NASD REGULATORY & COMPLIANCE

ALERT

Fines Total $1.8 Million

President Barred, Brooks, Weinger Expelled for Fraud

Charging fraudulent misconduct in a "penny stock," the NASD has expelled the New York-based firm Brooks, Weinger, Robbins and Leeds, Inc., from membership in the NASD and fined it $1,440,584.

The NASD also barred the firm's president, Michael Leeds, from association with any member of the NASD in any capacity and fined him $376,396. Their misconduct concerned charging customers fraudulently excessive markups and markdowns on transactions in Advanced Medical Products, Inc. (ADVA), a penny stock.

This enforcement action taken by the NASD as part of its national effort to end sales-practice abuses in penny stocks followed disciplinary hearings before the New York District Business Conduct Committee and the NASD's Board of Governors.

The NASD based its decision on findings that the firm and Leeds violated various NASD rules, including Article III, Section 18 of the NASD's Rules of Fair Practice.

That section prohibits the use of any manipulative, deceptive, or other fraudulent device in the purchase or sale of any security.

Firm Underwrote IPO

Brooks, Weinger co-underwrote ADVA's initial public offering and sold 83 percent of the offering to its clients.

The NASD found that, on July 1, 1987, the first day of aftermarket trading, the firm, acting through Leeds, dominated and controlled the market for ADVA based, in part, on the fact that only 18 inter-dealer trades took place then out of more than 2,600 transactions.

As a result, consistent with longstanding NASD and Securities and Exchange Commission (SEC) precedent, Brooks therefore could not rely on quotes, but instead had to use the firm's contemporaneous cost of acquiring ADVA to compute its markups and to use its inter-dealer sales to compute its markdowns.

The NASD found that the firm charged 1,159 fraudulently excessive markups and 689 fraudulently excessive markdowns to customers.

The markups ranged from 12 to 112 percent over the prevailing market price, while the markdowns were 12 to 64 percent below the prevailing market price of ADVA.

As a result, customers were overcharged more than $477,000 in fraudulent markups and denied at least $948,000 through fraudulent markdowns.

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Fees Rise for Advertising, Sales Literature Reviews

Recently, the NASD increased its service charge for reviewing advertisements, sales literature, and other similar material.

The new charges are $25 per item (including video and audio tapes) plus either $5 per page (for each page in excess of five pages) or $5 per minute of video or audio tape in excess of five.

There is also a service charge of $200 for each item submitted for expedited review.

The Board regards these changes to the service charges as necessary to more closely reflect the actual cost of reviewing material submitted.

The added revenue from these changes will augment the operating budget of the NASD's Advertising Department, which reviews such material.

The imposition of additional service charges on longer materials, or

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materials requiring expedited review, more equitably apportions the costs of review among the members that submit material, according to the NASD.

The Board believes it is unfair to charge members the same amount for reviewing a one-page advertisement as for reviewing a 15-page ad or for reviewing materials on an expedited basis.

With a single, uniform charge, those members that submit shorter documents in effect subsidize the review of longer documents.

Most Equitable Method

The Board considers imposing a basic fee plus a per-minute charge for reviewing nonprint media as the most equitable method of assessing charges for such submissions.

Moreover, if there is no charge for expedited review, all submissions would likely be accompanied by a request for expedited review, which the Advertising Department could not accommodate. The NASD also clarified that the charges imposed are limited to the pages of printed media or minutes of nonprinted media actually reviewed.

The NASD is expressly limiting the charge to the material actually examined, even though the document submitted may be longer.

This amendment codifies the Advertising Department's current practice of not charging for the review of those portions of a document or other submission that ordinarily are not subject to its scrutiny, such as financial statements.

Simplified Rules

Finally, the NASD simplified its rules providing spot-checking procedures for member-firm advertising.

The rule change eliminates the specific rule reference to spot-check procedure and substitutes a reference to "spot-check procedures set forth in the Association's Rules of Fair Practice and Government Securities Rules."

This eliminates the need to amend the rule each time another section is amended or renumbered.

Exam Sweep Finds Compliance With Penny-Stock Rule 15c2-6

In a recently released report, the SEC indicates substantial compliance with its penny stock rule, Rule 15c2-6.

The rule, which exempts Nasdaq and nationally listed securities, took effect on January 1, 1990.

It imposes specific sales-practice requirements on broker-dealers that recommend and sell certain low-priced securities (generally, non-Nasdaq over-the-counter equity securities whose issuers have less than $2 million in net tangible assets) to investors who are not established customers of the broker-dealer.

Six-Week Sweep

The report highlights the results of a coordinated, six-week nationwide examination sweep of broker-dealers to check for compliance with Rule 15c2-6.

Examiners from the NASD, the SEC, and the Florida Comptroller's Office (for Florida members) participated.

For the most part, the majority of the 188 firms examined had complied, or attempted to comply, with the rule's provisions.

However, 43 of the firms examined had violations serious enough to merit referrals for follow-up investigations by the SEC, NASD, or Florida government officials.

Frequent Violations

The most frequent violations uncovered were:

- Firm records did not contain suitability statements and/or written agreements for sales of designated securities to nonestablished customers.
- Firms used deficient suitability statements and/or written agreement forms.
- Firm records contained incomplete suitability statements and written agreement forms (i.e., no customer signatures, dates, customer suitability information, names of securities to be purchased, and number of shares to be purchased).
- Firms failed to have written supervisory procedures for compliance with the rule.

Communication Is Goal of NASD Executive Rep Proposal

To improve its ability to communicate with member firms on important and varied matters, the NASD has requested comment on a proposal to amend the definition of "Executive Representative" that appears in Article III, Section 3 of the NASD By-Laws.

Because the current definition is quite broad, the NASD says it has led to the designation as Executive Representative of persons with limited authority in their firms.

However, the NASD directs all important membership communications to Executive Representatives, who, among other things, are eligible to cast votes on behalf of their respective firms.

Thus, the Board is concerned that important matters may not reach the appropriate person in each member.

The Board proposes, therefore, to amend the definition of Executive Representative to require that only persons of authority in member firms be so designated to the NASD.

To that end, the proposal would require that the Executive Representative be a member of senior management and a registered principal of the member.

Administratively, the NASD intends to maintain the Executive Representative list separately from the firm contact list in the Central Registration Depository (CRD).

In this way, the Executive Representative will receive all important NASD communications, but routine CRD notices will continue to be directed to the appropriate persons designated by the member.

Gap Exists in Public Securities Regulation, NASD Tells Congress

In a recent letter to a Congressional subcommittee, NASD President Joseph Hardiman said the NASD's lack of sales-practice enforcement authority over government securities dealers represents "a significant gap in regulation of this critically important market."

Hardiman's letter was in response to a request from Sen. Christopher J. Dodd (D-CT) and Sen. John Heinz (R-PA) for the NASD's views on recommended government securities legislation.

Specifically, the Senators, acting in their roles as members of the Securities Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs, asked for NASD reaction to two studies, one a joint study by Treasury, the Federal Reserve Board, and the SEC, and the other by the General Accounting Office (GAO).

Recommendation Supported

The NASD endorsed the joint study's recommendation to extend the Treasury Department's rulemaking authority under the Government Securities Act of 1986 (GSA).

Although the joint study discussed sales-practice issues, government securities pricing, and insurance coverage, it was left to the GAO report to recommend legislation, which the NASD supports, in each of these areas.

The NASD now has no authority to apply its rules regulating sales practices to the government securities firms for which it has regulatory responsibility.

However, both registered securities exchanges and bank examiners, relying on GSA, can apply their sales-practice rules to government securities dealers.

As a result, the government securities sales practices of 63 government securities dealers and more than 1,300 diversified broker-dealers that are NASD members and engaged in government securities transactions are essentially unsupervised.

In the NASD's view, this GSA-created gap in regulation "should be corrected if investors are to be accorded even and fair protection."

The recent marketing of government securities derivative products has exacerbated the problem. Less sophisticated investors purchase what they view as secure investments only to find instead that they are complex and speculative.

The NASD believes that applying its sales-practice rules to these situations would benefit such investors.

Importance of Flexibility

Hardiman said that rules developed by Self Regulatory Organizations (SROs) would capitalize on the flexibility needed to keep regulation current with market developments, provide inter-market comparability, and underline the importance of government securities regulation.

"The NASD believes that sales-practice rules are more appropriately developed at the SRO level where the standards of business practice and ethics play a much larger role and the expertise of those in the business is utilized in developing the appropriate standards," said Hardiman. "Federal oversight and approval should, of course, be continued and is supported by the NASD."

The NASD also expressed support for extending Securities Investor Protection Corporation (SIPC) coverage to the NASD's 63 member firms specializing in government securities.

"Expanding SIPC coverage to these firms would help maintain the integrity of the primary government securities market," Hardiman said, "as well as the continuing development of, and confidence in, a strong secondary market."

In addition, the NASD supported the GAO recommendation to expand access to government securities transaction information on a real-time basis to anyone willing to pay the appropriate fees.

"Our experience with operating and developing the Nasdaq system has been that increased disclosure not only adds to the efficiency of the market," Hardiman said, "but also substantially increases investor protection by providing easy and open access to pricing information."

Firm Expelled, Officer Barred for Penny-Stock Rule Violations

The NASD recently took disciplinary action against Kochcapital, Inc., Bellevue, Washington; Russell Gordon Koch, General Principal; Jo Schnibbe Wolford, General Principal and Vice President of Compliance; and Donald William Jones, General Principal.

The NASD expelled the firm from membership in the NASD, fined it $244,000, jointly and severally with Koch, and required the firm to make a rescission offer to customers in whose accounts transactions in low-priced equity securities subject to the SEC's penny-stock rule had occurred.

Koch was barred from association with any member of the NASD in any capacity, and Wolford was fined $1,000 and suspended from association with any member of the NASD as a principal for three months. In addition, Jones was fined $20,000 and required to requalify by examination as a general securities principal.

The NASD's Board of Governors imposed the sanctions following an appeal of a decision by the District Business Conduct Committee for District 3.

The sanctions were based on findings that the respondents engaged in various transactions that contravened SEC Rule 15c2-6.

The SEC adopted the rule to prevent broker-dealers from engaging in broad scale cold calling to members of the public for the purpose of selling "designated securities," which are defined as low-priced, non-Nasdaq over-the-counter equity securities whose issuers have less than $2 million in net tangible assets.

The rule imposes specific sales-practice and suitability requirements on broker-dealers that recommend and sell designated securities to investors who are not established customers of the broker-dealer.

The NASD found that the firm, acting through Koch, Wolford, and Jones, effected numerous transactions in designated securities, on behalf of retail customers, prior to obtaining a manually signed and dated copy of each customer's written suitability statement or a written agreement concerning the identity and quantity of the designated security to be purchased.

Along with these transactions, the firm, acting through Koch, Wolford, and Jones, failed to establish adequate written procedures to ensure compliance with Rule 15c2-6. The NASD's Seattle district office carried out the investigation as part of a coordinated nationwide series of broker-dealer examinations conducted cooperatively by the NASD, SEC, and state of Florida to ascertain compliance with Rule 15c2-6.

This action has been appealed to the SEC by the firm, Koch, and Jones. While the firm's expulsion and Koch's bar are effective, the other sanctions imposed by the NASD are stayed pending the SEC's consideration of the appeal.

Government Agencies Cite NASD for Cooperation

The District Attorney for Manhattan and New Jersey's U.S. Attorney recently praised the NASD's enforcement efforts in connection with cases in their jurisdictions.

In a news release issued early this year, District Attorney Robert M. Morgenthau acknowledged the outstanding job done by the NASD's New York District Office and Anti-Fraud unit in assisting in the investigation of Wakefield Financial Corporation that resulted in the filing of indictments against three securities firms and 21 registered representatives.

In a separate action, both Michael Chertoff, U.S. Attorney for the District of New Jersey, and U.S. Attorney General Richard Thornburgh, in a release announcing the guilty plea of penny-stock promoter, Barry K. Davis, to five federal felony charges, lauded the NASD's Anti-Fraud unit in Washington, D.C. and the New York District 10 office for their help in developing the case.

"The willingness of the NASD . . . to assign investigators to work with the FBI in these cases demonstrates [the NASD's] strong commitment," Mr. Chertoff said, "to putting an end to fraudulent trading in the over-the-counter stock market."

Mr. Morgenthau referred to the case as involving securities firms and registered persons engaged in a manipulative scheme that defrauded thousands of investors of amounts totaling millions of dollars in transactions that involved over-the-counter securities not listed on Nasdaq or in an exchange market.

"What this group essentially did was to create fictitious markets for the sale of over-the-counter securities," Morgenthau said. "By fixing the prices, the group defrauded the persons from whom they bought stock at artificially low prices and the persons to whom they sold stock at artificially high prices."

In return for these actions, the cooperating brokers and traders received "at various times, free securities, securities below the manipulated 'market price,' guaranteed profits, cash, participation in future offerings of manipulated securities, and assistance in other manipulation schemes being controlled by these individuals."

This cooperative effort is part of the NASD's ongoing commitment to rid the industry of firms and individuals that are engaged in fraudulent practices and other egregious misconduct.

NASD Sanctions Penny-Stock Firm For Fraudulent Markups

The NASD recently took disciplinary action against Sprung & Wise Securities, Inc. of Denver, Colorado; Timothy D. Wise, its Chairman; Nicholas J. Sprung, its President; and Timothy J. Moore, the firm's trader.

