

Notice To Members

National Association of Securities Dealers, Inc.

July 1991

Number 91-45**Suggested Routing:***

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

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

Subject: NASD/NYSE Joint Memo on Chinese Wall Policies and Procedures

The National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., and a committee of the Securities Industry Association have developed a joint memorandum that explains the "minimum elements" of adequate Chinese Wall

policies and procedures pursuant to the requirements of the Insider Trading and Securities Fraud Enforcement Act of 1988. The memo, which has been reviewed by the Securities and Exchange Commission, is reprinted on the following pages.



**National Association
of Securities Dealers, Inc.**



**New York
Stock Exchange, Inc.**

TO: MEMBERS AND MEMBER ORGANIZATIONS
DATE: JUNE 21, 1991
SUBJECT: CHINESE WALL POLICIES AND PROCEDURES

I. Introduction

In November 1988, Congress enacted the Insider Trading and Securities Fraud Enforcement Act of 1988 ("The 1988 Act" or "ITSFEA") which, among other things, requires all broker-dealers "to establish, maintain and enforce written procedures reasonably designed" to prevent the misuse of material, non-public information by employee and proprietary accounts. The 1988 Act also grants the Securities and Exchange Commission ("SEC" or "Commission") broad rule-making authority concerning these so-called Chinese Wall procedures. Under these circumstances, the SEC's Division of Market Regulation ("SEC Division") undertook a comprehensive review to identify, analyze and weigh the effectiveness of Chinese Wall policies and procedures of broker-dealers and, in March 1990, issued a report of its findings, conclusions and recommendations.

The SEC Division's report identified what it viewed as necessary elements of an adequate Chinese Wall:

These minimum elements include review of employee and proprietary trading, memorialization and documentation of firm procedures, substantive supervision of inter-departmental communication by the firm's compliance department, and procedures concerning proprietary trading when the firm is in possession of material, non-public information.

The SEC Division report was particularly concerned about the need for firms to "maintain documentation sufficient to re-create actions taken pursuant to Chinese Wall procedures" and the report urged self-regulatory organizations ("SROs") to develop standards of documentation for their member firms. The report also concluded that SEC rule-making was not currently necessary since required improvements to broker-dealer Chinese Walls would best be effectuated by self-regulatory examination programs, supplemented by Commission oversight. However, the report further said that the Division will continue to monitor broker-dealer Chinese Walls closely, and will reconsider possible Commission rule-making should it determine that necessary Chinese Wall improvements are not being made.

As a result of these concerns, the New York Stock Exchange, Inc. ("NYSE"), the National Association of Securities Dealers, Inc. ("NASD"), and a committee of the Securities Industry Association ("SIA") representing various member organizations met on a number of occasions to determine the scope and definition of the "minimum elements" of adequate Chinese Wall procedures, including minimum standards of documentation of actions taken pursuant to such procedures. This memorandum sets forth those conclusions which have been reviewed by the SEC staff.¹

II. Memorialization of the Firm's Chinese Wall Procedures and Documentation of Actions Taken

A firm's Chinese Wall policies and procedures must be formalized, organized and incorpo-

¹Uniform Chinese Wall procedures are not required. Moreover, whether a firm's procedures to detect and prevent insider trading are adequate under the 1988 Act will depend upon the nature and scope of the firm's business and its organizational structure.

rated within a firm's procedural/policy manuals. The SEC Division cautioned that a "loose mixture of internal memoranda, excerpts from employee manuals and certifications" is not an adequate memorialization of these important policies and procedures.

The need to maintain documentation sufficient to re-create actions taken pursuant to Chinese Wall procedures was considered vitally important by the SEC Division. What constitutes sufficient documentation for a particular action taken is discussed in detail hereafter. In general, a firm must maintain documentation of its written policies and procedures as well as its analyses and investigations of employee and proprietary trading in accordance with SEC record-keeping requirements.

III. Review of Employee and Proprietary Trading

The SEC Division concluded that firms which conduct investment banking, research or arbitrage activities must maintain some form of watch and restricted lists and conduct reviews of employee and proprietary trading in securities appearing on those lists.² NYSE members are also required by NYSE Rules 342 and 351 to conduct and report upon such trading reviews. The firm's written procedures should address its method for determining whether proprietary trading should be restricted or prohibited once a department of the firm comes into possession of material, non-public information.

Generally speaking, a restricted list is a current list of securities in which proprietary, employee and certain solicited customer transactions are restricted or prohibited.³ A watch list is a current list of securities that generally do not carry trading restrictions, but whose trading is subject to close scrutiny by the firm's compliance and/or legal department. Although the dissemination of a watch list generally is limited, a restricted list is usually distributed periodically throughout the broker-dealer to make employees aware of those securities that the firm is restricted or prohibited from recommending and/or trading.

A firm's procedures should explain why, when and how a security should be placed on and deleted from a restricted list or watch list and which activities are prohibited or restricted when a security is on either list. The minimum documentation for the use of restricted and watch lists is as follows:

- a. Reasonable written standards or criteria for placing a security on and deleting a security from such lists must be established.
- b. Restricted list documentation must include the date and time the security was added to and deleted from the list. It should also include the name of each contact person (such as the involved investment banker or research analyst) who was responsible for the addition or deletion and can answer specific questions concerning the timing and circumstances of the addition or deletion.
- c. Watch list records must include the date the security was added to and deleted from the list. They should also include the name of each contact person (such as the involved investment banker or research analyst) who was responsible for the addition or deletion and can answer specific questions concerning the timing and circumstances of the addition or deletion.
- d. The firm's rationale for additions to and deletions from the watch and restricted lists need not be recorded as long as the name of the contact person is recorded. This person should know the rationale if questioned by the SEC or an SRO.

The firm's procedures must adequately address how the firm monitors employee trading outside the firm for transactions in a watch list or restricted list security.⁴ If the firm permits an employee to maintain a securities account with another broker-dealer, it must require the employee to have duplicate confirmations and account statements sent to it as the employing member with supervisory responsibility. See NYSE Rule 407 and NASD Rules of Fair Practice (Article III, Section 28).

The firm's procedures should specify the time period covered and frequency of any review of

²For trade review purposes, the term "employee" includes employee-related accounts.

³For example, most firms prohibit employee trading for one to five days in securities in which the firm has issued a research report. Some firms also use the restricted list to ensure that proprietary trading does not occur in violation of SEC Rule 10b-6.

