

Notice To Members

National Association of Securities Dealers, Inc.

July 1992

Number 92-39**Suggested Routing:***

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

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

Subject: Confirmation Disclosure Requirements for Transactions in Nasdaq Small-Cap Stocks**EXECUTIVE SUMMARY**

On June 29, 1992, the SEC approved amendments to Schedule D of the NASD By-Laws regarding confirmation disclosure requirements for Nasdaq Small-Cap stocks. The new rules require members to furnish specific information related to markups and markdowns in connection with transactions in Nasdaq Small-Cap securities to their customers, identical to the disclosures already required by the SEC for Nasdaq National Market System (Nasdaq/NMS) securities. The amendments will become effective August 15, 1992. The text of the amendments follows the discussion below.

DESCRIPTION OF AMENDMENTS

On June 15, 1992, members began reporting transactions in Nasdaq Small-Cap securities within 90 seconds after execution, replicating the reporting procedures for Nasdaq/NMS securities. The new section in Schedule D applies to the information contained in confirmations sent by members to customers buying or selling stocks in Nasdaq Small-Cap companies.

The new NASD rule mirrors the SEC's confirmation disclosure requirements, specifically the

provisions dealing with disclosure of markups or markdowns on customer confirmations in SEC Rule 10b-10(a)(8), and extends the disclosure requirements to transactions in Nasdaq Small-Cap securities. The SEC rule requires broker/dealers that are not market makers to disclose markups and markdowns on riskless principal transactions and also requires market makers to disclose the difference, if any, between the price of a transaction as reported to the tape and the price to the customer. However, the SEC rule applies only to "reported" securities that are defined as "national market system" securities.

Although Nasdaq Small-Cap securities are now trade-reported at the point of sale like Nasdaq/NMS securities, they are not considered national market system stocks because of the different listing criteria, corporate governance requirements, margin treatment, and state merit review requirements applicable to these smaller companies. Accordingly, the SEC's confirmation disclosure requirements dealing with disclosure of markups or markdowns on customer confirmations do not apply to transactions in Nasdaq Small-Cap securities, and the NASD has adopted requirements identical to those of the SEC.

The NASD believes that it is in the best interests of investors to require members to disclose markups and markdowns taken from the reported price. Just as real-time trade reporting enhances

the credibility and image of the Nasdaq Small-Cap Market, more informative disclosure to the public of the prices at which its securities transactions are effected improves the transparency of this market. The NASD also notes that some members have indicated that they have already made arrangements to begin supplying customers with this additional disclosure. Therefore, the rule changes codifying the requirements in this area do not appear to be burdensome to the membership.

Although the amendments will become effective on August 15, 1992, members are encouraged to comply with these new confirmation disclosures as soon as possible. Questions regarding this Notice may be directed to P. William Hotchkiss, Director, Surveillance Department, at (202) 728-8235.

TEXT OF NEW RULES

(Note: Additions are in italics)

SCHEDULE D

Part XIII

Section 3 — Customer Confirmations

Members shall not effect transactions in regu-

lar Nasdaq securities unless such member shall, at or before completion of such transaction, give or send to its customer written notification disclosing if the member is acting as principal for its own account, (i)(A) if it is not a market maker in that security, and if, after having received an order to buy from such customer, it purchased the security from another person to offset a contemporaneous sale to such customer, or after having received an order to sell from such customer it sold the security to another person to offset a contemporaneous purchase from such a customer, the amount of any mark-up, mark-down, or similar remuneration received in an equity security; or (B) in any other case of a transaction in a regular Nasdaq equity security, the trade price reported in accordance with this Part, the price to the customer in the transaction, and the difference, if any, between the reported trade price and the price to the customer, and (ii) whether the member is a market maker in the security (otherwise than by reason of its acting as a block positioner in that security.) The terms used in this subsection shall have the same meaning as provided for in the Securities Exchange Act of 1934 and the rules adopted thereunder.

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Subject: Nasdaq National Market Additions, Changes, and Deletions as of June 26, 1992

As of June 26, 1992, the following 47 issues joined the Nasdaq National Market, bringing the total number of issues to 2,900:

Symbol	Company	Date	SOES Execution Level
TDSRF	3-D Systems, Inc. (Rts)	5/27/92	1000
MSYSW	Medical Technology Systems, Inc. (8/15/92 Wts)	5/27/92	1000
DWCH	Datawatch Corporation	5/28/92	500
DWCHW	Datawatch Corporation (Wts)	5/28/92	500
FINF	Financial Federal Corporation	5/28/92	1000
PBIO	PerSeptive Biosystems, Inc.	5/29/92	1000
SPNSF	Sapiens International Corporation N.V.	5/29/92	1000
STRL	STERIS Corporation	6/1/92	200
TECUA	Tecumseh Products Company (Cl A)	6/1/92	1000
RIVL	Rival Company (The)	6/2/92	1000
QRST	Quantum Restaurant Group, Inc.	6/3/92	500
SALM	Salem Sportswear Corporation	6/3/92	1000
USPC	United States Paging Corporation	6/3/92	1000
AGLFV	Atlantic Gulf Communities Corporation (WI)	6/4/92	500
HCRC	Hallwood Consolidated Resources Corporation	6/4/92	1000
NETF	NetFRAME Systems Incorporated	6/4/92	1000
TMAN	Today's Man, Inc.	6/4/92	1000
BBBY	Bed Bath & Beyond, Inc.	6/5/92	1000
CACC	Credit Acceptance Corporation	6/5/92	500
DRHI	D. R. Horton, Inc.	6/5/92	1000
HMIS	Homecare Management, Inc.	6/5/92	1000
KRON	Kronos Incorporated	6/5/92	1000
MIAMP	Mid Am, Inc. (Pfd)	6/5/92	1000
NCDI	Network Computing Devices, Inc.	6/5/92	1000

