NASD

Notice To Members

National Association of Securities Dealers, Inc. February 1992

Number 92-9

Suggested Routing:*

✓ Senior Management	_ Internal Audit	✓ Operations	_ Syndicate
_ Corporate Finance	✓ Legal & Compliance	_ Options	_ Systems
_ Government Securities	_ Municipal	_ Registration	_ Trading
_ Institutional	_ Mutual Fund	_ Research	_ Training

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

Subject: NASD/NYSE Special Alert Regarding Previously Cancelled Securities

The Securities and Exchange Commission recently advised the New York Stock Exchange, Inc. (NYSE) and the National Association of Securities Dealers, Inc. (NASD) that a potentially large number of cancelled registered corporate bond certificates, which had been earmarked for destruction, are now reappearing in circulation. A number of these cancelled certificates are perforated, and some have been presented in recent days for sale and/or transfer, mainly by foreign customers.

Broker/dealers are advised to take whatever precautions necessary to protect themselves from possible loss, including examination of certificates for indication of cancellation and verification of certificate numbers with transfer agents and the Securities Information Center. The Depository Trust Company had previously issued three Important Notices, B#10, 271-91, dated November 22, 1991; B#10, 531-91, dated December 6, 1991; and B#11, 199-91, dated December 23, 1991, regarding this matter.

Members designated to the NASD who have questions concerning this Notice can call their local NASD district office. NYSE-designated members should call their Finance Coordinator at the NYSE.

John E. Pinto
Executive Vice President
National Association of Securities Dealers, Inc.
NASD

Edward A. Kwalwasser
Executive Vice President
New York Stock Exchange, Inc.
NYSE

NASD

Notice To Members

National Association of Securities Dealers, Inc. February 1992

Number 92-10

Suggested Routing:*

- ✓ Senior Management
- _ Corporate Finance
- _ Government Securities
- _ Institutional
- ✓ Internal Audit
- ✓ Legal & Compliance
- _ Municipal
- _ Mutual Fund
- _ Operations
- _ Options
- _ Registration
- _ Research
- _ Syndicate
- _ Systems
- _ Trading
- _ Training

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

Subject: Approval of Amendments to Article III, Section 3 of the NASD By-Laws Regarding NASD Member Requirement to Appoint One Executive Representative Responsible For Voting and Acting for the Member in All Affairs Relating to the NASD

EXECUTIVE SUMMARY

On December 16, 1991, the SEC approved an NASD rule change to Article III, Section 3 of the NASD By-Laws that changes who is eligible for designation as the NASD member's executive representative. The executive representative is responsible for voting and acting for the member in all affairs of the NASD. As amended, Section 3 requires that only a person who is a member of the firm's senior management and registered as a principal may be designated as the firm's executive representative to the NASD. An interpretation of this rule change as it applies to insurance company members is provided in this Notice. Also included in this Notice is an Executive Representative Form to be completed by all members and filed with the Qualifications and Membership Department of the NASD **prior to April 15, 1992.** The text of the amendments follows this Notice.

SUMMARY

Article III, Section 3 of the NASD By-Laws requires members to appoint one "executive representative" who is responsible for voting and acting for the member in all affairs of the NASD. Currently, the executive representative designated by a member is also identified as the firm's "contact person" in the Form BD and in the Central Registration Depository (CRD). The current designation requirements to be an "executive representative" are both broad and optional, and have, in the past, led to the designation of persons who have limited authority in their firms. Since all important membership communications are directed to executive representatives, who have the authority to cast votes for their respective firms, the NASD is concerned that important matters may not be directed to the most appropriate person at each member.

As amended, Section 3 requires that only a person who is a member of the firm's senior management and a registered principal may be designated as the firm's executive representative to the NASD.

Applicability of Section 3 to insurance company members

The NASD is aware that where an insurance company is a member, there may be circumstances where the most appropriate person to be designated "executive representative" is in the middle management of the insurance company but is acting as senior management of the company's securities operations. The NASD believes that it is an appropriate interpretation of the proposed rule that, upon review, the NASD may permit an insurance company member to appoint as executive representative the most appropriate employee, registered as a principal, who is in an equivalent position to senior management in charge of the insurance company's securities operations. To request an NASD interpretative review regarding designation of an executive representative, an insurance company member should contact Steve Parsons, Membership Department, at (301) 590-6716.

New Executive Representative Form

In order to distinguish between the role of the executive representative and the member's contact person, who may be different from the executive representative, the NASD plans to maintain the executive representative list separately from the firm contact list in the CRD. This additional administrative procedure will assure that the executive representative will receive all important NASD communications and that routine CRD notices will be directed to the most appropriate person at the member.

For purposes of implementing the new executive representative list, all members must complete the following Executive Representative Form designating their executive representative and file this form with the Qualifications and Membership Department of the NASD **before April 15, 1992**. Members are required to amend and refile the Executive Representative Form with the Qualifications and Membership Department of the NASD upon the occurrence of all changes affecting the information contained in the Executive Representative Form.

Effective Date

In order to provide time for firms to designate a new executive representative where necessary and for filing of the attached Executive Representative Form, this rule change will become effective April 15, 1992.

Questions concerning this Notice may be directed to John Vaughn, Membership Department at (301) 590-6865.

NASD By-Laws
Article III

(**Note:** New language is underlined; deletions are in brackets.)

* * * * *

Executive Representative

Sec. 3. Each member shall appoint and certify to the Secretary of the Corporation one "executive representative" who shall represent, vote and act for the member in all the affairs of the Corporation, except that other executives of a member may also hold office in the Corporation, serve on the Board of Governors or committees of the Corporation, or otherwise take part in the affairs of the Corporation. A member may change its executive representative upon giving written notice thereof to the Secretary, or may, when necessary, appoint, by written notice to the Secretary, a substitute for its executive representative. An executive representative of a member or a substitute shall [preferably] be a[n executive officer] <u>member of senior management and registered principal</u> of the member[,]<u>.</u> [if a corporation, a partner in case of a partnership, and the member himself if an individual, but he may be an employee of the member, if given authority to act for the member in the course of the Corporation's activities.]

EXECUTIVE REPRESENTATIVE FORM

(To be completed by all members and filed before April 15, 1992)

Date: ____________

NASD Member Firm: ____

CRD#: ________________________________

The above NASD Member Firm designates ____, Social Security # ______________________, CRD # ______________________, as Executive Representative to the NASD as of (date)___________. This person is a member of the firm's senior management and is a registered principal.

Name of person preparing this form: ____________________________

Telephone number: ______________________

Return this form to:

Stephen D. Hickman, Corporate Secretary
Executive Representative Program
c/o Qualifications and Membership Department
National Association of Securities Dealers, Inc.
9513 Key West Avenue
Rockville, Maryland 20850

(Note: Form may be photocopied.)

NASD

Notice To Members

National Association of Securities Dealers, Inc. February 1992

Number 92-11

Suggested Routing:*

✓ Senior Management	_ Internal Audit	_ Operations	_ Syndicate
✓ Corporate Finance	✓ Legal & Compliance	_ Options	_ Systems
_ Government Securities	_ Municipal	_ Registration	_ Trading
_ Institutional	_ Mutual Fund	_ Research	✓ Training

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

Subject: Fees and Charges for Services

EXECUTIVE SUMMARY

Members are reminded of their obligation that all fees and charges for services must be reasonable and that adequate prior notice be given to customers.

DISCUSSION

Article III, Section 3 of the Rules of Fair Practice specifies that charges for services performed by members "shall be reasonable and not unfairly discriminatory between customers." In addition to being reasonable in nature, the NASD believes that customers must be provided with adequate notice prior to the member's implementation or change of a service fee. Members should provide written notification to customers of all service charges when accounts are opened, and customers also should be provided with written notification at least 30 days prior to the implementation or change of any service charge. Failure to do so could be construed as conduct inconsistent with just and equitable principles of trade under Article III, Section 1 of the NASD Rules of Fair Practice.

In a related issue, the NASD is aware that some firms have been, or are contemplating, charging fees for the transfer of customer accounts through the Automated Customer Account Transfer System (ACATS), in addition to charging for non-ACATS transfers. ACATS was designed to expedite the transfer of customer accounts between participants in a registered clearing agency. The system was intended to alleviate the demands on member firms imposed by the manual processing of customer account transfer and thereby reduce costs. The NASD is concerned about members charging fees unrelated to actual costs for account transfers through ACATS. Moreover, the NASD believes it is not appropriate to charge fees to customers for involuntary account transfers through ACATS occasioned by circumstances beyond the customer's control.

