

**DAY TRADING: EVERYONE GAMBLES BUT THE  
HOUSE**

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**HEARINGS**

BEFORE THE  
PERMANENT  
SUBCOMMITTEE ON INVESTIGATIONS  
OF THE  
COMMITTEE ON  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED SIXTH CONGRESS  
SECOND SESSION

—————  
FEBRUARY 24 AND 25, 2000  
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# **DAY TRADING: EVERYONE GAMBLES BUT THE HOUSE**

**THURSDAY, FEBRUARY 24, 2000**

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 9:30 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Susan Collins, Chairman of the Subcommittee, presiding.

Present: Senators Collins, Levin, and Durbin.

Staff Present: K. Lee Blalack, II, Chief Counsel and Staff Director; Mary D. Robertson, Chief Clerk; Deborah Field, Counsel, Detailee/SEC; Brian C. Jones, Investigator; Wesley Phillips, Detailee/GAO; Eileen M. Fisher, Investigator; Elizabeth Hays, Executive Assistant; Linda J. Gustitus, Minority Chief Counsel and Staff Director; Bob Roach, Counsel to the Minority; Felicia Knight and Steve Abbott (Senator Collins); Anthony Pitago (Senator Specter); Anne Bradford (Senator Thompson); Nanci Langley and Glenn Sauer (Senator Akaka); Marianne Upton, Darla Silva, and Jadie O'Dell (Senator Durbin).

## **OPENING STATEMENT OF SENATOR COLLINS**

Senator COLLINS. Good morning. The Subcommittee will come to order.

Today, the Permanent Subcommittee on Investigations continues its examination of day trading. Last fall, the Subcommittee began its investigation with an overview hearing. After several months of investigation, we will now draw back the curtain and provide an in-depth look at the practices of three day-trading firms representative of the industry.

Day trading involves taking positions in stocks for very short periods of time, usually minutes or hours, but rarely longer than a day. Day traders seek small increments of profits from moment-to-moment fluctuations in the price of a stock. The firms that cater to day traders provide their customers with high-speed computer access and real-time market quotes, both of which are necessary to take advantage of small changes in stock prices.

Over the course of 8 months, the Subcommittee has investigated 15 day-trading firms which reported a total of about 12,700 day trading accounts. While a day trader could open more than one account, the Subcommittee's review indicates that the number of day traders is significantly higher than most of the earlier estimates. For example, at our hearing last fall, we heard testimony that

there were about 5,000 day traders at approximately 60 firms. Our analysis suggests that the number is at least double that.

Commission income, which is normally generated on a per trade basis, is the primary source of revenue for most day-trading firms. The day-trading firms we investigated charged an average commission of \$16 per trade. In the aggregate, those firms estimated that the average customer executes about 29 trades each day. Consequently, the average day trader must generate a minimum trading profit of over \$450 each and every day simply to break even. On an annualized basis, assuming 20 trading days per month, that means the average day trader must generate a trading profit of more than \$111,000 to achieve profitability for the year.

As the testimony today will show, most day traders are not breaking even. In fact, they are losing money, big money. The consumers who will testify before us today, for example, lost tens of thousands of dollars.

The same cannot be said, however, for the day trading industry. It seems to be doing quite well. The 15 firms that we examined reported aggregate gross revenues of over \$491 million in 1999 and aggregate profits of about \$144 million. The Subcommittee found that the industry is growing by leaps and bounds. Indeed, the revenues of day-trading firms that we analyzed grew by a whopping 276 percent from 1997 to 1999.

Everyone, even the industry, appears to agree that day trading is highly speculative and extremely risky. Both the Chairman of the SEC and the President of NASAA, that is the State Securities Regulators Association, went so far as to call day trading gambling during the Subcommittee's hearing last fall. The Electronic Traders Association, the trade organization for the industry, objects strongly to that analogy, contending that day trading requires skill, state-of-the-art technology, and hard work.

That may be true, but many day traders seem comfortable with the comparison to gambling. The president of 1 day-trading firm was quoted in the press as saying that day trading is like blackjack. Documents obtained by the Subcommittee also indicate that some firms consider day trading to be essentially gambling.

I would draw everyone's attention to the exhibit we have posted.<sup>1</sup> This is a listing of trading tips from a day-trading firm called Insider Trading. You will note that Insider Trading cautions its customers not to get greedy. It states, "When you reach your goal, stop and quit trading. Try not to be greedy and still trade. Remember you are gambling and most likely will lose what you have made."

I believe that day trading can be fairly compared to certain types of gambling. For inexperienced traders, it is little more than a game of chance. I reached this conclusion based primarily on data showing that only a small percentage of day traders ever make money. Our investigation indicates that the small percentage of day traders who are successful generally start with large amounts of risk capital and substantial experience.

The best evidence that we have suggests that a significant majority of all day traders, more than 75 percent, lose money, and for

<sup>1</sup> See Exhibit No. 13 which appears in the Appendix on page 283.

the novice under-capitalized trader, there is almost no chance of success.

A document produced to the Subcommittee by the firm All-Tech Direct sums up my concern about the profitability of day trading. When the branch manager for All-Tech's Seattle office was asked to comment on the progress of his 51 customers, he wrote, "Overall, good. We need to have a couple of people making money." In fact, when interviewed by the Subcommittee staff, the branch manager estimated that only 10 percent of his Seattle customers were profitable. Even more striking, the branch manager of the Los Angeles office of another day-trading firm, Providential Securities, stated that none—none—of his office's day-trading clients ever made money. In fact, he estimated that the average customer lost approximately \$50,000.

Because of the poor success rate of most day traders, one might wonder how is it that the industry has grown? After all, why would people give up good secure jobs or put their savings at risk to pursue a day-trading career when their chances of making money were very small? The reason, of course, is that most people who lost money, including the customers that we will hear from today, simply did not fully appreciate the risk.

While some day-trading firms give their consumers very good risk disclaimers, on the whole, the industry has failed to disclose adequately just how risky this speculative activity is. Many day-trading firms improved their written risk disclosures only after regulatory and Congressional scrutiny increased the last year, and as today's testimony will show, written risk disclosures are often contradicted by oral statements that minimize the risk through promises of big profits or cannot lose systems.

Even when the written risk disclosures are provided, they are often undermined by deceptive advertising or other hype. As an example of this, I would refer to Exhibit No. 148.<sup>1</sup> In this instance, this is the Web site for Lazy Day Trader. It entices potential customers with an unbalanced and exaggerated testimonial which says, "This is the only business I know of where there is absolutely no limit ever as to how much I can earn. I am doubling my money every 3 months buying and selling stocks. I have developed a simple method to determine what to buy and sell, how much, and when to buy and sell, which everyone can follow. You can start with as little as \$2,500 and still make money." It goes on to say, "You do not even have to understand economics, the stock market, or international finance."

In other words, what this Web site is holding out is the promise that with very little capital and no understanding of the markets, the average person can get rich by following Lazy Day Traders' cannot lose system. If only it were that easy.

What is most disturbing about these types of misleading claims is that they often appeal to the very people who have limited investment experience. Press reports have noted that day trading attracts many young people because it is computer intensive, fast paced, and offers the tantalizing prospect of quick riches.

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<sup>1</sup>See Exhibit No. 148 which appears in the Appendix on page 1186.

The customers of Landmark Securities are a good example. The Subcommittee staff conducted an analysis of Landmark Securities' new account forms and found that 42 percent of the firm's customers were 26 years old or younger and that their disclosed median income and net worth of these young traders was only \$30,000.

These data really highlight the most troubling finding of our investigation. Most day-trading firms have accepted customers whose stated financial condition or investment objectives are inconsistent with the firm's own internal policies governing the opening of new accounts. They are simply not suitable for day trading.

We will hear testimony today from several former day traders whose disclosed financial conditions were well below the minimum requirements of their respective firms. Ironically, however, these firms must be commended for having any minimum requirements at all. Twenty percent of the firms we examined maintained no minimum financial requirements to open a day trading account. In light of this evidence, it probably should not be surprising that so many day traders eventually fail.

Let me conclude my opening statement by reaffirming that I have no intention of proposing a ban on day trading. If an investor who has adequate capital is fully informed of the risks of day trading and still elects to pursue this speculative strategy, then so be it. But if day-trading firms fail to disclose the risk and entice unsophisticated investors with misleading ads or exaggerated claims of profitability, regulators and the industry must put a stop to it. Consumers who choose to day trade must be warned that they could easily lose their entire investment.

It is now my pleasure to recognize my distinguished colleague and the Ranking Minority Member of the Subcommittee, Senator Carl Levin.

#### **OPENING STATEMENT OF SENATOR LEVIN**

Senator LEVIN. Thank you, Madam Chairman. First, let me commend you and your staff on the extraordinarily fine work that you have done in preparing us for these hearings. You have been able to sift through the hype that surrounds day trading and to get to the real-life consequences of this latest "get rich quick" fad. For many, as the work of you and your staff has revealed, the real story of day trading is too often large losses and broken promises.

In our world of instant everything, from cellular communications to microwave cooking to E-mail and hot mail, and under the influence of a rising stock market, it is not surprising that many people are attracted to instant stock trading, as well. Buying into a company one minute, getting out of that the next. Day trading is clearly a phenomenon of our times.

Though considered a product of the investment world, day trading does not involve investing. Where a normal investor might execute 10 trades a year, a day trader typically might execute 100 trades a day. Day trading has absolutely no connection to the value of the companies whose stock is being traded. As the SEC Chairman, Arthur Levitt, described it, day trading is more like gambling than investing.

It is argued that day trading utilizes advances in computer technology to provide average Americans with access to securities markets that had previously been available only to professional traders, thereby bringing Wall Street, it is argued, closer to Main Street. While that may have an element of truth, day trading also has serious problems with unscrupulous hustlers who use day trading to promote “get rich quick” schemes to untrained consumers.

Given the size of the stakes at risk, tens of thousands of dollars, losses can mount pretty quickly. The PSI staff, our Subcommittee staff, has learned that when there are losses, the hustlers are there to facilitate loans of more money at usurious rates to clients trying to recover their stake. The longstanding rules that were developed to protect investors simply fail to address some of the new practices in the field of day trading.

The hearings that we are holding here will help us understand what might be done to provide effective standards of consumer protection and to protect the integrity of our markets. Last year, I asked the GAO to conduct a study of the day trading industry. Its analysis included a review of the examinations of 67 day-trading firms and their branches which had been conducted by the SEC and the regulatory arm of the National Association of Securities Dealers, NASD Regulation, Inc., and an in-depth exam of seven of the largest day-trading firms. Those seven firms account for 80 percent of all day traders and 80 percent of all day trading volume. Today, we are releasing the results of the GAO’s work and it affirms the work of the Subcommittee staff.

Because of the lack of data, GAO stated that it was unable to verify the extent of profitability in the industry, nor was it able to assess the impact of day trading on the volatility of the market. GAO reported that day-trading firms admitted that most consumers will lose money initially, but the firms, they said, also contended that a majority of traders who traded more than 6 months made money.

This claim directly contradicts the most extensive study on profitability, which was conducted by the Washington State Department of Financial Institutions. In that study, Washington State looked at every account for the life of the account in five of the seven day-trading firms in that State, and it reviewed a sample of accounts in the other 2 day-trading firms. The Washington study concluded that 77 percent of the traders were unprofitable, and that for the 23 percent that were profitable, it concluded that the profits were small compared to the size of the other losses.

The Subcommittee investigation has looked behind the claims of day-trading companies and found how some day-trading firms skirt the rules, use loopholes, and take advantage of their customers in the pursuit of profits. We will hear how employees of some day-trading firms traded on behalf of clients, although not licensed to do so, forged customers’ signatures and made unauthorized transfers of customer funds, opened accounts for customers when their assets did not meet the firm’s own minimum requirements, and established fictitious accounts for customers so that they could continue to trade after their original accounts were closed due to insufficient assets.

We will hear how the top executives of some day-trading firms employed exaggerated and deceptive ads touting the profitability and suitability of day trading, hired unqualified individuals to run branch offices and provided them with very little training, ran inadequate, and at times, virtually nonexistent compliance programs, and are reducing minimum customer asset requirements to levels lower than what they concede are necessary to have a reasonable chance of success in day trading.

Again, I want to commend our Chairman for her determined leadership in this area, and I commend the Subcommittee staff, particularly the Majority staff that has done the heavy lifting in this investigation, for their very professional, thorough, and revealing work.

The evidence and testimony presented over the next 2 days will underscore the fact that day trading may work for some, but it is a dangerous game for the average consumer. The stakes for the consumer are high, again, tens of thousands of dollars. The promoters of day trading profit whether their clients win or lose, and in some cases, they even stack the deck. Just like in Las Vegas, in the world of day trading, the only guaranteed winner is the house. Thank you.

Senator COLLINS. Thank you, Senator Levin.

I am pleased to welcome our first witness this morning, Deborah M. Field. Ms. Field is a counsel to the Subcommittee and has been on detail to the Subcommittee from the Securities and Exchange Commission since September of last year. Ms. Field will provide an overview of the Subcommittee's 8-month investigation of the day trading industry.

Pursuant to Rule 6, all witnesses who testify before the Subcommittee are required to be sworn, so I would ask that you stand and raise your right hand. Do you swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. FIELD. I do.

Senator COLLINS. Thank you. Please proceed.

**TESTIMONY OF DEBORAH M. FIELD,<sup>1</sup> COUNSEL, PERMANENT  
SUBCOMMITTEE ON INVESTIGATIONS, ON DETAIL FROM  
THE SECURITIES AND EXCHANGE COMMISSION**

Ms. FIELD. Thank you, Chairman Collins, Senator Levin, and Members of the Subcommittee. My name is Deborah Field and I am counsel to the Permanent Subcommittee on Investigations. I am currently on detail to the Subcommittee from the Securities and Exchange Commission. I have been a member of the SEC's Division of Enforcement for about 2 years. Prior to joining the SEC, I was an attorney with the law firm Wilmer, Cutler, and Pickering, where I worked in the firm's securities enforcement and litigation practice. As counsel to the Subcommittee, I have been intimately involved with the staff's investigation of the day trading industry. Today, I am presenting a brief overview of that investigation.

The Subcommittee staff conducted this investigation by casting a wide net. We examined the largest day-trading firms and some

<sup>1</sup>The prepared statement of Ms. Field appears in the Appendix on page 122.

that were very small. The Subcommittee sent detailed and comprehensive document requests to 19 day-trading firms. In response, those firms produced approximately 50,000 pages of documents and at least 10 videotapes containing advertisements.

In addition to reviewing all of these materials, Subcommittee staff interviewed or deposed over 100 people. These witnesses included chief executive officers and other employees of day-trading firms, former and current day traders, gambling experts, academics, and authors. We also spoke with State and Federal securities regulators and representatives of self-regulatory organizations.

Based on the evidence gathered by the Subcommittee, we narrowed our focus to three day-trading firms, All-Tech Direct, Providential Securities, and Momentum Securities. The staff conducted a detailed examination of these three firms.

While some of our findings pertain to potentially illegal conduct, such as forgery and unauthorized trading, perhaps the most disturbing evidence gathered by Subcommittee staff relates to business practices that are, under the current regulatory framework, entirely legal. Perhaps the single most important finding of this investigation was that many firms allow and even encourage unsuitable customers to day trade. Contrary to their own internal policies, many firms have routinely failed to gather the information about their prospective customers that is necessary to determine whether those customers are suitable for day trading. Frequently, customers end up losing tens of thousands of dollars, losses that they cannot sustain.

I would like to direct your attention to Exhibit No. 78.<sup>1</sup> This is a page from the compliance manual of Providential Securities. As you can see, Providential advises its employees that, "Living in such a litigious society, brokers need to take special care in gathering complete and accurate financial information about their customers. You must take the time with your clients to assess their situation on a regular basis and make recommendations based on your fact-finding mission. Suitability is the key to client recommendation."

However, I would like to now direct your attention to this next exhibit, Exhibit No. 83,<sup>2</sup> which shows that Providential frequently disregarded its own compliance manual. This new account form contains virtually no information about the prospective day trader. Providential did not document the customer's employer, credit references, or tax status, and even though Providential supposedly requires its day traders to disclose a minimum income of \$50,000 and a minimum net worth of \$200,000, it opened this new account without documenting this customer's net worth or income. And, Providential had an initial deposit requirement, yet no initial deposit amount is written on this form. It is hard to imagine what basis the firm had for determining that this customer was suitable for day trading.

Even when day-trading firms have gathered the pertinent information, many have accepted customers whose disclosed financial condition did not meet their own criteria for opening day trading

<sup>1</sup>See Exhibit No. 78 which appears in the Appendix on page 722.

<sup>2</sup>See Exhibit No. 83b. which appears in the Appendix on page 727.

accounts. For example, firms have opened day trading accounts based on new account forms indicating that customers' investment objectives were income or long-term growth, two objectives commonly understood to be at odds with a high-risk day-trading strategy. In fact, we reviewed over 300 All-Tech new account forms that contained objectives that were inconsistent with day trading.

We have also uncovered evidence that some day-trading firms altered new account forms to make their customers appear more suitable for day trading. I would like to now direct your attention to Exhibit No. 149.<sup>1</sup> This is a new account form produced to the Subcommittee by Terra Nova Trading. As you can see from this form, this customer initially indicated that his income and net worth were \$24,000 and \$15,000, respectively. These figures were then crossed out and someone wrote \$30,000 in each category. As you may have guessed, Terra Nova's minimum financial requirement for day traders is \$30,000 of income and \$30,000 of net worth.

The Subcommittee staff asked Terra Nova about the changes to this account form as well as four others. Terra Nova informed the Subcommittee that its employees made these changes, but contended that they were made "with the knowledge and consent of the customer based on information received from the customer." However, we found 50 Terra Nova new account forms that were similarly altered. It is hard to believe that 50 customers first provided the firm with incorrect financial information and then later informed the firm that their net worth and income were actually \$30,000 or more.

Some day-trading firms who formerly maintained sound minimum financial requirements for opening new accounts have lowered their standards. They have done so to compete with other day-trading firms who have weak minimum requirements or no standards at all. These firms are now accepting customers whom they previously considered unsuitable for day trading. These firms readily admit that they are doing so because they do not wish to lose the commission revenue generated by those customers.

Not only do firms accept new customers that they know have very little chance of success, they also allow, and even encourage, those customers to trade beyond their means. For instance, the Subcommittee staff found that many day-trading firms systematically arrange for customers who cannot satisfy margin calls to obtain from other customers short-term loans at high interest rates. The firms then manage all of the administrative and clerical functions attendant to servicing those loans. As an example, we found that Momentum Securities used one customer's account to lend almost \$10 million to 52 customers in a single month. These margin loans often exceeded \$100,000.

We also found that day traders end up paying exorbitant commission fees throughout the course of the trading day. Although the fees per trade are not necessarily high, day traders may make up to 50 or even 100 trades per day, thereby generating significant fees. That means that day traders may spend much of their time

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<sup>1</sup> See Exhibit No. 149 which appears in the Appendix on page 1187.

and capital just trying to break even before accruing one cent of profit.

Another troubling finding of our investigation related to the quality of the management and supervision of day-trading firms. Some day-trading firms have hired unqualified personnel to manage their branch offices. For example, some firms have hired branch managers who have little or no prior experience in the securities industry and some who were not even licensed. They have also failed to adequately train and supervise branch personnel after they were hired. And, despite their claims to teach customers everything necessary for day trading, many day-trading firms have provided their customers with poor training, training that gives customers a false sense of security about day trading and their likelihood of success. For that training, customers paid thousands of dollars, and in fact, most day traders end up losing money.

The testimony over the next 2 days will focus primarily on the case study firms All-Tech, Providential, and Momentum. I would like to now direct your attention to Exhibit No. 150.<sup>1</sup> We have prepared this chart to help you understand the relationships between the hearing witnesses and the case study firms.

Today, you will hear from former customers of these firms or their representatives. They will be followed by former and current branch managers of the firms, as well as one third-party trader. The chief executive officers whose names appear on the second line of the chart will each testify tomorrow morning. Harvey Houtkin is the CEO of All-Tech, Henry Fahman is the CEO of Providential, and James Lee is the President of Momentum.

In conclusion, the Subcommittee's investigation uncovered many disturbing, and in some cases illegal, practices by the day trading industry. Chairman Collins, I would be pleased to answer any questions that you and the Subcommittee Members might have.

Senator COLLINS. Thank you very much, Ms. Field. I want to commend you for your excellent overview of the investigation and also to thank you for the expertise that you have brought from your position with the SEC's Enforcement Division to the Subcommittee. Your expertise in SEC and securities matters, and particularly on the enforcement side, have greatly assisted the work of the Subcommittee.

I just want to ask you one question and it deals with an issue that you touched on in your statement. You mentioned that while day traders may not be paying that much per trade as a commission, that because they trade so frequently, they end up paying exorbitant commissions and that makes it very difficult for them to turn an actual profit. It is one reason the losses are so great for most day traders, is that a fair summary?

Ms. FIELD. Yes, Chairman Collins, that is a fair summary. They make so many trades a day that when added up in the aggregate, it often accounts for a tremendous portion of their losses.

Senator COLLINS. The Subcommittee's estimate is that the day traders, on average, at the firms that we surveyed would actually have to make more than \$111,000 a year just to pay commissions. Have you discussed the issue of commissions with the regulators

<sup>1</sup>See Exhibit No. 150 which appears in the Appendix on page 1188.

and do you have some idea of whether the Subcommittee's findings are similar to the findings of the SEC and the State regulators?

Ms. FIELD. Yes, Chairman Collins, I have done that. I spoke with the regulators and what I understand from my in-depth conversations with them is that our findings are actually quite conservative. There is another study that is coming out that I think we will probably hear about later in this hearing which I think would show that our estimates are quite conservative and that, in fact—

Senator COLLINS. You mean on the low side?

Ms. FIELD. Yes, exactly. When I say conservative, I mean being on the low side, and that, in fact, it may be that the number could be quite a bit higher, depending on an individual trader's strategy.

Senator COLLINS. I bring up this issue because I believe that if most day traders were told when they were opening an account that they would have to clear more than \$111,000 a year just to pay the commissions before they earned a cent of profit for themselves, that many of those day traders, potential customers, would decide not to engage in day trading. It would help them better understand how risky this business is and how high the commissions are.

Ms. FIELD. I would certainly agree with that.

Senator COLLINS. Thank you, Ms. Field.

Ms. FIELD. Thank you.

Senator COLLINS. Thank you very much. Senator Levin.

Senator LEVIN. I just want to thank you for your work. It is extraordinarily helpful, professional, balanced, and thorough, and I just am most appreciative and I know every Member of this Subcommittee has benefitted from it. Thank you.

Ms. FIELD. Thank you, Senator Levin.

Senator COLLINS. Senator Durbin, welcome. If you have any opening statement you want to make at this time, feel free to do so.

#### OPENING STATEMENT OF SENATOR DURBIN

Senator DURBIN. In the interest of getting to the witnesses, I would like to just submit this for the record and thank you for your work on this.

Senator COLLINS. Thank you, Senator.

[The prepared statement of Senator Durbin follows:]

#### PREPARED STATEMENT OF SENATOR DURBIN

I'd like to thank Senator Collins and Senator Levin for holding this hearing on the rapidly growing practice of "day trading." The electronic day-trading industry has attracted thousands of individual investors who engage in the risky practice of riding the stock market's ups and downs, trying to squeeze out profits by rapidly buying and selling shares.

The advent of the electronic communication networks and the Internet has dramatically changed the nature of the securities market and has made day trading possible for people other than traditional brokers. Today's market is more of a populist place—the masses on Main Street now have almost as much information as the aristocrats who long ran Wall Street. Armed with instant information from the Internet and CNBC, and enabled by rapid trading systems, people with very little if no investment experience are becoming day traders.

The passion for trading by ordinary investors hasn't just affected a few select stocks, however. It has reshaped the entire market landscape. Since 1996, the size of the average trade on the Nasdaq has dropped 50 percent, to just under 700 shares. What's more, the old philosophy of buy and hold has gone out the window.

The average Nasdaq stock is now held for just 5 months down from 2 years a decade ago. Meanwhile, trading volumes has surged—the month of January was the busiest ever for both Nasdaq and the New York Stock Exchange. With an estimated 10 to 15 percent of Nasdaq trading volume attributable to day traders, their impact on the markets will continue to grow.

Hand in hand with the frenetic pace of trading is increased volatility. While we have all heard the countless stories about day traders who make it big, the other side to that coin is others who lose everything. As Securities Exchange Commission Chairman Arthur Levitt emphasized in his testimony before this Committee last fall: Day trading is VERY RISKY.

Of the reported 287 day-trading firms nationwide, 29 are in my home State of Illinois. This figure does not include the number of firms that individuals may access over the Internet. The Illinois Securities Department in the Secretary of State's office is currently investigating several complaints filed against day-trading firms. A chief concern of Illinois officials is that day traders receive very limited education for what is a very sophisticated market, causing some traders to mortgage their homes and sell other possessions to continue the practice.

I share the Committee's concern in ensuring that people engaging in day trading know what they are getting into. I welcome today's opportunity to learn more about the risks of day trading, its impact on the securities market and its effect on investor behavior.

Finally, I want to welcome Ms. Alyce Wenzel who is here today from Huntley, Illinois and will share the tragic story of her son, Scott Webb. Thank you.

Senator COLLINS. I would now like to welcome our second panel of witnesses this morning. Each of these witnesses was formerly a customer of either Momentum, Providential, or All-Tech day-trading firms, or they are here today on behalf of former customers of the three day-trading firms that have been the focus of the Subcommittee's investigation.

Our first witness is going to be Alyce Wenzel of Huntley, Illinois, a constituent, I realized belatedly, of Senator Durbin. Ms. Wenzel's son, Scott Webb, was a day trader at Momentum's office in Atlanta, Georgia, for 1 year before he was tragically shot and killed last summer. Ms. Wenzel will discuss how her son came to be a day trader, his financial condition at the time, and his experiences day trading at Momentum.

Our next witness will be Steve Buchwalter, who is an attorney for Amy Le, a former customer of Providential in Los Angeles. Mr. Buchwalter is testifying on behalf of Ms. Le, who unfortunately is very ill and unable to come to Washington. Mr. Buchwalter will tell us how Ms. Le was induced to open a day trading account by a Providential day trader named Huan Van Cao and how Mr. Cao fared when he day traded Ms. Le's life savings.

Next, we will hear from Carmen Margala and Sandra Harlacher, who are both former customers of All-Tech. They will discuss how they were first attracted to day trading at All-Tech and their experiences trading at the San Diego branch office.

I want to thank you all for coming forward this morning and I would ask that you all stand so that I can swear you in. Do you swear that the testimony you are about to give to the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. WENZEL. I do.

Mr. BUCHWALTER. I do.

Ms. MARGALA. I do.

Ms. HARLACHER. I do.

Senator COLLINS. Thank you. Before this panel begins, I just want to thank you all again for testifying. I know that it is very

difficult to come forward and publicly discuss your experiences day trading. No one likes to admit that they have lost money. None of us likes to admit that we have made mistakes or investment decisions that did not work out well, and I know that it is especially hard to do this in a public setting. So I want to thank you very much for being willing to come forward. Your testimony is so important to us and it is so important to other people who may be considering day trading. I believe that by sharing your experiences, you will save many other people the financial losses and the embarrassment and pain that you have experienced. So I want to just personally express my appreciation to you and to commend you for coming forward.

Ms. Wenzel, we are going to start with you. Again, I also want to personally express to you my sorrow over the loss of your son, and I know I speak for not only the Subcommittee Members but everybody here in doing so. Would you please proceed.

**TESTIMONY OF ALYCE WENZEL,<sup>1</sup> MOTHER OF SCOTT WEBB, FORMER DAY TRADER WHO WAS SHOT BY MARK BARTON IN THE ATLANTA OFFICE OF MOMENTUM SECURITIES, HUNTLEY, ILLINOIS**

Ms. WENZEL. Thank you, Senator Collins, Senator Levin, and Members of the Subcommittee. My name is Alyce Wenzel and I appreciate the opportunity to share my story with all of you here today. I do so on behalf of my son, Scott Webb.

As many of you know, Scott was a day trader at Momentum Securities in Atlanta, Georgia, who was senselessly murdered by Mark Barton on July 29, 1999. The loss of my son continues to haunt me today and it is still very difficult to talk about the incident and to reflect about him.

Particularly troubling, though, is what I have learned about the world of day trading subsequent to his death. In fact, I wish I knew as much back then about this practice as I do now because I would have done everything within my power to keep Scott from getting involved in day trading in the first place. My hope is that by communicating the story of my son today, others interested in day trading might better understand the many risks and dangers associated with this industry.

