

Disciplinary and Other NASD Actions

REPORTED FOR JANUARY

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 November 2006.

Firms Fined, Individuals Sanctioned

Banif Securities, Inc. (CRD #38913, New York, New York) and Richard John Kailer (CRD #263192, Registered Principal, Yardley, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent (AWC) in which the firm and Kailer were censured, and the firm was fined \$45,000, \$20,000 of which was joint and several with Kailer. Without admitting or denying the findings, the firm and Kailer consented to the described sanctions and to the entry of findings that the firm permitted Kailer to actively engage in the management of its investment banking or securities business without being registered as a general securities principal. The findings stated that the firm, acting through Kailer, (i) permitted a representative to conduct a securities business while his registration was inactive due to his failure to timely satisfy the Regulatory Element of the Continuing Education requirement; (ii) failed to maintain all required information for new accounts; (iii) and failed to maintain email correspondence sent or received by Kailer relating to the firm's business. NASD also found that the firm was unable to produce any written procedures relating to email or instant messaging prior to contracting for electronic storage. **(NASD Case #E1020050036-01)**

Great Eastern Securities, Inc. (CRD #2061, New York, New York), Alphonse Mekalainas Jr. (CRD #1276859, Registered Principal, Las Vegas, Nevada), Ernest Richard Viola (CRD #2719728, Registered Principal, Peekskill, New York) and Jeffrey Scott Ramson (CRD #1574903, Registered Principal, New York, New York) submitted Offers of Settlement in which the firm and Ramson were fined \$100,000, jointly and severally, and the firm was ordered to retain an independent consultant to review the firm's policies, systems, procedures and training relating to supervisory deficiencies, and submit a report to NASD with recommendations. Ramson was barred from association with any NASD member in a principal capacity and suspended from association with any NASD member in any capacity for six months. Mekalainas was fined \$25,000 and suspended from association with any NASD member in any capacity for one year, to be followed by an 18-month suspension in a principal capacity. The fine must be paid before Mekalainas reassociates with any NASD

member following the one-year suspension, or before he requests relief from any statutory disqualification. Viola was fined \$5,000, barred from association with any NASD member in a principal capacity and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Viola reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification.

Without admitting or denying the allegations, the firm and Ramson consented to the described sanctions and to the entry of findings that the firm, acting through Ramson, failed to take reasonable measures to ensure that Viola, a designated principal assigned to supervise a registered representative, was diligently exercising the supervisory authority delegated to him. The findings stated that the firm and Ramson failed to enforce the firm's supervisory system and written procedures, and Ramson failed to supervise the registered representatives assigned to the firm's home office. The findings also stated that the firm, acting through Ramson, failed to ensure that the designated principal responsible for maintaining and enforcing the firm's supervisory system and procedures and for supervising the representatives at the home office reasonably exercised the delegated duties assigned to him. The findings also included that Mekalainas failed to take reasonable steps to verify that a branch office was being adequately supervised and that Viola was diligently exercising his delegated supervisory responsibilities over the branch. NASD found that Mekalainas failed to reasonably supervise a registered representative's activities and permitted him to engage in securities transactions without proper registration. NASD also found that Viola failed to monitor and inspect a registered representative's off-site office, enforce effective procedures to supervise his outside business activities, review his customers' securities transactions daily and accurately identify his supervisors in the firm's written supervisory procedures as well as the specific areas of supervision for which the supervisors were responsible.

Ramson's suspension in any capacity is in effect from December 1, 2006, through May 31, 2007. Mekalainas' suspension in any capacity is in effect from December 4, 2006, through December 3, 2007, and his suspension in a general securities principal capacity is in effect from December 4, 2007, through June 3, 2009. Viola's suspension in any capacity is in effect from December 4, 2006, through February 1, 2007. (NASD Case #20042000053-02)

Haywood Securities (USA), Inc., (CRD #42072, Vancouver, British Columbia, Canada) John David Shepherd (CRD #2814215, Registered Principal, White Rock, British Columbia, Canada), David Brian Elliott (CRD #2814225, Registered Representative, Delta, British Columbia, Canada) and Nancylee Girling (CRD #3185670, Registered Representative, Tsawwassen, British Columbia, Canada) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Girling were censured. The firm was fined \$50,000, \$15,000 of which is joint and several with Elliott, \$15,000 is joint and several with Shepherd and \$10,000 is joint and several with Girling. Elliott and Shepherd were suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the findings, the respondents consented to the described sanctions and to the entry of findings that Elliot, Shepherd and Griling knew that an individual was an associated person of another member firm, had a financial interest in an account opened at Haywood Securities and failed to inform his employer that he would exercise discretionary authority over the account. The findings stated that prior to executing transactions for this customer's account, the firm, acting through Elliott, Shepherd and Girling, did not notify the individual's member firm, in writing or otherwise, of its intention to open the account, nor did it notify the individual of its intention to provide notice to his member firm.

Elliott's suspension in any capacity was in effect from December 18, 2006, through January 2, 2007. Shepherd's suspension in any capacity was in effect from December 18, 2006, through January 2, 2007. (NASD Case #E3B2004021901)

