

# Disciplinary Actions

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## Disciplinary Actions Reported For March

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of February, 2001.

### Firm Fined, Individual Sanctioned

**Amerivet Securities, Inc. (CRD #34786, Los Angeles, California) and Elton Johnson, Jr. (CRD #844428, Registered Principal, Panorama City, California)** submitted an Offer of Settlement in which they were fined \$20,000, jointly and severally. In addition, Johnson was suspended from association with any NASD member as a general securities principal for one year, and suspended from association with any NASD member as a financial and operations principal (FINOP) for 90 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Johnson, conducted a securities business while failing to maintain sufficient minimum net capital. The findings also stated that the firm, acting through Johnson, permitted individuals to act as registered representatives, and permitted an individual to act in a principal capacity, without benefit of registration. Furthermore, the NASD found that the firm, acting through Johnson, violated its restriction agreement with the NASD by hiring more than five registered representatives at the firm without prior written approval from the NASD.

Johnson's suspension as a general securities principal began March 5, 2001, and will conclude at the close of business on March 4, 2002, and his suspension as a FINOP began March 5, 2001, and will conclude June 2, 2001. **(NASD Case #C02990049)**

### Firms And Individuals Fined

**Chapdelaine Corporate Securities & Co. (CRD #23741, New York, New York) and Michael Emmett Walsh (CRD #458064, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$13,000, jointly and severally. The firm was fined an additional \$34,500. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Walsh, failed to report Fixed Income Pricing System (FIPS) eligible transactions within five minutes after execution and failed to report FIPS transactions by no later than 5:00 p.m. Eastern time on the trade date in which the transactions were executed. The findings also stated that the firm, acting through Walsh, failed to report the correct unit price in transactions in high yield corporate debt securities quoted on FIPS and failed to report the correct symbol indicating whether the transactions were buy, sell, or cross. The NASD also found that the firm, acting through Walsh, failed to report the correct unit price in transactions in high yield corporate debt securities and failed to report the correct symbol indicating whether the transactions were buy, sell, or cross. Furthermore, the NASD found that the respondents failed to establish, maintain, and enforce written supervisory procedures

reasonably designed to achieve compliance with NASD rules applicable to transaction reporting of high yield corporate debt securities. Moreover, the NASD found that the respondents permitted an individual to function as a corporate securities representative without benefit of NASD registration. **(NASD Case #C10010024)**

**Melhado, Flynn & Associates, Inc. (CRD #7340, New York, New York) and Pierce John Flynn (CRD #210395, Registered Principal, Bronxville, New York)** submitted a Letter of Acceptance, Waiver, and Consent in 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 Flynn, knowingly maintained the registrations of individuals not actively engaged in the firm's securities business, not functioning as registered representatives for the firm, and thereby, avoiding a lapse in registration. **(NASD Case #C10010012)**

**Standard New York Securities, Inc. (CRD #35560, New York, New York) and Neil Lutley Sclater-Booth (CRD #1240734, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. The firm was also fined an additional \$1,000, jointly and severally with another individual. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Sclater-Booth, permitted registered representatives of the firm to engage in conduct for which registration was required while the representatives were inactive due to the failure to

complete the Regulatory Element Continuing Education assessment. The findings also stated that the firm, acting through another individual, effected principal transactions in a security that were short sales without affixing the short sale designator when reporting the transactions. **(NASD Case #C3A010002)**

### **Firms Fined**

**AM Capital LLC (CRD #44351, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its supervisory procedures concerning the Securities and Exchange Commission (SEC) and NASD firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size and, thereby, failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS010002)**

**Asiel & Co., LLC (CRD #1112, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to the FIPS transactions in FIPS securities within five minutes after execution. **(NASD Case #CMS010008)**

**Comprehensive Capital Corp. (CRD #6215, Westbury New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size and, thereby, failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS010011)**

**Dalton Kent Securities Group, Inc. (CRD #38813, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$18,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to timely report to the NASD statistical and summary information relating to the receipt of written customer complaints and failed to amend, or promptly amend, Forms U-4 or Forms U-5 to disclose the written complaints against registered representatives of the firm. The findings also stated that the firm failed to display immediately customer limit orders when each such order was at a price that would have improved the firm's bid or offer in each such security and failed to execute customer limit orders within one minute after each of the orders was activated. The NASD also found that the firm failed to use reasonable diligence to ascertain the best inter-dealer market for

certain securities to ensure the resultant price to its customers was as favorable as possible under prevailing market conditions. Furthermore, the NASD found that the firm failed to establish, maintain, and enforce written supervisory procedures concerning the firm's obligation to file statistical and summary information regarding customer complaints. **(NASD Case #C10010020)**

