 of the Rules of Fair Practice. This sanction was imposed by the NASD's Market Surveillance Committee.

Charles D. Phipps, Sr. (Registered Representative, Hermitage, Pennsylvania) was fined \$10,000 and barred from association with

any member of the NASD in any capacity. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision rendered by the District Business Conduct Committee for District 11. The sanctions were based on findings that Phipps received \$1,500 from a public customer for the purchase of mutual fund shares, but Phipps failed to remit this money for its intended purpose.

Brian D. Pitcher (Registered Representative, New Providence, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$30,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Pitcher consented to the described sanctions and findings that he caused checks totaling \$273,000 to be issued to customers, and then converted the funds to his own use and benefit.

David Scott Rankin (Registered Representative, Lake St. Louis, Missouri) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Rankin failed to respond completely to the NASD's requests for information made pursuant to Article IV, Section 5 of the Rules of Fair Practice concerning the termination of his employment.

Wayne A. Russo (Registered Representative, Bridgeville, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined \$4,000 and suspended from association with any member of the NASD in any capacity for 15 business days. Without admitting or denying the allegations, Russo consented to the described sanctions and findings that, in connection with the offer and sale of limited partnerships in 1983, Russo submitted financial information to his member firm concerning assets that overstated their financial position in order to make them appear to meet suitability or eligibility requirements.

Orville Leroy Sandberg (Registered Principal, Aurora, Colorado), Richard T. Marchese (Registered Principal, Las Vegas, Nevada), and Eric G. Monchecourt (Registered Principal, Las Vegas, Nevada) submitted an Offer of Settlement pursuant to which Sandberg was fined \$3,500, suspended from association with any member of the NASD in any capacity for 10 days, and suspended from acting in a principal capacity for 60 days. Marchese and Monchecourt were each

fined \$5,000 and suspended from association with any member of the NASD in any capacity for one year. Without admitting or denying the allegations, Sandberg, Marchese, and Monchecourt consented to the described sanctions and findings that a member firm, acting through Sandberg, permitted Marchese to function as president and Monchecourt to function as vice president without either one being qualified as a principal. The firm, acting through Sandberg, permitted registered representatives to sell securities to customers in states where the representatives were not licensed to sell securities. Also, the firm, acting through Sandberg, distributed a brochure that contained misleading information concerning its performance as an underwriter.

Leigh A. Sanderoff (Registered Representative, Gaithersburg, Maryland) was fined \$45,000, ordered to disgorge \$12,252.60, and barred from association with any member of the NASD in any capacity. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision rendered by the District Business Conduct Committee for District 10. The sanctions were based on findings that Sanderoff converted proceeds from the sale of a customer's interest in a limited partnership totaling \$12,252.60 to his own use and benefit. Sanderoff failed to notify his member firm in writing of his intention to participate in a private securities transaction. He also submitted a Form U-4 application for registration that falsely stated no self-regulatory organization had ever taken disciplinary action against him when, in fact, the NASD had sanctioned him in a prior disciplinary action.

Robert Gerhard Smith (Registered Representative, Carson City, Nevada) submitted an Offer of Settlement pursuant to which he was suspended from association with any member of the NASD in any capacity for two years. Without admitting or denying the allegations, Smith consented to the described sanctions and findings that he forged customers' signatures to letters authorizing the transfer of \$3,335.63 from their accounts and misappropriated and converted the funds to his own use and benefit.

Sandra Ann Smith (Registered Representative, Ridgefield, New Jersey) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Smith converted the

proceeds of three customers' checks totaling \$529.83 to her own use and benefit.

James G. Spence (Registered Representative, Aloha, Oregon) was fined \$5,000 and suspended from association with any member of the NASD in any capacity for six months. The sanctions were imposed by the NASD's Board of Governors on review of a decision rendered by the District Business Conduct Committee for District 2. The sanctions were based on findings that Spence purchased and sold shares of common stock in the account of a public customer without the prior knowledge or consent of the customer. He also forged the names of six customers on securities account transfer forms.