⁴In addition, NYSE Rules 342 and 351 and the NASD Rules of Fair Practice require member firms to monitor transactions in other securities such as those in which there is a known close relationship with the issuer's management.

proprietary and employee trading and the department or person responsible for the review. The procedures also should impose a requirement that the reviewer initial or sign a record or form reflecting the completion of the review.

Documentation is a required element in evidencing routine reviews of employee and proprietary trading. Each firm should also establish a manual or automated exception report, or procedure, to at least record the pertinent details of any transaction by an employee or proprietary account in a restricted list or watch list security. Additionally, firms must maintain a sample of any exception report and must be able to provide to SEC or SRO examiners data concerning proprietary or employee transactions in restricted list or watch list securities. Both lists must be maintained in accordance with SEC record-keeping requirements.

A firm must reasonably inquire into or investigate for possible misuse of material, non-public information transactions by any employee or the firm's proprietary accounts, particularly those transactions in restricted list or watch list securities. The need for or extent of such an inquiry or investigation of an employee transaction should be determined by reasonable criteria, including consideration of the timing or unusual nature of the transaction, such as whether the employee traded on a short-term basis or in a size or dollar amount larger than his normal trading pattern. However, a failure to investigate merely because the employee worked in a "non-sensitive" department may be insufficient.

Any investigations initiated must be documented. At a minimum, an investigation record should include: (1) the name of the security; (2) the date the investigation commenced; (3) an identification of the accounts involved; and (4) a summary of the investigation disposition. The underlying investigative records, including any analyses, inter-office memoranda and employee statements, should also be made available to the SEC or SRO staff upon request.

Although the maintenance of a so-called "rumor" list is not a required element for an adequate Chinese Wall, some firms have employed such lists as part of their Chinese Wall monitoring systems. The SEC Division report encourages firms to do so. Securities are generally placed by the firm on a rumor list when the issuer of the security becomes the subject of rumors of a significant impending third party deal.

Firms that do not conduct investment banking, research or arbitrage activities usually would not need to include a restricted list or watch list as part of their written procedures to prevent the misuse of material, non-public information. Nonetheless, their written procedures must include a reasonable method of periodically reviewing employee and proprietary trading for misuse of material, non-public information, given the nature and scope of the firm's business, and include reasonable provisions for investigating any suspect trades as described above. Of course, any investigation of such trading would need to be documented as described above. In addition, such a firm must have reasonable procedures for the education and training of its employees about insider trading, as discussed under Section V herein.

IV. Supervision of Inter-Departmental Communications

Adequate Chinese Walls must include policies and procedures reasonably designed to limit or contain the necessary flow of material, non-public information to employees who have a "need to know." They include: (1) policy statements in this regard; (2) the physical separation of the trading and sales departments from departments which regularly receive confidential information; (3) other restrictions to access, such as separate record-keeping and support systems for sensitive departments; and (4) supervision of inter-departmental communications involving material, non-public information.

Restrictions on inter-departmental communications of material, non-public information may be designed primarily to isolate a firm's investment banking department from other departments. Occasions arise when the investment banking department requires information from the research or sales departments. Such occasions necessitate procedures that allow an investment banking employee to obtain the needed information without disclosing the purpose of the request and tipping the research or sales department. The scope and form of an information request itself may, in certain circumstances, tip the employee. In these instances, it may be necessary to bring a research or sales employee "over the wall" before making a request. Prompt notification should be made to the Compliance and/or Legal Department of any "wall crossing."

An employee who is brought over the wall is treated as a temporary member of the investment banking department possessing material, non-public information for Chinese Wall surveillance purposes.

In instances where employees are brought over the wall, the firm must document and maintain written records of: (1) the name of the employee brought over the wall; (2) the employee's department; (3) the date; (4) the name of the issuer(s) involved; and (5) the name of the person requesting that the wall be crossed. It is not necessary for the firm to record the reasons for bringing a particular employee over the wall if it is apparent from the employee's department affiliation.

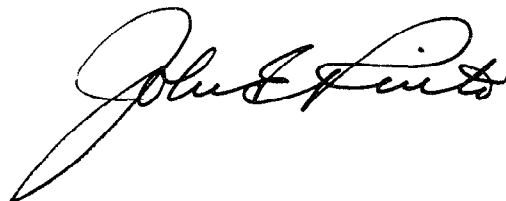
V. Education and Training of Employees

Another important element of an effective Chinese Wall system, according to the SEC Division's report, is employee understanding of federal and state laws, self-regulatory organization requirements, and the firm's own policies and procedures relating to the use of material, non-public information. First, to assure every employee's awareness of such requirements, every firm must establish a procedure whereby such requirements are provided to or made available to each employee. Second, the firm's procedures must require each employee, at least once during the course of employment (e.g., upon hiring for new employees or upon initiation of this requirement for existing employees), to sign an attestation of his or her knowledge and understanding of such requirements. Such attestation or statement of understanding must be retained in the firm's files. Firms should consider requiring employees in sensitive departments (e.g., investment banking) to sign such attestation on an annual basis. Third, the firm's procedures must include some process to update employees as to new or revised requirements, and to continue their education and compliance in this area. Policy or education memos may be used for this purpose in conjunction with the "annual compliance review" for registered employees, which is required under Article III, Section 27 of the NASD Rules of Fair Practice.

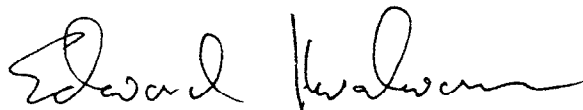
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Firms are reminded that the "minimum elements" for an adequate Chinese Wall system, as discussed in this memorandum, must be addressed in the firm's written policies and procedures designed to detect and prevent insider trading and must be reasonable for individual circumstances and conditions at each firm.

Questions concerning this memorandum may be directed to Mary Anne Furlong at (212) 656-4823 or Patricia Dorilio at (212) 656-2744 at the NYSE or William R. Schief at (202) 728-8229 at the NASD.



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



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

Notice To Members

National Association of Securities Dealers, Inc.