**H&R Block Financial Advisors, Inc., formerly Olde Discount Corporation (CRD #5979, Detroit, Michigan)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$40,000, and required to establish and provide to the NASD amended written procedures reasonably designed to achieve compliance with the current requirements with respect to timely filing of amendments involving Disclosure Reporting Pages, Forms U-4, and Forms U-5. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to file Forms U-4 and Forms U-5 within 30 days after learning of reportable events or after learning of facts and circumstances giving rise to the requirement to amend such forms. **(NASD Case #C8A010004)**

**John G. Kinnard and Company (CRD #466, Minneapolis, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures relating to the SEC and NASD firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or

published offer in an amount up to its published quotation size and, thereby, failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS010007)**

**JW Genesis Capital Markets, LLC n/k/a Conifer Securities LLC (CRD #23857, San Francisco, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,750. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity and failed to report transactions within 90 seconds to ACT. The findings also stated that the firm failed to properly prepare and maintain order records in that the firm failed to maintain a record of unexecuted limit orders for more than one day beyond trade date. The NASD also found that the firm held unexecuted customer limit orders and continued to trade the subject securities for the firm's market-making account at prices that would have satisfied the customers' limit orders without executing the limit orders and executed customer limit orders at prices that were not equal to or better than the customers' protected prices. Furthermore, the NASD found that the firm failed to display customer limit orders in Nasdaq securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each security or when the order was priced equal to the

firm's bid or offer and the national best bid or offer for each such security and the size of the order represented more than a de minimis change in relations to the size associated with the firm's bid or offer in each such security. **(NASD Case #C05010004)**

**Prudential Securities Incorporated (CRD #7471, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. In addition, the firm was required to conduct a review of its supervisory procedures regarding registration of personnel and to implement changes no later than 90 days from the date of acceptance of this AWC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed an individual to be actively engaged in the management of the firm's securities business as an executive vice president without being registered with the NASD in any principal capacity. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory procedures that would ensure the proper registration of all persons actively engaged in the management of the firm's investment banking or securities business. **(NASD Case #C05000050)**

**Rom-Bo Trading Co. (CRD #37554, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its supervisory procedures with respect to SEC and NASD firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented

at the firm's published bid or published offer in an amount up to its published quotation size and, thereby, failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS010006 )**

**Stock USA, Inc. (CRD #40687, San Diego, California)** submitted an Offer of Settlement in which the firm was censured and fined \$5,000, jointly and severally with one respondent. The firm was fined an additional \$15,000 and ordered to retain a consultant to review its supervisory procedures and to adopt and implement all recommendations made by the consultant. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed an unregistered person to engage in its securities business and allowed a statutorily disqualified person to associate with the firm. The findings also stated that the firm, acting through an individual, failed to exercise adequate, meaningful supervision over the operation of a branch office and failed to establish or implement the level of supervision required by the absence of an experienced manager. The NASD also found that the firm's supervisory procedures manual failed to adequately address the various types of business conducted by the firm and to address the need to separate functions so as to prevent unregistered individuals from providing brokerage services to public customers. **(NASD Case #CAF000029)**

**The Fleet Trading Division of Fleet Securities (CRD #13071, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$55,000, and required to revise its supervisory procedures concerning the SEC and NASD firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size and, thereby, failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS010005)**

**T.R. Winston & Company, Inc. (CRD #10571, Bedminster, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in Nasdaq SmallCap<sup>SM</sup> and Nasdaq National Market, (NNM) securities within 90 seconds and failed to accept or decline transactions in ACT eligible securities within 20 minutes after execution. The findings also stated that the firm failed to prepare and maintain purchase and sale memoranda for principal transactions that identified whether the subject transactions were market or limit orders and failed to establish, maintain, and enforce adequate written supervisory procedures regarding its trading and market-making

operations. In addition, the NASD found that the firm allowed an individual to supervise its trading and market-making operations while not properly registered as an equity trader. **(NASD Case #C9B010005)**

**U.S. Securities & Futures Corp. (CRD #36045, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$7,000, jointly and severally with an individual respondent. The firm was also fined an additional \$4,981. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting through an individual, it failed to promptly amend its Form BD to indicate that a branch office was an Office of Supervisory Jurisdiction (OSJ) and failed to designate the office as an OSJ in its written supervisory procedures. The findings also stated that the firm, acting through an individual, permitted another individual associated with the firm to act as a registered person while his registration status was inactive due to his failure to complete the Regulatory Element of the NASD's Continuing Education Requirement. The NASD also found that the firm failed to immediately display customer limit orders in Nasdaq securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security. Furthermore, the NASD found that the firm failed to accept or decline transactions in ACT within 20 minutes after execution. **(NASD Case #C10010014)**

**Vector Securities International, Inc. (CRD #22010, Deerfield, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its

written supervisory procedures with respect to short sales. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions and a long sale transaction and failed to report each of these transactions through ACT with the correct short or long sale modifier. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning short sales.