Questions concerning this Notice may be directed to Samuel Luque, Associate Director, Financial Responsibility, at (202) 728-8472.

NASD

Notice To Members

National Association of Securities Dealers, Inc. February 1992

Number 92-12

Suggested Routing:*

✓ Senior Management	_ Internal Audit	✓ Operations	_ Syndicate
_ Corporate Finance	✓ Legal & Compliance	_ Options	✓ Systems
_ Government Securities	✓ Municipal	_ Registration	_ Trading
_ Institutional	_ Mutual Fund	_ Research	_ Training

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

Subject: SIPC Trustees Appointed for Two Securities Firms

On January 30, 1992, the United States District Court for the District of Utah appointed a Securities Investor Protection Corporation (SIPC) trustee for:

San Marino Securities, Inc.
1245 E. Brickyard Road, Suite 140
Salt Lake City, UT 84106.

Questions regarding the firm should be directed to SIPC trustee:

Herschel Saperstein
Watkiss & Saperstein
310 S. Main Street, Suite 1200
Salt Lake City, UT 84101
(801) 363-3300.

On February 3, 1992, the United States District Court for the Eastern District of Tennessee appointed the SIPC trustee for:

The Riverview Corporation
1700 Plaza Tower
Knoxville, TN 37929.

Questions regarding the firm should be directed to SIPC trustee:

Securities Investor Protection Corporation
805 15th Street, NW, Suite 800
Washington, DC 20005-2207
(202) 371-8300.

Members may use the "immediate close-out" procedures as provided in Section 59(i) of the NASD's Uniform Practice Code to close out open over-the-counter contracts. Also, Municipal Securities Rulemaking Board Rule G-12(h) provides that members may use the above procedures to close out transactions in municipal securities.

NASD

Notice To Members

National Association of Securities Dealers, Inc. February 1992

Number 92-13

Suggested Routing:*

_ Senior Management	✓ Internal Audit	✓ Operations	_ Syndicate
_ Corporate Finance	_ Legal & Compliance	_ Options	✓ Systems
_ Government Securities	_ Municipal	_ Registration	✓ Trading
_ Institutional	_ Mutual Fund	_ Research	_ Training

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

Subject: Nasdaq National Market Additions, Changes, and Deletions as of January 27, 1992

As of January 27, 1992, the following 43 issues joined the Nasdaq National Market, bringing the total number of issues to 2,690:

Symbol	Company	Entry Date	SOES Execution Level
PRFM	Perfumania, Inc.	12/19/91	500
MSMR	Missimer & Associates, Inc.	12/20/91	1000
BELL	Bell Bancorp, Inc.	12/23/91	1000
PMRX	Pharmaceutical Marketing Services Inc.	12/23/91	1000
LBCI	Liberty Bancorp, Inc.	12/24/91	1000
NEWC	Newcor, Inc.	12/31/91	1000
AIPN	American International Petroleum Corporation	1/7/92	1000
IUBC	Indiana United Bancorp	1/7/92	500
IASG	International Airline Support Group, Inc.	1/7/92	1000
MBIO	Moleculon, Inc.	1/7/92	1000
SECM	Secom General Corporation	1/7/92	500
SKEYF	Softkey Software Products Inc.	1/7/92	1000
UPAC	Ultra Pac, Inc.	1/7/92	1000
AHPI	Allied Healthcare Products, Inc.	1/14/92	1000
GBTVK	Granite Broadcasting Corporation	1/14/92	1000
FCOMP	First Commerce Corporation (Pfd)	1/16/92	1000
IHII	Industrial Holdings, Inc.	1/16/92	200
IHIIW	Industrial Holdings, Inc. (Cl A Wts)	1/16/92	200
IHIIZ	Industrial Holdings, Inc. (Cl B Wts)	1/16/92	200
AMLN	Amylin Pharmaceuticals, Inc.	1/17/92	1000
APGR	Arch Communications Group, Inc.	1/17/92	1000
CRDS	CardioPulmonics, Inc.	1/17/92	1000
FARL	Farrel Corporation	1/17/92	1000
GENIZ	Genetics Institute, Inc. (Dep. Shares)	1/17/92	1000
CAFC	Carolina First Corporation	1/21/92	500
ENGL	Engle Homes, Inc.	1/21/92	1000

Symbol	Company	Entry Date	SOES Execution Level
FRON	Frontier Adjusters of America, Inc.	1/21/92	1000
TUNE	International Cablecasting Technologies Inc.	1/21/92	1000
MATT	Matthews Studio Equipment Group	1/21/92	1000
MENJ	Menley & James, Inc.	1/21/92	1000
SUBS	Miami Subs Corporation	1/21/92	1000
PRAI	Peer Review Analysis, Inc.	1/21/92	1000
SPNC	Spectranetics Corporation (The)	1/21/92	1000
TOCRZ	Tocor II, Inc.	1/21/92	500
CTZN	CitFed Bancorp, Inc.	1/22/92	1000
GILD	Gilead Sciences, Inc.	1/22/92	200
PHYC	PhyCor, Inc.	1/22/92	1000
VNTX	Ventritex, Inc.	1/22/92	200
WPIC	Walker Power, Inc.	1/22/92	1000
ABAX	Abaxis, Inc.	1/23/92	1000
SPHX	Sphinx Pharmaceuticals Corporation	1/23/92	1000
WFMI	Whole Foods Market, Inc.	1/23/92	200
TGET	Target Therapeutics, Inc.	1/24/92	1000

Nasdaq National Market Symbol and/or Name Changes

The following changes to the list of Nasdaq National Market securities occurred since December 19, 1991:

New/Old Symbol	New/Old Security	Date of Change
ATISA/MAROA	Advanced Tissue Sciences, Inc. (Cl A)/Marrow-Tech, Inc. (Cl A)	12/20/91
NHHC/NHMO	National Home Health Care Corp./National HMO Corp.	12/24/91
FSCC/FSCC	F & C Bancshares, Inc./First Federal Savings Bank of Charlotte County	1/2/92
MERCS/ASIAS	Mercer International Inc./Asiamerica Equities, Ltd.	1/2/92
CTRX/CTRX	Celtrix Pharmaceuticals, Inc./Celtrix Laboratories, Inc.	1/3/92
HPRKV/HTRFZ	Hollywood Park, Inc. (WI)/Hollywood Park Realty Enterprises, Inc. (Paired Cert.)	1/3/92
CEMC/CEMC	Century MediCorp, Inc./Century MediCorp	1/15/92
FORF/FORF	Fortune Bancorp/Fortune Financial Group, Inc.	1/21/92
FLBK/AMJK	FloridaBank, A Federal Savings Bank/American Federal Savings Bank of Duval County	1/22/92
ADVO/ADVO	ADVO, Inc./ADVO-System, Inc.	1/24/92

Nasdaq National Market Deletions

Symbol	Security	Date
ERIE	Erie Lackawanna, Inc.	12/20/91
PKLBQ	Pharmakinetics Laboratories, Inc.	12/20/91
FCBK	Fairfield County Bancorp, Inc.	12/23/91
INSI	Information Science Incorporated	12/23/91
SEAB	Seaboard Bancorp, Inc.	12/23/91
ADIE	Autodie Corporation	12/24/91
BARYC	Barry's Jewelers, Inc.	12/24/91
CODN	Codenoll Technology Corporation	12/24/91
DYAN	Dyansen Corporation	12/24/91

Symbol	Security	Date
FOUQC	Forum Group, Inc.	12/24/91
SPLAC	Jones Spacelink Ltd. (Cl A)	12/24/91
NLCO	Environmental Elements Corporation	12/27/91
SPRH	Spearhead Industries, Inc.	12/30/91
MCOR	Marine Corporation	1/2/92
VLID	Valid Logic Systems Incorporated	1/2/92
MKCO	M. Kamenstein, Inc.	1/13/92
SUDSC	Sudbury Inc.	1/15/92
AWAQC	America West Airlines, Inc.	1/17/92
BAIB	Bailey Corporation	1/17/92
CNPGF	Cornucopia Resources Ltd.	1/17/92
GENI	Genetics Institute, Inc.	1/17/92
MTRO	Metro-Tel Corp.	1/17/92
CITY	First City Bancorp, Inc.	1/21/92
STBYE	Stansbury Holdings Corp.	1/21/92
CLRQC	Colorocs Corporation	1/23/92
RIGSR	Riggs National Corporation (Rts)	1/24/92

Questions regarding this Notice should be directed to Kit Milholland, Senior Analyst, Market Listing Qualifications, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Bernard Thompson, Assistant Director, NASD Market Surveillance, at (301) 590-6436.