July 1991

Number 91-46

Suggested Routing:*

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| <input checked="" type="checkbox"/> Senior Management | <input checked="" type="checkbox"/> Internal Audit | <input checked="" type="checkbox"/> Operations | <input type="checkbox"/> Syndicate |
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| <input type="checkbox"/> Institutional | <input checked="" type="checkbox"/> Mutual Fund | <input type="checkbox"/> Research | <input checked="" type="checkbox"/> Training |

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

Subject: Request for Comments on Exemption for Directly Marketed Mutual Funds From Article III, Section 21(c)(2)(ii) and (iii) of the Rules of Fair Practice Re: Customer Account Information Regarding Employment; Last Date for Comments: July 31, 1991

EXECUTIVE SUMMARY

On January 1, 1991, amendments to Article III, Sections 2 and 21(c) of the Rules of Fair Practice ("Rules"), which require NASD members to make reasonable efforts to obtain information pertaining to customer accounts, became effective. Since that time, the NASD has received and considered comments from members of the mutual fund industry regarding their objections to the collection of customers' employment data pursuant to Article III, Subsections 21(c)(2)(ii) and (iii). Members of the industry have argued that the collection of such employment data is really intended to permit members to evaluate the suitability of an investment recommendation

for a customer, and that such data is unnecessary for directly marketed mutual funds because no investment recommendation is ever involved.

The NASD is considering an interpretation of Article III, Section 21(c) that would state that the provisions of Subsections (2)(ii) and (iii) thereof are inapplicable to directly marketed mutual funds. In addition, the NASD wishes to determine whether other segments of the industry also desire an exemption for similarly valid reasons. Accordingly, the NASD is soliciting member comment on this requested exemption.

BACKGROUND AND SUMMARY OF PROPOSED INTERPRETIVE EXEMPTION

On May 2, 1990, the SEC approved an NASD rule change that requires NASD members to make reasonable efforts to obtain information pertaining to customer accounts.¹ These amendments became effective January 1, 1991.²

As amended, Section 21(c) requires a member

to make reasonable efforts to obtain, prior to the settlement of the initial transaction in a noninstitutional customer account, the tax identification or

¹See Securities and Exchange Commission Release No. 34-27982 (May 2, 1990), 55 F.R. 19402 (May 9, 1990).

²See Securities and Exchange Commission Release No. 34-28312 (August 3, 1990), 55 F.R. 32722 (August 10, 1990).

Social Security number of the customer, and the occupation and name and address of the employer of each customer for each account. In addition, the member must inquire as to whether the customer is associated with another member.

Amended Section 21(c) specifically excludes transactions and accounts in which investments are limited to money market mutual funds.

Members of the mutual fund industry have asked the NASD to interpret amended Section 21(c) so that directly marketed mutual funds are also exempt from the obligation to gather the employment data required by Subsections 21(c)(2)(ii) and (iii). The mutual fund industry members have argued that they sell shares of mutual funds to the public primarily through direct mail and through newspaper, magazine, radio, and television advertisements. They contend that interested investors are encouraged to secure a prospectus that contains all the essential information necessary for the prospective customer to make an informed investment decision, and that the investor may also utilize a variety of other source materials in deciding whether to purchase the shares of a mutual fund. In such a situation, the members argue that the investor makes his or her own investment decision, and that the NASD member's role is limited to furnishing information on request and answering factual questions.

Section 21(c) requires each NASD member to "make reasonable efforts to obtain, prior to the settlement of the initial transaction in the account, the . . . [employment data] . . . to the extent it is applicable to the account . . ." Because no investment recommendation is made by the NASD member that effects a mutual fund transaction, the members argue that the employment data should be deemed not "applicable to the account." The members argue that the only purpose for collecting employment data is to evaluate the suitability of an investment recommendation for the account in later instances. The members state that the expense of collecting and storing the unnecessary employment data must either be absorbed by the member firm

or passed on to the investing public through one of the mutual fund's agents. They also assert that data processing programs must be modified to create new data fields for the employment data, which inevitably increases expense and slows down the other data processing associated with essential functions. Members argue that account applications are already very long and complex documents, and that adding more requests for information increases the possibility that an investor's application will be incomplete and that his or her investment will be delayed. They contend that significant expense is also incurred when inventory of existing applications must be discarded and new forms printed.

The NASD believes that there is merit to the requested interpretation of Section 21(c), and is soliciting comments from other members of the industry regarding this instance or similar requests for interpretive exemptions for their products. Such requests should specifically address any similarities to directly marketed mutual funds, (i.e., no possibility of recommendation to customers' accounts) and any other arguments that might justify an interpretive exemption.

The NASD encourages all members and other interested persons to comment on the proposed interpretive exemption. Comments should be directed to:

Stephen D. Hickman, Secretary
 National Association of Securities
 Dealers, Inc.
 1735 K Street, NW
 Washington, DC 20006-1506.

Comments must be received **no later than July 31, 1991**. Comments received by this date will be considered by the NASD National Business Conduct Committee and Board of Governors.

Questions concerning this notice may be directed to Deborah F. McIlroy, Senior Attorney, NASD Office of General Counsel, at (202) 728-8816.

Notice To Members

National Association of Securities Dealers, Inc.

July 1991

Number 91-47

Suggested Routing:*

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Subject: Nasdaq National Market System (Nasdaq/NMS) Additions, Changes, and Deletions As of June 12, 1991

As of June 12, 1991, the following 38 issues joined Nasdaq/NMS, bringing the total number of issues to 2,560:

Symbol	Company	Entry Date	SOES Execution Level
OWWH	OW Office Warehouse, Inc.	5/15/91	500
DNKG	Danek Group, Inc.	5/17/91	1000
ISIP	Isis Pharmaceuticals, Inc.	5/17/91	1000
AURA	Aura Systems, Inc.	5/21/91	1000
ZENL	Zenith Laboratories, Inc.	5/21/91	1000
IMUL	ImmuLogic Pharmaceutical Corporation	5/22/91	1000
WCLX	Wisconsin Central Transportation Corporation	5/22/91	500
ENVY	Envoy Corporation	5/23/91	1000
SCGNZ	SciGenics, Inc.	5/23/91	200
SOTA	State Of The Art, Inc.	5/23/91	200
BWIP	BWIP Holding, Inc. (CI A)	5/24/91	1000
MARSB	Marsh Supermarkets, Inc. (CI B)	5/28/91	1000
PNDR	Ponder Industries, Inc.	5/28/91	500
ASHBY	Automated Security (Holdings) PLC	5/29/91	500
WTXT	Wheatley TXT Corp.	5/31/91	1000
AMCE	American Claims Evaluation, Inc.	6/4/91	500
CBLM	CBL Medical, Inc.	6/4/91	1000
CBLMW	CBL Medical, Inc. (Wts)	6/4/91	1000
CEMC	Century MediCorp	6/4/91	1000
HBHC	Hancock Holding Company	6/4/91	200
MAROA	Marrow-Tech Incorporated (CI A)	6/4/91	1000
MOOR	Moorco International Inc.	6/4/91	1000
PTON	Proteon, Inc.	6/4/91	1000
RENT	Rentrak Corporation	6/4/91	1000