**(NASD Case #CMS000231)**

**Wall Street Equities, Inc. (CRD #18432, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its supervisory procedures concerning the SEC and NASD firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size and, thereby, failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS010004)**

**WIEN Securities, Inc. (CRD #10467, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$17,500, and required to pay \$150, plus interest, in restitution. Without admitting or denying the

allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market for the subject security and buy or sell in such market so that the resultant price to each customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm failed to report to ACT the contra side executing broker in transactions in eligible securities, failed to accept or decline in ACT transactions in eligible securities within 20 minutes after execution, and to report to ACT the correct symbol indicating whether transactions in eligible securities were as principal or agent. Furthermore, the NASD determined that the firm failed to immediately display customer limit orders in its public quote, when each such order was at a price better than its public quote, or at a price equal to its public quote when such quote was priced equal to the national best bid or offer in such security and that order represented more than a de minimis change in relation to the size associated with its bid or offer. The NASD also determined that the firm failed to show the correct time of entry, the time of execution, and the correct time of execution on the memorandum of brokerage orders, and failed to provide written notification to its customers that the price to each of its customers was an average price. In addition, the NASD found that the firm failed to provide written notification disclosing to its customers the reported trade price and whether it was a market maker in the security when it acted as principal for its own account, and failed to provide written notification disclosing to its customers its correct capacity. **(NASD Case #CMS010013)**

## **Individuals Barred Or Suspended**

**Deborah Suann Angus (CRD #2632511, Registered Representative, Scottsdale, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$15,000, suspended from association with any NASD member in any capacity for 18 months, and ordered to pay \$227,775 in restitution to public customers. The fine must be paid and satisfactory proof of payment of restitution and interest must be provided before re-associating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Angus consented to the described sanctions and to the entry of findings that she participated in private securities transactions, for compensation, failed to provide her member firm with prior written notice, and failed to receive written permission from her member firm.

Angus' suspension began March 5, 2001, and will conclude at the close of business on September 4, 2002. **(NASD Case #C3A010003)**

**Gerald Biegler (CRD #1402834, Registered Representative, Monument, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,511.28, which includes the disgorgement of \$25,511.28 in commissions earned, suspended from association with any NASD member in any capacity for 10 business days, and ordered to requalify by exam as a general securities representative within 90 days of acceptance of the AWC. If Biegler fails to requalify within the 90 days, he shall cease all activities that require registration in any capacity until he successfully passes the exam. Without admitting or denying the

allegations, Biegler consented to the described sanctions and to the entry of findings that he made unsuitable recommendations to public customers and engaged in unfair dealing with the customers. The NASD found that the basis for Biegler's recommendations was to generate commissions to compensate himself for his services.

Biegler's suspension began February 20, 2001, and concluded at the close of business on March 5, 2001. **(NASD Case #C3A000055)**

**Larry Eugene Boyer (CRD #1054795, Registered Principal, Reading, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for two months, and ordered to disgorge \$3,600 in commissions. Without admitting or denying the allegations, Boyer consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Boyer's suspension began March 5, 2001, and will conclude at the close of business on May 4, 2001. **(NASD Case #C9A010003)**

**Tonya Cliché Bradley (CRD #4152813, Registered Representative, Edison, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bradley consented to the described sanctions and to the

entry of findings that she provided false responses on her Form U-4.

Bradley's suspension began February 20, 2001, and will conclude on May 19, 2001. **(NASD Case #C9B000044)**

**Gregory Mark Burton (CRD #1026513, Registered Principal, Locust Valley, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity, including clerical or ministerial functions, for five business days. Without admitting or denying the allegations, Burton consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing his member firm with prompt written notice and accepted a \$311,000 finders fee for his services.

Burton's suspension will begin March 19, 2001, and will conclude at the close of business on March 23, 2001. **(NASD Case #C10010025)**

**Hector Camacho (CRD #3198218, Registered Representative, Bronx, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before reassociating with a member firm following the suspension or before requesting relief from any statutory disqualification. The sanctions were based on findings that Camacho willfully failed to disclose material facts on a Form U-4.

Camacho's suspension began February 20, 2001, and will conclude at the close of business on February 19, 2003. **(NASD Case #C10010007)**

**Lee Bao Cao (CRD #3050046, Associated Person, Richardson, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for six months. Without admitting or denying the allegations, Cao consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his Form U-4.

Cao's suspension began March 5, 2001, and will conclude at the close of business on September 4, 2001. **(NASD Case #C05010006)**

**Marcial Fernando Chiong, Jr. (CRD #1548382, Registered Principal, New York, New York)** was fined \$100,000, barred from association with any NASD member in any capacity, and ordered to pay \$138,294.66, plus interest, in restitution to public customers. The sanctions were based on findings that Chiong effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The findings also stated that Chiong failed to execute sell orders for public customers. **(NASD Case #C10000159)**

**Stewart Robert Clark (CRD #1895006, Registered Representative, Mount Vernon, Illinois)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Clark failed to respond to NASD requests for information. **(NASD Case #C8A000031)**

**Steven Mark Cohen (CRD #1585810, Registered Principal, Roslyn, New York)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two

years. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cohen consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and documents.