The misconduct involved fraudulently excessive markups in Firma, Inc. units, a non-Nasdaq over-the-counter penny stock, and a failure to supervise with respect to those markups.

The NASD imposed $200,000 in fines as well as substantial suspensions. Specifically, the NASD censured Sprung & Wise, fined the firm $140,000, and suspended it for six months from engaging in any principal transactions.

Wise was censured, fined $30,000, and suspended for two years from associating with any member in any capacity.

Sprung was censured, fined $25,000, and suspended for one year from associating with any member in any capacity. Moore was censured, fined $5,000, and suspended for 30 days from associating with any member in any capacity.

The NASD's decision followed disciplinary hearings before its Market Surveillance Committee and Board of Governors. The Association found that all respondents violated various NASD rules.

In addition, the firm, Wise, and Sprung violated Article III, Section 18 of the Rules of Fair Practice.

That section prohibits the use of any manipulative, deceptive, or other fraudulent device in the purchase or sale of any security.

Firma, Inc., was a non-Nasdaq blind pool whose initial public offering was underwritten by Sprung & Wise. The firm placed 77 percent of the initial public offering with its own customers.

The NASD found that, from the

beginning of aftermarket trading and continuing for four months, while dominating and controlling the market for Firma, the respondents charged customers fraudulently excessive markups ranging from 11 percent to more than 114 percent above the prevailing market price.

The NASD found that, in light of the firm's overwhelming share of aftermarket trading and the virtual absence of competition among market makers, Sprung & Wise was the only real market in Firma, Inc. units.

Calling the markups "grossly excessive," the NASD stated that the sanctions imposed on the firm, Wise, and Sprung reflected the serious nature of the violations found.

The investigation was carried out by the NASD's Anti-Fraud Department and is another in a series of enforcement actions taken by the NASD to address, on a nationwide basis, sales and trading abuses in the securities markets, particularly with respect to over-the-counter penny stocks, which trade outside of the NASD's highly regulated Nasdaq marketplace.

"Hot Issue" Rule Applies to Reps Of Insurance Members

The NASD Interpretation on Free-Riding and Withholding prohibits any person associated with any member firm from purchasing securities in public offerings which trade at an immediate premium in the aftermarket ("hot issues").

As reported in the March 1991 *Notices to Members*, the 1991 Advisory Council, which is composed of the chairpersons of the 11 District Business Conduct Committees and the Market Surveillance Committee, has recommended that the NASD review its Interpretation on Free-Riding and Withholding.

The review would insure that the restrictions, definitions, and obligations established by the interpretation are relevant to today's market given the significant changes that have taken place in the securities industry in recent years.

While this effort is currently under way, members and registered persons are reminded of their ongoing obligations to comply with the requirements of the existing NASD interpretation.

In this regard, there have been certain recent cases involving registered representatives of insurance company members who have purchased hot issues and have argued that the interpretation does not apply to them, or contended that they were unaware of it.

There is no exemption from the interpretation for hot-issue recipients associated with insurance company members, regardless of the amount of securities business actually transacted by the member. Further, the SEC has held that life insurance agents whose securities activities are very limited must nonetheless be cognizant of all the regulatory obligations imposed on the registered representative of an NASD member firm.

The interpretation also clearly prohibits sales of hot issues by broker-dealers to the employees of insurance company members and members of their immediate families.

Brooks

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In imposing the expulsion, bar, and fines, the NASD said the sanctions appropriately reflect:

- The gravity of the violations.
- The willful nature of the actions.
- The failure of the respondents to accept or acknowledge their legal or ethical obligations as securities professionals.
- The harm inflicted on customers.

Moreover, the NASD action reaffirmed its commitment not only to detect and pursue rule violators, but also to impose fitting sanctions that are sufficiently serious to deter these respondents and others in similar situations from engaging in such misconduct in the future.

SEC Approves Change on Notification of Ownership Shift

The SEC recently approved an NASD rule change requiring members to notify their NASD district office in writing within 10 business days of the occurrence of certain events. The NASD has determined that the following events now require prompt written notification:

- A merger of the member.
- An acquisition by the member.
- An acquisition of the member or substantially all of its assets.
- Any change in the equity ownership or partnership capital of the member that results in one person or entity owning 50 percent or more of such equity ownership or partnership capital.

As adopted, the notification requirement focuses on a change in the member's ownership structure. A change in the president or chief executive officer does not require such notification unless it accompanies one of the four triggering events.

Along with this notice, members still must file within 30 days notice of any changes in ownership or control on a revised Form BD whenever the information on file changes.

Before this change, Schedule C of the NASD By-Laws permitted an NASD member to experience a change in ownership or control without prior review by the appropriate NASD district office.

Under Schedule C, in cases where the ownership or control of an existing member changes, the NASD has the discretion to condition continuance in membership on prompt compliance with the pre-membership interview procedures.

Notice of a change in ownership or control of a member must be filed on a revised Form BD whenever the information previously on file changes.

Since the form does not specify

a time for filing, a general rule of thumb has developed that filing is required within 30 days.

In certain cases, a previously dormant member can become active unexpectedly or can be sold or taken over by new management.

Although the NASD can conduct a new pre-membership interview, regulatory problems may have occurred already regarding the merger, purchase, or change of ownership of a member.

The NASD believes that prompt written notification of such a change in ownership will allow the NASD to act more expeditiously in determining whether a new pre-membership interview should be scheduled.

New Law May Affect Associated Person's Status

A recently enacted federal law has expanded the definition of a "statutory disqualification" to include new domestic and foreign criminal and civil offenses.

Among others, such offenses include any felony convictions that occurred in the U.S. within the last 10 years.

As a result of the new law, certain persons, not previously disqualified, may now be. To determine the identity of these "newly disqualified" persons, the NASD has asked each member to review its list of associated persons and provide the NASD with the names, CRD numbers, or Social Security numbers of any of its associated persons who are subject to these new statutory disqualification provisions **no later than April 30, 1991.**

This list should be sent to Ellen Badler, Assistant Director, Special Registration Review, NASD, 9513 Key West Avenue, Rockville, MD 20860.

The NASD is reviewing the registration records in CRD to compare its list for each member with the lists submitted by the members.

The offenses covered by the new law include not only any felony conviction that occurred in the United States within the last 10 years as noted above but also certain foreign convictions and certain foreign securities and commodities violations.

The prior statutory disqualification provisions involving convictions did not distinguish between felony or misdemeanor convictions but rather focused on particular types of misconduct.

The new law makes any domestic felony conviction, regardless of the underlying nature of the offense, a statutory disqualification. The enumerated crimes set forth in the prior law remain disqualifications.

Such convictions are disqualifications for a 10-year period commencing on the day the conviction is entered.

It was unclear under the prior statutory disqualification provisions whether actions taken by foreign criminal or civil authorities against an entity or person would subject either of them to a statutory disqualification.

Under the new law, any foreign criminal or civil action that results in a conviction, sanction, or specified finding will subject such person or entity to a statutory disqualification.

The NASD must file with the SEC any decisions to approve or continue a statutorily disqualified person's association with an NASD member.

The NASD therefore must conduct a proceeding to determine whether those persons, who were not disqualified before November 1990 but now as a result of the new law are disqualified, will be allowed to become or remain associated with a member.

"Newly disqualified" persons currently associated with a member may continue working pending the outcome of the NASD's proceeding.

For those newly disqualified persons who attempt to transfer registration to another member, the NASD may, at its discretion, allow such person's association with the new employer-member on a temporary basis pending the outcome of the Association's proceeding.

Newly disqualified persons seeking admission or readmission to the securities industry for the first time since their disqualification will be treated in the same way as those previously existing disqualified persons who are applying for the first time.

Such persons cannot conduct securities activities for the sponsoring member until the proper regulatory approvals have been received.

Members should be aware that if a person has been convicted of a felony during the applicable 10-year period, the NASD requires that the member submit the indictment or information and the order of conviction and sentence as a part of the NASD review process.

Members may also have to submit these documents before the NASD grants registration so that the Association can determine whether a person is subject to a statutory disqualification.

Transaction Reporting Gets New Hotline Number

The United States Department of Treasury recently announced a new hotline number for reporting suspicious currency transactions. The new number, 1-800-800-CTRS (2877), is operational 9 a.m. to 6 p.m., Monday through Friday.

Under the Bank Secrecy Act, financial institutions have to file Form 4789, Currency Transaction Report, for cash transactions exceeding $10,000.

If a transaction appears to be suspicious, the NASD encourages its members to contact their local IRS Criminal Investigation Division.

The Form 4789 instructions provide specific information on reporting these transactions. With the 800 number, a member can quickly find out the local IRS Criminal Investigation telephone number.

In addition, members can use the hotline number not only to report cash transactions designed to evade the reporting requirements, but also noncash transactions (i.e., multiple cashier's checks, money orders, traveller's checks and bank checks that in the aggregate exceed $10,000) and wire transfers that members suspect may involve illegal activities, such as money laundering.

Reform Act Broadens SEC Authority Over Penny Stocks

The Penny Stock Reform Act of 1990, signed into law last October, grants the SEC broad rulemaking powers that address various abuses identified in the distribution and secondary trading of penny stocks.

Included in the measure is a provision granting authority to the SEC to define penny-stock securities. The provision specifically excludes Nasdaq and exchange-listed securities from any such definition. The SEC must conclude its rulemaking process for this measure by October 15, 1991.

Another provision of the new law extends the SEC's regulatory authority over persons engaged in penny-stock activities. The statute empowers the SEC to exclude persons such as promoters and consultants from participating in penny-stock distributions if they have violated certain registration regulations.

The measure also requires the SEC to provide to Congress recommendations on the need to extend this power further. Further, the law also establishes additional standards for the disclosure by brokers and dealers to customers of information concerning transactions in penny stocks.

Also, before effecting any transactions in a penny stock, broker-dealers will have to distribute a mandatory risk disclosure document to customers.

As set forth in the rule, this document would, at a minimum:

- Describe the nature and level of risk involved in penny-stock transactions.
- Set forth the member's duties and the customer's rights.
- Include a brief, clear, narrative description of a dealer market.
- List the NASD's toll-free telephone number for inquiries on disciplinary actions (the number must be established by October 15, 1991).
- Contain a glossary of terms used in both the document and the penny-stock market.

Another significant aspect of the Act is to mandate the establishment of an automated quotation system for penny stocks as soon as possible. The document also would have to include any other information required by the SEC. The SEC must conclude its rulemaking in this matter by March 15, 1992.

Members Approve Options Communications Rule Package

NASD members have approved adoption of a new Rule of Fair Practice governing options communications with the public.

If the SEC also approves the measure, the proposal would delete all existing references to options communications in Article III, Section 35 and establish a new Section 46 related exclusively to options communications.

This new section would define the terms "advertisement," "educational material," and "sales literature," and would set forth the NASD's standards for options communications with the public.

In addition, it would require advance approval of options advertising by a Compliance Registered Options Principal.

Another section of the proposal requires advance approval of options advertising and educational material by the NASD's Advertising Department. This section also would impose spot-check and special review procedures for members that fail to meet the standards for options communications.

This change would address concerns expressed by the SEC relating to the approval of options communications before use, suitability disclosure, educational communications, and communications containing comparisons and recommendations. The new rule also would serve to make the NASD's options communications regulations consistent with those of other self-regulatory organizations.

Responding to Concerns, NASD Considers Short-Sale Rule

Concern by some issuers and investors about the absence of a Nasdaq "tick test" has moved the NASD to consider such a measure or its equivalent.

In a recent *Notice to Members* and other mailings, the NASD solicited comment from investors, issuers, market makers, and other broker-dealers on the "desirability of developing a short-sale rule applicable to Nasdaq or Nasdaq/NMS securities."

The NASD is urging those who want a short-sale rule to suggest in their comments ways in which the rule would operate. For example, two alternatives would be a "tick test" based on the last-sale prices or a "bid test" based on the current inside bid.

During the past five years, the NASD has taken several steps to eliminate short-sale abuses. These include requiring members to mark customer sell order tickets long or short and publishing short interest in Nasdaq stocks monthly.

Other initiatives include requiring an affirmative determination that a security can be borrowed and delivered before effecting short sales for customer accounts and mandating that buy-in transactions for customer accounts be for cash or guaranteed delivery. The NASD also successfully petitioned the SEC to adopt Rule 10b-21. This rule prohibits covering short sales made between the announcement and offering dates of a secondary offering with purchases made out of the offering.

Despite the success of these measures in curtailing abuses, there continues to be a perception by some that the Nasdaq market should have an SEC "tick test" or an equivalent restriction of short-selling activity based on the previous transaction or quote. Written comments received by the NASD are being compiled for review and consideration by several committees to develop proposals for Board action.

Members Reminded to Consider SOES Matching Service

In fulfilling their best-execution obligations, members must consider the recently launched matching service in the Nasdaq Small Order Execution System (SOES) Limit-Order File, the NASD says. SOES can now execute limit orders at prices between the inside bid and asked quotations.

In addition, the service provides an opportunity for centralized interaction of orders in the Nasdaq system. Members accepting customer limit orders should be aware of this capability in carrying out their obligation to use reasonable diligence to ascertain the best market for the security.

