

Disciplinary Actions

National Association of Securities Dealers, Inc.

November 1990

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, securities laws, rules, and regulations, and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions began with the opening of business on Monday, November 5, 1990. 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

Easter Kramer Group Securities, Inc. (Boca Raton, Florida) was fined \$15,000 and expelled from membership in the NASD. The sanctions were based on findings that the firm failed to honor a \$9,233.33 arbitration award.

FIRMS EXPELLED, INDIVIDUALS SANCTIONED

L.A. Boykin & Associates, Inc. (Little Rock, Arkansas), **Loran A. Boykin, Jr.** (Registered Principal, Little Rock, Arkansas), **Roger L. Archie** (Registered Principal, Little Rock, Arkansas), and **Leonard R. Taylor** (Registered Representative, Maumelle, Arkansas) submitted an Offer of Settlement pursuant to which the firm was fined \$115,000 and expelled from membership in the NASD. In addition, Boykin was suspended from association with any member of the NASD in any principal capacity for three years, Archie was suspended from association with any member of the NASD in any capacity for two months, and Taylor was suspended from association with any member of the NASD in any capacity for one month.

Without admitting or denying the allegations, they consented to the described sanctions and to the entry of findings that the firm, acting through Boykin and Taylor, effected 17 transactions in collateralized mortgage obligations, as principal, with retail customers at prices that were unfair and unreasonable. The findings stated that the firm, acting through Boykin, conducted a securities business while failing to maintain required minimum net capital. The findings added that the firm failed to file FOCUS Part II reports, to file ac-

curate FOCUS Part I and II reports on a timely basis, and to maintain accurate books and records. The NASD also found that the firm, acting through Boykin, failed to properly supervise Archie in that it permitted him to execute purchase and sale transactions with public customers without properly qualifying as a general securities representative and accepted an account for a financial institution without obtaining a corporate resolution or other evidence to verify that a certain individual had the authority to transact business on behalf of the institution.

Brooks Weinger Robbins & Leeds, Inc. (New York, New York) and **Jack Kanner** (Registered Representative, Jamaica, New York). The firm was expelled from membership in the NASD, and Kanner was barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm and Kanner failed to honor a \$5,500 arbitration award.

Southern Securities Investment Bankers, Inc. (Memphis, Tennessee) and **David E. Morris** (Registered Representative, Osceola, Arkansas). The firm was fined \$100,000 and expelled from membership in the NASD, and Morris was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Southern Securities permitted an associated person to act as a principal of the firm without proper registration, failed to maintain accurate computations of net capital and aggregate indebtedness, and failed to maintain required minimum net capital. The firm also failed to comply with its voluntary restriction

agreement not to maintain an inventory in government securities, not to employ more than 22 salespersons, not to increase unsecured advances, and not to disburse certain funds from the firm. And it failed to properly supervise associated persons, to compute accurately the amount required to be on deposit in its Special Reserve Account and to deposit the required amount, to notify the SEC and the NASD by telegram of its failure to make such deposit, and to maintain accurate books and records.

Southern, acting through Morris and other associated persons, executed transactions in government and agency securities with public customers at prices not reasonably related to the then current market as part of a fraudulent practice commonly identified as "adjusted trading" (which included the falsification of the firm's books and records and making misrepresentations to investors). Southern failed to identify on its books and records that prices for certain transactions were contingent on a subsequent transaction at an inflated or adjusted price. The firm, acting through Morris, caused the falsification of customer records as part of "customer swaps," another form of adjusting trading, and sold government securities to public customers at prices that included excessive markups. Southern interposed accounts of associated persons between customers and the best available market and failed to respond promptly to NASD requests for information.

In connection with the same investigation, **Hank Smith (Registered Principal, Little Rock, Arkansas), Robert M. Young (Registered Representative, Germantown, Tennessee), James E. McBride, Sr. (Financial and Operations Principal, Cordova, Tennessee), Melisa R. Alsbrook (Financial and Operations Principal, Memphis, Tennessee), Joe C. Jones (Registered Principal, Cordova, Tennessee), James W. Wright (Registered Representative, Memphis, Tennessee), Dino J. Grisanti (Registered Representative, Germantown, Tennessee), John G. Pitts (Registered Representative, Memphis, Tennessee), James B. Lowery (Associated Person, Memphis, Tennessee), F. Lin Lawrence, Jr. (Registered Principal, Memphis, Tennessee), Danny R. Stallings (Registered Representative, Memphis, Tennessee), George T. Starr, Jr. (Registered Representative, Houston, Texas), and Robert L. Sullivan (Registered Representative,**

Memphis, Tennessee) submitted an Offer of Settlement pursuant to which Smith was fined \$40,000 and suspended for two years from association with any member of the NASD in any principal capacity and suspended for one week from association with any member of the NASD in any capacity. Young was fined \$3,500 and suspended for one week from association with any member of the NASD in any capacity, McBride was suspended for one year from association with any member of the NASD in any capacity, Alsbrook was suspended for six months from association with any member of the NASD in any capacity as a financial and operations principal, and Lawrence was fined \$10,000 and suspended for one year from association with any member of the NASD in a principal capacity.

Stallings was suspended for three months from association with any member of the NASD in any capacity, Starr was suspended for one week from association with any member of the NASD in any capacity, Sullivan was fined \$30,000 and suspended for one year from association with any member of the NASD in any capacity, and Jones was suspended for one business day from association with any member of the NASD in any capacity. Wright was suspended for one month from association with any member of the NASD in any principal capacity and must requalify by examination as a general securities principal, Grisanti was fined \$15,000 and suspended for one year from association with any member of the NASD in any capacity, Pitts was suspended for three months from association with any member of the NASD in any capacity, and Lowery was fined \$2,500 and suspended for one month from association with any member of the NASD in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with their association with Southern, they committed one or more of the sales-practice or books and records violations noted above.