Cohen's suspension will begin March 19, 2001, and will conclude at the close of business on March 18, 2003. **(NASD Case #C10990163)**

**David Lee Colwell (CRD #2352256, Registered Representative, Hamilton, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for six months, and ordered to disgorge \$8,540, plus interest, to public customers. The fine must be paid and satisfactory proof of disgorgement, with interest, must be made before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Colwell consented to the described sanctions and to the entry of findings that he sold promissory notes to public customers away from his member firm, failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive permission from the firm to engage in the transactions.

Colwell's suspension began February 20, 2001, and will conclude on August 19, 2001. **(NASD Case #C8B010002)**

**Richard Alan D'Alessandro (CRD #1322113, Registered Representative, Verona, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent

in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, D'Alessandro consented to the described sanctions and to the entry of findings that he provided false responses on his Form U-4.

D'Alessandro's suspension began February 20, 2001, and will conclude at the close of business on April 20, 2001. **(NASD Case #C9B010003)**

**Richard Lamar Dukes (CRD #4146680, Registered Representative, Atlanta, Georgia)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Duke consented to the described sanctions and to the entry of findings that he provided false responses on his Form U-4.

Dukes' suspension began February 20, 2001, and will conclude at the close of business on February 19, 2002. **(NASD Case #C07000073)**

**Michael Leroy Dunbar (CRD #2189075, Registered Principal, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$135,000, barred from association with any NASD member in any capacity, and ordered to disgorge \$16,912.50 in profits. Without admitting or denying the allegations, Dunbar consented to

the described sanctions and to the entry of findings that he opened an account for a public customer over which he had control and in which he had a beneficial interest without being duly registered with the NASD. The findings also stated that Dunbar traded initial public offering (IPO) warrants (a "hot issue") in the immediate aftermarket. The NASD also found that, in connection with his activities in the IPO, Dunbar omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading and engaged in acts, practices, or courses of business that operated as a fraud or deceit upon public investors. Furthermore, the NASD found that Dunbar requested payment for prospective purchases in the IPO from public customers before the SEC declared the IPO effective and executed transactions in the account of a public customer without the customer's prior knowledge, authorization, or consent. In addition, the NASD found that Dunbar failed to respond to NASD requests for information and/or documents and to appear for an on-the-record interview. **(NASD Case #C10990007)**

**Luis Alberto Gonzalez (CRD #2672385, Registered Representative, Rye, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gonzalez consented to the described sanction and to the entry of findings that he effected unauthorized transactions in the account of a public customer. The findings also stated that, in order to effect an unauthorized sale, Gonzalez caused the impersonation of the customer's financial advisor and affixed photocopies of the customer's signature

to letters of authorization and wire instructions in order to effect an unauthorized sale and to wire funds from the customer's account to pay for the loss incurred because of the large difference in price between the original purchase and the sale. **(NASD Case #C10010008)**

**Howard Thomas Haynes (CRD #1330130, Registered Principal, Medina, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 14 days. Without admitting or denying the allegations, Haynes consented to the described sanctions and to the entry of findings that he failed to disclose outside business activities to his member firm.

Haynes' suspension began February 20, 2001, and will conclude at the close of business on March 5, 2001. **(NASD Case #C8B010001)**

**Thomas Dean Hiles (CRD #1313989, Registered Representative, Galesburg, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to disgorge \$21,210.60 in earned commissions to public customers. The disgorgement must be paid before reassociating with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hiles consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give written notice to, and receive written approval from, his member firm prior to engaging in such activities. **(NASD Case #C8A010003)**

**Kester Eugene Hood (CRD #2509848, Registered Representative, York, Pennsylvania)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Hood withdrew approximately \$2,890 from general ledger accounts belonging to a bank that was an affiliate of his member firm and converted the funds to his own use and benefit without the knowledge and consent of his member firm. The findings also stated that Hood failed to respond to NASD requests for information. **(NASD Case #C9A000035)**

**Jerold Carl Judkowitz (CRD #1025166, Registered Principal, Coral Springs, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in a principal capacity and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Judkowitz consented to the described sanctions and to the entry of findings that, in his capacity as Director of Compliance for a former member firm, he failed to address properly customer complaints and take appropriate disciplinary action against offending registered representatives.

Judkowitz' suspension began March 5, 2001, and will conclude at the close of business on March 4, 2002. **(NASD Case #CAF010001)**

**Floyd Prentice Kirby (CRD #1307888, Registered Representative, Wilmington, North Carolina)** submitted an Offer of Settlement in which he was fined \$9,750 (which includes the disgorgement of commissions earned of \$4,750, plus interest) and suspended from association with any NASD member in any

capacity for three months. The fine and disgorgement must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kirby consented to the described sanctions and to the entry of findings that he sold promissory notes to a public customer and received compensation, without providing written notice to, or receiving written approval from, his member firm.

