

Disciplinary and Other NASD Actions

REPORTED FOR JUNE

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD 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 May 2006.

Firm Expelled, Individuals Sanctioned

Donner Corporation International nka National Capital Securities, Inc. (CRD #37702, Oklahoma City, Oklahoma), Jeffrey Lyle Baclet (CRD #2022409, Registered Principal, Santa Ana, California), Paul Alan Runyon (CRD #3159920, Registered Principal, Lake Forest, California) and Vincent Michael Uberti (CRD #2618595, Registered Principal, Santa Ana, California).

The firm was expelled from NASD membership, and Baclet and Uberti were barred from association with any NASD member in any capacity. Runyon was fined \$20,000, suspended from association with any NASD member in any capacity for six months, and must requalify by exam as a general securities representative and a general securities principal. The sanctions were imposed by the National Adjudicatory Council (NAC) following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm, Baclet and Uberti issued research reports on reporting companies that failed to disclose material information and contained misleading, exaggerated and false statements. The findings stated that the firm, Baclet and Uberti intentionally or recklessly failed to disclose material information on research reports issued to the public, and failed to disclose that the firm had received compensation for preparing and disseminating them. The findings also stated that the firm and Baclet failed to obtain signed approval of research reports prior to their dissemination. Moreover, NASD found that the firm and Baclet failed to establish, maintain and enforce adequate written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and NASD rules concerning research reports. Furthermore, NASD found that Uberti and Runyon fraudulently failed to disclose material negative financial information, and included exaggerated and misleading information in their research reports.

Donner Corporation International, Baclet, Uberti and Runyon have appealed this decision to the SEC, and the sanctions, except for the bar and expulsion, are not in effect pending consideration of the appeal. (NASD Case #CAF020048)

Firm Fined, Individual Sanctioned

Bullaro Securities Corp. (CRD #28042 Astoria, New York) and Sal Stephen Bullaro (CRD #2022687, Registered Principal, Forest Hills, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000 jointly and severally with Bullaro, and Bullaro was suspended from association with any NASD member in any financial and operations principal capacity for 30 days. Without admitting or denying the findings, the firm and Bullaro consented to the described sanctions and to the entry of findings that the firm permitted Bullaro—the firm’s president and sole executive officer, Chief Compliance Officer and Financial and Operations Principal—to conduct securities business while his securities registration was inactive due to his failure to timely satisfy the Continuing Education/Regulatory Element requirement. The findings stated that the firm, acting through Bullaro, failed to include in its trial balances any of the firm’s proprietary positions and related haircut charges associated with its substantial American Stock Exchange floor business that resulted in its net capital computations being inaccurate.

Bullaro’s suspension began on May 15, 2006, and concluded at the close of business on June 13, 2006. (NASD Case #ELI20040026-01)

Firms and Individuals Fined

Montecito Advisors, Inc. (CRD #104004, Santa Barbara, California) and Elie Michel Genadry (CRD #721443, Registered Principal, Montecito, California) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$27,500, jointly and severally. The firm was also required to certify to NASD that it has made a thorough review of the trading that occurred at the firm during the relevant period to detect any and all instances of its customers evading mutual fund block letter restrictions, and has disclosed all transactions that contravened such block letter restrictions to NASD. In addition, the firm was required to review its procedures regarding market timing and have systems and procedures in place that are reasonably designed to ensure that block letter restrictions are enforced. Without admitting or denying the findings, the firm and Genadry consented to the described sanctions and to the entry of findings that the firm, acting through Genadry, failed to create

and maintain memoranda records that reflected all information to purchase or sell mutual fund shares where customers entered mutual fund orders directly through electronic access to the clearing firm’s order entry platforms. The findings stated that the firm, acting through Genadry, failed to establish, maintain or enforce a supervisory system and written procedures that were reasonably designed to detect and prevent market timing activities that contravened applicable mutual fund prospectus terms in accounts the firm’s clients owned or controlled. (NASD Case #E0220030940-01)

Philadelphia Brokerage Corporation (CRD #25534, Wayne, Pennsylvania), Robert Albert Fisk (CRD #1302491, Registered Principal, Thornton, Pennsylvania), and Brinton Wesley Frith (CRD #2308800, Registered Principal, Princeton, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which they were censured. In addition, the firm and Fisk were fined \$15,000, jointly and severally, and the firm and Frith were fined \$10,000, jointly and severally. Without admitting or denying the findings, the firm, Fisk and Frith consented to the described sanctions and to the entry of findings that the firm, acting through Frith, utilized the instrumentalities of interstate commerce, or the mails, to effect transactions in non-exempt securities when it failed to maintain the minimum required net capital. The findings stated that the firm, acting through Frith, prepared inaccurate month-end net capital computations and filed inaccurate quarterly Financial and Operational Combined Uniform Single (FOCUS) reports. The findings also stated that the firm, acting as a placement agent for the distribution of securities, deposited the funds it received from securities purchasers into a separate bank account it owned and controlled rather than handling the funds as required under the provisions of SEC Rule 15c2-4 applicable to the respective offerings. The findings also included that in one contingent offering, the firm released funds to the issuer before the amount required to satisfy the offering minimum had been received. NASD found that the firm, acting through Fisk, failed to establish and enforce written supervisory procedures reasonably designed to achieve compliance with applicable rules and regulatory requirements pertaining to the firm’s participation in best efforts and contingent securities offerings. (NASD Case #E9A2003016102)

Firms Fined

Ameriprise Financial Services, Inc. (CRD #6363, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and implement adequate procedures reasonably designed to prevent the prohibited disclosure of a Suspicious Activity Report (SAR) in connection with voluntary information sharing under the Bank Secrecy Act and the regulations promulgated thereunder. (NASD Case #20050009019-01)

Brockington Securities, Inc. (CRD #37438, Ronkonkoma, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures with respect to trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm failed, within 90 seconds after execution, to transmit and report last sale reports of transactions in OTC equity securities through the NASDAQ Market Center. The findings stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning trade reporting. (NASD Case #20050000764-01)

Cantor Fitzgerald & Co. (CRD #134, 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 findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct symbol indicating whether a transaction was a "buy," "sell," "sell short," "sell short exempt" or "cross" for transactions in eligible securities to NASDAQ. The findings stated that the firm erroneously reported last sale reports of transactions in eligible securities through NASDAQ that should not have been reported. (NASD Case #20050030368-01)