Symbol	Company	Date	SOES Execution
			Level
PHSYB	PacifiCare Health Systems, Inc. (Cl B)	6/5/92	1000
RCH	RehabClinics, Inc.	6/5/92	1000
ARRO	Arrow International, Inc.	6/9/92	1000
ESRX	Express Scripts, Inc. (Cl A)	6/9/92	1000
FINL	Finish Line, Inc. (The) (Cl A)	6/9/92	1000
UHOS	Universal Hospital Services, Inc.	6/9/92	1000
CABKZ	Capital Bancorporation, Inc. (Dep. Shrs.)	6/12/92	200
ETRC	Equitrac Corporation	6/12/92	1000
BSIS	Broadway & Seymour, Inc.	6/16/92	200
COTTF	Cott Corporation	6/16/92	1000
CRFT	Craftmade International, Inc.	6/16/92	1000
PHNI	Phoenix Resource Companies, Inc. (The)	6/16/92	1000
SIHS	SI Handling Systems, Inc.	6/16/92	500
SLMD	SpaceLabs Medical, Inc.	6/17/92	1000
XCOM	CrossComm Corporation	6/18/92	500
HAMP	Hampshire Group, Limited	6/18/92	1000
LGFB	LGF Bancorp, Inc.	6/18/92	1000
SECDP	Second Bancorp, Incorporated (Pfd)	6/18/92	500
GENCV	General Cable Corporation (WI)	6/19/92	1000
SWBI	Southwest Bancshares, Inc.	6/24/92	1000
TAPI	Tapistron International, Inc.	6/24/92	500
TAPIW	Tapistron International, Inc. (Wts)	6/24/92	500
WINR	Winthrop Resources Corporation	6/24/92	500

Nasdaq National Market Symbol and/or Name Changes

The following changes to the list of Nasdaq National Market securities occurred since May 27, 1992:

New/Old Symbol	New/Old Security	Date of Change
RKSF/OSGI	RKS Financial Group, Inc./OTRA Securities Group, Inc.	5/28/92
TUBO/TUBO	Tuboscope Vetco International Corp./Tuboscope Corporation	5/28/92
STIQ/SURV	Survival Technology, Inc./Survival Technology, Inc.	6/1/92
TMRK/VDMK	Trimark Holdings, Inc./Vidmark, Inc.	6/2/92
ATIS/ATISA	Advanced Tissue Sciences, Inc./Advanced Tissue Sciences, Inc. (Cl A)	6/4/92
BEAV/BEAV	BE Aerospace, Inc./BE Avionics, Inc.	6/5/92
PHSYA/PHSY	PacifiCare Health Systems, Inc. (Cl A)/PacifiCare Health Systems, Inc.	6/5/92
PSCX/PSCX	PSC Inc./Photogenic Sciences Corporation	6/16/92
DOSEW/DOSEW	Choice Drug Systems, Inc. (10/31/92 Wts.)/Choice Drug Systems, Inc. (6/30/92 Wts)	6/22/92
NALR/NALR	Naylor Industries, Inc./Naylor Inds., Inc.	6/25/92

Nasdaq National Market Deletions

Symbol	Security	Date
HSSI	Hospital Staffing Services, Inc.	6/1/92
SLCR	Salem Carpet Mills, Inc.	6/1/92
HMAIA	Health Management Associates, Inc. (Cl A)	6/3/92
IBCC	Interstate Bakeries Corp.	6/3/92
COVT	Covington Development Group, Inc.	6/11/92

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Symbol	Security	Date
PICN	Pic 'N' Save Corporation	6/11/92
USAB	USA Bancorp Inc.	6/12/92
SUPRP	Super Rite Corporation (Pfd)	6/17/92
WMOR	Westmoreland Coal Company	6/17/92
MNTL	Manufacturers National Corporation	6/18/92
TDSRF	3-D Systems, Inc. (Rts)	6/19/92
HRHC	Hilb, Rogal and Hamilton Company	6/19/92
OFSB	Oriental Federal Savings Bank	6/19/92
DOCO	D.O.C. Optics Corporation	6/22/92
ATCMA	American Television and Communications Corporation (CI A)	6/26/92

Questions regarding this Notice should be directed to Kit Milholland, Senior Analyst, Market Listing Qualifications, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Bernard Thompson, Assistant Director, NASD Market Surveillance, at (301) 590-6436.

Disciplinary Actions

National Association of Securities Dealers, Inc.

July 1992

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 will begin with the opening of business on Monday, July 20, 1992. The information relating to matters contained in this Notice is current as of the fifth of this month. Information received subsequent to the fifth is not reflected in this publication.

FIRMS FINED, INDIVIDUALS SANCTIONED

Bekhor Securities Corp. (d/b/a) First Affiliated Securities, Inc. (La Jolla, California) and **Jonathan Elia Sassoon Bekhor (Associated Person, La Jolla, California)** submitted an Offer of Settlement pursuant to which the firm was fined \$42,000. The fine may be reduced up to \$35,000 if the firm can show that it paid that amount toward arbitration awards it has failed to honor. In addition, Jonathan Bekhor was fined \$10,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Jonathan Bekhor engaged in various acts and omissions to avoid payment of certain debts or liabilities incurred by the firm. The NASD also found that Jonathan Bekhor managed a securities business without registering with the NASD.

Dillon Securities, Inc. (Spokane, Washington) and **Troy Dean Moe (Registered Principal, Spokane, Washington)**. The firm was fined \$20,000, jointly and severally with a registered representative and fined an additional \$112,000, jointly and severally with Moe. In addition, Moe was suspended from association with any member of the NASD in any capacity for 30 business days.

The sanctions were based on findings that the firm, acting through Moe, failed to maintain its minimum required net capital. Furthermore, in contravention of the Interpretation of the Board of Governors Concerning NASD Mark-Up Policy, the firm, acting through Moe, effected principal transactions for retail customers in common stock that included markups and markdowns greater than 10 percent. The respondents also failed to disclose the markups to their customers.