NASD

Board Briefs

National Association of Securities Dealers, Inc. February 1992

Actions Taken by the NASD Board of Governors in January

■ **President's Report** — Investors' return to equities, renewed interest in growth stocks, and a surge of initial public offerings (IPOs) propelled The Nasdaq Stock Market℠ to a record-breaking year in 1991. Share volume for 1991 totaled a record 41.3 billion, and dollar volume reached $694 billion. For the year, average daily volume was 163.3 million shares, and the Nasdaq Composite Index closed out the year at 586.34, up 56.8 percent from the end of 1990. At year's end, market capitalization for Nasdaq was $508 billion. In 1991, Nasdaq had 91.3 percent of New York Stock Exchange volume and 1,223 percent of American Stock Exchange volume, both of which represent record levels. And this significant activity has continued into 1992 with volume running well ahead of last year and the Nasdaq Composite already above the 600 mark.

The NASD completed development of the system and rules for Nasdaq International,℠ which began operations on January 20, 1992. With this service, securities firms, investors, and world-class companies can participate in a new transatlantic market — one that features an international quotation network, computerized trade reporting, and U.S. clearance and settlement.

Several market quality issues came to the fore and were addressed in 1991. The Board approved a proposal to extend real-time trade reporting to include all Nasdaq securities, not just those in the National Market System. The plan now is under consideration at the SEC and is expected to be implemented in mid-1992. Another significant change for the Nasdaq market is the Board-approved short-sale rule, which is currently out for membership vote. The proposal would prohibit members from effecting short sales for themselves or their customers when the current inside or best bid is below the previous inside bid.

Among system improvements made during the year were modifications to the Small Order Execution System (SOES)℠ and SelectNet.℠ The SOES changes addressed misuse of the system by professionals by, among other things, granting market makers 15 seconds to update a quotation following an execution before having to execute another transaction. The enhancements to SelectNet contributed to a substantial increase in the utilization of the service by members.

The NASD closely examined the issue of payments for order flow. In a report, "Inducements for Order Flow," prepared by an ad hoc Payment for Order Flow Committee chaired by David S. Ruder, recommendations were made for greater disclosure by members to customers of the factors and inducements that influence their order-routing and execution decisions. The Committee also suggested revisions to the Best Execution Interpretation to distinguish between execution of small- and large-customer orders and to recognize that the best execution will be obtained by executing small orders at the best published bid or offer.

On the regulatory side, members approved a measure requiring members to keep records of cash and noncash compensation received for the sale of investment company shares and variable contracts to the public. The proposal is being filed with the SEC for final adoption. In another main initiative, the NASD Board authorized proceeding with plans to develop a program of continuing education and assessment for securities industry personnel registered with the NASD.

Looking ahead to 1992, the Board can expect a full and active agenda. Efforts to define a qualified Nasdaq market maker for purposes of the proposed short-sale rule, to establish procedures and standards for the evolving continuing assessment program for registered persons, and to determine the propriety of "wrap fees" for representatives also registered and functioning as investment advisors will occupy much of the board's agenda in the coming year. In other areas, the NASD will be developing its position on trade and quote reporting for high-yield securities for both surveillance and public dissemination purposes.

On the legislative agenda, continued action on government securities legislation is likely in the coming year. One measure under consideration, the Government Securities Act Amendments, which would give the NASD government-securities sales-practice authority with SEC oversight and a Treasury veto over proposed rules, has passed the Senate. In addition, a House measure awaiting action includes, among other things, NASD sales-practice authority, quotation and transaction reporting of government securities for regulatory purposes, and SEC authority to require public dissemination of government securities quote and trade information.

Nasdaq's technology migration is moving ahead and will be a major activity for the NASD in 1992. The strategic importance and cost of this undertaking make it a dominant concern of the NASD not only this year but over the ensuing four years. Nasdaq International, which is up and running, will undoubtedly be subject to changes as it develops and grows in size and importance. Another international initiative, The PORTAL℠ Market, is at the center of NASD action to expand usage of both that market and SEC Rule 144A.

■ **Officer Election** — The Board elected Governor Philip S. Cottone to be Vice Chairman-Finance. He is president, Property Trust Advisory Corp., Wayne, Pennsylvania; Vice President, MBI Equities, Cherry Hill, New Jersey; and Chairman, Ascott Investment Corporation, Philadelphia.

■ **Business Conduct Matters** — The Board approved a number of changes to the Form BD. Many of the changes stem from amendments to the federal securities laws, which provide the SEC new cease-and-desist and fining powers. Other changes will streamline the completion and data capture of the information on the form. Categories for new types of business have been added, and the schedules for reporting ownership of a firm have been redesigned to allow for greater ease in determining firm ownership and control. Finally, the schedule for reporting branch offices has been changed to accommodate an electronic filing format, a future enhancement to the Central Registration Depository.

The Board approved a change in the fee for submitting fingerprint cards. Pending SEC approval, all fingerprint submissions will incur a service charge of $2.50 per card. Currently, members must pay $2.50 for an initial fingerprint-card submission, but any subsequent resubmission costs only $1.50.

In another action, the Board modified the Public Disclosure Program to eliminate the practice of notifying member firms and their associated persons regarding the public inquiries for disciplinary history under the program. The action was taken in view of the fact that an estimated 45 percent of persons requesting information declined to pursue the request when told that their identities would be made known.

■ **Business Practice Developments** — With the Board's approval, the NASD has published a Notice (see page 45) reminding members of their obligation that all fees and charges for services must be reasonable and that adequate prior notice be given to customers. The Notice points out that NASD rules require service fees to "be reasonable and not unfairly discriminatory between customers." In addition, members must provide customers with adequate notice before implementing or changing a service fee. Members should notify customers of all service fees when accounts are opened and provide written notice 30 days before implementing or changing any service charge. Finally, the Notice advises members that it is not appropriate to charge fees to customers for involuntary account transfers through the Automated Customer Account Transfer System (ACATS) caused by circumstances beyond the customer's control.

■ **Arbitration Matters** — The Board authorized filing with the SEC an addition to the Code of Arbitration Procedures providing for interim injunctive relief in intra-industry disputes. The rule would be for a one-year pilot period and will be made permanent if it operates successfully. The filing would also contain an amendment to the Code that would deny peremptory challenges to an arbitrator selected to determine whether an interim injunctive order should be issued. Other changes would clarify the authority of the arbitrator to frame appropriate relief other than monetary relief as well as modify application of the surcharge for this service and authorize the arbitrators to assess this amount to a party other than the claimant. As proposed to be modified, the surcharge would be assessed only against the party seeking the injunction. Finally, a change to the Board's "Resolution

Covering Failure to Act Under the Provisions of the Code of Arbitration Procedure" would provide for disciplinary action when a member or person associated with a member fails to comply with any interim order by an arbitrator.

■ **Market Operations** — The Board approved a two-year extension of its "Policy Statement on Market Closings" to December 31, 1993. The Policy Statement provides that the NASD will comply with the "circuit breaker" recommendation of the President's Working Group on Financial Markets, which considered issues surrounding the October 1987 market break. The circuit breaker would require that trading be halted for one hour if the Dow Jones Industrial Average (DJIA) declines 250 points from its previous day's closing level and for two hours if the DJIA declines 400 points. The Policy Statement also includes a number of other initiatives that, in the NASD's view, are preferable to the circuit breaker approach.

Last year, the NASD Board approved a proposed short-sale rule for Nasdaq National Market securities that prohibits members from shorting for themselves or their customers when the current inside or best bid is below the previous inside bid. The rule would apply from 9:30 a.m. to 4 p.m., Eastern Time and includes an exemption for transactions by qualified Nasdaq market makers. For purposes of the rule, the Board has adopted criteria for such a market-maker exemption to the rule's provisions. The proposed rule, which includes the market-maker exemption, has been submitted to the membership for vote in *Notice to Members 92-8* and, if approved, will be filed with the SEC for final approval. Refer to the *Notice to Members* for details.

The Board also approved for filing with the SEC changes to the Automated Confirmation Transaction℠ (ACT) service. These changes require submission of internalized trades and Qualified Special Representative trades into ACT for trade reporting purposes and include OTC Bulletin Board® securities and other non-Nasdaq securities that are cleared through the National Securities Clearing Corporation as "eligible securities" for the ACT service.