Capital Institutional Services, Inc. (CRD #7551, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to

the entry of findings that it failed to report, or to accurately report, corporate bond transactions to the Trade Reporting and Compliance Engine (TRACE). The findings stated that the firm failed to accurately report municipal securities transactions to the MSRB. (NASD Case #E062005004301)

Centaurus Financial, Inc. (CRD #30833, Orange, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it paid commissions to an individual in connection with public customer equity transactions during a time period in which the individual was suspended from associating with the firm. The findings stated that the firm's supervisory system failed to provide for reasonable follow up and review to ensure that an individual would not receive compensation for customer equity transactions during his or her suspension. (NASD case #E022004017602)

C.E. Unterberg, Towbin, LLC (CRD #24790, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities executed on a business day during TRACE system hours to TRACE within 45 minutes of the execution time. The findings stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning TRACE reporting. (NASD Case #20050001510-01)

E*Trade Securities LLC (CRD #29106, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanction and to the entry of findings that it reported its municipal securities transactions manually, and as a result of the inadvertent transposition of information when the trade reports were entered, transactions were reported inaccurately, in that the purchaser was reported as the seller and the seller was reported as the purchaser. The findings stated that the firm reported "test" trade transactions to the MSRB trade reporting system as actual transactions. (NASD Case #E1020040486-01)

Edgetrade Inc. (CRD #42071, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$13,000 and required to revise its written supervisory procedures with respect to the Order Audit Trail SystemSM (OATSSM). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate time stamps. The findings stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning OATS. **(NASD Case #20050000210-01)**

Fixed Income Securities, LP (CRD #46727, Monument, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$23,750. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted associated persons to engage in securities activities while their registration statuses were inactive due to their failure to complete the regulatory continuing education requirement. The findings stated that the firm failed to report, and to timely report, customer complaints to NASD. The findings also stated that the firm failed to amend, and to timely amend, Uniform Application for Securities Industry Registration or Transfer Forms (Forms U4). NASD found that the firm failed to establish and implement a Customer Identification Program for investment advisors accounts and with certain other non-investment advisor customer accounts. **(NASD Case #E3A20040016-01)**

IDB Capital Corp. (CRD #106032, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities executed on a business day during TRACE system hours to TRACE within 45 minutes of execution time. The findings stated that the firm reported transactions to TRACE that were part of a primary distribution by an issuer and were exempt from TRACE reporting. The findings also stated that the firm failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE. The findings also included that the firm's supervisory system failed to provide for supervision reasonably designed to

achieve compliance with applicable securities laws, regulations and NASD rules concerning TRACE reporting. **(NASD Case #20050001789-01)**

Interactive Brokers LLC (CRD #36418, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$95,000 and required to revise its written supervisory procedures with respect to short interest reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report its NASDAQ short interest positions to NASD. The findings stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning short interest reporting. **(NASD Case #20042000025-01)**

Johnson Rice & Company L.L.C. (CRD #19524, New Orleans, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted a draft of a research report interspersed with the firm's opinions, estimates and conclusions to the company that was the subject of the report, and failed to provide evidence that the draft report had been provided to legal or compliance personnel before it was submitted to the subject company. The findings stated that the firm terminated its research coverage of a subject company and failed to make a final research report of that subject company available. The findings also stated that the firm issued research reports for subject companies and failed to disclose that one household member of a firm research analyst had a financial interest in the subject firm's securities. NASD found that the firm issued research reports that failed to disclose that the firm expected to receive or intended to seek compensation for investment banking services from the subject company in the three months following issuance of the research reports, and did participate in the company's secondary securities offerings within three months after publication. In addition, the findings stated that the firm failed to disclose that it was making a market in the subject company's securities in a research report at the time it was published. NASD also found that the firm failed to indicate the specific page of the research report that contained the required

disclosures, and the reference the firm provided to the location of the disclosures was not printed in a font larger than the body text of the research report, as NASD Rule 2711 requires. (NASD Case #E052005004702)

Merrill Lynch, Pierce, Fenner & Smith Incorporated (CRD #7691, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$37,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAQ securities and OTC equity securities through NASDAQ and to designate some of the reports as late. The findings stated that the firm failed to accept or decline eligible securities transactions in NASDAQ within 20 minutes after execution. (NASD Case #20050000655-01)

NatCity Investments, Inc. (CRD #17490, Cleveland, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$123,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it filed Uniform Termination Notices for Securities Industry Registration (Forms U5) late to NASD. The findings stated that the firm failed to timely amend Forms U4 to disclose customer complaints. The findings also stated that the firm failed to maintain a system to supervise the activities of each registered representative and associated person that was reasonably designed to achieve compliance with applicable securities laws and regulations to ensure the timely filing of Forms U5 for individuals whose registrations were terminated, or the timely amending of Forms U4 for individuals with customer complaints. (NASD Case # E8A2005014401)

National Planning Corporation (CRD #29604, Santa Monica, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$315,000 and required to create a list of clients who, during a specific time period, purchased \$50,000 or more Class B shares in any single fund family, which shall be aggregated by household and fund family to determine if the \$50,000 threshold was met, and Class C shares when aggregated by household and fund family, total \$500,000 or more and involve payment of a front-end load, or \$1 million or more where no front-end load was paid. The firm was also required to offer

any client who made a qualifying purchase and still holds all or any portion of such shares the option of converting Class B and/or Class C shares into Class A shares in such a manner that each client is placed in substantially the same financial position that they would have been had they purchased Class A shares instead of Class B and/or Class C shares, and it may remove qualifying purchases as long as it provides NASD with quantitative proof that they could not materially benefit from having the particular transaction converted to Class A shares. Further, the firm was required to file a report with NASD identifying the qualifying purchases, transactions removed from the list of qualifying purchases, transactions for which clients received a letter offering conversion, transactions for which clients received a cash payment, how the firm created and staffed a response center to field and respond to client inquiries, each client who had a qualifying purchase and contacted the firm concerning remediation, and transactions for which the client accepted the firm's offer of conversion and/or cash. The firm was also required to retain an independent examiner to examine the firm's performance of its obligations and compliance with these undertakings.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in connection with its recommendations that clients purchase Class B and Class C shares, it did not consider, or did not adequately disclose at the point of sale on a consistent basis, that an equal investment in Class A shares would generally have been more advantageous for certain clients. The findings stated that the firm's supervisory and compliance policies and procedures were not reasonably established, maintained and/or enforced so that the firm, at the point of each sale, provided adequate disclosure of, or consideration to, on a consistent basis, the benefits of the various mutual fund share classes as they applied to individual clients. (NASD Case #E0220030119-01)