Swink & Company, Inc. (Little Rock, Arkansas), Jim D. Swink (Registered Principal, Little Rock, Arkansas), Gary F. Granger (Financial and Operations Principal, Little Rock, Arkansas), and Jack F. Brantley, Jr. (Financial and Operations Principal, Maumelle, Arkansas) submitted an Offer of Settlement pursuant to which the firm was expelled from membership in the

NASD, Jim Swink was fined \$50,000 and suspended from association with any member of the NASD in any principal capacity for four years and in any capacity for 18 months, Granger was fined \$5,000 and suspended from association with any member of the NASD in any principal capacity for one year, and Brantley was suspended from association with any member of the NASD in any principal capacity for one year. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm schemed to defraud its clearing firm by borrowing money from Swink's personal margin account in amounts that vastly exceeded the market value of the collateral in the account, knowingly taking advantage of deficiencies in its clearing firm's margin valuation system. The funds were then used to artificially inflate the firm's net capital, according to the findings. The firm also transferred portions of the excess margin in the account to the firm's trading account and failed to make certain disclosures to its clearing firm, the findings added.

The NASD found that the firm, acting through Swink, Granger, and Brantley, conducted a securities business when it failed to maintain an accurate record of its computation of net capital and failed to maintain required minimum net capital. The findings also stated that the firm, acting through Swink, Granger, and Brantley, submitted inaccurate FOCUS Parts I and II reports and failed to give telegraphic notice to the SEC and NASD that the firm's net capital was below the minimum requirement. In addition, the NASD determined that the firm, acting through Swink and Granger, failed to maintain proper fidelity bond coverage. The firm, acting through Swink, Granger, and Brantley, also transferred firm trading profits and losses between the firm's trading account and Swink's personal accounts and failed to maintain accurate books and records reflecting the fact that Jim Swink's personal transactions were being effected through the firm's trading account.

FIRMS SUSPENDED, INDIVIDUALS SANCTIONED

Investment Planning, Inc. (Dubuque, Iowa), Erwin J. Hafeman (Registered Representative, Dubuque, Iowa), John K. Finn (Registered Representative, Dubuque, Iowa), and John L. Finn (Registered Representative, Dubuque, Iowa). The firm was fined \$10,000,

suspended from membership in the NASD for 10 days, prohibited from engaging in principal transactions with public customers for 30 days, and required to participate in a staff interview. Also, the District Committee must approve the firm's business plan prior to Investment Planning's engaging in principal transactions. Hafeman was fined \$30,000, barred from association with any member of the NASD in any principal capacity, suspended from association with any member of the NASD in any capacity for 90 days, and required to requalify by examination. J.K. and J.L. Finn were each fined \$10,000, suspended from association with any member of the NASD in any capacity for 10 days, and required to requalify by examination. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the District Business Conduct Committee for District 8. The sanctions were based on findings that, in 1988 and 1989, the firm, acting through Hafeman, J.K. Finn, and J.L. Finn, effected sales of corporate and municipal bonds as principal to customers at prices that were unfair and unreasonable.

This action has been appealed to the Securities and Exchange Commission, and the sanctions are not in effect pending consideration of the appeal.

Transco Securities (Fort Lauderdale, Florida), Oren David Dinkel, II (Registered Principal, Hollywood, Florida), and Wong Kwaig Fong Choy (Registered Principal, Coral Springs, Florida) submitted an Offer of Settlement pursuant to which the firm was fined \$55,822, jointly and severally with Choy, and suspended from membership in the NASD for 10 business days. Dinkel was fined \$10,000 and suspended from association with any member of the NASD in any capacity for 10 business days, and Choy was also suspended from association with any member of the NASD in any capacity for 10 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in October 1988, the firm, acting through Dinkel and Choy, effected principal transactions in over-the-counter securities with public customers at unfair prices with markups ranging from 21 to 250 percent above the prevailing market prices.

In another matter, the same respondents submitted an Offer of Settlement pursuant to which the firm was fined \$36,828, jointly and severally

with Choy, fined \$10,000 jointly and severally with Dinkel, and suspended from membership in the NASD in any capacity for 20 business days. Dinkel was fined an additional \$10,000 and suspended from association with any member of the NASD in any capacity for 30 business days, and Choy was suspended from association with any member of the NASD in any capacity for 20 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, during a five-month period in 1989, the firm, acting through Dinkel and Choy, effected principal transactions in corporate securities with public customers at unfair prices with markups ranging from 33 to 70 percent above the prevailing market prices. The NASD also found that Transco, acting through Dinkel and Choy, failed to maintain and enforce written supervisory procedures.

The suspension periods for all respondents will run consecutively.

FIRMS FINED, INDIVIDUALS SANCTIONED

Anderson & Bylsma, Inc. (Grand Haven, Michigan) and **Jay M. Bylsma (Registered Principal, Grand Haven, Michigan)** submitted an Offer of Settlement pursuant to which the firm was fined \$15,000, and Bylsma was fined \$25,000 and barred from association with any member of the NASD in any 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 Bylsma, failed to maintain minimum required net capital, filed inaccurate FOCUS Parts I and II reports, and failed to prepare accurate books and records. The NASD also found that the firm, acting through Bylsma, prepared inaccurate reserve-account computations, failed to make required deposits in its reserve account, and failed to maintain weekly reserve computations.

Eagan & Company, Inc. (San Francisco, California), **Kenneth Francis Fitzpatrick (Registered Representative, San Francisco, California)**, and **James Robinson Eagan (Registered Principal, San Francisco, California)**. The firm and James Eagan were fined \$23,716.64, jointly and severally; James Eagan was required to requalify by examination as a principal; and Fitzpatrick was fined \$51,304 and suspended from association with any member of

the NASD in any capacity for 30 business days. The sanctions were based on findings that Fitzpatrick recommended and effected a series of purchase and sale transactions on margin in the account of two customers without having reasonable grounds for believing that the recommendations were suitable considering the financial situation and needs for each customer. The firm and James Eagan also failed to establish and implement written supervisory procedures to detect and prevent the above activity.

First Jersey Securities, Inc. (New York, New York), **Leonard N. Alsfeld (Registered Representative, Metairie, Louisiana)**, and **Dennis P. Crowley (Registered Representative, New Orleans, Louisiana)** submitted an Offer of Settlement pursuant to which the firm was fined \$50,000, Alsfeld was fined \$50,000 and suspended from association with any member of the NASD in any capacity for 15 business days, and Crowley was fined \$25,000 and suspended from association with any member of the NASD in any capacity for 15 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, on several occasions, the firm, acting through Crowley and other associated persons, recommended and executed purchase and sale transactions in the accounts of public customers without reasonable grounds for believing that the recommendations were suitable considering the financial situation and investment needs of each customer. Also, First Jersey, acting through Crowley, failed to make certain disclosures to customers concerning their investments, according to the findings. In addition, the NASD found that Alsfeld failed to establish, maintain, and enforce written supervisory procedures to detect and prevent the above activity.