Mona Sun (Registered Representative, Jamaica Estates, New York) was fined \$60,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that as part of a fraudulent scheme to convert customer funds, Sun altered a document so as to falsely confirm that her member firm guaranteed payment on \$36 million of promissory notes issued by one of her clients. She then sold the promissory notes to a Swiss bank and directed that approximately \$8 million of the proceeds be transferred to various individuals in accordance with the instructions of the purported President of the issuer of the notes.

William Swearingen (Registered Principal, Minneapolis, Minnesota) was fined \$15,000 and suspended from association with any member of the NASD in any capacity for six months. The sanctions were based on findings that Swearingen failed to respond to the NASD's requests for information, made pursuant to Article IV, Section 5 of the Rules of Fair Practice, concerning the circumstances surrounding the termination of a registered representative from Swearingen's member firm.

John Bew Wong (Registered Representative, San Francisco, California) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Wong failed to respond to the NASD's requests for information, made pursuant to Article IV, Section 5 of the Rules of Fair Practice, in connection with his termination from a member firm.

Rabia M. Zayed (Registered Representative, San Francisco, California) was fined

\$50,000 and barred from association with any member of the NASD in any capacity. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision rendered by the District Business Conduct Committee for District 2. The sanctions were based on findings that Zayed deposited four customer checks totaling \$4,000 in his own account and converted the funds to his own use and benefit. Also, Zayed exercised discretionary power in a customer's account without obtaining prior written authorization from the customer or his member firm. Zayed forged the signature of a customer to a margin agreement and an options agreement, and then provided these agreements to his member firm. Zayed failed to disclose information on a Form U-4 application for registration concerning a customer-initiated complaint.

INDIVIDUALS FINED

Devon Nilson Dahl (Registered Representative, Fountain Valley, California) was fined \$82,389. This sanction was based on findings that Dahl participated in a series of private securities transactions involving sales of corporate securities to public customers without providing written notification to his member firm.

FIRMS SUSPENDED

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 action was based on the provisions of Article IV, Section 5 of the NASD Rules of Fair Practice and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after each entry. If the firm has complied with the request for information, the listing also includes the date the suspension concluded.

Cooper-Daher Securities, Inc., San Francisco, California (October 11, 1989)

Dean, Johnson & Burke Securities, Inc., West Palm Beach, Florida (October 11, 1989)

Delta Investment Securities Corp., Colton, California (October 11, 1989)

W.D. Fard Securities, Inc., Atlanta, Georgia (October 11, 1989)

Foresight Capital Corporation, Fountain Hills, Arizona (October 11, 1989)

Fort Worth Financial, Inc., Irving, Texas

(October 11, 1989)

Friedrich Bailey Flayhart & Associates Inc., Lewistown, Pennsylvania (October 11, 1989)

Glendale Securities, Inc., Chicago, Illinois (October 11, 1989)

Landsing Capital Corporation, Menlo Park, California (October 11, 1989)

Livon Securities, Inc., Mill Valley, California (October 11, 1989)

MLC Securities Corporation, Ridgefield, Connecticut (October 11, 1989)

Phillips Securities Corporation, Agoura Hills, California (October 11, 1989)

Phoenix Securities Group, Inc., New York, New York (October 11, 1989)

Shannon Brook Farms, Inc., Lexington, Kentucky (October 11, 1989)

H. Syversen & Co., Inc., New Milford, Connecticut (October 11, 1989)

Waltz Investments, Inc., New York, New York (October 11, 1989)

FIRMS EXPELLED FOR FAILURE TO PAY FINES AND COSTS IN CONNECTION WITH VIOLATIONS

Cunyus Securities, Inc., Dunwoody, Georgia
First Virginia Investment Corporation, Richmond, Virginia

