

Notice To Members

National Association of Securities Dealers, Inc.

May 1992

Number 92-29

Suggested Routing:*

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

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

Subject: Nasdaq National Market Additions, Changes, and Deletions as of April 21, 1992

As of April 21, 1992, the following 65 issues joined the Nasdaq National Market, bringing the total number of issues to 2,819:

Symbol	Company	Entry Date	SOES Execution Level
CBSA	Coastal Banc Savings Association	3/25/92	1000
COLL	Collins Industries, Inc.	3/25/92	500
CTII	CytoTherapeutics, Inc.	3/25/92	200
DMRK	Damark International, Inc. (CI A)	3/25/92	1000
STMI	Satellite Technology Management, Inc.	3/25/92	200
WALK	Walker Interactive Systems, Inc.	3/26/92	1000
KSRC	Kendall Square Research Corporation	3/27/92	1000
BELD	Belden & Blake Energy Corporation	3/31/92	500
BFCI	Braun's Fashions Corporation	3/31/92	1000
EPIE	Eskimo Pie Corporation	3/31/92	1000
ICUI	ICU Medical, Inc.	3/31/91	1000
LOHO	Longhorn Steaks, Inc.	3/31/92	1000
RESB	Reliable Financial Corporation	3/31/92	500
SYCM	Sybron Chemical Industries, Inc.	3/31/92	1000
XIRC	Xircom, Inc.	3/31/92	1000
ALBK	ALBANK Financial Corporation	4/1/92	1000
MWAV	M-Wave, Inc.	4/1/92	1000
MOHK	Mohawk Industries, Inc.	4/1/92	1000
SRGN	Seragen, Inc.	4/1/92	1000
CSFT	ChipSoft, Inc. (CI A)	4/3/92	200
BLDG	NCI Building Systems, Inc.	4/3/92	500
PMRY	Pomeroy Computer Resources, Inc.	4/3/92	1000
MABXA	American Biogenetic Sciences, Inc. (CI A)	4/7/92	1000
CCFR	CCC Franchising Corp.	4/7/92	1000
EROI	ERO, Inc.	4/7/92	500
FCMI	Future Communications, Inc.	4/7/92	1000

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Symbol	Company	Entry Date	SOES Execution Level
KINN	Kinnard Investments, Inc.	4/7/92	1000
KLRT	Kleinert's Inc.	4/7/92	500
MAXI	Maxicare Health Plans, Inc.	4/7/92	1000
OMEF	Omega Financial Corporation	4/7/92	500
REPO	Repossession Auction, Inc.	4/7/92	1000
REPOW	Repossession Auction, Inc. (Wts)	4/7/92	1000
REST	Restor Industries, Inc.	4/7/92	1000
RESTW	Restor Industries, Inc. (Wts)	4/7/92	1000
SBRN	SANBORN INC.	4/7/92	1000
SBRNW	SANBORN INC. (Wts)	4/7/92	1000
SNDCF	Sand Technology Systems International Inc.	4/7/92	1000
UMED	Unimed, Inc.	4/7/92	1000
VRDX	Verdix Corporation	4/7/92	1000
VTEL	VideoTelecom Corp.	4/7/92	1000
HFFC	HF Financial Corp.	4/8/92	500
HFBS	Heritage Federal Bancshares, Inc.	4/8/92	500
NOVN	Noven Pharmaceuticals, Inc.	4/8/92	1000
BSPT	Bell Sports Corp.	4/9/92	1000
SIMU	Simula, Inc.	4/13/92	1000
SOLD	ADESA Corporation	4/14/92	1000
AFBI	Affinity Biotech, Inc.	4/14/92	1000
KOPN	Kopin Corporation	4/15/92	1000
SUIT	Men's Wearhouse, Inc. (The)	4/15/92	1000
OPTN	OPTION CARE, Inc.	4/15/92	1000
AGCO	AGCO Corporation	4/16/92	1000
BOXXA	Box Energy Corporation (Cl A)	4/16/92	1000
BOXXB	Box Energy Corporation (Cl B)	4/16/92	1000
CAMDW	California Micro Devices Corporation (Wts)	4/16/92	500
CROM	Chromcraft Revington, Inc.	4/16/92	1000
FMOR	First Mortgage Corporation	4/16/92	1000
TLDCF	Teledata Communication Ltd.	4/16/92	1000
WFDS	Worthington Foods, Inc.	4/16/92	500
FCOLZ	First Colonial Bankshares Corporation (Dep. Shares)	4/20/92	500
HERB	Herbalife International, Inc.	4/21/92	1000
LBTYA	Liberty Media Corporation (Cl A)	4/21/92	500
LBTYB	Liberty Media Corporation (Cl B)	4/21/92	500
LBTYP	Liberty Media Corporation (Pfd)	4/21/92	500
PHCO	Peoples Holding Company (The)	4/21/92	200
STBA	S&T Bancorp, Inc.	4/21/92	200

Nasdaq National Market Symbol and/or Name Changes

The following changes to the list of Nasdaq National Market securities occurred since March 25, 1992:

New/Old Symbol	New/Old Security	Date of Change
ORND/REPH	OrNda Healthcorp/Republic Health Corp.	4/16/92
CBWV/NBCC	Commerce Banc Corporation/National Banc of Commerce Company	4/21/92

Nasdaq National Market Deletions

Symbol	Security	Date
FFTN	Fidelity Bancshares, Inc.	3/30/92
IFED	Inter Federal Savings Bank	3/31/92
AHSI	ALTA Health Strategies, Inc.	4/1/92
GNWF	GNW Financial Corporation	4/1/92
FIIA	First Interstate of Iowa, Inc.	4/2/92
FLAEF	Florida Employers Insurance Company (The)	4/2/92
CCRSE	Corporate Capital Resources, Inc.	4/6/92
LICF	Long Island City Financial Corporation (The)	4/7/92
MERY	Merry Land & Investment Company, Inc.	4/8/92
PMBS	Prime Bancshares, Inc.	4/15/92
BMDC	Biomedical Dynamics Corporation	4/20/92
CAREW	Care Group, Inc. (The)(Wts)	4/20/92

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.

Disciplinary Actions

National Association of Securities Dealers, Inc.

May 1992

Disciplinary Actions Reported for May

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 Monday, May 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

Omni Capital Markets, Inc. (Columbus, Ohio) and **Mark A. Cyphers (Registered Principal, Worthington, Ohio)** submitted an Offer of Settlement pursuant to which the firm was fined \$100,000 and expelled from membership in the NASD. Cyphers 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, through a series of non-bona fide transactions, the firm, acting through Cyphers, parked shares of a common stock in three accounts controlled by Cyphers.