Alsfeld's suspension will begin with the opening of business December 20, 1990, and will conclude at the close of business January 11, 1991.

R.L. Kotrozo, Inc. (Scottsdale, Arizona), **Carol A. Kotrozo (Registered Principal, Paradise Valley, Arizona)**, and **Raymond L. Kotrozo (Registered Principal, Paradise Valley, Arizona)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$30,000. Raymond and Carol Kotrozo were fined \$5,000, jointly and severally, and were each suspended from association with any member of the NASD in any principal capacity for two years

and from association with any member of the NASD in any capacity requiring registration for six months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Raymond and Carol Kotrozo, conducted a securities business while failing to maintain minimum net capital, failed to maintain accurate books and records, and failed to have sufficient funds in its (k)(2)(i) account when the firm paid for customer purchases of mutual fund shares.

Lake Securities, Inc. (Lewisville, Texas) and **Huey B. Hicks (Registered Principal, Lewisville, Texas)** were fined \$50,000, jointly and severally, and Hicks was required to requalify by examination as a general securities principal. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the District Business Conduct Committee for District 6. The sanctions were based on findings that the firm, acting through Hicks, purchased from an institutional customer exempt securities with a face amount of \$4 million at a price that included an excessive markdown of 7.4 percent, resulting in a profit of more than \$90,000.

INDIVIDUALS BARRED OR SUSPENDED

Brian Anthony Abboud (Registered Representative, Los Angeles, California) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Abboud failed to respond to NASD requests for information concerning his termination from a member firm.

Paul J. Anderson (Registered Representative, Owosso, Michigan) was fined \$34,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Anderson received funds totaling \$9,263 from three public customers with instructions to use the funds to pay insurance premiums. Instead, he commingled the funds in an account in which he had a beneficial interest, applied only a portion of the funds as instructed, and converted the remaining \$4,683 to his own use and benefit. Also, Anderson received another check for \$2,283.97 payable to a customer, forged the customer's signature, and converted the funds to his own use. In addition, Anderson failed to respond to NASD requests for information.

Dana A. Barfield (Registered Repre-

sentative, Dallas, Texas) was fined \$10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Barfield failed to honor a \$20,000 arbitration award.

Lee Bernstein (Registered Representative, North Miami Beach, Florida) was fined \$1,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Bernstein failed to honor an \$8,775 arbitration award.

Alan Stuart Beshany (Registered Representative, Plantation, Florida) was fined \$5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Beshany failed to honor a \$9,250 arbitration award.

Walter F. Bost, III (Registered Representative, Metairie, Louisiana) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Bost failed to follow the instructions of a public customer who had directed him to fund the purchase of securities using the proceeds from the sale of other securities in the customer's account. As a result, the securities purchased were liquidated for nonpayment. In addition, Bost executed an unauthorized purchase transaction in a customer's account and failed to respond to NASD requests for information.

Robert Brand (Registered Principal, Bayonne, New Jersey) and **Allen Green (Registered Principal, Kew Gardens, New York)** submitted an Offer of Settlement pursuant to which Brand and Green were each fined \$400,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Brand and Green engaged in conduct known as "double ticketing" by preparing, for a single transaction, a second order ticket and confirmation reflecting a higher price than did the original ticket and confirmation. In each case, the second confirmation was sent to a customer, while the other confirmation was preserved as the firm's record of the transaction. The NASD found that, after payment was made by the customer, the difference between the two prices was eventually credited to accounts controlled by the respondents. On 47 occasions, the NASD determined, Brand and Green engaged

in sham transactions by trading municipal securities between their personal securities accounts and their firm's inventory accounts solely to create a higher market value for the securities. Furthermore, the NASD found that the respondents calculated markups on principal transactions with public customers based on the higher prices, resulting in prices that were unfair. The findings also stated that the respondents failed to inform customers that the securities purchased were subject to an extraordinary call feature, to ensure that customer fully paid securities were transferred to a lien-free location, and to honor a \$2,500 arbitration award. Green also failed to appear at a Municipal Securities Rulemaking Board arbitration hearing in violation of an order issued in that proceeding, according to the findings.

Stephen Anthony Capozzo (Registered Representative, Antioch, California) was fined \$45,000 and suspended from association with any member of the NASD in any capacity for four years. The sanctions were based on findings that Capozzo participated in the sale of limited partnership interests to a total of 66 investors without providing prior written notification to his member firm. In addition, he failed to respond to NASD requests for information.

Timothy Ta Kuang Chiang (Registered Principal, Hillsborough, California) and **Harry Chan Leon (Registered Principal, San Francisco, California)**. Chiang was fined \$20,000 and barred from association with any member of the NASD in any capacity. Leon was fined \$10,000 and suspended from association with any member of the NASD in any capacity for two years. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the District Business Conduct Committee for District 2. The sanctions were based on findings that a former member firm, acting through Chiang, failed to file or failed to file timely FOCUS II A reports, and failed to file an audited annual report and FOCUS I reports. Chiang and Leon also failed to respond to NASD requests for information.

Elise P. Clark (Registered Principal, Los Altos, California) was fined \$11,500, suspended from association with any member of the NASD in any capacity for one year, and required to requalify by examination. The sanctions were based on findings that Clark participated in the sale of limited partnership interests to 84 investors without provid-

ing prior written notification to her member firm.

Daniel Patrick Costanzo (Registered Representative, Oceanport, New Jersey) was fined \$15,000, suspended from association with any member of the NASD in any capacity for one month, and required to requalify by examination. The sanctions were based on findings that Costanzo executed three unauthorized transactions in the account of a customer and purchased call options in his personal securities account at his member firm without paying for them.

Jay K. Cox (Registered Representative, Gray, Tennessee) was fined \$15,000, required to pay restitution in the amount of \$84,591.60, and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Cox converted \$84,591.60 in customer funds to his own use and benefit.

Angelo Cosino DaBiero (Registered Representative, Hobe Sound, Florida) was fined \$5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that DaBiero failed to honor a \$22,810 arbitration award.