Firms and Individuals Fined

American Wealth Management, Inc. (CRD #25536, Atlanta, Georgia) and Jerome August Borzello (CRD #801913, Registered Principal, Dunwoody, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$15,000, jointly and severally. The firm must also pay \$6,284.09 in disgorgement of excess commissions, plus interest, to public customers. Without admitting or denying the findings, the firm and Borzello consented to the described sanctions and to the entry of findings that the firm, acting through Borzello, conducted a securities business while failing to maintain its minimum net capital as Section 15(c) of the Securities and Exchange Act of 1934 requires. The findings stated that the firm, acting through Borzello, prepared an inaccurate general ledger, trial balance and net capital computation for a period of time. The findings also stated that the firm, acting through Borzello, failed to establish, maintain and enforce a supervisory system and written supervisory procedures reasonably designed to supervise the activities of each registered representative associated with the firm to review and monitor commissions for fairness; to adequately report customer complaints; review, approve and maintain internal communications; report transactions in Trade Reporting and Compliance Engine (TRACE) eligible securities to the TRACE reporting system in a timely manner; and impose heightened supervision and monitor representatives put on heightened supervision. The findings also included that the firm's written supervisory procedures were not reasonably designed to adequately address mutual fund sales and did not adequately address municipal securities sales activities. NASD found that the firm failed to enforce its supervisory procedures in that it failed to conduct annual inspections of its non-branch office locations and failed to complete questionnaires for branch office inspections as its written supervisory procedures required. (NASD Case #E072004002501)

Niphix Investments, Inc. (CRD #39378, Peoria, Illinois) and Nimish Gandhi (CRD #2666422, Registered Principal, Peoria, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the findings, the firm and Gandhi consented to the described sanctions and to the entry of findings that the firm, acting through Gandhi,

did not have a written training plan to provide for a continuing and current education program for the firm's registered persons, and failed to hold annual compliance meetings. The findings stated that the firm, acting through Gandhi, failed to maintain records and documents relating to the NASD Breakpoint Assessment, the Mutual Fund Self-Assessment and the NASD Breakpoint Online Survey. (NASD Case #E8A2005014702)

Pactual Capital Corporation (CRD #34569, New York, New York) and Christina S.A. DeCastro (CRD #2601034, Registered Principal, Scarsdale, 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 fined an additional \$10,000. Without admitting or denying the findings, the firm and DeCastro consented to the described sanctions and to the entry of findings that the firm, acting through DeCastro, permitted an employee to engage in activities that required registration while his general securities representative registration status with NASD was inactive due to his failure to complete the Regulatory Element of NASD's Continuing Education Requirement. The findings stated that the firm permitted its associated persons to engage in activities that require registration with NASD as Limited Representatives - Equity Traders (ET) when they were not so registered. The findings also stated that the firm failed to ensure that the individual who supervises the individuals' ET-related activities was registered as an ET, as required. (NASD Case #20050020893-01)

Firms Fined

Advanced Planning Securities, Inc. (CRD #14382, Smithtown, 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 permitted individuals to act in a capacity that required registration while their registration status with NASD was inactive due to their failure to complete the Regulatory Element of NASD's Continuing Education requirement. The findings stated that the firm failed to report statistical and summary information regarding customer complaints as NASD Rule 3070(c) requires.

The findings also stated that the firm prepared an inaccurate month-end net capital computation and filed an inaccurate Financial and Operational Combined Uniform Single (FOCUS) report. **(NASD Case #ELI2004014201)**

Archer Alexander Securities Corporation (CRD #41555, Kansas City, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$108,450.10, which includes \$38,450.10 in disgorgement. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it facilitated market timing activities of two hedge fund companies by using multiple accounts that cleared through different clearing firms in order to circumvent the trading restrictions the mutual fund companies implemented. The findings stated that the firm failed to preserve copies of electronic communications associated persons in its branch offices sent or received. **(NASD Case #E0420030634-02)**

Associated Securities Corp. (CRD #12969, El Segundo, 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 executed transactions in TRACE-eligible securities it was required to report to TRACE, but failed to execute a TRACE Participation Agreement and, therefore, was not eligible to participate. The findings stated that the firm failed to report all of its TRACE-eligible securities it was required to report to TRACE. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning TRACE. **(NASD Case #20050008441-01)**

Berthel, Fisher & Company Financial Services, Inc. (CRD #13609, Marion, Iowa) 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 adopt and maintain written supervisory procedures reasonably designed to achieve compliance with applicable rules and regulations related to private offerings of securities. **(NASD Case #E0420050018-02)**

Credit Suisse Securities (USA) LLC (CRD #816, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$110,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each 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 security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. The findings stated that the firm executed short sale transactions in NASDAQ National Market securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. The findings also stated that the firm routed orders to Electronic Communications Networks (ECNs) for execution and were executed on the ECNs at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws, regulations and NASD rules concerning trade report input, the bid test, marking of customer tickets, affirmative determinations, best execution, trade reporting, short sales, Order Audit Trail SystemSM (OATSSM), soft dollar accounts and trading, and books and records. NASD found that the firm failed to accept or decline transactions in eligible securities in the NASDAQ Market Center within 20 minutes after execution, when the firm had an obligation to accept or decline in NASDAQ Market Center as the order entry firm (OEID). NASD also found that the firm provided written notification to its customers that disclosed an incorrect capacity in transactions; and/or failed to document the correct average price disclosure; and/or failed to document the market maker disclosure. In addition, NASD found that the firm transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. Moreover, NASD found that the firm failed to correctly report riskless principal transactions in NASDAQ securities to the NASDAQ Market Center; failed to report last sale report of transactions; sent duplicate media reports of agency trades; failed to report the correct symbol indicating

whether the firm executed transactions in eligible securities in a principal or agency capacity; and failed to report a riskless principal transaction in eligible transactions. (NASD Case #2005000137201)

E*Trade Capital Markets, LLC (CRD #111528, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. 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, incomplete or improperly formatted data, in that the reports contained inaccurate Routed Order IDs that failed to link with reportable order events an affiliate submitted. The findings stated 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 security and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. The findings also stated that the firm failed to provide written notification disclosing to its customer that the transaction was executed at an average price. The findings also included that the firm contemporaneously or partially executed customer limit orders in OTC Bulletin Board securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order. (NASD Case #20050017333-01)