The NASD also found that the firm, acting through Cyphers, conducted a securities business while failing to maintain its required minimum net capital. In addition, the NASD determined that the firm, acting through Cyphers, effected transactions in a common stock with public customers at prices that were unfair and unreasonable. These transactions resulted in markups ranging from 14 to 156 percent above the prevailing market price for the securities in contravention of the NASD's Mark-Up Policy. Cyphers also failed to respond to NASD requests for information, according to the findings.

Primary Funding Corporation (San Antonio, Texas) and **Douglas Jerome Hellie (Registered Principal, San Antonio, Texas)** were fined \$150,000, jointly and severally. In addition, the firm was expelled from membership with the NASD, and Hellie was barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hellie recommended the purchase of securities to public

customers without having reasonable grounds for believing that such transactions were suitable for the customers based on their financial situations, needs, and stated investment objectives.

In connection with the offer and sale of securities to public customers, Hellie utilized fraudulent and deceptive devices, along with misstatements and omissions of material facts. Furthermore, in connection with the offer and sale of debentures and warrants, Hellie failed to comply with SEC Rule 10b-9. Specifically, he represented to public customers that subscription funds would be refunded and that the offering would be amended in the event that 20 units were not sold by the termination date when, in fact, the investors never were refunded their monies.

The firm, acting through Hellie, failed to maintain its required minimum net capital and a fidelity bond. In addition, the firm, acting through Hellie, hired a statutorily disqualified individual as a registered representative who was not qualified or registered with the NASD.

FIRMS SUSPENDED, INDIVIDUALS SANCTIONED

First Choice Securities Corporation (Englewood, Colorado) and **Gregory F. Walsh (Registered Principal, Los Angeles, California)** were fined \$20,000, jointly and severally. In addition, the firm was suspended from membership in the NASD for 60 days and required to comply immediately with all provisions of the firm's restriction agreement.

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 3. The sanctions were based

on findings that the firm, acting through Walsh, opened four branch offices in contravention of the terms of its restriction agreement with the NASD. Specifically, the firm, acting through Walsh, made markets in 15 securities and maintained an inventory level that was in excess of the terms defined in the agreement.

First Choice and Walsh have appealed this case to the Securities and Exchange Commission (SEC), and the sanctions are not in effect pending consideration of the appeal.

Hutchison Financial Corporation (Phoenix, Arizona) and Patricia J. Prasad (Registered Principal, Phoenix, Arizona). The firm was fined \$25,000 and suspended from membership in the NASD for six business days. Prasad was fined \$5,000, suspended from association with any member of the NASD as a financial and operations principal for one year, and required to requalify by examination as a financial and operations principal.

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 Prasad, conducted a securities business while failing to maintain its minimum required net capital. In addition, the firm, acting through Prasad, filed inaccurate FOCUS Part I reports with the NASD.

Hutchinson Financial has appealed this case to the SEC, and the sanctions against the firm are not in effect pending consideration of the appeal.

Key Biscayne Securities, Inc. (Key Biscayne, Florida) and Kingsley Charles Barham (Registered Representative, Key Biscayne, Florida) were each fined \$5,000. The firm also was suspended from membership in the NASD for 30 days, and Barham was suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that the firm, acting through Barham, failed to keep current books and records and to carry a blanket fidelity bond. The firm, acting through Barham, also effected securities transactions while failing to maintain its required minimum net capital. In addition, the firm, acting through Barham, filed a materially inaccurate FOCUS Part I report.

FIRMS FINED, INDIVIDUALS SANCTIONED

John G. Kinnard and Company, Inc. (Minneapolis, Minnesota) and Jeffrey Dean Peterson

(Registered Representative, Minnetonka, Minnesota) were fined \$25,000, jointly and severally. In addition, Peterson must requalify by examination as a registered representative. The sanctions were based on findings that the firm, acting through Peterson, effected principal securities transactions with public customers at prices that were unfair and unreasonable, in contravention of the NASD's Mark-Up Policy. The markups ranged from 37.5 to 61.1 percent above the firm's contemporaneous cost for the securities.

Livingston Securities, Inc. (Portland, Oregon), Les Thomas Livingston (Registered Principal, Portland, Oregon), Cletus Herman Niebur (Registered Principal, Beaverton, Oregon), and, James Frank Nieder (Registered Representative, Portland, Oregon) submitted an Offer of Settlement pursuant to which they were fined \$15,000, jointly and severally. In addition, Les Livingston was suspended from association with any member of the NASD in any principal capacity for 10 business days, and Niebur was suspended from association with any member of the NASD in any principal capacity for two years. Furthermore, the firm must pay \$153,670 in restitution to customers.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Les Livingston and Nieder, effected securities transactions at unfair prices. According to the findings, the respondents sold securities to customers with markups greater than 8 percent without disclosing such markups to the customers.

The NASD also found that the firm, acting through Niebur, failed to supervise the aforementioned activities properly and to establish and implement adequate written supervisory procedures. Moreover, the NASD determined that the firm, acting through Niebur, conducted a securities business while failing to maintain sufficient net capital.

FIRMS AND INDIVIDUALS FINED

Merrill Lynch, Pierce, Fenner and Smith, Inc., (New York, New York), Robert L. Sheeran (Registered Principal, Fall City, Washington), and Clinton E. Kratzke (Registered Principal, Bellevue, Washington) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$30,000, 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 Sheeran and Kratzke, who were located at the firm's Seattle, Washington branch office, failed to supervise properly the activities of a registered representative, Molly Wilson, to prevent her from effecting unsuitable and unauthorized transactions.

In accepting these sanctions, the DBCC for District 3 considered the extensive remedial actions and undertakings that Merrill implemented to improve the firm's supervision over its branch offices and to enhance the level and effectiveness of direct branch management supervision over sales practices. The NASD barred Molly Wilson from acting in any capacity with an NASD member and fined her \$90,000 for making improper use of customer funds while associated with another broker/dealer.

R.A. Johnson and Company, Inc. (Salt Lake City, Utah), Ronald A. Johnson (Registered Principal, Salt Lake City, Utah), and Elaine Johnson (Registered Principal, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent pursuant to which they were fined \$15,000, 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 Elaine Johnson, conducted a securities business while failing to maintain its minimum required net capital.