To begin, my son was an extremely bright, enthusiastic, and a very thoughtful person. He was also a very hard worker. Despite this, he experienced a number of setbacks in the months leading up to 1998. Among them, he lost the job that he loved at Enterprise Rent-a-Car, and then again, he was let go from Dean Witter for not meeting required quotas as a broker. I recall being concerned about his confidence and spirit after these layoffs.

Shortly thereafter, though, he called me to say that he had found a new way to make a living, day trading. I admit, at the time, I knew little about day trading, but based on how optimistically Scott described the practice, it sounded like a positive step for him. My daughter corroborated his optimism about day trading when she indicated that Scott told her, "I think I have finally found my niche."

<sup>1</sup>The prepared statement of Ms. Wenzel appears in the Appendix on page 126.

He informed us that he was going to relocate to Atlanta from St. Louis with a friend and start day trading at a company called Momentum Securities. In preparation for this, he traveled to Tyler, Texas, to be trained. While there, Momentum put Scott up in a lavish apartment, and as my daughter described, wined and dined him. With that, he packed up and moved to Atlanta with expectation of being a successful day trader.

Not long after Scott arrived, Scott started having troubles. His credit record was poor, a point illustrated by the fact that his father had to cosign for his car loan. He also had very little cash resources, so once again, he turned to his father, who loaned him \$30,000 for his day trading activities. In addition, Scott did not have any other sources of income at the time, and this concerned me. Despite all of these facts, Momentum allowed my son to open a day trading account. After his death, I learned that Scott also borrowed \$30,000 from a Momentum customer from Tyler, Texas, on the day he opened his account. Unbelievably, he did so at an annual interest rate of 18 percent.

With the capital he was able to scrape together, Scott started trading. Based on what he confided to me, my daughter, and his girlfriend, my son lost money from the beginning. And in addition to the obvious pressures that accompany financial strains, I noticed a very real effect on Scott in general. His girlfriend described him as depressed often about his financial situation. When I spoke with him, he was not himself and he appeared to be under extreme pressure and stress. Right before his death, I called Scott to inquire if he was going to attend his cousin's wedding in California, and he responded that his financial situation was such that he did not know whether he had the money for a plane ticket for the event.

As I sit here today, I still cannot understand why my son was allowed to trade at Momentum. He made decisions that never should have been presented to him as an option for a person in his financial situation. And I firmly believe that he was not adequately prepared for the harsh realities of day trading. I also am surprised that he was hired by Momentum to train other customers. Scott had a gift for working with others, but given the fact that he had not been successful as a day trader himself, it does not make sense to me that Momentum would ask him to show people how to trade.

After his death, I was shocked to learn that Scott had tried day trading before he moved to Atlanta and was not successful. All told, he lost approximately \$10,000 of borrowed money. Sadly enough, Momentum officials knew this before he opened the account with them, and yet they still allowed him to trade.

My son was not an appropriate person to be day trading based on his financial situation and his background experience. For these reasons, he should never have been at Momentum in the first place. I hope my words provide comfort to all of those who lost family and friends on that awful July day. I also hope that by hearing Scott's story, people will take a closer look at day trading and realize the incredible risks inherent to this practice. By doing so, they might avoid some of the insurmountable pressures my son experienced. Thank you very much for inviting me here.

Senator COLLINS. Ms. Wenzel, again, thank you so much for your testimony.

Ms. WENZEL. You are welcome.

Senator COLLINS. I know this is extremely difficult for you, but I think that you can take a lot of comfort that by coming forward, you are sparing others the pain and the financial losses that your son experienced. So I really appreciate your testimony.

Ms. WENZEL. Thank you, Chairman.

Senator COLLINS. Mr. Buchwalter.

**TESTIMONY OF STEVE BUCHWALTER,<sup>1</sup> ATTORNEY FOR AMY LE, FORMER CUSTOMER OF PROVIDENTIAL SECURITIES, ENCINO, CALIFORNIA**

Mr. BUCHWALTER. My name is Steve Buchwalter. I am an attorney whose practice regularly entails representing investors against brokerage firms and brokerage firms against investors. A client of mine, Ms. Amy Le, was invited here today to tell you her stories about her experiences with day trading. Unfortunately, Amy's health has prevented her from being here today and I have been invited to tell you her story in her stead.

I recently read a *Washington Post* article entitled, "Day Trading's Showcase Victim," and that article essentially asked, where were the other victims? I have read the article, and I can tell you I have spoken to many of the victims. I know other attorneys who have spoken to many of the victims. And I believe Chairman Collins had it right. Most people do not like people to know that they have lost money. They feel stupid. They do not want to advertise that fact. So it is a situation where most people simply do not come forward.

Day trading has been around for a while. In the older days, we simply called it churning. It has become popular recently with most of the investors making the decisions themselves, and it takes time for these problems to work their way through the system, and I am speaking of the legal system here. I can assure you, we are seeing more and more problems coming to our office every month. I would say, right now, approximately 10 percent of our cases contain at least some element of day trading in them. Make no mistake about it, a problem is out there and the problem does exist.

In general, the two biggest problems with day trading seem to be the lack of disclosure of the risks of day trading to the customer as well as the whole day-trading strategy and whether or not that is suitable for the investor. Quite frankly, most investors do not know the risks that they are going to be expected to put up with when they open up an account. We have seen trading that is just so unfathomable that we could not understand the risks, and we have been doing this for years.

In Amy's case, this was outright fraud. At the time she met her broker, Huan Van Cao, she was working part-time for minimum wage. She worked 1 day a week, made minimum wage, worked a Sunday. She was also a full-time mother with very minimal experience when it comes to investing. This was her first brokerage account. Mr. Cao, who was a smooth-talking, well-dressed man, walked into Amy's store and after a brief conversation he gave her his business card. The card identified him as senior vice president of a brokerage firm. He told her he was also an attorney. Amy was

<sup>1</sup>The prepared statement of Mr. Buchwalter appears in the Appendix on page 128.

very impressed, a stockbroker and attorney. She asked him, why would an attorney also want to be a stockbroker? His response was, it is just so easy to make money day trading. Then he went ahead and suggested that she open an account.

After several conversations going back and forth, she was invited to the brokerage firm of Providential Securities, where Mr. Cao worked. At first, she was very hesitant, and she even left very hesitant. After numerous phone calls from Mr. Cao, Amy did agree to meet at the office. He had a big office, right next to the president's. After all, he was the executive vice president of the firm. He proceeded to get out his computer, a couple clicks, showing her how much money there is to be made with just a click of the mouse.

Amy was very impressed, especially after he showed her some of his other clients' accounts. He went so far as to show her an account where he said there was a \$1 million profit in it. She then agreed to open up an account and she signed a document which allowed Mr. Cao to place trades in her account without her prior authorization.

Her initial deposit was only \$10,000. When she wrote out her check, her hands were trembling. Mr. Cao noticed that her hands were trembling and told her not to worry. He went so far as to say how fortunate she was to have someone like him trading for her. She invested the remainder of her life savings, \$26,000, after she received glowing reports from Mr. Cao as to how much money she was making. It was a lie. She was losing money.

At the time, Amy was driving around in an old beat-up car. Living in Southern California, she wanted to have a car with air conditioning. She was ecstatic when Mr. Cao asked her between a Mercedes, BMW, and a Lexus, what kind of car do you like best? She asked Mr. Cao, "Is my account doing that well?" He said yes. He further told her that she should go out and start shopping now because it takes a little bit of time to buy a car. Again, at that time, she was really losing money.

Amy's monthly statements appeared to show the account was losing money, as well. Mr. Cao told her that because of the turnover in the account or the fact that because of day trading, by the time you get your statements, most of the positions are probably closed out anyway and that fact that the brokerage firm was miscalculating the value of her long positions, she was really making money. And the fact that she was continuously making money was consistently referred to her. All those statements were lies. The truth was, over \$36,000 invested, she had lost \$22,000 in just 3 weeks. However, based on Mr. Cao's assertions, she still thought that she was making money.

While she was still believing that she was making money, she made her last deposit. This last deposit was the life savings of Amy's mother. It was \$12,000 and the money was earmarked to renovate Amy's grandparents' or her mother's parents' burial plots in Vietnam. Amy made this perfectly clear to Mr. Cao, and in fact, he wrote a letter to her saying how he understands how important this money is and reemphasizing how careful he is going to be. That same letter also talked about his successes with other clients. That was another lie.

Every time that Amy talked to Mr. Cao, she was falsely told that she was making money. In her eyes, it was strange that these statements that she was making money contradicted the monthly statements that she was receiving every month. She became very puzzled, very concerned, and she was doing whatever she thought she could to try and find out whether or not Mr. Cao's statements were true. She would look through every document she ever got, she would find names and she would call names. She would call the names on the statement. She would call the names on the faxes. She finally found someone that would talk to her. The person that talked to her said, "You are losing money."

When she confronted Mr. Cao with this, she was told that the person that she talked to was new. She had no idea what she was talking about, but if Amy felt uncomfortable, he would go ahead and buy out her account. She deposited \$48,000. He offered to give her \$48,000. He even had a contract written out. It was signed by both parties. Amy went to the offices of Providential in order to turn over the contract and get her check. At that time, Mr. Cao told her that he was not really going to go through with it. Amy became very upset and she started crying. Apparently, Mr. Cao took that as a personal affront. He saw that there was no more money to be made from Ms. Le and threatened that if she did not stop crying, he would lock down the building, call security to have her escorted out, and ruin her credit.

Amy immediately left, went home, faxed Providential a letter saying, liquidate my account and send me my money. They did do that. When all was said and done, she lost in excess of \$35,000, which is almost completely her net worth or her life savings, in just 2 months. She also found out that Mr. Cao was not licensed as a stockbroker, nor was he an attorney. He also told her that he had the authority to investigate other firms on behalf of the NASD. That was not true, either. It had all been a lie. Amy realized that Mr. Cao was a predator and she was just his prey.

At that point, she contacted my office. We filed an arbitration with the National Association of Securities Dealers Arbitration Department asking for her money back. Providential, strangely enough, disavowed any knowledge of Cao's activities. The NASD awarded Amy all of her money back plus interest. The award was split up between the various respondents, including Providential. Amy did receive a partial payment of a little bit more than \$13,000 when Mr. Cao filed for bankruptcy. She has not seen one penny of the rest of her award.

Amy feels like she did everything right. She invested with a licensed stockbroker. She visited the brokerage firm. Her broker guaranteed to make her whole when there were losses. When he did not, we filed an arbitration. The arbitrators awarded her all of her money back, plus interest. She still has not seen her money.

Amy, like other investors, had no idea what she was getting into, no idea. Her \$48,000 deposit bought almost \$1 million in securities in just 2 months. We have seen cases where an account with only \$100,000 in it bought over \$200 million in securities in just 1 month—\$200 million. That is a trade every 1.3 minutes. We have seen investors' losses so high where even the firm cannot make good, the firm or the investor cannot make good on the losses. In

that particular instance, the SEC stepped in and closed the firm down. Somebody is paying for these people's losses. Maybe it is the brokerage firms. Maybe it is us as taxpayers. There is a problem here and it will not go away without your assistance. Thank you.

Senator COLLINS. Thank you, Mr. Buchwalter. I hope you will convey to Ms. Le our hope for her speedy recovery.

Mr. BUCHWALTER. Thank you.

Senator COLLINS. Thank you for your testimony. Ms. Margala.

**TESTIMONY OF CARMEN MARGALA,<sup>1</sup> FORMER CUSTOMER OF ALL-TECH DIRECT, OCEANSIDE, CALIFORNIA.**

Ms. MARGALA. Good morning. My name is Carmen Margala. I reside in Oceanside, just north of San Diego, California, and I am a former client of All-Tech Investment Group. Prior to my experiences at All-Tech, I bought and sold some stocks, mostly on a long-term basis, but had never engaged in day trading of securities.

In approximately August 1998, I saw an All-Tech television commercial which made it appear quite easy to make money and achieve financial independence as a day trader at All-Tech. The commercial featured Barry Parish, the manager of All-Tech's San Diego office and the ad stated that I could start with as little as \$10,000.

At the time, I was not employed, I had no income, and I was looking for a new profession, so I contacted Mr. Parish by telephone and then met with him at the All-Tech office. Mr. Parish explained that people make money by trading and scalping the difference between the bid and the ask price of a stock, and then demonstrated this on a computer program. When I asked whether people were making money doing this, he told me that they were.

Mr. Parish provided me with forms to open an account at All-Tech, and when I returned with the forms, Mr. Parish told me that I needed \$20,000 to open the account. Neither Mr. Parish nor anyone else ever discussed risk or my tolerance for risk, my background, goals, or objectives, past experiences, my financial position, or anything else other than how much money I could deposit in the All-Tech account. Since I did not have much money or significant net worth, I opened the account with \$20,000. I paper traded my account for 1 month and then began live trading so that I could earn an income.

I experienced problems with the trading equipment that All-Tech provided to us. For example, I repeatedly experienced inaccurate quotes. At times, the quotes appeared to have been delayed as much as 13 minutes. All-Tech set up a special computer line for Mr. Parish which would at least provide him with accurate quotes, but even these were sometimes behind the market. The inaccurate quotes resulted in losses in my All-Tech account.

The trading software or system also allowed the purchase of any amount of stock, regardless of what was in my account. Without knowing it, I generated a number of margin calls, which Mr. Parish then arranged for other clients to cover. Further, during much of the time I was at All-Tech, the system could not even show me the status or balances in my account. To encourage trading, the up-

<sup>1</sup>The prepared statement of Ms. Margala appears in the Appendix on page 131.

graded computers were given to those persons that executed the highest number of trades.

The atmosphere in the trading room at All-Tech was like a circus. Mr. Parish would sometimes play games, directing clients to buy or sell. If there were losses, Mr. Parish would cover the losses. If there were gains, they would end up as a credit for the benefit of Mr. Parish.

Mr. Parish allowed one All-Tech client to trade other All-Tech clients' accounts. A fellow All-Tech client told me that Mr. Parish personally provided him with clients' accounts to trade. Neither of these people had a broker's license of any kind.

Mr. Parish would sometimes stand in front of his computer in the All-Tech trading room and shout out to the room or to an individual client to load to buy. Other times, Mr. Parish would give instructions to get ready to sell stocks which he had picked.

All-Tech applied enormous pressure to trade our accounts. Mr. Parish would sometimes stand next to me or other All-Tech clients who were seated in the room and tell us what to trade and when to trade. In addition to the pressure to constantly trade, Mr. Parish made it very difficult to focus upon what we were doing.

Other forms of trading pressure at All-Tech were indirect. For example, Mr. Parish oftentimes discussed other All-Tech clients and made statements such as, "He just comes in to take up space. I need people that trade."

All-Tech also pressured its clients to cover other clients' margin calls. At times, Mr. Parish simply shouted the margin call request across the trading room. These requests were not limited to clients within All-Tech's San Diego office. The added pressure of trading with margin money loaned by other clients was very stressful for me.

Eventually, I realized that what All-Tech had told me about making money and day trading was false and I left All-Tech. Unfortunately, before I left All-Tech, I sustained tens of thousands of dollars in losses, due in part to the commissions which All-Tech realized from my account. Thank you.

Senator COLLINS. Thank you very much, Ms. Margala. We really appreciate your sharing your experience so candidly with us today. Ms. Harlacher, please proceed.

**TESTIMONY OF SANDRA HARLACHER,<sup>1</sup> FORMER CUSTOMER  
OF ALL-TECH DIRECT, SOLANA BEACH, CALIFORNIA**

Ms. HARLACHER. I reside in San Diego, California, and am a former client of All-Tech Investment Group. Prior to trading at All-Tech, I had minimal investment experience and I had never day traded or short-term traded securities.

In early 1997, I saw a couple of different All-Tech advertisements on television. The ads made day trading look easy and simple. The ads stated that All-Tech could level the playing field with the professionals and show me everything I needed to know to make money as a securities day trader. The ads portrayed day trading as a new career which would give me the opportunity to earn as much money as I wanted and become financially independent for

<sup>1</sup>The prepared statement of Ms. Harlacher appears in the Appendix on page 133.

life. The impression given was that day trading was simple and easy and anyone could do it.

After seeing the television ads, I visited All-Tech's office in San Diego, California, and then attended a seminar presented by Harvey Houtkin, the CEO of All-Tech, at a hotel in La Jolla, California. During the seminar, Mr. Houtkin extolled the virtues of the All-Tech system and stressed that All-Tech's training course and All-Tech's methods had created a level playing field which enabled the average individual to trade with professional market makers on equal terms and enabled the average individual to do well day trading in the stock market. Mr. Houtkin promised that All-Tech would teach everything one needed to know to be successful in the stock market. Mr. Houtkin and All-Tech implied that if you had the slightest bit of intelligence, you could make money day trading, and this gave me the strong impression that it involved little or no risk at all.

I paid \$3,000 and took All-Tech's training course. The course was taught in All-Tech's San Diego office on a Saturday and a Sunday. The All-Tech course did not teach me how to be successful in the stock market. Rather, All-Tech taught me how to use the software and trained me to enter orders as frequently as possible to generate commissions for All-Tech. No one at All-Tech ever discussed risk or my tolerance for risk, my background, goals, or objectives, past experiences, my financial position, or anything else. At All-Tech, none of this information seemed to matter. Furthermore, although some written documents contained disclosures, All-Tech led me to believe that anyone with ordinary intelligence simply could not fail at this.

I lost a tremendous amount of money trading at All-Tech and left All-Tech after only a few months. I realized that I did not know what I needed to know, and I had not been taught by All-Tech what I needed to be successful day-trading stocks. Additionally, the monies I lost were a sizeable portion of what I had been able to accumulate over my lifetime and it will be extremely difficult at this point in my life to try to earn those monies back.

After I left All-Tech, I decided to pursue a proper education and took courses on technical analysis and read numerous books about the stock market in general and analyzing and trading in the stock market in particular. I also studied for, took, and easily passed the Series 6, 7, and 63.

My education after leaving All-Tech made me realize how little All-Tech had taught me. I was trading at All-Tech, but did not know enough to realize that I really did not know what I was doing. All-Tech had basically trained me to enter orders but had not taught me why. The bottom line at All-Tech was that they wanted you to trade and trade often. All-Tech set me and others up for failure because they taught virtually nothing about how the market works, the strategies of the market makers, order flow, or the price action of stocks. Perhaps even more importantly, All-Tech taught me nothing about money management or risk management. Further, the staff at All-Tech constantly reiterated that anyone could be successful day trading. The risks attendant to day trading were either never discussed or extremely downplayed.

During the few months I was at All-Tech, I also found that the environment was more conducive to failure than to success. Mr. Parish was constantly harassing me and others, often making suggestions regarding which stocks to buy and sell, including when to buy and sell. When I was hesitant to trade, he would egg me on, telling me that I would never get experience or learn how to trade or make up my losses unless I traded often.

After I had been at All-Tech for a while, I realized that most people were losing and not making money. When I suggested to Mr. Parish that he was going to lose his clients if most of them continued losing money, he told me that he was not concerned because there was always another body around the corner. I left soon after that comment.

Senator COLLINS. Thank you very much, Ms. Harlacher. I am very impressed that after your experience, you went to such great lengths to become very educated and actually took your securities exams, and I will be asking you in a moment what the benefit of hindsight and that education has given you as you look back on your experience.

Ms. WENZEL. One of the concerns that I have is that often times first-time day traders have no idea of how risky day trading is. You mentioned that your son, Scott, told you how excited he was about embarking on this new career and how optimistic he was about his chances of success. Do you think that he had any concept, any idea when he decided he was going to day trade for a living just how risky and speculative this activity was?

Ms. WENZEL. No, I do not, and the reason I say that is because whenever he went to Atlanta, he thought he was going to be rich, he was going to have this lavish lifestyle, and 2 weeks after he was in Atlanta, when I talked to him, he was a different person.

Senator COLLINS. Because by then he had started losing money already?

Ms. WENZEL. Then, I think the realities were beginning to set in. I had no idea that he had borrowed another \$30,000 from Momentum. All his money was borrowed to begin with, but his father, we could have dealt with that. But he was in so deep, he felt he probably could not get out. He had to keep going, and he was stressed. The first time I saw him after he came home from Atlanta, I could see in his eyes, Scott had lost some weight and he was very, very stressed.

Senator COLLINS. And he had gone through a difficult period. He had lost two jobs. He was not currently employed. As you said, all of the money he used to open his account was borrowed. He had very little cash. His credit record was not good. You subsequently learned he had lost money at a previous firm. Is it your impression that Momentum was aware of his poor financial condition and the fact that it was borrowed money—they were obviously aware of some of it, because they arranged for the money to be borrowed—when they approved him as a client?

Ms. WENZEL. Well, if they were not aware, they should have been aware, because they should have checked. If anyone has to come in and before they even get started they have to borrow \$30,000, that has to tell you something. And I am sure the stress he was under, because he kept that from his family. None of us knew that.

We thought he was—just the money his father had loaned him was what he was going to get started with. In the meantime, with all this other stress, not letting anyone know, and then losing it on top of it and being down all the time, he was under a tremendous amount of stress. He was covering from all sides. I do not think he even knew where to turn.

Senator COLLINS. One of my concerns is that day-trading firms are enticing perhaps naive individuals like your son who are investing money they cannot afford to lose. In this case, it was not even his money, is that correct?

Ms. WENZEL. That is correct.

Senator COLLINS. Ms. Margala, when you went to inquire about opening up your account and you found you were enticed by this ad that again appeared to offer the prospect of each riches, did anyone sit you down at the firm and say, now, wait a minute. Your financial situation really is not that strong and you could lose a lot of money day trading. Did anyone warn you of the risks involved?

Ms. MARGALA. No, no one did. That was not even discussed. In actuality, what occurred is I asked if anybody was making money and several people were pointed out to me as making money.

Senator COLLINS. Mr. Buchwalter, when Amy Le opened her account, and we have a copy of her new account form which I think you have been provided with a copy of—if not, I will ask the Subcommittee clerk to give you a copy, as well—this form indicates that Ms. Le did not provide her information on her net worth. It also shows that she checked income as her investment objective. Do you know what Amy Le's financial goal was for opening a day trading account with Providential and Mr. Cao?

Mr. BUCHWALTER. Her goal was to basically beat the 6.25 percent interest rate that the CDs were charging. What she really wanted to get out of this was an air conditioned car. She had no idea what she was getting into, and the reason why income was checked is because it was at the top of the list, and what she said was top of the list would be less risky. It is the farthest away from short-term growth. It is the farthest away from long-term growth. It is the top of the list. It should be the least risky.

Senator COLLINS. So she felt that by switching to day trading, that she was actually moving to an investment that would give her a higher rate return but that was not particularly risky, is that fair?

Mr. BUCHWALTER. As a matter of fact, what she was told is that Providential had two different programs, one where they would guarantee a return of 20 percent and one where they would do the day trading for you. Mr. Cao recommended the day trading for you because the returns are higher, the risk is lower. His particular words were, "If a stock starts to drop, my computer tells me. I immediately click the sell button. How can you lose?" And "how can you lose" seemed to be the theory throughout any risk disclosure. How can you lose? This is not risky. How could you lose? Can I lose money? How could you lose?

Senator COLLINS. And Ms. Le was working, you said, part-time at minimum wage. This really was her life savings, is that correct?

Mr. BUCHWALTER. It was more than just her life savings. It was also her mother's life savings, yes.

Senator COLLINS. So this was not what we would commonly consider to be risk capital, money that she could afford to lose?

Mr. BUCHWALTER. Correct, and they went so far as to arrange loans for Amy, also.

Senator COLLINS. Now, this new account form also indicates that she initially funded her account at Providential with a \$10,000 deposit. Did you know that at the time that Ms. Le opened her account, that Providential's stated minimum deposit requirement was \$50,000 and not \$10,000? Is that a fact you subsequently learned?

Mr. BUCHWALTER. That is a fact I subsequently learned, but the important thing is, right now, we see a blank on the bottom right where it says required signature. That was eventually—sometime during the hearing, we got that back signed by a corporate officer of Providential, which means by signing that, the officer says that he has read everything, everything is proper, she is suitable for this, and he also signed something saying that he knew Amy for a year when they have never met.

Senator COLLINS. And this was signed by an official of Providential?

Mr. BUCHWALTER. A corporate officer, right.

Senator COLLINS. The corporate officer. I bring up that fact because, as you well know, Providential has tried to wash its hands of this case and put the blame entirely on Mr. Cao. Could you tell us the results of the arbitration, the National Association of Securities Dealers, and what the findings were of NASD on the issue of who was responsible for the losses in Ms. Le's account?

Mr. BUCHWALTER. Well, the first thing I would like to say is that the broker of record for her account was a corporate officer of Providential. When I mentioned that she received \$13,000 back, that was paid for by Providential Securities and that was the part of the award that they were responsible for. By being held responsible for at least part of the award, I would say that the NASD panel felt there was some liability. Maybe they felt that at a certain point, Providential should have known what was going on and that is the time that they should have stopped it. It is very hard to read into the minds of arbitrators, but that is the way I took it.

Senator COLLINS. Did Mr. Cao have total discretion over Ms. Le's account at all times? Did he trade as he wished, or pursuant to her direction?

Mr. BUCHWALTER. He had pretty much total discretion except he was not allowed to take funds out of the account. Other than that, he can pretty much do whatever he wanted.

Senator COLLINS. And in California, it is my understanding that a person who trades for another has to be licensed as an investment advisor, is that correct?

Mr. BUCHWALTER. After a certain amount of clients—

Senator COLLINS. A certain number of customers?

Mr. BUCHWALTER [continuing]. Which Mr. Cao did exceed.

Senator COLLINS. And, to your knowledge, was Mr. Cao registered as an investment advisor in California?

Mr. BUCHWALTER. He was not.

Senator COLLINS. And to date, Mr. Cao has not paid Ms. Le the money that the arbitrator ruled that he owed her, is that correct?

Mr. BUCHWALTER. I believe approximately 2 months after we received the award, Mr. Cao filed for bankruptcy.

Senator COLLINS. Thank you. Ms. Margala, did you know at the time that you opened your account that All-Tech's minimum standards required at least a \$50,000 deposit?

Ms. MARGALA. No, I did not.

Senator COLLINS. So no one said to you when you went forward to open your account originally with \$10,000 that you, in fact, to meet their requirements needed \$50,000?

Ms. MARGALA. No. As a matter of fact, the commercial that sort of lured me into this whole thing stated that the minimum requirement was \$10,000. That was all you needed to trade, to open an account, was \$10,000, not the \$50,000.

Senator COLLINS. And was the \$20,000 that you ultimately used to open your account, was it risk capital? Was it money that you could afford to lose?

Ms. MARGALA. It was not money I could afford to lose. It was savings. I was unemployed at the time and that was money that we were using for our livelihood, for a nest egg. It was not money I could afford to lose.

Senator COLLINS. Ms. Harlacher, I mentioned that I was impressed that you went on to learn a great deal about the securities industry. Now, it is my understanding from your testimony that you took All-Tech's 2-day training course and you paid good money for it. You paid \$3,000 for that course. Based on what you know now, how would you evaluate the quality of All-Tech's training course?

Ms. HARLACHER. I think it was totally inadequate. All it really taught you to do was operate the software and to make as many trades as possible and to rack up as many commissions as possible for All-Tech, and All-Tech charged \$25 a trade at that time, and they also encouraged you to trade no less than 1,000 shares of any particular stock at one time, but they taught you nothing about the price action of stocks, how to read charts, technical analysis, fundamental analysis, nothing like that.

Senator COLLINS. So, really, the course taught you the mechanics of how to trade quickly and often, is that fair?

Ms. HARLACHER. Right. In other words, what they taught you was to scalp for eighths and quarters, or in other words, churn your account. Basically, that is all they taught you. They were interested in you trading as often as possible and that is all that seemed to matter.

Senator COLLINS. My time has expired. I am just going to ask you one more question. I understand that when you first saw an All-Tech advertisement, that you went in person to the San Diego branch office and you attended the seminar. At any point along the way, in the training course, when you were talking with All-Tech officials at the San Diego office, did anyone explain to you how much you might be racking up in commissions each day through all these trades and how risky it was and that the probability was that, at least initially, you were going to lose your money?

Ms. HARLACHER. Not at all.

Senator COLLINS. Thank you very much. Senator Levin.

Senator LEVIN. Thank you, Madam Chairman, and I want to thank all of our witnesses for coming forward.