Fieldstone Services Corp. (CRD #27851, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in some corporate bond transactions, the firm did not report the yield to TRACE, as required. The findings stated that some of the transactions were incorrectly reported as customer transactions instead of inter-dealer transactions, and some transactions were reported beyond the 15-minute requirement. The findings also stated that order tickets for corporate debt riskless principal transactions the firm effected did not have the order's time of receipt, as required. (NASD Case #2006003754901)

Geneos Wealth Management, Inc. (CRD #120894, Denver, Colorado) submitted an Offer of Settlement in which it was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report TRACE-eligible securities transactions to TRACE. The findings stated that the firm failed to establish a supervisory system and written supervisory procedures reasonably designed to achieve compliance with the rules applicable to the reporting of corporate bond transactions to the TRACE system and with SEC Rule 15c3-3 applicable to the supervision of a registered person's servicing 403(b) plan accounts. (NASD Case #E3A20040062-01)

H.D. Vest Investment Services (CRD #13686, Irving, Texas) 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 reports in TRACE-eligible securities executed on a business day during TRACE system hours to TRACE within 30 minutes of the execution time. The findings stated that the firm reported reports in TRACE-eligible securities to TRACE that it was not required to report. (NASD Case #2005000454601)

H. Rivkin & Co., Inc. (CRD #29459, Pennington, New Jersey) 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 its TRACE-eligible transactions were reported late, not reported, and were reported with missing or inaccurate information. The findings stated that the firm failed to establish, maintain and enforce a supervisory system and written procedures reasonably designed to achieve compliance with applicable rules and regulations related to the reporting of TRACE-eligible securities. The findings also stated that the firm failed to provide for independent testing of its anti-money laundering program (AML), and failed to provide a reasonably designed system and written procedures related to the monitoring of suspicious account activity. (NASD Case #E9B2005006401)

Keefe, Bruyette & Woods, Inc. (CRD #481, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$23,000 and required to revise the firm's written supervisory procedures concerning SEC Rules 602 and 606, NASD Rule 6320, best execution, OATS, trade reporting, short sales transactions and maintaining identical quotes. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders in securities and, for each order, failed to make/annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by the settlement date. The findings stated that the firm failed to provide written notification disclosing to its customers that the transactions were executed at an average price. The findings also stated that the firm transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings also included that the firm failed to enforce its written supervisory procedures regarding the three quote rule, riskless principal transactions, and books and records retention. NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning SEC Rules 602 and 606, NASD Rule 6320, best execution, OATS, trade reporting, short sales transactions and maintaining identical quotes. **(NASD Case #2004200026801)**

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 \$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 include a legend regarding the existence of contingent deferred sales charges on certain written confirmations it provided its public customers effecting exchange transactions. The findings also stated that the firm executed transactions in equity-linked fixed income securities its parent company issued in customers' discretionary accounts without obtaining the customers' prior written approval. **(NASD Case #20050034676-01)**

Northwestern Mutual Investment Services, LLC (CRD #2881, Milwaukee, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$115,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report to NASD customer complaints regarding misappropriation of funds or forgery, disciplinary actions of its registered representatives that resulted in terminations or suspensions and filing charges against an associated person. The findings stated that the firm failed to pre-file sales material from a training seminar with NASD in accordance with a previous AWC. The findings also stated that the firm failed to accurately report municipal securities transactions and accurately prepare municipal customer confirmations. **(NASD Case #E8A2005015001)**

Oppenheimer & Co., Inc. (CRD #249, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed long sale orders and incorrectly marked the orders as short, failed to disclose average price and the correct reported price on customer confirmations, and incorrectly disclosed average price on customer confirmations. The findings stated that the firm entered inaccurate information on brokerage order memoranda and failed to preserve, for a period of not less than three years, with the first two in an accessible place, brokerage order memoranda. The findings also stated that the firm published quotations in Over-the-Counter (OTC) equity securities, or directly or indirectly submitted quotations for publication in a quotation medium, the Pink Sheets, and did not have in its records the documentation SEC Rule 15c2-11(a) required, and quotations did not represent a customer's indication of unsolicited interest. The findings also included that the firm failed to file a Form 211 with NASD for each quotation at least three business days before the firm's quotations were published or displayed in a quotation medium. NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules relating to trade reporting, OATS, and compliance with SEC Rule 15c2-11 and NASD Rule 6740. **(NASD Case #20050017907-01)**

Pershing Advisor Solutions, LLC (CRD #36671, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$33,500 and required to revise the firm's written supervisory procedures regarding order handling, trade reporting, riskless principal trade reporting, short sales reporting, affirmative determination and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports that contained inaccurate Routed Order IDs to OATS and failed to mark its ledger as short. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning order handling, trade reporting, riskless principal trade reporting, short sales reporting, affirmative determination and OATS. The findings also stated that the firm failed to enforce its written supervisory procedures that specified that its OTC principal manager was responsible for reviewing trades reported on the firm's behalf to ensure that the trades were marked as principal rather than as agent. The findings also included that the firm, an intermarket trading system/computer-assisted execution system (ITS/CAES) market maker, purchased or sold ITS/CAES securities, whether in a principal capacity or as an agent, at a price that was lower than the bid or higher than the offer displayed from an ITS participant exchange or ITS/CAES market maker. **(NASD Case #2005000259301)**

Quick & Reilly, Inc. (CRD #11217, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain, and enforce a supervisory system reasonably designed to review and monitor variable annuity transactions in that the designated supervisors were not supplied with material information to determine if a transaction was suitable. **(NASD Case #E102003158301)**

Scottrade, Inc. (CRD #8206, St. Louis, Missouri) 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 its supervisory system did not provide for supervision reasonably designed to achieve

compliance with applicable securities laws, regulations and NASD rules concerning the duty of best execution, NASD Rule 2320 and the requirement, under the duty of best execution, to conduct a regular and rigorous review of execution quality. **(NASD Case #20042000037-02)**