Symbol	Company	Entry Date	SOES Execution Level
CASH	C.A. Short International, Inc.	6/4/91	1000
TSIN	TSI International, Inc.	6/4/91	1000
CHKE	Cherokee Inc.	6/5/91	1000
LCUT	Lifetime Hoan Corporation	6/5/91	1000
RAGS	Rag Shops, Inc.	6/5/91	500
USHO	U.S. HomeCare Corporation	6/5/91	200
AETC	Applied Extrusion Technologies, Inc.	6/6/91	1000
CNSI	Cambridge NeuroScience Research, Inc.	6/6/91	1000
CRGN	Cragin Financial Corp.	6/6/91	1000
ICOS	ICOS Corporation	6/6/91	1000
ABPCA	Au Bon Pain Co., Inc. (Cl A)	6/7/91	1000
PLSE	Pulse Engineering, Inc. (Cl A)	6/11/91	1000
QLMD	Qual-Med, Inc.	6/11/91	1000
QDEK	Quarterdeck Office Systems, Inc.	6/11/91	1000

Nasdaq/NMS Symbol and/or Name Changes

The following changes to the list of Nasdaq/NMS securities occurred since May 13, 1991:

New/Old Symbol	New/Old Security	Date of Change
MARSA/MARS	Marsh Supermarkets, Inc. (Cl A)/Marsh Supermarkets, Inc.	5/16/91
SFLD/BMAC	Seafield Capital Corporation/BMA Corporation	5/16/91
GRNT/GRNT	Grant Tensor Geophysical Corporation/Grant-Norpac, Inc.	5/20/91
LABK/CBNE	Lafayette American Bancorp, Inc./Constitution Bancorp of New England, Inc.	5/21/91
GROV/GROV	Grove Bank/Grove Bank for Savings	5/24/91
SNLB/SNFS	Second National Bancorporation/Second National Federal Savings Bank	5/28/91
LACE/FWCH	Alpine Lace Brands, Inc./First World Cheese, Inc.	6/3/91
CHLN/CHLN	Chalone Wine Group, Ltd. (The)/Chalone, Inc.	6/5/91
HARL/HARL	Harleysville Savings Bank/Harleysville Savings Association	6/11/91

Nasdaq/NMS Deletions

Symbol	Security	Date
PVNA	Provena Foods, Inc.	5/14/91
RAXRC	Rax Restaurants, Inc.	5/15/91
WCBK	Workingmens Corporation	5/15/91
SNSR	Sensormatic Electronics Corporation	5/16/91
NVBC	Napa Valley Bancorp	5/17/91
CITGS	Citizens Growth Properties	5/20/91
MMOA	Medical Management of America, Inc.	5/20/91
VFEDC	Valley Federal Savings and Loan Association	5/21/91
BNTN	Benton Oil and Gas Company	5/24/91
JMLC	James Madison Limited	5/28/91
MOTO	Moto Photo, Inc.	5/29/91
MOTOP	Moto Photo, Inc. (Pfd)	5/29/91
MOTOZ	Moto Photo, Inc. (Wts)	5/29/91
UHSIB	Universal Health Services, Inc. (Cl B)	6/7/91
HHGRW	Helian Health Group, Inc. (Wts)	6/11/91
THFI	Plymouth Five Cents Savings Bank	6/11/91

Symbol	Security	Date
STWQE	Statewide Bancorp	6/11/91
TTOI	TEMPEST Technologies, Inc.	6/11/91
TWIN	Twin Star Productions	6/11/91

Questions regarding this notice should be directed to Kit Milholland, Senior Analyst, Market Listing Qualifications, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Leon Bastien, Assistant Director, NASD Market Surveillance, at (301) 590-6429.

Disciplinary Actions

National Association of Securities Dealers, Inc.

July 1991

Disciplinary Actions Reported for July

The NASD is taking disciplinary actions against the following firms and individuals for violations of the NASD Rules of Fair Practice, securities laws, rules, and regulations, and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions began with the opening of business on Monday, July 1, 1991. The information relating to matters contained in this notice is current as of the 20th of the month preceding the date of the notice. Information received subsequent to the 20th is not reflected in this publication.

FIRMS EXPELLED

Equitable Securities of New York, Inc. (New York, New York) was expelled from membership in the NASD. The sanction was based on findings that the firm failed to honor a \$22,000 arbitration award and failed to pay \$400 in forum fees.

Mostel & Taylor Securities, Inc. (New York, New York) was expelled from membership in the NASD. The sanction was based on findings that the firm failed to pay a \$10,000 arbitration award.

FIRMS EXPELLED, INDIVIDUALS SANCTIONED

Amtex Financial, Inc. (Grapevine, Texas) and **Brian Tobias-Jones** (Registered Principal, Dallas, Texas). The firm was expelled from membership in the NASD. The sanction against the firm was based on findings by the District Business Conduct Committee (DBCC) for District 6. Tobias-Jones submitted an Offer of Settlement pursuant to which he was fined \$10,000, suspended from association with any member of the NASD in any capacity for two years, and required to requalify by examination in any capacity.

Without admitting or denying the allegations, Tobias-Jones consented to the described sanctions and to the entry of findings that Amtex, acting through Tobias-Jones, failed to maintain accurate books and records and failed to maintain its required minimum net capital. The NASD found that the firm, acting through Tobias-Jones, did not satisfy the conditions of its (k)(2)(i) exemption in that it had customer funds in its operating account,

failed to prepare reserve computations, and failed to maintain a Special Reserve Bank Account for the Exclusive Benefit of Customers.

Furthermore, the findings stated that, in connection with the offer and sale of limited partnership interests, Amtex, acting through Tobias-Jones, failed to transmit subscriber funds totaling \$127,500 to a bank escrow account promptly and failed to return investors' subscription funds when the minimum amount was not sold. The findings also stated that Tobias-Jones withdrew subscriber funds and deposited these funds into his firm's operating account. In addition, Amtex, acting through Tobias-Jones, failed to file telegraphic notice with the SEC and the NASD in a timely manner regarding its net capital deficiency and its failure to maintain accurate books and records, according to the findings. The NASD also determined that the firm, acting through Tobias-Jones, failed to establish current written supervisory procedures.

In addition, the NASD found that, on behalf of another member firm, Tobias-Jones failed to comply with Schedule C of the NASD's By-Laws in that he acted as a principal of the firm without proper registration with the NASD and that he failed to establish current written supervisory procedures.