For example, members, including those with proprietary trading systems, should review pending customer orders in the SOES limit-order file when carrying out their best-execution responsibilities.

In addition, the SOES limit-order file does not impose priorities for executing customer limit orders *vis-à-vis* members' proprietary transactions. Thus, members must handle customer limit orders in a manner consistent with members' fiduciary obligations to their customers. NASD *Notice to Members 85-12* clearly sets forth such member responsibilities.

Basically, the changes to SOES include alert, take-out, and matching functions. The alert message brings to the SOES market maker's attention a limit order that has been priced within the inside (i.e., between the best bid and offer available at that moment) and that potentially matches another order already pending in the limit-order file.

For example, if an order is entered that cannot be executed (because it is away from the inside), but its price is equal to or better than the price of a previously entered order on the other side, an alert message is displayed on the market maker's screen to indicate a potential match.

The take-out function allows market makers to execute limit orders at a specific price without changing their quotes. Any active SOES market maker with an open quote and available exposure in an issue may take out shares in that issue.

Market makers can review resident limit orders in each security and enter take-out orders specifying the side of the market (buy/sell), the number of shares to be taken out, and the price at which the market maker is willing to execute. The system receives the take-out, screens it for accuracy, and executes orders from the file at the take-out price. Orders are executed on a price/time priority — first in/first out, on a full or partial basis, at the take-out price.

Any take-out order processed includes remaining odd lots in the issue. For example, if there are 350 shares in the limit-order file, a take-out order for 300 shares will result in an execution of all 350 shares to the market maker. Take-outs do not interfere with the regular processing of SOES limit or market orders. Market orders continue to be executed in SOES against the inside quote, as long as there is available size in the market maker's exposure limit, while the take-out is being processed.

If, after five minutes, neither of the matched orders has been executed, either as a result of a change to the inside quote or because a market maker has entered a take-out, the orders on the file will be matched and executed. Matches will include partial execution of orders that match or improve price but do not match in size. Trades that are the result of a system order match are identified on the screen as such.

Firm-Quote Rule For OTC Bulletin Board Filed

The NASD recently filed with the SEC for approval a rule proposal that would require that all quotations entered by market makers in the NASD's OTC Bulletin Board (OTCBB) be firm.

Notwithstanding that today almost 75 percent of all market maker entries in the OTCBB reflect firm prices, the NASD believes the over-the-counter market for bulletin board securities can be greatly enhanced by requiring that all quotes be firm.

This change would also eliminate instances where nonfirm quotes are entered that may not represent actual prices at which a market maker is willing to execute. This proposal is consistent with the Penny Stock Reform Act of 1990, which requires that an automated penny-stock quotation system be established that mandates, among other things, bid and ask quotations that are firm.

The rule proposal does not affect foreign securities (including Canadian stocks) and American Depositary Receipts (ADRs).

The display of market makers' quotations in these issues is static, with a maximum of two updates allowed daily. Therefore, these price quotations will remain indicative.

The OTCBB is the NASD's nationwide screen-based system that captures and displays, on a real-time basis during market hours, priced quotations or indications of interest in eligible over-the-counter securities not listed on The Nasdaq Stock Market℠ or any U.S. exchange. Eligible securities include equities, warrants, units, and ADRs.

NASD DISCIPLINARY ACTIONS

In December 1990 and January and February 1991, the NASD announced the following disciplinary actions against these firms and individuals. Publication of these sanctions alerts members and their associated persons to actionable behavior and to the penalties that may result.

District 1

Gettins Financial Group, Inc. (San Carlos, California), James Morgan Gettins (Registered Principal, San Carlos, California), and **Lewis Frederick Hazelwood (Registered Representative, Cupertino, California)** submitted an Offer of Settlement pursuant to which the firm was fined $15,000, jointly and severally with Gettins, and expelled from membership in the NASD. In addition, Gettins was barred from association with any member of the NASD in any capacity. Hazelwood was fined $15,000 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 they offered and sold securities to public customers by means of false and misleading representations and omissions of material facts.

Sacks Investment Company, Inc. (Novato, California) and **Richard Lawrence Sacks (Registered Principal, Novato, California)** were fined $101,891.20, jointly and severally. The firm was prohibited from engaging in principal transactions for two years, and Richard Sacks was suspended from association with any member of the NASD in any capacity for 60 days and required to requalify by examination as a principal. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the District Business Conduct Committee (DBCC) for District 2. The sanctions were based on findings that the firm and Sacks charged retail customers unfair prices with markups ranging from 5.4 percent to 100 percent above their contemporaneous costs. In addition, they used a customer's account as a second inventory account for the firm and failed to disclose on customer confirmations the firm's markups or the fact that the firm was acting in a principal capacity. Also, the respondents guaranteed a customer against loss, executed fictitious trades to facilitate a loan to a customer, operated without a financial and operations principal, and engaged in municipal securities transactions without registering with the Municipal Securities Rulemaking Board and without having a municipal securities principal.

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

Mark Eugene Hennick (Registered Representative, Anchorage, Alaska) was fined $10,000, suspended from association with any member of the NASD in any capacity for 30 business days, and required to requalify by examination. The sanctions were based on findings that Hennick effected unauthorized transactions in the accounts of public customers.

Edward O'Dea White, II (Registered Representative, Portland, Oregon) was fined $36,062 and suspended from association with any member of the NASD in any capacity for three years. The sanctions were based on findings that White signed or caused to be signed to a margin agreement the signatures of two public customers and submitted the agreement to his member firm. White thereby redesignated their account as a margin account without the customers' knowledge or consent. In addition, White executed the unauthorized purchase of securities for the accounts of three customers. In connection with an unauthorized purchase of common stock in a customer's account, White guaranteed the customer against loss.

Donald Julius Zamacona (Registered Representative, Menlo Park, California) was fined $413,227.93 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Zamacona received funds totaling $313,227.93 from public customers and misappropriated the funds to his own use. Also, Zamacona failed to respond to NASD requests for information.

District 2

Sue Ann McHugh (Registered Representative, Henderson, Nevada) was fined $5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that McHugh failed to honor a $3,520 arbitration award.

Baycrest Financial (Huntington Beach, California) and **Russell Edward Glines (Registered Principal, Newport Beach, California).** The firm was expelled from membership in the NASD, and Glines was fined $84,719.94 and suspended from association with any member of the NASD in a principal capacity for two years. In addition, he must requalify by examination as a general securities representative. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 2. The sanctions were based on findings that the firm, acting through Glines, charged public customers unfair prices in contravention of the Board of Governors' Interpretation with respect to the NASD Mark-Up Policy. The excessive markups ranged from 11.1 percent to 92.3 percent above the firm's contemporaneous costs. In addition, the firm, acting through Glines, failed to make, keep current, or preserve order tickets for purchases or sales of stock.

Osborne, Stern & Company, Inc. (Los Angeles, California) and **Douglas Wayne Osborne, Sr. (Registered Principal, Venice, California)** were fined $270,454, jointly and severally. The firm was suspended from operating as a broker-dealer for 90 days, and Douglas Osborne was suspended from association with any member of the NASD in any capacity for 90 days. The NASD's Board of Governors imposed the sanctions following an appeal of a decision by the DBCC for District 2. The sanctions were based on findings that the firm, acting through Osborne, charged retail customers prices that were unfair in contravention of the Board of Governors' Interpretation with respect to the NASD Mark-Up Policy. The excessive markups ranged from 32.58 percent to 191.67 percent above the firm's contemporaneous cost. In addition, the firm, in contravention of its restrictive agreement with the NASD, commenced trading for its own account by effecting numerous transactions as principal.

Daniel Anthony Borzoni (Registered Representative, San Diego, California) was fined $15,000, suspended from association with any member of the NASD in any capacity for 90 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 DBCC for District 2. The sanctions were based on findings that Borzoni received cash totaling $3,820 from public customers for the purchase of securities without giving prior written notification to his member firm. In addition, he failed to follow a customer's instructions to sell shares of a security.

Gerald Arnold Steward (Registered Representative, El Cajon, California) was fined $15,000, suspended from association with any member of the NASD in any capacity for one year, and required to requalify by examination. The sanctions were imposed by the NASD's Board of Governors on review of a decision by the DBCC for District 2. The sanctions were based on findings that Steward guaranteed public customers against loss in connection with a securities transaction. In addition, Steward wrote two checks totaling $2,392.85 drawn on his member firm's bank account and deposited the proceeds into his personal bank account. He attempted to repay the funds to his member firm with two checks drawn on his personal account, but one of the checks (for $2,292.85) was returned for insufficient funds.

Earl Washington Vaz (Registered Representative, Northridge, California) was fined $15,000 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 DBCC for District 2. The sanctions were based on findings that Vaz fraudulently induced a customer to provide him with a check for $1,000 and led the customer to believe that his funds would be deposited in a high-yield mutual fund. He failed to purchase the requested securities or return the funds to the customer, and converted the proceeds to his own use and benefit.

Evelyn Charlene Haun (Direct Participation Programs Principal, Mission Viejo, 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 Haun failed to respond to NASD requests for information.

Beverley Moore Hylton (Registered Representative, San Diego, California) was fined $5,000 and suspended from association with any member of the NASD in any capacity for 14 days. The sanctions were based on findings that Hylton recommended an options strategy to six public customers and executed options transactions in the customers' accounts pursuant to such strategy without having reasonable grounds for believing such recommendations were suitable considering the customers' experience in options contracts and their ability to evaluate the risks involved.

Daniel Jay McNeff (Registered Representative, Escondido, 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 McNeff failed to respond to NASD requests for information concerning his termination from a member firm.

Douglas Wayne Norsten (Registered Representative, Henderson, Nevada) submitted an Offer of Settlement 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, Norsten consented to the described sanctions and to the entry of findings that he sold shares of common stock to public customers without providing prior written notice of such sales to his member firm. The NASD found that, in connection with such activity, Norsten guaranteed a customer against loss and issued a promissory note to this customer in support of the guarantee without the knowledge or consent of his member firm.

George Jan Paukert (Registered Representative, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000 and suspended from association with any member of the NASD in any capacity for 30 days. Without admitting or denying the allegations, Paukert consented to the described sanctions and to the entry of findings that he engaged in the sale of securities to a public customer without providing prior written notice to his member firm.

Patrick Michael Riley (Registered Representative, Manhattan Beach, 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 Riley failed to respond to NASD requests for information regarding customer complaints.

Paul Eugene Roberts (Registered Representative, Riverside, California) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Roberts received $3,000 in cash from a public customer for the purchase of securities, failed to purchase any securities, and gave the money to a friend. Thereafter, Roberts confessed his actions to the customer when the customer requested that the securities be sold. Roberts agreed to repay the customer $3,000 plus $500 in interest. He paid $3,000 of the amount but failed to pay the remaining balance of $500. In addition, Roberts failed to respond to NASD requests for information.

Richard Blain Stair (Associated Person, Del Mar, California) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that, in connection with two contingent offerings of limited partnership interests, Stair failed to promptly transmit customer funds to a separate escrow account. Furthermore, the investors' funds were distributed to the general partner before the contingencies in the offerings were met. In addition, Stair functioned as a principal of a member firm without proper registration with the NASD.

Kieth Eric Vineyard (Registered Representative, Encino, California) was fined $5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Vineyard failed to honor a $19,832 New York Stock Exchange arbitration award.

District 3

Bagley Securities, Inc. (Salt Lake City, Utah) was fined $8,360 and suspended from effecting transactions on a principal basis for two business days. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 3. The sanctions were based on findings that Bagley refused to complete a securities transaction in which it bought shares of stock from another member firm.

John H. Bowles (Registered Representative, Denver, Colorado) was fined $15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Bowles misused firm funds by utilizing $4,000 that was erroneously credited to his personal securities account by his member firm.

Debra C. Bryant (Registered Representative, Aurora, Colorado) was fined $5,000, suspended from association with any member of the NASD in any capacity for 45 days, and required to make restitution of $1,875 to her member firm. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 3. The sanctions were based on findings that Bryant misused firm funds in that she accepted and endorsed a check made payable to herself for $2,067.75 that contained an overpayment of $1,875. Bryant converted the overpayment to her own use and benefit.

Willem Dragt (Registered Representative, Eugene, Oregon) was fined $30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Dragt made improper use of customer funds in that he received a $500 check from two customers for the purchase of shares of a mutual fund. When the customers complained of not receiving a confirmation, Dragt sent them an undated confirmation and a $500 check that was drawn on an account containing insufficient funds. Dragt also failed to respond to NASD requests for information.

Neil James Koranda (Registered Representative, Beaverton, Oregon) submitted an Offer of Settlement pursuant to which he was fined $7,500 and suspended from association with any member of the NASD in any capacity for 30 days. Without admitting or denying the allegations, Koranda consented to the described sanctions and to the entry of findings that he exercised effective control over the account of a customer and recommended the purchase and sale of securities to the customer without having reasonable grounds for believing that such recommendations were suitable, considering the customer's financial situation and investment needs.

Dennis A. Liljegren (Registered Representative, Tucson, Arizona) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Liljegren accepted from a public customer checks totaling $25,000 intended for investment purposes, but failed to establish the customer's account and invest the funds as instructed. Instead, he sent the customer five statements that contained false information in order to create the appearance that the funds were invested when, in fact, they were not. Liljegren also failed to respond to NASD requests for information.