■ **Advisory Council Recommendations** — The Advisory Council, comprised of the chairmen of the 11 District Business Conduct Committees (DBCCs) and the Market Surveillance Committee, recently met and formulated the following recommendations, among others, to the Board:

- Study the member practice of charging customers miscellaneous account fees with a focus on the requirement for timely and clear communications with customers as to the type and amount of the fees to be imposed to afford the customer adequate time to close the account if he or she so chooses.
- Revise the Prompt Receipt and Delivery Interpretation to eliminate the requirement in long sales to mark the order ticket denoting the location of the security being sold.
- Establish a qualifications test for traders to cover not only the workings of the Nasdaq terminal but also the applicant's knowledge of market- and trading-related securities laws and NASD rules.
- Consider compensation for arbitrators who spend time preparing for a case that is settled before the hearing and avoid establishing, in effect, a cadre of professional arbitrators by not relying on the same ones all the time.
- Make staff interpretative letters available to the membership in the form of an appropriate reference system for their guidance.

NASD

Disciplinary Actions

National Association of Securities Dealers, Inc. February 1992

Disciplinary Actions Reported for February

The NASD is taking disciplinary actions against the following firms and individuals for violations of the NASD Rules of Fair Practice; securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions will begin with the opening of business on Tuesday, February 18, 1992. The information relating to matters contained in this Notice is current as of the fifth of this month. Information received subsequent to the fifth is not reflected in this publication.

FIRMS EXPELLED, INDIVIDUALS SANCTIONED

First Eagle, Inc. (Englewood, Colorado), Barry Wayne Fortner (Registered Principal, Aurora, Colorado), and **Terry Dale Bixler (Registered Principal, Aurora, Colorado).** The firm was fined $100,000 and expelled from membership in the NASD, and Fortner was fined $130,000 and barred from association with any member of the NASD in any capacity. The sanctions against the firm and Fortner were based on findings by the District Business Conduct Committee (DBCC) for District 7. Bixler 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, Bixler 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 Fortner and Bixler, effected as principal for its own account over-the-counter sales of a common stock to public customers at prices that were unfair. In addition, the firm, acting through Fortner, failed to establish, maintain, and enforce written supervisory procedures.

Princeton Financial Group, Inc. (Princeton, New Jersey), Anthony J. Pontieri (Registered Principal, Spotswood, New Jersey), and **Jerry F. Shorthouse (Registered Principal, Monmouth Junction, New Jersey)** submitted an Offer of Settlement pursuant to which they were fined $1 million, jointly and severally. In addition, the firm was expelled from membership in the NASD, and Pontieri and Shorthouse were barred from association with any member of the NASD in any capacity.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Shorthouse and Pontieri, effected as principal sales of non-Nasdaq over-the-counter securities to public customers at unfair and unreasonable prices, including markups of more than 10 percent above the firm's contemporaneous costs. According to the findings, the firm, acting through Shorthouse and Pontieri, engaged in acts, practices, and conduct that operated as a fraud and deceit on the purchasers of the aforementioned securities. The respondents made unsuitable recommendations to customers and made exaggerated projections concerning future price appreciation in the security, the findings stated.

The NASD also found that the firm, acting through Shorthouse and Pontieri, failed to make certain disclosures to customers concerning the securities, to contact and obtain the required quotations from other dealers in the security, and to indicate on order tickets for each transaction the name of the dealers contacted and the quotations received to determine the best interdealer market.

In addition, the NASD determined that the firm, acting through Shorthouse and Pontieri, failed to establish and maintain adequate written procedures in order to supervise its activities properly and failed to respond to NASD requests for information in a timely manner.

U.S. Associates, Inc. (Little Rock, Arkansas), Rondell E. Loftin, Sr. (Registered Principal, Little Rock, Arkansas), Douglas F. Shivers (Registered Principal, Hot Springs, Arkansas), Ronald F. Davis (Registered Representative, Lonoke, Arkansas), John E. Shivers (Registered

Principal, Maumelle, Arkansas), and **Bobby J. Johnston (Registered Principal, Houston, Arkansas).** The firm was expelled from membership in the NASD. Loftin was fined $40,000 and suspended from association with any member of the NASD in any principal capacity for two years and in any capacity for 30 days. Douglas Shivers was fined $2,000 and suspended from association with any member of the NASD in any capacity for one month.

In addition, Davis was fined $15,000 and suspended from association with any member of the NASD in any capacity for 60 days. John Shivers was suspended from association with any member of the NASD in any capacity for two years, and Johnston was suspended from association with any member of the NASD in any capacity for one year.

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 the firm, acting through Davis and Johnston, executed or caused to be executed certain government securities purchase and sale transactions with public customers and failed to disclose to the customers 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 offered one customer a 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 the same security to another customer at a price in excess of the current market price for such security. John Shivers knowingly and recklessly assisted in these fraudulent activities.

In addition, the firm, acting through Douglas Shivers, Davis, John Shivers, and Johnston, executed or caused to be executed certain government securities purchase and sale transactions with public customers at prices that included excessive markups and markdowns.

Furthermore, Loftin directly or indirectly controlled Douglas Shivers, Davis, John Shivers, and Johnston in connection with the above activities.

Douglas Shivers, Loftin, Davis, and Johnston have appealed this case to the Securities and Exchange Commission (SEC), and their sanctions are not in effect pending consideration of the appeal.

FIRMS SUSPENDED, INDIVIDUALS SANCTIONED

Adams Securities, Inc. (Las Vegas, Nevada), James William Adams (Registered Principal, Henderson, Nevada), and **Daniel Bruce Perry (Registered Principal, Henderson, Nevada).** The firm was fined $79,541, jointly and severally with Adams and Perry, and suspended for 60 days from engaging as a market maker. Adams and Perry were each fined an additional $15,000 and suspended from association with any member of the NASD in any capacity 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 2. The sanctions were based on findings that, in contravention of the Board of Governors' Interpretation with respect to the NASD's Mark-Up Policy, the firm, acting through Adams and Perry, engaged in the sale of securities to public customers in the secondary market at unfair prices. The markups on these transactions ranged from 17.65 to 100 percent above the firm's contemporaneous cost.

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

American National Equities, Inc. (Encino, California), Ava Corrine Roth (Registered Representative, Calabasas, California), and **James Joseph Hergenreter (Associated Person, Calabasas, California).** The firm was fined $110,799, jointly and severally with Hergenreter, fined $5,000 separately, and suspended from membership in the NASD for 90 days. Roth and Hergenreter were fined $10,000 individually, and Hergenreter was suspended from association with any member of the NASD in any capacity for 90 days. In addition, Hergenreter must requalify by examination before reassociating with any NASD member firm. 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 Roth and Hergenreter, in contravention of the Board of Governors' Interpretation with respect to the NASD's Mark-Up Policy, engaged in sales of units of a limited partnership in the secondary market from its own account to private customers at unfair prices. The markups ranged from 11.24 to 54.4 percent above the firm's contemporaneous cost. Moreover, the firm failed to disclose on customer confirmations whether such purchases or sales were executed on a principal or agency basis, that the firm was a market maker, and that, in at least 75 transactions, the firm charged a commission in addition to the markup or markdown.

Also, in contravention of Schedule C of the NASD's By-Laws, Hergenreter was actively engaged in the management of the firm's securities business, and the firm allowed him to do so, without the benefit of registration with the NASD in any capacity.

B C Financial Corporation (Atlanta, Georgia), Ricky Ervin Hartness (Registered Principal, Atlanta, Georgia), and **David Stephen Disner (Registered Principal, Dunwoody, Georgia).** The firm was fined $20,000, suspended from membership in the NASD for 30 days, and required to pay $53,030.63 in restitution to public customers. The sanctions against the firm were based on findings by the DBCC for District 7. Separately, Hartness and Disner submitted Offers of Settlement pursuant to which Hartness was fined $20,000 and barred from association with any member of the NASD in any capacity. Disner was fined $5,000 and suspended from association with any member of the NASD in a principal capacity for 45 days.

In addition, Disner must disassociate himself from any involvement in the establishment of markup policies or guidelines at any member firm for a period of two years and from any involvement in discussions and/or decisions regarding which securities his current member firm acts as a market maker in or trades on a principal basis with retail customers.

Without admitting or denying the allegations, Hartness and Disner consented to the described sanctions and to the entry of findings that the firm, acting through Disner, effected as principal over-the-counter corporate securities transactions with public customers at prices that were unfair. The NASD also found that the firm, acting through Hartness and Disner, permitted Hartness to function as a general securities principal without being registered with the NASD as such. In addition, the firm conducted a securities business while failing to maintain its required minimum net capital. And the findings stated that Hartness caused the firm to file a materially inaccurate FOCUS Part I report with the NASD.