Garfield Securities, Inc., Greenwich, Connecticut

Investment Brokers of America, Mill Valley, California

Kenman Securities Corporation, Salt Lake City, Utah

Ron Slover & Company, Amarillo, Texas

Western Capital & Securities, Inc., Salt Lake City, Utah

INDIVIDUALS WHOSE REGISTRATIONS WERE REVOKED FOR FAILURE TO PAY FINES AND COSTS IN CONNECTION WITH VIOLATIONS

Lyle T. Bachman, Tulsa, Oklahoma

Tim H. Bailey, Pacific Grove, California

Glen J. Barnes, Sacramento, California

Vic Brittain, Fort Worth, Texas

Robert M. Buchanan, Jr., Jackson, Mississippi

Walton F. Carlisle, Jacksonville, Florida

Kenneth E. Crowl, Tempe, Arizona

Danny J. Cunyus, Dallas, Texas

Jack Eng, Livingston, New Jersey

Robert C. Fairly, Jr., Madison, Mississippi

Donald E. Farley, Jacksonville, Florida

Salvador Garcia, Corpus Christi, Texas

Harry R. Gowdey, Dallas, Texas

Larry D. Harrison, Tulsa, Oklahoma

Ronald C. Holliday, Scottsdale, Arizona

Kenneth T. Holman, Centerville, Utah

Deverix A. Horn, Irving, Texas

Richard H. Johnson, Glen Cove, New York

Meridoth S. Jones, Jackson, Mississippi

Kenneth R. Kossakowski, West Seneca, New York

York

Bowman C. Lingle, Wauconda, Illinois

Frank H. McCullough, Scottsdale, Arizona

Bruce A. Meyer, Mercerville, New Jersey

Charles T. Porter, Birmingham, Alabama

Michael E. Rogers, Marina, California

Sherman M. Shabsin, Diamond Bar, California

James T. Shelvy, Jr., Louisville, Kentucky

Richard L. Singleton, Bakersfield, California

Ronald E. Slover, Amarillo, Texas

John S. Tighe, El Toro, California

Randall J. Whyte, Tucson, Arizona

William F. Wiggins, Monterey, California

Vincent A. Wood III, Richmond, Virginia

NASD LEVIES \$700,000 FINE AND BARS INDIVIDUAL FOR FRAUD AND MISREPRESENTATION IN SALE OF SECURITIES AND FOR PRIVATE SECURITIES TRANSACTIONS

The NASD recently announced a disciplinary action against Edward Eugene Dockray of North Providence, Rhode Island. Dockray was censured, barred from association with any member of the NASD in any capacity, and fined \$700,000. The sanctions were imposed pursuant to an Offer of Settlement in which Dockray neither admitted nor denied the allegations contained in the NASD's complaint and consented to the described findings and sanctions for violations of the NASD's Rules of Fair Practice.

Among other things, the complaint against Dockray alleged that, from May 1987 to April 1988, he engaged in fraudulent conduct involving the promotion, solicitation, and sale of the securities of Electronic Whiteboard Leasing Program. Units in the programs were sold to 140 investors in Rhode Island, Massachusetts, Connecticut, and other states at a total cost of \$1,435,000.

The units were not registered pursuant to the Securities Act of 1933 and were offered and sold

on the basis of misrepresentations and omissions of material facts relating to the use of proceeds from the investments and the company's business operations.

The complaint further alleged that Dockray engaged in private securities transactions in connection with the solicitation and sale of Electronic Whiteboard securities without providing prior written notification to his member firm. It also alleged that, as branch manager of the member firm, Dockray failed to enforce the firm's written supervisory procedures and permitted registered representatives to engage in private securities transactions.

All of the foregoing constituted violations of federal securities laws and/or the NASD's Rules of Fair Practice, including Article III, Section 18. This section prohibits any manipulative, deceptive, or other fraudulent device in the purchase or sale of any security.

NASD DISCIPLINES DATEK SECURITIES GROUP AND TRADER FOR FAILURE TO HONOR QUOTATIONS DISPLAYED ON THE NASDAQ SYSTEM

The NASD announced a disciplinary action initiated by its Market Surveillance Committee (committee) against Datek Securities Group, and one of its traders, Sheldon Maschler, for practices relating to a failure to execute transactions at prices that were displayed in the NASDAQ System by Datek or quoted by Datek in the non-NASDAQ market. This conduct is generally known as "backing away."