First, Ms. Margala, you said that you first paper traded your account before you did live trading, so that you went through a process of using a computer to see what you would gain or lose if you actually bought or sold, but not actually buying or selling, as I understand it.

Ms. MARGALA. That is right.

Senator LEVIN. Did you lose money when you paper traded?

Ms. MARGALA. No, I did not.

Senator LEVIN. Did you make money?

Ms. MARGALA. Oftentimes, yes, money was made.

Senator LEVIN. How do you explain that you made money when you paper traded, but later on you lost money?

Ms. MARGALA. That is a good question. That is a question I asked Mr. Parish at one point, and how it was explained to me was that paper trading is different in that there is actually a live person there who fills out a sheet and somehow walks it to—I am not sure exactly how it works, but the general gist of it is that they can—if you want several shares of a certain stock, they can give it to you because it is like Monopoly. It does not mean anything. So it is not an adequate representation of live trading.

Senator LEVIN. How long did you engage in paper trading before you started the real thing?

Ms. MARGALA. From 3 weeks to a month.

Senator LEVIN. You were given, you said in your testimony, inaccurate stock quotes by the company. At times, their computers were running behind, or for other reasons, they gave you inaccurate quotes, and you said that the inaccurate quotes resulted in losses in your All-Tech account. If those quotes had been accurate, do you know whether or not you would have made money? Can you tell whether you would have made money in those cases where you were given inaccurate quotes?

Ms. MARGALA. There is no way for me to determine that, but what I can determine is, because as soon as you purchased that stock, you are an instant loser if the stock was going down. For instance, if not myself, another client purchased a stock, \$200 stock, bought \$1,000 shares of it, and as soon as he purchased it, it was down 20 points, so he was an instant loser because of the timing difference, and that had occurred to me and a lot of the losses I sustained at All-Tech was because of the bad quotes.

Senator LEVIN. I want to ask you about margin calls, buying on margin. Each of you, how were you notified about the margin call, or were you notified about the margin call? Ms. Harlacher, let me ask you first.

Ms. HARLACHER. I cannot actually recall ever having a margin call. I tried to be very careful not to have one. I was—I had become aware of what the ramifications of margin were and I did not want to get into that situation.

Senator LEVIN. All right. Ms. Margala.

Ms. MARGALA. You were not always notified, to answer your question. Sometimes, and often, Barry Parrish would come up and tell me that I had a margin call, which I did not know about. I did not even know how I had generated it or why I would have it. But

I think what is important to state here is that the computer allowed me to buy whatever I wanted, then there was no tabulation in the system that showed me where my account was at. So, in essence, it is whatever was in my account at the time, I could purchase even \$1 million worth of stock, and that, of course, would generate a margin call.

Senator LEVIN. So you were not cut off automatically by the computer when that happened?

Ms. MARGALA. No.

Senator LEVIN. Now, when you did generate a margin call, did you then have to borrow money from somebody to cover it?

Ms. MARGALA. What happened—

Senator LEVIN. Was there a short-term loan that was made to you by somebody to cover that?

Ms. MARGALA. There was, yes.

Senator LEVIN. And how often did that happen?

Ms. MARGALA. Actually, that only happened to me, I believe, on three separate occasions, and it is a major reason why I never went back to All-Tech. For me, it was so much stress, that on top of learning about my money, to be worried about paying other people back, it was an insurmountable amount of pressure for me.

Senator LEVIN. Did they tell you how much interest you were going to be paying for those short-term loans?

Ms. MARGALA. I believe there was no interest, not that I know of. I do not know.

Senator LEVIN. They did not describe to you what the circumstances were?

Ms. MARGALA. No.

Senator LEVIN. OK. Mr. Buchwalter, can you tell us about margin calls for Ms. Le?

Mr. BUCHWALTER. Yes. Amy's situation was a little bit different, where she was not the actual person in the firm doing the trading. She had Mr. Cao for that. Mr. Cao would receive any notices of margin calls. They would not be forwarded to Ms. Le. At one specific time, Mr. Cao telephoned Ms. Le with great news that the president of the company has approved a new program for small businesses to help them out by funding them. She was asked to sign some documents in blank, and those blank documents basically authorized a partner of one of the corporate officers of Providential to make loans to Amy Le. They would fill it out when they wanted to fill it out. They would submit it. So there was margin calls and margin calls were filled by loans that were generated by one of the presidents of the brokerage firms through his partner. The interest rate was \$10.20 a day, which equated out to 18 percent, which according to California is considered loan sharking.

Senator LEVIN. I am sorry, \$10 a day per what?

Mr. BUCHWALTER. Ten-dollars-and-twenty-cents a day, and I think it was about a \$21,000 loan.

Senator LEVIN. So for \$10.20, you could borrow \$20,000 for a day, is that what it came down to?

Mr. BUCHWALTER. Correct.

Senator LEVIN. OK. Do you have anything, Ms. Wenzel, on that subject that you know about?

Ms. WENZEL. I honestly do not know anything about the margin call. I have learned things since Scott's death that he had had numerous margin calls, but I honestly do not know.

Senator LEVIN. All right. And again, Mr. Buchwalter, the money that was covering the margin, that came from the company or one of its officers, is that correct?

Mr. BUCHWALTER. It came from—we have seen a prospectus and the prospectus was for a new type of investment for Providential investors, and what the prospectus asked you to do is put up money, and when you put up money, you become a partner in this investment. The prospectus basically guaranteed the investor, the people that put up this money, that so many of Providential's customers are going to need this margin money, are going to trade beyond their means, that they could guarantee the investors 10 percent return. And it happens to be a little bit easier when your agents are doing the trading, which is in Amy's case.

Senator LEVIN. So on the one hand, they are charging people to train them to become day traders, making money off that, making gobs of money off the trades, the thousands of trades, hundreds a day, tens of thousands a month that each trader is doing. Each of those trades puts money into the pocket of the company.

Mr. BUCHWALTER. Correct.

Senator LEVIN. And then you are saying that that same company is telling other people, hey, we have got all these other customers of ours that are going to get into trouble, have to borrow money short-term, and if you will give us money, we will lend it to them and guarantee you a 10 percent return on money which we then lend to those other customers of ours?

Mr. BUCHWALTER. That is correct.

Senator LEVIN. That is a triple whammy.

Mr. BUCHWALTER. And it helps when you are in the position to make it so, to control the amount of trading, where you are in a position to control the amount of margin that needs to be borrowed, and when you are in the position to put up the money.

Senator LEVIN. And then when you get above your margin call, we will find other people who will lend you the money. We will pay them 10 percent and then, presumably, keep 8 percent for ourselves. If it is an 18 percent interest rate, OK, on that assumption, if they are paying people 10 percent for putting money into that pot, lending it to the customer who is above the margin at 18 percent, then the company is making 8 percent on that money, as well, under that hypothesis, is that right or not?

Mr. BUCHWALTER. I could not go that far. From what I have seen, the interest went into the lender's account. But this was before that investment program got set up. One of my clients was solicited with that program, and once we saw it, it gave us a bigger picture of what was going on. Whether or not that program actually went through, I do not know, but I do know that it was the partner of one of the officers of Providential that was arranging for the loans.

Senator LEVIN. And presumably making some money on that?

Mr. BUCHWALTER. Absolutely.

Senator LEVIN. To each of you, when you indicate you were not told about risk, did you ask about risk? Let us start with Ms. Harlacher.

Ms. HARLACHER. Not really.

Senator LEVIN. And if you did ask about risk, what was the response?

Ms. HARLACHER. The risk was never really a factor. It was stressed to such an extent how much money could be made in this profession, as they called it, and they reiterated time and again that they would teach us everything that we needed to know in order to be successful. The risk never seemed to be a factor whatsoever.

Senator LEVIN. So you did not make any specific inquiry, what is the risk here?

Ms. HARLACHER. I might have in passing, but it seemed so inconsequential, it just did not seem material.

Senator LEVIN. Thank you. Ms. Margala.

Ms. MARGALA. Senator Levin, I asked if people were making money and I was told yes, so, therefore, I assumed that that was the case. As far as me asking, what is the risk, I do not know that I ever did that.

Senator LEVIN. OK, thank you. Ms. Buchwalter.

Mr. BUCHWALTER. Amy did. The response was, how could you lose?

Senator LEVIN. How could you lose? Ms. Wenzel, do you want to comment?

Ms. WENZEL. I cannot answer that because I do not know.

Senator LEVIN. Thank you.

Senator COLLINS. Thank you. Senator Durbin.

Senator DURBIN. Thank you, Madam Chairman. As I listen to this testimony about day trading, I come to the conclusion that Tony Soprano would be a better expert witness than Louis Ruckheyser to describe what is going on here. This sounds an awful lot like gambling and it appears that it is stacked against those who are new to the business.

I would like to ask just a few questions about some of the experiences you have had. Ms. Wenzel, yours is the most tragic. To lose money is one thing, but a son is just devastating.

Ms. WENZEL. We could have handled the money.

Senator DURBIN. Sure. Let me ask you about your son's source of money. You mentioned that your husband or his father had loaned money to him as part of this undertaking?

Ms. WENZEL. Yes, he did. He loaned him \$30,000 to get started with.

Senator DURBIN. Do you know any other sources of funds for your son's trading?

Ms. WENZEL. Scott had no other sources. I remember when he first told me that he was going to be doing this venture, he had told me that his father had loaned him the money and that was pretty much it. I mean, he never—I assumed that that was all he was going to need to get started with whatever he was doing. None of us, until after his death, even knew that the company had loaned him this other money. We were shocked.

Senator DURBIN. How much was loaned to him by the company?

Ms. WENZEL. Thirty-thousand dollars at 18 percent.

Senator DURBIN. Over and above the father's loan?

Ms. WENZEL. Yes, to open the—to get started.

Senator DURBIN. Were there any other sources of loans that you were aware of for your son's trading?

Ms. WENZEL. None that I am aware of.

Senator DURBIN. And his education and training prior to doing this, did it involve any experience with this field?

Ms. WENZEL. To my knowledge, no. The only—if you want to call it experience—he was at Dean Witter for a short period of time, I think probably a year, and he did not meet his quota so, therefore when the year was up, then he was let go because he had not met his quota. And I had no idea that he had done any day trading after he left Dean Witter. That was, again, a surprise.

Senator DURBIN. I might ask these other questions of the other witnesses because you have no personal knowledge of what was in your son's mind at certain times, but thank you again for being here.

Ms. WENZEL. Thank you.

Senator DURBIN. Ms. Margala and Ms. Harlacher, we are concerned about warning people about risk and whether adequate warnings are being given. Would it have made any difference to you? If we had told you you could lose it all in a matter of a day or a week, would it have made any difference?

Ms. MARGALA. Absolutely. As I said, I was unemployed at the time. If I knew that that money could have been lost just like that, I would not have done it. Also, the advertisement that lured me in touted day trading as a profession, and I was looking for a new profession at the time. I was in real estate before and my real estate brokers license had just expired at the end of June and this I started doing in August. So I was made to believe that this was a profession, something new, that I was in on the ground floor of something, so to speak.

Senator DURBIN. Ms. Harlacher, was that your experience, as well?

Ms. HARLACHER. That was my experience, as well, but what I would like to reiterate is that they kept on stressing the fact that anyone who had a modicum of intelligence simply could not fail at this because they would give you all the tools you needed to be successful, and if you had an ounce of intelligence, there is no way you would not make money. And I was also looking for a new profession at the time. They promised us this would be a new profession. It would enable you to become financially independent. They might have mentioned risk in passing, but all these other aspects were so stressed and so magnified that the risk factors seemed to be minimal or practically nonexistent.

If I had been made aware of the true state of affairs, if I had understood that the course was so inadequate and that it was all slanted to their advantage—it set people up for failure, basically, because it did not teach you anything that you really needed to know in order to trade. If I had had any knowledge of any of these factors, I never would have gotten involved.

Senator DURBIN. Well, it seems to me that there are built into the system, or there should have been built into the system, some

firewalls to protect people from your experience. One of them was a training course which virtually everyone has conceded was totally inadequate to—

Ms. HARLACHER. Absolutely, but there are training courses and training courses, as I have since discovered.

Senator DURBIN. Yes, you have. So you learned that hardware that you were going to work with—

Ms. HARLACHER. Absolutely.

Senator DURBIN [continuing]. But you did not learn about the volatility of the market and how you could profit from it?

Ms. HARLACHER. Nothing whatsoever about that.

Senator DURBIN. Is that your experience, Ms. Margala?

Ms. MARGALA. I never took the training course. It was discussed—it was offered to me. However, I did not have—I came in with \$20,000. Mr. Parish at that time knew I did not have the money for it. He did not require that I take the course.

Senator DURBIN. At any point, did this sound too good to be true?

Ms. MARGALA. In hindsight, maybe, not then.

Senator DURBIN. Let me ask you about margin calls, because we have built this into the whole system with the idea that people just could not go crazy. At some point, you had to have real money. You just could not speculate beyond your means.

Now, I believe in your testimony or one of the others on the panel suggested that margin call requirements could not keep up with the trading and volume on a day-to-day basis. Is that what you said earlier? I do not want to put words in your mouth.

Ms. MARGALA. If you mean by that—what actually I found is that I did not know that I had generated half the margin calls I did, and these were like—some were on a daily basis. In other words, there are different types of margin calls. One, I believe, is a Regulation—

Senator DURBIN. T.

Ms. MARGALA [continuing]. T, thank you. And one was sort of like daily margin call, a maintenance call, like a maintenance margin call. So I had generated a lot of maintenance margin calls, but I had to borrow money for numerous margin calls. I had to borrow from my father. I had—\$20,000 is not all that I put into the account. There are numerous margin calls, more money that I had to put in afterwards to cover margin calls.

Senator DURBIN. So the margin call system was working in your situation as you understand it? I mean, you kind of knew how you were sinking. You could feel it on a day-to-day or week-to-week basis?

Ms. MARGALA. No, it was not working. This was after the fact. It is like you have got a margin call. Well, how did that happen? You sort of did not know how it happened, or I did not, anyway.

Senator DURBIN. But what I am trying to get to is your experience took place over how many weeks or months?

Ms. MARGALA. I was there—I started trading sometime in early September and left in 1988 and was gone by the beginning of January.

Senator DURBIN. Eighty-eight or 1998?

Ms. MARGALA. The beginning of—

Senator DURBIN. September—

Ms. MARGALA. December 1988 to January 1999.

Senator DURBIN. September 1998 to—

Ms. MARGALA. Ninety-eight, I am sorry.

Senator DURBIN. So this was a matter of, let us say, 4 or 5 months that you were involved in this, and what I am saying is you came in with this \$20,000 that you initially were involved in, but did you know through your experience that you were getting further and further behind because of the margin calls?

Ms. MARGALA. Yes, as I was getting the margin calls. But what Barry Parrish would do—who was the manager—would borrow money from other people, put it in my account, and then until I built it up again to pay back, which, of course, encouraged more trading and more commissions for All-Tech.

Senator DURBIN. Do you have any idea how much money you gave to this firm in commissions over that 4- or 5-month period of time?

Ms. MARGALA. I am in the process of calculating that, but I can tell you it is in the thousands.

Senator DURBIN. Over \$10,000?

Ms. MARGALA. I am not sure. I cannot—

Senator DURBIN. Ms. Harlacher, what was your situation with the margin calls? Did they give you any warning that you were in trouble?

Ms. HARLACHER. I used to call all the time and speak to Barry Parish about the margin situation because I did not want to risk having a margin call myself. But I was asked on two occasions to lend a substantial amount of money to another trader to cover his margin calls and I was not paid any interest for these loans, none whatsoever. So the money was journaled out of my account overnight and then journaled back in the next day, and the way I was able to keep up with whether or not what needed to be done had been done was we were given a sheet of paper with our buying power every day and I used to ask for accountability that I had got the money back.

Senator DURBIN. So this Mr. Parish, with his svengalian qualities, would come in and say, we want to borrow money from you and not pay you interest on it and we will give it back to you tomorrow?

Ms. HARLACHER. He did not put it quite that way. He just said, somebody has had a margin call and you have money in your account, would you please assist, giving one the impression that you were duty-bound to say yes. Otherwise, if you refused and you ever got into trouble, then no one would help you.

Senator DURBIN. Amazing. It is said in here that if day traders stick with it for 6 months, they tend to be profitable, at least one of the studies that we have looked at, and also that it takes 3 to 5 months to come to some understanding of what is really happening here.

Ms. HARLACHER. I think it takes longer than that for a lot of people.

Senator DURBIN. That is true.

Ms. HARLACHER. A few people “get it” in that time but most people take much longer.

Senator DURBIN. I just wonder if, as we look at this and consider legislation, if some of the requirements about the size of your account and the margin calls might have something to do with how long you have been in the business and how frequently you trade and what your sources of money might be. To think that the firm that you are trading for, earning commissions for, is loaning you money and moving money between accounts just seems to me to be counter-productive. I cannot believe the securities industry is anxious to defend this practice at all.

Ms. HARLACHER. Well, from my point of view, what I believe is really necessary in order to succeed in this business is a thorough knowledge and understanding of the market through a lot of experience of having studied it. The things that I learned from the Series 7 which I found were terribly important were the knowledge of options and margin. I think people need to understand those in greater detail.

But what I really consider to be indispensable is the knowledge of charting and technical analysis, and I believe people also need to know some fundamental analysis so that they can assess whether or not what they are buying is a good investment before they even get involved. And I think those are things that a lot of people do not understand or have any knowledge of and I think those are the things that need to be understood.

Senator DURBIN. Thank you very much. Thank you, Madam Chair.

Senator COLLINS. Thank you, Senator Durbin.

I want to thank our witnesses on the panel today. You have been extraordinarily helpful to the Subcommittee in letting us know firsthand experiences of consumers. So we very much appreciate your willingness to testify and we thank you.

I will now call forward our final panel of witnesses this morning. All of the individuals are or were associated with Providential, All-Tech, or Momentum Securities firms in dealings with the customers whom we just heard from.

Huan Van Cao was a day trader at Providential's Los Angeles branch office. He traded the account of Ms. Le and other Providential customers during the spring and summer of 1998. He is appearing today pursuant to a subpoena.

Fred Zayas was the former Branch Manager of All-Tech's office in Watertown, Massachusetts. Last year, he entered into a settlement agreement with State securities regulators in Massachusetts and he, too, is testifying today pursuant to a subpoena.

Barry Parish was the branch manager of All-Tech's office in San Diego, California. Mr. Parish ran the San Diego office when Ms. Margala and Ms. Harlacher first became day-trading customers of All-Tech.

Justin Hoehn is currently the Branch Manager of Momentum's office in Atlanta, Georgia. Mr. Hoehn was a close friend of Scott Webb and was instrumental in getting Mr. Webb involved with day trading.

Pursuant to Rule 6, all witnesses are required to be sworn in. I would ask that you all stand and raise your right hands. Do you swear that the testimony you are about to give to the Sub-

committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. HOEHN. I do.

Mr. ZAYAS. I do.

Mr. CAO. I do.

Mr. PARISH. I do.

Senator COLLINS. Thank you. I would like the attorneys who are here this morning to briefly introduce yourselves and advise the Subcommittee whom your client is. Mr. Berman.

Mr. BERMAN. Yes. Thank you, Chairman Collins. My name is Norman Berman. My firm is Berman, Devolario, and Pease, and I am here representing Mr. Zayas.

Senator COLLINS. Thank you. Mr. Ambrose.

Mr. AMBROSE. Thank you. I am John Ambrose representing Barry Parish.

Senator COLLINS. Thank you very much.

Each of our witnesses on this panel has the opportunity to make an oral statement this morning as well as to present any written testimony that you wish for the hearing record. I am going to ask if any of you has a statement you would like to present to the Subcommittee before we move to questions.

**TESTIMONY OF JUSTIN HOEHN, BRANCH MANAGER,  
MOMENTUM SECURITIES, ATLANTA, GEORGIA**

Senator COLLINS. Mr. Hoehn, do you have a statement you would like to make?

Mr. HOEHN. No, I do not.

**TESTIMONY OF FRED ZAYAS, FORMER BRANCH MANAGER,  
ALL-TECH DIRECT, WATERTOWN, MASSACHUSETTS**

Senator COLLINS. Mr. Zayas, do you have a statement you would like to make?

Mr. ZAYAS. No, I do not.

**TESTIMONY OF BARRY PARISH,<sup>1</sup> FORMER BRANCH MANAGER,  
ALL-TECH DIRECT, SAN DIEGO, CALIFORNIA**

Senator COLLINS. Mr. Parish, do you have a statement you would like to make?

Mr. PARISH. Yes, I do.

Senator COLLINS. Please proceed, Mr. Parish.

Mr. PARISH. Thank you, Chairman Collins and Senators Levin and Durbin. Before I read my comments, I would like to state that the statements that we have heard so far today are completely at odds with the record that I am happily here to cooperate with and present to you.

I became interested in day trading when I learned from my previous job as a branch manager of a brokerage firm that major profits were being made by SOES traders. Back in those days, they were called SOES bandits. I determined that SOES trading must be a profitable enterprise, and so, therefore, I started exploring the SOES business. I answered an ad by All-Tech and paid substantial

<sup>1</sup>The prepared statement of Mr. Parish with attachments appears in the Appendix on page 135.

money to purchase equipment and be trained to head an All-Tech office.

Very early in my management, I encountered a situation in which a trader had made a computer mistake and had generated a margin call. In the early days, there were no safeguards on the equipment. All-Tech headquarters gave me forms, an example of which is attached, to journal money from one account to another to satisfy the margin call. The donor in the journal complained about the risk, what would happen to his money in the event of the death of the recipient of the money, and All-Tech headquarters' solution was to prepare both the donor and the recipient journals simultaneously, fax them into headquarters, and have them approved, which was done.

So this was the first of hundreds of journals to satisfy margin calls. My office did the administrative handling of these journals, together with the headquarters, and we also helped in finding other customers willing to journal funds. On two occasions, though, I should have known better. I journaled money from my own personal account to assist customers with their margin calls. I also overlooked the fact that although Adam Leeds acted in my office as a trader, he in time became an employee of the firm and, therefore, his involvement subsequent to his employee relationship was improper.

In approximately the late spring of 1999, headquarters began to require notarized signatures on journals and the software was improved so that it was possible to prevent unwanted margin calls. I used this opportunity to put an end to journaling in my office. Journaling had been a product of the day-trading software and it was made unnecessary by software improvements. As mentioned in the 12 customer declarations attached to this exhibit, journaling was an unwelcome headache to me and to my staff.

As is evidenced by the 12 customer declarations, risk disclosure and warning was a constant theme in my communications with customers. Attached hereto with the intention of being made a part of the record are 12 declarations from customers with various degrees of exposure to the day trading milieu in the San Diego office.

Senator COLLINS. They will be made part of the record.

Mr. PARISH. Thank you. Although simplistic and obviously designed to support me, these declarations were obtained from a hastily-called get-together in which 20 people were invited. No one refused to help if given proper notice. The supplemental declarations are certainly not meant to be rude to the Subcommittee or other investigative agencies, but to give a flavor of the temperament of many traders.

I stand ready to cooperate with the Subcommittee and other agencies to learn the facts and make decisions designed to promulgate clear rules that fit new technology while minimizing adverse effects on customers. Thank you.

**TESTIMONY OF HUAN VAN CAO, DAY TRADER AT  
PROVIDENTIAL SECURITIES, FOUNTAIN VALLEY, CALIFORNIA**

Senator COLLINS. Mr. Cao, do you have a statement you would like to make before the Subcommittee?

Mr. CAO. Yes, I do, Chairman.

Senator COLLINS. Mr. Cao, you may proceed.

Mr. CAO. I come here to—I heard the testimony and the statement that the attorney for Amy Le make this morning. I am very sure that the statement he make were false. The information he gave to you were false. Again, he have the reputation for having an ambulance chaser run across the Vietnamese community. He is behind all these chaos and lawsuits.

I saw Amy Le. Amy Le not sick as you make your statement. She participate on every nightclub activity, shopping. In fact, 2 days ago, I had been presented the award against me for \$130,000. In fact, it was in the two number by someone they said they know me too well. I would appreciate opportunity to contradict his statement and his information and provide you with direct knowledge of what I know about Providential, about day trading, and anything that you would like to ask me.

Senator COLLINS. You are welcome to take more time for your statement if you want to put in the record any information that you believe the Subcommittee should have.

Mr. CAO. Yes. In addition, Amy Le not a poor lady as he describe. She have in her saving account more than \$200,000 cash. Her brothers paid the house by cash and she worked at the weekend for her brother, and when I add up what she said, it do not work. It does not work. I would like the panel aware about that.

Also, that her mother collect food stamp and welfare by false statement and I want the panel aware about that fact.

Senator COLLINS. OK. Mr. Hoehn, I am going to start with you today on the questioning that we are going to proceed with. Mr. Hoehn, how old were you when you became the Branch Manager of Momentum's office in Atlanta?

Mr. HOEHN. Twenty-two years old.

Senator COLLINS. Could you describe for us your background and your qualifications to be the Branch Manager?

Mr. HOEHN. My background, I had undergraduate studies, finance. I went on to leave college, take a position with A.G. Edwards which lasted close to 2 years. I went on to take a position as a stockbroker trainee at Dean Witter, where I received my Series 7, 63, 65, and Series 3 licenses. While working at Dean Witter, I had learned about the day trading industry through a magazine article. I became interested and shortly thereafter joined on with Insight Trading in St. Louis.

Senator COLLINS. So you had day traded yourself prior to taking managerial control of the Atlanta office. Could you tell us what your experience had been day trading?

Mr. HOEHN. My experience in day trading at Insight was brief, in my opinion, 2 to 3 months. Insight had eventually closed the office. My trading was an introductory. I went through training with some people at Insight and went on to Texas where they are affiliated with some day trading.

Senator COLLINS. Did you lose money trading at Insight?

Mr. HOEHN. I did sustain a loss while I was trading at Insight.

Senator COLLINS. And were you trading with money that you had borrowed, or were you trading with money that you had saved?

Mr. HOEHN. They were borrowed funds.

Senator COLLINS. Can you give us an idea of how much money you lost at Insight trading with borrowed funds?

Mr. HOEHN. Approximately \$13,000.

Senator COLLINS. Was Momentum aware that you had lost money previously day trading when you were hired to run the office?

Mr. HOEHN. Well, when I met David Dial in St. Louis, I am sure that it was spoke about. I do not know if he knew particular what the amount of the losses were.

Senator COLLINS. You were a friend of Scott Webb's. Did you know that he also had traded at Insight? Were you at Insight trading at the same time?

Mr. HOEHN. Yes, we were.

Senator COLLINS. And were you aware that he also had lost borrowed money trading at Insight of about \$10,000?

Mr. HOEHN. At the end of the office, once they closed down, I realized that Scott had sustained losses, as well.

Senator COLLINS. Did you understand that Mr. Webb had had no job for roughly 6 months before Dean Witter released him for failing to meet quotas and prior to his opening the account at Momentum?

Mr. HOEHN. I was aware that Scott had worked at Dean Witter. I was not specific as far as how he was let go by the Dean Witter office.

Senator COLLINS. When Mr. Webb opened his Momentum account, did you realize that the money he was using was money that had been borrowed from his father?

Mr. HOEHN. I did realize that Scott had borrowed funds from his father, yes.

Senator COLLINS. Did you realize that he was opening his account entirely with borrowed money?

Mr. HOEHN. Yes, I did.

Senator COLLINS. Were you involved at all in helping to arrange for an additional loan of about \$30,000 for Mr. Webb?

Mr. HOEHN. Mr. Webb had approached both myself and David Dial in regards to being introduced to someone who was prepared to make a loan, such as a \$30,000 loan.

Senator COLLINS. What is Momentum's policy regarding opening day trading accounts entirely with borrowed money?

Mr. HOEHN. Well, our requirements for opening the account, as of today, are a \$50,000 minimum deposit and a \$100,000 net worth.

Senator COLLINS. And does it matter if that money is borrowed for the initial deposit?

Mr. HOEHN. As far as being borrowed when you are talking about from a family member or—if they are providing the funds, it is a circumstantial situation.

Senator COLLINS. Mr. Webb had a poor credit record. He had to borrow all of the money he was using to open his day trading account. He had no savings. He had very little cash. Why was his account approved by Momentum? Did it meet the standards that Momentum had in place at that time?

Mr. HOEHN. In all due respect, Chairman, to paint a picture of Scott Webb's specific situation, I think it would help to understand that he was my roommate in Atlanta. We were friends before we

had moved, or before I had moved. He later came down. He was a Series 7 licensed broker. He obtained all of these licenses that I mentioned earlier from the Dean Witter office. He traded at Insight Securities. He was aware of the day trading practices, what his objectives were as a trader.