The NASD also found that the firm, acting through Elaine Johnson, failed to prepare and report the firm's net capital accurately and to make the required deposit to the Special Reserve Bank Account. In addition, the NASD determined that the firm, acting through Elaine Johnson, filed inaccurate FOCUS Part I reports and delivered customer fully-paid securities during a period when such deliveries created or increased a deficit position in those securities. Furthermore, the firm, acting through Elaine Johnson, failed to sellout or otherwise cancel transactions in five customer accounts pursuant to Regulation T of the Federal Reserve Board, according to the findings.

In connection with customer order tickets, the NASD found that the firm, acting through Ronald Johnson, failed to mark listed and over-the-counter securities as long or short, to make an affirmative determination as to the location of the securities, to stamp the time of entry, and to mark the tickets

with a representative number of market makers' quotes. The findings also stated that the firm, acting through Ronald Johnson, failed to maintain new-account forms, to have all of the information required on 21 new-account cards, to report Nasdaq National Market transactions executed on a principal basis, and to have in its files information about 10 securities for which the firm was a market maker.

Moreover, the NASD determined that the firm, acting through Ronald Johnson, charged excessive commissions on agency trades and excessive markups or markdowns on principal transactions. In addition, the findings stated that the firm, acting through Ronald Johnson, failed to prepare adequate written supervisory procedures, to have adequate procedures in place describing the firm's methods of obtaining possession and control of customer fully-paid securities, and to disclose the correct capacity in which the firm was acting on a confirmation. The NASD further found that the firm, acting through Ronald Johnson, failed to report non-Nasdaq over-the-counter transactions, to have a general securities principal approve customer account forms, and to place a required customer statement in its audited financial report.

RCM Government Securities, Inc. (Boulder, Colorado) and Gil Lipp (Registered Principal, Boulder, Colorado) were fined \$25,000, jointly and severally. The sanction was based on findings that Lipp, acting on behalf of the firm, made inaccurate and defamatory statements regarding the competency of other firms in the brokerage community in order to gain competitive advantage. Moreover, Lipp, acting on behalf of the firm, acted in an inappropriate manner by making unprofessional and improper comments to customers and potential customers regarding a registered representative's personal and business ethics and moral standing.

Van Clemens & Co., Inc. (Minneapolis, Minnesota), Thomas J. Vanyo (Registered Principal, Robbinsdale, Minnesota), and Patrick J. Vanyo (Registered Principal, Brooklyn Park, Minnesota) submitted an Offer of Settlement pursuant to which they were fined \$40,000, jointly and severally. In addition, the firm was prohibited from effecting any principal sales of non-Nasdaq over-the-counter securities to retail customers for one year.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Thomas and Patrick Vanyo, effected principal sales of common stock to customers at unfair and unreasonable prices in relation to the prevailing market price of the securities.

FIRMS FINED

Dean Witter Reynolds, Inc. (Baton Rouge, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that the firm failed to have an adequate or effective supervisory system at a branch office. The findings also stated that the firm did not have supervisory personnel at the branch office and was unable to monitor adequately the suitability of trades by a registered representative. In addition, the firm's branch-office records failed to evidence approval of a registered representative's trading activity in 39 public customer accounts.

First Affiliated Securities, Inc. (La Jolla, California) was fined \$10,000 and required to pay restitution to public customers. The sanctions were based on findings that the firm failed to supervise the activities of a registered representative adequately and to establish and/or enforce its supervisory procedures.

INDIVIDUALS BARRED OR SUSPENDED

Jerrie Dean Allen (Registered Representative, Miami, Florida) submitted an Offer of Settlement pursuant to which she was fined \$20,000 and barred from association with any member of the NASD in any capacity. In addition, Allen must demonstrate that she has paid \$13,000 in restitution to a public customer should she seek re-entry to the securities industry through NASD eligibility proceedings. Without admitting or denying the allegations, Allen consented to the described sanctions and to the entry of findings that she converted to her own use and benefit customer funds totaling \$13,000 without the knowledge or authorization of the customer.

Judith K. Anderson (Registered Representative, Fridley, Minnesota) submitted an Offer of Settlement pursuant to which she was fined \$10,000 and barred from association with any

member of the NASD in any capacity. Without admitting or denying the allegations, Anderson consented to the described sanctions and to the entry of findings that she exercised discretion in the accounts of public customers without written authorization from the customers or written acceptance of the accounts as discretionary by her member firm.

In addition, Anderson effected transactions in the account of a public customer without having a reasonable basis for believing that such transactions were suitable for the customer in view of the customer's income, financial situation and needs, investment history, and objectives.

Louis Apsokardu (Registered Representative, Reading, Pennsylvania) was fined \$5,000 and suspended from association with any member of the NASD in any capacity for six months. In addition, Apsokardu must requalify by examination for any capacity in which he wishes to function, and he is precluded from acting in any registered capacity until he has requalified. 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 Apsokardu effected mutual fund transactions in the accounts of public customers and omitted material facts, thereby subjecting the customers to additional sales charges. Specifically, Apsokardu failed to advise the customers to utilize available rights of accumulation and to inform the customers that transfers between funds could be effected without a sales charge.

Apsokardu has completed his six-month suspension.

Frank X. Ashdale (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 Ashdale failed to respond to NASD requests for information regarding a customer complaint.

David Augustine (Registered Representative, Park Ridge, New Jersey) submitted an Offer of Settlement pursuant to which he was suspended from association with any member of the NASD in any capacity for three business days. Without admitting or denying the allegations, Augustine consented to the described sanction and to the entry of findings that he failed to pay a \$2,000 arbitration award on a timely basis.

Joel Hight Austin (Registered Principal, Medford, Oregon) was fined \$500,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that a former member firm, acting through Austin, effected securities transactions while failing to maintain its minimum required net capital.

In addition, Austin engaged in a course of conduct that operated as a fraud and deceit on his customers. Specifically, he solicited and received from customers \$328,000 and told the customers that the funds would purchase limited partnership interests and other investments. Austin failed to remit the funds for their intended purposes and, instead, the monies were deposited into a checking account controlled by Austin. Thereafter, the majority of the funds were paid out to Austin, but the customers never received their money back nor any indication that investments were made on their behalf.

Kenneth Patrick Bell (Registered Representative, Warsaw, North Carolina) 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, Bell consented to the described sanctions and to the entry of findings that he effected securities transactions in the accounts of public customers without the knowledge or authorization of the customers.

Richard E. Blanks, Jr. (Registered Representative, St. Petersburg, Florida) was fined \$7,500 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Blanks solicited and accepted a \$30,000 check from a public customer for the purchase of Treasury bonds. Instead, Blanks deposited the check in the account of a company he owned and applied the proceeds to his own use and benefit. In addition, Blanks sent letters to the same customer confirming that the purchase of the Treasury bonds had been made, without having a factual basis for making such representation.