The committee accepted an Offer of Settlement whereby Datek consented to a censure, a fine of \$25,000, and a suspension for 14 days from acting as a market maker in the securities referenced in the complaint. Maschler was censured and fined \$25,000 and suspended from association with any member in any capacity for 30 days. In addition, Datek agreed to various undertakings including, among other things, the installation of a continuous telephone-line recording system that will record all incoming and outgoing calls from Datek's trading desk. A designated principal of Datek will also monitor the recording on a periodic, unannounced basis in order to review compliance with NASD rules relating to the firmness of quotations. These tape recordings will be maintained for a period of three months and will be made available to the NASD upon request.

In addition, the designated supervisor will periodically monitor the trading desk to ensure the firmness of quotations for both NASDAQ and non-NASDAQ securities. Datek also consented to revise the firm's compliance manual to delineate specific procedures to be followed by the trading desk in order to comply with the rules relating to the firmness of quotations. It will also hold training sessions for individuals employed on the trading desk concerning those procedures. Maschler further agreed that in the event that he became associated with another member within the next two years, the undertaking with respect to the tape recording system would remain in effect and that any other member must adopt and implement substantially similar procedures as those to which Datek had consented.

The committee complaint was authorized as a result of the NASD's Market Surveillance investigation into the trading practices of the respondents during the market break occurring in October 1987. The complaint was, thereafter, amended to reflect a continuing pattern and practice of backing away through the date of the filing of the amended complaint in June 1988.

Specifically, without admitting or denying the allegations in the complaint, Datek and Maschler have consented to findings of violations of the NASD's Rules of Fair Practice in that they failed to execute transactions in several different securities for at least a normal unit of trading at the price that Datek had displayed on the NASDAQ System in securities for which Datek was a registered market maker. Additionally, Datek and Maschler consented to findings that they failed to execute transactions at prices quoted to other member firms and failed to provide quotations to other member firms in certain over-the-counter securities for which Datek was listed as a market maker in the National Quotation Bureau "pink sheets" on a name-only basis.

In accepting the Offer of Settlement, the committee stated that "a market maker's failure to honor a quotation calls into question the validity of the prices the market maker has quoted on the system. The NASDAQ System display of bid and ask quotations is the mechanism by which market makers receive continuous information concerning the market value of NASDAQ securities. A member's refusal to execute transactions at its quoted prices calls into question whether the quota-

tions on the system are bona fide and calls into question the integrity of the NASDAQ market."

With respect to a market maker appearing in the "pink sheets" on a name-only basis, the committee concluded that a continued pattern or practice of providing quotations that bear no relationship to the current market or are so qualified on further inquiry as to be non-bona fide, would, in the committee's view, also constitute backing away.

This represents the first of several actions addressed by the committee as a result of the October 1987 market break.

The committee, which consists of 12 executives of securities firms across the country, is charged with the responsibility of maintaining the integrity of the NASDAQ market and with disciplining NASD members and their associated persons who fail to comply with market-related securities laws and regulations.

NASD SANCTIONS BAILEY, MARTIN AND APPEL, INC., OF PHILADELPHIA AND FOUR INDIVIDUALS FOR ARTIFICIAL PRICING AND EXCESSIVE MARKUPS IN NORTHGATE INDUSTRIES PENNY STOCK

The NASD announced disciplinary actions taken against the firm of Bailey, Martin and Appel, Inc. (BMA), located in Philadelphia, Pennsylvania, and Donald A. Bailey, Francis A. Martin, Howard M. Appel, and Leonard D. Segal. The actions related to the artificial pricing of Northgate Industries, Inc., common stock, subsequently known as Starcom Entertainment International, Inc., a non-NASDAQ over-the-counter issue, excessive markups charged by BMA in principal sales of Northgate to its customers, and inadequate supervisory procedures.

The Respondents neither admitted nor denied the allegations of the Complaint. Pursuant to their Offers of Settlement, all of the respondents were censured and fined \$50,000, jointly and severally. In addition, BMA was suspended from membership in the NASD for three months; Bailey was suspended from association with any member in any capacity for three months; Martin, who is not currently in the securities industry, agreed not to seek to become associated with any NASD member in any capacity for six months; Appel was suspended from association with any NASD member in any capacity for 30 days and thereafter suspended for an additional 30 days from associa-

tion with any NASD member in a supervisory or principal capacity; and Segal was suspended from association with any NASD member as a trader for 45 days.