Bison Securities, Inc. (Amherst, New York) and **Michael Tripi (Registered Principal, Tonawanda, New York)** were fined $90,000, jointly and severally, and the firm was suspended from membership in the NASD for six months. In addition, Tripi was suspended from association with any member of the NASD in any capacity for six months 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 DBCC for District 11.

The sanctions were based on findings that the firm, acting through Tripi, effected sales of common stocks as principal with retail customers at prices that were unfair and unreasonable. The markups on these transactions ranged from 60 to 100 percent above the prevailing market price of the securities. The firm and Tripi also executed with customers transactions in which the offsetting side of the trade was the firm's trading account. Bison and Tripi then sent to customers confirmations that indicated the transactions had been executed on a dual-agency basis when they actually were executed on a principal basis. Furthermore, the firm, acting through Tripi, failed to prepare and maintain accurate books and records and failed to file proper FOCUS Part IIA reports with the NASD.

Bison Securities and Tripi have appealed this case to the SEC, and their sanctions are not in effect pending consideration of the appeal.

FIRMS FINED, INDIVIDUALS SANCTIONED

Bradley & Company, Inc. (Potomac, Maryland) and **Bruce F. Bradley (Registered Principal, Potomac, Maryland)** submitted an Offer of Settlement pursuant to which they were fined $15,000, jointly and severally. Bradley was also suspended from association with any member of the NASD in any principal capacity for one month and required to requalify by examination before again becoming registered as a principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Bradley, effected securities transactions while failing to maintain minimum required net capital and failed to maintain in its books and records accurate net capital computations.

The findings also stated that the firm, acting through Bradley, filed inaccurate FOCUS Parts I and IIA reports and filed a Form BDW that stated inaccurately that the firm had ceased conducting a securities business when, in fact, it continued to conduct a securities business. The NASD further found that Bradley & Company was suspended from membership in the NASD for failing to file its annual audited report for 1987 but continued to conduct a securities business while suspended.

Guardian International Securities Corp. (Hallandale, Florida) and **Kenneth Cutler (Registered Principal, Miami, Florida).** The firm was fined $5,000 and was required to pay $26,412 in restitution to customers. Cutler was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, acting through Cutler, effected as principal for its own account over-the-counter sales of a common stock to public customers at prices that were unfair, with markups ranging up to 55 percent above the firm's contemporaneous cost.

Lauran Capital Corp. (Miami Lakes, Florida), Lauran Ida Hausdorff (Registered Principal, Boca Raton, Florida), and **Abraham Daniels (Associated Person, Miami, Florida)** were each fined $20,000. Hausdorff and Daniels were also barred from association with any member of the NASD in any capacity. The sanctions were based on findings that the firm, acting through Hausdorff, permitted Daniels to be associated with and act as a representative of the firm when he was not registered with the NASD, was subject to a disqualification, and had been denied readmission as a registered representative by the NASD's Board of Governors. Furthermore, Daniels represented himself as president of Lauran Capital without having a factual basis for making such representation. In addition, the firm, acting through Hausdorff, failed to respond to an NASD request for information.

FIRMS AND INDIVIDUALS FINED

Addison Financial Services, Inc. (Palm Harbor, Florida) and **William A. Maddox (Registered Principal, Clearwater, Florida)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined $18,000, 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 Maddox, paid commissions to five associated persons prior to their effective registrations with the NASD.

The NASD also found that the firm, acting through Maddox, failed to notify the NASD of the loss of the firm's sole registered options principal. Furthermore, the findings stated that the firm continued to effect options trades after the termination of its registered options principal. In addition, the NASD determined that the firm, acting through Maddox, effected 43 opening options transactions, including 35 transactions in discretionary accounts, without supervision by a registered options principal and without reflecting on order tickets that discretion had been exercised.

Matanky Securities Corporation (Chicago, Illinois) and **Barry B. Kreisler (Registered Principal, Chicago, Illinois)** were fined $10,000, jointly and severally. These sanctions were affirmed by the SEC following an appeal of a decision by the NASD's Board of Governors. The sanctions were based on findings that the firm, acting through Kreisler, represented that limited partnership interests were offered on an "all-or-none" basis and that investors' funds would be refunded if the contingencies were not satisfied. All of the interests were not sold, yet the investors' funds were never refunded. Furthermore, the investors' funds were not properly transmitted to a separate escrow account and, in fact, the funds were expended from the partnership bank account before the contingencies were met.

In addition, the firm violated its voluntary restrictive agreement with the NASD in that it held funds received in connection with the aforementioned limited partnerships. The firm also effected securities transactions with public customers while failing to maintain sufficient net capital.

Summit Investment Corp. (Minneapolis, Minnesota), Robert H. Paymar (Registered Principal, Minneapolis, Minnesota), and **Richard Stockness (Registered Representative, Minneapolis, Minnesota)** submitted an Offer of Settlement pursuant to which they were fined $32,000, jointly and severally. In addition, the firm was prohibited from making markets in non-Nasdaq over-the-counter equity securities for one year beginning December 3, 1991. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Paymar, effected as principal sales of common stocks to public customers at prices that were unfair. The markups ranged from 9 to 100 percent above the prevailing market price. The NASD also found that Stockness accepted orders from public customers to purchase shares of a common stock when he knew that the prices charged to customers were unfair.

Trans-Pacific Securities, Inc. (Riverside, California) and **Dennis Marlin Good (Registered Principal, Riverside, California)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined $10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through Good, participated in contingent offerings of securities and failed to transmit funds received from public customers to separate escrow accounts promptly.

Weldon Sullivan Carmichael & Company (Denver, Colorado) and **Jumetta Gail Posey (Registered Principal, Denver, Colorado)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined $10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanction and to the entry of findings that the firm, acting through Posey, conducted a securities business while failing to maintain minimum required net capital. In addition, the NASD found that the firm failed to maintain current books and records.

Westonka Investments, Inc. (Minnetonka, Minnesota) and **Timothy J. Friederichs (Registered Principal, Minnetrista, Minnesota)** submitted an Offer of Settlement pursuant to which they were fined $50,000, jointly and severally, and the firm was prohibited from making markets in non-Nasdaq equity securities for two years starting December 30, 1991. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Friederichs, effected as principal sales of securities to public customers at prices that were excessive.

INDIVIDUALS BARRED OR SUSPENDED

Scott Thomas Barrett (Registered Representative, Palm Harbor, Florida) was barred from association with any member of the NASD in any capacity. The sanction was based on findings that Barrett obtained $30,000 from a public customer by representing that the customer could get a higher return on the funds than she could get through her existing securities holdings if the customer loaned the funds to Barrett. Barrett had no factual basis for making such a representation.

John B. Bonifay (Registered Representative, Cordova, Tennessee) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Bonifay completed and signed a customer's name to an Individual Retirement Account application form on behalf of the public customer. Bonifay also made purchase and sale transactions in the joint account of public customers without the knowledge or consent of the customers. In addition, Bonifay failed to respond to NASD requests for information.

William Joseph Brackmann (Registered Representative, Grandview, Missouri) 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, Brackmann consented to the described sanctions and to the entry of findings that he was instructed by a public customer to obtain a loan against the customer's life insurance policy and to use the proceeds to purchase an annuity. Brackman, instead, obtained a $19,565 cashier's check, deposited the check into his personal checking account, and converted the funds to his own use and benefit, according to the findings.

Stephen Lawrence Brown (Registered Representative, Portland, Oregon) submitted an Offer of Settlement pursuant to which he was suspended from association with any member of the NASD in any capacity for seven days. Without admitting or denying the allegations, Brown consented to the described sanction and to the entry of findings that he effected the purchase of securities in the account of two customers without their knowledge or consent.

Lee Trevino Cavazos (Registered Representative, 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 Cavazos failed to respond to NASD requests for information regarding his termination from a member firm.

David W. Cook, Jr. (Registered Representative, Greensburg, Pennsylvania) submitted an Offer of Settlement pursuant to which he was fined $1,500 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Cook consented to the described sanctions and to the entry of findings that he failed to respond to numerous NASD requests for information regarding customer complaints.

John J. Egan (Registered Representative, Brooklyn, New York) 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, Egan consented to the described sanctions and to the entry of findings that he misappropriated loan payments totaling $1,250 from two public customers without the knowledge or consent of the customers.