Norman L. Dixon (Registered Representative, Des Moines, Iowa) was fined \$25,000 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 by the District Business Conduct Committee for District 8. The sanctions were based on findings that Dixon participated in private securities transactions without providing prior written notice to his member firm. Also, Dixon represented to a public customer that securities he purchased would be publicly trading at a price of \$1.25 per share without having a reasonable basis for making such a statement.

Gordon L. Erkfitz (Registered Representative, Waco, Texas) 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 by the District Business Conduct Committee for District 6. The sanctions were based on findings that Erkfitz obtained a \$40,000 check from a public customer for the purchase of a single-premium, deferred annuity and, without the knowledge or consent of the customer, converted the funds to his own benefit.

Jack P. Fisher (Registered Principal,

Gardner, Kansas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000 and suspended from association with any member of the NASD in any capacity for 20 days. Without admitting or denying the allegations, Fisher consented to the described sanctions and to the entry of findings that he executed unauthorized securities transactions in the accounts of five customers.

Scott Edward Fitzpatrick (Registered Representative, Denver, Colorado) was fined \$7,500 and suspended from association with any member of the NASD in any capacity for 10 business days. The sanctions were based on findings that Fitzpatrick executed unauthorized transactions in the accounts of two customers and failed to follow the instructions of customers regarding the purchase or sale of securities in their accounts.

Randall James Fleck (Registered Principal, Tampa, Florida) was fined \$25,000 and suspended from association with any member of the NASD in any capacity for 60 days. The sanctions were based on findings that Fleck effected the unauthorized purchase and sale of common stock in the accounts of two customers and exercised discretionary authority in the account of another customer without written authorization of the customer or written acceptance of the account as discretionary by his member firm. In addition, Fleck changed the addresses for the three customer accounts to his own residence address to prevent the customers from learning of transactions effected in their accounts.

Michael A. Flexsenhar, Jr. (Registered Representative, Memphis, Tennessee) 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, Flexsenhar consented to the described sanctions and to the entry of findings that he misappropriated customer funds totaling \$5,700 by forging a customer's name on letters requesting the liquidation of some of the customer's mutual fund shares. The findings also stated that, on receipt of the checks issued as a result of the liquidation requests, Flexsenhar forged the customer's signature on the checks and deposited the funds into his personal bank account.

Robert Michael Garner (Registered Representative, Roseville, California) was fined

\$37,555.39 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 by the District Business Conduct Committee for District 2. The sanctions were based on findings that Garner forged customer signatures on various forms and letters and on a check, all related to annuities owned by the customers.

Robert J. Greene (Registered Representative, Little Rock, Arkansas) submitted an Offer of Settlement pursuant to which he was fined \$40,000 and suspended from association with any member of the NASD in any capacity for two years. Without admitting or denying the allegations, Greene consented to the described sanctions and to the entry of findings that he made material misrepresentations to a public customer concerning the speculative nature of the securities trading strategy he employed in the customer's accounts and failed to adhere to the trading limits set by his member firm on these accounts. In addition, the NASD found that Greene engaged in a scheme to defraud the same customer by imposing excessive, undisclosed markups and markdowns on the government securities transactions effected in the customer's accounts.

Robert F. Gursky (Registered Representative, Northville, Michigan) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Gursky received a \$5,000 check from a public customer with instructions to purchase securities, failed to follow the customer's instructions, and used the funds for his own benefit. In addition, Gursky failed to respond to NASD requests for information.

William Vilas Hanks, III (Registered Principal, Bixby, Oklahoma) and **Robert Lowell Walker (Registered Representative, Sand Springs, Oklahoma)** submitted an Offer of Settlement pursuant to which Hanks was fined \$40,000 and suspended from association with any member of the NASD in any capacity for 10 days, and Walker was fined \$20,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that a member firm, acting through Hanks and Walker, effected corporate securities transactions as principal with retail customers at prices that were unfair and unreasonable. The findings also

stated that, in connection with principal transactions, Hanks failed to maintain 226 order tickets, to report activity in non-NASDAQ over-the-counter equity securities, and to disclose on customer confirmations the markup, markdown, or similar remuneration received by his member firm.

Hubert Harris, II (Registered Representative, Swartz Creek, Michigan) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Harris received three checks totaling \$35,000 from a public customer that were intended for investment purposes, failed to follow the customer's instructions, and retained the funds for his own use and benefit.

Edwin H. Haw, Jr. (Registered Representative, New Brighton, Minnesota) was fined \$37,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Haw received six checks totaling \$7,910 payable to a public customer, forged the customer's signature on the checks, and converted the funds to his own use and benefit. In addition, he failed to respond to NASD requests for information.

Nathan L. Heilweil (Registered Representative, Bayside, New York) was fined \$25,000 and suspended from association with any member of the NASD in any capacity for two years. The sanctions were based on findings that Heilweil, acting in his capacity as a trader in seven NASDAQ National Market System securities for a member firm, engaged in manipulative and deceptive conduct. He entered fictitious trade reports for those securities to mark the close of the market at prices that were favorable to his inventory position.

Todd A. Hermetz (Registered Representative, Cullman, Alabama) 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, Hermetz consented to the described sanctions and to the entry of findings that he received funds totaling \$15,650.67 from public customers for investment purposes and converted the funds to his own use and benefit. The NASD also found that Hermetz reimbursed two customers for losses sustained in their securities accounts.

Mark Alexander Hernandez (Registered Representative, Blue Springs, 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 Hernandez failed to respond to NASD requests for information concerning his termination from a member firm.

Douglas E. Hicks (Registered Representative, Marietta, Georgia) was fined \$15,000, suspended from association with any member of the NASD in any capacity for 15 days, and ordered to make restitution totaling \$3,090 to his member firm for commissions obtained from unauthorized transactions. The sanctions were based on findings that Hicks effected a total of six unauthorized transactions in customer accounts.

Stephen E. Hummell (Registered Representative, Jacksonville, 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 Hummell engaged in a private securities transaction with a public customer without providing prior written notice to his member firm. In addition, he failed to respond to NASD requests for information.

Carolyn Rice Humphreys (Registered Representative, Wichita Falls, Texas) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Humphreys made improper use of customer funds in that she received a \$10,000 check from a customer for the purchase of securities and, without the knowledge or consent of the customer, converted the funds to her own use and benefit. On a separate occasion, Humphreys caused a check for \$2,500 to be drawn against the same customer's account and converted the check to her own use. In addition, Humphreys failed to respond to an NASD request for information.