Ronald Leon Brock (Registered Principal, Larkspur, 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 Brock failed to pay a \$19,000 NASD arbitration award and to respond to NASD requests for information.

Thomas G. Bromante (Registered Representative, Sarasota, Florida) was fined \$10,000

and suspended from association with any member of the NASD in any capacity for three months. The sanctions were imposed by the NASD's Board of Governors on review of a decision by the DBCC for District 7. The sanctions were based on findings that Bromante altered the commission portion of certain customer application agreements in order to obtain excess commission payments to which he was not entitled.

Philip Sean Brown (Registered Representative, Tucson, Arizona) was fined \$10,504 and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that Brown executed securities transactions in four public customer accounts without obtaining the customers' prior authorization and consent.

John P. Callinan (Registered Representative, Los Angeles, California) submitted an Offer of Settlement pursuant to which he was fined \$20,000, suspended from association with any member of the NASD in any capacity for six months, and required to requalify by examination as a registered representative. Without admitting or denying the allegations, Callinan consented to the described sanctions and to the entry of findings that he effected transactions for the account of a public customer pursuant to verbal discretionary authority. This authority was not put in writing nor was the account accepted on a discretionary basis by his member firm.

The findings stated that Callinan sent a letter to the same customer advising him that shares of a common stock had been sold in his account when, in fact, these sales had not been effected. The NASD also found that Callinan sent a \$10,000 check to the same customer to partially reimburse him for losses sustained in his account. In addition, Callinan provided false information concerning this customer's complaint to an NASD examiner, according to the findings.

Roderick E. Day (Registered Representative, East Grand Rapids, Michigan) 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, Day consented to the described sanctions and to the entry of findings that he transferred shares of common stock from one customer account to another without the customers' knowledge

or consent. The findings also stated that Day deposited personal funds into the account of public customers to prevent margin-call sales of securities in their account.

In addition, the NASD determined that Day induced customers to maintain their account with him and to permit him to purchase and sell securities for their account by a deception or fraudulent practice. In furtherance of this fraudulent activity and according to the findings, Day mailed to the customers correspondence that overstated the value of their account when he knew, or should have known, that the value of said account was less than represented on the correspondence.

Jerry W. Edmondson (Registered Representative, Cullman, Alabama) was fined \$30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Edmondson received from public customers checks totaling \$9,900.55 for the purchase of mutual fund shares and, instead, deposited the funds into his own account and converted the funds to his own use without the knowledge or consent of the customers. Edmondson attempted to conceal the delay in the transactions by having the account statements mailed to his home address and by changing the trade dates on the confirmation statements before delivering them to the customers.

Edmondson circumvented a suspension imposed by his member firm by using the name of another registered representative to open a new account for a public customer. The aforementioned activities were fraudulent in nature. In addition, Edmondson failed to respond to NASD requests for information.

Joseph A. Ganim (Registered Representative, Charleston, West Virginia) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Ganim affixed a signature purporting to be that of an insurance customer to a policy application without the customer's authorization or consent. As a result of such conduct, Ganim's member firm became obligated to provide insurance to the proposed customer. Ganim also failed to respond to NASD requests for information.

Leonard Greenstein (Registered Representative, Atlanta, Georgia) submitted an Offer of Settlement pursuant to which he was fined \$100,000 and barred from association with any

member of the NASD in any capacity. Without admitting or denying the allegations, Greenstein consented to the described sanctions and to the entry of findings that he made recommendations to public customers without having reasonable grounds for believing such transactions were suitable for the customers based on their financial situations and investment objectives.

The NASD found that Greenstein made numerous misrepresentations and omissions of material facts to his customers relating to the offer and sale of several highly speculative, manipulated securities. In addition, the NASD found that Greenstein exercised discretionary power in the accounts of public customers without prior approval or discretionary authority. Greenstein also guaranteed a public customer's account against losses, according to the findings.

Carla E. Havard (Registered Principal, Twin Rivers, 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 Havard failed to respond to NASD requests for information regarding her termination from a member firm and five customer complaints.

Robert A. Hendrix (Registered Representative, St. Simons Island, Georgia) 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 five days. Without admitting or denying the allegations, Hendrix consented to the described sanctions and to the entry of findings that he provided periodic verbal portfolio valuations to a public customer that were false and greater than the actual market value of the customer's portfolio.

Dwight D. Holloway (Registered Representative, Orlando, Florida) 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, Holloway consented to the described sanctions and to the entry of findings that, in connection with the sale of limited partnership interests to five investors, Holloway failed to provide prior written notification of such sales to his member firm.

John Franklin Horjes (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 15 business days. Without admitting or denying the allegations, Horjes consented to the described sanctions and to the entry of findings that he recommended the purchase and sale of securities, including options transactions, in the account of a public customer. According to the findings, these recommendations were made without having reasonable grounds for believing that such transactions were suitable for the customer in view of the size, nature, and frequency of the recommended transactions and the customer's financial situation, circumstances, and needs.

Thomas E. Hurston (Registered Representative, Brandon, Mississippi) was fined \$30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hurston engaged in conduct that was found to be fraudulent in nature. Specifically, he received from a public customer a \$10,000 check for the purchase of a money market fund. Instead, Hurston deposited the check into his personal checking account and converted the funds to his own use and benefit without the knowledge or consent of the customer. In addition, Hurston failed to respond to NASD requests for information.

Howard W. Jameson (Registered Representative, Pittsburgh, Pennsylvania) 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 9. The sanctions were based on findings that Jameson failed to respond to NASD requests for information regarding alleged securities transactions in a customer account.

Charles L. Johnson (Registered Representative, Baton Rouge, Louisiana) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Johnson effected the sale and subsequent purchase of shares of stock in the accounts of public customers, thereby engaging in unsuitable transactions which cost the customers sales charges totaling \$13,800.

Without the knowledge or consent of public customers, Johnson executed purchase and sale transactions in customers' accounts and entered orders to purchase Treasury bonds on behalf of the customers. These unauthorized purchases of Treas-

ury bonds were found to have been fraudulent in nature. In addition, Johnson recommended and executed transactions in the accounts of public customers without having reasonable grounds for believing that the recommendations were suitable for the customers given their respective financial situations, investment objectives, and needs. Johnson also failed to respond to NASD requests for information.