Research Capital USA Inc., (CRD #39670, Toronto, Canada) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000, of which \$5,000 was imposed jointly and severally with an individual. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to implement and enforce its Customer Identification Program, failed to establish an

independent testing function to review and assess the adequacy of and level of compliance with its own anti-money laundering (AML) compliance program, and failed to conduct AML training. The findings stated that the firm, acting through an individual, failed to conduct required annual compliance meetings with each of its registered representatives, and failed to enforce its written supervisory procedure requiring their attendance. The findings also stated that the firm failed to have a written needs analysis and a written training plan in order to achieve compliance with the Firm Element of the Continuing Education Rule. **(NASD Case #E112005001102)**

Securities America, Inc. (CRD #10205, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct price for certain transactions to the MSRB. The findings stated that the firm failed to enforce its written supervisory procedures that specified all municipal securities transactions would be approved, evidenced by initials or signature on all appropriate documents. **(NASD Case #20050020101-01)**

Seton Securities Group, Inc. (CRD #18044, Union Beach, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported municipal securities transactions to the MSRB late, with the incorrect execution time and an inaccurate CUSIP number. The findings stated that the order tickets for municipal securities transactions the firm executed contained only one time stamp—the execution time. The findings also stated that order tickets for equity transactions the firm executed contained an incorrect account number or an incorrect number of shares, did not disclose the contra broker and did not indicate it was a short sale. **(NASD Case #E9B2005018502)**

Tradition Asiel Securities Inc., (CRD #28269, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to develop

and implement an AML program reasonably designed to achieve and monitor its compliance with the requirements of the Bank Secrecy Act (BSA), and the implementing regulations promulgated thereunder by the Department of the Treasury. The findings stated that the firm reported corporate bond transactions to TRACE that were late, failed to have the “sell side” and “buy side” of the trade, and contained inaccurate Contra MPID symbols. The findings also stated that the firm reported municipal securities transactions to the MSRB that contained the wrong capacity code, an incorrect seller or broker symbol, price or commission, and incorrectly reported a trade as a customer trade when it was actually a dealer trade. **(NASD Case #E102004041201)**

Tradition Asiel Securities, Inc. (CRD #28269, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$35,000 and required to revise its written supervisory procedures with respect to trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAQ securities through NASDAQ. The findings stated that the firm’s supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations and NASD rules concerning trade reporting. The findings also stated that the firm failed to accept or decline transactions in eligible securities through NASDAQ within 20 minutes after execution when the firm, as the Order Entry Identifier (OEID), had an obligation to accept or decline. **(NASD Case #20050002778-01)**

Wien Securities, Inc. nka Hudson Securities, Inc. (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$72,500, ordered to pay \$444, plus interest, in restitution to public customers and revise its written supervisory procedures with respect to crossing, anti-competitive practices and SEC Rule 11Ac1-1—the 1% rule. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules

concerning crossing, anti-competitive practices and the SEC Rule 11Ac1-1—the 1% rule, and failed to enforce a system for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning SEC Rule 11Ac1-6, best execution, SEC Rule 11Ac1-5, trade reporting, trading in front of customers, record keeping and OATS clock synchronization.

The findings stated that the firm failed to report the correct symbol indicating whether transactions in eligible securities were “buy,” “sell,” “sell short,” “sell short exempt” or “cross” to NASDAQ. The findings also stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAQ securities through NASDAQ, and reported last sale reports of transactions in NASDAQ, eligible and OTC equity securities that it was not required to report. The findings also included that the firm failed to report the identification of the Order Entry firm in transactions in eligible securities to NASDAQ, and failed to report the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity. NASD found that the firm failed to report the correct execution time for a transaction in an eligible security to NASDAQ, and failed to report last sale reports of transactions in OTC equity securities. NASD also found that the firm failed, when it acted as principal for its own account, to provide written notification disclosing to its customer the correct reported trade price and to provide written notification disclosing its correct capacity in the transaction. In addition, NASD determined that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. Moreover, NASD found that the firm transmitted reports to OATS that contained inaccurate Routed Order IDs, an inaccurate share amount or inaccurate order cancellation times. Furthermore, NASD found that the firm failed to show the correct entry time on brokerage order memoranda and to show the terms and conditions on the memorandum of one brokerage order. Lastly, NASD 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, 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 the relation to the size associated with the firm’s bid or offer in each such security. (NASD Case #20042000085-01)

Individuals Barred or Suspended

Joseph Abbondante (CRD #1879052, Registered Representative, Freehold, New Jersey) was barred from association with any NASD member in any capacity and required to pay \$276,265, plus interest, in restitution to public customers. The SEC sustained the National Adjudicatory Council’s decision following an appeal. The sanctions were based on findings that Abbondante participated in private securities transactions without providing prior written notice to, and receiving prior written approval from, his member firm; acted recklessly by making material misrepresentations and omitted material facts in the sale of securities to public customers; engaged in outside business activities without providing prompt written notice to his member firm; and assisted with the preparation of false account statements.

Abbondante has appealed this decision to the U.S. Court of Appeals, and the sanctions, other than the bar, are not in effect pending review. (NASD Case #C10020090/C1020020090)

LaMarr Andrew Anthony (CRD #3171951, Registered Representative, Cleveland Heights, 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 10 business days. Without admitting or denying the findings, Anthony consented to the described sanctions and to the entry of findings that he borrowed money from a public customer in violation of his member firm’s written procedures and NASD rules.