Strand, Atkinson, Williams & York, Inc. (CRD #1254, Portland, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined 50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its written supervisory procedures failed to specify a cycle according to which its non Office of Supervisory Jurisdiction branches would be inspected. The findings also stated that the firm failed to retain email messages in an accessible, reviewable format, and to review incoming and outgoing emails during a period of time. The findings also stated that the firm failed to develop and implement a written AML program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act and the regulations promulgated there under. **(NASD Case #E3B2005004401)**

ThinkEquity Partners LLC (CRD #44274, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$80,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted short sale orders and failed to make an affirmative determination that the firm would receive delivery of the security on a customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by the settlement date, and effected short sales in securities for the firm's proprietary account and failed to make an affirmative determination that the firm could borrow the securities or otherwise provide for the securities' delivery by the settlement date. The findings stated that the firm executed short sale transactions in a security and failed to report each transaction to the NASDAQ Stock Market with a short sale modifier and incorrectly reported some as short sale exempt. The findings also stated that for the short sale transactions reported to the NASDAQ Market Center without a short sale modifier, the firm failed to report the correct symbol indicating whether the firm executed the transactions in a principal, agency or riskless

principal capacity, and failed to properly mark order tickets as short. The findings also included that the firm failed to make a report of its routing of non-directed orders in covered securities publicly available, and failed to enforce its written supervisory procedures that specified that the firm publish order routing statistics on its Web site link no later than the last day of the month following the reporting period. NASD found that the firm executed short sale transactions at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. NASD also found that the firm failed to report the correct symbol for transactions to the Automated Confirmation Transaction ServiceSM (ACTSM), failed to report trades to ACT, reported a trade twice, failed to report the correct capacity to ACT and failed to report the correct modifier to ACT. In addition, NASD determined that the firm failed to submit required execution reports to OATS, failed to report a Not Held condition to OATS, entered an inaccurate Cancel/Replace report and transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. Moreover, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules relating to OATS and trade reporting, order handling, best execution, sales transactions and other trading rules. Further, NASD found that the firm failed to provide written notification to its customers as to its correct capacity in transactions, and when it acted as principal for its own account, failed to provide written notification disclosing to its customers that it was a market maker in each security. NASD also found that the firm failed to show the correct execution time on brokerage order memoranda. **(NASD Case #20050001009-01)**

UBS Financial Services, Inc. (CRD #8174, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and ordered to pay \$938.99, plus interest, in restitution to public customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in transactions for or with a customer, 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. **(NASD Case #20050000626-01)**

Waddell & Reed, Inc. (CRD #866, Overland Park, Kansas) 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 ensure that an individual working at the firm did not engage in any activities requiring NASD registration. **(NASD Case #E062004029603)**

Weeden & Co., L.P. (CRD #16835, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report order events to NASD. The findings stated that the firm submitted to OATS reports with respect to equity securities traded on the NASDAQ Stock Market that were not in the electronic form prescribed by NASD and were repairable. The findings also stated that the OATS system rejected the reports, and notice of the rejection was made available to the firm on the OATS Web site, but the firm failed to correct or replace most of the reports. The findings also included that the firm failed to provide written notification disclosing its correct capacity in the transactions to its customers. **(NASD Case #20042000275-01)**

Individuals Barred or Suspended

Joseph James Adamo (CRD #2016233, Registered Principal, Rocky River, 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 findings, Adamo consented to the described sanction and to the entry of findings that he caused customer funds to be diverted from his member firm's third-party administrator non-ERISA 403(b) account to other bank accounts his member firm and subsidiaries owned to pay for their operating expenses, and then transferred the funds back into the account to purchase insurance and securities products for firm customers. The findings stated that Adamo signed checks from the account to his member firm and its affiliates, but had concerns that customer money was being used inappropriately only when it appeared that money was not being returned to the account. The findings also stated that Adamo's

response to an NASD Letter of Caution was false and misleading, in that he made it appear that his reporting relationship to an individual at his firm would not require the individual to be registered as a financial and operations principal (FINOP), when, in fact, it was required since he supervised Adamo. (NASD Case #E8A2004101502)

Mustapha Youssef Aljaroudi (CRD #3274506, Registered Representative, Miami, Florida) 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, Aljaroudi consented to the described sanction and to the entry of findings that he engaged in a pattern of misconduct that included falsification of essential public customer information on a new account opening form and a sale of stock in a customer's account without the customer's knowledge, authorization or consent. The findings stated that Aljaroudi converted customer funds, in that he received a customer's check from a clearing firm, endorsed the check without the customer's knowledge, authorization or consent, and deposited the check into his personal bank account without repaying the customer or accounting for the funds. (NASD Case #2005001185301)

Stephan Peter Boruchin (CRD #1201115, Registered Principal, Edmond, Oklahoma) 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, Boruchin consented to the described sanction and to the entry of findings that he provided, or caused to be provided, false information to NASD regarding a \$300,000 deposit into his member firm's clearing account. The findings stated that Boruchin failed to respond to NASD requests for documents and to appear and provide testimony. The findings also stated that Boruchin improperly used the market maker exemption contained in NASD Rule 3370 to avoid compliance with the affirmative determination rule, in that he used the market maker exemption while engaging in speculative proprietary trading, including short sales, rather than *bona fide* market making activity. (NASD Case #2005000879301)

Douglas Walter Campbell Jr. (CRD #2462754, Registered Principal, Water Mill, 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 35 days. Without admitting or denying the allegations, Campbell consented to the described sanctions and to the entry of findings that he engaged in an outside business activity and participated in private securities transactions without providing prior written notice to his member firm.