Moreover, Moe issued two checks that were returned due to insufficient funds. One was a \$50,000 personal check to his member firm as an addition to capital and the other was a \$99,137.71 check to his clearing broker/dealer for the purchase of securities.

FIRMS AND INDIVIDUALS FINED

New Century Securities, Inc. (Oceanside, California) and **Stephen James Jones (Registered Principal, Oceanside, California)** were fined \$15,000, jointly and severally. The sanction was based on findings that, in a contingent offering of limited partnership interests, the firm, acting through Jones, failed to promptly transfer investors' funds to a separate escrow account.

Moreover, the firm, acting through Jones, represented to the investors that the funds would not be released to the issuer if a certain number of subscriptions were not sold by a specified date. However, funds were released to the issuer before that date and after only a portion of the units had been sold. The issuer, in turn, immediately used the investors' funds to pay expenses associated with the offering.

Pacific Integrated Group, Inc. (Santa Clara, California) was fined \$13,000, jointly and severally with an individual. The sanction was based on findings that the firm participated in sales of limited partnership interests of several best efforts "all or none" offerings and received funds from investors without depositing the funds into an escrow account.

In addition, the firm represented to investors that limited partnership interests were being offered on an all-or-none basis and the consideration

paid by the investors would be refunded if all units were not sold by a specified date when, in fact, funds were disbursed before all units were sold. Furthermore, the firm failed to prepare net capital computations for certain months and engaged in a securities business without maintaining its minimum required net capital.

Also, in contravention of the terms of a voluntary restriction agreement with the NASD, the firm failed to file with the NASD copies of escrow agreements in the offer and sale of limited partnership interests.

INDIVIDUALS BARRED OR SUSPENDED

Don Arbital (Registered Representative, Hauppauge, New York), Todd Clark (Registered Representative, Englewood, Colorado), and Eugene Hunter (Registered Representative, Los Angeles, California) submitted an Offer of Settlement pursuant to which Arbital and Clark each were fined \$2,500 and suspended from association with any member of the NASD in any capacity for five business days. Hunter was fined \$15,000 and suspended from association with any member of the NASD in any capacity for five business days. In addition, Arbital, Clark, and Hunter must requalify by examination as general securities representatives.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Arbital, Clark, and Hunter effected transactions with customers at prices they knew or should have known, were unfair and excessive. Moreover, the NASD determined that the respondents failed to disclose to their customers that the prices were unfair and unreasonable.

Gabriel A. Arcuri, Jr. (Registered Representative, Stuyvesant Falls, New York) was fined \$2,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to requalify by examination as a general securities representative. The Securities and Exchange Commission (SEC) affirmed the sanctions following an appeal of a decision by the National Business Conduct Committee (NBCC). The sanctions were based on findings that Arcuri induced a customer to purchase securities by fraudulently misrepresenting that the customer could expect a 15 percent return over the next three months in an investment.

William T. Bales (Registered Principal, Whitehouse, Ohio) and David A. Bondy (Registered Representative, Maumee, Ohio) were each fined \$5,000 and suspended from association with any member of the NASD in any capacity for 30 days. The NBCC imposed the sanctions following an appeal of a decision by the District Business Conduct Committee (DBCC) for District 8. The sanctions were based on findings that Bales and Bondy engaged in private securities transactions with public customers without providing prior written notice to or obtaining written consent from their member firm.

Loren H. Belford (Registered Representative, East Northport, New York) was fined \$45,000 and barred from association with any member of the NASD in any capacity. In addition, Belford must pay \$5,000 in restitution to a public customer before seeking re-entry to the securities industry through the NASD's eligibility proceedings. The sanctions were based on findings that Belford received \$5,000 from a public customer for the purchase of commercial paper and converted the funds to his own use and benefit. In addition, Belford failed to respond to NASD requests for information.

Anthony James Beshara (Registered Representative, Littleton, Colorado) was fined \$50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Beshara provided two public customers with misleading documentation regarding their purchases of securities and executed transactions in their accounts without prior authorization and consent.

John Twomey Booth (Registered Principal, Glen Rock, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$25,000 and suspended from association with any member of the NASD as a general securities representative or principal for 180 days. Without admitting or denying the allegations, Booth consented to the described sanctions and to the entry of findings that a former member firm, acting through Booth, permitted a statutorily disqualified individual to be associated with the firm and to act in capacities requiring registration without having applied for membership continuance.

Russell S. Brandt (Registered Representative, Blandon, Pennsylvania) and Igor Paransky (Registered Representative, Brooklyn, New

York) submitted an Offer of Settlement pursuant to which Brandt was fined \$2,500 and suspended from association with any member of the NASD in any capacity for five business days. Paransky was fined \$1,000 and suspended from association with any member of the NASD in any capacity for one business day. In addition, Brandt and Paransky must requalify by examination as general securities representatives.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Brandt and Paransky effected transactions with customers at prices that they knew or should have known were unfair and excessive. Moreover, the NASD determined that the respondents failed to disclose to their customers that the prices were unfair and unreasonable.

Robert J. Cargeeg (Registered Representative, Centerville, Utah) was fined \$50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Cargeeg forged a customer's name on checks drawn on the customer's account and used the proceeds for his own benefit. In addition, Cargeeg received from another customer a \$1,500 check intended for the purchase of securities. He failed to follow the customer's instructions and, instead, deposited the funds into his personal account and used the funds for his own benefit.

Cargeeg also received from a different customer a certificate for 12,000 shares of securities for sale in the customer's account. Instead, he deposited the shares in his personal securities account, sold the shares, and used the proceeds of the sale for his personal benefit. Moreover, Cargeeg misrepresented material facts to these customers and guaranteed the price at which securities would be sold to induce the customers to tender assets and to purchase securities.

Cargeeg also engaged in private securities transactions while failing to provide prior written notification of such transactions to his member firm and failed to respond fully to NASD requests for information.