Dan Allen Nielsen (Registered Representative, Battleground, Washington) 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, Nielsen consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information concerning customer complaints.

John Ray Ryan (Registered Representative, Liberty Lake, Washington) was fined $10,000, suspended from association with any member of the NASD in any capacity for two years, and required to requalify by examination. The sanctions were based on findings that Ryan sold preferred stock in an entity to eight investors without providing prior written notification to his member firm.

Anthony Van Marle (Registered Representative, Tucson, Arizona) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Van Marle recommended to public customers the purchase and sale of common stock, warrants, or rights without having reasonable grounds for believing that such recommendations were suitable for the customers considering their financial situations and needs. In connection with these recommendations, Van Marle engaged in unfair sales practices in that he made exaggerated and misleading statements to the customers.

John M. Warwick (Registered Representative, Aurora, Colorado) was fined $15,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to requalify by examination as a registered representative. The sanctions were based on findings that Warwick effected unauthorized transactions in the accounts of two public customers.

William Erwin Zilys (Registered Principal, Spokane, Washington) and William Edward Kinzel (Registered Representative, Veradale, Washington). Zilys was fined $25,000 and barred from association with any member of the NASD as a general securities principal. Kinzel was fined $325,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that, on three separate occasions, Kinzel received funds from customers for investment purposes, failed to use the funds as instructed, and never returned the funds to the customers. Zilys and Kinzel made unsuitable recommendations to customers considering their financial situations and needs. Also, in connection with these unsuitable recommendations, Zilys made unwarranted, misleading, and inaccurate statements to the customers. Furthermore, Zilys engaged in private securities transactions without providing prior written notification to his member firm and failed to supervise properly the activities of Kinzel. In addition, Kinzel failed to respond to NASD requests for information.

Tri-Bradley Investments, Inc. (Englewood, Colorado), The Oxford Group, Inc. (Colorado Springs, Colorado), Brennan Ross Securities, Inc. (Englewood, Colorado), John E. Bradley (Registered Principal, Englewood, Colorado), Gregory D. Writer, Jr. (Registered Principal, Colorado Springs, Colorado), Garold Neal McGaugh (Registered Principal, Colorado Springs, Colorado), Dennis E. Evanson, Sr. (Registered Representative, Colorado Springs, Colorado), Jackie D. Pevey (Registered Principal, Irvine, California), Michael D. Pittman (Registered Principal, Aurora, Colorado), and Stephen M. Kerr (Associated Person, Denver, Colorado) submitted an Offer of Settlement pursuant to which Tri-Bradley was fined $20,000 and expelled from membership in the NASD, The Oxford Group and Brennan Ross were each fined $20,000 and ordered to withdraw from membership in the NASD, and John Bradley was fined $15,000 and barred from association with any member of the NASD in any capacity.

In addition, Writer was fined $200,000 and barred from association with any member of the NASD in any capacity; McGaugh and Evanson were each fined $5,000, suspended from association with any member of the NASD in any capacity for nine months and required to requalify by examination as principals; and Pevey was fined $20,000, suspended from association with any member of the NASD in any capacity for one year, and required to requalify by examination as a principal.

Also, Pittman was fined $10,000, suspended from association with any member of the NASD in any capacity for 15 days, and prohibited for five years from trading for a member of the NASD a class of securities not previously issued to the public through a registration statement or under an exemption from registration; and Kerr was fined $125,000 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 Writer and Kerr, aided and abetted by Tri-Bradley, Bradley, Brennan Ross, and Pevey, created and implemented a scheme to manipulate a stock so that they could sell shares of the stock acquired by them at a substantial profit.

The NASD found that Writer, McGaugh, Evanson, Tri-Bradley, Oxford, Kerr, Brennan Ross, and Pevey sold unregistered securities to public customers. Furthermore, the findings stated that Writer, McGaugh, Evanson and Tri-Bradley, acting through Bradley, Oxford, Kerr, Brennan Ross, and Pevey, sold securities to public customers and failed to inform the customers of certain material facts. In addition, the findings stated that Writer, McGaugh, Evanson, Pevey, and Kerr participated in private securities transactions without providing prior written notice to their member firms.

The NASD also found that Tri-Bradley, operating through Bradley, and Brennan Ross, operating through Pevey, failed to establish, maintain, and enforce written supervisory procedures regarding the activities of Writer, McGaugh, Evanson, and Kerr. Furthermore, the NASD determined that Writer made false, inaccurate, and misleading statements to the NASD concerning his involvement in the aforementioned stock manipulation. According to the findings, Tri-Bradley and Bradley took shares of stock from Writer as an incentive or reward for making a market in the stock, and Brennan Ross, Pevey, and Pittman were given shares of the stock as an incentive for causing Brennan Ross to make a market in the stock but failed to record the transactions on the books and records of Brennan Ross.

Tri-Bradley Investments, Inc. (Englewood, Colorado) and **John E. Bradley (Registered Principal, Englewood, Colorado)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined $50,000 and expelled from membership in the NASD, and Bradley 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 and Bradley sold unregistered securities to public customers and aided and abetted nonregistered individuals to induce the sale of securities to public customers through the use of false representations of material facts.

Piper, Jaffray & Hopwood, Inc. (Minneapolis, Minnesota) 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 to the entry of findings that it failed to reasonably review or monitor the sales activities of one of its registered representatives in order to detect unsuitable transactions in customer accounts.

H.T. Fletcher Securities Incorporated (Englewood, Colorado) and **George Louis Gore, Jr. (Registered Principal, Castelrock, Colorado)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined $40,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Gore, sold securities to public customers at excessive prices with markups ranging from 10.53 percent to 25.71 percent above the prevailing market price.

Jay H. Block (Registered Principal, Littleton, Colorado) was fined $7,500 and suspended from association with any member of the NASD in any capacity for two years. The sanctions were based on findings that Block failed to respond to NASD requests for information regarding a customer complaint.

Lonnie G. Eldridge (Registered Representative, Alamogordo, New Mexico) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Eldridge induced a public customer to invest monies for the purported purchase of a mutual fund. Eldridge failed to invest the customer's funds and, instead, converted the funds to his own use. He also failed to respond to NASD requests for information.

Dennis E. Evanson, Sr. (Registered Representative, Colorado Springs, Colorado) submitted a Letter of Acceptance, Waiver and Consent 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, Evanson consented to the described sanctions and to the entry of findings that he aided and abetted nonregistered individuals in inducing a public investor to purchase a security through the use of false representations of material facts.

Paul J. Herzwurm (Registered Representative, Atlanta, Georgia) was fined $12,500 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Herzwurm failed to honor a $2,000 arbitration award. Also, he did not disclose on his application for securities industry registration (Form U-4) that there was an unsatisfied arbitration award against him and that he was the subject of an NASD investigation regarding his failure to pay the award.

Richard Spencer Hoffman (Registered Representative, Aurora, Colorado) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hoffman failed to honor an $11,902.67 arbitration award.

Merlin J. Hoving (Registered Representative, Lakewood, Colorado) was fined $5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hoving failed to honor a $2,500 arbitration award.

Matthew W. Martinez (Registered Representative, Albuquerque, New Mexico) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Martinez made improper use of customer funds by accepting a total of $9,355.56 from a public customer with instructions to deposit the funds into the customer's insurance policy. Martinez deposited only $4,000, failing to deposit the remaining $5,355.56 as instructed.

Pamela Jane Perdue (Registered Representative, Denver, Colorado) was fined $40,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Perdue effected transactions in customer accounts without obtaining the customers' prior authorization. She also opened 11 customer accounts without the customers' knowledge and falsified information on their new-account forms.

Scott R. Romig (Registered Representative, Mesa, Arizona) 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 five business days. Without admitting or denying the allegations, Romig consented to the described sanctions and to the entry of findings that he misrepresented to a customer the status of the customer's account and the activity in the account. According to the findings, Romig also gave a personal check for $1,004.88 to a customer and, on another occasion, deposited $2,407.13 in a different customer's account in order to offset losses incurred by these customers. Furthermore, the NASD found that Romig created inaccurate account reviews of a customer's investments and sent the reviews to the customer without prior supervisory review or approval. In addition, the NASD determined that Romig sent a letter, without prior supervisory review or approval, to the same customer that inaccurately concluded that Romig and his member firm were responsible for a debit balance in the customer's account.

Dennis E. Sproul (Registered Representative, Scottsdale, Arizona) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Sproul obtained funds from two customers totaling $162,955.43 intended for investment purposes and deposited the funds into a bank account that did not belong to his member firm. Sproul subsequently withdrew the funds and failed to forward them to his member firm for the customers' benefit. In addition, Sproul sent a letter to a customer containing false and misleading information concerning the customer's account.

Michael E. Stambor (Registered Principal, Lakewood, Colorado) was fined $30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Stambor falsified the books and records of his member firm by causing false journal entries for securities to be made so as to facilitate his subsequent misuse of those securities. In addition, Stambor falsely deposited his member firm's securities in an account and thereafter received the proceeds from the sale of those securities.

Mark D. Watters (Registered Representative, Denver, 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, in order to induce a customer to purchase a security, Watters guaranteed a profit to the customer on the purchase and made misrepresentations concerning the investment. Watters also failed to respond to an NASD request for information.

Gregory D. Writer (Registered Principal, Colorado Springs, Colorado) submitted an Offer of Settlement pursuant to which he was fined $7,500, jointly and severally with a former member firm, and suspended from association with any member of the NASD in any capacity for 15 business days. Without admitting or denying the allegations, Writer consented to the described sanctions and to the entry of findings that, acting on behalf of a former member firm, he distributed a letter to a lender containing materially misleading information in order to induce the institution to lend money to an individual. Also, the findings stated that a former member firm, acting through Writer, sold shares of common stock to public customers at unfair prices with markups ranging from 33.3 percent to 49.33 percent above the prevailing market price. In addition, the NASD determined that a former member, acting through Writer, permitted an individual who was not registered with it to conduct a securities business when the individual was registered with another member firm.

Ronald James Lasek (Registered Representative, Costa Mesa, California) submitted an Offer of Settlement pursuant to which he was fined $10,000 and ordered to disgorge $600 to customers. Without admitting or denying the allegations, Lasek consented to the described sanctions and to the entry of findings that he executed a series of purchase and sale transactions in two customers' accounts without receiving prior authorization and consent of the customers.

Pentad Securities, Inc. (Sun City, Arizona) and **B. Mills Sinclair (Financial and Operations Principal, Sun City, Arizona)** were fined $32,500, jointly and severally. Sinclair was suspended from association with any member of the NASD in any capacity for 30 days and suspended as a financial and operations principal for two years. In addition, Sinclair must requalify by examination as a financial and operations principal and may not play any role in the management of Pentad. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 3. The sanctions were based on findings that the firm, acting through Sinclair, failed to respond to NASD requests for information and conducted a securities business while failing to maintain required minimum net capital. In addition, the firm, acting through Sinclair, filed a materially inaccurate FOCUS Part I report and failed to file FOCUS Part IIA and certain financial reports on a timely basis. The respondents also failed to discontinue the association of a statutorily disqualified person with the firm.

Sun Securities, Inc. (Scottsdale, Arizona) and **Anthony John Puglisi (Registered Principal, Scottsdale, Arizona)** were fined $20,000, jointly and severally, and Puglisi was barred from association with any member of the NASD in any principal capacity. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 3. The sanctions were based on findings that the firm, acting through Puglisi, engaged in certain transactions and made false entries in its books and records in order to hide the misuse of customer funds and to give the appearance that the firm was in compliance with its net capital requirement. Furthermore, the respondents used in the firm's own business funds received from its customers for securities purchases. In addition, the firm, acting through Puglisi, received and held customer funds without establishing a Special Reserve Bank Account, and allowed unregistered persons to conduct a securities business on behalf of the firm. The firm, acting through Puglisi, also conducted a securities business while failing to maintain required minimum net capital.

Angela V. Campbell (Registered Representative, Tucson, Arizona) submitted an Offer of Settlement pursuant to which she was fined $15,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Campbell consented to the described sanctions and to the entry of findings that she accepted a check for $5,000 from a public customer as payment on a life insurance policy. The NASD found that Campbell failed to follow the customer's instructions and, instead, used the funds for her own benefit.

George R. Johnston, Jr. (Financial and Operations Principal, Denver, Colorado) was fined $3,000 and suspended from association with any member of the NASD as a financial and operations principal for 30 days. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 3. The sanctions were based on findings that Johnston caused his member firm to conduct a securities business while failing to maintain required minimum net capital. In addition, he caused the firm to file inaccurate FOCUS reports.

James Elias Ryan (Registered Representative, Bellevue, Washington) submitted an Offer of Settlement pursuant to which he was fined $5,000 and suspended from association with any member of the NASD in any capacity for 10 days. Without admitting or denying the allegations, Ryan consented to the described sanctions and to the entry of findings that, in order to induce customers to purchase securities, he made misleading and unwarranted statements to public customers regarding the performance of the securities and the risk involved. The NASD also found that Ryan recommended to a customer the purchase of securities without having reasonable grounds for believing such recommendations were suitable considering the customer's financial situation and investment needs.

Mark W. Widdows (Registered Representative, Loveland, Colorado) was fined $20,000 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 DBCC for District 3. The sanctions were based on findings that Widdows made improper use of customer funds in that he obtained 10 checks totaling $24,435.15 that were made payable to a public customer and caused these checks to be cashed by forging endorsements. In addition, Widdows falsified his firm's books and records by changing a customer's address to reflect his own home address without the customer's authorization.