He also, as far as his credit, Scott had told me on many occasions of additional income through a trust fund, rental income, and he also had worked at Enterprise and at Dean Witter, so he had made a different picture as far as to his financial status when he had opened the account.

Senator COLLINS. But you knew all the money that he was using to open the account was borrowed money, and if you look at this account application, it does not paint a picture of financial health in any way. Are you saying that he did meet the standards that Momentum had in place at that time?

Mr. HOEHN. At the time of Scott Webb's initial account opening, we did not have guidelines as we have today. So this was on the circumstantial situation, and also from Scott, he had mentioned how his dad was financially prepared to lend him the money, did fully understand—his father, I am speaking of—knew what he was using the money for.

Senator COLLINS. In September 1998, this is about 3 months after Mr. Webb had opened his account and he is already losing money, it is my understanding that an internal auditor for Momentum audited the Atlanta office, and it is Valynda Ewton, I believe, is the name of the auditor?

Mr. HOEHN. Yes, it is.

Senator COLLINS. Are you familiar with that audit?

Mr. HOEHN. Yes, I am.

Senator COLLINS. As you will see from the exhibit that we have put up, and there is a copy, as well, in the notebook before you, the internal auditor characterized Mr. Webb's account as only marginally suitable. She went on to say that in such instances, some written memorandum may be needed to document why these persons were allowed to day trade. Perhaps limits on dollar amounts of losses, additional credit checks, or written attestations from the customer or special attention needs to be provided. I believe that NASD will start taking a hard look at the knowledge and the suitability of the customers.

Given this audit, why did you allow Mr. Webb to continue to day trade and to continue to lose money for another 10 months?

Mr. HOEHN. I wanted to point out, Chairman, that this was an internal exam that was done from a consultant that we work with, Valynda Ewton. We did review all of the points that she was making through this examination thoroughly. I did make a rebuttal towards the improvements that we were making, which did include completing the necessary paperwork that was in question. Spyderstorm and Scott Webb were part of that. Scott and I had a discussion after this examination to the extent of financial suitability, and more importantly, just the status of his trading. It was, once again, a situation where Scott wanted to continue to day trade and was improving on his trading.

Senator COLLINS. Did Mr. Webb have two accounts, one of which was called Spyderstorm and one was under his name?

Mr. HOEHN. Yes, he did.

Senator COLLINS. And both of these accounts were flagged by the auditor as being problematic from the standpoint of suitability, is that correct?

Mr. HOEHN. From Valynda Ewton's examination, yes.

Senator COLLINS. Were any limits on dollar amounts of losses put on the accounts that Mr. Webb had as a result of this audit?

Mr. HOEHN. As a result of this audit, no, but Scott and I would frequently, on a daily basis, discuss his trading. So we were monitoring the trading closely.

Senator COLLINS. But Mr. Webb was losing money, was he not?

Mr. HOEHN. There were times where he was losing money, but at the same time, he was making money, also.

Senator COLLINS. But on balance, he was losing money?

Mr. HOEHN. Yes.

Senator COLLINS. Despite the fact that Mr. Webb was losing money, it is my understanding that early in 1999, Momentum and the management company that Momentum has retained to run the Atlanta office actually hired Mr. Webb to train new customers, is that correct?

Mr. HOEHN. Yes, and Chairman Collins, as far as the examination, 6 months after that examination, the same company that Valynda Ewton is associated with came back to do a review and it states very clearly that there were major improvements made, complimenting the fact that the necessary paperwork and some of the administrative duties that were in question before looked much better.

Senator COLLINS. There was a specific review of Scott Webb's accounts?

Mr. HOEHN. There was a review—

Senator COLLINS. Or a review generally?

Mr. HOEHN [continuing]. Of the whole office.

Senator COLLINS. Let me just, in my remaining time for this round, go through a chronology with you to make sure I have it correct. So in July 1998, Momentum opened 2 day trading accounts for Mr. Webb, is that correct?

Mr. HOEHN. I do not know if it was July, but yes, the summer of 1998.

Senator COLLINS. And it was with borrowed money, including \$30,000 at an 18 percent interest rate that was arranged from another Momentum customer, is that correct?

Mr. HOEHN. Yes, it is.

Senator COLLINS. Then in September, 3 months later, Momentum's own auditor flagged Mr. Webb's account and characterized them as only marginally suitable, is that correct?

Mr. HOEHN. Yes, it is.

Senator COLLINS. And yet in January, just a few months later, Mr. Webb, despite the fact that he was losing money, was actually hired to begin training new day trader customers, is that correct?

Mr. HOEHN. Scott had approached myself and David Dial on beginning a training class in the Atlanta office that he would take a lead. That is correct.

Senator COLLINS. Was that because he was getting increasingly desperate for money, as we have heard his mother testify?

Mr. HOEHN. I do not believe that Scott wanted to teach the course just for the money, no.

Senator COLLINS. Do you know how much ultimately Mr. Webb lost? At the time of his very tragic death, how much money had he lost?

Mr. HOEHN. I do not know the exact amount of that.

Senator COLLINS. It is my understanding that he lost approximately \$40,000. Do you have any indication that that is not correct?

Mr. HOEHN. Forty thousand in respect to the Momentum account, or within the Insight and Momentum—

Senator COLLINS. Not counting the Insight account. He lost about \$10,000 through that.

Mr. HOEHN. Excuse me?

Senator COLLINS. He lost approximately \$10,000 while trading at Insight.

Mr. HOEHN. How much are they—

Senator COLLINS. I am asking you how much he lost at Momentum. It is my understanding that it is \$40,000 of the \$60,000 that he borrowed.

Mr. HOEHN. Well, first of all, I do not know the exact number, but the number seems high, in my opinion. I do know that he made a \$12,000 deposit back in the account opening, plus the \$30,000 that he had borrowed from a customer. I do realize that there was approximately \$20,000 left in the account.

Senator COLLINS. I was just going to say, the documents that the Subcommittee has from your office show very clearly that there was \$19,000 left in his account.

Mr. HOEHN. OK. So, therefore, I would think that \$40,000 would be—

Senator COLLINS. Forty would be correct?

Mr. HOEHN. Yes. Losses of—no. I would say that with the numbers that we are speaking of, it would be closer to \$25,000.

Senator COLLINS. That is not our understanding, but my time has expired on this round, so I will yield to Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

Mr. Cao, let me ask you some questions. You heard Mr. Buchwalter this morning. I believe you heard his testimony.

Mr. CAO. Yes, I did.

Senator LEVIN. He testified that you told Ms. Le that you were an attorney, is that correct?

Mr. CAO. Absolutely not.

Senator LEVIN. He said that you told her that you were a stockbroker, is that correct?

Mr. CAO. Absolutely not.

Senator LEVIN. You are not a stockbroker, are you?

Mr. CAO. I am not.

Senator LEVIN. Were you buying and selling stocks for her?

Mr. CAO. For Amy Le?

Senator LEVIN. Yes.

Mr. CAO. Yes, I did.

Senator LEVIN. Even though you are not a stockbroker?

Mr. CAO. That is right.

Senator LEVIN. Are you aware of that fact, that you are not allowed to do that?

Mr. CAO. Well, I understood differently. I understood——

Senator LEVIN. From whom?

Mr. CAO. From the NASDAQ that I call.

Senator LEVIN. Who did you talk to there that said you could buy or sell stocks for somebody without being a stockbroker?

Mr. CAO. Well, as a day trader, I called to the NASDAQ office in Los Angeles and they said there are no law right now not to allow me to be a day trader and to buy and sell stock for the day trader account.

Senator LEVIN. You were told by whom there?

Mr. CAO. I do not recall the names, but I called the office, NASDAQ office in Los Angeles.

Senator LEVIN. Were the folks at Providential Securities aware of the fact that you are not a stockbroker?

Mr. CAO. This is the first time that I heard about Providential have something to do with me.

Senator LEVIN. I see. You have nothing to do with them?

Mr. CAO. I have nothing to do with them.

Senator LEVIN. Did you have your own office?

Mr. CAO. No, I do not.

Senator LEVIN. What office did you trade out of?

Mr. CAO. I trade out of the office in Los Angeles owned and operated by Mr. Tae Goo Moon.

Senator LEVIN. You never were at Providential Securities? You never visited them? You never went in their offices? You were not nearby?

Mr. CAO. That is totally correct.

Senator LEVIN. So you do not know anything about Providential?

Mr. CAO. I was not aware about that at that time.

Senator LEVIN. When was the first time you ever heard of Providential?

Mr. CAO. The first time I heard about Providential, when Mr. Tae Goo Moon took me down to Providential to see Henry Fahman with Tae Goo Moon, present me to Henry Fahman what kind of lawyer that he needs to hire in order to defend for his lawsuit, and throughout the conversation, I was not aware that they have some relationship, but 2 days after that or 3 days after that, I came down to Providential and talked to Henry Fahman again person-to-person and he told me that they have some business relationship with, at that time, Hahna Global Security.

Senator LEVIN. Give us the name of the person again that you worked for.

Mr. CAO. I worked for myself.

Senator LEVIN. I see. And the office was under your own name?

Mr. CAO. No, I do not have an office. I am the day trader who come in to trade every day.

Senator LEVIN. And what office do you go in?

Mr. CAO. I went in the trading room of Hahna Global Security.

Senator LEVIN. Hahna?

Mr. CAO. Global Security.

Senator LEVIN. And what building was that in?

Mr. CAO. It is in Los Angeles.

Senator LEVIN. Yes, I know, but what building is it in?

Mr. CAO. I could not recall.

Senator LEVIN. How close is it to Providential?

Mr. CAO. Oh, quite far away. It is about a 45-minute drive.

Senator LEVIN. All right. Are you aware that Providential does business under the name of Hahna Global?

Mr. CAO. No, I was not aware about that.

Senator LEVIN. When did you become aware of that?

Mr. CAO. I became aware about that fact when Mr. Moon, the manager or the operator or the owner of the Hahna Global, took me down to Providential office in Fountain Valley.

Senator LEVIN. Is that before you met Ms. Le?

Mr. CAO. No, long after, long, long after.

Senator LEVIN. And after you were trading stocks for her?

Mr. CAO. Yes, when she filed the claim.

Senator LEVIN. Did Hahna Global know that you were not a broker?

Mr. CAO. They knew.

Senator LEVIN. They know you are not a broker?

Mr. CAO. They know I am not a broker. They also know that I am only a day trader.

Senator LEVIN. And you are listed on the stationery here as being Senior Vice President for Hahna Global Capital Management, Inc., is that correct?

Mr. CAO. I am surprised about that document.

Senator LEVIN. You are shocked that the stationery here lists you as a Senior Vice President of Hahna Global Capital?

Mr. CAO. Yes.

Senator LEVIN. When is the first time you saw that?

Mr. CAO. When I—it is about 4 months after I come in to trade with—

Senator LEVIN. What month and what year would that be?

Mr. CAO. This would be about—it is about—I cannot be—it is hard to recall.

Senator LEVIN. Well, approximately what time of year?

Mr. CAO. Approximately, I think after the lawsuit of Amy Le had been filed.

Senator LEVIN. Is the first time you knew that you were listed as a Senior Vice President of Hahna Global?

Mr. CAO. Probably not the first time, just the second time or something.

Senator LEVIN. All right. How many times did you go to Providential's office?

Mr. CAO. Before or after—

Senator LEVIN. Ever.

Mr. CAO. Right now, I trade at the Providential office.

Senator LEVIN. So now you do trade there?

Mr. CAO. I do conduct my trading there.

Senator LEVIN. When did you start doing that?

Mr. CAO. I recall it is October 1999, or 19—

Senator LEVIN. That you started going to their office regularly?

Mr. CAO. Yes.

Senator LEVIN. All right. How much money did you make from trading for Ms. Le?

Mr. CAO. For 2 weeks, I make about—no, for those weeks, I make about \$1,000 or \$2,000 in profit.

Senator LEVIN. Pardon?

Mr. CAO. I make about \$1,000 or \$2,000 in profit.

Senator LEVIN. Over the entire length of time, all the trades that made for her, you made only \$1,000 or \$2,000?

Mr. CAO. Of those weeks.

Senator LEVIN. How many weeks?

Mr. CAO. For 1 week.

Senator LEVIN. One week. And how many weeks did you do the trading?

Mr. CAO. And it—

Senator LEVIN. How many weeks?

Mr. CAO. Probably about 3 weeks, 4 weeks.

Senator LEVIN. So you may have made \$8,000 in profit off her altogether?

Mr. CAO. I did not.

Senator LEVIN. What is the total amount of money you made by trading for her?

Mr. CAO. Well, I stopped trading at her account at very early age, when she called in to stop trading.

Senator LEVIN. What is the total amount of money you made off trading for her?

Mr. CAO. I could not recall.

Senator LEVIN. Could it be \$5,000?

Mr. CAO. No, I do not think so.

Senator LEVIN. Now, Mr. Buchwalter said that you told Ms. Le that you would buy her account for \$48,000. Is that true?

Mr. CAO. There was a conversation between me and Ms. Le when she asked me to buy her account for that amount.

Senator LEVIN. Is it true that you offered to buy her out for \$48,000?

Mr. CAO. She asked me for it.

Senator LEVIN. She what?

Mr. CAO. She asked me to buy her account for \$48,000.

Senator LEVIN. And you agreed?

Mr. CAO. No, I negotiate with it. At one time, I asked her to go to the attorney, her attorney, to draw up a paper, but she never did that.

Senator LEVIN. And you told her to draw up a paper that you would buy up her account at what amount?

Mr. CAO. Yes. I had draw—

Senator LEVIN. In what amount?

Mr. CAO. About \$48,000.

Senator LEVIN. So you told her to draw up the paper?

Mr. CAO. No. I said—I told her that if I do the work, then I need a written document to show what we did so you do not come back and make a claim against me.

Senator LEVIN. But did you tell her to draw up a paper in which you would buy her account at \$48,000?

Mr. CAO. No, I did not say that.

Senator LEVIN. All right. How many clients like Ms. Le did you have?

Mr. CAO. Only one.

Senator LEVIN. She was the only one?

Mr. CAO. She only one.

Senator LEVIN. Did this trading company have other clients like you who had other clients like her?

Mr. CAO. No. I think that there is another trader, but I do not know any client like Amy Le.

Senator LEVIN. And how did you happen to latch onto her?

Mr. CAO. Pardon?

Senator LEVIN. How did you happen to find her?

Mr. CAO. I do not find her. I was—first time I came down to Fountain Valley to buy a music tape, to buy music for myself, she work in the store that is selling music tape. I come in asking for the tape and she does not have it and she introduce herself. I introduce myself and she asking me what do I do for a living. I said, I am selling stock, and first she ask me where I come from. I said I came from Texas.

Senator LEVIN. Was that true?

Mr. CAO. Is that very true.

Senator LEVIN. And whose idea was it that you would buy and sell stocks for her? Was that your idea or her idea?

Mr. CAO. That is her idea.

Senator LEVIN. And was the CEO of Providential aware of the fact that you were buying and selling stocks for her?

Mr. CAO. Yes. He—Mr. Moon aware about the trading.

Senator LEVIN. Even though you had absolutely nothing to do with Providential, they were aware of the fact that you were trading for her?

Mr. CAO. They must be aware.

Senator LEVIN. Pardon?

Mr. CAO. Mr. Moon must be aware about that.

Senator LEVIN. Must be aware?

Mr. CAO. Must be.

Senator LEVIN. But you said that they did not even know of your existence. You had nothing to do with them. How could they be aware?

Mr. CAO. Well, first, the account have to open with them, with Mr. Moon, and Mr. Moon will set up the computer for me to trade and Mr. Moon's back office must provide the buying power, provide the number for me to trade.

Senator LEVIN. And for yourself or for Ms. Le?

Mr. CAO. No, for me to trade on her behalf.

Senator LEVIN. So you did set up an account there in order to trade on her behalf?

Mr. CAO. No. She set up the account, not me.

Senator LEVIN. You dealt with Mr. Moon, did you not?

Mr. CAO. I do not deal with him. Ms. Amy Le come in to open account—

Senator LEVIN. Were you with her?

Mr. CAO. Pardon?

Senator LEVIN. Were you with her?

Mr. CAO. I was in the office and I was—I was in the office.

Senator LEVIN. Were you with her?

Mr. CAO. No. Sometime I was, sometime I was not.

Senator LEVIN. When she opened up her account, were you with her?

Mr. CAO. No, I was not.

Senator LEVIN. She just walked in on her own. You were somewhere else in the office—

Mr. CAO. I was somewhere else in the office.

Senator LEVIN. Not with her?

Mr. CAO. Not with her.

Senator LEVIN. But you told her to come in there and open an account?

Mr. CAO. No, she came in and by her own idea and her own—

Senator LEVIN. Finally, though, Mr. Fahman, the CEO of Providential, was aware of the fact that you were going to be doing trading for Ms. Le?

Mr. CAO. I do not know that.

Senator LEVIN. You never told him that?

Mr. CAO. I do not know about that at all.

Senator LEVIN. Did you ever tell him you were going to be doing trading for Ms. Le?

Mr. CAO. I have no opportunity to know Henry Fahman when the account opened.

Senator LEVIN. So you never told him that you were trading for Ms. Le?

Mr. CAO. Tell whom?

Senator LEVIN. Mr. Fahman.

Mr. CAO. I did not have the opportunity. I did not know him.

Senator LEVIN. I am asking you whether you ever told him you were trading for Ms. Le.

Mr. CAO. I did not.

Senator LEVIN. Thank you.

Mr. CAO. Thank you.

Senator COLLINS. Thank you, Mr. Chairman. Mr. Chairman—I cannot believe I am promoting you like that. [Laughter.]

We are in the final moments of a vote. Senator Durbin, do you want to begin, or would you prefer to begin when we come back from the vote? It is my understanding we have about 3 minutes left.

Senator DURBIN. Vote.

Senator COLLINS. I think we had better go vote. We will stand in recess for 15 minutes.

[Recess.]

Senator COLLINS. The Subcommittee will come to order. At this time, I am pleased to call upon Senator Durbin for his questions.

Senator DURBIN. Thank you, Madam Chairman.

Mr. Cao, I would like to just ask you two or three questions. Are you represented by counsel today?

Mr. CAO. No, sir.

Senator DURBIN. Do you understand that you are under oath?

Mr. CAO. Yes.

Senator DURBIN. And that the answers that you give must be truthful?

Mr. CAO. Yes.

Senator DURBIN. Thank you very much.

Mr. Parish, I would like to ask you a couple questions. You did some television advertising as part of the promotion of All-Tech?

Mr. PARISH. Yes.

Senator DURBIN. And you were the person on the ad?

Mr. PARISH. Some of them.

Senator DURBIN. OK. Was there money to be made by bringing in more people to be day traders at All-Tech?

Mr. PARISH. More customers means more money, yes.

Senator DURBIN. And what did each one of your so-called customers, these day traders, pay in commission for each of the trades?

Mr. PARISH. Twenty-five dollars.

Senator DURBIN. Twenty-five dollars? And what was the average number of trades that your day traders would make each day?

Mr. PARISH. I would suggest to you that the—well, I would say somewhere between 5 and 10 round-trips.

Senator DURBIN. I am not understanding round-trip.

Mr. PARISH. Think of buy-sell as a round-trip.

Senator DURBIN. So how much would they pay in commission, then, using that 5, 10 round trips as a—

Mr. PARISH. Two-hundred-and-fifty dollars or \$500.

Senator DURBIN. So between \$250 and \$500 a day, they are making profit for All-Tech, or at least they are bringing in commissions for All-Tech, is that correct?

Mr. PARISH. Yes.

Senator DURBIN. So before they show their first penny of personal profits, they have to pay off the commissions, obviously.

Mr. PARISH. No, they have to make a winning trade.

Senator DURBIN. Well, of course, but they had better make more than \$500 if they are paying you \$500 in commissions, right?

Mr. PARISH. No. One trade is \$50. They have to make more than \$50.

Senator DURBIN. Well, you can do it trade by trade or day by day, but at the end of the day, if I am in the \$500 category of paying commissions and look at my results of day trading and I may have made money and lost on another, I had better net out \$501 or I have had a losing day, right?

Mr. PARISH. Right.

Senator DURBIN. Thank you. So the more people you have day trading, the more money for All-Tech, is that correct?

Mr. PARISH. Yes.

Senator DURBIN. And if these people win or lose at the stock market, it really is not that important to you, is it?

Mr. PARISH. Oh, yes, it is.

Senator DURBIN. Why?

Mr. PARISH. If they keep losing, I will be out of business.

Senator DURBIN. Really?

Mr. PARISH. Eventually, yes.

Senator DURBIN. That is interesting, because you were quoted in the course of your deposition saying something that I think is worth repeating at this point. Let me see if I can find it here. Oh, here it is.

Mr. Parish, in your deposition testimony, you indicated that, "Eighty to 90 percent of the people that trade lose their money

within 6 months, and given the chances of profitability," your words, "it is amazing how many people still want to try it."

Mr. PARISH. It is, that is true.

Senator DURBIN. Yes, it is amazing, is it not?

Mr. PARISH. Yes.

Senator DURBIN. It is a pretty big losing proposition, is it not?

Mr. PARISH. Yes, it is.

Senator DURBIN. Yes. So despite this losing proposition for the people involved in it, the company did pretty well.

Mr. PARISH. I believe All-Tech does well.

Senator DURBIN. Yes. In fact, I think the *Washington Post* this morning has a story which is based on some of the findings of this Subcommittee. If I am not mistaken, it turns out that these day-trading firms, 15 of the largest firms in the field pulled in revenue last year of \$541.5 million, 276 percent more than in 1997. Profits spiraled to more than \$66 million. Last year, those firms alone opened more than 12,000 new accounts. That is from the *Washington Post* story.

So let me just kind of go into the basics of this. I have seen your TV ad. I am just swept away by how convincing you are and I call and say, I want to get in on this deal. This is just too good to be true. So how much money do I have to put up front to be a day trader at All-Tech?

Mr. PARISH. Twenty-five-thousand when I left.

Senator DURBIN. And no exceptions to the rule, \$25,000 cash or else?

Mr. PARISH. There were special situations on occasion where somebody would beg and plead and visit the office 10 times in a row and be allowed to start with less.

Senator DURBIN. How little could they start with?

Mr. PARISH. I do not remember starting with anything much less than—well, let me back up a second. There came a time at All-Tech when we were trying to attract business somewhat as Charles Schwab does, where a customer could come in with a \$10,000 deposit and then they could stop by the office at any time during the course of their regular day and adjust their own portfolio, sit down at a computer, buy the stock that they want, sell the one that they do not want. So there was a time it was as little as \$10,000. It started at \$50,000. It went to \$25,000. It came down to \$10,000. And then it went back to \$25,000.

Senator DURBIN. And if I came in with \$10,000 and I wanted to buy stock, how much could I buy with a \$10,000 account at All-Tech?

Mr. PARISH. Twenty-thousand dollars' worth of marginable securities.

Senator DURBIN. Twenty-thousand dollars. And was that accounted for on a daily basis, as to whether I was meeting my margin requirement?

Mr. PARISH. Absolutely.

Senator DURBIN. Every single day?

Mr. PARISH. Every trader received a trade blotter showing his trades. Every morning when the trader came to the office, he received a trade blotter showing the previous day's trades and he re-

ceived a margin report showing his positions, his equity, his margin debit, his margin calls, everything.

Senator DURBIN. Why do we have margin rates, margins at all in this business?

Mr. PARISH. To prevent people from over-borrowing.

Senator DURBIN. Going too far, is it not?

Mr. PARISH. Yes.

Senator DURBIN. And so, frankly, if I have had a very bad day, I am supposed to, at least under the practices and regulations, back off. But as I understand the testimony from you and some of the things that you have submitted, if I had a very bad day, All-Tech knew how to take care of me by transferring money from another account so I can keep right on rolling. Is that not true?

Mr. PARISH. It was not to help you out from having a bad day. It was to help you keep your account open once you made a mistake.

Senator DURBIN. A mistake?

Mr. PARISH. Yes.

Senator DURBIN. What kind of mistake?

Mr. PARISH. Very simply—

Senator DURBIN. Bad trade?

Mr. PARISH. Not necessarily. You see, most people in the beginning, when they came into my office, they somehow thought they were going to get in a Volkswagen and drive to Florida or something. But when they sat down in front of a trading machine, they realized real soon that they were somewhat more realistically piloting a jet fighter plane here.

Senator DURBIN. Oh, so we had computer errors on top of bad judgments on investments?

Mr. PARISH. Oh, many. It is very simple, Senator Durbin. You buy 1,000 shares of stock and you own it, and then execute what you believe to be the sell when, in reality, you just bought it again.

Senator DURBIN. So you had to have some pretty extensive training so people would not make these so-called mistakes, right?

Mr. PARISH. We did our best to teach them, but—

Senator DURBIN. What was your best? How long did you train these—

Mr. PARISH. Training lasts 1 week.

Senator DURBIN. One week? Five days?

Mr. PARISH. Five consecutive—7 days.

Senator DURBIN. Seven days?

Mr. PARISH. Seven days with an instructor right there with the class.

Senator DURBIN. I do not think anybody who testified earlier talked about 7 days. They talked about 2 days. Did that happen?

Mr. PARISH. No, it never did happen.

Senator DURBIN. Never did happen?

Mr. PARISH. No.

Senator DURBIN. Someone only had 2 days of training? So they get these 7 days of training, you sit them down in front of this jet aircraft panel computer type thing and turn them loose and they've got \$10,000 in their account. They can buy \$20,000 worth of stock and they make a big mistake.

[Mr. Ambrose consults with Mr. Parish.]

Mr. PARISH. Well, it is not quite like that.

Senator DURBIN. Well, please explain. I thought I was following you pretty closely.

Mr. PARISH. I will explain how I do it. I would be happy to. When a customer answers my ad, he first has to come see my office and see what we do. When he sits down with me at a trading terminal and looks at that, 8 out of 10 of them leave and never come back.

Senator DURBIN. The smart ones?

Mr. PARISH. Yes, well, maybe they are smart, maybe they are not. It remains to their experience afterwards. But of the two that remain that go through the class, they get 7 days of training with an instructor right there with them the entire time and then they do not just sit down at a computer with their \$10,000 and buy \$20,000 worth of stock. They are encouraged to simulated trade or paper trade to get the software down.

Senator DURBIN. What kind of commission do you make on simulated trades?

Mr. PARISH. Zero commission.

Senator DURBIN. So at some point, for the good of your business, you have got to get them beyond simulation and help them get ready to take off in this new jet pilot—

Mr. PARISH. But I would never push anybody to start trading live if they are not ready.

Senator DURBIN. But interesting, too, because the testimony was that at your office, it was like a circus atmosphere and cheering, to load up to buy and now it is time to sell, and it sounds like it was a chorus section going, not so much people at the computer making these discrete decisions. What was the atmosphere?

Mr. PARISH. On occasion, it was.

Senator DURBIN. Occasionally, it turned out to be a circus-like atmosphere?

Mr. PARISH. Well, occasionally, we would cheer when someone made an exceptionally good trade and announced it to the whole group. My office, I encouraged people to share information with each other throughout the day to see what they saw.

Senator DURBIN. Journaling, let us talk about journaling. That is moving money from my account to somebody else's account on a temporary basis, is that correct?

Mr. PARISH. Yes.

Senator DURBIN. OK. And what are the largest amounts that you can recall journaling between accounts?

Mr. PARISH. I think \$100,000 is a large amount for my office.

Mr. PARISH. So if I am sitting there trading and I have got \$100,000 in my account, what would you do? Would you ask me, I have got this fellow right next to you who had a bad day, made a few mistakes. Could you transfer \$100,000 from your account to his account? Could we journal that? Is that how that would go?

Mr. PARISH. Generally, I would tell you to ask him, but if you would say, no, I do not want to ask him, could you ask him for me, I would ask him for you.

Senator DURBIN. And so would people say at that point, well, is he good for it? Have you done a credit check on him? What do you know about this person? If I am going to give him \$100,000, how do I know he is even going to be here tomorrow?

Mr. PARISH. You do not.

Senator DURBIN. You really do not? Interesting business.

Mr. PARISH. That is why, as All-Tech explained, you fill out the return journal at the same time, so regardless of whether he comes back or what he does, the money comes back to you the next day.

Senator DURBIN. Oh, it does, automatically?

Mr. PARISH. Automatically.

Senator DURBIN. At All-Tech's expense?