Thomas Melford Conley, III (Registered Representative, Newport Beach, California) was fined \$10,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Conley failed to respond to NASD requests for informa-

tion concerning an investigation of his termination from a member firm.

Frank J. Custable, Jr. (Registered Representative, Glendale Heights, Illinois) was fined \$100,000 and barred from association with any member of the NASD in any capacity. The NBCC imposed the sanctions following an appeal of a decision by the DBCC for District 8. The sanctions were based on findings that Custable executed unauthorized transactions in the accounts of public customers.

In addition, Custable used deceptive or fraudulent practices to induce customers to pay for securities. Specifically, Custable guaranteed the customers a profit and informed them that they could get a quick return on their money when, in fact, the company had suffered financial hardships and its stock had been delisted.

Custable has appealed this action to the SEC. The sanctions, other than the bar, are not in effect pending consideration of the appeal. The SEC refused to grant Custable's request for a stay of the bar.

Joseph DelValle (Registered Representative, Wall Township, New Jersey) was fined \$60,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that DelValle executed transactions in the accounts of public customers without their authorization, knowledge, or consent. In addition, DelValle failed to respond to NASD requests for information.

Christopher J. DiBenedetto (Registered Representative, Sebastian, Florida) was fined \$25,000 and suspended from association with any member of the NASD in any capacity for three months. The sanctions were based on findings that DiBenedetto engaged in the offer and sale of securities outside the normal course of business with a member of the NASD and failed to give his member firm prior written notice of such activities. Furthermore, in the offer and sale of securities, DiBenedetto failed to exercise reasonable diligence to ascertain the financial soundness and operating history of the issuer and engaged in the offer and sale while a registration statement had not been filed for such securities.

Brian Gregory DiJulio (Registered Representative, Kirkland, Washington) submitted an Offer of Settlement pursuant to which he was fined \$20,000 and suspended from association with any

member of the NASD as a general securities representative for 10 business days. In addition, DiJulio must requalify by examination as a general securities representative.

Without admitting or denying the allegations, DiJulio consented to the sanctions and to the entry of findings that he effected unauthorized transactions in the accounts of public customers. The NASD also found that DiJulio made unauthorized use of margin to purchase securities in a customer's account without having reasonable grounds for believing that such use of margin was suitable for the customer considering her investment objective, financial situation, and needs.

Aloysius James Falussy (Registered Representative, Dix Hills, New York) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and barred from association with any member of the NASD in any capacity. In addition, Falussy must make restitution to public customers if he seeks re-entry to the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Falussy consented to the described sanctions and to the entry of findings that he caused stock transactions to be executed in the account of a public customer without the knowledge, authorization, or consent of the customer. In addition, Falussy failed to respond timely to NASD requests for information.

Jay Michael Fertman (Registered Representative, Englewood, Colorado) was fined \$1,902,075 and barred from association with any member of the NASD in any capacity. However, Fertman's fine may be reduced by any amount of restitution he makes to customers. The NBCC imposed the sanctions following an appeal of a decision by the DBCC for District 3.

The sanctions were based on findings that Fertman implemented and directed a fraudulent scheme to manipulate stock prices. Pursuant to this scheme, he sold shares of stock between accounts he controlled to give the appearance of an active trading market in the securities. This way he could disguise the arbitrary price increases and induce investors to purchase the stock thereby raising the price of the securities. As a result, the stock, owned and controlled by Fertman at nominal cost, could be sold at substantial profits.

In addition, to facilitate the aforementioned manipulation, Fertman used advertisements, "scripts," and other sales literature that contained

exaggerated, unwarranted, and promissory claims, but failed to disclose the risks involved in the recommended investments and omitted material facts. Fertman also maintained securities accounts at two broker/dealers other than his member firm without first notifying such broker/dealers of his association with a member firm.

Fertman has appealed this action to the SEC, and the sanctions, other than the bar, are not in effect pending consideration of the appeal.

William Eugene Flower (Registered Representative, Yonkers, New York) submitted an Offer of Settlement pursuant to which he was fined \$5,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to requalify by examination as a general securities representative. In addition, Flower must pay \$2,500 in restitution to public customers if he seeks re-entry to the securities industry through the NASD's eligibility proceedings.

Without admitting or denying the allegations, Flower consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in the accounts of public customers. The NASD also found that certain of the aforementioned unauthorized transactions were unsuitable for one of the customers given the customer's financial situation and needs. In addition, Flower failed to respond to NASD requests for information.

Sean Antony Gathercole (Registered Representative, Brooklyn, 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 Gathercole failed to respond to NASD requests for information concerning a customer complaint.

Gregg L. Gordon (Registered Representative, Hot Springs, Arkansas) was fined \$1,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Gordon brought written materials with him into the test area to assist him on the Series 7 examination.

Walter Leroy Harrah, III (Registered Representative, Sound Beach, New York) was fined \$75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Harrah solicited and received from a public customer \$700 for investment in a company that Harrah operated and

subsequently sent statements to the customer reflecting the purported investment. Consequently, Harrah did not send further statements, nor did he return the customer's original investment, or the purported investment earnings, thereby constituting conversion of the customer funds by Harrah.

Harrah also engaged in private securities transactions without providing his member firms with prior written notification. In addition, Harrah fraudulently indicated on monthly statements to the same public customer that the company he operated was a member of the NASD when, in fact, it was not. Moreover, Harrah failed to respond to NASD requests for information.

Reed Armand Hatkoff (Registered Principal, Denver, Colorado) was fined \$15,000 and suspended from association with any member of the NASD in any capacity for 12 months. The NBCC imposed the sanctions following an appeal of a decision by the DBCC for District 3. The sanctions were based on findings that Hatkoff failed to respond to an NASD request for information pertaining to an investigation conducted by the NASD staff.

Hatkoff has appealed this action to the SEC, and the sanctions are not in effect pending consideration of the appeal.