Dennis Earl Jarrott (Registered Representative, Mullins, South Carolina) was fined \$16,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Jarrott accepted a customer \$1,000 check made payable to his member firm, cashed the check, and converted the proceeds to his own use and benefit.

Donald Edward Jeffers, Jr. (Registered Representative, Chicago, Illinois) was fined \$1,000 and suspended from association with any member of the NASD in any capacity for six

months. The sanctions were based on findings that Jeffers failed to respond in a timely manner to NASD requests for information concerning his termination from a member firm.

Sharon Lynn Johnson (Registered Representative, Oakland, New Jersey) was fined \$50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Johnson executed eight unauthorized transactions in the account of a public customer and forged the customer's name to a \$50,000 check drawn on the customer's bank account. Also, Johnson bought and sold call options in her personal securities account and never paid for the transactions.

Michael Asher Keller (Registered Representative, Marina del Rey, California) was fined \$30,000 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 by the District Business Conduct Committee for District 2. The sanctions were based on findings that Keller exercised discretion in the execution of numerous transactions in the accounts of three public customers without prior written authorization from the customers or acceptance of the accounts as discretionary by his member firm. Also, Keller tendered a check to his member firm in payment for options transactions in his personal securities account, that was returned because of insufficient funds.

Scott Guy Kligmann (Registered Representative, Tampa, 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 Kligmann reimbursed public customers with personal funds for losses in their securities accounts and effected an unauthorized purchase of securities in a customer's account. He also represented to a public customer that shares were sold in the customer's account and that the proceeds could be used to purchase other securities when the order had not in fact been executed.

Enrique Krell (Registered Representative, Montevideo, Uruguay) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Krell entered into a written agreement with a public customer that he would share in profits and losses in the customer's account. In addition, Krell failed to respond to NASD requests

for information.

Michael Bruce Kresh (Registered Representative, Tampa, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$22,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Kresh consented to the described sanctions and to the entry of findings that, without the knowledge or consent of a customer, he instructed the clearing agent for his member firm to change the address for the customer's account to his own home address. The NASD also found that Kresh converted customer funds to his own use and benefit in that he instructed the clearing agent to issue a check for \$12,681 from a customer's account and to send the check to the new address, which was actually Kresh's address.

Richard Burg Landreau (Registered Principal, Granada Hills, California) and **Vincent Saar (Registered Representative, Camarillo, California)**. Landreau was fined \$85,430 and suspended from association with any member of the NASD in any capacity for 30 days. Saar was fined \$65,880 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that, in contravention of the Board of Governors' Interpretation with respect to Private Securities Transactions, Landreau and Saar engaged in the sale of limited partnership interests without providing prior written notification to their member firm.

Rodney Hugh Liles (Associated Person, Cocoa, Florida) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Liles received a total of \$16,515 from three customers representing payment of premiums for insurance policies and, without the knowledge or consent of the customers, converted the proceeds to his own use and benefit.

Thomas Alan Mantz (Registered Representative, Lodi, California) was fined \$130,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Mantz participated in the sale of debentures to investors without providing prior written notification to his member firm.

Louis P. Marin (Registered Representative, Aurora, Colorado) was fined \$25,000 and barred from association with any member of the NASD in

any capacity. The sanctions were based on findings that Marin opened four customer accounts at a firm with which he was not associated and provided the firm with incorrect addresses and telephone numbers for the accounts so that the customers would not be notified of transactions that occurred in their accounts. Also, Marin executed a total of 15 securities transactions in the four accounts without providing prior written notice to his member firm.

Parker Dana Matthews (Registered Representative, Santa Maria, California) submitted an Offer of Settlement pursuant to which he was fined \$52,243 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Matthews consented to the described sanctions and to the entry of findings that he submitted to his member firm fictitious orders for the purchase of securities that generated \$71,243 in commissions for transactions that were never executed. The findings also stated that Matthews failed to respond to NASD requests for information.

Diane Marie Miller (Registered Principal, Del Mar, California) was fined \$17,375 and suspended from association with any member of the NASD in any capacity for 90 days. The sanctions were based on findings that, in contravention of the Board of Governors' Interpretation with respect to Private Securities Transactions and of NASD rules, Miller engaged in the sale of limited partnership interests without providing prior written notification to her member firm.

John Ramon Munoz, Jr. (Registered Representative, Harbor City, California) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Munoz failed to respond to NASD requests for information concerning a customer complaint.

Gary D. Oser (Registered Representative, Mandeville, Louisiana) submitted an Offer of Settlement pursuant to which he was barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Oser consented to the described sanctions and to the entry of findings that he engaged in the sale of a company's unregistered securities. The findings also stated that Oser failed to exercise due diligence before offering and selling to customers investment contracts issued by the company and made misrepresentations to customers about the

company. The NASD also found that he engaged in private securities transactions without prior written notice to and approval from his member firm.

Timothy W. Oster (Registered Representative, Harahan, Louisiana), Barry M. Butera (Registered Representative, Metairie, Louisiana), David B. Arseneaux (Registered Representative, Jefferson, Louisiana), Octave J. Francis, III (Registered Representative, New Orleans, Louisiana), and Keith M. Crawford (Registered Principal, Metairie, Louisiana) submitted an Offer of Settlement pursuant to which Oster was fined \$15,000 and barred from association with any member of the NASD in any capacity, and Butera was fined \$5,000 and suspended from association with any member of the NASD in any capacity for one week. In addition, Arseneaux was suspended from association with any member of the NASD in any capacity for two months, Francis was fined \$5,000 and suspended from association with any member of the NASD in any capacity for one week, and Crawford was fined \$7,500 and suspended from association with any member of the NASD in any capacity for three months.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Oster, Butera, Francis, and Arseneaux engaged in the sale of a corporation's unregistered securities, and failed to exercise due diligence and examine the corporation's operations, assets, and group travel business before offering and selling its investment contracts. The NASD found that Oster, Butera, Arseneaux, Francis, and Crawford engaged in private securities transactions without prior written notice to and approval from their member firm. The findings also stated that Crawford failed and neglected to supervise properly the activities of Oster, Butera, Francis, and Arseneaux, and acted in the capacity of a principal without proper registration with the NASD.