Dale Drake Johnson (Registered Representative, Albion, Michigan) submitted an Offer of Settlement 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, Johnson consented to the described sanctions and to the entry of findings that he obtained from three insurance customers checks totaling \$2,679 in the form of premium overpayments or policy withdrawals. According to the findings, Johnson deposited the checks in his own bank account and retained the funds for his personal use and benefit.

Randolph H. Kahl-Winter (Registered Representative, Palm Harbor, Florida) was fined \$10,000, barred from association with any member of the NASD in any capacity and required to pay \$18,015 in restitution to a public customer and \$2,343.25 to his member firm. The sanctions were based on findings that Kahl-Winter effected securities transactions for the accounts of public customers without the knowledge or consent of the customers.

Martin R. Kenealy (Registered Representative, Sarasota, Florida) was fined \$20,000 and barred from association with any member of the NASD in any capacity. In addition, Kenealy must pay \$121,000 in restitution to his member firm should he seek re-entry to the securities industry through NASD eligibility proceedings. The sanctions were based on findings that Kenealy effected unauthorized options transactions in the accounts of public customers. In addition, Kenealy failed to adhere to an agreed-upon investment strategy when servicing the accounts of public customers, resulting in unauthorized risk exposure to the customers.

Glenn P. Legg (Registered Representative, Turtle Creek, 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 Legg, on 14 separate occasions, converted policyholders' funds totaling

\$38,598.82 to his own use and benefit without the policyholders' authorization or consent.

Lowell H. Listrom (Registered Principal, Kansas City, Missouri) and **Stephen L. Mock (Registered Principal, Overland Park, Kansas)**. Listrom was fined \$25,000, jointly and severally with a former member firm, and barred from association with any member of the NASD as a general securities principal. Mock was fined \$5,000, suspended from association with any member of the NASD in any capacity for 10 days, and required to requalify by examination as a financial and operations principal. The sanctions were imposed by the SEC following an appeal of a decision by the NASD's Board of Governors.

The sanctions were based on findings that a member firm, acting through Listrom and Mock, failed to prepare and maintain certain books and records and failed to state excess net capital accurately. The NASD also found that the same member firm, acting through Listrom and Mock, conducted a securities business while failing to maintain its required minimum net capital. In addition, the member firm, acting through Listrom and Mock, incurred a deficiency in its reserve bank account as a result of insufficient unrestricted cash, impermissible withdrawals, and inaccurate computations. The findings also stated that the member firm, acting through Mock, inaccurately calculated its reserve bank account computations.

Listrom has appealed this action to the U.S. Court of Appeals.

Joseph Losiak (Registered Representative, Berwyn, Illinois) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$22,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Losiak consented to the described sanctions and to the entry of findings that he obtained from three insurance customers \$1,059.69 in cash intended for payment of various insurance premiums. According to the findings, Losiak misappropriated the funds for his own use and benefit without the customers' knowledge or consent.

David Paul Mann (Registered Representative, Bloomington, Minnesota) 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. In addition, Mann must demonstrate that full restitution was

paid should he seek re-entry to the securities industry through the NASD's eligibility proceeding. Without admitting or denying the allegations, Mann consented to the described sanctions and to the entry of findings that he received funds totaling \$6,675.80 from public customers. These monies were intended for deposit in a tax-sheltered annuity, the purchase of a variable life insurance policy, and an insurance premium payment. Instead, the NASD determined that Mann used the funds for other purposes, resulting in additional commission payments to him.

In addition, the NASD found that Mann forged the signature of a public customer on a check issued by his member firms and deposited the check in his personal account. Mann also charged a customer an improper enrollment fee of \$220, according to the findings.

Kenneth M. Masaid (Registered Representative, Anderson, South Carolina) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$2,843.50 and suspended from association with any member of the NASD in any capacity for six months. Without admitting or denying the allegations, Masaid consented to the described sanctions and to the entry of findings that he received from a public customer \$568.70 as payment of an annual insurance premium and converted the funds to his own use and benefit without the knowledge or authorization of the customer.

Ivan L. McKinney (Registered Principal, Bossier City, Louisiana) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,000, suspended from association with any member of the NASD in any capacity for two weeks, and barred from association with any member of the NASD in any principal capacity. In addition, McKinney is required to requalify by examination as a general securities representative.

Without admitting or denying the allegations, McKinney consented to the described sanctions and to the entry of findings that a member firm, acting through McKinney, failed to establish, maintain, and enforce written supervisory procedures and to reasonably and properly supervise a registered representative. In addition, the findings stated that the firm, acting through McKinney, failed to adequately monitor the suitability of trades recommended by a registered representative in light of the representative's prior misconduct.

Peter Anselm Meyers (Registered Represent-

tative, Bellevue, Washington) 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, Meyers consented to the described sanctions and to the entry of findings that he executed transactions in four customer accounts without their prior authorization, knowledge, or consent. According to the findings, Meyers received approximately \$1,000 in commissions as a result of these unauthorized transactions.

Timothy A. Miles (Associated Person, Haymarket, Virginia) was fined \$1,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Miles made improper use of information written on the cover of his calculator while taking the general securities registered representative examination.

Robert Bruce Mitchell (Registered Representative, Lakewood, Colorado) was fined \$100,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Mitchell effected at least 30 unauthorized transactions in the accounts of public customers. In addition, Mitchell falsified his member firm's books and records by changing customer accounts to reflect incorrect addresses. Moreover, Mitchell made certain misrepresentations to a customer regarding her securities account in order to induce the customer to effect securities transactions through him. Mitchell also sent false and misleading information to a mortgage company on behalf of the same customer that misrepresented the current value of her account and the amount of income the account generated.

Christopher James Mondello (Registered Representative, Lockport, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$4,000 and barred from association with any member of the NASD in any capacity. In addition, Mondello must demonstrate that he has paid \$590.09 in restitution to a public customer should he seek re-entry to the securities industry through NASD eligibility proceedings. Without admitting or denying the allegations, Mondello consented to the described sanctions and to the entry of findings that he misappropriated and converted to his own use and benefit customer

funds totaling \$590.09 intended for payment of insurance premiums.

Norton Morgenthal (Registered Representative, North Bellmore, New York) submitted an Offer of Settlement pursuant to which he was suspended from association with any member of the NASD in any capacity for three business days. Without admitting or denying the allegations, Morgenthal consented to the described sanction and to the entry of findings that he failed to pay a \$2,396.24 arbitration award on a timely basis.

Eric Donald Needler (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 Needler effected purchase transactions for the accounts of public customers without the knowledge or consent of the customers.

Neil Alfred Nelson (Registered Representative, Indialantic, 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 Nelson effected purchases of shares of common stock for the accounts of public customers without the knowledge or consent of the customers. In addition, Nelson failed to respond to an NASD request for information.