The suspension in any capacity is in effect from December 18, 2006, through January 21, 2007. (NASD Case #ELI2004039101)

Adam R. Cherney (CRD #4364681, Registered Representative, West Hempstead, 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. Without admitting or denying the findings, Cherney consented to the described sanctions and to the entry of findings that he forged a public customer's signature on a replacement form in connection with the replacement of a whole life insurance policy to a universal life insurance policy. The findings stated that Cherney forged a customer's signature on a Declaration of Missing Policies form in connection with an application for conversion of a term life insurance policy to a permanent life insurance policy.

The suspension in any capacity is in effect from December 4, 2006, through February 1, 2007. (NASD Case #2005002114001)

Dennis Scott Comerford (CRD #51684, Registered Representative, Fort Worth, Texas) 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, Comerford consented to the described sanction and to the entry of findings that he participated in private securities transactions, for compensation, without providing prior written notice to, and obtaining approval from, his member firm. The findings also stated that Comerford failed to timely respond to NASD requests for information. (NASD Case #2005001351601)

Kathy Lynn Gallagher (CRD #2189903, Associated Person, Pocatello, Idaho) 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, Gallagher consented to the described sanction and to the entry of findings that she misused \$218,558.00 of public customers' funds intended to be invested on the customers' behalf, and rather than depositing the funds into the customers' accounts as instructed, Gallagher caused the funds to be deposited into a bank account she controlled without the customers' knowledge, authorization or consent. The findings stated that Gallagher forged, or caused to be forged, a registered representative and public customers' signatures on Investment Distribution Forms, causing funds to be wired from the customers' accounts to accounts under her control without the customers' knowledge or authorization to conceal her misuse of funds. The findings also stated that Gallagher falsified books and records, and forged documents and customers' signatures in order to conceal her misuse. (NASD Case #2005000863701)

Dale Lee Gilliland (CRD #4201001, Registered Principal, Allen, Texas) 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. The fine must be paid before Gilliland reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Gilliland consented to the described sanctions and to the entry of findings that he reimbursed public customers for surrender fees based on oral complaints without notifying his member firm that the surrender fees had been incurred when moving assets to the firm, or that the customers were verbally complaining.

The suspension in any capacity was in effect from December 4, 2006, through December 15, 2006. (NASD Case #20050031379-01)

Elliott Matthew Glover (CRD #4476082, Registered Representative, New Castle, Delaware) 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,

Glover consented to the described sanction and to the entry of findings that he converted \$119,000 of public customers' funds by diverting proceeds from loans that customers had received from a bank. (NASD Case #2006004847801)

Jo Anne Jean Goulet (CRD #4768440, Associated Person, Ludlow, Massachusetts) 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, Goulet consented to the described sanction and to the entry of findings that she withdrew a total of \$116,000 from a public customer's fixed annuity by systematically withdrawing amounts under \$10,000 without the customer's knowledge, authorization or consent. The findings stated that Goulet deposited the funds into her personal bank account, thereby converting the funds for her own use and benefit. The findings also stated that, as a result of the unauthorized liquidations, the customer incurred \$6,500 in surrender fees and suffered adverse tax consequences. (NASD Case #2006004750801)

James Joseph Gregorio III (CRD #3276809, Registered Representative, Bethany, Connecticut) 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, Gregorio consented to the described sanction and to the entry of findings that he forged a manager's signature on a district manager contract and submitted the document to his member firm in an improper attempt to obtain funds from the firm. The findings also stated that Gregorio failed to respond to NASD requests for information. (NASD Case #2006004485601)

Geoffrey D. Howe (CRD #5074875, Associated Person, Holland Patent, 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, Howe consented to the described sanction and the entry of findings that he willfully failed to disclose material facts on his Uniform Application for Securities Industry Registration or Transfer (Form U4). The findings stated that Howe failed to respond to NASD requests for information. (NASD Case #2006004012501)

Christopher Lee Jacke (CRD #3041945, Registered Representative, Green Bay, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any NASD member in any capacity for two months, required to requalify as a general securities representative and to a "pre-use" filing requirement for all future advertisements for two years. The fine must be paid before Jacke reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Jacke consented to the described sanctions and to the entry of findings that he distributed sales literature to members of the public that contained false, exaggerated, unwarranted or misleading statements and claims; failed to identify the financial product being promoted as well as its features, benefits, fees, charges, withdrawal restrictions and risks; failed to provide investors with a sound basis for evaluating the product; failed to disclose his member firm's name; and failed to file sales literature concerning registered investment companies with NASD within 10 days of first use.

The suspension in any capacity is in effect from December 4, 2006, through February 3, 2007. (NASD Case #2005003161001)

Mark Constantine Karras (CRD #4678004, Registered Representative, Wyckoff, 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 two months. The fine must be paid before Karras reassociates with a member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Karras consented to the described sanctions and to the entry of findings that, in connection with a Roth IRA funds transfer a public customer authorized, Karras signed the customer's name on conversion forms without the customer's knowledge or authorization.

The suspension in any capacity is in effect from December 4, 2006, through February 3, 2007. (NASD Case #2006005420001)

Kyle Jay Keesling (CRD #1911150, Registered Principal, Simpsonville, South Carolina) 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, Keesling consented to the described sanction and to the entry of findings that he obtained \$112,629.88 from public customers for investment purposes and converted these funds to his own use and benefit. The findings stated that, in an attempt to conceal his conversion of funds, Keesling provided some of the customers with falsified statements showing that their funds had been invested when they had not. (NASD Case #2006004831801)

Harold Lawrence Klein (CRD #728058, Registered Representative, Whitesboro, 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, Klein consented to the described sanction and to the entry of findings that he sent a hand-written note to a mutual fund company in which he falsely represented that he was a public customer. The findings stated that Klein never obtained the customer's consent or authority to send the letter on her behalf, designate himself as the representative for the account or change the customer's mailing address to his own. (NASD Case #2006004836001)

Steven Matthew Labadie (CRD #3149829, Registered Representative, Boca Raton, Florida) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Labadie re-associates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the allegations, Labadie consented to the described sanctions and to the entry of findings that he offered and sold shares of common stocks to public customers when there were no registration statements filed or in effect with the SEC with respect to the securities, as Section 5 of the Securities Act of 1933 requires. The findings stated that Labadie made material misrepresentations or omitted material facts to customers in the offer and sale of unregistered securities. The findings also stated that Labadie failed to disclose to customers any of the risks associated with investment in the stocks and failed to

provide documentation regarding the securities. The findings also included that Labadie directed customers to pay for their stock purchases to the firm or another non-registered entity that Labadie led customers to believe was the firm's clearing firm or bank, and failed to provide documentation evidencing the purchases and the customer funds were never returned to them by Labadie. NASD found that Labadie failed to register as a general securities representative while soliciting customers to purchase securities.