FIRMS SUSPENDED, INDIVIDUALS SANCTIONED

Sacks Investment Company, Inc. (Novato, California) and **Richard Lawrence Sacks** (Registered Principal, Novato, California) were fined \$101,891.20, jointly and severally. The firm was

prohibited from engaging in principal transactions for two years. Richard Sacks was prohibited from acting in any principal, proprietary, or managerial capacity unless Sacks Investment Company, or any other broker-dealer with which he associates, has in its employ a financial and operations principal and a full-time general securities principal who are not the same individual and who are individuals other than Sacks. In addition, Sacks was suspended from association with any member of the NASD in any capacity for 60 days and required to requalify by examination as a principal. The sanctions were imposed following the Securities and Exchange Commission's (SEC) dismissal of an application for review of the action taken by the NASD's Board of Governors.

The NASD's sanctions were based on findings that the firm and Sacks charged retail customers unfair prices with markups ranging from 5.4 to 100 percent above their contemporaneous costs, used a customer's account as a second inventory account for the firm, failed to disclose on customer confirmations the firm's markups or the fact that the firm was acting in a principal capacity, guaranteed a customer against loss, executed fictitious trades to facilitate a loan to a customer, operated without a financial and operations principal, and engaged in municipal securities transactions without registering with the Municipal Securities Rulemaking Board and without having a municipal securities principal.

FIRMS FINED, INDIVIDUALS SANCTIONED

LSCO Securities, Inc. (Wichita, Kansas) and **Arthur Sykes, Jr. (Registered Principal, Goddard, Kansas)**. The firm was fined \$10,000. It was further fined \$2,500, jointly and severally with other individuals, and \$15,000, jointly and severally with Sykes. Sykes also was fined \$5,000, individually, and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were imposed following a review by the SEC of an action taken by the NASD's Board of Governors. The sanctions were based on findings that the firm, acting through Sykes, effected securities transactions as principal, with retail customers, at prices that were unfair and unreasonable. Furthermore, the firm conducted a securities business when its net capital was below the minimum requirement.

Sykes' suspension commenced with the open-

ing of business on Monday, April 22, 1991.

Shearson Lehman Brothers Inc. (Baton Rouge, Louisiana) and **Charles W. Gladney (Registered Principal, Baton Rouge, Louisiana)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$50,000. Gladney was fined \$5,000, suspended from association with any member of the NASD in any principal capacity for six months, and required to requalify by examination as a principal. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Shearson, acting through Gladney, failed to establish, maintain, and/or enforce written supervisory procedures.

InterAmerican Securities Corporation (Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which the firm was fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that InterAmerican effected transactions in securities prior to becoming a member of a securities association. The NASD also found that the firm effected transactions in municipal securities without having paid an initial or annual fee to the Municipal Securities Rulemaking Board. In addition, the findings stated that the firm effected transactions in municipal securities without employing a registered municipal securities principal. Furthermore, the firm, acting through an individual, failed to prepare and maintain its books and records, according to the findings.

INDIVIDUALS BARRED OR SUSPENDED

Norman G. Allbright (Registered Representative, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was suspended from association with any member of the NASD in any capacity for one week. Without admitting or denying the allegations, Allbright consented to the described sanction and to the entry of findings that he guaranteed in writing to a public customer a fixed interest rate and a return of the customer's entire principal on an investment. The NASD also found that Allbright failed to disclose to the customer that interest rate fluctuations could cause a change in the rate of return and the investment's net asset value. In addition, the findings stated that Allbright failed to obtain his branch manager's prior approval of a

communication with the public (the handwritten personal guarantee to the public customer).

Jack Baldwin (Registered Representative, Norwalk, Ohio) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Baldwin engaged in private securities transactions without providing prior written notification to his member firm. In addition, Baldwin failed to respond to NASD requests for information.

James Elderidge Cartwright (Registered Principal, West Hempstead, New York) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 10. The sanctions were based on findings that Cartwright failed to pay a \$25,000 arbitration award.

Bruce Underhill Clayton (Registered Principal, Charlotte, North Carolina) submitted an Offer of Settlement pursuant to which he was suspended from association with any member of the NASD as a general securities principal for 10 days. Without admitting or denying the allegations, Clayton consented to the described sanction and to the entry of findings that he purchased corporate bonds in his personal account, and in accounts of his family members, at prices that were below the prevailing fair market value for such bonds.

Barry F. Cohen (Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$5,500, jointly and severally with other respondents, and suspended from association with any member of the NASD in a principal capacity for 10 business days. Without admitting or denying the allegations, Cohen consented to the described sanctions and to the entry of findings that he failed to register with the NASD as a principal while president and owner of a member firm. The findings also stated that Cohen permitted his member firm to compensate an individual prior to the effective date of the individual's registration with the NASD.

In addition, the NASD found that Cohen allowed his member firm to effect options transactions with public customers without having a registered options principal or designated senior registered options principal. Cohen was also responsible for his member firm's failure to develop

and implement written procedures to supervise the firm's options business, according to the findings.

Todd Leroy Desmond (Registered Representative, Louisville, Kentucky) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were imposed by the NASD's Board of Governors on review of a decision by the DBCC for District 8. The sanctions were based on findings that Desmond recommended to a public customer uncovered call-option contracts on a common stock without having reasonable grounds for believing the recommendations were suitable for the customer based on his other securities holdings, financial situation, and needs.

Furthermore, without the knowledge or consent of his member firm, Desmond caused false journal entries to be made to the account of a customer. In addition, Desmond failed to respond to NASD requests for information in a timely manner.

Joseph L. Dietrick, III (Registered Representative, Virginia Beach, Virginia) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Dietrick received from his member firm a \$7,000 check that was intended to be delivered to a public customer by Dietrick. Instead, Dietrick misappropriated the funds for his personal benefit. He also failed to respond to NASD requests for information.

Thomas Edward Francis (Registered Representative, Farmingdale, New York) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Francis failed to respond to NASD requests for information concerning a customer complaint.

Jon T. Franklin (Registered Representative, Mobile, Alabama) submitted an Offer of Settlement pursuant to which he was fined \$15,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Franklin consented to the described sanctions and to the entry of findings that he recommended and engaged in options purchase and sale transactions in the accounts of public customers without having reasonable grounds for believing such transactions were suitable for the customers based on the customers' financial situations, objectives, and needs. The NASD also found that Franklin executed unauthorized purchase and

sale transactions in the options accounts of public customers.