Gary William Oldham (Registered Representative, Federal Way, Washington) was barred from association with any member of the NASD in any capacity. The sanction was based on findings that Oldham failed to respond to NASD requests for information concerning a customer complaint.

Frank G. Pinizzotto (Registered Principal, Tierra Verde, Florida) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was suspended from association with any member of the NASD in any capacity for five business days. Without admitting or denying the allegations, Pinizzotto consented to the described sanction and to the entry of findings that he made misrepresentations to public customers in connection with their purchase of securities.

Randy K. Pittman (Registered Principal, Oklahoma City, Oklahoma) 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 week. Without admitting or denying the allegations, Pittman consented to the described sanctions and to the entry of findings that he

signed a public customer's name to applications for purchases of annuities without the prior consent or approval of the customer. In addition, Pittman guaranteed the same public customer's account against loss, according to the findings.

Joseph S. Ranieri (Registered Representative, Clifton, New Jersey) was fined \$5,000 and suspended from association with any member of the NASD in any capacity for one year. The sanctions were based on findings that Ranieri reported 130 fictitious and substantive transactions in 26 Nasdaq National Market securities for which he was responsible. Furthermore, 122 of the transactions closed at a price higher than the previous reported transactions. This activity, commonly referred to as "marking the close of the market," was found to have been fraudulent in nature.

Timothy J. Ribadeneyra (Registered Representative, Charlotte, North Carolina) 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, Ribadeneyra consented to the described sanctions and to the entry of findings that he directed the transfer of funds totaling \$10,870.23 from a municipal securities transaction suspense account of a financial institution affiliated with his member firm to his personal checking account without the knowledge or consent of either firm.

William Milton Rosenberger (Registered Representative, Leawood, Kansas) was fined \$137,500 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Rosenberger made recommendations to public customers without having reasonable grounds for believing that such transactions were suitable for the customers in view of the nature, size, and frequency of the transactions and the customers' investment objectives, financial situations, and needs. Rosenberger exercised discretionary power and executed purchase and sale transactions in the accounts of public customers without obtaining prior written discretionary authority from the customers and without the accounts being accepted as discretionary by his member firms. In assuming discretionary authority for one customer, Rosenberger also failed to explain the impact and potential risk involved in the securities transactions.

In addition, Rosenberger recommended and

induced a public customer to increase her margin debit balance by making loans to him for his own use to support the margin debit balance in his personal securities account. Furthermore, Rosenberger signed customer names to a margin agreement without the knowledge or consent of the customers. Rosenberger also fraudulently stated to a customer's son that additional funds of \$1,064,375 were required to cover a margin call and that the account would be liquidated unless the funds were received. Rosenberger then stated that if the customer's son issued a personal check for the account, it would not be presented for payment and would be returned the next day.

Moreover, Rosenberger guaranteed customers against loss in connection with their purchases of securities. On several occasions, Rosenberger prepared and sent customer account statements that inaccurately stated the status of the accounts.

Terrence L. Salters (Associated Person, Washington, D.C.) was fined \$7,500 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Salters falsified his Series 6 exam results by creating a fraudulent printout reflecting that he passed the exam. Thereafter, he submitted the forged printout to his member firm. Salters also failed to respond to NASD requests for information in a timely manner.

Steve Edward Scheuffele (Registered Representative, Cocoa Beach, Florida) was fined \$20,000 and barred from association with any member of the NASD in any capacity. In addition, Scheuffele must demonstrate that he has paid \$4,640 in restitution to public customers should he seek re-entry to the securities industry through the NASD eligibility proceedings. The sanctions were based on findings that Scheuffele effected purchase transactions for the accounts of public customers without the knowledge or consent of the customers. In addition, Scheuffele failed to respond to an NASD request for information.

Michael A. Smithhisler (Registered Representative, Titusville, Florida) 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. In addition, Smithhisler must pay \$38,219 in restitution to his member firm should he seek re-entry to the securities industry through NASD eligibility proceedings. Without admitting or denying

the allegations, Smithhisler consented to the described sanctions and to the entry of findings that he received from a public customer a \$35,219 check to be deposited into an insurance/investment program. Instead, the NASD found that Smithhisler deposited the check in his personal checking account and used the proceeds for his own use and benefit. In addition, Smithhisler became associated with another company without the knowledge or approval of his member firm, according to the findings.

Kevin J. Stafford (Registered Representative, Tampa, Florida) was fined \$15,000 and suspended from association with any member of the NASD in any capacity for 15 business days. The sanctions were based on findings that Stafford placed numerous telephone calls to a public customer during which he was abusive, used obscene language, and made personal threats against the customer and his wife.

Gregg Suzuki (Registered Representative, Denver, Colorado) was barred from association with any member of the NASD in any capacity. The sanction was based on findings that Suzuki made misrepresentations to a customer and guaranteed the customer against loss in order to induce him to purchase securities. Specifically, Suzuki made statements to the customer that he had contacts at certain brokerage firms that would allow him to obtain securities from canceled trades at favorable prices and that, as a result, the customer could earn 20 percent on his investment within three weeks. Moreover, Suzuki delivered falsified confirmations to the customer that purported to show the purchase and sale of these securities at a certain brokerage firm when, in fact, these transactions had not been effected. Suzuki also failed to respond to NASD requests for information.

William Timothy Tackett (Registered Representative, Inman, South Carolina) submitted an Offer of Settlement 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, Tackett consented to the described sanctions and to the entry of findings that he converted to his own use and benefit customer funds totaling \$4,507.50 without the knowledge or authorization of the customers.

Lynn Edward Thomas (Registered Representative, Birmingham, Alabama) was fined \$50,000 and barred from association with any

member of the NASD in any capacity. The sanctions were based on findings that, in connection with the sale of a security, Thomas misrepresented and omitted material facts to public customers. This activity was found to be fraudulent in nature. Thomas also failed to provide prior written notification of the aforementioned sale to his member firm. In addition, Thomas recommended the purchase of the security to these public customers without having reasonable grounds for believing that such transactions were suitable for the customers based on their other security holdings, investment objectives, and their financial situations and needs.

Zack Kendall Thomason (Registered Representative, Greenville, South Carolina) submitted an Offer of Settlement pursuant to which he was fined \$6,000 and barred from association with any member of the NASD in any capacity. In addition, Thomason must demonstrate that he has repaid \$44,726.73 to a public customer, should he seek re-entry to the securities industry through NASD eligibility proceedings. Without admitting or denying the allegations, Thomason consented to the described sanctions and to the entry of findings that he received \$44,726.73 from a public customer in private securities transactions without providing prior written notice of such transactions to his member firm.