Kirby's suspension began February 20, 2001, and will conclude on May 19, 2001. **(NASD Case #C07000056)**

**Karim Michael Lamarti (CRD #2737080, Registered Representative, Naples, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Lamarti failed to respond to NASD requests for information. **(NASD Case #C07000065)**

**Michael Anthony Laster, Sr. (CRD #2009671, Registered Representative, Bronx, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Laster consented to the described sanction and to the entry of findings that he received \$5,429.74 from a public customer as premium payments on a whole life insurance policy and converted the funds for his own use and benefit without the customer's prior knowledge, authorization, or consent. The findings also stated that Laster willfully failed to disclose material facts on his Form U-4. **(NASD Case #C10010016)**

**Susan Jennifer Loetell (CRD #1372725, Registered Principal, Cockeysville, Maryland)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Loetell withdrew approximately \$41,000 from proprietary accounts of her member firm and converted the funds to her own use and benefit without the knowledge or consent of her firm. The findings also stated that Loetell failed to respond to NASD requests for information and to appear for an on-the-record interview. **(NASD Case #C9A000034)**

**Robert Roy MacGregor (CRD #2048323, Registered Representative, Austin, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that MacGregor failed to respond to NASD requests for information. **(NASD Case #C01000012)**

**Brandon Douglas McLarty (CRD #2509059, Registered Principal, Indianapolis, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, McLarty consented to the described sanction and to the entry of findings that he effected numerous index option transactions in his personal margin accounts maintained at his member firm without depositing the required margin. Moreover, the NASD found that McLarty attempted to meet margin requirements by providing the member firm's clearing firm with checks totaling \$130,000 written on a closed account. **(NASD Case #C8A010006)**

**Brian McDonald Megenity (CRD #2889637, Registered Principal, Atlanta, Georgia)** submitted a Letter of Acceptance, Waiver, and

Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Megenity consented to the described sanctions and to the entry of findings that he acted in the capacity of a general securities principal before passing the Series 24 qualification exam and becoming properly registered with the NASD as a general securities principal.

Megenity's suspension began March 5, 2001, and will conclude at the close of business on March 16, 2001. **(NASD Case #C07000096)**

**Biagio Anthony Mento (CRD #3254784, Registered Representative, Palm City, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Mento provided false responses on his Form U-4. Mento also failed to respond to NASD requests for information. **(NASD Case #C07000062)**

**Russell Scott Moriarty (CRD #2519745, Registered Representative, Lindenhurst, New York,)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Moriarty consented to the described sanctions and to the entry of findings that he submitted, as the writing representative, applications for the purchase of whole life insurance products for non-existent persons to his member firm.

Moriarty's suspension began March 5, 2001, and will conclude at the close of business on June 4, 2001. **(NASD Case #C10010022)**

**Gary Brian Neus (CRD #3067192, Registered Representative, Baltimore, Maryland)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before re-associating with any NASD member following the suspension or before requesting relief from statutory disqualification. Without admitting or denying the allegations, Neus consented to the described sanctions and to the entry of findings that he submitted a Form U-4 to a member firm and failed to disclose that he was the subject of an investigation.

Neus' suspension began February 20, 2001, and will conclude at the close of business on March 21, 2001. **(NASD Case #C9A010001)**

**Gary Dean Newell (CRD #1591288, Registered Representative, Farwell, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 18 months. In light of the financial status of Newell, no monetary sanction has been imposed. Without admitting or denying the allegations, Newell consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice to, or receiving permission from, his member firm.

Newell's suspension began February 20, 2001, and will conclude at the close of business on August 19, 2002. **(NASD Case #C3A010001)**

**David Eric Niederkrome (CRD #2220569, Registered Principal, Kirkland, Washington)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Niederkrome consented to the described sanctions and to the entry of findings that he actively solicited the opening of accounts to be used solely as lending accounts and solicited customers with trading accounts to make margin loans and misrepresented the actual or potential risk associated with the loans. The findings also stated that Niederkrome failed to disclose material information to the customers in that they were unaware their funds could be unavailable for longer than they intended or that they might not get repaid at all.

Niederkrome's suspension will begin March 19, 2001, and will conclude at the close of business on March 28, 2001. **(NASD Case #CAF00028)**

**Richard Allen Nunes (CRD #349871, Registered Representative, East Providence, Rhode Island )** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Nunes consented to the described sanction and to the entry of findings that he engaged in private securities transactions, for compensation, without prior written notice to, or approval from, his member firms. **(NASD Case #C11010003)**

**Russell David Perlmutter (CRD #1930171, Registered Representative, Flushing, New York)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with

any NASD member in any capacity for one year. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Perlmutter consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

Perlmutter's suspension began February 20, 2001, and will conclude at the close of business on February 19, 2002. **(NASD Case #C10000177)**

**Ryan Jay Posewitz (CRD #2121957, Registered Representative, Green Bay, Wisconsin)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,800 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Posewitz consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give written notice to, and receive written approval from, his member firm prior to engaging in such activities.