The suspension in any capacity is in effect from November 20, 2006, through May 19, 2008.
(NASD Case #EFL2004000401)

George Peter Lares (CRD #1072379, Registered Principal, Highlands Ranch, Colorado) submitted an Offer of Settlement in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 40 days. The fine must be paid before Lares reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the allegations, Lares consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension in any capacity was in effect from December 4, 2006, through January 12, 2007.
(NASD Case #2005002001301)

William Andrew Malloy (CRD #1492864, Registered Principal, Matthews, North Carolina) was barred from association with any NASD member in any capacity and ordered to pay \$278,072.59 in restitution to public customers. The sanctions were based on findings that Malloy purchased and sold securities for a public customer at a member firm without providing written notification to his member firm and the executing firm of his association with another firm. The findings stated that Malloy entered into an agreement with the customer to share in the profits without his member firm's prior written authorization. The findings also stated that Malloy engaged in a level of trading activity in public customers' accounts that was excessive in light of the customers' financial situation and objectives. The findings also included that Malloy settled a customer complaint without his firm's knowledge or authorization. NASD found that Malloy failed to respond to NASD requests for information and documents. (NASD Case #ELI2004008101)

Richard Martin Northcote Mason (CRD #865615, Registered Representative, Carlsbad, California) 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 31 days. Without admitting or denying the findings, Mason consented to the described sanctions and to the entry of findings that he engaged in an outside business activity, for compensation, and did not provide his member firm with prompt written notice.

The suspension in any capacity was in effect from December 4, 2006, through January 3, 2007.
(NASD Case #20050033823-01)

David Lester McFadden (CRD #2040961, Registered Principal, Baton Rouge, Louisiana) 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, McFadden consented to the described sanction and to the entry of findings that, in connection with the sales of securities, he knowingly or recklessly made misstatements and omissions of material facts, in that he falsely represented to public customers that returns that would be generated by their investments were sufficient to allow customers to retire from their jobs and replace salary payments with regular, sustainable monthly withdrawals from their securities accounts. The findings stated that McFadden recommended securities transactions to customers that were unsuitable in view of the customers' financial situations and investment objectives. The findings also stated that McFadden disseminated false and misleading sales literature to customers, including monthly account statements that contained material omissions and misrepresentations, and referred to himself as an experienced "CPA" despite the fact that he did not have a current, valid, active certificate. The findings also included that McFadden did not submit the sales literature and correspondence to his member firm for prior approval. NASD found that McFadden effected transactions in the accounts of customers without their prior authorization, knowledge or consent. (NASD Case #2005000226001)

George Ellis Brown McMahon III (CRD #3055065, Registered Representative, Waldorf, Maryland) was barred from association with any NASD member in any capacity. The sanction was based on findings that McMahon instructed a public customer to sign checks

totaling \$3,600 and make them payable to him for investment purpose. The findings stated that contrary to McMahon's representation, he did not invest the funds for the customer's benefit, but cashed the checks and misused the customer's funds. The findings also stated that McMahon failed to respond to NASD requests for information. **(NASD Case #2005003051001)**

Neal Kulin Miller (CRD #823284, Registered Representative, Otego, 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 75 days. Without admitting or denying the findings, Miller consented to the described sanctions and to the entry of findings that he caused the firm's records to be altered and failed to abide by Regulation 60—a New York State insurance regulation—by causing public customers to sign incomplete Disclosure Statements. The findings stated that Miller caused the missing data to be added to the Disclosure Statements and the clients' signatures to be dated to convey that the clients had received the required data on the date affixed to their signatures. The findings also stated that the clients had not reviewed the completed forms before signing the variable annuity applications.

The suspension in any capacity is in effect from December 18, 2006, through March 2, 2007.
(NASD Case #E102004058502)

Meredith Anne Molenar (CRD #2620170, Registered Representative, Bay Village, Ohio) 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. Without admitting or denying the findings, Molenar consented to the described sanctions and to the entry of findings that she affixed a copy of a public customer's signature to a corrected Explanation of Transaction Form after noticing a mistake on the original form that the customer signed, and signed the customer's initials on the second page of the corrected form without the customer's knowledge or consent.

The suspension in any capacity is in effect from December 18, 2006, through February 15, 2007.
(NASD Case #2005001915101)

Christopher Lincoln O'Connell (CRD #2153507, Registered Representative, Topsfield, 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, O'Connell consented to the described sanction and to the entry of findings that he received a \$3,140.16 check from a public customer to purchase a disability insurance policy, deposited the check in his personal bank account and misappropriated the proceeds for his own use and benefit. **(NASD Case #2006005048501)**

Joseph Peter Orozco (CRD #1019164, Registered Representative, Burbank, 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, Orozco consented to the described sanction and to the entry of findings that he received a \$471,280.09 check from public customers to be invested, but instead, he retained possession of the check and falsely represented to the customers that it had been deposited and the securities had been purchased. The findings stated that Orozco submitted written reports to his member firm that stated that he had not received any customer correspondence, even though he had received letters from his customers inquiring about the status of their accounts. The findings also stated that Orozco made false statements to public customers regarding the check and the securities. The findings also included that Orozco failed to complete an NASD on-the-record interview and provide requested testimony. **(NASD Case #C0220040045/E0220030808)**

Deane Joseph Pantaleo (CRD #4336722, Registered Representative, Darien, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Pantaleo reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Pantaleo consented to the described sanctions and to the entry of findings that he was found in possession of unauthorized materials during an examination for Series 7 licensing.