George J. Trovato (Registered Representative, Brooklyn, New York) was fined \$7,500 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Trovato took an examination on behalf of another individual who was registered for the exam.

Gordon Scott Venters (Registered Representative, Tampa, Florida) was fined \$2,500, suspended from association with any member of the NASD in any capacity for one day, and required to requalify by examination as a registered representative on completion of the suspension. 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 Venters recommended and caused shares of a common stock to be purchased in the account of a public customer without having reasonable grounds for believing such recommendations were suitable for the customer.

Venters appealed this case to the SEC, and the

sanctions are not in effect pending consideration of the appeal.

James R. Voigtsberger (Registered Principal, Minneapolis, Minnesota) was fined \$50,000 and barred from association with any member of the NASD in any capacity. In addition, Voigtsberger must demonstrate that he has paid \$80,000 in restitution to public customers should he seek re-entry to the securities industry through the NASD's eligibility proceeding. The sanctions were based on findings that Voigtsberger engaged in conduct that was found to be fraudulent in nature. Specifically, he received \$80,000 from public customers for investment purposes but, instead, deposited the funds into an account that he controlled and used the monies for his own use and benefit. The NASD also found that Voigtsberger participated in private securities transactions without providing prior written notification to his member firm. In addition, Voigtsberger failed to respond to NASD requests for information.

Marlowe Robert Walker, III (Registered Representative, Hauppauge, New York) was fined \$45,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Walker failed to pay an \$8,750 arbitration award. In addition, Walker failed to respond to NASD requests for information.

Richard T. Warren (Registered Representative, Baltimore, Maryland) was fined \$5,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Warren failed to pay a \$1,865 arbitration award.

Dan Lewis Weinberg (Registered Principal, Doraville, Georgia) was fined \$7,500, jointly and severally with a member firm and suspended from association with any member of the NASD as a financial and operations principal for 10 business days. The sanctions were based on findings that a member firm, acting through Weinberg, conducted a securities business while failing to maintain its required minimum net capital. The same firm, acting through Weinberg, also failed to maintain accurate books and records. In addition, in contravention of the NASD's Mark-Up Policy, the firm, acting through Weinberg, effected principal securities transactions with public customers at prices that were unfair. The markups ranged from 14 to 45 percent over the firm's cost for the securities.

Henry James Wiley, III (Registered Representative, Chicago, Illinois) was barred from association with any member of the NASD in any capacity. The sanction was based on findings that Wiley failed to respond to NASD requests for information concerning a customer complaint.

Gary Ronald Yocum (Registered Representative, Phoenix, Arizona) was fined \$100,000 and barred from association with any member of the NASD in any capacity. In addition, Yocum is required to provide proof that he has paid \$2,730,180 in restitution to investors prior to seeking permission to associate with a member firm. The sanctions were based on findings that Yocum received funds in excess of \$6 million from investors through the sale of limited and general partnership interests. He used \$2,730,185 of the funds in a manner inconsistent with the stated use of such proceeds in the offering memoranda.

In addition, Yocum engaged in a securities business with public customers through two firms that were not registered with the SEC as securities broker/dealers. Furthermore, Yocum solicited and sold offerings of real estate interests that were not registered under Section 5 of the Securities Act of 1933. Yocum also failed to respond to NASD requests for information.

INDIVIDUALS FINED

Chyle James Edic (Registered Representative, Monroe, Washington) was fined \$10,000 and required to pay \$27,520 in restitution to a public customer. In addition, Edic must requalify by examination prior to becoming associated with any member of the NASD in any capacity. The sanctions were based on findings that Edic recommended and effected securities transactions in the account of a public customer without having reasonable grounds for believing such recommendations were suitable considering the customer's financial situation and investment needs.

Bernard Lee Woody (Registered Representative, Denver, Colorado) was fined \$19,500 and required to 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 3. The sanctions were based on findings that Woody engaged in the sale of securities to public customers without providing prior written notice to his member firm.

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

Bradley & Company, Incorporated, Potomac, Maryland
Matanky Securities Corporation, Chicago, Illinois

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.

DTI Financial, Inc., New York, New York (April 20, 1992)
Alliance Securities Corp., Los Angeles, California (April 3, 1992)
Cambrian Securities, Inc., New York, New York (April 20, 1992)
Ellison, Pearson & Garrett, Salt Lake City, Utah (April 20, 1992)
First Choice Securities Corp., Englewood, Colorado (April 20, 1992)
Hall, Curley & Co., Inc., New York, New York (April 20, 1992)
Hartman Securities, Inc., Houston, Texas (April 20, 1992)
Jeffrey Brooks, East Hills, New York (April 20, 1992)
Maggart-Perusich Financial Corp., Dallas, Texas (April 3, 1992)
Main Line Investment Group, Ltd., Paoli, Pennsylvania (April 20, 1992)
Marks Properties, Inc., New York, New York (April 20, 1992)
Marktech Securities, Inc., Trevese, Pennsylvania (April 20, 1992)
Meritquest Group, Inc., Glendale, California (April 3, 1992)
Mid Continent Financial, Inc., Irvine, California (April 3, 1992)
Oilpatch Securities, Inc., Dallas, Texas (April 3, 1992)

Omni Securities, Inc., Dallas, Texas (April 20, 1992)
Pacific Integrated Group, Inc., Santa Clara, California (April 3, 1992)
Palm Securities, Inc., Melbourne, Florida (April 20, 1992)
Plover Securities, Inc., New Orleans, Louisiana (April 20, 1992)
Realshares, Inc., Chicago, Illinois (April 3, 1992)
Richard Roberts Capital Corp., Avon, Connecticut (April 20, 1992)
Southern Trust Capital Corp., Wellington, Florida (April 20, 1992)
Varel, John G., Haleiwa, Hawaii (April 20, 1992)
Viking Financial, Inc., Plano, Texas (April 20, 1992)
Wendell Henry Securities, Tiburon, California (April 20, 1992)
Western Equities Corporation, Englewood, Colorado (April 20, 1992)
Wilshire Discount Securities, Inc., Riverside, California (April 3, 1992)
Winthrop Investments, Indianapolis, Indiana (April 3, 1992)

SUSPENSIONS LIFTED

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

E.R. Keller & Company, Princeton, New Jersey (March 27, 1992)
Lazar Frederick & Company, Beverly Hills, California (April 3, 1992)

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

William Lucien Agnew, St. Petersburg, Florida
 James Nicklaus Bennett, Gun Barrel City, Texas
 Bruce F. Bradley, Washington, District of Columbia
 Lawrence Ward Johnson, Spokane, Washington
 Lawrence Ralph Kelner, Lakeland, Florida
 Carl Robert Kemper, Englewood, Colorado
 Barry B. Kreisler, Chicago, Illinois

Disciplinary Actions

Keith Allen Remson, Riverview, Florida
Robert Karl Rowen, Alexandria, Virginia

Ronald Sparkman, Evergreen, Colorado
Michael S. Wheelock, Edina, Minnesota

For Your Information

National Association of Securities Dealers, Inc.