Eric William Hermanson (Registered Representative, Green Bay, Wisconsin) 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, Hermanson consented to the described sanctions and to the entry of findings that he obtained a \$15,262.80 check from a public customer for the purchase of an insurance policy. The NASD found that, without the customer's knowledge or consent, Hermanson used only \$2,446 of the funds for the purchase of the policy and retained the remaining \$12,816.80 for his own use and benefit.

The NASD also determined that Hermanson obtained a \$15,000 check from two public customers and two additional checks totaling \$5,000 issued by his member firm payable to these customers representing proceeds of an insurance product owned by the customers. According to the findings, the customers instructed Hermanson to transfer these funds to another insurance product. Without their knowledge or consent, Hermanson failed to transfer the funds and, instead, retained

them for his own use and benefit.

In addition, the NASD found that Hermanson failed to respond to NASD requests for information.

Andrew William Hongach (Registered Representative, Irvington, New York) was fined \$75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Hongach engaged in fraudulent activities. Specifically, he caused the address on the joint account of two public customers to be changed to his sister's address, forged one of the customer's signature on an Internal Revenue Service Form W-9, and effected transactions in the same account and in the account of another customer without the knowledge or consent of the customers. In addition, Hongach caused a \$14,441.76 check to be drawn on the aforementioned joint account and directed that the funds be sent to his sister's address. Hongach also failed to respond timely to NASD requests for information, according to the findings.

Joseph Jenkins, Jr. (Registered Representative, Brooklyn, New York) was fined \$150,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Jenkins executed transactions in the accounts of public customers without the customers' prior authorization, knowledge, or consent. Jenkins also failed to execute a public customer's order to sell shares of a common stock, failed to respond to NASD requests for information, and failed to pay a \$10,000 arbitration award.

In addition, Jenkins engaged in the investment banking and securities business as an associated person when subject to statutory disqualification and without proper registration with the NASD. Furthermore, Jenkins made fraudulent misrepresentations to a public customer in the purchase of a common stock.

Michael K. Johnson (Registered Representative, Clarksville, Tennessee) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$15,000 and barred from association with any member of the NASD in any capacity. In addition, Johnson must pay \$2,000 in restitution to a public customer if he seeks re-entry to the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Johnson consented to the described sanctions and to the entry of findings that he made

a false and unauthorized application on a disbursement request form for a \$2,000 loan against a public customer's insurance policy. According to the findings, he also requested that the address and name on the policy be changed to his. As a result, the NASD determined that Johnson received the requested check and deposited it in his personal checking account.

Michael Vincent Jones (Registered Representative, Carlstadt, New Jersey) was fined \$95,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Jones effected transactions in the accounts of public customers without their knowledge, authorization, or consent. Jones also failed to pay an arbitration award and failed to respond to NASD requests for information.

Miro Robert Kamenik (Registered Representative, Hoboken, New Jersey) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kamenik presented a \$3,750 check to his member firm to pay the unsecured debit balance in his personal securities account but the check was returned due to insufficient funds. In addition, Kamenik failed to respond to NASD requests for information.

James Warren Kindberg, Jr. (Registered Representative, Brooklyn, New York) was fined \$35,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kindberg purchased shares of a common stock in the accounts of public customers without their knowledge or consent. In addition, Kindberg failed to respond to NASD requests for information.

William Todd Knowles (Registered Representative, Layton, Utah) submitted an Offer of Settlement pursuant to which he was fined \$25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Knowles consented to the described sanctions and to the entry of findings that he received from public customers funds totaling \$5,500 intended for the purchase of securities. The NASD found that Knowles failed to purchase the intended securities and, instead, deposited \$4,900 of these funds into his personal account. The findings also stated that Knowles made misrepresentations to customers regarding the status of their

securities accounts.

Ronald James Lasek (Registered Representative, Phoenix, Arizona) was fined \$50,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Lasek executed unauthorized transactions in the accounts of public customers.

Robert Lopez (Registered Principal, Bountiful, Utah) was fined \$25,000, suspended from association with any member of the NASD in any capacity for 30 days, and required to requalify by examination as a general securities principal. The sanctions were based on findings that Lopez failed to adequately supervise the activities of a registered representative.

John David Maines (Registered Representative, Indianapolis, Indiana) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Maines obtained from a public customer a \$25,000 check intended for investment purposes. Maines deposited only \$20,000 into the investment and retained the remaining \$5,000 for his personal use and benefit.

Thomas Malone (Registered Representative, Westhampton, New York) was fined \$75,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Malone caused numerous unauthorized transactions to be executed in the accounts of public customers. Malone also failed to execute a public customer's sell orders in a timely manner and failed to respond to NASD requests for information.

David Stephen Markzon (Registered Representative, Tucson, Arizona) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The NBCC imposed the sanctions on review of a decision by the DBCC for District 3. The sanctions were based on findings that Markzon sold limited partnership interests to three public customers without providing prior written notice of the transactions to his member firm. Markzon also failed to amend his Uniform Application for Securities Industry Registration or Transfer (Form U-4) to reflect that he was the subject of a customer complaint. In addition, Markzon failed to respond to NASD requests for information.

Charles R. Moore, Jr. (Registered Principal, Douglas, Georgia) was fined \$20,000 and

barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Moore engaged in a private securities transaction with public customers that was outside the regular course or scope of his association with a member firm. He also failed to provide written notification to his firm of his intention to engage in such transaction. In addition, Moore failed to respond to NASD requests for information.

Victor Theodore Nostas (Registered Representative, Wheat Ridge, Colorado) was fined \$10,000 and suspended from association with any member of the NASD in any capacity for two years. The sanctions were based on findings that Nostas agreed to cover the profits and losses in a customer's account. Nostas entered into this agreement without obtaining prior written authorization from his member firm.

Paul Delafield Penvenne (Registered Representative, New York, New York) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Penvenne profited at the expense of his customers by interposing his personal securities account between his customers and the best available market. As a result, he overcharged them \$5,130.63.