David Steelsmith Elliott (Registered Principal, Bellevue, Washington) was barred from association with any member of the NASD in any capacity. The sanction was imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 3. The sanction was based on findings that Elliott failed to pay a $1,305 arbitration award.

Robert Keith Fetter (Registered Representative, Chamblee, Georgia) was fined $12,525, suspended from association with any member of the NASD in any capacity for 30 days, and ordered to reimburse his member firm $2,700. In addition, Fetter must requalify by examination before acting in any registered capacity. The sanctions were based on findings that Fetter effected a series of unauthorized securities transactions for the securities accounts of public customers.

Gregory J. Francis (Registered Representative, Jacksonville, 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, without the knowledge or consent of a public customer, Francis instructed a member firm to change the address of the customer to a post office box over which he exercised control. Francis then instructed the member firm to issue two checks totaling $5,450 to the same customer. Francis obtained the funds and converted the proceeds to his own use and benefit.

Gregory D. Funk (Registered Representative, Fort Wayne, Indiana) was fined $1,250 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Funk obtained from a public customer $1,126.96 intended for the purchase of an insurance contract. Contrary to the customer's instructions and without the customer's knowledge or consent, Funk caused $240.92 of the funds to be used to pay insurance premiums for four other individuals. This resulted in additional commission payments to Funk.

James Albert Gillespie (Registered Representative, Portland, Oregon) was fined $20,000, barred from association with any member of the NASD in any capacity, and required to requalify by examination before again acting in any registered capacity. The sanctions were imposed by the NASD's Board of Governors on review of a decision by the DBCC for District 3. The sanctions were based on findings that Gillespie recommended to a public customer the purchase and sale of securities in the customer's account without having reasonable grounds for believing such recommendations were suitable considering her financial situation and needs. Gillespie also failed to respond to NASD requests for information.

Ronald Alan Harry (Registered Representative, Salt Lake City, Utah) was fined $50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Harry made misrepresentations of material facts and failed to inform an investor of a material fact in order to induce the investor to purchase limited partnership interests. In addition, Harry exercised discretion in a public customer's account without obtaining prior written discretionary trading authority. Harry also forged, or caused to be forged, a customer's signature to certain documents.

Mark Eugene Hennick (Registered Representative, Anchorage, Alaska) was fined $100,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hennick recommended and effected unsuitable mutual fund transactions in the accounts of public customers. Specifically, he failed to utilize either rights of accumulation or letters of intent that would have allowed the customers to take advantage of lower break-point sales charges. In addition, Hennick engaged in short-term trading of mutual funds by recommending to customers and effecting the same-day purchase and sale of mutual fund shares. Hennick also engaged in switching (i.e., having customers sell one mutual fund and purchase another fund with the same investment objective). As a result of these activities, Hennick caused public customers to pay higher sales charges and commissions.

Lawrence Ward Johnson (Registered Representative, Spokane, Washington) was fined $6,000, suspended from association with any member of the NASD in any capacity for 90 days, and required to requalify by examination prior to acting again 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 Johnson engaged in two private securities transactions without providing prior written notice to his member firm.

Henry J. Karcher (Registered Representative, Sylvania, Ohio) 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, Karcher consented to the described sanctions and to the entry of findings that he converted to his own use and benefit customer funds totaling $26,587.28 without the knowledge or consent of the customer.

Kelly Michael Kersey (Registered Representative, Reno, Nevada) 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, Kersey consented to the described sanctions and to the entry of findings that he misappropriated $3,994 belonging to his member firm to his own use and benefit.

Cynthia L. Kline (Registered Representative, Pittsford, New York) submitted a Letter of Acceptance, Waiver and Consent 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, Kline consented to the described sanctions and to the entry of findings that she failed to respond to NASD requests for information concerning her termination from a member firm.

John D. Knudson (Registered Representative, Evergreen, Colorado) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Knudson participated in private securities transactions while failing to provide prior written notice to his member firm. Knudson also failed to respond to NASD requests for information.

Allen Gerard Koehler (Registered Principal, Palm Harbor, 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 Koehler remitted a $2,539.82 personal check to his member firm for the purchase of securities in his securities account. Thereafter, Koehler intentionally withdrew funds from his bank account, which caused the check to be returned for insufficient funds. In addition, Koehler failed to provide financial records requested by the NASD.

Harry B. Lentz III (Registered Representative, Hazleton, Pennsylvania) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 9. The sanctions were based on findings that Lentz forged the signatures of three public customers on insurance policy applications and submitted them to his member firm without the customers' knowledge or consent. Lentz also failed to respond to NASD requests for information.

Ely Jay Mandell (Registered Principal, Thousand Oaks, California) was fined $25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Mandell failed to pay a $34,980.67 New York Stock Exchange arbitration award.

J. Scott Marshall (Registered Representative, Seattle, Washington) submitted an Offer of Settlement pursuant to which he was fined $20,600 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Marshall consented to the described sanctions and to the entry of findings that he received from a public customer $609.50 in cash intended for payment of an annual insurance policy premium. In addition, the NASD found that Marshall failed to forward the monies to his member firm for payment of the premiums and, instead, deposited the monies into his personal bank account. Marshall also failed to respond to NASD requests for information.

Russell E. McKinnon, II (Registered Repre-

sentative, Treasure Island, 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 McKinnon converted customer funds totaling $20,000 to his own use and benefit without the knowledge or authorization of the customer. In addition, McKinnon failed to respond to an NASD request for information.

Dominick C. Parlapiano (Registered Representative, Coral Gables, Florida) 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, Parlapiano consented to the described sanctions and to the entry of findings that he instructed his member firm to change the address of a public customer to an address over which he had control without the customer's knowledge or consent. Parlapiano then made requests to have checks totaling $216,088.22 drawn on the customer's account and negotiated and converted the funds to his own use and benefit, according to the findings. Furthermore, the NASD found that, in order to prevent the customer from discovering the withdrawal of funds from the account, Parlapiano sent fictitious monthly account statements to the customer.

Henry Michael Parnes (Registered Representative, Miami, 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 Parnes received from a public customer insurance premium payments totaling $35,000 that he converted to his own use and benefit.

John M. Reynolds (Registered Representative, Gaithersburg, Maryland) was fined $60,771 and barred from association with any member of the NASD in any capacity. The sanctions were affirmed by the SEC following an appeal of a decision by the NASD's Board of Governors. The sanctions were based on findings that Reynolds caused a customer to engage in excessive purchase and sale transactions with a frequency and volume of trading (more than $1 million in purchases) that were inconsistent with the customer's financial situation and investment objective. In addition, Reynolds recommended and purchased securities for the same account that were primarily nondividend-paying growth stocks, while the customer's objectives and needs were for regular income and preservation of capital.

Gene Lester Roach (Registered Principal, Riverside, California) was fined $5,000, jointly and severally with a member firm; fined an additional $289,000; 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 Roach made improper use of the proceeds of a private offering. Specifically, he deposited $169,000 of the funds into a separate securities account maintained at another firm in which he had beneficial ownership, deposited $70,000 into his member firm's trading account, and paid himself a salary of at least $29,500. None of these activities were identified in the use-of-proceeds section of the offering memorandum. In addition, when acting on behalf of a member firm, Roach effected securities transactions while failing to maintain its minimum required net capital.

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

J. Douglass Ryan (Registered Representative, Warren, Ohio) submitted an Offer of Settlement pursuant to which he was fined $30,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Ryan consented to the described sanctions and to the entry of findings that, in contravention of the Board of Governors' Interpretation concerning Private Securities Transactions, Ryan failed to provide prior written notification to his member firm that he sold promissory notes that were issued by another firm. The NASD also found that the securities Ryan sold were not registered with the SEC.

Richard Douglas Ryder (Registered Representative, Medford, Oregon) was barred from association with any member of the NASD in any capacity. The sanction was based on findings that Ryder solicited public customers and accepted from them three checks totaling $78,243.84 for investment purposes. Ryder negotiated and deposited these checks into an account in which he was a signatory. In addition, his member firm had no knowledge of these investments, nor were they developed or offered by the firm. Ryder also failed to respond to NASD requests for information.