Posewitz' suspension began February 20, 2001, and will conclude at the close of business on March 12, 2001. **(NASD Case #C8A010001)**

**Richard Alexander Preisig, Jr. (CRD #2372868, Registered Representative, Pelham Manor, New York)** submitted an Offer of Settlement in which he was fined \$25,000 and barred from association with any NASD member in any capacity with the right to reapply in five years. The fine must be paid before reassociating with a member firm or before requesting relief from any statutory disqualification.

Without admitting or denying the allegations, Preisig consented to the described sanctions and to the entry of findings that he trained registered representatives to aggressively telemarket low-priced, speculative securities underwritten and/or recommended by his member firm to the public. The findings also stated that Preisig directed the representatives to engage in abusive sales practices including making baseless price predictions, making material misrepresentations, omitting material negative information during sales presentations, and discouraging representatives from processing net customer sell orders in the member firm's house stocks. **(NASD Case #CAF990045)**

**Stephen Earl Prout (CRD #857060, Registered Principal, Clovis, California)** was fined \$10,000 and suspended from association with any NASD member in any capacity for one year (which was reduced by three months). The National Adjudicatory Council (NAC) imposed the sanctions following a call for review of an Office of Hearing Officers decision. The sanctions were based on findings that Prout falsified customers' dates of birth on variable annuity applications.

Prout's suspension began February 20, 2001, and will conclude at the close of business on November 19, 2002. **(NASD Case #C01990014)**

**David Reynoso (CRD #2406265, Registered Representative, Westbury, New York)** was fined \$12,500 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before re-associating with any NASD member following the suspension. The sanctions were based on findings that Reynoso

effected a transaction in the account of a public customer without the customer's prior knowledge, authorization, or consent and failed to execute a purchase order for a public customer.

Reynoso's suspension began February 5, 2001, and will conclude at the close of business on May 4, 2001. **(NASD Case #C10000099)**

**Shawn Joseph Smith (CRD #2676952, Registered Representative, Edison, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Smith consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. **(NASD Case #C9B010001)**

**Steven Michael Spicer (CRD #2382732, Registered Representative, Dayton, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Spicer consented to the described sanction and to the entry of findings that he accepted a \$10,000 check from public customers to purchase an investment on their behalf, failed to make the investment, and placed the funds into an account that he controlled. The findings also stated that Spicer failed to respond to NASD requests for information and documents. **(NASD Case #C8B010003)**

**Michael Arlan Sprick (CRD #1217506, Registered Principal, Odessa, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Sprick

failed to respond to an NASD request for information. **(NASD Case #C06000015)**

**Bob Allen Steinberg (CRD #2223889, Registered Representative, Great Neck, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before reassociating with any NASD member following the suspension. Without admitting or denying the allegations, Steinberg consented to the described sanctions and to the entry of findings that he purchased call options in his cash account without having sufficient funds to cover the purchase. The findings also stated that Steinberg effected a purchase of call options in the account of a public customer without the customer's prior knowledge, authorization, or consent.

Steinberg's suspension began March 5, 2001, and will conclude at the close of business on April 3, 2001. **(NASD Case #C10010021)**

**Donna Michelle Thomas-Gardner (CRD #2808748, Registered Representative, East Point, Georgia)** submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Thomas-Gardner consented to the described sanction and to the entry of findings that she changed a public customer's name and address on a brokerage account without the authorization of the customer. The findings also stated that Thomas-Gardner caused cashier's checks to be issued that were drawn against the customer's account without the authorization of the customer. The NASD found that the checks were negotiated and the proceeds were

used for the benefit of Thomas-Gardner. Furthermore, the findings stated that Thomas-Gardner failed to respond to NASD requests for information. **(NASD Case #C07000081)**

**Gavin John Towers (CRD #2233516, Registered Representative, Cammerly, Australia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Towers consented to the described sanction and to the entry of findings that he effected a wire transfer of \$6,049.53 from the account of a public customer, deposited the funds into his personal bank account, and converted the funds to his own use and benefit without the customer's knowledge or consent. The findings also stated that Towers composed a Letter of Authorization that authorized the transfer of the public customer's funds from his account at a member firm into a bank account controlled by Towers. Towers forged the customer's signature to the letter without the customer's knowledge or consent. **(NASD Case #C05010005)**

**Jeffrey Gordon Trolley (CRD #2976992, Registered Representative, Havertown, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before re-associating with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Trolley consented to the described sanctions and to the entry of findings that he wrote and signed a \$770 check on an association account to an individual to

compensate him for services performed relating to Trolley's business activities at a member firm although he knew that the payment did not constitute proper use of the funds.