Mr. PARISH. It comes out of the customer's account that received it unless that customer loads up on a whole bunch of stocks.

Senator DURBIN. Did that ever happen?

Mr. PARISH. Yes, oh yes.

Senator DURBIN. And so somebody was left holding the bag when they journaled some money?

Mr. PARISH. All of my customers always received their money back. Nobody ever failed to receive their money.

Senator DURBIN. From journaling.

Mr. PARISH. From journaling.

Senator DURBIN. That is not counting the mistakes?

Mr. PARISH. Just from the journals. All journaled funds were returned 100 percent, not always the next day, however.

Senator DURBIN. Well, I see my time has expired, and I think there is more that we will be asking you, but it just strikes me as incredible as we read the *Washington Post* story that people fall for this, and I guess this hearing will perhaps diminish your business but maybe educate the American people about what a con game is going on here. Thank you.

Senator COLLINS. Thank you, Senator Durbin.

Unfortunately, we are in the midst of two back-to-back votes, so we will stand in recess for 20 minutes.

[Recess.]

Senator COLLINS. The Subcommittee will resume, come to order.

Mr. Cao, in response to a question from Senator Levin, you testified that you were not with Ms. Le when she opened her account. I would like to direct you to look at your deposition and to look specifically at page 152. And while you are finding that, I will read you what you told us under oath. You talk about going to see Ms. Le at a park where her children are playing ball. You say, "And then I came out to play ball with her children at the same time. At the meantime, she filled out the application and completed the paperwork. In between one of these times, she visited the office."

This is the question to you now. "In between one of the times she visited the office, you talked to her by phone and she asked you to come see her in a park next to the police station. You brought the paperwork for her to open the new account form?"

Your response was, "She said she had lost the last application."

Question: "Would you bring it?"

Answer: "And she needed a new form."

Question: "She asked you to bring that new material?"

Answer: "Uh-huh."

"So you brought that material out and gave it to her in the car?"

Your response, "Right."

Question: "And she sat in the car and filled out the paperwork while you played with her kids in the park?"

“Yes.”

So in view of that transcript, which was under oath, how could you respond to Senator Levin’s question that you were not with her when she opened the account?

Mr. CAO. Yes. I do not consider this at the time that she opened, effectively opened the account. She filled out the information and my only thing, and my understanding, when she opened an account with a signature of that officer allow her to open the account, is what I mean.

Senator COLLINS. Well, it seems to me if you brought her the application, were with her when she filled it out, and under oath she has testified that she handed you a check to open the account, that you clearly were with her when she opened the account.

Mr. CAO. Again, I understand differently. I understand that when the account opened, when the manager, the branch manager, put his signature on the account forms.

Senator COLLINS. I would like to now direct you to page 151 of the transcript. It is the same page that you are on. Do you see the numbers? You testified earlier that Ms. Le’s lawyer was not telling the truth when he said that she was not wealthy. You said that she had \$200,000. Yet, under oath, you said, and I want to read this part of the transcript, the question to you was, “How was it that you came to meet her in her car?”

Answer, your answer: “She called me. She said, ‘My car broke,’ and she already introduced to me that she was very poor. She showed me the broken car.”

Question: “She would always tell you that she was very poor?”

Answer: “Yes. She would say she is very poor and I believe it, and she says, ‘I want to open the account so that I can get money to buy for myself a car, a new car.’ I believe it. I believe all she said.”

Mr. CAO. Yes, that was correct at that time.

Senator COLLINS. So you do not dispute at the time that she opened the account that she was not wealthy and that she expected to have money made through day trading?

Mr. CAO. Evidence later on proving that she was very wealthy then, but she told me that she was not and I believe what she said to me.

Senator COLLINS. Let me refer you to another part of your transcript. Again, in response to a question asked to you this morning by Senator Levin, you testified that you only traded for one or two clients at Providential’s Los Angeles branch office, which was operating under the name of Hahna Global. Now, I would like for you to look at your deposition transcript on page 136.

You were asked the question, and I quote, “How many total do you think you traded on their behalf?”

Answer: “In and out?”

Question: “Yes.”

Answer: “Maybe 21 or 22.”

Now, how do you reconcile that with your response to Senator Levin today that you are only trading for one or two individuals?

Mr. CAO. Chairman, I recall that the Senator asked me how many clients like Amy Le, and my response was, the only one.

Senator COLLINS. So what were the rest of these 21 people?

Mr. CAO. He did not ask me how many people total. He did not—

Senator COLLINS. He asked you “how many people you were trading for.”

Mr. CAO. No, I did not recall that. If you can backtrack the record—

Senator COLLINS. Well, would you like to correct the record, since you are under oath, about how many people did you trade the accounts for?

Mr. CAO. Well, if that is the question, then my answer is, in total, I trade now for about 20-some for many years.

Senator COLLINS. Mr. Cao, Amy Le’s lawyer testified this morning that the NASD found you liable for thousands of dollars of losses that resulted from your day trading Ms. Le’s account. Is that accurate?

Mr. CAO. No, not at all. Not at all.

Senator COLLINS. It is not accurate that NASD—

Mr. CAO. Not accurate.

Senator COLLINS [continuing]. Entered a judgment against you for thousands of dollars?

Mr. CAO. Again, Your Honor, it is not accurate at all.

Senator COLLINS. Well, we have the judgment of NASD here. Are you disputing that the NASD found you liable for any amount of money for—

Mr. CAO. Yes, Your Honor. I respect the law, but I do very much disagree.

Senator COLLINS. That is not my question. I asked you, did you agree with the testimony or disagree with the testimony of Amy Le’s lawyer that the NASD found you liable for thousands of dollars of losses resulting from your trading of Ms. Le’s account. You said that that was false, and yet I have in my hand the award provision from that decision which very clearly says, Respondent, Huan Van Cao, is liable to and shall pay the Claimant, that is Amy Le, an additional sum of \$22,593.11 in compensatory damages plus 7 percent interest. So how can you say that it is not true that the NASD entered a judgment against you?

Mr. CAO. OK. Basically, what I see it, the document speaks for itself. Whatever there is correct, right.

Senator COLLINS. The document directly contradicts what you just said under oath.

Mr. CAO. But I disagree with their finding.

Senator COLLINS. That is a different question.

Mr. CAO. Well—

Senator COLLINS. I did not ask you, do you agree with the decision. I asked you, did the NASD find you liable for thousands of dollars to be paid to Amy Le to compensate her?

Mr. CAO. The answer is yes.

Senator COLLINS. That is the accurate answer.

Mr. CAO. That is right.

Senator COLLINS. Have you paid Ms. Le?

Mr. CAO. No, Your Honor.

Senator COLLINS. Why have you not paid that judgment?

Mr. CAO. I do not have money.

Senator COLLINS. It is my understanding that you filed for bankruptcy 2 months after the NASD judgment, is that correct?

Mr. CAO. That seems correct.

Senator COLLINS. In your bankruptcy filing, you claimed an exemption of \$50,000 for your home, \$44,000 for your personal property, which includes three cars, and a 401(k) account worth \$25,000. So you clearly have assets. Why have you not paid Ms. Le the \$22,000 for which you have been found liable?

Mr. CAO. I do not have money for it.

Senator COLLINS. So you are testifying under oath today that you do not have sufficient funds to pay Ms. Le's judgment?

Mr. CAO. That is correct.

Senator COLLINS. Mr. Parish, at the time that you were Branch Manager at All-Tech's San Diego office, did All-Tech have minimum deposit requirements to open a day trading account?

Mr. PARISH. That has always been the question. It is not a minimum deposit to open an account. It is a minimum deposit to get a log-on to trade an account. You can open the account with no deposit.

Senator COLLINS. But to begin trading, was there a minimum deposit requirement?

Mr. PARISH. Yes.

Senator COLLINS. And what was that requirement?

Mr. PARISH. When I first became affiliated with All-Tech, it was a \$50,000 deposit, and then it—

Senator COLLINS. And when was that?

Mr. PARISH. That was in January 1997. My first training class was February 1997.

Senator COLLINS. And it is my understanding that that deposit requirement of \$50,000 was in effect until January of 1999, when it was lowered to \$25,000, is that correct?

Mr. PARISH. No. It was lowered before that.

Senator COLLINS. Do you know when it was lowered?

Mr. PARISH. I would suggest it was lowered about mid-way through my 3 years with them, which I believe would put it somewhere in 1998, mid-1998, I expect.

Senator COLLINS. According to the responses we received from All-Tech in response to our interrogatories, the standard was \$50,000 until January 1999. Is it possible that you are remembering incorrectly on that?

Mr. PARISH. I suppose it is possible.

Senator COLLINS. My time has expired, so I am going to go to Senator Levin, but I do want to come back to that point.

Senator LEVIN. Go ahead.

Senator COLLINS. I would like to show you an advertisement. Can you see the screen from where you are?

Mr. PARISH. Yes.

Senator COLLINS. I would like to show you an advertisement that the previous witness, Ms. Margala, said was the advertisement that enticed her to become a day trader, if we could roll the advertisement.

[A videotape was played.]

Senator COLLINS. This is obviously not the advertisement, though perhaps it should have been. Since we are obviously not

able to get this up, Mr. Parish, I am sure you are familiar with the ad. It is the ad that you are in. I think you produced it. It is a very dynamic ad.

Mr. PARISH. Thank you.

Senator COLLINS. In the ad, you make a reference to a \$10,000 amount. Why does your ad say that you only need \$10,000 to open a day trading account when at the time this ad was made, All-Tech has informed us that \$50,000 was required?

Mr. PARISH. All-Tech's memory is incomplete. All-Tech's minimums started at \$50,000, subsequently went to \$25,000, and for a time they were actively—we were all at All-Tech, with All-Tech's blessing, actively engaged in seeking customers, like I explained to Senator Durbin, to come in and open accounts for \$10,000 that were not actively day traded in the true sense of multiple turnover of the assets. They were called retail accounts.

Senator COLLINS. But in this ad, which unfortunately I cannot show you, this ad is for day trading accounts. So I want to go back. You said that All-Tech's information was incorrect that they provided us. Is that your testimony?

Mr. PARISH. Yes.

Senator COLLINS. So the information we received from All-Tech on what the minimum standard was at that time is incorrect?

Mr. AMBROSE. May I have a moment?

[Mr. Ambrose consults with Mr. Parish.]

Mr. PARISH. This ad was specifically approved by All-Tech.

Senator COLLINS. Mr. Parish, at the end of the ad, there is a white-haired gentleman who is grinning broadly. Are you familiar with who that gentleman is?

Mr. PARISH. Yes.

Senator COLLINS. And is his name Fred Cook?

Mr. PARISH. Yes.

Senator COLLINS. Is it accurate that at the time that that ad was made, that Mr. Cook had not yet begun day trading?

Mr. PARISH. Yes, that is correct.

Senator COLLINS. And ultimately, did not Mr. Cook lose approximately \$175,000 day trading?

Mr. PARISH. I do not know what the exact number was, but he lost substantial money, not by day trading.

Senator COLLINS. But not by day trading?

Mr. PARISH. He made bad investments.

Senator COLLINS. And is it accurate to say that he has sued both you and All-Tech?

Mr. PARISH. Yes.

Senator COLLINS. OK. Mr. Zayas, did you ever change numbers on new account forms to make customers appear more suitable for day trading?

Mr. BERMAN. May I have a moment?

Senator COLLINS. Yes.

Mr. ZAYAS. No, I did not.

Senator COLLINS. Did anyone at All-Tech ever suggest to you that you should change numbers on new account forms to make the customers appear to be more suitable for day trading?

Mr. ZAYAS. Yes.

Senator COLLINS. And who at All-Tech—I am sorry, it is not All-Tech. Who at your firm suggested that you alter the figures?

Mr. ZAYAS. It was All-Tech.

Senator COLLINS. It is All-Tech. I am sorry.

Mr. ZAYAS. Yes, it is All-Tech.

Senator COLLINS. Who did suggest that you alter the figures to make the customers seem more suitable?

Mr. ZAYAS. The people in the margin department.

Senator COLLINS. But you are testifying today that you did not alter numbers on new account forms to make customers appear more suitable?

Mr. ZAYAS. That is correct.

Senator COLLINS. Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

Mr. Cao, earlier I held up a document here on Hahna Global Capital Management, Inc., stationery which lists you as the Senior Vice President of Hahna Global Capital, and we are getting you a copy now so you will have that in front of you. You told me that you were shocked when you discovered that, and I asked you when was the first time that you saw that and you told me that it was about 4 months after you went to trade at Hahna, and then you said it was after Amy Le's complaint had been filed. Her complaint was filed in early 1999. That is her complaint with NASD.

Now, you testified under oath before the Subcommittee staff, and according to your testimony, you said that you sent this very piece of paper with the letterhead identifying you as a Senior Vice President on March 20, 1998, almost 1 year before Ms. Le's complaint had been filed. And if you will look at the date at the top of that, the fax date, you will see where that date appears. By the way, is this your signature on this sheet?

Mr. CAO. Yes, it was my signature.

Senator LEVIN. So, in fact, you knew nearly 1 year before Ms. Le's complaint was filed that you were listed on Hahna Global's letterhead as their Senior Vice President, is that not true?

Mr. CAO. It seemed to me they list me as Senior Vice President of Hahna Global Capital Management, yes.

Senator LEVIN. Did you send this fax that is in front of you—

Mr. CAO. No, I did not.

Senator LEVIN. Excuse me. Let me just finish my question. Did you send this fax to a Ms. Richardson in March 1998?

Mr. CAO. No, I did not.

Senator LEVIN. I want to read to you now from your deposition.

Mr. CAO. OK.

Senator LEVIN. "Did you send this fax to Ms. Richardson in March 1998 to let her know that you were in L.A. and that you had gotten settled?" Answer, "Yes." That is your sworn deposition. Now, you are under oath here and you say that you did not send this to her in March 1998.

Mr. CAO. May I provide the additional information?

Senator LEVIN. Yes, but either you were telling the truth in your deposition or you are telling the truth today.

Mr. CAO. Well, in that firm, I am not allowed to use any fax machine at all. Whatever fax sent out need to be sent out by the back office, not by me directly or physically.

Senator LEVIN. The question asked in your deposition was, "Did you send this fax to Ms. Richardson in March 1998 to let her know that you were in L.A. and that you had gotten settled?" Your answer was, "Yes, uh-huh." Was that answer true?

Mr. CAO. I do not—that answer seems not to be—not to be clearly correct.

Senator LEVIN. Your answer was not accurate in the deposition?

Mr. CAO. My answer is, I do not recall.

Senator LEVIN. You do not recall making the answer?

Mr. CAO. I do not recall about sending this fax out.

Senator LEVIN. I see. When you testified at your deposition as follows, "Did you send this fax to Ms. Richardson in March 1998," your answer was, "Yes, uh-huh." Was that statement true when you made it at the deposition or did you not remember when you said you did remember at the deposition?

Mr. CAO. I did not remember.

Senator LEVIN. So then your answer at the deposition, that yes, you sent this fax to her in 1998, was not true?

Mr. CAO. I could not recall because here in that firm, I am not allowed to use any fax machine at all.

Senator LEVIN. Whether you are allowed to use a fax is a different question from whether or not you remember the fax being sent out to her in March 1998. Do you remember that in March 1998, this letter was faxed to her under your signature?

Mr. CAO. I will not be able to have any fax machine from that—from inside of that firm to send out any fax.

Senator LEVIN. Is this your signature?

Mr. CAO. Yes, it is.

Senator LEVIN. And when did you send this to her?

Mr. CAO. I do not recall.

Senator LEVIN. Was it in 1998?

Mr. CAO. It does not seem right.

Senator LEVIN. You do not think you sent it to her in 1998?

Mr. CAO. I do not think so.

Senator LEVIN. When would you have sent it to her?

Mr. CAO. I do not recall.

Senator LEVIN. Are you currently day trading?

Mr. CAO. Yes, I am.

Senator LEVIN. Even though you are in bankruptcy?

Mr. CAO. Yes, I am.

Senator LEVIN. How are you suitable for day trading if you are in bankruptcy?

Mr. CAO. Well, day trader look like any job. I come in to do the job and even that I file for bankruptcy, I still much am living.

Senator LEVIN. You still what?

Mr. CAO. I still have to do something to make my living.

Senator LEVIN. So you are not using any of your own funds?

Mr. CAO. Not, not at all.

Senator LEVIN. And whose funds are you using?

Mr. CAO. I have three accounts at this time.

Senator LEVIN. And you have three customers?

Mr. CAO. Yes.

Senator LEVIN. And you only do day trading for them?

Mr. CAO. Yes.

Senator LEVIN. Would you file the names of those customers with the Subcommittee? Will you give us the names of those customers?

Mr. CAO. Yes, I did.

Senator LEVIN. You have already?

Mr. CAO. Yes, I provided those names.

Senator LEVIN. Mr. Zayas, am I pronouncing your name correctly?

Mr. ZAYAS. Zayas.

Senator LEVIN. Zayas. In your deposition before the Subcommittee staff, you said that you first met the head of All-Tech, Mr. Houtkin—am I pronouncing his name—

Mr. ZAYAS. Houtkin, yes.

Senator LEVIN [continuing]. Houtkin, that when you first met him, “he kept stressing that it was—I was going to change my career. I was going to make millions and it was going to change my life.” That is your quote.

Mr. ZAYAS. That is correct.

Senator LEVIN. And is that what he told you?

Mr. ZAYAS. Yes, it is.

Senator LEVIN. And how long had Mr. Houtkin known you when he told you that this was going to make millions for you, change your life? How long had he known you when he said that to you?

Mr. ZAYAS. Probably about 15 minutes.

Senator LEVIN. When he told you that, did he have any knowledge about your background, your educational background, whether you had any experience in securities trading?

Mr. ZAYAS. No. He had—

Senator LEVIN. Pardon?

Mr. ZAYAS. No.

Senator LEVIN. Now, did you make millions?

Mr. ZAYAS. No, I did not.

Senator LEVIN. Did you make anything?

Mr. ZAYAS. No, I did not.

Senator LEVIN. How much did you lose?

Mr. ZAYAS. Trading, approximately \$60,000.

Senator LEVIN. During your initial trading, did All-Tech personnel say that if you generated a margin call, that they would help you locate someone to help you meet that call?

Mr. ZAYAS. I did not trade at All-Tech.

Senator LEVIN. Pardon?

Mr. ZAYAS. I did not trade at All-Tech. After I took the class at All-Tech, I had spoken with Harvey and I had taken the class, there was no office in the Boston area. Harvey said that he would find a trader for me to trade my account, since I obviously could not commute between Boston and Montvale, New Jersey. So he found a trader for me and that trader lost \$60,000.

Senator LEVIN. OK. Now, my question is the following: During the training class, were you told that if you generate a margin call, that you will be able to find someone within the office to help you meet the margin call?

Mr. ZAYAS. Yes.

Senator LEVIN. So you were informed of that during your training class?

Mr. ZAYAS. Yes, I was.

Senator LEVIN. Who was it who said that?

Mr. ZAYAS. It was probably somebody in the margin department that—

Senator LEVIN. At your deposition, you said it was someone named Kim-Lisa Esposito.

Mr. ZAYAS. Yes, that is in the margin department, Lisa Esposito, yes.

Senator LEVIN. Lisa Esposito?

Mr. ZAYAS. Yes.

Senator LEVIN. Now, when they told you that during your training class, did they indicate that they would charge a fee for covering that margin account with such a loan?

Mr. ZAYAS. No.

Senator LEVIN. Now, I want to read your deposition to you. "At that time"—this is right after—let me just read the question. It is on page 27. "At that time"—this is during your training class—"was there any discussion of a fee that would be charged to a customer who borrowed money for such purposes?" Your answer was, "They did state that sometimes, depending on the situation, that you might be charged a fee." Is that true?

Mr. ZAYAS. I just—I do not recall. That was in 1995.

Senator LEVIN. Do you recall saying that at the deposition?

Mr. ZAYAS. Yes, I do.

Senator LEVIN. So you recall that being said at the deposition, but you cannot recall—

Mr. ZAYAS. I am not 100 percent certain that it was at the class, that it said that during the training class. I am not sure it was said during the training class.

Senator LEVIN. But it was said at some other point?

Mr. ZAYAS. It must have—it was obviously said various times.

Senator LEVIN. To you?

Mr. ZAYAS. Yes, but not at the training class.

Senator LEVIN. All right. Now, there was a man or a woman named Jody Krajak?

Mr. ZAYAS. Krajak.

Senator LEVIN. Is that a man or a woman?

Mr. ZAYAS. That is a man.

Senator LEVIN. A man named Jody Krajak—

Mr. ZAYAS. Yes.

Senator LEVIN [continuing]. Who you authorized, I believe, to trade in your account, is that correct?

Mr. ZAYAS. Yes.

Senator LEVIN. And how did you happen to get into that situation? Was that at the suggestion of Mr. Houtkin?

Mr. ZAYAS. Yes, it was.

Senator LEVIN. Tell us how that happened.

Mr. ZAYAS. Well, I had finished taking the class and Harvey had told me that there was no day-trading firms in Boston and that he could find a trader for me to trade my account, that he had done that in the past with numerous individuals. And he introduced me to a number of people and—

Senator LEVIN. Did he introduce you to Mr. Krajak?

Mr. ZAYAS. Yes, he did.

Senator LEVIN. And to your knowledge, was Mr. Krajak a registered investment advisor or registered with the Securities and Exchange Commission and the NASD to sell or trade in securities?

Mr. ZAYAS. To my knowledge, he was not.

Senator LEVIN. Now, you became a manager of the All-Tech branch in Watertown, is that correct?

Mr. ZAYAS. Yes.

Senator LEVIN. And did Mr. Houtkin offer you that job?

Mr. ZAYAS. Yes, he did.

Senator LEVIN. I believe you told the Subcommittee staff that you believe that he offered it to you as a consolation for the significant losses that you suffered through the trading and Mr. Krajak, is that correct?

Mr. ZAYAS. He reduced the fee, also.

Senator LEVIN. The fee for what?

Mr. ZAYAS. To open up a trading office, a branch office.

Senator LEVIN. In other words, you are paying a fee to open up this office?

Mr. ZAYAS. That is correct.

Senator LEVIN. And he reduced it from what to what?

Mr. ZAYAS. Well, the fee varied. It was from \$75,000 to \$100,000 and he reduced the initial fee down to \$50,000.

Senator LEVIN. When you say initial fee, did he say you would pay the \$25,000 extra later?

Mr. ZAYAS. No, but there was other charges.

Senator LEVIN. Now, did you receive any training from All-Tech on how to be a branch office manager?

Mr. ZAYAS. No, I did not.

Senator LEVIN. Did you at any point forge documents to make account transfers for the purpose of meeting margin calls?

Mr. ZAYAS. I respectfully refuse to answer that question based on my Fifth Amendment right.

Senator LEVIN. Did you at any time forge documents so that a customer account could remain open and you could earn additional commission income on trades that continued to be made through the accounts?

Mr. ZAYAS. I respectfully refuse to answer that question based on my Fifth Amendment right.

Senator LEVIN. I believe you had a total of about 50 customers over the period of time that you managed the Watertown office between September 1997 and November 1998, is that correct?

Mr. ZAYAS. It was a little bit more.

Senator LEVIN. About how many?

Mr. ZAYAS. Probably—day traders was approximately 50.

Senator LEVIN. OK. Of those 50, how many were profitable?

Mr. ZAYAS. One.

Senator LEVIN. One out of 50?

Mr. ZAYAS. That is correct.

Senator LEVIN. Now, you told the staff that Mr. Houtkin was aware whether people were making or losing money, is that correct?

Mr. ZAYAS. Yes.

Senator LEVIN. And is it correct that he once told you that people were losing money, and most people do lose money?

Mr. ZAYAS. That is correct.

Senator LEVIN. Did All-Tech track which customers are making money and which are losing money?

Mr. ZAYAS. Yes.

Senator LEVIN. You told the Subcommittee staff, I believe, that there was a gathering in the All-Tech branch office in Kansas City in the spring of 1998, and as you characterize it here, "Basically, it was determined that everybody—a lot of—most people were losing money." Do you mean that in most branches, a majority of people were losing money?

Mr. ZAYAS. In my discussions with the branch managers, yes.

Senator LEVIN. And do you believe that Mr. Houtkin was aware that most traders at the All-Tech branches were losing money?

Mr. ZAYAS. Yes.

Senator LEVIN. Did you ever perform any suitability review of clients before they were accepted?

Mr. ZAYAS. That was not my function.

Senator LEVIN. Do you know if the function was performed?

Mr. ZAYAS. Everything was handled out of the Montvale main office.

Senator LEVIN. And so you do not know whether that function was performed?

Mr. ZAYAS. I do not know.

Senator LEVIN. I believe you testified to staff that you were told to change numbers on new accounts, the approval forms for new accounts, before sending them to the Montvale office to make the customer more suitable. Is that true?

Mr. ZAYAS. The way the wording was, probably there was a customer form sent to the Montvale office and I was told, do not send us a form like this again.

Senator LEVIN. The question that was asked at the deposition of you is the following. "So Lisa Esposito told you that you should change numbers on new account approval forms before sending them to the Montvale office to make the customer appear more suitable to open a day trading account?" Answer, "Yes." Was that answer true?

Mr. BERMAN. May I have a moment, sir?

Senator COLLINS. Sure.

Mr. ZAYAS. That is what she told me.

Senator LEVIN. The answer—

Mr. ZAYAS. Yes.

Senator LEVIN. Yes. To your knowledge, was Mr. Houtkin aware that numbers were changed or inserted on new account approval forms to make customers appear more suitable to open day trading accounts at All-Tech?

Mr. ZAYAS. I do not know.

Senator LEVIN. Were there situations where headquarters in New Jersey would tell you to open new accounts for people under another name after their old account had been closed or liquidated because they could not meet the margin calls in those accounts?

Mr. ZAYAS. I did not open accounts. Basically, that was all handled through the New Jersey office.

Senator LEVIN. I have additional questions, but I have taken my time. Do you want to go back and forth?

Senator COLLINS. I am just going to ask a couple of questions. Mr. Zayas, just to follow up with Senator Levin's question, were there any customers whom you believed to not be suitable for day trading for whom accounts were opened?

Mr. ZAYAS. I was not—I did not have the authority, nor was it my position to determine whether somebody was suitable or not for day trading.

Senator COLLINS. I understand that, and you have said those decisions were made in New Jersey, correct?

Mr. ZAYAS. That is correct.

Senator COLLINS. But my question is, were you aware of any cases in which accounts were opened for customers whom you believed to be unsuitable?

Mr. ZAYAS. Yes.

Senator COLLINS. Yes?

Mr. ZAYAS. Yes.

Senator COLLINS. Mr. Parish, I just have one final question for you.

Mr. AMBROSE. My client would like to correct what may be a misleading aspect of the answer to your last question.

Senator COLLINS. That will be fine, Mr. Parish.

Mr. PARISH. It was about the ad, when you were mentioning Ms. Margala responding to the ad.

Senator COLLINS. Yes.

Mr. PARISH. Ms. Margala called my office in response to the ad and came to visit me at my office, but it was not the ad that caused her to day trade. It was what she found in the office and how the office was and what she discovered during her paper trading.

Senator COLLINS. She has testified that but for the ad, she never would have come to your office to talk about day trading.

Mr. PARISH. OK.

Senator COLLINS. Mr. Parish, what percentage of day traders in the San Diego office lost money within the first 6 months of trading?

Mr. PARISH. At least 80 percent.

Senator COLLINS. Thank you. Senator Levin.

Senator LEVIN. Thank you. Mr. Zayas, I want to read you part of your deposition and then ask you if it is true.

Question: "Did you assist people in opening new accounts when you knew that other accounts, one or more, that they had been closed or liquidated because they could not meet margin calls in those accounts?"

Answer: "Well, if an account would get closed up and the customer would say to me, what do I do, what do I do, I would talk to the Montvale office and say, can this account get reopened, and sometimes they would say yes and sometimes they would say no and I do not know what determined that. But if the answer was no, they would then tell me, 'Just have them open up another account under a relative's name or—'"

Question: "Who told you that?"

Answer: "Lisa."

Question: "Esposito?"

Answer: "Yes."

Question: "And did you do that for customers?"

Answer: "Sure. Yes."

Was that a true answer?

Mr. ZAYAS. Yes, on their direction, yes.

Senator LEVIN. So you were told by the office that just have them open up another account under a relative's name. You were told by Lisa Esposito that you could do that. Were you directed to do that or were you told you could do that in order that they could continue to do day trading?