District 4

VSR Financial Services, Inc. (Leawood, Kansas) and **Donald Joseph Beary (Registered Principal, Overland Park, Kansas)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined $10,000, jointly and severally, and VSR was suspended from initiating any offering in which the firm would act directly or indirectly as a managing underwriter for 45 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with a best-efforts, part-or-none offering, VSR, acting through Beary, represented to purchasers of units of the limited partnership that the consideration paid would be refunded if the minimum amount of securities were not sold by a specified date. Furthermore, the findings stated that when these securities were not sold by the specified date, the investors were not refunded the amount paid. In addition, the NASD found that the firm, acting through Beary, failed to disclose in a private placement memorandum for the offering that the general partner had filed a petition in U.S. Bankruptcy Court for a business with substantially similar or identical purposes to the one proposed by the offering document.

F. Edward Morgison (Registered Principal, Kansas City, Missouri) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Morgison, acting on behalf of a member firm, sold shares of common stock that were not registered with the SEC or exempt from registration. A member firm, acting through Morgison, failed to disclose on confirmations that the firm was acting as agent for both buyer and seller. In addition, they failed to indicate the source and amount of the remuneration nor did they offer to disclose such information on written request from the customers. Acting on behalf of a member firm, Morgison also failed to comply with the NASD's Mark-Up Policy by effecting corporate securities transactions as principal with retail customers at prices that were unfair and unreasonable. Furthermore, a member firm, acting through Morgison, conducted a securities business while failing to maintain the minimum required net capital.

District 5

Taylor, Garret & Co., Inc. (Monroe, Louisiana) and **Terry G. McCart (Registered Principal, Monroe, Louisiana).** The firm was fined $15,000 and expelled from membership in the NASD, and McCart was fined $15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, acting through McCart, failed to file its FOCUS Part I and Part II reports, and failed to respond to NASD requests for information.

Allison, Rosenblum & Hannahs, Inc. (Little Rock, Arkansas), Robert C. Allison, Jr. (Registered Principal, Little Rock, Arkansas), Robert C. Goodwin (Financial and Operations Principal, Sherwood, Arkansas), and **Tommy T. Tullos (Registered Principal, Little Rock, Arkansas)** submitted an Offer of Settlement pursuant to which the firm was fined $10,000, Allison was suspended from association with any member of the NASD in any principal capacity for one week, Goodwin was suspended from association with any member of the NASD as a financial and operations principal for one week, and Tullos was suspended from association with any member of the NASD in any capacity for one week. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Allison and Goodwin, improperly reclassified funds of principal and interest payable to miscellaneous income, improperly used the funds in the firm's business, and failed to deposit these monies into the reserve account. They also prepared an inaccurate balance sheet, income statement, and net capital computation and filed inaccurate FOCUS Part I and Part II reports, according to the findings. The NASD also determined that the firm, acting through Allison and Goodwin, violated the terms of its restriction agreement by failing to transfer customer securities to a clearing firm or to the customer, failed to maintain possession or control of shares of stock that were wholly owned by a public customer, and improperly hypothecated these customer securities by using them as a clearing deposit. In addition, the NASD determined that the firm, acting through Allison and Goodwin, inaccurately computed the firm's net capital and aggregate indebtedness and conducted a securities business while the firm's net capital was under its minimum requirement. According to the findings, the firm, acting through Allison, made commission payments to two unregistered broker-dealers. The findings also stated that the firm, acting through Tullos, executed corporate securities transactions with public customers on a principal basis at prices that were unfair. And the findings stated that the firm, acting through Goodwin, failed to file its annual audit report on a timely basis, and that Robert Allison failed to establish, maintain, and enforce written supervisory procedures.

Apple Securities, Inc. (North Little Rock, Arkansas), Larry G. Norwood (Registered Prin-

cipal, Sherwood, Arkansas), and Frank E. Sparks, II (Registered Representative, Sherwood, Arkansas)** submitted an Offer of Settlement pursuant to which the firm was fined $50,000. Norwood was suspended from association with any member of the NASD in any capacity for one day and must requalify by examination as a principal. Sparks was suspended from association with any member of the NASD in any capacity for one month. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Sparks, executed numerous government securities transactions in an institutional account that were excessive in size and frequency and unsuitable in view of the institution's investment objectives and financial situation. The findings also stated that the firm and Sparks failed to disclose these excessive transactions to the institution's board of directors and senior officers. In addition, the NASD found that Norwood failed to supervise the activities of Sparks properly.

James O. Brewer (Registered Representative, Metairie, Louisiana) and James M. Clarke (Registered Representative, Longwood, Florida) submitted an Offer of Settlement pursuant to which Brewer was fined $15,000 and barred from association with any member of the NASD in any capacity. Clarke was suspended from association with any member of the NASD in any capacity for six months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Brewer participated in a scheme to defraud a financial institution and a member firm by executing certain documents that made false representations, contained material omissions, and failed to disclose certain information. In addition, the NASD determined that, in connection with such activity, Clarke failed to observe high standards of commercial honor and just and equitable principles of trade.

Bryan Lee Claggett (Registered Principal, Hot Springs Village, Arkansas) submitted an Offer of Settlement pursuant to which he was fined $5,000 and suspended from association with any member of the NASD in any capacity for one day. Without admitting or denying the allegations, Claggett consented to the described sanctions and to the entry of findings that he offered and sold securities that were outside the regular course of his employment with his member firm without providing prior written notice of these transactions to his member firm, in contravention of the Board of Governors' Interpretation with respect to Private Securities Transactions. In addition, the NASD found that Claggett recommended 12 direct participation programs to a public customer and caused these securities to be purchased for the customer's account without having reasonable grounds to believe these recommendations were suitable considering the customer's investment objectives and financial situation.

Nazmi C. Hassanieh (Registered Representative, Memphis, Tennessee) submitted an Offer of Settlement pursuant to which he was suspended from association with any member of the NASD in any capacity for two weeks and must requalify by examination as a general securities representative. Without admitting or denying the allegations, Hassanieh consented to the described sanctions and to the entry of findings that he executed unauthorized transactions in the accounts of public customers and induced some of these customers to trade options by agreeing to reimburse them one half of any losses sustained as a result of such trading. In addition, the NASD found that Hassanieh executed margin transactions in the joint account of two public customers without having reasonable grounds for believing that such trading was suitable in view of their previous investment experience and investment objectives.

Daniel J. Lee (Registered Representative, Conway, Arkansas) submitted an Offer of Settlement pursuant to which he was fined $1,000 and suspended from association with any member of the NASD in any capacity for one day. Without admitting or denying the allegations, Lee consented to the described sanctions and to the entry of findings that he made unsuitable recommendations to public customers.

Sallie M. McConnell (Registered Representative, Birmingham, Alabama) was fined $15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that McConnell improperly signed the name of a deceased relative to letters that requested the liquidation of shares of a government fund. McConnell also forged the customer's name to four redemption checks and converted the funds to her own use and benefit. In addition, the NASD found that McConnell failed to respond to NASD requests for information.

David R. Strother (Registered Principal, Shreveport, Louisiana) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Strother received from six public customers a total of $768,848.89 by representing that he would invest the funds in securities, but instead converted the funds to his own use and benefit.

Drew S. Hyde (Registered Representative, Las Vegas, Nevada) submitted an Offer of Settlement pursuant to which he was fined $1,000 and suspended from association with any member of the NASD in any capacity for one business day. Without admitting or denying the allegations, Hyde consented to the described sanctions and to the entry of findings that, in connection with the sales of shares of warrants to a customer, Hyde utilized in his presentation sales materials that contained material misstatements and/or omissions. In addition, the findings stated that Hyde failed to amend his Uniform Application for Securities Industry Registration (Form U-4) to indicate that he was the subject of a proceeding filed by the NASD.

Douglas H. Lemon (Registered Representative, Richland, Mississippi) submitted an Offer of Settlement pursuant to which he 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, Lemon consented to the described sanctions and to the entry of findings that he recommended one private and nine public direct participation programs to a public customer and caused these securities to be purchased for the customer's account. In connection with these transactions, the findings stated that Lemon recommended that the customer liquidate holdings of corporate utility bonds and exchange-listed securities in order to effect the purchase of the public direct participation programs without having reasonable grounds to believe these recommendations were suitable for the customer based on the customer's investment objectives, financial situation, and needs.

Don Allen Reel (Registered Principal, Conroe, Texas) was fined $15,000, suspended from association with any member of the NASD in any capacity for 30 days and in any principal capacity for three years, and required to requalify as a principal. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 5. The sanctions were based on findings that Reel allowed an associated person to make sales to two customers in municipal securities when the individual was not qualified to sell municipal securities.

Sidney E. Richmond, Jr. (Financial and Operations Principal, Little Rock, Arkansas), Joseph P. Hill (Registered Principal, Little Rock, Arkansas), Robert M. Paulovich (Registered Representative, Bryant, Arkansas), and Billy C. Martindale (Registered Representative, Little Rock, Arkansas) submitted an Offer of Settlement pursuant to which Richmond and Hill were both suspended from association with any member of the NASD in any capacity for six months. Paulovich was fined $15,000 and suspended from association with any member of the NASD in any capacity for one month, and Martindale was fined $15,000 and suspended from association with any member of the NASD in any capacity for two years.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Paulovich and Martindale, acting on behalf of a member firm, executed or caused to be executed certain government securities purchase and sale transactions with a public customer and failed to disclose to the public customer that the purchase and sale prices were artificially established and not reasonably related to the current market prices for the securities. Furthermore, the findings stated that the purchase and sale transactions represented a practice commonly known as adjusted trading by which the respondents purchased the security at a price higher than the market in order to allow the customer to avoid recognizing a loss on the sale. The firm recouped its loss by selling a security to the customer at a price in excess of the current market price for such security.

In addition, the NASD determined that Paulovich and Martindale falsified their member firm's books and records and caused false and misleading confirmations to be mailed to customers. The NASD also found that Martindale and Paulovich, acting on behalf of a member firm, executed or caused to be executed certain government securities purchase and sale transactions with public customers at prices that included excessive markups and markdowns.

Other findings stated that Martindale and Paulovich, acting on behalf of a member firm, engaged in a scheme or artifice to defraud public customers by using a high-pressure sales presentation in which they systematically misrepresented the nature and risks of government securities that they sold and failed to disclose material facts. The NASD found that Richmond knowingly and recklessly assisted in these fraudulent activities and the generation of inaccurate books and records. He also failed to establish, maintain, and enforce written supervisory procedures, and failed to supervise properly. The findings also stated that Hill directly or indirectly controlled Martindale, Paulovich, and Richmond in connection with the above activity.

Brennan Ross Securities, Inc. (Englewood, Colorado), Barry C. Bates (Registered Principal, Aurora, Colorado), and Michael D. Pittman (Registered Principal, Aurora, Colorado) submitted an Offer of Settlement pursuant to which they were fined $15,000, jointly and severally, and the firm must disgorge $75,000 to the NASD. Also, Pittman was suspended from association with any member of the NASD in any capacity for 15 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Pittman, engaged in securities transactions with public customers at prices that were unfair (including markups of more than 10 percent). In addition, the NASD found that the firm, acting through Pittman, manipulated the price of a common stock by arbitrarily setting the prices of the securities to customers while dominating and controlling the market in such securities. According to the findings, the firm, acting through Pittman, also failed to disclose to the customers the pricing methods used and the absence of a relationship between the pricing method and a bona fide assessment of demand for the stock. The NASD found that Bates failed to supervise the activities of Pittman properly. In addition, the findings stated that the firm, acting through Bates, failed to establish, maintain, and enforce written procedures concerning markups and markdowns on principal transactions.

Andrew J. Crawford (Registered Representative, Little Rock, Arkansas) 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, Crawford consented to the described sanctions and to the entry of findings that he exercised discretion in the accounts of public corporate customers without having obtained proper written authorization from the customers and without having his member firm accept the accounts as discretionary in writing. The NASD also found that Crawford sent false confirmations to a public institutional customer to induce the customer to transfer funds to his member firm. These monies were then used to fund transactions in two other customer accounts. In addition, the NASD determined that Crawford failed to disclose this scheme to the customer and to his member firm.

Ben H. Gibbs (Registered Representative, Birmingham, Alabama) 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 one year. He must requalify by examination as a general securities representative. Without admitting or denying the allegations, Gibbs consented to the described sanctions and to the entry of findings that he exercised discretion in the account of two public customers without obtaining written discretionary authorization from the customers and before his member firm accepted the account as discretionary.

Patrick G. Keel (Registered Representative, New Orleans, Louisiana) and **Lawrence A. Grolemund (Registered Principal, Tampa, Florida).** Keel was fined $25,000 and barred from association with any member of the NASD in any capacity, and Grolemund was fined $4,000 and suspended from association with any member of the NASD in any principal capacity for seven days. In addition, Grolemund was required to requalify by examination as a principal. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 5. The sanctions were based on findings that Keel executed unauthorized options transactions in the joint account of two customers. These options transactions were unsuitable for the customers considering their financial situations and investment needs. He also made unsuitable recommendations to other public customers. In addition, Keel exercised discretion in a customer's account without obtaining prior written authorization from the customer and without prior written approval from his member firm. Furthermore, Keel submitted active account information reports to his member firm regarding two public customers. These reports indicated that each account had a net profit when, in fact, the customers had sustained losses in their accounts. Grolemund, acting on behalf of his member firm, also failed to establish, maintain, and enforce written supervisory procedures and failed to supervise Keel's activities properly.