Anthony’s suspension began on June 5, 2006, and will conclude at the close of business on June 16, 2006. (NASD Case #2005001868501)

Donovan Archer (CRD #4781588, Registered Representative, Joshua Tree, California) 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 findings, Archer consented to the described sanction and to the

entry of findings that, while employed as a teller with a bank, he deposited checks totaling \$23,000 into his personal checking account knowing that there were insufficient funds in the drawer's account to cover these checks. The findings stated that Archer overrode the bank hold on the funds through the use of another bank employee's computer terminal and immediately thereafter, made withdrawals from his account, thereby misappropriating \$23,000 of the bank's funds. (NASD Case #20050024933-01)

Jeffery Benjamin (CRD #2851516, Registered Representative, Rochester, 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 findings, Benjamin consented to the described sanction and to the entry of findings that he failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #2005002311901)

Cindy Sue Barnhart (CRD #3071033, Registered Representative, Pennellville, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the findings, Barnhart consented to the described sanction and to the entry of findings that she issued loans to herself, totaling \$3,700, on whole life insurance policies a public customer held, without the customer's knowledge, authorization or consent. The findings stated that Barnhart forged the customer's signature on each of the loan checks and converted the funds for her own use and benefit. (NASD Case #2006004393001)

Thomas Henry Bruderman, Jr. (CRD #2398783, Registered Representative, Boston, Massachusetts) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Bruderman consented to the described sanction and to the entry of findings that he failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #FPI060003/EAF0401430001)

Jason M. Capodanno (CRD #4543985, Registered Representative, Winchester, Massachusetts) 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 findings, Capodanno consented to the described

sanction and to the entry of findings that he received \$48,053.08 from public customers for investment purposes and converted the funds for his own use and benefit. (NASD Case#2005003578901)

Charles Michael Chiodo, Jr. (CRD #3276739, Registered Representative, Trabuco Canyon, California) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chiodo consented to the described sanction and to the entry of findings that he engaged in outside business activities and failed to provide prompt written notice to his member firm. The findings stated that Chiodo failed to respond to NASD requests for information. (NASD Case #2005000887902)

Taek H. Chyung (CRD #2862236, Registered Representative, Pittsburgh, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Chyung participated in a private securities transaction without providing prior written notice to, or receiving approval from, his member firm. The findings stated that Chyung failed to respond to NASD requests for information. (NASD Case #2005000924401)

Manuel Marcelo Corsino (CRD #4758336, Associated Person, Hayward, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Corsino deliberately falsified the results of his Series 7 qualifications examination in an effort to mislead his firm about his qualifications to serve as a registered representative. (NASD Case #E012004022101)

Scott Curtis (CRD #1311358, Registered Principal, New York, 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 findings, Curtis consented to the described sanction and to the entry of findings that he failed to provide testimony as NASD requested. (NASD Case #20050012141-01)

Harold Wilkinson Dunkel (CRD #2675334, Registered Representative, Norfolk, Virginia) 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 three months. The fine must be paid before Dunkel

reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Dunkel consented to the described sanctions and to the entry of findings that, in connection with executed purchases or switches of mutual funds that had been authorized by public customers, he signed the customers' names to certain disclosure documents without their authorization or consent.

Dunkel's suspension began on May 1, 2006, and will conclude on July 31, 2006. **(NASD Case #2005000632401)**

Reyheena Maria Eidarous (CRD #4219599, Registered Principal, Laguna Hills, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$15,000 and suspended from association with any NASD member in a financial and operations principal capacity for 15 business days. Without admitting or denying the findings, Eidarous consented to the described sanctions and to the entry of findings that, acting on behalf of her member firm, she conducted a securities business while failing to maintain the minimum net capital required by SEC Rule 15c3-1.

Eidarous' suspension began on June 5, 2006, and will conclude at the close of business on June 23, 2006. **(NASD Case #20050011549-02)**

Kenneth Leonard Elminowski (CRD #4868449, Registered Representative, Buffalo, 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 60 days. The fine must be paid before Elminowski reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Elminowski consented to the described sanctions and to the entry of findings that he affixed a copy of a public customer's signature on an Investment Services Account form without the customer's permission or knowledge.

Elminowski's suspension began on May 1, 2006, and will conclude at the close of business on June 29, 2006. **(NASD Case #2005003522901)**

Jeffrey Marc Esposito, Sr. (CRD #2683912, Registered Principal, Dallas, Texas) was ordered to pay \$77,000, plus interest, in restitution, and was barred from association with any NASD member in any capacity. The sanctions were based on findings that Esposito directly or indirectly, in connection with the offer or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, employed devices, schemes or artifices to defraud; made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon persons. The findings stated that Esposito failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #EAF0400220004)**

Johnny Phillip Figliolini, Jr. (CRD #1058617, Registered Principal, Wainscott, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Figliolini permitted a statutory disqualified individual to be associated with an NASD member firm. **(NASD Case #E9B2003039303)**

Louis Joseph Galeotafiore, Jr. (CRD #216688, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which, in light of his financial status, he was fined \$5,000 and suspended from association with any NASD member in a general securities principal capacity for 18 months. Without admitting or denying the findings, Galeotafiore consented to the described sanctions and to the entry of findings that he failed to supervise the sales practices of registered representatives located at his branch, and failed to establish, maintain and enforce written supervisory procedures and supervisory systems reasonably designed to ensure that the brokers under his supervision complied with federal securities laws and NASD rules in the conduct of their sales practices, and to prevent them from making baseless recommendations and employing fraudulent sales practices to solicit customers to purchase shares of securities.

Galeotafiore's suspension began on June 5, 2006, and will conclude at the close of business on December 4, 2007. **(NASD Case #20050001275-01)**

Kenneth Joseph Gilmore (CRD #1047301, Registered Principal, Long Hill, New Jersey) submitted an Offer of Settlement in which he was fined \$40,000, suspended from association with any NASD member in any capacity for six months, barred from association with any NASD member in any principal or supervisory capacity, and required to sell his ownership interest in his firm within six months. Without admitting or denying the allegations, Gilmore consented to the described sanctions and to the entry of findings that he violated an NASD suspension order by engaging in securities activities during his suspension. The finding stated that Gilmore attempted to conceal his active role at the firm from NASD, therefore violating the suspension order.