Peter W. Schellenbach (Registered Principal, Glencoe, Illinois) was fined $50,000, jointly and severally with a former member firm. In addition, Schellenbach was suspended from association with any member of the NASD in any capacity for 60 days; barred in any principal, supervisory, or managerial capacity; and prohibited from maintaining any proprietary interest in any nonpublicly traded member of the NASD. The sanctions were affirmed by the SEC following an appeal of a decision by the NASD's Board of Governors. The sanctions were based on findings that a former member firm, acting through Schellenbach, failed to prepare and maintain accurate books and records, effected transactions in securities while failing to maintain minimum required net capital, and prepared and filed inaccurate FOCUS Parts I and IIA reports for certain periods. The respondents also filed the firm's annual audited report late for one year and failed to file its audited financial statements the following year.

Schellenbach engaged in a pattern of activity designed to give the illusion that the firm was in compliance with net capital requirements by effecting purchases and subsequent resales of accounts receivable of the firm at month's end on four separate occasions. In addition, the firm, acting through Schellenbach, failed to establish, maintain, and enforce adequate written supervisory procedures. Moreover, they failed to review and provide evidence of approval in writing on all correspondence of its registered representatives pertaining to the solicitation or execution of securities transactions.

Schellenbach has appealed this case to the U.S. Court of Appeals, and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

Gerard Thomas Scholz (Registered Representative, Orlando, 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 Scholz failed to give his member firm prompt written notice of his association as an officer of a Florida corporation. In addition, Scholz engaged in private securities transactions without providing prior written notice to his member firm.

John W. Shaffer (Registered Representative, Phoenix, 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 Shaffer falsified his member firm's books and records by causing new-account information for public customers to contain incorrect addresses in order to circumvent state securities laws. In addition, Shaffer induced customers to purchase securities by making misrepresentations that included guarantees of profits and lack of risk. Shaffer also failed to respond to NASD requests for information.

David W. Small (Registered Representative, Tampa, 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 Small caused the address of a public customer to be changed to reflect first his business address and then his personal address. Thereafter, Small caused his member firm to issue three checks totaling $11,000 from the customer's life insurance policy, forged the customer's endorsement on the checks, and converted the funds to his own use and benefit without the knowledge or authorization of the customer. In addition, Small failed to respond to an NASD request for information.

Linda C. Talbott (Registered Representative, Weston, 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 Talbott failed to respond to NASD requests for information concerning a customer complaint.

James Charles Tindell (Registered Principal, Atlanta, Georgia) was fined $10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Tindell failed to respond to an NASD request for information concerning a customer complaint. Furthermore, as a condition for entering into a monetary settlement pertaining to the customer complaint, Tindell required the customer to agree not to cooperate in any investigation or potential disciplinary proceeding by any government or self-regulatory authority.

Dirk Edward Tinley (Registered Representative, Denver, Colorado) 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 business days. Without admitting or denying the allegations, Tinley consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in the accounts of public customers.

Kenneth D. Todd (Registered Representative, Denver, Colorado) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Todd failed to pay a $9,704.11 arbitration award and failed to respond to NASD requests for information.

James A. Waters (Registered Representative, Inman, South Carolina) 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, Waters consented to the described sanctions and to the entry of findings that he converted customer funds totaling $47,652.47 to his own use and benefit without the knowledge or consent of the customers.

Thomas E. Watson (Registered Representative, Lexington, Kentucky) was fined $20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Watson signed a public customer's name to checks totaling $1,365 and converted the monies to his own use without the knowledge or consent of the customer. In addition, Watson failed to respond to NASD requests for information.

Michael Weinraub (Registered Representative, Wyckoff, New Jersey) submitted an Offer of Settlement pursuant to which he was fined $15,000 and suspended from association with any member of the NASD in any capacity for 20 business days. Without admitting or denying the allegations, Weinraub consented to the described sanctions and to the entry of findings that he solicited retail orders for the purchases of a security that traded in the Nasdaq National Market and effected the purchase orders in a manner that caused the orders to be executed at or near the close of the market. The NASD found that Weinraub engaged in an activity commonly referred to as marking the close wherein some of the aforementioned transactions caused the market for the security to close at a price higher than the previously reported trade.

Cynthia Robin Wert (Registered Representative, Ontario, California) submitted a Letter of Acceptance, Waiver and Consent 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, Wert consented to the described sanctions and to the entry of findings that she caused her member firm to issue a $45,000 check from the joint account of two public customers without their knowledge or consent. To facilitate the issuance of the check, the NASD found that Wert entered the assistant branch manager's authorization code into a computer without his knowledge.

David E. Willis (Registered Principal, Lakeland, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined $5,000, jointly and severally with a former member firm, suspended from association with any member of the NASD in any capacity for 10 days, and required to requalify by examination as a principal. Without admitting or denying the allegations, Willis consented to the described sanctions and to the entry of findings that a former member firm, acting through Willis, effected securities transactions with public customers while failing to maintain its required minimum net capital. In addition, Willis, acting on behalf of the same firm, induced public customers to purchase mutual funds by means of a materially misleading and deceptive prospectus, according to the findings.

William F. Wuerch (Registered Representative, Mercer Island, Washington) and **Mark D. Thomason (Registered Principal, Kirkland, Washington).** Wuerch was fined $25,000 and barred from association with any member of the NASD in a principal capacity. Thomason was fined $5,000, barred from association with any member of the NASD in any principal capacity, suspended from association with any NASD member in any capacity for 30 days, and required to requalify by examination in any capacity in which he seeks to function. The sanctions were affirmed by the SEC following an appeal of a decision by the NASD's Board of Governors. The sanctions were based on findings that Wuerch and Thomason engaged in private securities transactions without providing prior written notification to their member firm.

Carl Everett Young, Jr. (Registered Principal, Glendale, California) was fined $3,500, jointly and severally with a member firm, and suspended from association with any member of the NASD in any capacity 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 2. The sanctions were based on findings that a member firm, acting through Young, allowed an individual to be associated with it but failed to obtain a required blanket fidelity bond. Moreover, Young embarked on a course of conduct to mislead the NASD staff with respect to whether the firm had obtained a blanket fidelity bond.

Mark Daniel Zura (Registered Representative, Denver, Colorado) was fined $10,000 and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that Zura executed securities transactions in two accounts of a public customer without obtaining the customer's prior authorization and consent.

Gilbert A. Zwetsch (Registered Representative, Spokane, Washington) and **Terry S. Evans (Registered Principal, Liberty Lake, Washington)** were each fined $15,000. Zwetsch was ordered to disgorge $7,480, and Evans was ordered to disgorge $2,790. In addition, they were suspended from association with any member of the NASD in any capacity for 60 days. The sanctions were affirmed by the SEC following an appeal of a decision by the NASD's Board of Governors.

The sanctions were based on findings that Zwetsch and Evans each purchased 200,000 shares of stock and, in connection with such purchases, failed to provide prior written notification to their member firm in contravention of the Board of Governors' Interpretation with respect to Private Securities Transactions, then in effect. In addition, Zwetsch and Evans, in soliciting retail customers to purchase the stock, failed to disclose the following: that Zwetsch and Evans had acquired large blocks of the stock at a price considerably lower than the price offered to customers, that any purchases by the customers might be covered in part by the sale of securities owned by the respondents, and that the respondents stood to gain financially from the customers' purchases of the stock.

INDIVIDUALS FINED

Joseph Stephen Fisher (Registered Representative, Danville, California) was fined $18,500. The sanction was imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 1. The sanction was based on findings that Fisher recommended to a public customer the purchase and sale of securities in 47 transactions without having reasonable grounds for believing that such recommendations were suitable for the customer considering her financial situation and investment objectives.

Gilbert Martin Hair (Registered Representative, Newbury Park, California) and **Vladimir Chorny (Registered Representative, Camarillo, California)**. Hair was fined $13,250 and Chorny was fined $18,500. 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 Hair and Chorny participated in private securities transactions without giving prior written notification to their member firm.

Hair and Chorney have appealed this case to the SEC, and the sanctions are not in effect pending consideration of the appeal.

Bradley M. Katz (Registered Representative, Boulder, Colorado) was fined $15,000. The sanction was based on findings that Katz effected an unauthorized securities transaction in a customer's account.

Robert H. Schreiber (Registered Principal, Westerville, Ohio) submitted an Offer of Settlement pursuant to which he was fined $15,000 and required to requalify by examination as a general securities principal. If Schreiber does not requalify within 90 days, he will be suspended from acting as a principal until he requalifies. Without admitting or denying the allegations, Schreiber consented to the described sanctions and to the entry of findings that, in contravention of the Board of Governors' Free-Riding and Withholding Interpretation, he purchased shares of a new issue that traded at a premium in the immediate aftermarket.