Keel has appealed this action to the SEC, and his sanctions, other than the bar, are not in effect pending consideration of the appeal.

District 6

Texas Securities, Inc. (Fort Worth, Texas), Gary Don Edwards (Registered Principal, Graham, Texas), and **Robert Payne Jackson, (Financial and Operations Principal, Fort Worth, Texas)** submitted an Offer of Settlement pursuant to which the firm was fined $79,000. The firm and Edwards were fined $10,000, jointly and severally, and the firm and Jackson were fined $10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in contravention of the NASD's Mark-Up Policy, the firm, acting through Edwards and Jackson, effected corporate securities transactions with retail customers at prices that were unfair. Also, the findings stated that Texas Securities effected transactions in securities while failing to maintain required minimum net capital.

William Larry Keene (Registered Representative, Austin, 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 Keene failed to honor a $4,920.28 arbitration award.

Jeffrey Don Richardson (Registered Representative, Kansas City, Missouri) was fined $15,000 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 DBCC for District 6. The sanctions were based on findings that, on two separate occasions, Richardson authorized withdrawals in dividends from the life insurance policy of a customer without the knowledge or consent of the customer. As a result of the withdrawals, Richardson received checks totaling $10,300 and converted the funds to his own use and benefit.

Samuel Eugene Cryan (Registered Representative, Corsicana, 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, without the knowledge or consent of his member firm, Cryan sold bonds for his member firm's account to two other member firms and failed to record such transactions on his member firm's books and records.

District 7

Diversified Income Investments, Inc. (Stuart, Florida) and **Donald James Bruning (Registered Principal, Palm City, Florida)** were fined $20,000, jointly and severally. The firm was expelled from membership in the NASD, and Bruning was barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, acting through Bruning, failed to respond to NASD requests for information.

Tri-Bradley Investments, Inc. (Englewood, Colorado) and **Mary Frances Mernah (Registered Principal, Denver, Colorado)** submitted an Offer of Settlement pursuant to which the firm was fined $118,000 and expelled from membership in the NASD. Mernah was fined $10,000 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 the firm, acting through Mernah, effected, as principal for its own account, over-the-counter sales of corporate securities to public customers at prices that were not fair. In addition, the findings stated that Tri-Bradley failed to provide the NASD with requested data.

Asset Management Securities Corporation (Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined $2,500 and suspended from conducting a municipal securities business for 30 days. Without admitting or denying the allegations, Asset Management consented to the described sanctions and to the entry of findings that it failed to maintain a supervisory system appropriate to its business and appropriate written supervisory procedures. In addition, the NASD found that the firm effected transactions in municipal securities while failing to have a qualified registered municipal securities principal.

Parker Jameson Investment Bankers, Inc. (Boca Raton, Florida) and **Mark S. Creamer (Registered Principal, Coconut Creek, Florida).** The firm was fined $25,000 and suspended from effecting principal transactions with customers, except unsolicited customer liquidations for five business days. Creamer was fined $2,500 and suspended from association with any member of the NASD in any capacity for five business days. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 7. The sanctions were based on findings that the firm, acting through Creamer, failed to comply with the NASD's Mark-Up Policy by effecting 83 transactions in corporate securities as principal with retail customers at prices that were unfair. The markups ranged from 40 to 527 percent above the prevailing market price.

Jeffry A. Bander (Registered Representative, Indialantic, Florida) was fined $25,000 and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that Bander purchased shares of stock for the securities account of public customers without the knowledge or consent of the customers.

Judah Burstyn (Registered Representative, Miami Beach, Florida) submitted an Offer of Settlement 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, Burstyn consented to the described sanctions and to the entry of findings that he caused his member firm to issue and deliver to him three checks payable to two customers. In addition, the findings stated Burstyn represented that he would deliver the checks to the customers, but that he instead converted the funds from two of the checks totaling $11,529.17 to his own use and benefit.

Joseph Richard Kubancik (Registered Representative, Orlando, Florida) submitted an Offer of Settlement pursuant to which he was fined $1,000 and suspended from association with any member of the NASD in any capacity for three business days. Without admitting or denying the allegations, Kubancik consented to the described sanctions and to the entry of findings that he induced public customers to purchase common stock and refrain from selling the shares by guaranteeing that he would purchase the stock without a loss to the customers if the price fell below a certain price or if certain news regarding the issuer did not materialize. The findings also stated that Kubancik shared in the losses of public customers by purchasing at their cost securities that had decreased in value.

Daniel Simmons Peterson (Registered Representative, Winchester, Massachusetts) was fined $11,433.50, ordered to pay $18,566.60 in restitution to a customer, and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that Peterson effected three securities transactions in the account of a public customer without the knowledge or consent of the customer.

Jeffrey Wade Pinyon (Registered Representative, Boca Raton, 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 Pinyon failed to honor a $974 arbitration award.

Anthony Libero Pullara (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 Pullara represented to a public customer that the customer would make a 25 percent profit in 30 days on the purchase of a security without having any factual basis for such representation. In addition, Pullara failed to respond to an NASD request for information.

Irving Moses Simon (Registered Representative, Boca Raton, Florida) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Simon reimbursed a customer for $20,000 of losses without providing prior written notice to his member firm. In addition, Simon failed to respond to an NASD request for information.

In an unrelated matter, Simon was fined $15,000, ordered to pay $12,550 in restitution to a customer, and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that Simon prevented his member firm from executing orders from public customers to sell common stock. Also, without having any factual basis, Simon represented to a public customer that the customer would not lose any money on a particular investment and that a $15,000 investment would increase to $24,000 by a specified time. In addition, Simon made an unsuitable recommendation to this customer considering the customer's other security holdings and his financial situation and needs.

William Patton Tarkenton (Registered Representative, Cumming, Georgia) was fined $15,000, ordered to pay $12,000 in restitution to a customer, and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that Tarkenton recommended the purchase of common stock to a public customer without having reasonable grounds for believing that such recommendations were suitable considering the customer's other security holdings and financial situation and needs.

Stephen Brian Kaplan (Registered Representative, Tampa, Florida) was fined $10,000 and ordered to pay $1,400 in restitution to a customer. The sanctions were based on findings that Kaplan purchased and sold securities for the account of a customer without the knowledge or consent of the customer.

Amerimutual Corporation (Boca Raton, Florida) and **Rosemary Grady (Registered Principal, Boca Raton, Florida)** were fined $25,000, jointly and severally. The firm was expelled from membership in the NASD, and Grady was barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, acting through Grady, failed to file FOCUS Part I reports. In addition, the firm, acting through Grady, failed to respond to NASD requests for information.

Century Capital Corp. of South Carolina (Greenville, South Carolina) was fined $10,000. The sanction was imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 7. The sanction was based on findings that the firm, acting through another individual, effected 18 transactions in corporate securities as principal with retail customers at prices that were not fair.

This action has been appealed to the SEC, and the sanction is not in effect pending consideration of the appeal.

Wilbur Gerard Montgomery (Registered Representative, West Palm Beach, 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 Montgomery received a $6,000 check from a public customer for investment purposes. Montgomery misused $5,000 of the customer's funds by allowing the monies to remain in his personal checking account. In addition, Montgomery prepared and sent to the customer a statement that falsely reflected a $5,000 investment.

District 8

Russell E. Appenzeller (Registered Representative, Poland, Ohio) submitted an Offer of Settlement pursuant to which he was fined $5,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Appenzeller consented to the described sanctions and to the entry of findings that he forged the signatures of co-workers on commission checks that totaled $544.20 and converted the funds to his own use.

William D. Bower (Registered Representative, Sherman, Illinois) was fined $30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Bower received funds totaling $1,984.17 from five public customers with instructions to pay premiums on various insurance policies. He failed to follow the customers' instructions and, instead, deposited the funds in his personal account and used the monies for his own benefit. In addition, Bower failed to disclose on his application for securities industry registration, Form U-4, that he had been terminated from a member firm.

Roger M. Gilbert (Registered Representative, Jackson, Michigan) was fined $130,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Gilbert obtained funds totaling $57,369.24 from 11 public customers through loans against existing insurance policies or surrender of accumulated dividends without the customers' knowledge or consent and retained the funds for his own benefit. In addition, he received $13,948.27 from another customer with instructions to pay an insurance policy loan, failed to follow the customer's instructions, and converted the funds to his own use and benefit. Gilbert also failed to respond to NASD requests for information.

Frank Kurburski (Associated Person, Grand Haven, 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 Kurburski participated in his firm's failure to maintain minimum required net capital, filed inaccurate FOCUS Parts I and II reports, and failed to prepare accurate books and records. In addition, he prepared inaccurate reserve account computations, failed to make required reserve account deposits, and failed to maintain weekly reserve computations. Kurburski also failed to respond to an NASD request for information.

Bradley D. Moore (Registered Representative, Bloomington, Minnesota) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Moore effected three purchase transactions in his own account and gave his member firm a personal check, drawn on a closed account, for $11,480.25 in payment. Thereafter, Moore failed to pay his member firm for the transactions in a timely manner.

Edward L. Moskop (Registered Representative, Belleville, Illinois) was fined $15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Moskop received checks totaling $30,000 from two public customers with instructions to invest in mutual funds. Moskop failed to follow the customers' instructions and, instead, deposited the funds in an account in which he had a beneficial interest and converted the funds to his own use and benefit.

Beverly Parker (Registered Representative, Detroit, Michigan) was fined $30,000 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 a public customer, Parker obtained three checks totaling $2,730.15 drawn against the customer's account, signed the customer's name to the checks, and retained the funds for her personal use and benefit. In addition, she failed to respond to NASD requests for information.

Steven Mark Sanders (Registered Representative, St. Anne, Illinois) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Sanders participated in private securities transactions with four public customers without providing his member firm with prior written notice. In addition, Sanders failed to respond to NASD requests for information.

Gary L. Smith (Registered Representative, Detroit, Michigan) was fined $30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Smith received a check for $10,000 from a public customer for the purchase of securities. He failed to follow the customer's instructions and retained the funds for his own use and benefit. Smith also failed to respond to NASD requests for information.

William B. Starr (Registered Principal, Inver Grove Heights, Minnesota) submitted an Offer of Settlement pursuant to which he was fined $2,000 and suspended from association with any member of the NASD in any capacity for six months. Without admitting or denying the allegations, Starr consented to the described sanctions and to the entry of findings that he participated in private securities transactions with 18 public customers without providing prior written notice to his member firm.

Frank J. Zawlocki (Registered Representative, Mauston, Wisconsin) was fined $75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Zawlocki received funds totaling $36,042.06 from five public customers with instructions to pay premiums on insurance policies. He used $11,323.38 as instructed and retained the remaining $24,718.68 for his own use and benefit. In addition, Zawlocki failed to respond to NASD requests for information.

Ronald E. Anderson (Registered Representative, Bloomington, Minnesota) was fined $15,000 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 DBCC for District 8. The sanctions were based on findings that Anderson received funds totaling $12,797.37 from public customers for investment purposes. He failed to follow the customers' instructions and, instead, deposited the funds in an account in which he had a beneficial interest and used the funds for his personal benefit.

Lynn Aude (Registered Representative, Green Bay, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Aude consented to the described sanctions and to the entry of findings that he caused loans totaling $17,060 to be made against the insurance policies of public customers without their knowledge or consent. Furthermore, the findings stated that he endorsed the policyholders' names to checks and retained the funds for his personal use and benefit.

Larry E. Ball (Registered Principal, Indianapolis, Indiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Ball consented to the described sanctions and to the entry of findings that he accepted three checks totaling $25,000 from a public customer with instructions to purchase securities. The NASD found that he failed to follow the customer's instructions and used the funds for his personal benefit. Also, the NASD determined that Ball prepared and delivered to the same customer a document that purported to be an account statement showing the customer's investment when the customer did not actually have such an account, nor had the customer's funds been invested.

Edward J. Clayton, Jr. (Registered Representative, Logansport, Indiana) submitted an Offer of Settlement pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Clayton consented to the described sanctions and to the entry of findings that he received funds totaling $208,797.11 from public customers with instructions to use the funds to purchase securities. Furthermore, the findings stated that Clayton failed to follow the customers' instructions and retained the funds for his personal benefit. He also failed to respond to NASD requests for information.

Rodney D. Johnson (Registered Representative, Roscoe, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,500 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Johnson consented to the described sanctions and to the entry of findings that he obtained two checks totaling $264.60 that represented the surrender of cash values on two insurance policies of a public customer. The findings stated that, without the customer's knowledge or consent, Johnson retained the funds for his personal use and benefit. In addition, the NASD found that he obtained a check for $198.36 that represented a loan on a public customer's insurance policy, used a portion of the funds to purchase another insurance policy for the customer, and retained the remaining $105.56 for his own benefit. The NASD also determined that Johnson, without a customer's knowledge or consent, submitted a new insurance policy application for the customer with a $54 prepayment. The NASD found that Johnson later caused the issuance of a $54 check that represented a loan on another policy owned by the same customer and retained the funds for his personal benefit.