Trolley's suspension began March 5, 2001, and will conclude at the close of business on March 4, 2002. **(NASD Case #C9A010002)**

**Michael Byron Turner (CRD #852773, Registered Representative, Del Mar, California)** was fined \$50,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Turner recommended purchase and sale transactions in various securities for the account of a public customer without having reasonable grounds for believing such transactions were suitable for the customer in view of the frequency and nature of the recommended transactions and the customer's financial situation, objectives, circumstances, and needs. Turner also failed to respond to NASD requests for information. **(NASD Case #C02000052)**

**Jason Edward Van Ackeren (CRD #4156341, Associated Person, Omaha, Nebraska)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Van Ackeren consented to the described sanction and to the entry of findings that he willfully failed to disclose a material fact on a Form U-4. **(NASD Case #C04010001)**

**Howard Irving Weinstein (CRD #1846150, Registered Representative, Port Washington, New York)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD

member in any capacity for two years. The fine must be paid before reassociating with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Weinstein consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information and documents.

Weinstein's suspension will begin March 19, 2001, and will conclude at the close of business on March 18, 2003. **(NASD Case #C10990152)**

### **Individual Fined**

**Austin Francis Mitchel, Jr. (CRD #336780, Registered Representative, Westfield, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$10,000. Without admitting or denying the allegations, Mitchel consented to the described sanctions and to the entry of findings that he failed to display immediately customer limit orders in his member firm's public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security. **(NASD Case #CMS010003)**

### **Decision Issued**

**The following decision has been issued by the DBCC or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of February 9, 2001. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions for which the time for appeal has not yet expired will be reported in the next *Notices to Members*.**

**U.S. Rica Financial, Inc. (CRD #38742, San Jose, California) and Vinh Huu Nguyen (CRD #2374393, Registered Principal, San Jose, California)** were fined \$240,000, jointly and severally, and required to disgorge \$58,579.83, plus interest, jointly and severally. In addition, the firm was expelled from NASD membership, and Nguyen was barred from association with any NASD member in any principal capacity. Nguyen was also suspended from association with any NASD member in any capacity for two years. The sanctions were based on findings that the firm, acting through Nguyen, falsely advertised on the firm's Web site that the firm would effect transactions for "free" or in accordance with the firm's published commission schedule, and failed to disclose that the firm might effect transactions on a riskless principal basis and charge markups and markdowns on such transactions. Furthermore, the firm, acting through Nguyen, engaged in securities fraud by failing to disclose, in connection with customer transactions, the markups and markdowns charged, retaining "secret profits" in connection with these transactions, and sent confirmations that represented that the firm had acted as an agent and had charged no commissions, or had charged commissions in accordance with its published commission schedule. The firm, acting through Nguyen, also failed to make appropriate memoranda of brokerage orders.

The firm and Nguyen have appealed this action to the NAC and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C01000003)**

## Complaints Filed

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Henry Dwayne Bumpers (CRD #2830074, Registered Representative, Tigard, Oregon)** was named as a respondent in an NASD complaint alleging that he engaged in unauthorized trading in the accounts of public customers without their knowledge or consent and in the absence of written or oral authorization to exercise discretion in the accounts. The complaint also alleges that Bumpers exercised discretion in the accounts of public customers without prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm. (NASD Case #C3B000016)

**Jeffrey David Eise (CRD #2164695, Registered Representative, St. Louis, Missouri)** was named as a respondent in an NASD complaint alleging that he received a \$21,128.29 check from a public customer intended for the purchase of a mutual fund and, without the knowledge or consent of the customer, endorsed the check and converted the customer's funds to his own use and benefit. The complaint also alleges that Eise failed to respond to NASD requests for information. (NASD Case #C04010002)

**Gaylon Wayne Laboa (CRD #3134751, Registered Representative, Atlanta, Georgia)** was named as a respondent in an NASD complaint alleging that he received checks totaling \$2,800 from a public customer for investment purposes. The complaint alleges that Laboa failed to deposit these checks in the customer's account and, instead, converted the funds to his own use and benefit without authorization from the customer. The complaint also alleges that Laboa failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C07010007)

**Jang Soo Lim (CRD #2881926, Registered Representative, Forest Hills, New York)** was named as a respondent in an NASD complaint alleging that he arranged for \$15,000 in loans to be issued against the life insurance policy of a public customer without the customer's knowledge, authorization, or consent and converted and/or misused the loan proceeds. The complaint also alleges that Lim forged the signature of the customer on checks issued by an insurance company to the customer in connection with the conversion. In addition, the complaint alleges that Lim failed to respond to NASD requests for information. (NASD Case #C10010019)