The findings further stated that Franklin executed, or caused to be executed, "naked" put options transactions in the joint account of public customers when the account had been approved only for "covered" options trading by his member firm. In addition, according to the findings, Franklin recommended that customers liquidate their certificates of deposit and reinvest in various closed-end investment companies without having reasonable grounds for believing that the transactions were suitable for the customers.

The NASD also determined that Franklin exercised discretionary power in the account of a public customer without prior written authorization from the customer and prior acceptance of the account as discretionary by his member firm. Furthermore, Franklin failed to respond to NASD requests for information.

Eldon James Fry (Registered Representative, Pearl City, Hawaii) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Fry opened and effected securities transactions in an account at a member firm without informing the firm of his association with two other member firms. Fry also failed to respond to NASD requests for information.

Thomas A. Griffin (Registered Representative, Huntsville, Alabama) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was suspended from association with any member of the NASD in any capacity for one week. Without admitting or denying the allegations, Griffin consented to the described sanction and to the entry of findings that he exercised discretion in the account of a public customer without obtaining prior written discretionary authorization from the customer and without written acceptance of the account as discretionary by his member firm.

Tasos Chris Hatzimichael (Registered Representative, Lafayette, California) was fined \$88,373 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hatzimichael accepted from public customers two checks totaling \$18,373.09 intended for the purchase of securities. He misappropriated the funds by depositing them into the bank account of a firm in which he had a controlling interest and used the funds to pay the

firm's expenses. Hatzimichael also failed to respond to NASD requests for information.

Gilbert Hodges, II (Registered Representative, Brooklyn, New York) was fined \$30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hodges failed to pay a \$17,283 arbitration award. In addition, he failed to respond to NASD requests for information.

Phillip Jacobs (Registered Representative, Solana Beach, California) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Jacobs failed to respond to NASD requests for information concerning his termination from a member firm.

Charles Evans Kinnick (Registered Representative, Signal Hill, California) was fined \$10,000 and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that Kinnick engaged in the sale of automatically renewed non-negotiable promissory notes to six public customers while failing to provide prior written notification of such sales to his member firm.

Gerald Herman Kirkingburg (Registered Representative, Spokane, Washington) was fined \$35,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kirkingburg established a nominee account in the name of a family member and effected securities transactions in the account that generated profits totaling \$30,825. He then deposited the profits into a bank account of a company he co-owned and used the proceeds to pay himself with checks drawn on the account. Kirkingburg also failed to respond fully to NASD requests for information.

Russell Gordon Koch (Registered Principal, Issaquah, Washington) was fined \$10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Koch failed to respond to NASD requests for information.

Earl Daniel Lemond (Registered Representative, Honolulu, Hawaii) was fined \$225,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Lemond received funds totaling \$115,500 from 10 public customers for investment purposes, and misappropriated and converted the

funds to his own use and benefit. Lemond also failed to respond to NASD requests for information.

Carl V. May, Jr. (Registered Representative, Greensboro, North Carolina) was fined \$2.25 million and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that May misappropriated funds totaling \$2 million from seven customers by selling notes to them and misrepresenting that their funds would be combined with other investors' funds and invested in jumbo certificates of deposit. In addition, May engaged in the above sales without providing written notice to or receiving approval from his member firm to engage in such sales. May also failed to respond to NASD requests for information.

Wayne Isamu Oride (Registered Representative, Honolulu, Hawaii) was fined \$50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Oride engaged in private securities transactions without providing prior written notification to his member firm.

Arveal Paggett, Jr. (Registered Representative, Fresno, California) was fined \$13,000 and suspended from association with any member of the NASD in any capacity for two years. The sanctions were based on findings that Paggett received from a public customer \$3,000 intended for investment in a money market fund and misappropriated the funds for his own use.

John R. Parks (Registered Representative, Sewell, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$50,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Parks consented to the described sanctions and to the entry of findings that he engaged in manipulative and deceptive practices concerning the trading activity in a Nasdaq security. Specifically, the findings stated that he executed a series of simultaneous purchase and sale transactions at increasing prices. These transactions were effected between accounts that Parks controlled or had a financial interest in at his member firm and an account he established at another member firm. In addition, these transactions involved no ultimate change in beneficial ownership, thereby resulting in a series of "wash sales" that created a false and misleading appearance of trad-

ing activity in the market for the security.

The NASD also determined that Parks wrongfully affected reported prices in the same security by executing transactions at the close of the market in order to increase the closing last-sale price, thereby "marking the close" of the market. The NASD further found that, in connection with these transactions, Parks reported or caused to be reported to the Nasdaq system transactions that were not bona fide purchases and sales. In addition, according to the findings, Parks failed to report 11 transactions in the same security to the Nasdaq system. Furthermore, the NASD determined that, while associated with his member firm, Parks opened and maintained a securities account at another member firm. He failed to notify this firm that he was associated with his current member firm, which resulted in a failure by the other member to notify Parks' firm of the existence of the account, according to the findings.

Philip Allen Pendergraft (Registered Principal, Arlington, Texas) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000, suspended from association with any member of the NASD as a financial and operations principal for one year, and required to requalify as a financial and operations principal. Without admitting or denying the allegations, Pendergraft consented to the described sanctions and to the entry of findings that, on behalf of a former member firm, he failed to make required deposits to the firm's Special Reserve Account for the Exclusive Benefit of Customers within two business days.

The findings also stated that the same firm, acting through Pendergraft, effected transactions in securities while failing to maintain its required minimum net capital. In addition, the NASD determined that Pendergraft allowed withdrawals to be made from the firm's reserve account without making a record of the computation that formed the basis for making the withdrawals.

Candace Prosser-Powers (Registered Principal, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Prosser-Powers consented to the described sanctions and to the entry of findings that she accepted orders from an individual whom she

knew or should have known was acting as a nominee for other accounts, and failed to reflect the beneficial ownership of these accounts on her firm's books and records. The findings stated that she also failed to file an accurate Form BD disclosing to the NASD and the SEC the true ownership of her member firm.

Connie Haywood Rogers (Registered Representative, Los Angeles, California) was fined \$5,000 and suspended from association with any member of the NASD in any capacity for 30 days. The sanctions were based on findings that Rogers accepted a \$1,000 check from a public customer for a mutual fund purchase. She failed to purchase the fund or to immediately return the money to the customer. Instead, Rogers deposited the money into a personal checking account and converted the funds to her own benefit. Furthermore, Rogers falsified the signature of her branch manager on two letters of transmittal for the purchase of securities.