Gilmore's suspension began on May 1, 2006, and will conclude at the close of business on October 31, 2006. (NASD Case #C9B20050022/E102003130805)

Gary Wayne Hardy (CRD #1298371, Registered Principal, Chandler, Arizona) 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 findings, Hardy consented to the described sanction and to the entry of findings that he received approximately \$420,000 from public customers for investments purposes, and without the customers' knowledge or consent, deposited the funds in a bank account that he controlled, thereby misusing and converting the funds for his own use and benefit. (NASD Case #2005002188401/20050024315)

Paul Martin Hoag (CRD #2217083, Registered Representative, Holland, Ohio) was barred from association with any NASD in any capacity. The sanction was based on findings that Hoag failed to respond to NASD requests for information and documents. The findings stated that Hoag engaged in outside business activities, for compensation, without providing his member firm with prompt written notice. (NASD Case #E8A2004101701)

Bei Min Hong (CRD #4681161, Associated Person, Brooklyn, New York) 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, Hong consented to the described sanction and to the entry of findings that

she willfully failed to disclose material information on her Form U4. The findings stated that Hong failed to respond to NASD requests for information. (NASD Case #20050024340-01)

Paul Howard Hughes (CRD #252636, Registered Representative, Kenmore, Washington) 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 findings, Hughes consented to the described sanction and to the entry of findings that, in his capacity as a trustee of a public customer trust, he opened an account in the name of the trust, took loans for himself from the trust account, and as a result, the assets of the trust account were substantially depleted. The findings stated that in order to distribute the income or principal of the trust account to the customer, Hughes made quarterly distributions totaling \$11,727.42 from the trust account to the customer's bank account without the customer's knowledge, authorization or consent, thereby making improper use of customer funds. The findings also stated that Hughes drew checks totaling approximately \$9,582 from the trust account to pay for personal expenses without the customer's knowledge, authorization or consent. During the same time period, Hughes deposited approximately \$9,014.70 of his own funds into the trust account. Hughes thereby misused \$9,014.70 in customer funds without the customer's knowledge, authorization or consent, and did not account for approximately \$567.30 in customer funds, which Hughes thereby converted for his own use and benefit. NASD found that Hughes affixed, or caused to be affixed, a customer's signature to letters purporting to authorize transfers totaling \$5,858.16 from the customer's trust account to the customer's bank account without the customer's knowledge, authorization or consent. (NASD Case #E3B20040207)

Shiv U. Idnani (CRD #2229229, Registered Representative, Ossining, 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 findings, Idnani consented to the described sanction and to the entry of findings that he failed to completely respond to NASD requests for documents. (NASD Case #2005001142201)

Lisa Marie Jalomo (CRD #1431206, Registered Principal, San Antonio, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Jalomo instructed an employee at her member firm to sign, on behalf of the firm, an incomplete Request for Verification of Deposit Form. The findings stated that Jalomo completed the form with false information that overstated the value of her personal account with the firm, and transmitted the form to a mortgage broker in connection with her pending application for a home mortgage loan. (NASD Case #E062004037101)

Robert Wade Johnson (CRD #2966137, Registered Representative, Englewood, Colorado) was barred from association with any NASD member in any capacity. The sanction was based on findings that Johnson received checks totaling \$157,000 from a public customer to be invested, and instead, cashed the checks, received the proceeds and was unable to provide any evidence or documentation showing that he actually invested any of the customer's funds. The findings stated that Johnson failed to completely respond to NASD requests for information and failed to fully respond to questions during an on-the-record interview. (NASD Case #E3A2004027901)

William Joseph Julian (CRD #2797249, Registered Representative, Huntington, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Julian prepared a falsified account statement for a public customer that misrepresented the account's net worth and securities positions for the purpose of misleading the customer as to the actual value of the investments. (NASD Case #CLI20030464-01/ELI20030464-01)

Young Hui Lee (CRD #1727174, Registered Representative, Buena Park, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Lee reassociates with any NASD member following the suspension, or before she requests relief from any statutory disqualification. Without admitting or denying the findings, Lee consented to the described sanctions and to the entry of findings that, without a public customer's knowledge or consent, she signed the customer's name to a policy change form after determining that the customer had signed the wrong form.

Lee's suspension began on May 15, 2006, and will conclude at the close of business on July 13, 2006. (NASD Case #20050019366-01)

George Emmanuel Leventis (CRD #2583180, Registered Representative, Staten Island, New York) was barred from association with any NASD member in any capacity and ordered to pay \$196,000, plus interest, in restitution to public customers. The sanctions were based on findings that Leventis made numerous misrepresentations, including baseless price predictions of future performance, and failed to disclose material facts to public customers in connection with the offer and sale of a security. (NASD Case #EAF0400220003)

Eric Spencer Martin (CRD #1023908, Registered Principal, Trucksville, 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 30 business days. The fine must be paid before Martin reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Martin consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation without providing his member firm with prior written notification.

Martin's suspension began on May 15, 2006, and will conclude at the close of business on June 26, 2006. (NASD Case #2005002541201)

Bernardo Misseri (CRD #2713297, Registered Representative, Staten Island, New York) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Misseri consented to the described sanctions and to the entry of findings that he effected private securities transactions and failed to provide written notification to, or obtain written approval from, his member firm. The findings stated that Misseri engaged in an undisclosed outside business activity without providing prior written notification to his member firm.

Misseri's suspension began on May 15, 2006, and will conclude at the close of business on May 14, 2008. (NASD Case #E102003213801)

Marcus Keith Monett (CRD #3086654, Registered Representative, Glen Allen, Virginia) was barred from association with any NASD member in any capacity. The sanction was based on findings that Monett failed to timely respond to NASD requests for information, or to respond at all. (NASD Case #20050013871-01)

San Sana Neal (CRD #4870917, Associated Person, Beaverton, Oregon) was barred from association with any NASD member in any capacity. The sanction was based on findings that Neal willfully failed to disclose material information on his Form U4. (NASD Case #E3B20040218-01)

Kevin W. Parsells (CRD #4210163, Registered Representative, Holmdel, New Jersey) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for five months and ordered to pay a public customer \$29,846.26 in restitution. In light of Parsells' financial status, no fine has been imposed. Without admitting or denying the allegations, Parsells consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in a public customer's account without the customer's prior knowledge, authorization or consent.