The suspension in any capacity is in effect from December 4, 2006, through December 3, 2008. (NASD Case #20050022039-01)

Brian L. Pauley (CRD #4253361, Registered Representative, Olmsted Falls, 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 findings, Pauley consented to the described sanction and to the entry of findings that he withdrew \$95,000 from a deceased public customer's checking and savings accounts, transferred the funds to newly created bank accounts and moved \$65,000 from the new accounts to an investment account in his name, thereby improperly using the customer's funds. (NASD Case #2006004940901)

Michael Brent Peterson (CRD #4611211, Registered Representative, Oxford, 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, Peterson consented to the described sanction and to the entry of findings that he misappropriated a public customer's funds by signing her name on documentation directing distribution of her fixed annuities without her knowledge and consent. The findings stated that Peterson deposited the customer's distribution checks into her checking account at the bank where he was employed, and wrongfully used his authority as an officer of the bank to withdraw funds from her account and deposit them into his personal bank account at another bank, thereby converting the funds to his own use. The findings also stated that Peterson failed to respond to NASD requests for information. (NASD Case #2005003168601)

Robert Howard Petretta (CRD #813587, Registered Representative, El Cajon, California) 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, Petretta consented to the described sanctions and to the entry of findings that he failed to disclose to his member firm a public customer's oral complaint and his \$400 payment to the customer to compensate for the surrender charges incurred in connection with cash withdrawals made against a variable annuity policy.

The findings stated that, by failing to disclose the complaint and the \$400 payment, Petretta's member firm was precluded from conducting a more timely analysis of the customer's written complaint.

The suspension in any capacity was in effect from December 18, 2006, through January 2, 2007. (NASD Case #20050003712-01)

Florence Sarah Pollard (CRD #2208895, Registered Principal, La Jolla, California) was fined \$5,000 and suspended from association with any NASD member in any principal capacity for six months. The Office of Hearing Officers (OHO) imposed the sanctions following a remand order from the National Adjudicatory Council (NAC). The sanctions were based on findings that Pollard solicited and received payment on her member firm's behalf from issuers for filing Form 211 applications with NASD.

This decision has been appealed to the Securities and Exchange Commission (SEC), and the sanctions are not in effect pending consideration of the appeal. (NASD Case #CAF20030042)

Michael Alcide Poutre II (CRD #2482252, Registered Principal, Woodland Hills, California) 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 business days. Without admitting or denying the allegations, Poutre consented to the described sanctions and to the entry of findings that he failed to provide complete and timely information to NASD during an onsite examination, in that he deleted business-related emails prior to providing access to his email communications.

The suspension in any capacity was in effect from December 4, 2006, through December 15, 2006. (NASD Case #E9B2004041001)

Scott Thomas Powers (CRD #2255877, Registered Representative, Danvers, Massachusetts) was barred from association with any NASD member in any capacity. The sanction was based on findings that Powers accepted \$25,000 from a public customer for investment purposes and deposited the funds into a bank account, but failed to use the funds for the customer's benefit. The findings also stated that Powers failed to respond to NASD requests for information. (NASD Case #2005002808001)

Michael Anthony Randall (CRD #4478306, Registered Representative, York, 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 60 days. The fine must be paid before Randall reassociates with a member firm following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Randall consented to the described sanctions and to the entry of findings that he was given discretionary trading authority over a public customer's account at another member firm and failed to give the firm and his member firm the required notifications. The findings stated that Randall engaged in excessive and unsuitable trading in the customer's account at another member firm.

The suspension in any capacity is in effect from December 18, 2006, through February 15, 2007.
(NASD Case #2005002265701)

Peter Rhee (CRD #2964890, Registered Representative, Garfield, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Rhee effected transactions in public customers' account without the customers' authorization or consent. The findings also stated that Rhee failed to respond to NASD requests for information and documentation and failed to appear for an NASD on-the-record interview. (NASD Case #E9B2004049101)

Kurt David Roberts (CRD #1759705, Registered Representative, Flower Mound, Texas) submitted an Offer of Settlement 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 Roberts reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the allegations, Roberts consented to the described sanctions and to the entry of findings that he signed the name of the president of his member firm as the authorized dealer to an IRA application without the president's authorization, knowledge or consent, and submitted the application to his firm for processing in violation of his firm's procedures that require all applications be sent to the home office for supervisory review and approval.

The suspension in any capacity is in effect from December 4, 2006, through February 1, 2007.
(NASD Case #2005002515101)

Susan Lynne Rocchio (CRD #5086618, Registered Representative, Huntersville, North Carolina) 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 seven months. The fine must be paid before Rocchio reassociates with any NASD member following the suspension, or before she requests relief from any statutory disqualification. Without admitting or denying the findings, Rocchio consented to the described sanctions and to the entry of findings that she possessed unauthorized materials during a Series 7 qualifications examination.