John Raymond Kelly (Registered Representative, Skokie, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $150,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Kelly consented to the described sanctions and to the entry of findings that he accepted funds totaling $193,762.56 from public customers with instructions to deposit the funds in a money market account and to purchase interests in limited partnerships. The NASD found that Kelly failed to follow the customers' instructions and, instead, retained $153,407 of the funds for his personal benefit.

Thomas J. Larner (Registered Principal, Westland, Michigan) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $2,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Larner consented to the described sanctions and to the entry of findings that he obtained a $212 check drawn on his member firm's account payable to another registered representative and forged the representative's signature on the check. Furthermore, the NASD found that he negotiated the check and used the funds for his own benefit.

Gene Mackevich (Registered Representative, Winnetka, Illinois) submitted an Offer of Settlement pursuant to which he was fined $7,500 and suspended from association with any member of the NASD in any capacity for three days. Without admitting or denying the allegations, Mackevich consented to the described sanctions and to the entry of findings that he made guarantees to customers to induce the purchase of a government securities fund. Also, he mailed to customers form letters that contained exaggerated, promissory, and misleading statements that omitted material facts, according to the findings.

Russell L. O'Brien (Registered Representative, Glen Ellyn, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $150,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, O'Brien consented to the described sanctions and to the entry of findings that he received funds totaling $121,194.31 from public customers with instructions to purchase annuities and to pay insurance premiums.

The findings stated that O'Brien failed to follow the customers' instructions and, instead, deposited the funds in a bank account in which he had a beneficial interest, and that he retained $118,023.31 of the funds for his personal use and benefit. Also, the NASD found that O'Brien prepared and delivered to customers fictitious account statements containing account balances that purported to show account deposits when no such deposits were made.

Richard E. Phalen, Jr. (Registered Representative, Mendota, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Phalen consented to the described sanctions and to the entry of findings that he obtained a check for $8,571.61 made payable to a public customer and representing a withdrawal of dividends from an insurance policy. According to the findings, Phalen failed to deliver the funds to the customer and, instead, deposited the funds in an account in which he had a beneficial interest and used the funds for his own benefit. On several other occasions, the NASD found, Phalen received customer funds totaling $15,380.60 for investment purposes, failed to follow the customers' instructions, deposited the funds in an account in which he had a beneficial interest, and used the funds for his personal benefit.

Thomas G. Wales (Registered Representative, St. Louis Park, Minnesota) submitted an Offer of Settlement pursuant to which he was fined $5,000, suspended from association with any member of the NASD in any capacity for six months, and required to requalify by examination as a general securities representative. Without admitting or denying the allegations, Wales consented to the described sanctions and to the entry of findings that he effected numerous unauthorized securities transactions in the joint account of public customers without the customers' knowledge or consent and without obtaining prior discretionary trading authority.

Samarah & Company (Chicago, Illinois) and **Yasar Samarah (Registered Principal, Chicago, Illinois)** were fined $50,000, jointly and severally, and the firm was expelled from membership in the NASD. In addition, Yasar Samarah was barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, acting through Samarah, effected securities transactions while failing to maintain required minimum net capital and maintained inaccurate books and records. In addition, the firm, acting through Samarah, filed inaccurate FOCUS Part I and Part IIA reports for certain months and failed to respond to NASD requests for information. Furthermore, the respondents effected securities transactions with customers at prices that were unfair and unreasonable.

The Ohio Company (Columbus, Ohio), Gordon E. Maynard (Registered Representative, New Port Richey, Florida), and **Richard William Broomham (Registered Principal, Rochester Hills, Michigan)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm and Broomham were fined $15,000, jointly and severally. Maynard was fined $25,000 and suspended from association with any member of the NASD in any capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Maynard recommended the purchase of securities to public customers without having reasonable grounds to believe such recommendations were suitable considering the customers' financial situations and investment needs. In connection with such conduct, the NASD determined that the firm, acting through Broomham, failed to maintain and enforce written procedures to supervise Maynard's activities properly.

Shearson Lehman Brothers, Inc. (Cleveland, Ohio) and **Stephen J. Weinberg (Registered**

Principal, Moreland Hills, Ohio) submitted an Offer of Settlement pursuant to which the firm was fined $60,000, and Weinberg was fined $10,000 and suspended from association with any member of the NASD in any capacity for 10 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Shearson failed to establish, maintain, and reasonably enforce procedures that would have enabled it to supervise the activities of the firm's associated and registered persons properly. The findings also stated that Weinberg failed to supervise the activities of another individual properly and adequately to prevent and detect unsuitable transactions.

Thomas A. Adams (Registered Representative, Canton, Ohio) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Adams consented to the described sanctions and to the entry of findings that he misstated the amount of sales charges and risks to public customers concerning the purchase of mutual funds, a single-premium variable annuity contract, and a single-premium whole life insurance policy. The NASD also found that Adams tendered personal notes to two customers as compensation for losses suffered without first advising his member firm. In addition, the findings stated that Adams recommended the liquidation of a mutual fund without having a reasonable basis to support the suitability of that recommendation. Also, the NASD found that Adams signed a customer's name to an application for a whole life insurance policy without the customer's authorization.

Donald G. Asquith (Registered Principal, Williamston, Michigan) was fined $15,000 and barred from association with any member of the NASD in any principal, supervisory, or managerial capacity. The sanctions were based on findings that a member firm, acting through Asquith, conducted a securities business while failing to maintain required minimum net capital and filed inaccurate FOCUS Parts I and IIA reports. Asquith, acting on behalf of his member firm, also failed to prepare and maintain accurate books and records and to abide by the terms of the firm's restriction agreement with the NASD. In addition, Asquith, acting on behalf of his member firm, failed to establish, maintain, and enforce written supervisory procedures and to reflect adequate information on 10 option customer account files. Moreover, a member firm, acting through Asquith, effected municipal securities transactions for customers and failed to record and preserve certain information on order tickets and customer account cards.

Joseph Baldwin, Jr. (Registered Representative, Copley, Ohio) was fined $32,566.48 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Baldwin misappropriated and converted to his own use customer funds totaling $2,566.48 representing insurance premium payments. He also failed to respond to NASD requests for information.

John M. Coulter (Registered Representative, Independence, Iowa) 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, Coulter consented to the described sanctions and to the entry of findings that he obtained funds totaling $11,996.76 for payment of insurance premiums or to be given to insurance policyholders. The NASD determined that Coulter failed to use the funds as instructed and, instead, retained the monies for his personal benefit.

Thomas J. Delaney (Registered Representative, Lake Forest, Illinois) was fined $100,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Delaney accepted from public customers funds totaling $84,970 intended for investment purposes and failed to follow the customers' instructions. Instead, Delaney deposited the funds in an account in which he had a beneficial interest, commingled them with his personal funds and the funds of other public customers, and used the monies for his personal benefit. In connection with such activity, Delaney engaged in a course of conduct that operated as a fraud and deceit because, among other things, he sent to customers confirmations that made false representations. He also made untrue statements to these public customers and omitted material facts. Furthermore, Delaney failed to respond to NASD requests for information.

George A. Doppke (Registered Representative, Walled Lake, 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 Doppke recommended to a customer the purchase and sale of securities without having reasonable grounds for believing that such recommendations were suitable considering the customer's financial situation and investment objectives. Doppke also failed to respond to NASD requests for information.

Herbert Garrett Frey (Registered Principal, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $10,000 and suspended from association with any member of the NASD as a financial and operations principal for two years and one day. Without admitting or denying the allegations, Frey consented to the described sanctions and to the entry of findings that, on behalf of a former member firm, he conducted a securities business while failing to maintain required minimum net capital. The findings also stated that Frey, acting on behalf of the same former member firm, failed to accurately compute its net capital.

Lawrence Charles Goldsmith (Registered Representative, Mansfield, Ohio) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Goldsmith engaged in a series of transactions for the accounts of public customers without the knowledge or consent of the customers. He also failed to respond to NASD requests for information.

Gustaf H. Hendrickson (Registered Representative, Saginaw, 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 Hendrickson received $5,000 in cash from a public customer with instructions to use the funds to purchase an annuity. Hendrickson failed to follow the customer's instructions and retained the funds for his own use and benefit.

Ronald M. Janus (Registered Representative, Cincinnati, Ohio) was fined $25,589.53 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Janus misappropriated and converted to his own use customer funds totaling $589.03. In addition, he failed to respond to NASD requests for information.

James S. Lesniak (Registered Representative, Edina, Minnesota) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Lesniak received funds totaling $4,794.56 from four public customers and retained the funds for his personal use and benefit. These funds were obtained by causing dividend withdrawals and loans to be made against insurance policies owned by the customers without their knowledge or consent. In addition, Lesniak failed to respond to NASD requests for information.

Michael J. Moesch (Registered Representative, Flint, 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 Moesch accepted funds totaling $7,500 from two public customers with instructions to pay for an annuity and to pay a loan on an insurance policy. Moesch failed to follow the customers' instructions and used the funds for his personal benefit. In addition, Moesch failed to respond to NASD requests for information.

John H. Price (Registered Representative, Youngstown, Ohio) 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, Price consented to the described sanctions and to the entry of findings that, without regard for the financial situations and needs of customers and solely for the purpose of generating commissions, he made recommendations to public customers to redeem and purchase mutual funds.

Jeffrey A. See (Registered Representative, Willoughby, Ohio) was fined $25,217 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that See misappropriated and converted to his own use insurance premiums totaling $217 belonging to a public customer. In addition, See failed to respond to NASD requests for information.

Trent M. Ward (Registered Representative, Clarendon Hills, Illinois) submitted an Offer of Settlement pursuant to which he was fined $35,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Ward consented to the described sanctions and to the entry of findings that he received a $29,595 check from a public customer with instructions to invest the money in mutual funds and to purchase an insurance policy. Ward, according to the findings, gave the proceeds to an associate who deposited the funds in an account of another company. This company's checks were subsequently deposited in Ward's member firm's account, but the findings stated that the checks were returned for insufficient funds.

Keith D. Weyer (Registered Representative, Huron, Ohio) 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, Weyer consented to the described sanctions and to the entry of findings that he misappropriated customer funds totaling $3,500. Weyer also failed to respond to NASD requests for information.

District 9

William M. Strouse, III (Registered Representative, Mill Hall, Pennsylvania) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Strouse received a check for $20,000 from a public customer for payment on a life insurance policy. He caused only $6,000 to be applied as a premium on the policy, caused $5,500 to be applied to policies belonging to other customers, and converted the remaining $8,500 to his own use and benefit.

Raymond A. Clarke (Registered Representative, Montclair, New Jersey) submitted an Offer of Settlement pursuant to which he was fined $10,000, suspended from association with any member of the NASD in any capacity for six months, and required to requalify by examination as a general securities representative. Without admitting or denying the allegations, Clarke consented to the described sanctions and to the entry of findings that he engaged in securities transactions with public customers and failed to provide prior written notice to his member firm.

John William Couick, Jr. (Registered Representative, Greensboro, North Carolina) was fined $35,000 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 DBCC for District 9. The sanctions were based on findings that Couick received checks totaling $14,786.84 from public customers and misappropriated the funds for his own use and benefit. Also, he failed to respond to NASD requests for information.

Frank G. Zauzig, Jr. (Registered Representative, Huntingdon, Pennsylvania) was fined $5,000 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 DBCC for District 9. The sanctions were based on findings that Zauzig received funds totaling $4,922.38 from public customers for payment of insurance premiums. He applied a portion of the funds toward the premiums and used the remaining $1,106.88 to pay premiums of other policyholders. Zauzig also obtained a policy surrender check for $133.20 drawn to the order of another customer, forged the customer's endorsement on the check, and applied the funds to pay premiums of other policyholders.

Albert J. Bucci (Registered Representative, Philadelphia, Pennsylvania) was fined $15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Bucci failed to respond to NASD requests for information.

Walter R. Goldsmith (Registered Representative, Milford, Connecticut) submitted an Offer of Settlement pursuant to which he was fined $50,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Goldsmith consented to the described sanctions and to the entry of findings that he submitted fictitious health insurance claims to his member firm and received $32,760 in reimbursements. The NASD found that Goldsmith misappropriated these funds to his own use and benefit.

Donna D. Jeffrey (Registered Representative, Clarks Summit, Pennsylvania) submitted an Offer of Settlement pursuant to which she was fined $5,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Jeffrey consented to the described sanctions and to the entry of findings that she received from a public customer $500 in cash as advance premium payments on a life insurance policy. According to the findings, Jeffrey failed to remit the funds as instructed and instead paid 11 monthly premiums of $9.95 each, followed by a $440 payment covering both overdue and advance premiums on the then-lapsed policy.

John D. Kittle (Registered Representative, Dunbar, West Virginia) was fined $15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kittle failed to respond to an NASD request for information.

Robert M. Kolaczynski (Registered Representative, McDonald, Pennsylvania) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kolaczynski engaged in the offer and sale of limited partnership interests to public customers without providing prior written notice to his member firm. He also failed to respond to NASD requests for information.

John R. Lewis (Registered Representative, Bay Head, New Jersey) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Lewis purchased shares of common stock in his securities account and failed to pay a debit balance of $22,190.57 resulting from the purchase. Furthermore, Lewis issued a $40,000 personal check to his member firm to pay for the transactions, but the check was returned because of insufficient funds.