Parsells' suspension began on June 5, 2006, and will conclude on November 4, 2006. (NASD Case #CL120050007)

John Bailey Partain (CRD #4610449, Registered Representative, Philadelphia, Pennsylvania) was barred from association with any NASD member in any capacity. The sanction was based on findings that Partain effected electronic transfers totaling \$6,000 out of public customers' bank accounts, transferred the funds to his personal bank account without the customers' authorization or consent, and converted the funds for his own purposes. The findings stated that Partain failed to respond to NASD requests for information. (NASD Case #2005000961201)

Royce Joseph Raymond (CRD #1574917, Registered Principal, Baraboo, Wisconsin) 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 findings, Raymond consented to the described sanction and to the entry of findings that he participated in private

securities transactions without providing his member firm with prior written notices, and without receiving written acknowledgement of those notices from his member firm. (NASD Case #20050009640)

Jack Lee Rhoades (CRD #2327718, Registered Representative, Goshen, Indiana) was barred from association with any NASD member in any capacity. The sanction was based on findings that Rhoades failed to respond to NASD requests for information. The findings stated that Rhoades engaged in a check kiting scheme in which he wrote checks totaling \$40,100 on a bank account that exceeded the funds available in the account. (NASD Case #E8A2004076501)

Anthony Michael Rodman (CRD #1079010, Registered Representative, Marietta, Georgia) 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 findings, Rodman consented to the described sanction and to the entry of findings that he received \$400,000 from a public customer to invest in a purported hedge fund but transferred, or caused to be transferred, approximately \$88,270.29 into a bank account that he controlled, and disbursed the funds for non-investment related purposes without the customer's knowledge, authorization or consent. The findings stated that Rodman engaged in private securities transactions without prior written notice to his member firm describing the securities, his role therein, and whether he received, or might receive, selling compensation in connection with the transactions. The findings also stated that Rodman failed to fully respond to NASD requests for information and documents. (NASD Case #2005001663701)

Steven Lawrence Schlesinger (CRD #502499, Registered Principal, New York, 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 findings, Schlesinger consented to the described sanction and to the entry of findings that he purchased a municipal bond and engaged in a fraudulent and manipulative scheme in which he orchestrated pre-arranged non-bona fide sales and purchases of the bond by setting a same-day settlement when he sold the bond, and an extended settlement date when he repurchased the bond. The findings stated that

Schlesinger promised a profit to contra parties of the transactions and assured them they were exposed to no risk of loss, although he knew the prices he predicted did not reflect the actual market value of the bond. The findings also stated that Schlesinger knew that the purchases and sales of the bond he arranged caused the publication and distribution of reports that were fictitious and in furtherance of his fraudulent, deceptive and manipulative purpose. The findings also included that Schlesinger made false and misleading statements under oath during an NASD interview. **(NASD Case #20050003239-02)**

Andrew Paul Schneider (CRD #2907279, Registered Representative, West Palm Beach, Florida) was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Schneider engaged in outside business activities without providing prompt written notice to his member firm.

Schneider's suspension began on April 17, 2006, and will conclude at the close of business on June 15, 2006. **(NASD Case #E1020021320/C1020030088)**

Michael James Shumaker (CRD #4364346, Registered Representative, Orlando, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, ordered to pay \$215,000, plus interest, in restitution to public customers and suspended from association with any NASD member in any capacity for six months. The fine and restitution amounts must be paid before Shumaker reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Shumaker consented to the described sanctions and to the entry of findings that he recommended and effected securities transactions in public customers' accounts without having a reasonable basis for believing that the recommendations and resultant transactions were suitable for them based on their financial situations and needs. The findings stated that Shumaker participated in private securities transactions without providing prior written notice to, or receiving approval from, his member firm.

Shumaker's suspension began on May 15, 2006, and will conclude at the close of business on November 14, 2006. **(NASD Case #2005000278901)**

Everett Paul Simpson (CRD #4898659, Registered Representative, Ellenboro, North Carolina) 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 Simpson reassociates with any NASD member following the suspension, or prior to requesting relief from any statutory disqualification. Without admitting or denying the findings, Simpson consented to the described sanctions and to the entry of findings that he signed a public customer's signature on a switch letter and submitted it to his member firm without the customer's prior knowledge or consent.

Simpson's suspension began on June 5, 2006, and will conclude at the close of business on August 3, 2006. **(NASD Case #2006003833001)**

Charles Robert Snyder (CRD #429761, Registered Principal, South Glastonbury, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000, ordered to pay \$23,678, plus interest, in restitution to the public customers and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the findings, Snyder consented to the described sanctions and to the entry of findings that he recommended a securities transaction to public customers without having reasonable grounds for believing that the recommendations and the resulting transactions were suitable based on the customers' financial situation, needs and objectives.

Snyder's suspension began on June 5, 2006, and will conclude on September 4, 2006. **(NASD Case #E112004042001)**

Epko Anthony Steele (CRD #2611651, Registered Representative, Laurelton, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Steele pled guilty to participating in a scheme to defraud mortgage lenders, in that he received \$15,000 for assisting an impostor with obtaining a fraudulent mortgage when he knew that the impostor was not an authentic purchaser of the property. **(NASD Case #ELI20040286-02)**

Leif Christian Strahan (CRD #4596849, Registered Representative, Fort Collins, Colorado) 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 findings, Strahan consented to the described sanction and to the entry of findings that he obtained authorization from a public customer to withdraw \$750 from the customer's account to pay for legal and/or accounting advice he had recommended, and instead, without the customer's knowledge or consent, deposited the funds into his personal bank account and used the funds for his own benefit. (NASD Case #2005001461501)

Todd Russell Taskey (CRD #1700482, Registered Representative, Potomac, Maryland) 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 findings, Taskey consented to the described sanction and to the entry of findings that he willfully failed to disclose material facts on his Form U4. (NASD Case #2005003668101)

Lorentzo Theofanidis (CRD #3248705, Registered Representative, Warren, 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 20 business days. Without admitting or denying the findings, Theofanidis consented to the described sanctions and to the entry of findings that he executed common stock transactions in a public customer's account without the customer's prior knowledge, authorization or consent.

Theofanidis' suspension began on May 15, 2006, and concluded at the close of business on June 12, 2006. (NASD Case #2005003610001)

Maritsa Electra Varvitsiotes (CRD #1339252, Registered Representative, Southold, New York) submitted an Offer of Settlement in which she was suspended from association with any NASD member in any capacity for 15 business days. In light of Varvitsiotes' financial status, no monetary sanction has been imposed. Without admitting or denying the allegations, Varvitsiotes consented to the described sanction and to the entry of findings that she engaged in a pattern of excessive trading in a public customer's discretionary account that was unsuitable based on the customer's investment experience, financial situation, needs and investment objectives.