The NASD Market Surveillance Committee charged all Respondents with violations of Article III, Sections 1 and 18, of the Rules of Fair Practice. Section 18 is the NASD's anti-fraud provision, which prohibits the use of any manipulative, deceptive, or other fraudulent device in the purchase or sale of any security. The committee also charged all respondents (except Bailey) with violations of Article III, Section 4 of the Rules of Fair Practice, specifically relating to markups, and the firm was charged with violations of Article III, Section 27 of the Rules of Fair Practice, relating to supervision.

The complaint charged that Northgate was a public shell corporation with no assets. When Northgate merged with Starcom on April 16, 1986, Northgate had 342,000 shares of freely tradable stock owned by at least 300 shareholders. No market maker had executed a trade in the stock since at least June 1985. Starcom was a private entertainment company with no operating history or revenues.

The complaint charged that in late fall 1985, BMA entered into an investment banking relationship with Starcom and advised Starcom to merge with an existing public shell and thereafter fund the company through a public financing. On April 4, 1986, approximately two weeks prior to the merger, BMA bought 240,500 freely tradable shares of Northgate from former officers and directors of the shell for \$48,150, or about 20 cents per share. After purchasing these shares, BMA owned 70 percent of the freely tradable stock (240,500 out of 342,000 shares).

The complaint charged that on April 18, 1986, BMA entered its opening quotes in the "pink sheets" of 1 $\frac{3}{4}$ bid, 2 $\frac{1}{4}$ offer. From that date until June 30, 1986, respondents increased the price of Northgate to \$3 per share, an increase of 1,400 percent over BMA's 20 cents per-share acquisition cost by, among other things, entering quotes in the "pink sheets" unrelated to the forces of supply and demand; dominating and controlling the market for Northgate; bidding for, purchasing, and selling Northgate at successively higher prices despite substantial long inventory positions and limited wholesale and retail demand for the stock; and

omitting to advise customers when soliciting them to purchase Northgate that BMA had recently acquired 70 percent of the public float of Northgate at 20 cents per share, was dominating and controlling the market for Northgate, and was artificially increasing its price.

In addition to the allegations relating to the artificial pricing of Northgate, the complaint also charged that BMA, acting through Martin and/or Appel and Segal, in at least 26 principal transactions, sold Northgate to its retail customers at excessive markups ranging from 18 to 67 percent above the prevailing market price for Northgate,

resulting in customers being overcharged more than \$22,500.

The investigation of this case was conducted by the NASD's Anti-Fraud Department and is part of a concerted effort by the NASD to eliminate sales practice abuses, fraud, and manipulation in the penny stock market. The disciplinary action was taken by the NASD's Market Surveillance Committee, which consists of 12 executives of securities firms across the country. The committee is responsible for maintaining the integrity of the NASDAQ and non-NASDAQ OTC markets.

For Your Information

National Association of Securities Dealers, Inc.

November 1989

NASD Files Lawsuit Charging Misuse of Qualification Examination

The NASD filed a lawsuit in the United States District Court for the Northern District of Illinois against Jerry Keith Ostry and North American Chicago Corp. (NACC) for copyright infringement, breach of contract, and misappropriation and misuse of confidential information in connection with the NASD's Corporate Securities Limited Representative Qualification Examination (Series 62).

Pursuant to statutory authorization and with the approval of the Securities and Exchange Commission, the NASD has developed and administered a substantial number of different qualification examinations for individuals seeking to enter the securities industry, including the Series

62 exam. The NASD contends in its complaint that defendant Ostry, owner and operator of NACC, has breached a contract of confidentiality and that both defendants have infringed the NASD's copyright on the examination and misappropriated and misused confidential information by reproducing and selling to other persons the 100 questions in the Series 62 Examination taken by defendant Ostry on June 3, 1988.

In addition to monetary damages, the NASD is seeking an injunction against further distribution of the examination and destruction of all copies of the examination in the possession or control of the defendants.

Series 7 December Exam Site Changes in Atlanta

The December 16, 1989, Series 7 examination in Atlanta will be held at Ramada Inn Northeast,

I-85 and Shallowford Road, 2960 N.E. Expressway, Atlanta, Georgia.