Michael Nicholas Pizzo (Registered Representative, Medford, New York) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Pizzo failed to execute a public customer's sell order. In addition, Pizzo failed to respond to NASD requests for information.

Samuel F. Polo (Registered Representative, Gretna, Louisiana) was fined \$30,000, suspended from association with any member of the NASD in any capacity for one year, and required to requalify by examination as a general securities representative. The sanctions were based on findings that Polo exercised discretionary power in the account of a public customer without obtaining prior written authorization from the customer and without prior written acceptance of the account as discretionary by his member firm.

Freddie T. Powell (Registered Representative, Milford, Indiana) was barred from association with any member of the NASD in any capacity. The sanction was based on findings that Powell signed customers' names seven checks total-

ing \$5,650.44 that he caused to be issued from customers' insurance policies. Powell then used the funds for his own benefit or to pay premiums on other persons' policies without the customers' knowledge or consent.

In addition, Powell received a \$5,451.18 check from a public customer with instructions to deposit the check to a variable appreciable life insurance policy. Instead, he deposited only \$4,000 of the funds to the policy and used the remaining \$1,451.18 for his personal benefit. Powell also failed to respond to NASD requests for information.

Christopher Procopis (Registered Principal, Katonah, New York) submitted an Offer of Settlement pursuant to which he was fined \$10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Procopis consented to the described sanctions and to the entry of findings that he converted travelers checks from his member firm for his own benefit.

William Anthony Reis (Registered Representative, Amston, Connecticut) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Reis effected unauthorized transactions in the account of a public customer. In addition, Reis failed to respond fully to NASD requests for information in a timely manner.

Michael D. Risley (Registered Representative, New York, New York) was fined \$45,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Risley caused transactions to be executed in a customer's account without the customers' authorization, knowledge, or consent. Risley also failed to disclose on his Form U-4 in a timely manner that he was the subject of an internal investigation at his member firm. In addition, Risley failed to respond to NASD requests for information.

Charles Spencer Schibilla (Registered Representative, Country Club Hill, Illinois) was fined \$50,000 and barred from association with any member of the NASD in any capacity. In addition, Schibilla must submit proof of restitution totaling \$45,194 with any future application for association with a member firm. The sanctions were based on findings that Schibilla obtained

checks totaling \$45,194 from policy loans, cash surrender values, and dividend withdrawals from insurance policies owned by public customers. Without the customers' knowledge and consent, Schibilla signed their names to the checks and deposited the checks in an account he controlled. Schibilla also failed to respond to NASD requests for information.

John Lawrence Schultz (Registered Representative, Aurora, Colorado) submitted a Letter of Acceptance, Waiver and Consent 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, Schultz consented to the described sanctions and to the entry of findings that he engaged in private securities transactions with public customers without providing prior written notice to his member firm.

Scot Eugene Sengelman (Registered Principal, Aurora, Colorado) was suspended from association with any member of the NASD in any principal capacity for one year and required to requalify by examination before acting again in any principal capacity. The NBCC imposed the sanctions on review of a decision by the DBCC for District 3. The sanctions were based on findings that a former member firm, acting through Sengelman, failed to prepare current and accurate books and records, and filed inaccurate FOCUS I reports. In addition, the firm, acting through Sengelman, conducted a securities business while failing to maintain its minimum net capital, and Sengelman failed to adequately supervise a statutorily disqualified individual.

Kenneth R. Shelton (Registered Representative, Birmingham, Alabama) submitted an Offer of Settlement pursuant to which he was fined \$20,000 and barred from association with any member of the NASD in any capacity. In addition, Shelton must pay \$385 in restitution to a public customer if he seeks to re-enter the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Shelton consented to the described sanctions and to the entry of findings that he received \$385 from a public customer for automobile insurance. He converted the funds to his own use without the customer's knowledge or consent. In addition, Shelton failed to respond to NASD requests for information.

William Some (Registered Representative, Hackensack, New Jersey) submitted an Offer of Settlement pursuant to which he was fined \$100,000 and barred from association with any member of the NASD in any capacity. In addition, Some must make restitution to a public customer if he seeks to re-enter the securities industry through the NASD's eligibility proceedings.

Without admitting or denying the allegations, Some consented to the described sanctions and to the entry of findings that he caused stock and option trades to be executed in the account of a public customer without the customer's knowledge or consent. The NASD also found that Some failed to execute the same customer's sell order in a timely manner. In addition, the findings stated that Some promised to personally refund losses sustained in the same customer's account. Furthermore, Some failed to respond to NASD requests for information.

Ronald G. Stone (Registered Representative, Bardstown, Kentucky) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$2,500 and suspended from association with any member of the NASD in any capacity for one week. Without admitting or denying the allegations, Stone consented to the described sanctions and to the entry of findings that he caused five public customers to sign documents requesting the sale of a portion of their mutual fund investments. However, the findings stated that Stone failed to inform the customers that the proceeds would be used to purchase financial analysis proposals which they had neither requested nor authorized.

Joseph William Swint (Registered Representative, Brooklyn, New York) was fined \$60,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Swint failed to execute sell orders for public customers. Swint also received a \$2,000 check from a public customer for investment purposes, endorsed the check, and converted the proceeds to his own use and benefit. In addition, Swint opened a securities account with a member firm and failed to notify the firm of his association with another member firm. Swint also failed to respond to NASD requests for information.

Philip Bernard Tasselmyer (Registered Representative, Lockport, New York) was fined

\$50,000 and barred from association with any member of the NASD in any capacity. In addition, Tasselmyer must pay \$8,000 in restitution to a public customer if he seeks to re-enter the securities industry through the NASD's eligibility proceedings. The sanctions were based on findings that Tasselmyer misappropriated and converted to his own benefit \$8,000 in customer funds. In addition, Tasselmyer failed to respond to NASD requests for information.