Sean F. McSorley (Registered Representative, West Chester, Pennsylvania) was fined $15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that McSorley failed to respond to NASD requests for information.

Vincent J. Mezza (Registered Representative, New Castle, Pennsylvania) submitted an Offer of Settlement 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, Mezza consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

William R. Nice (Registered Representative, Levittown, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Nice consented to the described sanctions and to the entry of findings that, on several occasions, he forged customer signatures on insurance applications, cash surrender requests, and checks totaling $7,732.69 issued as a result of such requests. According to the findings, Nice used portions of the proceeds as payment for premiums on unauthorized insurance policies and on policies of other customers, and portions as deposits in his own bank account.

Thomas M. Owens (Registered Principal, McMurray, Pennsylvania) was fined $75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that, on two separate occasions, Owens engaged in the offer and sale of limited partnership interests to public customers without providing prior written notice to his member firm. In connection with such activity, Owens made improper and fraudulent use of a customer's funds by inducing the customer to draw a subscription check to the order of an investment firm and by negotiating such check on behalf of, and for the benefit of, the firm. Owens also failed to respond to NASD requests for information.

District 10

Kenneth Flynn (Registered Representative, Bayonne, New Jersey) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Flynn received $5,000 from a public customer for the purchase of a variable appreciable life insurance policy. Flynn failed to remit to his member firm all of the monies and, instead, converted $1,056 of such funds to his own use and benefit.

Calvin Ford, Jr. (Registered Representative, Bronx, New York) was fined $33,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Ford executed nine unauthorized securities transactions in the joint account of two public customers. In addition, he failed to respond to NASD requests for information.

Wookjin Kim (Registered Representative, Flushing, New York) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kim purchased options positions for which he failed to pay in his personal securities account. He also failed to respond to NASD requests for information.

Adam Scott Kriftcher (Registered Representative, Valley Stream, New York) was fined $75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kriftcher effected unauthorized purchase and sale transactions in four customer accounts. Kriftcher also falsely represented to a customer that he used his own funds to cover a margin call in the customer's account. In addition, he directed the customer to wire $3,224.76 to a bank account that was under his control and converted the funds to his own use and benefit. Kriftcher induced another customer to wire $20,000 to a bank account that was under his control and also converted those funds to his own use and benefit rather than using the funds to purchase securities for the customer. Furthermore, Kriftcher engaged in private securities transactions without providing prior written notice to his member firm. In connection with these transactions, Kriftcher issued written guarantees against loss to the customers concerning their investments. Kriftcher also failed to respond to NASD requests for information.

Jeffrey Martin Maher (Registered Representative, Lindenhurst, New York) submitted an Offer of Settlement 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, Maher consented to the described sanctions and to the entry of findings that he engaged in an elaborate scheme by which he diverted customer funds and securities to accounts that he controlled, to the detriment of his member firm and the investing public. In contravention of the Board of Governors' Free-Riding and Withholding Interpretation, Maher sold shares of new issues that traded at a premium in the immediate aftermarket to a restricted account, according to the findings. The NASD found that Maher failed to disclose that he had a beneficial interest in customer accounts and that he shared in the profits of these accounts. Also, Maher failed to respond to NASD requests for information.

Frank Salvatore Riccio (Registered Representative, Westfield, New Jersey) submitted an Offer of Settlement pursuant to which he was fined $25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Riccio consented to the described sanctions and to the entry of findings that he forged the signatures of two public customers on a cash surrender form for a life insurance policy without the authorization or consent of either individual. As a result of the cash surrender request, Riccio took possession of a check for $149.63, forged the customers' endorsement, and converted the proceeds to his own benefit. In addition, the findings stated that, on three other occasions, Riccio took possession of checks totaling $5,321.70, payable to customers, forged the customers' endorsements, and converted the funds to his own use and benefit.

F.B. Horner & Associates, Inc. (New York, New York and **Fred B. Horner (Registered Principal, New York, New York)** were fined $99,201.20, jointly and severally. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 10. The sanctions were based on findings that the firm, acting through Horner, made two sales of zero coupon bonds to an institutional customer at prices that were unfair. The excessive markups on the transactions were 8.09 percent and 6.91 percent above the prevailing market price.

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

Norman Washington Aiken (Registered Representative, Spring Valley, New York) was fined $40,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Aiken received from a public customer funds totaling $2,647.50 that represented premium payments for insurance policies. Aiken failed to deposit these monies with his member firm and, instead, converted the funds to his own use and benefit. In addition, Aiken failed to respond to NASD requests for information.

William Francis Conran, III (Registered Representative, Locust Valley, 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 Conran failed to respond to NASD requests for information concerning his termination from a member firm.

David Alan Gingras (Registered Representative, Wallingford, Pennsylvania) was fined $45,000 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 following an appeal of a decision by the DBCC for District 10. The sanctions were based on findings that Gingras executed transactions in customer accounts that were short-term and excessive without having reasonable grounds for believing that the transactions were suitable considering the customers' financial situations and investment objectives. Gingras also issued a guarantee against loss to a customer concerning the value of her account.

John Brandon Keller (Registered Representative, Garfield, 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 Keller failed to respond to NASD requests for information.

James F. Lowe (Registered Principal, Whitestone, New York) and **Michael Benvenuto (Financial and Operations Principal, Massapequa, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which Lowe was fined $30,000, suspended from association with any member of the NASD in any capacity for 10 business days and as a general securities principal for 90 calendar days, and required to requalify as a principal. Benvenuto was fined $15,000, suspended from association with any member of the NASD in any capacity for 10 business days and as a financial and operations principal for 90 calendar days, and required to requalify as a financial and operations principal.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Lowe and Benvenuto, acting on behalf of a former member firm, conducted a securities business while failing to maintain its required minimum net capital. The findings also stated that they failed to book all of the firm's liabilities when preparing the general ledger, trial balances, and net capital computations. The NASD found that Lowe, acting on behalf of a former member firm, failed to utilize either an independent bank escrow account or a separate account to hold investor funds until the contingency in a private placement had been met. In addition, the NASD determined that Lowe permitted an individual to function in a registered capacity prior to the time his registration with the NASD became effective.

Arthur William Stubbs (Registered Representative, New Port Richey, Florida) was fined $75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Stubbs falsified 37 life insurance policy applications in a successful attempt to obtain $33,000 in commissions from his member firm. Stubbs also failed to respond to NASD requests for information.

Ronald E. Wikso (Registered Representative, Hauppauge, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $50,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Wikso consented to the described sanctions and to the entry of findings that he received a total of $30,000 from two customers for the purchase of a bond that he claimed would pay 20 percent interest per year. Furthermore, the NASD determined that Wikso failed to return the principal and interest to the customers as promised.

Uche Onyeabo Akwuba (Registered Representative, New York, New York) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Akwuba permitted a statutorily disqualified individual to be associated with his member firm and allowed this individual to engage in a securities business as a registered representative without proper registration with the NASD. In addition, Akwuba failed to file an application for membership continuance with the NASD prior to permitting such association and failed to abide by his member firm's written supervisory procedures by permitting this statutorily disqualified individual to act in a capacity requiring registration.

Robert Edwin Cohen (Registered Principal, Bedford, 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 Cohen failed to honor a $12,988 arbitration award.

Donovan Herbert Cunningham (Registered Representative, Queens Village, New York) was fined $20,000 and barred from assocation with any member of the NASD in any capacity. The sanctions were based on findings that Cunningham failed to respond to NASD requests for information concerning a customer complaint.

Michael Charles Ermilio (Registered Representative, Brooklyn, New York) was fined $5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Ermilio failed to honor a $4,001.50 arbitration award.

John Joseph Falcetta (Registered Representative, Ridgefield, Connecticut) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Falcetta failed to respond to NASD requests for information concerning a customer complaint.

Christopher Lansing Foster (Registered Representative, Centerport, New York) was fined $42,500 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Foster executed unauthorized purchase and sale transactions in the account of a public customer. He also failed to respond to NASD requests for information.

Leonard W. Fruchter (Registered Representative, Springfield, New Jersey) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $20,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Fruchter consented to the described sanctions and to the entry of findings that he obtained a public customer's $1,800 check that was written to pay a premium on an annuity policy. The NASD found that Fruchter converted these funds to his own use without the knowledge or consent of the customer.

Ward David Goldberg (Registered Representative, Oceanside, New York) was fined $2,500 and suspended from association with any member of the NASD in any capacity for 10 business days. The sanctions were based on findings that Goldberg made unsuitable recommendations to a public customer given the customer's prior investment experience, other securities holdings, and financial situation and needs. In addition, Goldberg tendered a personal $21,300 check to a customer to compensate the customer for losses that occurred in his account.

John Francis Janiga (Financial and Operations Principal, Woodbridge, New Jersey) was fined $40,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Janiga executed purchase transactions in the accounts of public customers without the authorization, knowledge, or consent of the customers. He made misrepresentations to a customer that units had been sold in the customer's account when, in fact, the units had not been sold. Janiga also promised a customer that he would sell shares of stock at certain prices that were not reasonably related to their market prices. Therefore, the orders were not executed at those prices. In addition, Janiga presented an $8,000 personal check to a public customer to cover losses in the customer's account without the knowledge or consent of his member firm, but the check was returned for insufficient funds. Furthermore, Janiga failed to respond to NASD requests for information.

Brian Francis Ross (Registered Representative, Huntington, New York) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Ross failed to honor a $2,058 arbitration award. In addition, Ross failed to respond to NASD requests for information.

Robert Joseph Scelso (Registered Principal, Harriman, New York) and **Louis Anthony Sebbio (Registered Principal, Hoboken, New Jersey)** were each fined $15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Scelso and Sebbio failed to respond to NASD requests for information.

Sewak Surjit Singh (Registered Representative, Parsippany, New Jersey) was fined $36,170 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Singh received a $1,201 check from a public customer to be used to pay premiums on health insurance policies. Without the knowledge or consent of the customer, Singh used the funds to purchase life insurance policies for which he received a prepaid commission. In addition, Singh failed to respond to NASD requests for information.

District 11

North American Investment Corp. (East Hartford, Connecticut) and **Edward M. Kopko (Registered Principal, Glastonbury, Connecticut)** submitted an Offer of Settlement pursuant to which they were fined $60,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in contravention of the Board of Governors' Free-Riding and Withholding Interpretation, the firm, acting through Kopko, failed to make a bona fide public distribution of a new issue that traded at a premium in the immediate aftermarket by retaining shares in the firm's syndicate account. The findings also stated that the firm failed to prepare and maintain accurate books and records. In addition, the NASD determined that the firm sent false and misleading confirmations to customers disclosing that transactions were executed as either agent or dual agent when, in fact, the transactions were executed on a principal basis.

Michael G. Cioppa (Registered Representative, Albany, New York) was fined $2,000 and suspended from association with any member of the NASD in any capacity for six months. The sanctions were based on findings that Cioppa failed to respond to NASD requests for information concerning his termination from a member firm.

James L. Gibbons (Registered Representative, Central Square, New York) was fined $100,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Gibbons withheld and misappropriated customer funds totaling $60,077 intended for the purchase of insurance policies.

Julian P. Johnson (Registered Representative, Rochester, New York) was fined $100,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Johnson failed to respond to NASD requests for information concerning three customer complaints and his termination from two member firms.

Robert G. Paquette (Registered Representative, Bristol, Connecticut) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Paquette failed to respond to NASD requests for information concerning his termination from a member firm.

George P. Primbas (Registered Representative, Brookline, Massachusetts) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Primbas failed to respond to NASD requests for information concerning his termination from a member firm.

Michael J. Prach (Registered Representative, Saugus, Massachusetts) submitted an Offer of Settlement pursuant to which he was fined $5,000 and suspended from association with any member of the NASD in any capacity for 30 days. Without admitting or denying the allegations, Prach consented to the described sanctions and to the entry of findings that, without the knowledge or consent of customers, he altered annuity applications to reflect an increased contribution to the customers' tax-sheltered annuity investments in order to generate increased commissions.

Louis Bivona (Registered Representative, Fairport, New York) submitted an Offer of Settlement pursuant to which he was fined $25,000. Without admitting or denying the allegations, Bivona consented to the described sanction and to the entry of findings that he engaged in private securities transactions without giving prior written notification to his member firm.

David N. DeJulio (Registered Representative, South Dennis, Massachusetts) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that DeJulio withheld and misappropriated to his own use and benefit customer funds totaling $17,398.39 intended for investment purposes. In addition, he failed to respond to NASD requests for information.

Bernard N. Higgins (Registered Representative, Danielson, Connecticut) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Higgins withheld and misappropriated to his own use and benefit customer funds totaling $3,700 without the knowledge or consent of the customers. He also failed to respond to NASD requests for information.

Anthony F. Markey (Registered Principal, Thornwood, New York) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Markey failed to respond to NASD requests for information concerning a customer complaint.

Michael F. Nolan (Registered Representative, Rochester, New York) was fined $35,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Nolan withheld and misappropriated to his own use and benefit customer funds totaling $7,434 intended for investment in a profit-sharing plan. Also, he failed to respond to NASD requests for information.

Daniel T. Veza, Jr. (Registered Representative, Indialantic, 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 Veza withheld and misappropriated to his own use and benefit customer funds totaling $1,308. Veza also failed to respond to NASD requests for information.