Mr. ZAYAH. I was told that I could do that. I was not directed to do that. That was—

Senator LEVIN. In your deposition, you indicated that All-Tech's philosophy regarding customer recruitment was, "take whoever comes in." Is that correct?

Mr. ZAYAH. That is correct.

Senator LEVIN. And in your deposition, you were told by somebody in the All-Tech corporation's headquarters that you should inflate net worth numbers on new account forms to make customers appear more suitable, is that correct?

Mr. ZAYAS. That is what they told me.

Senator LEVIN. You say that is what they told you.

Mr. ZAYAS. Yes.

Senator LEVIN. The answer is that it is correct—

Mr. ZAYAS. That is correct.

Senator LEVIN [continuing]. That you were told by someone in the All-Tech corporation's headquarters that you should inflate net worth numbers on new account forms to make customers appear more suitable?

Mr. ZAYAS. Yes, that is correct.

Senator LEVIN. Mr. Parish, Ms. Margala and Ms. Harlacher testified that you placed pressure on them to trade their account. Is that correct? Did you?

Mr. PARISH. I placed pressure on them to stop holding losing positions. If you are not holding positions, then you can trade. Ms. Margala and Ms. Harlacher continue to enter trades, and when it went the wrong way, they would not exit the trade.

Senator LEVIN. And so you were urging them to exit trades?

Mr. PARISH. Yes. Get out of them. You are going to lose all your money doing that.

Senator LEVIN. And were you compensated on the basis of how many trades were conducted?

Mr. PARISH. Sure.

Senator LEVIN. So the more they traded, the more you made?

Mr. PARISH. Yes.

Senator LEVIN. So you had a direct interest in your advice to them to trade because you were making more money when they traded? You had a financial interest, did you not?

Mr. PARISH. Well, Senator, of course.

Senator LEVIN. OK.

Mr. PARISH. But if I could add something, nobody was ever encouraged or forced to make any trade that they did not want to. The object is only to make a winning trade. That is why I became a day trader in the first place and left the brokerage industry, is so that that ambivalence that all brokers must have about whether they are recommending this trade for the Subcommittee or are they

recommending this trade because it is a good trade? I left the retail brokerage industry because of that ambivalence.

Senator LEVIN. Yes, but when you say urging people to make a winning trade, you said a moment ago you were urging people to get out of a position even if it was a losing trade. Is that correct?

Mr. PARISH. Yes, before it got worse.

Senator LEVIN. Right.

Mr. PARISH. That is what—

Senator LEVIN. Now, when you say a winning trade, you do not mean that you were limiting your advice to people to make winning trades. You meant that you were urging people to get out of a position, period, before the day was over, is that not accurate?

Mr. AMBROSE. May I have a moment?

Mr. PARISH. Could you repeat the question, please?

Senator LEVIN. You were urging people to get out of a position by the end of the day, were you not, regardless of whether they made money or not?

Mr. PARISH. Oh, no, not necessarily. If a person—could I take a moment to explain how this works?

Senator LEVIN. No, it is OK, because I think we understand. You were not urging people to get out of losing positions, only winning positions?

Mr. PARISH. No, I was urging people, do not hold losing positions. You want to carry a winner, go ahead.

Senator LEVIN. But let me be real clear. Even though someone would lose by selling, you frequently urged them to sell, is that not correct, very simply?

Mr. PARISH. Losing positions that you take home tend to get worse, not better.

Senator LEVIN. My question, though, is even though somebody would lose when they sold compared to what they paid for a stock, you would urge them to get out of that position frequently, is that not true?

Mr. PARISH. That is true.

Senator LEVIN. Now, in your statement, you say that on two occasions you journaled funds from your own account to assist a customer. As I understand it, that means you loaned or made money available to a customer to meet a margin call, is that correct?

Mr. PARISH. Yes. I journaled money overnight from my account to a customer and back the next day.

Senator LEVIN. All right. That was in order to help a customer meet a margin call, is that correct?

Mr. PARISH. That is correct.

Senator LEVIN. Under the Exchange Act, is it not illegal to do that unless you had set up a special margin account and obtained separate collateral from the customer?

Mr. PARISH. I understood it to be—I did believe that it was improper and I ceased immediately, yes.

Senator LEVIN. How many times did you do that?

Mr. PARISH. Twice, small amounts.

Senator LEVIN. How long did the company continue to help people meet their margin accounts with these short-term loans from other accounts? How long did that last?

Mr. PARISH. Are you asking me how long we journaled around my office?

Senator LEVIN. I am asking you just as I asked you.

Mr. PARISH. What was the question again, please?

Senator LEVIN. How long did you help people cover their margin accounts when they were over the margin?

Mr. PARISH. How long did I?

Senator LEVIN. How long did that procedure last? Does it last until today, last month?

Mr. PARISH. I do not know if All-Tech is still journaling or not.

Senator LEVIN. They still may be doing that?

Mr. PARISH. They still could be, for all I know.

Senator LEVIN. Even though you have stopped?

Mr. PARISH. I stopped.

Senator LEVIN. Because you found out it was improper.

Mr. PARISH. Yes. I believe that it is—in the long run, it is detrimental to everybody and it is a nightmare.

Senator LEVIN. Did you facilitate loans to people to cover these margin accounts from other customers?

Mr. PARISH. No loans. There are no loans. They were overnight journals.

Senator LEVIN. Did you not have to put money into their account in order to prevent the account from grinding to a halt? Is that not what you were journaling? Did you not have to add money to their account?

Mr. PARISH. Journaled money from Customer A to Customer B back to Customer A, yes.

Senator LEVIN. And was interest ever charged for that?

Mr. PARISH. I do not know if you would call it interest. Customer A had the money. If he wanted to charge a fee and Customer B agreed to it, that happened frequently, yes.

Senator LEVIN. So fees were charged?

Mr. PARISH. Yes.

Senator LEVIN. What was the fee based on?

Mr. PARISH. The whim of the guy with the money.

Senator LEVIN. And you do not call that fee for a loan. You call that fee for what? It is not a loan. What is it?

Mr. PARISH. It is an overnight journal to meet a margin call.

Senator LEVIN. An overnight journal?

Mr. PARISH. Yes.

Senator LEVIN. In effect, is that not a loan temporarily for a short period of time in order to meet a margin call? Is it not the same thing?

Mr. PARISH. I guess the answer is no. He cannot use the money for anything else, can he?

Senator LEVIN. You mean I cannot loan you money to buy a house, and you cannot use that money for anything but to buy a house. It is still a loan, is it not?

Mr. PARISH. If you loaned me money, I would call it a loan, yes, sir.

Senator LEVIN. To buy a house. Even though you cannot use it for anything else other than what I lent it to you, it is still a loan, is it not?

Mr. PARISH. OK, yes, sir.

Senator LEVIN. Now, is this not in effect a loan overnight? If it is not a loan, what is it? You are pretty familiar with this stuff. It is not a gift, is it?

Mr. PARISH. No.

Senator COLLINS. They are not giving him money.

Mr. PARISH. No.

Senator LEVIN. If they are not lending him money, what are they doing?

Mr. PARISH. They are trying to help the guy out of a jam by journaling some money out of his account and journaling back.

Senator LEVIN. All right. Did you hear Ms. Harlacher's testimony this morning?

Mr. PARISH. Yes.

Senator LEVIN. Did you hear her say that you asked her to use her account to cover somebody else's margin calls?

Mr. PARISH. Yes, I heard her say that.

Senator LEVIN. How many of your customers get paid fees for doing that?

Mr. PARISH. Oh—

Senator LEVIN. What percentage?

Mr. PARISH. Only a few, because certain customers would have the larger accounts and those are the ones that ended up doing the majority of the journals because they had large amounts of money that is available to get journaled around.

Senator LEVIN. And did you tell Ms. Harlacher she could charge a fee or not in her discretion?

Mr. PARISH. Probably, yes.

Senator LEVIN. Did All-Tech ever prepare a brochure to people saying that you could get a 10 percent return on your money if you provided us funds to lend people overnight to cover these margin calls? Did you ever have a program like that? I think you heard testimony about that this morning.

Mr. PARISH. I never saw anything like that.

Senator LEVIN. So there is no such program that All-Tech ever had?

Mr. PARISH. Not to my knowledge.

Senator LEVIN. And did All-Tech ever make money from these fees that were charged to people to meet their margin calls?

Mr. PARISH. Not in my office.

Senator LEVIN. Do you know whether in any other office, All-Tech ever got a part of that fee or made any money for covering people's margin calls?

Mr. PARISH. I have no way of knowing that.

Senator LEVIN. Do you know whether All-Tech had a policy to allow this kind of lending, or was it just done ad hoc without a policy?

Mr. PARISH. Well, when I came to All-Tech, it seemed to be their policy. They provided me with the documents to fill out and they provided me with the instruction on how to fill them out. They explained to me how to make sure the money got returned to Customer A. So being new to their industry, I felt it was the way they did business.

Senator LEVIN. In her testimony, Ms. Margala stated that you allowed one All-Tech client to trade other All-Tech clients' accounts.

She further testified that another client told her that you had personally provided him with clients' accounts to trade. Yet neither of the two people had a broker's license. Is that true?

Mr. PARISH. I did not provide anybody with any accounts to trade. I introduce people to each other and they do whatever they want.

Senator LEVIN. All right. So you never gave anybody accounts and said, here, you can trade these accounts. That would be false if she said that?

Mr. PARISH. I did not do that.

Senator LEVIN. It was always done person to person after your introduction?

Mr. PARISH. Right.

Senator LEVIN. Are you aware of any instance in the All-Tech San Diego office where an individual traded other people's accounts?

Mr. PARISH. Yes.

Senator LEVIN. Were you aware of instances where people who were trading those accounts were not brokers?

Mr. PARISH. Yes.

Senator LEVIN. And in those instances, do you know if the individual conducting the trades received any part of the commission as compensation for their effort?

Mr. PARISH. No commission, now.

Senator LEVIN. Pardon?

Mr. PARISH. No, they did not receive a commission.

Senator LEVIN. Or a compensation?

Mr. PARISH. Oh, they received competition, sometimes.

Senator LEVIN. Sure, and what was that compensation based on?

Mr. PARISH. It was based on an agreement between the trader trading the account and the person whose money it was and they worked out arrangements between themselves.

Senator LEVIN. And then they set the fee or the—

Mr. PARISH. The split of the profit?

Senator LEVIN. Was there ever a fee charged for that?

Mr. PARISH. No.

Senator LEVIN. In All-Tech, did you ever make any money off those trades?

Mr. PARISH. No.

Senator LEVIN. You never charged anything?

Mr. PARISH. Just the \$25 per trade.

Senator LEVIN. Yes, that is what I mean. But you never split that with the person who was doing the trading?

Mr. PARISH. No.

Senator LEVIN. And so if there was anything in addition above the \$25 that the person whose account it was was paying to the person who was doing the trading, that would have been between the two of them?

Mr. PARISH. The trader generally was paid if he was profitable, and he was paid by the person whose money it was directly.

Senator LEVIN. If you knew that unlicensed individuals were trading other people's accounts, since you were branch manager, why did you not stop it?

Mr. PARISH. When I came to All-Tech, they encouraged that sort of thing. Mr. Houtkin was actively seeking investors to invest in his own mutual fund, he called it, where he was going to have all these investors put in money and he was going to find all the traders to trade the money.

Senator LEVIN. Even though those traders were not licensed?

Mr. PARISH. Yes.

Senator LEVIN. Thank you.

Senator COLLINS. Thank you, Senator Levin.

I am going to excuse this panel. The hearings will continue tomorrow, and at that time, we will hear testimony from the CEOs of All-Tech, Providential, and Momentum. We are eager to hear the firms' reaction to the testimony of their former customers and employees. We will also hear from the regulators tomorrow about ways to beef up the protections, the consumer protections and enforcement efforts in this area.

I would like to include in the record the report of the GAO entitled "Securities Operations: Day Trading Requires Continued Oversight."<sup>1</sup>

The Subcommittee will now stand in recess until tomorrow morning at 9:30 a.m., and I thank all the witnesses for their testimony.

[Whereupon, at 1:48 p.m., the Subcommittee was recessed, to reconvene at 9:30 a.m. on Friday, February 25, 2000.]

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<sup>1</sup>See Exhibit No. 146 which appears in the Appendix on page 1100.



# **DAY TRADING: EVERYONE GAMBLES BUT THE HOUSE**

**FRIDAY, FEBRUARY 25, 2000**

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 9:31 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Susan Collins, Chairman of the Subcommittee, presiding.

Present: Senators Collins and Levin.

Staff Present: K. Lee Blalack, II, Chief Counsel and Staff Director; Mary D. Robertson, Chief Clerk; Brian C. Jones, Investigator; Wesley Phillips, Detailee/GAO; Eileen M. Fisher, Investigator; Elizabeth Hays, Executive Assistant; Stephen Wheeler, Intern; Linda J. Gustitus, Minority Chief Counsel and Staff Director; Bob Roach, Counsel to the Minority; Michael Loesch (Senator Cochran); Anne Bradford (Senator Thompson); Marianne Upton (Senator Durbin); Nanci Langley and Glenn Sauer (Senator Akaka).

## **OPENING STATEMENT OF SENATOR COLLINS**

Senator COLLINS. Good morning. The Subcommittee will please come to order.

Good morning. Today, the Permanent Subcommittee on Investigation holds its third oversight hearing into day trading. After a general hearing on the issue last fall, the Subcommittee began an in-depth investigation into the business practices of 15 day-trading firms, eventually narrowing our focus primarily on three companies, All-Tech Direct, Momentum Securities, and Providential Securities.

During the course of its 8-month investigation, the Subcommittee uncovered some potentially illegal conduct, such as forgery and unauthorized trading. The most disturbing and pervasive evidence we gathered, however, relates to business practices that are, for the most part, entirely legal under the current regulatory framework. Perhaps our most important finding is that many firms encourage unsuitable customers with limited financial means and even less knowledge of the markets to engage in day trading.

Yesterday, we heard testimony from and about such individuals who were enticed to day trade with their meager life savings, or worse yet, with borrowed funds, money that they could ill afford to lose. Yet, lose they certainly did. Not understanding how risky day trading is and believing the false promises of deceptive ads or slick

salesmen, these customers lost tens of thousands of dollars, not to mention their pride.

We learned that some day-trading firms disregard their own requirements for minimum deposits, net worth, and income, and opened accounts for individuals who clearly should not have been accepted as clients. The desire for more and more customers and more and more commission revenue has produced a race to the bottom, as firms have lowered or ignored their own standards.

While day trading is rarely profitable for the customer, it generates huge commissions for the firms. At the firms surveyed by the Subcommittee, the average day trader would have to generate a trading profit of more than \$111,000 a year just to pay the commissions, and we will hear some testimony this morning that suggests that the amount of commission revenue may actually be much higher. It is not surprising that the best evidence we have indicates that more than 75 percent of all day traders lose money, and in some day trading branch offices, not a single trader is profitable over the long run. Yet day-trading firms do everything possible to encourage a customer to keep on trading despite losses, including arranging for loans from other customers to cover margin calls.

Today, we will hear from a panel of State and Federal regulators as well as the regulatory arm of the National Association of Securities Dealers. The presidents and chief executive officers of All-Tech, Providential, and Momentum will also testify. I look forward to hearing from all of our witnesses this morning.

I am now pleased to call upon the distinguished Ranking Minority Member, Senator Levin, who has also been very active in this area.

#### **OPENING STATEMENT OF SENATOR LEVIN**

Senator LEVIN. Thank you, Madam Chairman, and again, our thanks to you and particularly the Majority staff, who have worked so closely with you to provide hearings here which are illuminating on this growing practice of day trading.

We heard testimony yesterday which was disturbing, indeed. We heard from branch managers of All-Tech and one day trader at Providential that unlicensed brokers trade for compensation on behalf of other individuals somewhat routinely. Mr. Cao of Providential Securities told us he is day trading right now on behalf of three clients. He is not a licensed broker. Mr. Parish, former branch manager for All-Tech, told us he knows of a number of day traders at All-Tech who are not licensed brokers who trade on behalf of other clients for compensation. Mr. Zayas, also a former branch manager for All-Tech, testified he was directed by Mr. Houtkin, one of today's witnesses, the CEO of All-Tech, to a day trader who would trade on his behalf, and that trader was not licensed.

We heard testimony yesterday about the routine nature of loans arranged by day-trading firms to help clients meet margin calls. Mr. Parish admitted making two such loans, or journalings, as he called them himself, out of his own account. A broker-dealer and any person associated with a broker-dealer, as I understand it, is not allowed to make loans to clients to meet margin requirements.

So we heard testimony about a number of very disturbing aspects, including the lack of analysis by day-trading firms as to whether day trading is even an appropriate strategy for a new client. We learned that not only was such analysis a low priority, but we learned that it is often ignored, or worse, that documents are doctored to make a client appear to be appropriate for day trading who otherwise would not even meet the firm's own requirements.

These practices have exploited an ambiguous area in securities law to the detriment of unwitting consumers. The securities laws in general require that an individual who buys or sells stock on behalf of another individual for compensation must be licensed as a broker-dealer, yet we have apparently some nuances and loopholes in the law of which day-trading firms too often take advantage. These practices are open and widespread, and today we will be asking our first panel why this is happening.

Day trading is an expensive gamble. People who try it without adequate information and safeguards and forewarning are likely to lose tens of thousands of dollars. The stories can be sad, sometimes tragic. Victims get caught up in the hype of day-trading firms. They fail to ask questions about the risk. They fail to be informed about the risk.

Madam Chairman, I hope we can get some understanding today of just what the people at the top of these day-trading firms know or do not know about the lapses and irregularities that we heard about yesterday, and from our first panel, what actions the regulatory bodies are going to take to bring day trading within both the spirit and the letter of the requirements of securities laws and regulations.

Again, I commend you and thank you, Madam Chairman, for your leadership and determination to probe this area.

Senator COLLINS. Thank you very much, Senator Levin.

We are now very pleased to have with us as our first panel of witnesses this morning three members of the regulatory community. First, I would like to welcome Lori A. Richards, who is the Director of the Office of Compliance Inspections and Examinations for the Securities and Exchange Commission. Ms. Richards will make public for the first time today a report prepared by the SEC staff summarizing their findings from a comprehensive examination of 40 day-trading firms. Those of you who attended the Subcommittee hearing last fall may remember that the SEC Chairman, Arthur Levitt, told us that such an examination was underway and we are very pleased to hear the results of it today.

Next, we will hear from another witness who has appeared before us in the past, Barry Goldsmith, who is Executive Vice President, Enforcement of the National Association of Securities Dealers Regulation. The NASD Regulation, Inc. is a self-regulatory body that is charged with the initial duty of overseeing the day trading industry, and again, we look forward to hearing Mr. Goldsmith's testimony regarding enforcement efforts on the part of the self-regulatory organization.

And finally, we are also very pleased to have with us today Deborah Bortner, who is the Director of the Washington State Securities Division. In one of my previous jobs, I spent 5 years in Maine State Government overseeing the Securities Division, so I have great ad-

miration for securities administrators and I am delighted to welcome you here today. As the chief securities regulator for the State of Washington, Ms. Bortner directed a comprehensive examination of every day-trading firm doing business in her State. We are particularly interested in the profitability data which her office collected during this examination because it is the most comprehensive assessment of profitability that I believe has been conducted.

I should also mention that Ms. Bortner is the President-Elect of the North American Securities Administrators Association, also known as NASAA, which represents State securities regulators from all 50 States and Canada.

So I am delighted to welcome our witnesses. I would ask you to stand so that I can swear you in. Do you swear that the testimony you are about to give to the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. RICHARDS. I do.

Mr. GOLDSMITH. I do.

Ms. BORTNER. I do.

Senator COLLINS. I am going to ask that each of you limit your oral testimony to no more than 10 minutes. We will be using a timing system this morning. The green light will come on at the beginning. One minute before the 10-minute period has expired or is about to expire, the orange light will go on. And when you see the red light, if you will conclude your testimony, that will be helpful to us. We will, however, print your written testimony in its entirety in the hearing record, as well as any other documents you may wish to submit.

Ms. Richards, we will ask you to begin. Thank you.

**TESTIMONY OF LORI A. RICHARDS,<sup>1</sup> DIRECTOR, OFFICE OF COMPLIANCE, INSPECTIONS AND EXAMINATIONS, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, DC**

Ms. RICHARDS. Chairman Collins, Ranking Member Levin, good morning. I am pleased to appear before the Subcommittee this morning on behalf of the Securities and Exchange Commission to outline our recent actions with respect to day trading. I am Lori Richards, Director of the Exam Program at the Commission.

The Commission has sought to address concerns about day trading by using a four-part strategy. First, by conducting an examination sweep of day-trading firms to evaluate their compliance with the law and to gather information about this new industry. Second, by fostering investor education about the risks of day trading. Third, by considering regulatory changes. And finally, by bringing enforcement actions, where appropriate.

I am pleased today to provide you with a report summarizing the findings of the first part of that initiative. The report summarizes our findings from our examination sweep of firms offering day trading to the public. From October 1998 through September 1999, in coordination with the NASD, we examined 67 firms offering day trading to the public. I would like to take a moment, if I could, to briefly summarize what we found in those examinations.

<sup>1</sup>The prepared statement of Ms. Richards with an attachment appears in the Appendix on page 174.

While the examinations did not reveal widespread fraud, they did reveal a number of serious violations warranting referral to our Division of Enforcement. These violations included net capital, short sale, and margin violations. The examinations also revealed deficiencies in advertising, in supervision, and in registration rules.

As a result of these examinations, we have concluded that many day-trading firms need to enhance their compliance with securities regulations. The inability of some firms to monitor their compliance with capital, margin, and the short-sale rule, or to maintain adequate books and records, raises serious concerns. All of the firms at which deficiencies were found have been cited in deficiency letters, or in the most serious cases, referred to our Division of Enforcement.

In September, Chairman Levitt told this Subcommittee that he was concerned about the potential for individuals to be seduced by promises of easy profits from day trading without fully understanding the risks. During our examinations, we reviewed the information that firms were providing to customers concerning the risks of day trading. We found that as of the time of the examinations, most firms provided little or no information to their customers concerning the risks of day trading. A recent review indicates, however, that many firms have vastly improved their risk disclosure. Clearly, the industry is responding to regulators' concerns, and certainly the work of this Subcommittee and the media have highlighted the risks associated with day trading.

I would like to also address another area of concern, margin lending. During examinations, we focused on a number of lending practices by the firms, direct lending by the firm, lending through associated persons of the firm, and the arranging of loans by the firm between customers and between third parties and customers. By using leverage, day traders hope to increase their potential profit from small movements in the price of stocks. Unfortunately, that leverage can also substantially increase losses, often beyond what day traders can afford to lose. We are concerned that many day traders do not fully appreciate that by borrowing to buy securities, they can actually lose more than their initial investment.

This is why our collective efforts to educate investors are so important. Today, we are continuing to do that by posting another notice on the Commission's investor education Web site. Along with our investor alert concerning the risks of day trading, we have today posted investor tips concerning the risks of buying stock on margin.

We are also focusing on securities rules and how we can address concerns about day trading by tightening up regulations. The NASD, the New York Stock Exchange, and other SROs have taken a number of steps and have proposed rules that would restrict margin for day traders, require day-trading firms to disclose the risks of day trading to potential customers, and to determine whether day trading is appropriate for their customers.

Finally, our Division of Enforcement is continuing to investigate several referrals that stemmed from our examination sweep, and recently, the Commission brought two cases against day-trading firms for lending violations.

The SEC will continue to focus resources on day trading. We will be conducting additional targeted examinations, continuing to evaluate whether regulatory changes are appropriate in light of industry practices, continuing to work to educate investors about the risks of day trading, and we will bring additional enforcement actions, where appropriate.

As Chairman Levitt told this Subcommittee last September, we are committed to doing everything we can to ensure that day-trading firms are operating within the boundaries of the law and we hope that individuals considering this type of trading strategy do their homework on the risks of day trading before risking their money.

Thank you. I am happy to respond to any questions you may have.

Senator COLLINS. Thank you very much, Ms. Richards. Mr. Goldsmith.

**TESTIMONY OF BARRY R. GOLDSMITH,<sup>1</sup> EXECUTIVE VICE  
PRESIDENT, ENFORCEMENT, NASD REGULATION, INC.,  
WASHINGTON, DC**

Mr. GOLDSMITH. Thank you. Good morning. Thank you for the opportunity to testify today on behalf of NASD Regulation, Inc. These hearings provide the industry, the regulators, and most importantly, the investing public with new and useful information about day trading. My testimony this morning will deal with NASD Regulation's enforcement actions and investigations relating to day trading, as well as the NASD's recent rule proposals in this area.

NASDR recognizes that day trading is a legitimate trading strategy and, if it is conducted by individuals who both understand and knowingly assume its risks, we do not intend to encourage or discourage such activities. That being said, NASDR continues to view day trading as a highly risky form of trading that requires new regulatory initiatives and, where appropriate, the filing of formal enforcement actions. The eight day trading enforcement cases we filed this week are examples of our strong commitment to compliance by NASD member firms and their personnel in this area.

In 1999, the staffs of NASDR and the SEC launched a coordinated, focused examination program of day-trading firms. As part of that effort, we examined 22 day-trading firms that varied significantly in size and makeup. Fifty-five NASDR examiners received special training in the intricacies of day trading. During these examinations, we found several potential problem areas, including misleading and exaggerated advertising, improper margin lending practices, improprieties in customer-to-customer loans arranged by day-trading firms, registration violations, supervisory failures, and violations of the NASD short-sale rules.

As a direct result of our examination efforts begun last year, NASDR announced yesterday that it had filed eight new day trading enforcement actions. While other day trading investigations continue, the actions that we filed this week represent an important step in our efforts to address problems in this area and our goal overall of improving member firm compliance.

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<sup>1</sup>The prepared statement of Mr. Goldsmith appears in the Appendix on page 179.

These eight cases allege allegations and findings against firms and individuals that reflect many of the concerns we originally reported to the Subcommittee last September. They include misuse of customer funds and securities, improper lending and margin practices, exaggerated and misleading advertising, improperly registered persons, violations of the NASD short-sale rule, improper use of the small order execution system, and supervisory inadequacies.

Two of the cases involve allegations of misuse of funds, including one in which we allege that the owner of a day-trading firm solicited more than \$150,000 from outside investors, falsely representing that these monies would be used for risk-free loans to day-trading customers of the firm. In that case, the investors were promised returns of at least 15 percent per year, or 20 percent of the profits earned by the day traders to whom the money was lent. Instead, the funds were loaned to customers with no controls or restrictions and were improperly used for branch operating expenses and virtually all of the money was eventually lost.

In two other cases, NASDR found violations of the NASD rules in connection with margin calls, including one in which a firm's principal allowed a customer to effect 120 transactions while the customer's account was coded "no more business" by the clearing firm for failing to meet a margin call.

In another case, a firm employee established a separate entity which then loaned funds to firm customers to meet margin calls to enable them to continue to trade.

Four of the day trading actions announced yesterday include allegations or findings of violations of our advertising rules, including instances in which firms placed exaggerated and potentially misleading advertising on the Internet, as well as in local print and media advertisements. These firms typically exaggerated the ability of customers to access markets immediately without disclosing the risks inherent in day-trading strategies, including market volatility. One advertisement told prospective day traders that they could, "Control their own destiny through electronic day trading" without any corresponding disclosure of the risks.

NASDR alleged and made findings that firms failed to ensure that individuals actively engaged in their day trading operations were properly registered, including one case in which the individual running the firm's day trading business was not even registered as a principal. In other cases, employees of the firm were acting as equity traders without having completed the NASD's Series 55 registration requirements. In one case, the firm allowed individuals to input trades for customers for periods of several weeks without registering them in any capacity with the firm.

Finally, certain of the actions taken this week involve serious supervisory deficiencies, including one case in which a firm engaged in day trading activities without having any written supervisory procedures in place to address that area of the firm's business.

In addition to the enforcement actions we filed, we also have instituted new heightened procedures in our review of day-trading firms' Web sites. Since we instituted this program, NASDR staff have looked at over 120 Web sites, reviewing each of those sites at least four times since the program's inception through the end of

1999. To date, more than 30 sites have needed revisions to achieve compliance with our rules. The subject firms have been notified of the deficiencies identified in their sites. In the more serious situations, NASDR staff contacted the firms immediately and recommended that materials or representations on the sites be removed. In each of these cases, the problematic portions of the sites were taken down.