Varvitsiotes' suspension began on May 15, 2006, and concluded at the close of business on June 5, 2006. (NASD Case #E1020010426-04)

Donatas Belys Vildzius (CRD #2202883, Registered Representative, Oxford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$9,000, ordered to pay \$16,000 in restitution to a public customer and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Vildzius reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification, and Vildzius must be current with his restitution payments at the time of application for reassociation. Without admitting or denying the findings, Vildzius consented to the described sanctions and to the entry of findings that he exercised discretion in a public customer's account without the customer's prior written authorization. The findings stated that Vildzius engaged in unsuitable and/or excessive trading in the customer's account.

Vildzius' suspension began on May 1, 2006, and concluded at the close of business on May 30, 2006. (NASD Case #E112003069901)

Decisions Issued

The following decision has been issued by the Office of Hearing Officers, and has been appealed to or called to review by the NAC as of May 5, 2006. The NAC may increase, decrease, modify or reverse the imposed sanctions. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notice to Members*.

Ralph Merhi (CRD# 3094962, Registered Principal, Boca Raton, Florida) was barred from association with any NASD member in any capacity. The sanction was based on the findings that Merhi engaged in excessive trading and exercised discretion in a public customer's account without obtaining the customer's written authorization, and without having his member firm approve the account as discretionary.

Merhi has appealed this decision to the NAC and the sanctions are not in effect pending review. (NASD Case #E072004044201)

Complaints Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by 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 Carl Barefield (CRD #4075146, Registered Principal, Chicago, Illinois) was named as a respondent in an NASD complaint alleging that he received \$23,000 from public customers to invest in mutual funds, failed to follow the customers' instructions, deposited the funds in his own account and used the funds for some purpose other than to benefit the customers—all without their knowledge or consent. The complaint alleges that Barefield affixed, or caused to be affixed, a public customer's signature to distribution forms that requested the distribution of \$40,690 from the customer's accounts, without the customer's knowledge and consent, directed the proceeds checks to be mailed to Barefield's home address, and deposited the proceeds checks into his personal bank account. The complaint also alleges that Barefield received \$4,000 from a public customer for deposit in her annuity account and, instead, deposited the check in his personal bank account without the customer's knowledge or consent. The complaint further alleges that Barefield failed to respond to NASD requests for information and documents. **(NASD Case #2005000934401)**

Robert Parry Gormly, Jr. (CRD #1768255, Registered Principal, Flower Mound, Texas) was named in an NASD complaint alleging that he recommended and effected securities transactions in public customers' accounts without having a reasonable basis for believing that the transactions were suitable based on the customers' financial situation and needs. The complaint also alleges that Gormly recommended to customers that they designate their risk tolerance as "aggressive" on account application forms when he knew that this did not represent their actual tolerance for risk. **(NASD Case #2005001520701)**

Neal Anthony Impellizeri (CRD #1195207, Registered Principal, Plandome, New York), Michael Raymond Gimeli (CRD #2197242, Registered Representative, Babylon, New York), and Steven Richard Jaloza (CRD #1320831, Registered Representative, Muttontown, New York) were named as respondents in an NASD complaint alleging that they, in connection with the purchase or sale of securities, and by the use of means or instrumentalities of interstate commerce, or by the mails, directly or indirectly, knowingly or recklessly employed devices, schemes or artifices to defraud; made untrue statements of material facts or omissions to state material facts necessary in order 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 or would operate as a fraud or deceit upon any person. The complaint also alleges that Impellizeri, Gimeli and Jaloza made baseless stock purchasing recommendations to public customers, and failed to inform the customers that they had a financial interest in promoting the sale of the stocks. The complaint further alleges that Impellizeri executed unauthorized transactions to purchase a security in a public customer's account. **(NASD Case #2005000127502)**

Emil Brian Panzarino Jr. (CRD #2540399, Registered Representative, Staten Island, New York) was named as a respondent in an NASD complaint alleging that he received \$877 from a public customer to pay the premium on the customer's insurance policy, and instead, he kept the funds for his own use and benefit without the customer's knowledge or authorization. The complaint also alleges that Panzarino failed to appear for an on-the-record interview. **(NASD Case #ELI20040386-01)**

Philip Leighton Regano (CRD #1187182, Registered Representative, Boardman, Ohio) was named as a respondent in an NASD complaint alleging that he received \$619,584.87 from public customers to purchase interests in fixed annuities, but failed to follow the customers' instructions, used the funds for some purpose other than the benefit of the customers and created fictitious statements showing that the funds were used for their intended purpose. The complaint alleges that Regano engaged in private securities transactions for compensation, and failed to provide prior written notice to or obtain written approval from his member firm. **(NASD Case #E8A2004059501)**

Firms Suspended for Failure to Supply Financial Information

The following firms were suspended from membership with NASD for failing to comply with formal written requests to submit financial information to NASD. The action was based on the provisions of NASD Rule 9552. (The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.)

CMG Institutional Trading LLC
Chicago, Illinois
(April 19, 2006)

Doral Securities, Inc.
San Juan, Puerto Rico
(May 15, 2006)

Oxford Capital Securities
New York, New York
(May 15, 2006)

Rutberg & Company, LLC
San Francisco, California
(April 19, 2006 to May 17, 2006)

Zoo Financial Group, LLC
Tampa, Florida
(April 19, 2006)

Individuals Barred Pursuant to NASD Rule 9552(h)

Raffi Michael Boghosian
Rockville, Maryland
(May 30, 2006)

Ronald Raymond Cournoyer
Warwick, Rhode Island
(May 15, 2006)

Lorin Terese Diaz
Franklin Square, New York
(May 30, 2006)

Jason Ronald Ingram
Woodland, California
(May 30, 2006)

Adam John Korejsza
Farmington Hills, Michigan
(May 24, 2006)

Michael Visconti
College Point, New York
(April 25, 2006)

Ernest James Waslkowski
Carfield Heights, Ohio
(May 1, 2006)

Individuals Suspended Pursuant to NASD Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Kevin Erik Adams
Fresno, California
(May 15, 2006)