Derwin L. Vandergriff (Registered Representative, Ooltewah, Tennessee) 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. In addition, Vandergriff must pay \$569,500 in restitution to public customers if he seeks to re-enter the securities industry through the NASD's eligibility proceedings. Without admitting or denying the allegations, Vandergriff consented to the described sanctions and to the entry of findings that he exercised discretion in the joint account of public customers without their prior written authorization and without prior written acceptance of the account as discretionary by his member firm.

The findings also stated that Vandergriff received \$31,000 from a public customer for investment in municipal bonds that he deposited into a bank account he controlled, thereby converting the funds to his own personal use. Furthermore, the NASD found that Vandergriff obtained \$538,500 from public customers by representing that he would purchase suitable investments for the customers and that such purchases would take place outside of his association with his member firms. Instead, Vandergriff converted the funds to his own use without the customers' knowledge or consent. In addition, Vandergriff failed to respond to NASD requests for information.

Thomas Marlow Waller (Registered Principal, Aurora, Colorado) and **John Rich Frye, Jr. (Registered Principal, Littleton, Colorado)**. Waller was fined \$150,000 and barred from association with any member of the NASD in any capacity. Frye submitted an Offer of Settlement pursuant to which he was fined \$150,000 and barred from association with any member of the NASD in any capacity. However, Frye may reapply for association with a member firm after five years. Without admitting or denying the allegations, Frye consented to the described sanctions and to the NASD's entry of

findings. The sanctions were based on findings that Frye and Waller misused customer funds. Specifically, the NASD found that they sold units in a private offering totaling \$2,791,000 to investors and used \$788,968 of the funds for purposes not disclosed in the private placement memorandum.

Darrell Renard Williams (Registered Representative, San Antonio, Texas) submitted an Offer of Settlement pursuant to which he was fined \$5,000 and barred from association with any member of the NASD in any capacity until he pays a \$4,000 arbitration award plus interest. Without admitting or denying the allegations, Williams consented to the described sanctions and to the entry of findings that he failed to pay the arbitration award.

Robert Wunderlich (Registered Representative, Coral Springs, Florida) was fined \$25,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Wunderlich purchased securities for a public customer without the customer's prior authorization, knowledge, or consent. Wunderlich also failed to respond to NASD requests for information.

Wilbur August Zosche, Jr. (Registered Representative, Cedar Grove, New Jersey) was fined \$5,000, suspended from association with any member of the NASD in any capacity for two years, and required to requalify by examination as a registered representative. The sanctions were based on findings that Zosche engaged in private securities transactions without providing prior written notice to his member firm. Without the knowledge or authorization of a public customer, Zosche also forged the customer's signature on a form requesting a \$20,000 loan against the customer's variable life insurance policy. Zosche took possession of the \$25,264.08 loan check and forged the customer's endorsement on the check, thereby misappropriating the funds.

INDIVIDUALS FINED

Kae Alfred Ewing (Registered Principal, Irvine, California) submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000. Without admitting or denying the allegations, Ewing consented to the fine and to the entry of findings that he purchased shares of securities in the account of a public customer without the customer's knowledge or consent. Moreover,

the NASD found that Ewing told the customer that he would cover any losses in the customer's account without the consent of Ewing's member firm. The findings also stated that Ewing failed to pay the customer the difference between the purchase price and the sale price of the securities in a timely manner and, thereafter, issued a \$2,000 check to the customer that was returned due to insufficient funds.

Marc Barry Resnick (Registered Representative, Bell Canyon, California) was fined \$11,650. The sanction was based on findings that Resnick executed purchase transactions for public customers but overcharged them by failing to give them the benefit of reduced sales charges associated with the execution of a letter of intent.

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

Madison Chapin Associates, Incorporated, 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.

Accord Capital Growth, Inc., Dallas, Texas (June 15, 1992)

Churchill Steele, Inc., Denver, Colorado (June 15, 1992)

Golden Shamrock, Inc., Monrovia, California (June 1, 1992)

S. Kisin & Co., Inc., Flushing, New York (June 15, 1992)

Trinity Group Securities, Inc., New Vernon, New Jersey (June 15, 1992)

J. M. Walker International, New York, New York (June 15, 1992)

SUSPENSIONS LIFTED

The NASD has lifted suspensions from membership on the dates shown for the following firms,

since they have complied with formal written requests to submit financial information.

Marks Properties, Inc., New York, New York (June 1, 1992)

Oilpatch Securities, Inc., Dallas, Texas (June 22, 1992)

Richard Roberts Capital Corp., Avon, Connecticut (June 23, 1992)

Varel, John G., Haleiwa, Hawaii (June 17, 1992)

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

- Mark A. Bolender, Dix Hills, New York
- James H. Goss, Hawkinsville, Georgia
- Kazi A. Hasan, New Rochelle, New York
- Stephen A. Hersh, Howell, New Jersey
- Bonnie N. Kantrowitz, Short Hills, New Jersey
- Thomas D. Kienlen, Jasper, Oregon
- Kenneth M. Masaid, Anderson, South Carolina
- Wayne Meadows, Columbus, Ohio
- Randy K. Pittman, Oklahoma City, Oklahoma
- Gershon Tannenbaum, Brooklyn, New York
- Mark D. Thomason, Dana Point, California
- Alan L. Tiegman, Forest Hills, New York
- Marlowe Robert Walker, III, Hauppauge, New York
- Matthew R. White, Salt Lake City, Utah

NASD TAKES EXPEDITED ACTION AGAINST MEMBER FIRM

The NASD has, as a result of an expedited remedial proceeding, imposed conditions on the operation of J.W. Gant & Associates, Inc. (Gant) Englewood, Colorado. In addition, Gant's Chief Executive Officer, Frank L. Palumbo (Palumbo) Registered Principal, Lighthouse Point, Florida, was suspended and required to requalify as a general securities principal.