One such site involved a day-trading firm's claims about the profitability that customers could expect from day trading. Under a banner headline, "Do the Math," the firm suggested that a typical day-trading customer could easily make almost a quarter-million dollars per year. What was the basis for this prediction? A simple syllogistic formula. "One point on 1,000 shares equals \$1,000. One point average per day, 240 trading days, equals \$240,000 annually." One can only imagine what the portrayed profits would have been on the site if the firm had taken into account extended trading hours.

To address the risk presented by day-trading firms both to individuals and to firms, NASDR also has engaged in rulemaking initiatives in three areas: Risk disclosure, appropriateness determinations, and margin requirements. These newly proposed rules require that firms that promote day trading to individuals fully disclose the risks involved, as well as assess whether such a strategy is appropriate for the individual. These rules were filed with the SEC last August, and after receiving comments, amended rules were filed with the SEC last week.

We believe that the proposed rules, as amended, serve to maintain the standards necessary for the protection of investors without imposing overly burdensome regulatory requirements on firms that promote day trading. We are also working closely with the New York Stock Exchange to amend margin requirements applicable to day traders.

Earlier this year, NASDR filed with the SEC a rule proposal that would amend the margin requirements that apply to pattern day traders. The amendments would do a number of things. First, they would change the definition of day trader to cover only true day traders, not incidental or occasional day traders. The rule would require minimum equity of \$25,000 in a day trader's account on any day in which the customer trades. The rule would permit day trading buying power of up to four times a day trader's maintenance margin excess. However, unlike the present rules that allow funds to meet a day trading margin call to be deposited after the day trading risk has already been incurred, the proposed rule amendment requires that the funds be in the account prior to any trading. The rule would also prohibit cross-guaranteeing of accounts.

Finally, NASDR is continuing to look at whether to impose any restrictions on day-trading firms' activities when they facilitate or participate in arranging loans among customers. We believe that there may be an inherent conflict of interest when member firms facilitate or participate in lending activities with or between their customers. It is these lending activities that often allow customers to continue to trade when they would not otherwise be in a financial position to do so, thereby generating more commissions for the firm. While these same conflicts arise when principals, registered

representatives, and significant shareholders of members lend funds to customers, those are already addressed in the rules and we are looking to see whether we need to do more.

We will continue our regulatory initiatives with respect to day trading. To the extent that our ongoing investigations find violations of the securities laws or NASD rules, we will bring additional enforcement actions. We have received a broad array of very constructive comments on our new rule proposals and we will work hard with the SEC and all interested parties to finalize them and get them on the books as soon as possible. At this time, we remain of the view that no new legislation on this subject is necessary.

On behalf of NASDR, I would like to thank the Chair, Senator Levin, and the rest of this Subcommittee for the opportunity to appear here today and provide testimony on these important issues. I would be happy to answer any questions you may have. Thank you.

Senator COLLINS. Thank you, Mr. Goldsmith. Ms. Bortner.

**TESTIMONY OF DEBORAH R. BORTNER,<sup>1</sup> DIRECTOR, SECURITIES DIVISION, WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS, OLYMPIA, WASHINGTON**

Ms. BORTNER. Good morning, Chairman Collins, and Senator Levin. My name is Deborah Bortner. I am the Director of Securities in the State of Washington. I am also President-Elect of the North American Securities Administrators Association, NASAA, for short. I want to thank you for the invitation to testify today as you continue to look into issues surrounding day trading.

Chairman Collins, as you know, day trading has been a concern of State securities regulators for several years now. We appreciate your leadership in bringing this issue to the attention of Congress and to the American public. This AP article that was published yesterday reached hundreds of thousands of people. Try as we might, it is very hard for us to reach that many people with our educational efforts to let people know that day trading is risky.

In December 1998, NASAA formed a task force to research the day trading industry. That group spent 7 months gathering information, analyzing issues, and studying trading records from day-trading firms. It released its report last August. Last September, NASAA's then-President of NASAA testified before this Congress on that report and its findings and recommendations. The report did not suggest major restrictions on the day trading industry. Instead, it called on firms to do a better job of screening out unsuitable customers and disclosing the risks for those remaining customers who still wanted to day trade.

I am not here today to go over NASAA's report or to comment on day trading in general. NASAA's findings and views are already part of the Subcommittee's record. I am here to discuss the results of a series of examinations my office conducted last fall. We audited all the known day-trading firms with branches in the State of Washington. I have submitted a copy of our report to be included in the record.<sup>2</sup>

<sup>1</sup>The prepared statement of Ms. Bortner appears in the Appendix on page 206.

<sup>2</sup>See Exhibit No. 23 which appears in the Appendix on page 365.

A team of my examiners, each of whom have more than 15 years' experience, inspected the branch offices of our seven day-trading firms. They are all located in or near Seattle. The team looked at advertising, loans, third-party trading, and account opening requirements, all issues identified by other State securities regulators as potential problems. The most striking finding had to do with profitability, or should I say, lack of profitability of day trading.

My team analyzed 124 trading accounts. That sample represented 100 percent of the accounts in five of the firms and a representative sample in two of the larger firms. More than three-fourths, 77 percent, of the accounts examined had net losses, with an average loss of \$36,000. Nine accounts had losses of more than \$100,000, the biggest of which was a loss of \$641,000. Twenty-three percent of the accounts were profitable, with an average profit of around \$22,000. Only two had gains of more than \$100,000. The biggest gain was \$160,000.

Now, some proponents of day trading, and I think I heard this yesterday in the testimony, suggested that day traders who can survive the learning curve, which purportedly takes about 6 months, are much more likely to be successful. As you can see from our report at Tab E, we analyzed accounts that were open from 1 to 25 months. We found no correlation between the length of time an account was open and its profitability.

In addition to profitability, our examiners reviewed other issues. At several firms, we found questionable loan arrangements between customers. These loan arrangements, we believe, serve to circumvent margin loan requirements, and in some cases, these loans may have resulted in even greater losses by customers.

We also found instances at several firms where day traders were trading on behalf of others. This may prove to be a violation of the registration provisions of our investment advisor laws. We are continuing to investigate these accounts.

After listening to yesterday's testimony about Amy Le, I would like to recommend that before anyone invest with someone in a situation like that, they should call either their State securities regulator or the NASD to make sure that person is registered. If he or she is registered, they can also ask about disciplinary history.

As Deborah Field highlighted in her testimony yesterday, we are also concerned that many firms are encouraging and allowing unsuitable people to day trade. For example, each of the firms we examined claimed to require a minimum balance to open and maintain an account. For most firms, that was around \$20,000. But in some cases, we found the branch manager or compliance officer approved new accounts with opening balances far below the minimum, even as low as \$6,000. Some firms also allowed customers to continue to trade after they had fallen below their minimum.

A word about day trading advertising, which has been a major concern of State securities regulators. Our examiners only reviewed advertising done by the branch office in Washington, not ads produced and placed by the corporate headquarters of the firms. As it turns out, the branches we examined did either no or little advertising, and we found no serious problems.

Recently, however, one of the firms did post something problematic in our view on the Web site. On its home page, it made claims about the trading success of its principal with no disclaimer. The required disclaimer is actually a mouse click away from the home page. Our Enforcement Section is reviewing this matter to determine whether that violates the advertising rules.

To conclude, our findings on the profitability of day trading are consistent with those of the NASDR report, which found that about 70 percent of day traders lose money. Exams and enforcement actions by State regulators have highlighted problems with day-trading firms. Federal regulators, the NASDR, and industry representatives are now involved in working to address the regulatory issues from a national perspective. NASAA supports the NASDR's rules to increase risk disclosure and require the firms to determine the appropriateness of the potential customer. We expect to be commenting in support of their new proposed rule to impose higher margin requirements for day-trading customers.

As we said before, day trading is a very risky strategy. We will continue to monitor it and bring enforcement actions when appropriate. We are working closely with the SEC and the NASD to address issues in this area.

Again, I appreciate this opportunity to testify and I look forward to answering any questions you might have.

Senator COLLINS. Thank you very much, Ms. Bortner.

As you were speaking, I was thinking that probably only the people in this room, when they hear the term NASAA, think of securities regulations rather than space exploration. We are probably unusual in that regard.

Ms. Richards, your report points out that day traders incur significant costs day trading because of the commissions. As I thought more about this issue, I am reminded of a traditional problem that the securities regulators have dealt with of churning, of brokers needlessly selling stocks in order to generate commissions. With day trading, we have moved to a whole different level, where it is the individual customer that is doing the trades, but the result is the same. You have, arguably, excessive commissions being generated.

Could you describe to us what your findings were with regard to commissions? In particular, it is my understanding that our estimates, based on our survey, are actually lower than what you found would be generated annually. So could you talk about what your findings were in that area?

Ms. RICHARDS. Yes. We found that day trading is extremely expensive. The average commission cost per trade at the firms that we reviewed ranged from \$15 to \$25 per trade. There are additional costs that many day traders incur for services like data feeds, news, research. Those services can range anywhere between \$50 and \$675 a month at the firms that we visited.

So collectively, putting those costs together, we did an analysis to evaluate how profitable day traders would have to be simply in order to break even. On page 9 of our report, we analyzed three fee structures of typical day-trading firms. We concluded that in a typical day-trading firm with what we determined was a medium fee structure, where commissions were \$16.70 per trade and the

day trader paid \$150 per month for additional services, that that day trader, if he or she made 50 trades per day, would need to generate \$16,850 each month in trading profits simply to be able to recoup the cost from the commissions and from the extra costs that he or she would pay to the firm.

Clearly, we believe that day trading is expensive and we want to make sure that investors realize that they are going to incur significant costs before they even reach a point where they can break even.

Last fall, we put on our Web site tips for investors which would remind them that they have high expenses, that they need to pay their firm sometimes large amounts in commissions for training, for computers, and for other services, and I know that as part of the NASD's rule proposal, one of the items that day-trading firms would be required to disclose is the fact that total daily commissions that day traders may pay may add to customers' losses or significantly reduce their earnings.

Senator COLLINS. So what you found, if my quick math here is correct, is that for the median fee structure, the day trader would actually have to generate more than \$200,000 a year just to pay the commissions, before incurring one cent of profit, is that correct?

Ms. RICHARDS. You did the math more quickly than I did, but it is \$16,850 each month. The total cost would exceed \$200,000 a year that an investor would have to generate in order to make a profit.

Senator COLLINS. Has any consideration been given, and I would ask all three of you who are working on comments on the rules that the SEC has, to using that as an example in the risk disclosures that are going to be required from these firms? It seems to me if you told most people who are interested in opening a day trading account that they would have to generate in excess of \$200,000 just to pay commissions and other fees, that that would discourage a lot of people from opening an account because it would make them understand very clearly the fiscal realities and how difficult it was going to be for them to make a profit for themselves, much less make a living day trading, which is what these people are doing.

Has any thought been given to actually putting that concrete example—I mean, it is one thing to warn people that it is expensive to trade, that commissions are high. That example really says it all.

Ms. RICHARDS. What we have reminded investors in the educational tips on our Web sites is that they should ask the firm how many clients the firm has who have lost money and how many clients the firm has who have made money, and as we have told investors, if the firm says that it does not know or will not tell you, that that investor should think twice about doing business with the firm.

In our report, we also recommend that the day-trading firms provide this information to customers, that it is information that they need to provide to allow the customer to make an informed judgment about whether or not he or she should day trade.

Senator COLLINS. But the rule that the SEC is looking at simply says, as part of the disclosure, day trading may result in your paying large commissions. The total daily commissions that you pay in

your trades may add significantly to your losses or reduce your earnings. That is just not nearly as powerful as putting in an example. It is just something I think should be considered.

Ms. Bortner, I am particularly interested in your study because it really is the most comprehensive analysis we have on profitability, and it is interesting, because when we had our hearing last September, the industry representative was extremely critical of the profitability study conducted by the Massachusetts State Securities Bureau, and indeed, the industry pointed out that it was just one branch office, that it was not comprehensive. But your review actually reached very similar conclusions, but it was a much more comprehensive study, is that correct? I mean, you looked at every day-trading firm that you were aware of in the State?

Ms. BORTNER. Yes. In order to make—I heard those criticisms, too. We wanted to know about all the firms in our State, but from a statistical point of view, I believe that the fact that we did all the firms and looked at all the accounts, except in the two larger firms, and in that situation, we went through and hit every 10th account. I believe that, statistically, that is probably significant. So we believe that this represents a true number.

Senator COLLINS. And very important, because another repeated claim we hear from the industry is the novice trader loses money, but over time, if you can stick with it and you have got sufficient capital, day traders tend to be profitable. You did not find that to be true, that even those traders who had been trading for more than 6 months had significant losses, is that correct?

Ms. BORTNER. Yes. As I said in my testimony, we sorted all the accounts by profit and loss, well, actually, by the months, and you can see if you look in our report that there is no correlation. Winners and losers, winners and losers, winners and losers, mostly losers, occurred throughout the time period all the way from 1 to 25 months.

Senator COLLINS. In our hearing yesterday, we heard very disturbing testimony about an unregistered investor who was day trading, Huan Van Cao, who was not registered as an investment advisor and yet was trading for 20 to 21 other customers and, indeed, is still trading today, albeit for a smaller number.

In your analysis in Washington State, did you look at unregistered activity or did you concentrate just on the profitability issue, and did you find it to be a problem?

Ms. BORTNER. We did find several instances where day traders were trading on behalf of others. I mean, it is very difficult to find in the firms because most do not keep records. The day trader makes agreements, side agreements, with friends and family and larger groups of people out in the community and there is no record of that. But we did find some records in one of the firms and we are following up with our enforcement staff.

Senator COLLINS. Mr. Goldsmith, in that case that I mentioned with Huan Van Cao, there was arbitration done by NASDR which led to a judgment against him. When you do a regulatory action like that, is it reported to the State regulators? What I am curious about is here there was a judgment entered against Mr. Cao, a judgment he has not paid, and yet he is still trading and he is still unlicensed. I am wondering why an enforcement action taken by

the self-regulatory organization did not trigger an investigation by the California State Securities Administrator. Maybe it did and it is ongoing.

Mr. GOLDSMITH. I really cannot comment. I do not know whether there is an investigation in California or not. But what I understand you are saying is that there was an arbitration, which is not an enforcement action. It is a private dispute among parties. To the extent there is an arbitration involving somebody who is registered with the NASD, that would go on CRD and would be available to the States.

Senator COLLINS. The CRD being the central repository that you can check license and disciplinary action, right?

Mr. GOLDSMITH. That is correct.

Senator COLLINS. I just have a little time remaining in this round, but I want to touch on the issue of deceptive claims or advertising and I want to show you a Web site that I used yesterday called the Lazy Day Trader. In this Web site, it says, "The ideal profession, day trading. It is the only business I know where there is absolutely no limit as to how much I can earn. I am doubling my money every 3 months buying and selling stocks. I have developed a simple method. You can start with as little as \$2,500. You do not have to understand charts, technical analysis, or fundamental analysis. You do not have to understand markets, etc. You do not have to worry about the stock collapsing because you will only be in the market for brief periods, etc."

I would like to ask each of you whether this, as a result of the reviews and the examinations you have done, is this the kind of deceptive advertising that you have found? Ms. Richards.

Ms. RICHARDS. This is a particularly egregious example. Clearly, there are misrepresentations and omissions in that ad. We also found examples of deceptive advertising in our reviews, and I can give you a couple of examples if you like of some of the advertising that we found to be exaggerated.

Much of the advertising, I would say, looks like puffing. It was simply bloated and exaggerated. One firm's Web site that we found displayed a newspaper article that quoted a day-trading firm employee as saying that the number of trades at the firm's branch office doubled on two particular days with the result that one trader netted more than \$50,000 on both of those days, on days when the Dow Jones Industrial Average plummeted several hundred points. We found that that employee's statements were exaggerated and, in fact, not true.

Another firm's advertising represented that the firm had a day trading program, including statements by one of the trading school graduates who was actually an employee of the broker-dealer. The pamphlet also represented that the trading school was the top trading school in the Nation, which appeared to us to be without any factual basis.

Several firms we found also falsely represented in their advertising that they provided formal training programs for new day traders. In fact, the firms had no training programs whatsoever and day traders simply arrived on site and were asked to begin trading.

Another firm's advertisements we found targeted inexperienced day traders and emphasized the firm's ability to provide training to enable the customer to become an experienced proprietary day trader. In fact, we found that that firm only accepted experienced day traders and referred the new, inexperienced day traders to an affiliated firm, which looked to us like a kind of bait-and-switch tactic.

In all the examples of exaggerated or misleading advertising that we found, we sent the firms deficiency letters and required that they correct and withdraw the misleading advertising.

Senator COLLINS. Thank you. Mr. Goldsmith.

Mr. GOLDSMITH. I would agree with Ms. Richards; that is a more egregious example than we usually see. We have noticed recently is that there are day-trading schools or day-trading recruitment firms that are not licensed with the NASD, that are not broker-dealers, and are out there promoting day trading in ways similar to this and then possibly referring customers or have arrangements with member firms.

Senator COLLINS. So how do you get at those people, because you do not have any regulatory jurisdiction over that, do you?

Mr. GOLDSMITH. Not over the unregistered entities or individuals, but certainly over the member firms and, in some cases, we are examining the relationships between the two.

We have seen many ads that disparage long-term buy-and-hold strategies. In fact, one site that we had taken down said a day trader can realize significant profits while minimizing the downside exposure that comes with holding a stock for extended periods of time. Those are the kinds of risk statements that we have found to be problematic.

We do have our project where we are continuously reviewing day-trading firms' Web sites based on their history of problems in the past. The more frequent the problems, the more frequently they are being reviewed. But a site like this, and this may not be a registered NASD member—

Senator COLLINS. It is not.

Mr. GOLDSMITH [continuing]. We are seeing more and more of that, day-trading schools. In fact, one ad in the *Wall Street Journal* I saw last Friday, and this happened to be from a member firm, said that our day traders use a system that makes them two to three times as profitable as the national average. I am not sure whether they were using Ms. Bortner's statistics as the national average, but statements like that, where there are really, I doubt, a sound basis, are quite troublesome.

Senator COLLINS. Ms. Bortner.

Ms. BORTNER. We did, in our examinations, we go out and look at the advertising that is done by the branches, and many times, at least what we found was that the branches themselves were not advertising. When we discover national advertising, we actually usually pass that along to the NASD because they are in the main branches of the firms, and as State regulators, we sort of focus on the local branches.

Senator COLLINS. Thank you. Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

First, Mr. Goldsmith, I want to get a clearer picture of the requirements for firms and individuals in the day trading business to be licensed to buy and sell securities. First, must day-trading firms be licensed as broker-dealers to buy and sell securities?

Mr. GOLDSMITH. Yes.

Senator LEVIN. By you?

Mr. GOLDSMITH. Yes.

Senator LEVIN. And would that be true not only for the main office of a day-trading company, but also for the branch offices?

Mr. GOLDSMITH. Well, the firm has to be licensed. A firm can have branch offices, so they have to be licensed branch offices, yes.

Senator LEVIN. But if the firm is licensed, then all of their branch offices automatically are covered by that license?

Mr. GOLDSMITH. Firms need to make certain filings with us to advise us of where they have branch offices and their size and operations.

Senator LEVIN. But subject to you being informed that those branch offices exist, that one license for the main firm covers all the branches?

Mr. GOLDSMITH. There is a licensing procedure for branch offices where we need to know how many branches, and how many individuals. A firm cannot have a branch office that we do not know about.

Senator LEVIN. All right. Now, what about the individuals who are employed by those offices to oversee the clients' day trading, to teach day trading, to accept people in the firm as day traders, to conduct day trading on behalf of customers of the firm? What are the registration requirements in each of those situations, and I can repeat them one by one.

Mr. GOLDSMITH. Why don't you do that, please.

Senator LEVIN. OK. First, are there any requirements, any registration requirements or licensing requirements for people who oversee clients day trading?

Mr. GOLDSMITH. Employees of the firm?

Senator LEVIN. Yes.

Mr. GOLDSMITH. Yes. They would be associated persons and they would have to be registered, depending on the nature of what their job is at the firm. There are one or more various licenses that they would have to have.

Senator LEVIN. Do they have to get their own license or do they simply have to be referred to in the firm's registration?

Mr. GOLDSMITH. No, they need to be licensed.

Senator LEVIN. They are licensed by you?

Mr. GOLDSMITH. Yes.

Senator LEVIN. What about people who teach day trading?

Mr. GOLDSMITH. Again, if somebody is an associated person working for the firm, that person would have to be licensed. If we are talking about a day-trading school that is not part of a firm, that would be a different question.

Senator LEVIN. All right. What about people who accept people into the firm as day traders, the same thing?

Mr. GOLDSMITH. People who—

Senator LEVIN. Those who make the judgment as to whether someone is—

Mr. GOLDSMITH. Employees of the firm?

Senator LEVIN. Yes.

Mr. GOLDSMITH. Yes.

Senator LEVIN. What about people who conduct day trading on behalf of customers in the firm, actually conduct the day trading on behalf of a firm's customers?

Mr. GOLDSMITH. Are they employees of the firm or are these other day traders?

Senator LEVIN. Yes. These are employees of the firm.

Mr. GOLDSMITH. If there is somebody employed by the firm, being compensated by the firm, who is trading for others, they would have to be licensed.

Senator LEVIN. So if you are compensated by a firm, if you are trading for that firm's customers, then you must be separately, individually licensed?

Mr. GOLDSMITH. If you are an employee of the firm trading for public customers, yes.

Senator LEVIN. Yesterday, I had this exchange with Mr. Parish, who worked for All-Tech. "If you knew that unlicensed individuals were trading other people's accounts, since you were Branch Manager, why did you not stop it?" Mr. Parish, "When I came to All-Tech, they encouraged that sort of thing. Mr. Houtkin was actively seeking investors to invest in his own mutual fund, he called it, where he was going to have all these investors put in money and he was going to find all the traders to trade the money." And I asked, "Even though those traders were not licensed?" And his answer was, "Yes." Now, my question to you is, is that proper?

Mr. GOLDSMITH. Well, I think you need to distinguish between customers of the firm who are not employees of the firm, that is, day-trading customers who may be trading for others' accounts, versus employees of the firm who are trading customer money. I think the question, if I understand it, and it is a little ambiguous from the piece of testimony that you read, is you have a day-trading customer of the firm who happens to be trading others' accounts, that is a different question and one that really goes to facts and circumstances, whether that person needs to be registered.

Senator LEVIN. But my question was this. Parish said the following. "When I came to All-Tech, they encouraged that sort of thing," unlicensed people trading other people's accounts, so it is being encouraged by the firm. Then he said the following. "They encouraged that sort of thing. Mr. Houtkin was actively seeking investors to invest in his own mutual fund, he called it, where he was going to have all these investors put in money and he was going to find all the traders to trade the money." He was looking for the traders who would trade money that he was urging people to invest in his so-called mutual fund, and he did not seek licensed traders to do that. And he said that is correct. "Yes," his answer was. Now, my question to you is, is that covered?

Mr. GOLDSMITH. I do not think it is a clear case. I am not sure whether the individuals who would be doing the trading were sharing commissions with the firm or compensating the firm or anything like that. I think it is a legitimate question that those individuals may have to be registered. But again, there are people who trade other customers' money: A child trading for a parent, some-

body who is incompetent or disabled, or a friend trading his brother-in-law's money. The real key is whether these individuals are engaged in the business of trading for others, whether it is a business, and you need to look at a number of factors to determine that.

Senator LEVIN. It is not enough that the owner of the firm is actually soliciting investors to put in money and then putting them together with people who will be doing the trading for them? That, under current regulation, may be unclear?

Mr. GOLDSMITH. I think in terms of whether those people doing the trading would have to be registered is unclear. I certainly do not believe it is a best practice to be doing something like that and it certainly could involve other violations of our rules. I think you would have to know more about the situation.

Senator LEVIN. If it is unclear, should it be unclear? In other words, should that not be covered, where a firm is soliciting investments into its funds, into its mutual funds, from which the firm makes commissions when the day trading occurs, and when the firm is putting that investor together with the day trader, should that day trader not be a licensed person?

Mr. GOLDSMITH. Well—

Senator LEVIN. Whether it is clear or not now, should it not be clarified that in that situation, that there should be a license required?

Mr. GOLDSMITH. I think under the existing rule, which is obviously a facts and circumstances rule, I think it is certainly broad enough to reach that kind of conduct. You may also have a situation where a brokerage firm is aiding and abetting someone's violation of the registration requirements of the securities laws. So I am not sure whether a new rule specifically directed at this, but this is certainly something—

Senator LEVIN. Is necessary?

Mr. GOLDSMITH. Is necessary.

Senator LEVIN. Because it may already be covered?

Mr. GOLDSMITH. It may be covered.

Senator LEVIN. Would you take a look at yesterday's testimony and determine whether, if that allegation is correct, whether or not it constitutes a violation? Would you make that assessment for us?

Mr. GOLDSMITH. Yes.

Senator LEVIN. If a company employs a person who day trades for others, does the company charge the client for the service of day trading generally beyond the commission that is charged for each trade?

Mr. GOLDSMITH. I really do not know what the general practice would be. My understanding is that most customers are charged commissions and that would be it. I think, going back to your previous question, if there were a sharing of profits with the firm in these accounts, that would be one factor that one would look to in terms of whether that individual should be registered.

Senator LEVIN. But in terms of whether or not that person is receiving any compensation from the investor who is giving them the money to do the day trading or whether or not the firm is relying solely on commissions, you do not know, as to what the general practice is?

Mr. GOLDSMITH. As a general matter, my understanding is that most day-trading firms, in addition to training and making money that way, make the money from the commissions.

Senator LEVIN. OK, just from the commissions.

Now, on the study that you made, Ms. Richards, for the SEC, you indicated that the staff looked at year-end 1998 trading data. You reviewed a total of 123 trading accounts. The average of the profitable accounts, you said, was \$177,000, and I assume that that is profit, is that correct, Ms. Richards?

Ms. RICHARDS. Yes.

Senator LEVIN. While the average of the unprofitable accounts was \$73,000. Of the 123 trading accounts that your staff looked at, how many of those accounts were profitable? Was that a majority or minority of the accounts? We know what the average profit and loss was. That is given to us by your testimony. But what you did not tell us was whether or not the majority of the accounts were profitable or not.

Ms. RICHARDS. We evaluated, for each of the firms we looked at, we selected the 10 most profitable accounts and the 10 most unprofitable accounts, so there would be an even divide in that 123—62 profitable, 62 unprofitable.

Senator LEVIN. Did you look at the total number of accounts of that firm to see how many were profitable and how many were not?

Ms. RICHARDS. We did not. We did not attempt to do a profitability analysis in our examination.

Senator LEVIN. Would that not have been fairly easy to look at all the accounts and determine how many were profitable and how many were not profitable since you were taking 10 of each to see what the average was?

Ms. RICHARDS. It is not that easy, and our goal in these examinations was to determine whether or not firms were in compliance with the law. We had the benefit of profitability analyses that had been prepared by the States, so we did not attempt to do a separate profitability study.

Senator LEVIN. The Electronic Traders Association did a study of profitability last year, according to their representative at our last hearing. They took a snapshot of each month to determine how many customers were profitable and non-profitable in each of the 5 months. You did it over the period of a full year, did you, or the length of the account?

Ms. RICHARDS. Yes.

Senator LEVIN. The length of the account, more accurately, is that correct?

Ms. RICHARDS. Actually, ours was just a snapshot as of the time of the examination, whether the accounts were unprofitable at that time or profitable at that time. We did not look at profitability over the period, over a longer period.

Senator LEVIN. Ms. Bortner, finally, just to wind this up, as my time is up, you looked at the length of the account, then, is that correct, the life of the account in your study?

Ms. BORTNER. We actually took a snapshot in time, too. I mean, we could not figure out any way to look at the—you could take a snapshot every single day of the—and that would be a much more

difficult kind of study. We did a simple analysis, went in. If you went in a different day, the numbers would be different. I just believe that they would be similar.

Senator LEVIN. So you took a snapshot as of a date looking at the beginning of the account to that point to determine whether or not it was profitable or not?

Ms. BORTNER. We looked at minimum balances and we looked at the profit incurred in the account up until the time we got—you know, at the exam.

Senator LEVIN. From the beginning of the time the account was opened—

Ms. BORTNER. Right.

Senator LEVIN [continuing]. To the day of the snapshot?

Ms. BORTNER. Exactly.

Senator LEVIN. You found 77 percent of all those accounts were unprofitable, is that correct?

Ms. BORTNER. Exactly.

Senator LEVIN. And if you had done it month by month, do you know whether, in a different way, if you had done it the way the Electronic Traders Association claims they did it, do you know whether your result would have been any different?

Ms. BORTNER. I do not know the answer to that.