Gilbert Cadavillo Cabusas
Bairwood, New York
(May 22, 2006)

Jerry Chu
Menlo Park, California
(May 31, 2006)

Donovan Britt Craig
Atlanta, Georgia
(May 1, 2006)

Daniel Lee Rodger
Dallas, Texas
(May 1, 2006)

Bryan Keith Smith
Palatka, Florida
(May 22, 2006)

Individuals Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or a Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

William Pang Chien
Plantation, Florida
(May 25, 2006)

Timothy Crawford, Jr.
Houston, Texas
(May 17, 2006)

Victor David Greco aka Victor Dwojacki
Hoffman Estates, Illinois & Houston, Texas
(April 26, 2006 to May 15, 2006)

Glenn Allen Howard
Tigard, Oregon
(May 4, 2006)

Jason John Konior
New York, New York
(May 30, 2006)

Dennis Liu
Alhambra, California
(May 4, 2006)

David Ernest Locklear
Canton, Michigan
(May 3, 2006)

Larry Allen Traylor
Long Beach, California
(May 4, 2006)

NASD Suspends Broker for 90 Days, Imposes Fine and Disgorgement Totaling \$400,000 for Short Sale Violations

Broker Deceived Firm by Executing Short Sales, Marked Long, in Personal Accounts

Steven W. Norin, a broker who is currently registered with Citigroup Global Markets Inc. of New York, has been suspended for 90 days and will pay \$400,000 to settle charges that he engaged in a pattern of improper short sales in his personal accounts.

NASD found that from March 2003 through November 2004, Norin executed 100 short sales in 22 different securities and improperly marked them as "long." NASD found that Norin wanted to sell certain securities in his personal accounts short because he believed they were overpriced; when he discovered that there was no available inventory or borrowable stock, he improperly marked the orders long in the firm's order entry system to defeat the system's ability to prevent improper short sales.

NASD determined that in 70 of the improper short sales, Norin made profits totaling \$298,547. In the other 30 sales, Norin lost money, for a net loss of \$2,788 over the course of the 20-month period of misconduct. NASD is requiring Norin to disgorge the profits he derived from the profitable improper short sales and to pay, in addition, a fine of over \$100,000.

In settling this matter, Norin neither admitted or denied the charges, but consented to the entry of NASD's findings that in the 100 instances he improperly marked short sales long, he failed to affirmatively determine that there was stock available to fill the orders, caused his firm to fail to report the transactions to NASDAQ with the required short sale modifier, and intentionally circumvented the locate requirements of his firm's trading systems to avoid detection.

Texas Brokerage Firm Salomon Grey Financial Expelled for Widespread Violations of NASD Rules

Firm's Owner, Kyle Browning Rowe, Permanently Barred

NASD has expelled Dallas-based brokerage firm Salomon Grey Financial Corporation from the securities industry and barred its owner and former president, Kyle Browning Rowe, over charges of extensive supervisory failures, anti-money laundering violations, email retention violations, customer complaint reporting violations and unauthorized searches of NASD's Central Registration Depository (CRD).

"Any one of these violations is serious and would pose a substantial risk to the firm's customers—and anti-money laundering rule violations could compromise our national interest in preventing financial institutions from being exploited for money laundering and terrorist financing," said James Shorris, NASD Executive Vice President and Head of Enforcement. "In this unusual case, the occurrence of all of these violations in a single firm calls for the most severe sanction: expulsion."

At its peak, Salomon Grey operated as many as 14 registered branch offices located throughout the United States, with a concentration of offices in California, New York and Florida. Most of the branch offices were independently owned and operated by brokers who worked in the offices. The firm had numerous registered representatives, including several with extensive disciplinary histories.

NASD found that during the period from approximately January 2000 to March 2005, Salomon Grey's supervisory system was inadequate to supervise its dispersed group of offices and high-risk brokers. Among the firm's supervisory system deficiencies:

- The firm permitted the brokers in each branch office to hire branch managers, resulting in situations where the branch managers were charged with supervising the very brokers who hired them and had the effective ability to fire them.
- The firm permitted brokers with extensive disciplinary histories and ongoing regulatory actions against them (including a broker who was appealing an SEC-imposed bar from the securities industry) to serve as supervisors.

- The firm failed to adequately respond to "red flags" of ongoing misconduct by several of its brokers, which led to customer harm. For example, the firm ignored ongoing warning signs of unauthorized trading by brokers who had been previously disciplined for unauthorized trading; who were the subjects of ongoing regulatory investigations for, among other things, unauthorized trading; and who were the subjects of customer complaints alleging unauthorized trading.
- The firm failed to impose and/or enforce heightened supervisory measures against brokers with disciplinary histories and ongoing customer complaints, and failed to take meaningful disciplinary action against representatives and supervisors who failed to comply with or enforce purported heightened supervisory measures.
- The firm employed unqualified supervisory and compliance staff.

NASD also found that during the period from April 2002 to March 2005, Salomon Grey had an inadequate AML program. Among other things, the firm's program was not approved in writing by senior management and did not identify an AML Compliance Office, did not provide for ongoing training of appropriate personnel or independent testing, did not contain a written customer identification program, and had inadequate policies and procedures regarding the detecting and reporting of suspicious activity.

NASD further found that from January 2003 through March 2005, Salomon Grey conducted unauthorized searches of CRD by failing to obtain and/or retain the required written consent in connection with pre-hire registration searches of at least 39 individuals. The firm had inadequate supervisory procedures regarding this aspect of its business.

Finally, NASD found that from January 2000 through May 2004, Salomon Grey and Rowe failed to maintain electronic communications in violation of the books and records provisions of the federal securities laws and NASD rules; from May 2004 through March 2005, failed to enforce the provisions in its written supervisory procedures that prohibited the use of non-corporate email accounts for securities-related communications by associated persons; from October 2001 to March 2004, failed to report, or to timely report, customer complaints

pursuant to NASD Rule 3070; from September 2001 to April 2003, failed to amend, or to timely amend, Forms U4 and/or U5 to disclose customer complaints; and failed to establish and maintain a supervisory system and procedures that were reasonably designed to detect and prevent these violations.

In settling with NASD, Salomon Grey and Rowe neither admitted nor denied the allegations, but consented to the entry of NASD's findings.