The suspension in any capacity is in effect from November 20, 2006, through June 19, 2007.
(NASD Case #2006004989501)

Richard M. Schultz (CRD #5081725, Associated Person, Bad Axe, Michigan) 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 Schultz reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, Schultz consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from December 4, 2006, through December 3, 2007.
(NASD Case #2006004928101)

Hunter Scott Singer (CRD #2236147, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Singer failed to respond to NASD requests for information.
(NASD Case #20050023167-01)

James Lester Varner (CRD #802874, Registered Representative, Tulsa, Oklahoma) 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, Varner consented to the described sanction and to the

entry of findings that he provided an affiliate of his member firm with a copy of what he claimed to be a valid insurance license issued by a state insurance department, when, in fact, his license with the state had expired, and he had altered the document to make it appear current before submitting it to his member firm. (NASD Case #2006005277201)

Kiet Tuan Vo (CRD# 4076441, Registered Principal, Jersey City, New Jersey) submitted an Offer of Settlement in which he was fined \$25,000, suspended from association with any NASD member in any capacity for 18 months and barred from association with any NASD member in any principal capacity. The fine must be paid before Vo reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the allegations, Vo consented to the described sanctions and to the entry of findings that he allowed an individual who was not registered in any capacity with NASD, and/or had no reasonable basis to believe that he was registered with NASD and was subject to disqualification from association with any NASD member, to be associated with his member firm. The findings stated that Vo allowed him to exercise supervisory and managerial powers at the firm, control the firm's securities operations and activities, and engage in and perform a range of activities and functions that were impermissible and required registration. The findings also stated that Vo made no reasonable effort to prevent the individual from exercising managerial powers at the firm. In addition, the findings stated that Vo willfully failed to amend his Form U4 to disclose material information.

The suspension in any capacity is in effect from December 4, 2006, through June 3, 2008. (NASD Case #2005001305701)

Christopher M. Voelker (CRD #4653340, Registered Representative, Wapakoneta, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Voelker forged a client's signature on life insurance applications, submitted the applications to his member firm and paid the premiums for the policies, and failed to respond to NASD requests for information and documents. (NASD Case #2005003255601)

Joseph Gene West (CRD #3004081, Registered Representative, Bend, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$27,831.03, which includes \$7,831.03 in disgorgement of financial benefits received, and suspended from association with any NASD member in any capacity for 105 days. The fine must be paid before West reassociates with any NASD member following the suspension, or before he requests relief from any statutory disqualification. Without admitting or denying the findings, West consented to the described sanctions and to the entry of findings that he prepared and displayed sales literature to public customers that purported to compare a life value variable annuity with other products, but failed to disclose material differences among the products. The findings stated that West made false representations to customers regarding annual returns. The findings also stated the comparison chart did not disclose West's member firm, was not approved by a principal at the firm and it was not filed with NASD prior to its first use. In addition, West recommended the purchase of variable annuities to customers without reasonable grounds for believing that they were suitable for the customers upon the basis of the facts they disclosed as to their other security holdings and their financial situation and needs.

The suspension in any capacity is in effect from December 18, 2006, through April 1, 2007. (NASD Case #E3B2004021102)

Decision Issued

The following decision has been issued by OHO and has been appealed to or called for review by the NAC as of the end of November. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

Karen Jean Hill (CRD #1018669, Registered Representative, Saginaw, Michigan) was suspended from association with any NASD member in any capacity for six months. The sanction was based on findings that Hill created false documents by having public customers sign blank switch forms, completing

the forms with the correct surrender charges and reasons for the switch and submitting them to her member firm as if the customers had executed the completed forms.

This decision has been appealed to the NAC, and the sanction is not in effect pending consideration of the appeal. (NASD Case #C8A20050060)

Complaints Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents NASD's initiation of a formal proceeding 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.

Iftikhar UI Haq (CRD #4212059, Registered Representative, Toms River, New Jersey) was named as a respondent in an NASD complaint alleging that he executed, or caused to be executed, transactions in a public customer's account without the customer's knowledge, authorization or consent. The complaint alleges that Haq exercised discretionary trading authority in the customer's account without obtaining the customer's prior written authorization and his member firm's written acceptance of the discretionary trading account. The complaint also alleges that Haq's trading activity in the customer's account was excessive in size and frequency in view of the customer's financial circumstances and investment objectives. The complaint further alleges that Haq executed or caused the transactions to be executed, without reasonable grounds for believing that the level of activity represented by the transactions was suitable based on the customer's financial situation, investment objectives and needs. (NASD Case #ELI2004026701)

Jose Hernandez (CRD #1976668, Registered Representative, Cary, Illinois) was named as a respondent in an NASD complaint alleging that he converted or misused \$4,100 from a public customer that was intended for the purchase of securities, and used the funds for personal expenses and not for the

customer's benefit. The complaint alleges that Hernandez created false account statements that purportedly showed that the customer owned securities to conceal from the customer that the money was not used to purchase securities. The complaint also alleges that Hernandez failed to respond to NASD requests for information. (NASD Case #2005001945401)

Christopher David Solomon (CRD #4470012, Registered Representative, Treasure Island, Florida) was named as a respondent in an NASD complaint alleging that he engaged in an outside business activity and failed to provide written notice to his member firm. The complaint alleges that Solomon received \$8,000 from a public customer for investment purposes, deposited the funds into a bank account he controlled but failed to transmit the funds from the bank account for the intended investment, thereby converting the customer's funds. The complaint also alleges that Solomon provided the customer with a false account statement in order to convince him that the investment had been made when, in fact, there was no such investment. In addition, the complaint alleges that Solomon failed to respond to NASD requests for information. (NASD Case #2006005220901)

Richard Adam Thayer (CRD #4123272, Registered Representative, St. Clair Shores, Michigan) was named as a respondent in an NASD complaint alleging that he withdrew \$2,000 from a public customer's bank account without the customer's knowledge or consent, and used the funds for his personal use or for some purpose other than the customer's benefit. The complaint alleges that Thayer converted funds from other customers, without their knowledge or consent, to cover up his use of the first customer's funds. The complaint further alleges that Thayer failed to respond to NASD requests for information. (NASD Case #2006005175401)

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

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

Todd Michael Newman
Royal Palm Beach, Florida
(November 30, 2006)