**Danny Ray Parker (CRD #1921892, Registered Representative, New Carney, Texas)** was named as a respondent in an NASD complaint alleging that he received a \$7,000 check from an insurance customer, wrote his own name in the payee section of the check, and endorsed it, without the customer's authorization, knowledge, or consent. The complaint also alleges that Parker failed to respond to NASD requests for information. (NASD Case #C06010001)

**Frank Jack Zangara (CRD #1551637, Registered Principal, Hicksville, New York)** was named as a respondent in an NASD complaint alleging that he executed separate sales of U.S. Treasury STRIPS to a public customer and charged the customer excessive markups for each of the sales. The complaint also alleges that Zangara failed to respond to NASD requests for information. (NASD Case #C10010027)

## Firms Expelled For Failing To Pay Fines, Costs, And/Or Provide Proof Of Restitution In Connection With Violations

**Cambridge Capital, LLC**, Garden City, New York (February 9, 2001)

**First Madison Securities, Inc.**, Boca Raton, Florida (February 9, 2001)

**Harbay, Kessef & Co.**, Columbus, Ohio (February 9, 2001)

**Providential Securities, Inc.**, Fountain Valley, California (February 9, 2001)

**William & Co. Capital Markets, Ltd.**, Long Valley, New Jersey (February 9, 2001)

## Individuals Whose Registrations Were Revoked For Failure To Pay Fines, Costs And/Or Provide Proof Of Restitution In Connection With Violations

**Cohen, Jason A.**, Searingtown, New York (February 9, 2001)

**Feyerabend, James A., Jr.**, Bristol, Connecticut (February 9, 2001)

**Pascente, Christopher B.**, Aurora, Illinois (February 9, 2001)

**Sutter, Mark**, Scottsdale, Arizona (February 9, 2001)

**Van Ahn, Thomas K.**, Oshkosh, Wisconsin (February 9, 2001)

**Winston, Jonathan D.**, Great Neck, New York (February 9, 2001)

### **Individuals Suspended Pursuant To NASD Rule 9540 Series For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)**

**Arnett, Catherine**, Rosemeade, California (January 25, 2001)

**Cossu, Claude Gerald**, Fairfield, California (January 31, 2001)

**Englesberg, Samuel**, Brooklyn, New York (February 12, 2001)

**Spomer, Todd Jacob**, Madison, South Dakota (February 6, 2001)

**Warren, Raymond P.**, Escondido, California (January 31, 2001)

### **NASD Regulation's National Adjudicatory Council Sanctions Former Monitor Investment Group Executives**

NASD Regulation's National Adjudicatory Council (NAC) affirmed an NASD Regulation Hearing Panel's decision to permanently bar from the securities industry John Montelbano, Gerard McMahon and Michael Galasso, Jr., who were previously associated with Monitor Investment Group, Inc. The bar of all three respondents was based on their manipulation of the market in connection with Monitor's sale of the common stock of Accessible Software, Inc.

Following their appeal of the Hearing Panel's decision, the NAC affirmed the Panel's findings that Montelbano, Galasso and McMahon participated in a fraudulent stock manipulation scheme that

violated federal securities laws and NASD rules. The NAC imposed the following sanctions for the manipulation and other violations:

- John Montelbano, former acting president of Monitor and general principal, was permanently barred from the securities industry and fined \$90,000;
- Michael Galasso, Jr., former trader at Monitor and registered representative, was permanently barred from the securities industry and fined \$91,000;
- Gerard McMahon, former research analyst of Monitor and registered representative, was permanently barred from the securities industry and fined \$90,000.

After calling the case for review as to the findings and sanctions against two other Monitor employees, Dwayne Leverett and Todd Nejaime, the NAC dismissed the charges that Nejaime had engaged in manipulative and deceptive trading practices and that he had failed to testify truthfully during NASD Regulation's investigation. The sanctions imposed upon Nejaime were set aside. With respect to Leverett, the NAC affirmed the Hearing Panel's findings that he failed to take any action to detect, prevent, or remedy the manipulation and that he failed to testify truthfully during NASD Regulation's investigation. The NAC also found that Leverett had assisted in the falsification of order tickets by reviewing and approving altered order tickets that Monitor produced to NASD Regulation during its investigation (reversing the Hearing Panel's dismissal of the charge). The NAC dismissed the charges that Leverett had engaged in manipulative and deceptive trading practices and that he had failed to produce for NASD Regulation original order tickets. The NAC

imposed the following sanctions on Leverett: a two-year suspension from associating with any member of the NASD, plus a suspension for 45 business days from associating with a member of the NASD; a \$25,000 fine; and a requalification requirement as a general securities principal and a general securities representative.

Accessible Software, Inc. is not a party to this action and there are no allegations or findings that it or its officers knew that its shares were being manipulated or were in any way involved in illegal conduct.

Monitor was based in Pennsylvania but conducted most of its business through three branch offices located in New York City. The firm withdrew its membership from the NASD in October 1996.

Montelbano and McMahon have appealed to the SEC.