Michael David Sweeney (Registered Representative, Spokane, Washington) and **Michael Gregory Sweeney (Registered Representative, Spokane, Washington)** were fined $5,000, jointly and severally, and ordered to disgorge $14,521 to customers, jointly and severally. Michael Gregory Sweeney was also required to disgorge an additional $2,742 to customers. Furthermore, the respondents were required to attend a staff interview regarding sales practices.

The sanctions were modified by the SEC following an appeal of a decision rendered by the NASD's Board of Governors. They were based on findings that Michael David Sweeney and Michael Gregory Sweeney exercised effective control over the accounts of public customers and recommended to such customers the purchase and sale of securities without having reasonable grounds for believing that such recommendations were suitable for the customers based on their investment objectives and needs.

FIRMS SUSPENDED

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of Article IV, Section 5 of the NASD Rules of Fair Practice and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after each entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

BOS Securities, Inc., Destin, Florida (January 14, 1992)

Marc L. Baker, Inc., Sacramento, California (January 14, 1992)

Colonial Capital, Inc., Cleveland, Ohio (January 14, 1992)

Dunn Securities Corporation, Portland, Oregon (January 14, 1992)

E.A.C. Advisors, Ltd., Marina Del Rey, California (January 20, 1992)

The Fortress Capital, Boston, Massachusetts (January 14, 1992)

Investment Advisors, Inc., Louisville, Kentucky (January 14, 1992)

Madison Chapin Associates, Inc., New York, New York (January 14, 1992)

National Equity Resources, Inc., Boulder, Colorado (January 14, 1992)

Oxford Capital Securities, Inc., New York, New York (January 14, 1992)

Martin C. Smith Securities, Inc., Walnut Creek, California (January 14, 1992)

WTG Securities, Inc., Beverly Hills, California (January 20, 1992)

Westcor Financial, Inc., Santa Fe, New Mexico (January 14, 1992)

Wingfield Securities Corporation, San Francisco, California (January 14, 1992)

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

Joseph L. Amos, Knoxville, Tennessee

Robert L. Blake, Atlantic Highlands, New Jersey

Ronald L. Brock, Larkspur, California

Gary E. Bryant, Costa Mesa, California

Brian D. Christensen, Colorado Springs, Colorado

Mark B. Goldfarb, Rockville, Maryland

Douglas J. Hellie, San Antonio, Texas

Thomas L. Hudman, Oklahoma City, Oklahoma

Mary L. Jolly, Girard, Kansas

Stephen R. Lowry, Doraville, Georgia

Jeffrey B. Morrison, Florence, Mississippi

Adrian Pellegrin, Houma, Louisiana

Michael J. Renteria, Westminster, Colorado

Donald L. Vigil, Englewood, Colorado

NASD EXPELS MONARCH FUNDING CORP., BARS ITS PRINCIPAL AND AN ASSOCIATED PERSON, AND IMPOSES FINE OF $1.7 MILLION FOR ENGAGING IN MARKET MANIPULATION SCHEME

The NASD has taken disciplinary action against Monarch Funding Corp.; Leo M. Eisenberg, the firm's owner and President; and Michael B. Eisenberg, a Vice President and Treasurer of another NASD member, Concorde Brokerage Corp.

Pursuant to an Offer of Settlement, made without admitting or denying the allegations, Monarch was censured and expelled from membership in the NASD, while Leo Eisenberg and Michael Eisenberg were each censured and permanently barred from associating in any capacity with any member firm. In addition, Monarch, Leo Eisenberg, and Michael Eisenberg were jointly and severally fined $1.7 million.

The complaint involved activity during the initial public offering and aftermarket trading of Tele-Dynamics, Inc., then a non-Nasdaq over-the-counter blind-pool security in which Monarch had acted as the sole underwriter. The allegations of misconduct were based on findings that the firm, acting through Leo Eisenberg and others, manipulated the market of Tele-Dynamics securities. Respondents committed the manipulation by dominating and controlling the market for the Tele-Dynamics securities and trading at artificially high prices despite the lack of legitimate market demand, according to the findings. As a consequence of the manipulative scheme, Monarch, Leo Eisenberg, and others realized excessive profits of at least $535,000.

The NASD stated that this market manipulation occurred during the initial public offering and immediate aftermarket trading by Monarch, Leo Eisenberg, and Michael Eisenberg, among others, by fraudulently using a prospectus of Tele-Dynamics that was known by the respondents to contain material omissions and false and misleading statements and by making other misrepresentations, including price predictions, to customers purchasing the securities.

In addition, the complaint charged Monarch, Leo Eisenberg, and Michael Eisenberg with failure to disclose that Michael Eisenberg was a promoter of Tele-Dynamics, Inc., during the initial public offering, and that he controlled the management of Tele-Dynamics during the relevant aftermarket trading. This allowed Michael Eisenberg to take from Tele-Dynamics $200,000 that the company had received on the exercise of two million Tele-Dynamics warrants, the findings stated.

During the initial public offering, Monarch, through Leo Eisenberg and others, sold securities to accounts that were prohibited by NASD rule from purchasing securities of a "hot issue." Monarch and Leo Eisenberg were also found to have failed to establish, maintain, and enforce written procedures with respect to the matters described above.

As a result of this violative activity, Monarch, Leo Eisenberg, and Michael Eisenberg were found to have violated the anti-fraud provisions of the federal securities laws and Article III, Section 18 of the Association's Rules of Fair Practice. These provisions prohibit the use of any manipulative, deceptive, or other fraudulent device in the purchase or sale of any security.

The NASD investigation was carried out by its Anti-Fraud Department in Washington, D.C. and is part of a continuing nationwide effort by the NASD to eliminate trading and sales-practice abuses in penny stocks. The disciplinary action was taken by the NASD's Market Surveillance Committee, a national committee responsible for maintaining the integrity of the Nasdaq and the non-Nasdaq markets and for disciplining members that fail to comply with relevant NASD rules and securities laws.

In addition to taking this disciplinary action, the NASD provided assistance in a related criminal action taken by Michael Chertoff, the U.S. Attorney for the District of New Jersey. In that criminal action, Leo Eisenberg pleaded guilty to securities fraud, racketeering, and other felonies in connection with manipulative schemes involving other over-the-counter securities.

NASD

For Your Information

National Association of Securities Dealers, Inc. February 1992

Three PLATO Development Centers Move to New Locations

Effective immediately, the Charlotte, North Carolina PLATO Professional Development Center has relocated to 5600 77 Center Drive, Suite 370, Charlotte, NC 28217. The telephone number has not changed.

Effective March 2, 1992, the Bellevue, Washington PLATO Professional Development Center will relocate to 11400 Southeast 8th Street, Suite 270, Bellevue, WA 98004. The telephone number will be (206) 451-9883. The center will close at noon on Thursday, February 27 and all day Friday, February 28.

Effective March 16, 1992, the Milwaukee, Wisconsin PLATO Professional Development Center will relocate to 10400 West North Avenue, Suite 340, Wauwatosa, WI 53226. The telephone number will remain the same. The center will close at noon on Thursday, March 12 and all day Friday, March 13.

In the January 1-March 31, 1992, PLATO Brochure, the area code for the Birmingham, Alabama PLATO Professional Development Center is incorrect. The correct area code is 205.

Tokyo Examination Session Rescheduled in April

The April 18, 1992, session in Tokyo, Japan has been rescheduled to April 25.

Paper and Pencil Examination Center Location, Dates Change

In Las Vegas, Nevada the testing room has been changed to Room 112. In Great Falls, Montana the May 2, 1992, session has been rescheduled to May 9. All centers' July 4, 1992, sessions have been rescheduled to June 27, and all September 5, 1992, sessions have been rescheduled to August 29.

Revised Series 26 Study Outline Becomes Available Through NASD

The revised study outline for the Investment Company Products/Variable Contracts Limited Principal Examination (Series 26) is available through the NASD Member Services Phone Center at (301) 590-6500. The cost of this outline is $10. The revised examination will be implemented effective April 1, 1992. Questions regarding this revised examination program may be directed to Mark Costley, Qualifications Analyst, at (301) 590-6697.

continued

NASD Service Fee for Second Fingerprint Submission Rises

The NASD service charge of $1.50 for the second fingerprint submission has increased to $2.50, effective February 5, 1992.

The current fingerprint processing fees appear at the right.

If you have any questions about this new procedure, contact the Member Services Phone Center at (301) 590-6500.

Initial Submission (original card)	$23.50 per card
Second Submission (new and illegible card)	$2.50 per card
Third Submission (new card only)	$23.50 per card