John W. Ostrand (Registered Principal, Nags Head, North Carolina) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that, on two occasions, Ostrand executed unauthorized purchase transactions in customer accounts.

Thomas E. Owen (Registered Representative, Minneapolis, 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 Owen purchased shares of common stock in his personal securities account at his member firm and paid for the securities with a check that was returned due to insufficient funds. Also, Owen failed to respond to NASD requests for information.

Bruce C. Perrotta (Registered Representative, Margate, Florida) was fined \$10,000 and suspended from association with any member of the NASD in any capacity for 10 days. The sanctions were based on findings that Perrotta effected unauthorized transactions in two customer accounts.

Rakif Ronald Plotkin (Registered Representative, Palm Harbor, Florida) was fined \$25,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to make restitution of \$18,000 to his member firm. The sanctions were based on findings that Plotkin effected the unauthorized purchase of common stock for the account of a public customer.

Ronald R. Reeves (Registered Representative, Fort Wayne, Indiana) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Reeves received a \$291,810.67 check from a public customer with instructions to purchase securities, invested only \$171,000 of such funds, and retained the remaining \$121,810.67 for his own use and benefit. In addition, Reeves caused a \$20,000 loan to be taken out against the customer's life insurance policy without the customer's knowledge or consent and used the funds for his own benefit. He also failed to respond to NASD requests for information.

Keith Allen Remson (Registered Representative, Brandon, Florida) was fined \$3,120 and suspended from association with any member of the NASD in any capacity for 10 days. The sanctions were based on findings that Remson effected two unauthorized securities transactions in the account of a public customer.

Fred Gary Ricks (Registered Representative, Tampa, Florida) was fined \$17,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Ricks accepted a \$2,000 check from a public customer in payment for the pur-

chase of securities, cashed the check, and converted the proceeds to his own use and benefit.

Collins J. Roussel, III (Registered Representative, Kenner, Louisiana) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Roussel failed to execute sell orders in the accounts of three public customers and executed unauthorized purchase transactions in the accounts of two public customers. He also issued personal checks drawn on insufficient funds to pay for securities purchased in his and his wife's personal accounts, and failed to respond to NASD requests for information.

Douglas F. Samuels (Registered Principal, Wheaton, Illinois) was fined \$4,000, jointly and severally with a member firm, and barred as a financial and operations principal from association with any member of the NASD that self-clears transactions. The sanctions were based on findings that a member firm, acting through Samuels, prepared inaccurate reserve computations; failed to make the required deposits to its reserve account, resulting in deficiencies; prepared an inaccurate net capital computation; and filed an inaccurate FOCUS Part I report.

Robert Schlien (Registered Principal, Coral Springs, Florida) and **Carlos Fontecilla (Financial and Operations Principal, Miami, Florida)** submitted an Offer of Settlement pursuant to which Schlien was fined \$25,000, and Fontecilla was fined \$15,000. Both respondents were barred from association with any member of the NASD in any capacity, with the right to reapply after 18 months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that a former member firm, acting through Schlien and Fontecilla, sold corporate securities as principal to retail customers at prices that were unfair with markups ranging from 25 to 300 percent above the prevailing market prices. The NASD found that Schlien and Fontecilla failed to maintain accurate books and records and that they offered and sold common stock to public customers while no registration statement for the securities was on file or in effect with the Securities and Exchange Commission. The NASD determined that a former member firm, acting through Fontecilla, sold shares of a new issue that traded at a premium in the immediate aftermarket to a restricted person in contravention

of the Board of Governors' Free-Riding and Withholding Interpretation. Also, the findings stated that a former member, acting through Schlien, permitted salespersons to conduct a securities business without proper registration with the NASD and allowed a registered representative to act as a principal without proper registration with the NASD as a principal.

Gordon Wesley Sodorff, Jr. (Registered Representative, Spokane, Washington) was fined \$86,000 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 by the District Business Conduct Committee for District 1. The sanctions were based on findings that, in connection with his purchase of shares of common stock and the subsequent sale of the shares to 17 investors, Sodorff participated in private securities transactions without providing prior written notice to his member firm. In addition, Sodorff engaged in deceptive sales practices by failing to disclose to investors material information that might have influenced their decision to purchase the common stock.

This action has been appealed to the Securities and Exchange Commission, and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

William David Sommers (Registered Representative, West Palm Beach, Florida) was fined \$10,000, suspended from association with any member of the NASD in any capacity for 15 days, and ordered to make restitution to his member firm for its reimbursement of funds to a public customer by the firm. The sanctions were based on findings that Sommers exercised discretion in a customer's account without prior written authorization of the customer or written acceptance of the account as discretionary by his member firm. He also effected unauthorized options transactions in the same customer's account.

Arthur Gladre Stevenson, III (Registered Representative, Grover, 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 Stevenson failed to respond to NASD requests for information concerning his termination from a member firm.

Thomas A. Thorson (Registered Principal, West Bend, Wisconsin) submitted an Offer of Set-

tlement pursuant to which he was fined \$5,000, suspended from association with any member of the NASD in any capacity for five business days, and required to requalify by examination as a principal. Without admitting or denying the allegations, Thorson consented to the described sanctions and to the entry of findings that, on two separate occasions, he prepared and distributed to the public sales literature that contained misleading statements and failed to disclose material facts. In addition, the NASD found that Thorson failed to have the sales literature approved by the principal of his member firm designated to approve such documents prior to mailing.

William Henry Wagoner (Registered Representative, Valencia, California) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Wagoner failed to respond to NASD requests for information concerning his termination from a member firm.

Kenneth Wade Webster (Registered Representative, La Mesa, California) was fined \$17,500 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 a customer, Webster fraudulently filed a change of address form with his member firm on behalf of the customer when, in fact, the customer did not move. As a result, the customer did not receive a proceeds check for a transaction executed in his securities account. Webster made an unauthorized purchase transaction in the customer's account and paid for the securities with the proceeds from the first transaction. In addition, Webster failed to respond to NASD requests for information.

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

D.R. Dwyer & Company, Chicago, Illinois
International Currency Execution, Inc.,
Chicago, Illinois
Morgan Gladstone & Company, Incorporated, Boca Raton, Florida
Munoz Securities Company, Fort Collins,
Colorado

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 actions were 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.