Kenneth Laurence Ruff (Registered Representative, Englewood, Colorado) was fined \$150,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that, on 16 separate occasions, Ruff obtained customer checks, forged the customers' signatures on the checks, and endorsed the checks over to himself. In addition, in order to conceal his misuse of customers' funds and securities, Ruff forged customers' signatures on documents of his member firm and used false addresses on nine customer accounts. Ruff also executed 25 unauthorized transactions in customer accounts and failed to respond to an NASD request for information.

Brent L. Rush (Registered Representative, Zanesville, Ohio) was fined \$35,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Rush misappropriated and converted to his own use customer funds totaling \$903.95 intended to pay insurance premiums. Rush also failed to respond to NASD requests for information.

Kendall Cooksan Shaffer, Jr. (Registered Representative, Morgan Hill, California) was fined \$5,000 and suspended from association with any member of the NASD in any capacity for three years. The sanctions were based on findings that Shaffer received five checks made payable to another person, forged the person's endorsement, and forwarded the endorsed checks to a third party at a

branch office of his member firm.

James R. Sherrod, Jr. (Registered Representative, Ferguson, Missouri) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$20,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Sherrod consented to the described sanctions and to the entry of findings that he received checks and money orders from public customers with instructions to purchase insurance and/or securities products. The findings stated that Sherrod failed to follow the customers' instructions and, instead, endorsed the checks and money orders and deposited them into his personal bank account without the knowledge or consent of the customers. In addition, Sherrod failed to respond to NASD requests for information.

Mark Andrew Stephens (Registered Representative, San Antonio, Texas) was fined \$50,000 and barred from association with any member of the NASD in any capacity. The sanctions were imposed by the NASD's Board of Governors following an appeal of a decision by the DBCC for District 6. The sanctions were based on findings that Stephens purchased and sold shares of stock in the accounts of public customers without the knowledge or consent of the customers.

Hal Tornroth (Registered Representative, San Diego, California) was fined \$15,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Tornroth failed to respond to NASD requests for information concerning an investigation of a customer complaint.

Kurt Van Etten (Registered Representative, Butler, New Jersey) was fined \$20,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Van Etten failed to respond to NASD requests for information concerning a customer complaint.

Kevin M. Vander Kelen (Registered Representative, St. Petersburg, Florida) was fined \$35,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Vander Kelen, without the knowledge or consent of a public customer, caused two checks totaling \$11,500 to be drawn from the customer's account and deposited into his personal bank account for his own benefit.

In addition, Vander Kelen executed unauthorized securities transactions in the same customer's account.

Dennis W. Vibbert (Registered Representative, Glendale, Arizona) was fined \$10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Vibbert prepared two new-account forms for public customers that contained false and inaccurate information. These accounts were opened without the customers' knowledge or consent. Thereafter, Vibbert effected unauthorized purchase transactions in the same accounts.

INDIVIDUALS FINED

Curtis Leif Hoff (Registered Representative, Mequon, Wisconsin) was fined \$10,000. The sanction was based on findings that Hoff prepared and delivered, or caused to be prepared and delivered, to members of the public sales literature containing exaggerated, promissory, and misleading statements in that they set forth performance figures for mutual funds without disclosing the method used to calculate such figures. Furthermore, Hoff delivered to public customers, without prospectuses, two brochures relating to mutual funds and wrote on the brochures performance figures for the funds without providing the method used to calculate such figures.

William John Kennedy (Registered Representative, Englewood, Colorado) was fined \$10,000. The sanction was based on findings that Kennedy executed purchase transactions in the Individual Retirement Accounts of two public customers without obtaining their prior authorization and consent.

Donald Eric Motschwiler (Registered Principal, New York, New York) submitted an Offer of Settlement pursuant to which he was fined \$13,250. Without admitting or denying the allegations, Motschwiler consented to the described sanction and to the entry of findings that, in contravention of the Board of Governors' Free-Riding and Withholding Interpretation, Motschwiler purchased, in a restricted account, shares of a new issue that traded at a premium in the immediate aftermarket.

CORRECTION

Ocwen Trading, Inc., Purchase, New York was erroneously listed among the firms suspended

for failure to file financial information with the NASD in the May 1991 *Notices to Members*.

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

- American Capital Equities, Inc.**, St. Louis, Missouri
- American Royal Investors, Inc.**, Greenview, Illinois
- Amtex Oil Financial Incorporated**, Dallas, Texas
- Bagley Securities, Incorporated**, Salt Lake City, Utah
- Bayview Securities, Incorporated**, Portland, Oregon
- Dean, Johnson & Burke Securities, Inc.**, West Palm Beach, Florida
- H.T. Fletcher Securities, Incorporated**, Englewood, Colorado
- GSG Global Securities Group, Inc.**, Great Neck, New York
- IPI Securities, Incorporated**, Birmingham, Alabama
- Integrated Financial Services International, Incorporated**, Orlando, Florida
- P.B. Jameson & Company, Incorporated**, Salt Lake City, Utah
- Marshall Davis, Inc.**, McLean, Virginia
- Minella, Rich & Company, Inc.**, New York, New York
- Pinnacle Securities, Ltd.**, Concord, California
- Rutland Securities L.P.**, New York, New York

FIRMS SUSPENDED

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

- Affiliated Security Brokers, Inc.**, Tyler, Texas (May 31, 1991)
- L.S. Cannon Securities Corp.**, Menomonee

Disciplinary Actions

Falls, Wisconsin (June 4, 1991)

Eagan and Company, Inc., San Francisco, California (May 31, 1991)

First Jefferson Securities, Inc., Englewood, Colorado (June 4, 1991)

The Fortress Capital, Boston, Massachusetts (June 4, 1991)

V.F. Minton Securities, Inc., Fort Worth, Texas (June 4, 1991)

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

William A. Bundy, St. Joseph, Missouri
Bruce E. Campbell, Concord, California
Robert E. Cincotta, Jr., Batavia, New York
William K. Collings, Georgetown, Indiana
Richard R. Garsh, Sunrise, Florida
Norman R. Geer, Gary, Indiana
George L. Gore, Jr., Castelrock, Colorado

Russell R. Haden, Sandy, Utah

Robert A. Hartnagel, Roswell, Georgia

William P. Hathcock, Jr., Roswell, Georgia

Hollis W. Huston, Windsor, Connecticut

Robb B. Ivey, Dallas, Texas

Stephen B. Kaplan, Tampa, Florida

Jerry A. Kregg, Denver, Colorado

Sanford H. Marks, North Miami Beach, Florida

Robert J. Mitchell, Danville, California

Leonard D. Neuhaus, Jr., Bronx, New York

Kevin L. Pearson, Chico, California

Daniel S. Peterson, Medford, Massachusetts

Shirley R. Pickford, Oviedo, Florida

Don A. Reel, Conroe, Texas

Mark A. Rizzie, Clearwater, Florida

Kenneth E. Robison, Chico, California

John L. Schaffler, III, Memphis, Tennessee

Wayne M. Scheck, Dix Hills, New York

Brian Tobias-Jones, Dallas, Texas

For Your Information

National Association of Securities Dealers, Inc.