May 1992

Fidelity Bonding Coverage of Certain Employees

All financial institution fidelity bonds, including the bond used in the NASD Group Buying Program, contain a clause (usually in Section 12 of the bond) that terminates coverage of an employee when principals of the insured firm first become aware that, at some time in the past, whether in the employ of the firm or not, an employee committed a fraudulent or dishonest act.

If a member has knowledge that any of its employees has engaged in fraudulent or dishonest activity, there is a distinct possibility that, if the employee engages currently in similar activity causing a loss to the member, the member's subsequent claim on the insurance carrier for indemnification will be denied.

There is also the question of member compliance with the provisions of the NASD fidelity bonding rule (Article III, Section 32, NASD Rules of Fair Practice). These provisions require that all persons associated with a member firm be covered under a member's fidelity bond.

When a member learns that an employee has engaged in fraudulent or dishonest activity in the past, it should immediately contact its insurance

carrier and disclose the nature and extent of the conduct. The carrier then will review the information and decide whether to provide coverage of the employee. In many situations, particularly if the activity occurred many years ago and the employee's conduct has since been exemplary, the carrier may be willing to provide coverage. If not, the employee cannot continue to be employed by a member firm.

A similar situation exists when a member is in the process of hiring a new employee. Any past evidence of fraudulent or dishonest conduct should be disclosed to the insurance carrier for its decision whether to provide coverage.

We are bringing this matter to the attention of members at this time because we believe that many members may not be aware of the employee termination clause in their fidelity bonds. In a recent case a claim by a member for almost \$500,000 was denied by an insurance carrier because the member knew that in the early 1980s the registered representative, who was the cause of the current loss, violated an NASD rule that the insurance carrier considers involved dishonest conduct.

NASD Member Voting Results

As a member service, the NASD is now publishing the final result of member votes on issues presented to them for approval in the monthly *Notices to Members*. These tallies will appear in the "For Your Information" section of the Notices.

Thus far in 1992, members have voted on the following issues:

■ **Notice to Members 92-1** — Proposed Amendment to Article VI, Section 3 of the By-Laws to Extend the NASD's Summary Suspension Procedures to Situations Where Members or

Associated Persons Fail to Comply With Arbitration Awards. **Voting Deadline: February 18, 1992.** Ballots For 2,070; Against 204; and Unsigned 9.

■ **Notice to Members 92-8** — Proposed Amendment to Rules of Fair Practice, Article III, New Section 46: Short-Sale Rule for Nasdaq/NMS Securities and New Section 47: Primary Nasdaq Market Makers. **Voting Deadline: March 13, 1992.** Ballots For 1,779; Against 445; and Unsigned 15.

Application of the Free-Riding and Withholding Interpretation to Investment Partnerships

The NASD has recently received numerous inquiries asking if an investment partnership that has restricted persons as partners may invest in "hot issues" under the NASD's Free-Riding and Withholding Interpretation if the partnership is structured to preclude the restricted persons from benefiting from the hot-issue purchases.¹ This issue was presented to the NASD Corporate Financing Committee and to the National Business Conduct Committee for their consideration. Both committees affirmed the position — which the NASD staff has taken since at least 1980 — that regardless of whether the partnership internally allocates profits and losses from hot-issue transactions away from restricted persons, a member may not sell a hot issue to an investment partnership if restricted persons have a beneficial interest in such partnership unless the sale complies with the provisions of the Interpretation.

Therefore, a partnership that has persons associated with a broker/dealer as partners would be unable to purchase hot issues because such persons are absolutely restricted by the Interpretation. Partnerships that have other categories of conditionally restricted persons as partners would only be able to purchase hot issues if the partnerships were able to demonstrate compliance with the "investment history," "insubstantial," and "not disproportionate"

tests of paragraph 5 of the Interpretation.

The staff has taken this position because the NASD has no jurisdiction over investment partnerships or similar entities and has no way to verify whether such restrictions or allocations are being followed. This position also considers the fact that the Interpretation provides for granting exemptions in only one area (i.e., issuer-directed securities) with such exemptions available only in very limited circumstances, not related to investment partnerships.

In response to the interpretative issues raised and to a request by the NASD's Advisory Council, the Board of Governors has authorized the creation of a committee composed of members of the Corporate Financing, National Business Conduct, and Insurance-Affiliated Broker/Dealer Committees to conduct a general review of interpretative issues regarding the Free-Riding and Withholding Interpretation, including the treatment of restricted persons in investment partnerships. This committee will report its recommendations for consideration and/or action by the Board of Governors.

¹The Interpretation includes a provision relating to Investment Partnerships and Corporations that was amended in 1988 (see NASD Manual p. 2047, *Notice to Members 88-93*).

Last Call to Register for NASD's Eastern Regional Securities Conference To Be Held May 21 and 22 in Orlando

The NASD's Eastern Regional Conference, sponsored by Districts 5, 7, 8, 9, 10, and 11, will be held at The Peabody on May 21-22 in Orlando, Florida. The program will include a state-of-the-NASD address by NASD President and CEO Joseph R. Hardiman and a luncheon address by J. Carter Beese, the newest SEC Commissioner. The program will also feature a general session with panels on the "Outlook for the Economy, Markets, and the Securities Industry" and "New Developments in Securities Regulation."

Workshops, a major part of the program, will cover advertising rules and recent interpretations; compliance and supervision issues; continuing education and assessment for industry professionals;

corporate financing matters; dealing with the problem RR; fair dealing with customers in terms of markups and pricing; regulation of financial planners, investment advisors, and insurance broker/dealers; new initiatives in the fixed-income market; market services and market surveillance; new products/derivatives and related regulatory considerations; and financing small businesses. There will also be a full-day training session for NASD arbitrators on May 20.

Conference registration is limited and costs \$335 per person for the full conference, \$125 for the arbitrators training session, or \$425 for both sessions. To make reservations, call Elisabeth Owen at (202) 728-8005.