Cartwright & Goodwin, Inc., New York, New York (September 24, 1990)

Crowley & Busk, Inc., Glen Rock, New Jersey (October 8, 1990)

Diversified Income Investments, Inc., Stuart, Florida (October 8, 1990)

Ecton & Company, Inc., Rohnert Park, California (October 1, 1990)

Equisource Securities Corporation, Dallas, Texas (September 24, 1990)

F.A.I. Virginia Securities, Inc., Bethesda, Maryland (October 8, 1990)

Guardian Securities, Inc., Englewood, Ohio (October 8, 1990)

Ipsun-Ling Financial Group, Inc., New York, New York (October 1, 1990)

Lauran Capital Corporation, Miami, Florida (October 8, 1990)

Merlin Equities, Inc., Salt Lake City, Utah (October 8, 1990)

Micek Investments, Inc., Manlius, New York (October 1, 1990)

Rector Capital Corporation, New York, New York (October 8, 1990)

Richardson Lyle & Adler, Inc., New York, New York (September 24, 1990)

Royce Park Investments, Inc., Englewood, Colorado (October 1, 1990-October 3, 1990)

Tri-State Financial Planning Associates, Waldwick, New Jersey (September 24, 1990)

SUSPENSIONS LIFTED

The NASD has lifted suspensions from membership on the dates shown for the following firms, since they have complied with formal written requests to submit financial information.

American Asset Management Corporation,

Salt Lake City, Utah (September 7, 1990)

Crown Securities Corporation, San Rafael, California (September 12, 1990)

M. Curley & Co., Inc., New York, New York (October 1, 1990)

First Equities Investments, Inc., Atlanta, Georgia (September 24, 1990)

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

Alvin W. Blumenberg, Aurora, Colorado

Patricia S. Burke, Little Silver, New Jersey

Charles O. Coberly, Madison, Wisconsin

David A. DeSanto, Vienna, Virginia

Eric N. Egerstrand, Berwyn, Illinois

Juan Manuel R. Fernandez, Jr., San Ysidro, California

Kenneth F. Fitzpatrick, San Francisco, California

Charles R. Gentry, Norwalk, Connecticut

Stanley C. Goldstein, Palm Harbour, Florida

Craig R. Grossman, Boulder, Colorado

Sharon L. Johnson, Teaneck, New Jersey

George E. Klausung, Pueblo, Colorado

Scott N. Kleinknecht, Washington, D.C.

Alex E. Mazika, Jr., Providence, Rhode

Island

Vincent Mills, Chicago, Illinois

Cesario Munoz, Fort Collins, Colorado

Shar C. Offenbergl, Washington, D.C.

Ronald V. O'Grady, Merrick, New York

Hubert Poetschke, Warren, Michigan

Michael J. Raterink, Grandville, Michigan

Michael Recchia, West Milford, New Jersey

Yasar Samarah, Chicago, Illinois

Rajeev Seshadri, Fremont, California

John R. Sheeks, Spokane, Washington

Frederick L. Stanford, Austin, Texas

Alan E. Stark, Boca Raton, Florida

James O. Strong, Columbia, South Carolina

Arthur L. Svec, Jr., Centreville, Virginia

Edward J. Vierling, Garden City, New York

Michael P. Walsh, Sr., Mentor, Ohio

Elroy A. Williams, Jr., Dallas, Texas

Curtis I. Wilson, Bellevue, Washington

Jo S. Wolford, Edmonds, Washington

Board Briefs

National Association of Securities Dealers, Inc.

November 1990

Actions Taken by the NASD Board of Governors in September

This section will appear every other month in *Notices to Members*. It describes actions taken by the NASD Board of Governors at its bimonthly meetings. The information previously was published under the title "Board Briefs" in the *NASD Executive Digest*, which is being consolidated into *Notices to Members*.

■ **President's Report** — The NASD is moving beyond linkages with other markets by establishing full NASDAQ operations in Europe. This enhancement, to be known as the NASDAQ International service, has been filed for approval with the Securities and Exchange Commission (SEC). By establishing a communications "node" in London, comparable to the regional concentrators used by NASDAQ in the United States, NASD members will be able to make markets in NASDAQ as well as many exchange-listed securities during trading hours in the United Kingdom. The service should go on-line early in 1991.

Domestically, with the return of Congress from the summer recess, legislative activity has intensified. The jurisdictional dispute between the SEC and the Commodity Futures Trading Commission (CFTC) continues to occupy legislators.

On this jurisdictional question, the NASD supports the Administration's proposed bill, which would shift the jurisdiction over index futures from the CFTC to the SEC, give the SEC the authority to set maintenance margins, and amend the exclusivity clause in the Commodities Exchange Act.

As a member of the Ad Hoc Coalition for Intermarket Coordination, the NASD actively participated in efforts to educate legislators on the negative implications for investors of a Securities Transfer Excise Tax (STET). In making its case, the Ad Hoc Coalition noted that the measure would be regressive, would lessen market liquidity by reducing securities transactions, and would weaken the United States securities markets as business moved to lower-taxed locations. *Joseph R. Hardiman* (202) 728-8100.

■ **Policy Statement on Market Closings** — The Board reconfirmed and extended to December 31, 1991, its Policy Statement on Market Closings. First adopted in September 1988, the

statement includes a series of suggested steps to address the potential danger of precipitous declines in market prices. The NASD considers adoption of these steps preferable to the "circuit breaker" approach now in place, which mandates market closings based on formulae tied to the Dow Jones Industrial average. Under the policy, if other markets halt trading because of extraordinary price movements, the NASD will, at the SEC's request, act to close its market. *Joseph R. Hardiman* (202) 728-8100.

■ **District Reorganization** — In order to implement the NASD's recently approved restructuring of its districts, the Board adopted a transition plan to govern the administration of the election and nomination process for district committeemen and governors for the remainder of calendar year 1990. The amendments also provide for the transition from the existing 13 District Committees and District Business Conduct Committees (DBCCs) to the District Committees and DBCCs of the 11 new and reconfigured districts.

For all matters and purposes relating to the districts (including for purposes of the Code of Procedure and for filing complaints, holding hearings, and all other matters relating to the disciplinary process) other than the nomination and election process, the existing 13 District Committees and DBCCs will maintain responsibility until the end of calendar year 1990 for all members located within the boundaries of the existing 13 Districts.