July 1991

Joint NASD/MCI Program Gives Special Discounts, Services to Members

Effective June 19, MCI Communications Corporation, through a new partnership with the NASD, began offering NASD members a full package of specially discounted telephone services — including long-distance calling and a customized calling card service — designed to meet telecommunications requirements of the securities industry.

Among the cost-saving features included in the program are special discounts of between 20 and 35 percent on MCI products and services, and an additional 6 percent savings based on royalties paid by MCI to the NASD on members' total monthly discounted usage fees. The NASD, in turn, passes through these discounts to participat-

ing members. Among the MCI services available under the program are MCI Preferred, PRISM PLUS, PRISM 1, Vision, 800 numbers, Vnet, and data services.

The package also provides members with a new calling card that combines long-distance calling services with 24-hour real-time stock quote and market information services. The card enables users to get overviews of the major indexes as well as real-time quotes on any stock listed on The Nasdaq Stock MarketSM and the major exchanges. It also allows users to build two personalized portfolios, with up to 30 stocks each, on which they can receive instant information on current prices, number of shares, and total market values.

Publication Date of *Notices to Members* Shifts to 15th of Month

Effective with the August issue, *NASD Notices to Members* will be published on the 15th of the month (or the first business day after that if the 15th is on a weekend or holiday) instead of the first business day of the month as it is now. The change will facilitate rapid dissemination of items stemming from NASD Board of Governors meetings.

The publication date change will alter the "closing" dates for information in the Disciplinary Actions section of the newsletter as well as in the monthly notice on additions, changes, and deletions to listing on the Nasdaq National Market. The new dates will appear on those notices beginning with the August issue.

NASD Reprints Editorial Demonstrating Responsiveness to Complaints

In a recent guest editorial published in the *Star Ledger*, a major daily newspaper circulated in New Jersey, NASD Executive Vice President of Compliance John E. Pinto Jr., describes the many

ways in which the NASD keeps the securities markets operating in the best interests of investors. With the permission of the newspaper, the NASD is reprinting the editorial on the back of this page.

The Star-Ledger

BUSINESS FORUM

Public can take stock in NASD's integrity

By JOHN E. PINTO JR.

Just as investors are concerned with the integrity of the securities markets, so is the National Association of Securities Dealers Inc. (NASD), the largest self-regulatory organization of the industry, with 5,700 member firms and nearly 420,000 securities agents registered with it. Consider the facts and figures below.

In 1990, the NASD received 3,725 customer complaints from among the 47 million individual investors in the U.S. By security type, the complaints broke down as follows:

- Options trading produced 37 complaints. The premium value of options traded in the year was \$79 billion.

- There were 201 complaints in the municipal securities area. An estimate of municipal securities held in 1990 by households and funds, commercial banks, insurance companies and others puts their value at \$840 billion.

- The outstanding public and private Direct Participation Programs, often called tax shelters, have an estimated paid-in capital of \$147 billion. Activity in them in 1990 generated 271 customer complaints.

- The aggregate volume of mutual fund sales was \$150 billion. Transactions in this area led to 622 complaints.

- In the Nasdaq Stock Market, the second-largest equity market in the U.S., broker-dealers belonging to the NASD in 1990 completed some 30 million transactions for individual and institutional investors. There are 4,700 securities issued by 4,100 companies listed on Nasdaq. Their trading in 1990 totaled 33.4 billion shares, with a dollar value of \$452 billion. It led to 376 complaints.

- Trading in exchange-listed stocks and miscellaneous securities produced 653 complaints.

- Five hundred sixty-seven complaints were not related to specific types of securities.

- The biggest single block of customer complaints—998 of them—was registered in the penny stock area, where the dollar volume of trading was estimated at under \$10 billion.

John E. Pinto Jr. is executive vice president for compliance of the National Association of Securities Dealers Inc.

Except for penny stocks, the ratio of complaints compared to the dollar amounts traded is insignificant. More on penny stocks later.

Another way to measure how clean the securities markets is by the claims made by investors against securities firms and their associates in the arbitration forums which the NASD and the exchanges administer. The total amount claimed by investors in 1989 was \$104 million. The aggregate dollar volume of trading only in the U.S. equity markets that year was \$2.3 trillion. The \$104 million was 45/100th of one percent of that.

From the standpoint of a self-regulatory organization like the NASD, even the low complaint and arbitration statistics are not good enough. One of our key objectives is to get miscreant firms and individuals out of our industry—and fast.

In 1990, the NASD filed 1,083 disciplinary actions against its member firms and registered persons. Of these, 365 ensued from customer complaints. The 818 others were the results of the NASD's broker-dealer surveillance, which included 3,856 on-site examinations of firms. These actions led to the expulsion of 92 mostly small firms from the NASD, the barring of 673 indi-

viduals from association with any member firm, the temporary suspension of 17 firms and 233 individuals, and the imposition of more than \$30 million in fines.

The NASD Market Surveillance Department performs computer-assisted monitoring of every quote change and transaction report in the Nasdaq Stock Market, to look for possible insider trading, market manipulation, and other violations. In 1990, the Market Surveillance Committee took 21 formal disciplinary actions, leading to four bars of individuals, 25 suspensions of firms or individuals, and the imposition of \$3.2 million in fines.

In the penny stock area, the NASD has brought more than 200 disciplinary actions in the last three years, and another 250 are in the pipeline. For example, in May 1990, the Stuart-James Company, the largest penny stock firm, was fined \$2.1 million, and withdrew from the field; in July, J.W. Gant & Associates was fined \$30,000, ordered to disgorge nearly \$200,000, and required to restructure itself to prevent future violations.

The teamwork of the SEC, the states, the Department of Justice, the FBI and the NASD has succeeded in reducing from 200 to less than 100 the number of firms doing a significant business in penny stocks, and in cutting penny stock volume from an estimated 80 million shares a day in 1989 to under 40 million in 1990. More than 40 percent of the complaints received by the NASD in 1989 concerned penny stocks; today it is 25 percent, and falling.

Not only are the securities markets quite clean, but the clean-up continues with vigor.