Gant was prohibited from effecting any transactions with public customers as principal for 30 business days, and Palumbo was suspended from association with Gant or any other member of the NASD in any capacity for 90 calendar days. In addition, Palumbo must requalify by examination as a general securities principal before acting again in that capacity. To resume its principal transactions with customers, Gant must establish and imple-

ment procedures that are consistent with the standards set forth by the decision of the Board of Governors (Board), and has to submit these procedures to the Market Surveillance Committee staff.

The NASD's Board imposed these suspensions and conditions after review of a decision by the Market Surveillance Committee. That decision was based on findings that Gant and Palumbo engaged, and there is a reasonable likelihood that Gant and Palumbo will again engage, in acts or practices inconsistent with just and equitable principles of trade.

The Board found that Gant and Palumbo charged fraudulently excessive markups to their customers in Bali Jewelry, Inc. (Bali), a low-priced Nasdaq stock, in violation of Article III, Sections 1, 4, and 18 of the NASD's Rules of Fair Practice. Section 4 requires that firms charge customers fair and reasonable prices. Section 18 prohibits the use of manipulative, deceptive, or other fraudulent devices in the purchase or sale of any security. The markups on these transactions ranged from 8.57 to 77.33 percent over the prevailing market price of Bali, which was Gant's contemporaneous cost because the firm dominated and controlled the market.

"The expedited remedial proceeding gives the NASD the authority, when it is in the public interest, to take immediate disciplinary action and impose suspensions or conditions upon the continued operation of a firm or individual that has engaged in serious misconduct and is likely to continue to do so if not stopped. It is a very effective tool in protecting the investing public from improper practices, and in this instance, fraudulent activity," said John E. Pinto, NASD Executive Vice President of Compliance.

This investigation was conducted by the Market Surveillance Department as part of a continuing nationwide effort by the NASD to eliminate trading abuses in low-priced securities.

Gant and Palumbo have appealed this action to the SEC and sought a stay of sanctions pending SEC merits review. The SEC has issued an interim stay of sanctions pending action on the request for a further stay pending merits review.

NASD SUSPENDS FIRM, SANCTIONS INDIVIDUALS

The NASD has taken disciplinary action against G.K. Scott & Co., Inc. (Plainview, New York), George Kevorkian (Registered Principal, Dix Hills, New York), and John Kevorkian (Registered Representative, Boca Raton, Florida).

The firm was fined \$50,000, jointly and severally with G. Kevorkian, and fined \$716,000, jointly and severally with J. Kevorkian. The \$716,000 joint and several fine will be reduced by any amounts of restitution that the firm and J. Kevorkian pay to customers. The firm was fined an additional \$4,000, suspended from acting as a lead underwriter in any underwriting for six months, and required to revise its supervisory procedures for markups within 30 days. G. Kevorkian was also suspended from association with any member of the NASD in any capacity for 30 days. Moreover, J. Kevorkian was suspended from association with any member of the NASD in any capacity for 30 days, prohibited from acting as a general securities principal for two years, and required to requalify by examination in any registered capacity in which he proposes to function.

The NASD's NBCC imposed the sanctions following an appeal of a decision by the DBCC for District 10. The sanctions were based on findings that the firm, acting through J. Kevorkian, dominated and controlled the market in immediate secondary aftermarket activity in a non-Nasdaq over-the-counter security following its initial public offering, by selling its units, common stock, and warrants to customers from inventory at prices that were fraudulent and unfair. The excessive markups ranged from 16 to 480 percent over the prevailing market price.

The NASD also found that, in contravention of the Board's Free-Riding and Withholding Interpretation, the firm sold shares of a "hot" issue to restricted accounts. In addition, the firm, acting through G. Kevorkian, failed to establish, maintain, and enforce written supervisory procedures.

This action has been appealed to the SEC by all three respondents, and the sanctions are not in effect pending consideration of the appeal.

For Your Information

National Association of Securities Dealers, Inc.

July 1992

Louisiana Raises Agent Fees

Effective June 10, 1992, Louisiana raised its agent fees for registration, transfer, and renewal from \$50 to \$60.

If you have any questions regarding these changes, call NASD Member Services Phone Center at (301) 590-6500.

Major Medical Insurance Brochures Mailed to Registered Reps

In June, insurance administrators for the NASD began mailing major medical coverage brochures to registered representatives of those firms that have given their consent for such direct contact.

This coverage, insured by National Casualty

Company, features cost-saving deductibles of up to \$2,000, good-health and spouse discounts, and rates that are generally competitive. Interested registered representatives may obtain detailed information by contacting Benefits Administrators, Inc., at 1-800-336-0883.

NASD Member Voting Results

As a member service, the NASD publishes the final result of member votes on issues presented to them for approval in the monthly *Notice to Members*. Most recently, members voted on the following issue:

■ **Notice to Members 92-25** — Proposed

Amendment to Article III, Section 15 of the NASD Rules of Fair Practice Re: Exemption for Negative-Response Letters Used to Facilitate Certain Bulk Exchanges of Money Market Mutual Funds. **Voting Deadline: June 22, 1992.** Ballots For 1,890; Against 133; and Unsigned 19.

New FDIC Regulations Issued for Brokered Deposits

Members who engage in the practice of brokered deposits with federally insured depository institutions must now notify the Federal Deposit Insurance Corporation (FDIC) in writing that they are acting as deposit brokers.

The regulation defines a deposit broker as: (A) Any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions, or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and (B) An agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the ac-

count to fund a prearranged loan.

Under this new regulation, a deposit broker must register with the FDIC before it may solicit or place deposits with an insured depository institution. In addition, a deposit broker must keep certain records and on request file written reports with the FDIC.

The regulation was published in the June 5, 1992, *Federal Register* Volume 57, Number 109, at pages 23933-44. For further information, contact William G. Hrindac, Examination Specialist, Division of Supervision, (202) 898-6892 or Valerie Jean Best, Counsel, Legal Division, (202) 898-3812, or write to FDIC, 550 17th Street, N.W., Washington, DC 20429.