■ **Financial Matters** — The Board gave the go ahead to filing with the SEC a restructuring of NASDAQ entry fees. As approved for filing, the proposal would establish a separate entry fee for NASDAQ National Market (NASDAQ/NMS) securities and other NASDAQ securities.

NASDAQ/NMS securities would incur a \$5,000 one-time charge for the original listing plus

a graduated rate based on total shares outstanding provided that the total entry fee cannot exceed \$50,000 for any one issue.

The entry fee would apply only at the time of original listing of the company's initial NASDAQ/NMS issue. Subsequent issuances of different classes of securities would not be assessed an entry fee.

The entry fee for non-NMS NASDAQ securities would include a \$5,000 one-time charge for an initial issue in addition to the current fee structure. *John T. Wall* (202) 728-8200.

■ **Business Conduct Matters** — At the Board's direction, the NASD soon will file for SEC approval an amendment to its Prompt Receipt and Delivery Interpretation. The current rule requires, with certain exceptions, that a member effecting short sales for its account or a customer's account make an affirmative determination that the securities can be delivered or borrowed by the settlement date. Under the proposal, the executing member would have to keep a written record of the affirmative determination.

The Board also approved a measure to require dual notification by an associated person whenever opening an account or placing an order with a member firm other than the employing member. Today, that person needs only notify the executing member, which, in turn, is required to notify the employing member. *Frank J. Wilson* (202) 728-8319.

■ **Trading Issues** — The Board approved an enhancement to the NASDAQ Information Exchange (NIEX) to provide same-day block-trade information to issuers.

NIEX provides NASDAQ issuers with access to daily stock prices, block trades, market-maker information, and historical price and volume information. The block-trade feature lists the time, price, and volume of each block trade as well as block-trade information by market maker for the preceding five days.

Although issuers can get the block-trade information for the current day over the telephone, the proposed enhancement would give them direct, same-day computer access to the block information. To protect against inadvertent disclosure of trading strategies, NASDAQ would delay release of the information by five minutes after the transaction.

Effective October 15, the Board approved

reranking the Small Order Execution System (SOES) tiers of 450 NASDAQ National Market issues. The tiers refer to the maximum number of shares per execution that a market maker must buy or sell at the inside price in a security for which SOES is mandatory.

In another action, the Board eliminated the \$10,000 or 50,000 share daily reporting thresholds for non-NASDAQ transactions under Schedule H. The SEC must approve this change before it can become effective.

In a decision affecting "payment for order flow," the Board adopted a change to an earlier rule proposal that contains language for members to use on confirmations when disclosing payment-for-order-flow practices and sent the changed version out for member vote. The original measure is pending SEC approval. The change was necessary to bring the measure into compliance with Rule 10b-10, the customer confirmation rule. The new language, if approved, would read as follows:

The firm receives remuneration for directing orders to particular broker/dealers or market centers for execution. When such remuneration is received, it is considered compensation to the firm, and the source and amount of any compensation received by the firm in connection with your transaction will be disclosed upon request.

The Board authorized the filing of some changes to the SOES rules regarding professional trading accounts. The change redefines professional trading accounts to include accounts that have one or both sides of a day trade executed through SOES. *John T. Wall* (202) 728-8200.

■ **Arbitration Issues** — A measure to liberalize the process for joinder of claims in an arbitration proceeding received Board approval. The change to be filed with the SEC was recommended by the Securities Industry Conference on Arbitration (SICA) and essentially parallels the federal rules.

The Board agreed to amend another provision concerning awarding of interest and timing of payment of arbitration awards to bring it in line with existing SICA language. The change permits arbitrators to award interest as they deem appropriate and establishes a method for determining the interest rate and amount.

It further requires the payment of monetary awards within 30 days of receipt unless a motion to vacate has been filed with a court of competent

jurisdiction. The proposal also provides for accelerated payment of forum fees and assessments.

The Board voted to recommend, rather than require as the SEC had requested, that members point out in their predispute arbitration agreements with their customers that such customers may choose a forum for arbitration sponsored by a non-self-regulatory organization. Inclusion of such a disclosure is optional for the member because the Arbitration Committee decided, and the Board agreed, that, for regulatory and economic reasons, to require such disclosure would be unduly burdensome. *Deborah Masucci* (212) 858-4400.

■ **Membership Issues** — The Board approved for submission to the SEC a proposal that members notify the Association no later than 10 business days after certain events affecting the ownership or control of a member. Currently, such notification must occur within 30 days through the filing of an amended Form BD.

Specifically, one or more of the following events would trigger the prompt notification rule:

1. The merger of a member.
2. An acquisition by a member.
3. An acquisition of a member or substantially all of its assets.
4. A change that results in one person or entity owning more than 50 percent of the member's equity or partnership capital. *Frank J. McAuliffe* (301) 590-6694.

■ **NASDAQ Reporting Plan Amendment** — In order to implement its NASDAQ Inter-

national service, the Board has approved amendments to its SEC-approved transaction reporting plan. The amendments to the plan describe the operational features of the service and include a new set of trade-reporting rules that would apply exclusively to broker-dealers electing to participate in the international service. The rules are subject to SEC approval.

In addition, the changes set forth the unique transaction reporting requirements in effect during the service's operating hours (3:30 to 9 a.m., Eastern Time, on each U.S. business day). For example, the standard for real-time trade reporting would be three minutes from the time of execution, compared with 90 seconds during NASDAQ's regular trading session.

Furthermore, the obligation to submit on-line trade reports would not necessarily be limited to members that are registered market makers in a particular security.

Another difference would be that only trade reports in selected securities would be disseminated on a real-time basis through vendors.

These securities would be the American Depositary Receipts (ADRs) for U.K. companies that are quoted simultaneously in the service and in the International Stock Exchange's domestic market.

All other trade reports entered by service participants would be collected and processed by the NASD solely for regulatory purposes. *Frank J. Wilson* (202) 728-8319.

For Your Information

National Association of Securities Dealers, Inc.

November 1990

Some PLATO Development Centers Close in Three States

Effective October 31, 1990, the following PLATO Development Centers closed permanently:

Hays, Kansas
Topeka, Kansas
Wichita, Kansas

Columbia, Missouri
Springfield, Missouri.

The following additional PLATO centers will close effective December 31, 1990:

Rapid City, South Dakota
Sioux Falls, South Dakota.