Senator LEVIN. Thank you.

Senator COLLINS. We are now going to do a 5-minute round of questions, which will be the last round for this panel.

Ms. Richards, one of the debates is whether or not the current suitability requirements apply to day-trading firms, and the day-trading firms have argued that because they are not recommending specific stocks, that they do not have to abide by the suitability requirements already in current law. Is that generally a fair description of their position?

Ms. RICHARDS. Yes. The day-trading firms that we examined all stated that because they were not making recommendations about particular securities to customers, that they had no suitability obligations.

Senator COLLINS. Now, yesterday, we heard sworn testimony from two clients of All-Tech who claimed that the branch manager routinely pressured them to buy and sell specific securities at specific times at specific prices. Assuming their testimony is accurate, would that not implicate the current suitability requirements?

Ms. RICHARDS. Yes, it would. If individuals associated with the firm are making specific recommendations about specific securities to customers, they have an obligation under existing law to determine whether or not those recommendations are suitable for that particular customer.

Senator COLLINS. Ms. Richards, would you please describe the activities that the SEC documented that led the SEC to file a case this week against All-Tech and several of its employees? The reason I ask is we heard testimony yesterday that was very disturbing from one of the branch managers who claimed that the head of margins at All-Tech had directed him or instructed him or at least suggested to him that he alter figures on clients' applications to make them appear appropriate for day trading. We heard testimony from this branch manager that he personally had—he took

the Fifth, I should say. He took the Fifth when asked whether he had forged documents.

We heard a lot of very disturbing testimony yesterday about All-Tech. Could you describe for us what led the SEC to bring an enforcement action against the company?

Ms. RICHARDS. Yes. Earlier this week, the Commission actually brought two enforcement actions against registered broker-dealers. One was All-Tech and one was a firm called Investment Street Corporation. Both of those enforcement cases alleged illegal lending in violation of margin rules. In both cases, the Commission charged that the firm indirectly loaned funds to customers through the firm's associated persons.

In the All-Tech case, the Commission is alleging that All-Tech indirectly made over 100 loans totaling \$3.6 million through the accounts of three employees. The Commission has also alleged that seven other employees of All-Tech either directly violated or aided in abetting margin violations. Similar allegations were made in the Investment Street matter.

In both of those cases, the Commission is alleging that the firm itself indirectly loaned money to customers in order to allow them to meet their margin calls.

Senator COLLINS. And to keep them trading, essentially? Is that the effect of that?

Ms. RICHARDS. That is the effect, and the Commission specifically alleged in its order instituting proceedings against All-Tech that All-Tech had an incentive to make improper loans, to receive further revenue from day-trading customers who would have otherwise been cut off from further day trading.

Senator COLLINS. Thank you. Mr. Goldsmith, could you explain to us what responsibility a firm has for its branch managers with regard to appropriate supervision?

Mr. GOLDSMITH. The firm's supervision of its branch managers?

Senator COLLINS. Yes.

Mr. GOLDSMITH. Full responsibility. The branch manager is very oftentimes, I do not want to use the cop on the beat, but the supervisor on the beat responsible for the operations of an office and when a firm has branch offices around the country, those are very significant responsibilities from a supervision standpoint.

Senator COLLINS. Ms. Richards, I want to come back to you with one final question. It is my understanding, and please correct me if I am wrong on this, that the New York Stock Exchange and NASD have recently proposed to the SEC a rule that would actually increase the intra-day buying power or margin of day traders from 2-to-1 to 4-to-1. Now, if I am understanding this correctly, that means a day trader like Scott Webb could control \$100,000 of stock with only \$25,000 of actual equity without generating a margin call.

Given your statement earlier that excessive leverage creates problems and produces losses, why would we want to go in this direction? Why would we want to increase the ratio of borrowed funds to equity?

Ms. RICHARDS. First, I should say that the margin rules are designed to protect the firm itself from incurring excessive risk. I think the New York Stock Exchange and the NASD felt that it was

appropriate to raise the total buying power for day traders along with the requirement that day traders be required to have in their accounts \$25,000 minimum equity at all times, which is a significant increase over the existing rule, which is only \$2,000.

So I think, in tandem, the Exchange and the NASD felt that that was appropriate, along with the other restrictions that are included in the proposed rules. I will say that the Commission is considering the proposed rules now and the comment period is still open and extends through March 10, so we are actively considering other comments on the proposals.

Senator COLLINS. And you will be hearing from me on that. Thank you very much. Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

On the margin issue, it is already against regulations, as I understand it, for a broker to use his or her own money to help a customer make a margin call, is that correct?

Ms. RICHARDS. Yes. In the cases that we brought this week, for example, we alleged that both firms, in effect, indirectly themselves loaned funds to customers in excess of the margin requirements.

Senator LEVIN. And whose money was it they were lending?

Ms. RICHARDS. I cannot answer that. I can get back to you and let you know. I cannot answer that, but I believe they were funds of the firm's employees.<sup>1</sup>

Senator LEVIN. Say they were funds of a firm's other customers.

Ms. RICHARDS. It is legal under existing Federal Reserve Board regulations for broker-dealers to arrange loans between outside entities, for example, the customer-to-customer loans that are so prevalent in the day trading industry.

Senator LEVIN. Yes, but the customer-to-customer loans that are prevalent are totally different in the day trading world than they are in the more normal world, is that not true?

Ms. RICHARDS. Yes, that is exactly right. We have seen the day trading industry use these customer-to-customer loans in ways that we have never seen before.

Senator LEVIN. Does the customer making the loan usually get a fee or interest paid for that 24-hour loan?

Ms. RICHARDS. Yes. In the cases that we have seen, the customer making the loan gets a fee.

Senator LEVIN. Does the broker share in that fee at times?

Ms. RICHARDS. We have not seen that.

Senator LEVIN. But it is against current regulation for a broker to facilitate a loan from one customer to another, is that correct or not?

Ms. RICHARDS. It is allowed under current rules for broker-dealers to arrange—

Senator LEVIN. Forgive me. I misspoke. Are you making any change in that, where the broker is doing the arranging under day trading?

Ms. RICHARDS. There is one part of the rule proposals that have been submitted by the NASD and the New York Stock Exchange which may impact this, and that is the requirement that the funds remain in the account, in the day trader's account, for two full

<sup>1</sup> See Exhibit No. 155 which appears in the Appendix on page 1193.

business days, thus be subject to the new risk that that day trader is incurring. We think that it is very possible that customers may be more reluctant to lend their funds to other day traders if they know that those funds are going to be subject to the new risk of day trading.

Senator LEVIN. Is it against current regulations for a broker to transfer, the word that was used yesterday is to——

Ms. RICHARDS. Journaling.

Senator LEVIN [continuing]. To journal?

Ms. RICHARDS. No, it is not, and it is very common now. The funds are not actually transferred from one customer to another customer. They are just on paper journaled over.

Senator LEVIN. Who is the owner of those funds at the moment that they are journaled over?

Ms. RICHARDS. The day trader who has incurred the margin call gets the benefit——

Senator LEVIN. The borrower is the owner?

Ms. RICHARDS. The borrower, correct.

Senator LEVIN. Is the owner?

Ms. RICHARDS. Correct.

Senator LEVIN. Even though it is just a journal entry?

Ms. RICHARDS. Correct.

Senator LEVIN. Yesterday, there was some resistance to our witnesses using the word “lend,” but it is a loan, is it not?

Ms. RICHARDS. It is a loan and it allows the day trader to meet his or her margin call and to continue to trade. I think one of the things that causes us trouble about those loans is that they are so easy that they are routine, and day traders, I think, do not fully realize that they are borrowing additional funds.

Senator LEVIN. And we heard yesterday from Ms. Harlicher that she did not even realize her funds were being used that way. Is it against current regulation for a broker to journal somebody’s funds to somebody else to cover the second person’s margin requirement?<sup>1</sup>

Ms. RICHARDS. Well, both parties to the loan must know that they are involved in a loan. So yes, if a broker-dealer was, for example, forging the lender’s signature or otherwise not notifying the customer their funds were being used in that way, yes, that would be violative.

Senator LEVIN. Against current law?

Ms. RICHARDS. Yes.

Senator LEVIN. And so the current journaling requires a signature from the lender, is that correct?

Ms. RICHARDS. Yes.

Senator LEVIN. Do you know whether or not, in fact, when they do this “journaling,” this lending, whether, in fact, in practice, the lender is signing these notes for 24 hours?

Ms. RICHARDS. In our examinations, we did not find any indications that the customers were not signing the letters of authorization.

Senator LEVIN. Did you find to the contrary, that they were? Were you looking for that?

<sup>1</sup> See Exhibit Nos. 154 and 155 which appear in the Appendix on pages 1192 and 1193.

Ms. RICHARDS. We were looking for indications that they were not and we did not see that in our examination.

Senator LEVIN. OK, that is fine. So Ms. Harlicher's experience may be unusual.

Ms. RICHARDS. Yes.

Senator LEVIN. Will you check out that allegation of Ms. Harlicher that her funds were lent to cover someone else's margin without her knowledge? Would you check that out for us? It was testimony under oath yesterday.

Ms. RICHARDS. Yes, we will.<sup>1</sup>

Senator LEVIN. Now, is there not a conflict of interest on the part of the day-trading firm or the day trader trading on behalf of another person, since the more trades that occur, the more commission and money that the firm and the trader make? Now, in a normal investment, so-called, there are rules against churning so that there is a brake, there is some kind of a counter-check. There is a check on a trader during the churning, because it is unethical to churn.

Well, in the day trading world, it is completely reversed. The more trades you make, the more money the firm is going to make, but that is encouraged when you take a look at the criteria, make more trades. That is what is taught to these folks. So we have the opposite, in a sense. Churning is the rule. The more trades, the better. Take a look at their lesson plan. And we do not have a brake on that, right, in the day trading world? We do not have any brake on that ethically, so is there not a conflict of interest in that it does not have the natural brake on it.

I would ask, maybe, Ms. Bortner, we will go back just kind of quickly on that. My time is up.

Ms. BORTNER. Well, certainly, I believe that that does create conflicts as there are in the normal relationship between broker and client, and this is just another conflict, but I do not think there is any law against having a conflict like that. People should be aware of it and when someone is trading on behalf of others, under our State statutes, that is a violation of the law. In fact, it is a felony if you commit that kind of trading on behalf of others without being licensed and defrauding them in that way.

Senator LEVIN. Your answer to my question about trading on behalf of others without being licensed in your State would have been that is against the current law?

Ms. BORTNER. That is against current law.

Senator LEVIN. Quickly, on the churning.

Mr. GOLDSMITH. I think you are absolutely right. I think there is an inherent conflict.

Senator LEVIN. There is no check.

Mr. GOLDSMITH. Firms make money by doing trades.

Senator LEVIN. But with no check in the day trading world.

Mr. GOLDSMITH. Right.

Senator LEVIN. Whereas you have a churning—

Mr. GOLDSMITH. We have a specific rule. I will say on the arranging of loans among customers and the procedures, we have found situations where the interest rates that are being charged are a lit-

<sup>1</sup> See Exhibit Nos. 154 and 155 which appear in the Appendix on pages 1192 and 1193.

tle, shall we say, on the high side, procedures, principal sign-offs, xeroxed copies of signatures, customers not knowing that they are actually lending, and no disclosures. So under present law, there are ways of reaching that, but the mere lending by customers or firms facilitating the lending is not necessarily a violation of our rules now.

Senator LEVIN. Thank you.

Senator COLLINS. Thank you very much. I appreciate your testimony.

We will be putting into the hearing record the Washington State Securities Division's report<sup>1</sup> and any other documents that you wish to submit. Thank you.

I would now like to call forward our next panel of witnesses, who are the representatives of the three day-trading firms on which the Subcommittee's inquiry has focused. They include Harvey Houtkin, who is the Chief Executive Officer of All-Tech. All-Tech is headquartered in Montvale, New Jersey, and is one of the largest day-trading firms in the country.

Another of the witnesses will be Henry Fahman, who is the President and Chief Executive Officer of Providential. Providential is headquartered in Fountain Valley, California, and provides day-trading services to its clients at several California branch offices, as well as an office in Oregon.

The third witness we will hear from is James H. Lee, who is President of Momentum Securities, which is based in Houston, Texas. Mr. Lee also serves as the President of the Electronic Traders Association, which is the trade group representing the day trader industry.

I would ask the three individuals to please come forward. Gentlemen, if you would please stand so that I can swear you in. Do you swear that the testimony you are about to give to the Subcommittee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. HOUTKIN. I do.

Mr. FAHMAN. I do.

Mr. LEE. I do.

Senator COLLINS. Thank you. I will ask that you each limit your oral testimony to no more than 10 minutes this morning. You are welcome, however, to submit a longer statement or any other material that you deem pertinent to the hearing record and it will be published in its entirety.

Mr. Houtkin, we will start with you.

**TESTIMONY OF HARVEY I. HOUTKIN, CHIEF EXECUTIVE OFFICER, ALL-TECH DIRECT, MONTVALE, NEW JERSEY**

Mr. HOUTKIN. Thank you. Good morning, Ms. Collins, and Mr. Levin. First, I would like to start with a little biography of who I am because I think it is important, because you had a lot of your experts up here and I would like a little background.

My name is Harvey Houtkin. I am 51 years old. I am Chairman and Chief Executive Officer of All-Tech Direct. I have an MBA from the Bernard M. Baruch College of the City University of New York.

<sup>1</sup> See Exhibit No. 23 which appears in the Appendix on page 365.

I have been in the industry approximately 32 years, a former member of the New York Stock Exchange, American Stock Exchange, and my master's thesis was on the impact of NASDAQ on the over-the-counter market. I have been a major proponent for market reform for the last 12 years and I have been instrumental in bringing many of the changes that have come for transparency, access, investor education, etc.

Just yesterday, I was considering basically boycotting this hearing because I feel this is not a hearing, this is not an impartial tribunal trying to find something out and clarify, "day trading." What it is is a search and destroy mission, a crucifixion, an ambush. I am hearing about day trading when the term "day trading" has not even been defined here. What is a day trader? What are we talking about? What rights do people have in this country to access the market equally and fairly without broker intervention? That is the issue.

The reality is, most day traders, and I can mostly speak for my firm because I do not really have access to other firms' information, many day traders do not, in fact, day trade at all. I mean, they day trade to some extent, but they take home positions, and our experience, for example, when you are talking about loss, is that it comes from the investment or overnight or longer-term holding of a security, not the day trading of a security.

But day trading has a negative connotation. The press, the regulators, the industry has been very interested in giving it a negative connotation. I have been in contact with literally thousands of day traders. There was a major forum just this past weekend in New York, a major day trading expo where thousands of people, very sophisticated, enlightened people who desire the right to interact in the market on a fair and equitable basis attended that show and were very interested in the new and modern technology that has narrowed spreads, that has made the markets more competitive, that has given rise to the opportunity for the average guy who has the credentials to compete in the market to the best of their ability.

This is wonderful, and the report that I received just a couple of days ago from the Senate here gave a whole three sentences of credit to the changes that have taken place in this industry, changes that were mandated by the Congress in 1975. Under the Market Reform Act of 1975, you mandated transparency, access, a level playing field for the world. And what happened over the next 25 years? Virtually nothing. The Senate, the Congress, the SEC stood by idly while the industry just stood there.

We still have the specialist system. We still have payment for order flow, not to mention we are all here today facing a day trading hearing, a hearing where I have not even heard of very many complaints. The regulators, the State regulators, did they list how many complaints there were, how prolific this, "problem" is? No, because when I spoke to the State of Massachusetts and when I spoke to the news officials, when I spoke to Dan Rather from "60 Minutes," they had a hell of a tough time trying to find anyone to come forward to complain about the "horrors of day trading." But that is what we are here for.

Now, of course, the price-fixing scandal that went on that resulted in a billion-dollar civil settlement to the major brokerage

community, we did not have a PSI investigation of price fixing, even though the SEC charged 24 firms with violations. When the NASD failed to enforce all the regulations, backing away, trading through, I did not hear of a PSI investigation, and this only involved perhaps billions of dollars to the public. This was never talked about. Even the presence of organized crime in the brokerage community, that has not warranted a PSI investigation.

But if people want to trade voluntarily with their eyes open, that is a real major problem to the Senate, and this is what disturbs me. There are issues here that are so much greater, yet we are here having these studies because several thousand people, some of the most sophisticated investors, some of the most enlightened traders in the country, want free and open access to the market through technology. This is the problem we are here to discuss today.

Now, have we had a balance? I heard one person testify, and a former rogue branch officer, perhaps two branch officers and two people that are in litigation with us. Yes, those people, they had a complaint. Where are the people who are doing well? Where is the testimony—I got calls yesterday from people all over the country who wanted to know how they could come here today and testify to refute some of the nonsense that has been spewed from this hearing. So I was very seriously considering not even showing up, and I said so on CNBC yesterday. But I felt that would just allow the same nonsensical rhetoric to continue without a voice of opposition.

Like I say, so little attention has been paid to what is direct access—and that is what we are really talking about here. Not day trading; direct access. The ability of the public customer to directly access the market, to receive transparency and information uncompromised, and to be able to do a transaction for a whopping \$16 to \$25.

Now is it not—it also very amazing here today, I have not heard the name E-Trade, Waterhouse, AmeriTrade, DLJ Direct. These are the firms that are performing the bulk of what you would call day trading. These people have millions of clients, and these are the people where thousands of complaints were filed. How come they are not part of this hearing? How come the SEC has not seen fit to bring these people in?

These are the people who are telling me, if I open up an account at E-Trade I can have money coming out the wazoo. Or I can have an island. Or maybe make a \$4 billion acquisition while tending bar. Do any of these commercials sound familiar? They are not part of this hearing. Yet, they do far more transactions than a firm like All-Tech. But yet it seems very politically expedient to slow down the growth of direct access.

Now I do not want to be on the attack here, but if I am going to be attacked, I will attack. You are very interested in disclosure. You are very interested in suitability. Well, I have not seen anywhere anything mentioned about campaign contributions, and where both senators here receive a decent amount of money from the securities and investments industry. Now of course, that would never slant anyone, and all this is being done in good faith.

Look, I have a 12-year history. I have fought at every level of this. I have had to be at the Federal Appeals Court. I have had to be in front of the SEC, and I am under tremendous pressure because I am bringing direct access to the public, for better or for worse. I have never heard anywhere where we are now evaluating the profitability of accounts.

When was the last time Merrill Lynch did a survey on how much money their customers made, or Dean Witter, or Paine Webber, or Morgan Stanley? No. But the day-trading community, which in my instance I have the highest suitability standards in the industry. I have the best disclosure in the industry. We are under the gun. We are under the watchful eye of an industry.

Look, if you want to start looking at things, let us look at things fairly. How come there has been no balance here? How come, with the exception of myself now and my two colleagues to the left, no one has spoken favorably? If you are looking to slow down direct access, if you want to violate the public's right to trade, if you want to invade the public's privacy . . .

I believe that what a person does with their own money in the investment markets, in a country that prides itself on free trade and free markets, and you are going to come here and tell me that we are going to have to evaluate, analyze, and allow people to trade, and have all these tough criteria? That is as private to them as what goes on in the marital bedroom. You are really starting to get involved in things I do not think you want to get involved in.

Now the fact is that no one has spoken out, maybe that is why I have gained some national notoriety. Because most people are shaking when they walk into these chambers because you are all looking for the negative of what is going on. I am proud of what I have done. I stand on what I have said. And yes, are there some problems? Do we have some problems with what is going on in the industry? Is there an occasional rogue broker? Does someone fail to fill out a form properly? Absolutely.

But then again, if you are looking to regulate and close down this type of activity, let me tell you, there will not be a business left in this country. So let us get real. Let us get serious. And if we do need some changes and if we do need some regulatory improvements, let us do it. But let us stop pointing these fingers at a few small day-trading firms that have been on the leading edge of change and improvement for the market.

Thank you.

Senator COLLINS. Mr. Fahman.

**STATEMENT OF HENRY D. FAHMAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, PROVIDENTIAL SECURITIES, FOUNTAIN VALLEY, CALIFORNIA**

Mr. FAHMAN. Good morning, Chairman Collins. Good morning, Senator Levin.

Senator LEVIN. Good morning.

Mr. FAHMAN. Good morning, Members of the Subcommittee. My name is Henry Fahman. It is an honor and privilege for me to appear at this hearing today to address some of your concerns as far as the day trading industry is concerned. Like my colleague, I would like to go over a little bit of my background and also share

with you some of my thoughts about the day trading business, and also where our firm stands on these issues.

I was born and raised in Vietnam in a small town, and during the war as a teenager I was involved with the U.S. military as an interpreter, and also as an interpreter for the American Red Cross. And because of my involvement with the U.S. Government and my involvement with the South Vietnamese government as a former officer, I was imprisoned by the communist government for 3½ years. After my release from prison I tried to escape from the country, and many times I was captured and put into prison. And many times I was at gunpoint because I was trying to leave the country to come to the United States of America for freedom; the freedom of choice.

I come here in 1982. I attended law school in Vietnam but was not able to complete and had to join the army during the most ferocious time in the history of the war in Vietnam. I came here and went to UC-Berkeley and earned my degree in business and economic and financial analysis at Berkeley. And also worked for a number of firms including A.G. Edwards & Sons, and the Investment Center, a firm based in New Jersey, as their branch manager in southern California before founding Providential Securities in 1992, first mainly to address the needs of investment in the Asian community in southern California.

Before going into other parts that you may be interested I would like to give an overall picture of our view of what we see as far as the day trading industry is concerned. I think a number of issues have arisen during this testimony and also during the investigation across the country. I think No. 1, is suitability. No. 2, is risk disclosure. No. 3, lending practices. No. 4, maybe operational problems that have occurred at some firms.

As far as our firm is concerned, some of the allegations and some of the operations and complaints that were brought up like Amy Le, Linda Richardson, for example, those were the legacy of the Go Trading Company. It was not ours. We happened to inherit those complaints in those cases because Tae Goo Moon, who happened to be our branch manager at the Los Angeles office moved those accounts over to us. And when they were not happy, they filed a complaint and went into arbitration, we were named in those cases. But Providential Securities, we did not start with those clients. We did not have those clients to begin with.

As far as the recommendations by NASAA and other regulatory agencies are concerned, I believe it is important to allow and educate and let the public know the risks that are involved in day trading. Of course, there is a great relation between risk and reward, as every one of us is aware. That is why Providential Securities, we have come out with a warning, warning, warning. Please read carefully before you sign. And all the risks are disclosed in this document every time a client opens an account.

Some people choose to do that. Some people choose to day trade because that is what they want to do. There is a utility function that can be derived from any activity in life, and I was disturbed by some of the filing or the allegations that day trading is an addiction, is like an addictive habit. People choose to do certain things

in life because they are willing to, because they are able to, because they are ready to, because they know what they are doing.

For that reason, of course, day trading is not for everyone. It fits, it suits a certain group of people, to a certain segment of the market who knows what they are doing. Of course, we want to cater, we want to service those people, and we want not to include those people who should not belong in the day trading business because it is not suitable for them.

But as far as choices are concerned, like myself, I was in prison many times. Every time I tried to leave the country I was arrested. I was captured. I was put in prison. I was at gunpoint. But I was determined to leave Vietnam for America. Why? Because I knew beyond the other side of the Pacific Ocean there is a free country. There is a country where there is freedom of choice. That is why I make the decision.

I was arrested. I could have been killed many times. And if you know the story of the boat people, many of them have been raped. Many of them die in the open sea. But they were willing to take that risk. Why? Because the risk/reward ratio. They knew, if they made it, they would have gained freedom that is unparalleled anywhere in this world.

So I think we need to look at day trading and other matters in life with a broader context, not just a small segment. And sometimes I am disturbed at the empirical, the statistical evidence. Sometimes because of the lack of the sample data, because the universe is not broad enough, maybe the time frame is not broad enough. So the conclusion that has been drawn based on losses, profitability, suitability, a number of other reasons, sometime may be skewed to one side or another.

Those are my comments. But I think this is a segment of the market that is here to stay because of the burgeoning of new technology that gives easy access to the market for everyone. And here is the land of America. Land of the brave. Land of the free. And we are free to choose. Of course, we want to educate people so they know what they are choosing. But that does not mean that we should limit to them to our own parameters, to our own interests, and to our own agenda.

I would like to open up for any questions or any other points of concern that I would be willing to address.

Senator COLLINS. Thank you, Mr. Fahman. Mr. Lee.

**STATEMENT OF JAMES H. LEE,<sup>1</sup> PRESIDENT, MOMENTUM SECURITIES, HOUSTON, TEXAS**

Mr. LEE. Good morning, Madam Chairman, Senator Levin.

Senator LEVIN. Good morning.

Mr. LEE. I appreciate the opportunity to appear here today and discuss day trading and to address your concerns. I commend this Subcommittee's effort to review the industry and help suggest improvements in the system.

I am president of Momentum Securities. My company is a registered broker/dealer with the NASD and SEC. I am also president of the Electronic Traders Association. I co-founded Momentum in

<sup>1</sup>The prepared statement of Mr. Lee appears in the Appendix on page 212.

1995. Since then, Momentum has grown to be one of the largest electronic brokerages in the United States serving some 1,300 full-time day traders and employing over 150 people in various States. This past January we executed approximately 800 million shares across 3 million transactions. I believe this makes us one of the largest day trading organizations in the country and second only to Charles Schwab in the overall electronic brokerage space.

Today, Momentum, as the primary broker/dealer of TRADESCAPE.com is part of an integrated enterprise focused on trading and technology development. TRADESCAPE earlier this month agreed to purchase MarketXT, a recently authorized ECN in a vertical acquisition valued at about \$100 million. The MarketXT acquisition will expand our liquidity pool, accelerate the offering of execution services and technology to institutions, and will benefit our retail customers who participate via our web browser interface.

Our organization is backed by investment partners who are leaders in technology and financial services, including SOFTBANK, Morgan Stanley, Salomon Smith Barney, Mattof Securities, Warburg Pincus, among others. Indeed, SOFTBANK is currently lead managing a \$100 million additional round of financing for our company.

Technology developments in recent years have had a fundamental and profound impact on our securities markets. Participants today are benefiting from the new technology and systems that provide quick access to multiple points of liquidity. This new technology allows investors the ability to manage, monitor, and trade their own portfolios without the need for intermediaries to place investments.

Both changes in technology, principally in the communications area, and recent SEC rule changes now make it possible for day traders to have virtually the same access to market information, executions, and order exposure as traders on the floor of our national exchanges. Recognizing our technology, many mainstream brokerages are now seeking to broaden the services of their customers by merging their resources with firms like mine.

Not only have major participants invested in TRADESCAPE, but earlier this month Charles Schwab, America's leading discount and online brokerage, acquired CyberCorp, a day trading boutique whose revenues are about one-third of ours. The transaction was valued at nearly \$500 million.

Day trading is but one of many ways to earn a return on capital. Placing capital in the securities markets always involves some degree of risk. On one end of the continuum there are forms of investments with low risk and low return, like CDs and savings bonds. On the other end, with higher risk, is day trading. The higher the risk, it generally follows, the greater potential for higher yield.

Our day traders generally understand these risks and choose day trading for the benefits it has to offer. They are not seeking slow, steady investments with little risk. They recognize, and indeed acknowledge, that they are accountable for their own trading decisions. Those decisions are theirs and theirs alone. With adequate and appropriate disclosure, and truthful advertisements, both of which you will find at Momentum, day trading can be a viable approach to the market.

With that background I would like to outline some of the policies Momentum has voluntarily and proactively implemented to enhance customer protections and to share some of my views on day trading.

No. 1, to me risk disclosure is the most important area from the standpoint of customer protection. The securities markets always involve some degree of risk and day trading certainly involves more risk than many other approaches to the market. The critical issue is whether the investor has been apprised of the level of risks being assumed.

SEC Chairman Levitt told this Subcommittee in September, "if day traders are adequately apprised of the risk of their day-trading strategies, the Commission believes that the individual day traders bear responsibility to make sure that they do not trade with funds they cannot afford to lose." I agree.

Our present form of risk disclosure exceeds those proposed by the NASD and are far beyond those found at online or full-service firms. We voluntarily designed this risk disclosure statement and require our customers to read and acknowledge it before day trading. The disclosures were developed with guidance from NASAA and were later used by the NASD in developing its own risk disclosure proposal. I noticed Mr. Fahman has a copy of it now and appears to be using it. Indeed, we require our customers to read and sign four separate documents that deal with these issues before they open an account.

Furthermore, as an ETA member firm, we also fully subscribe to the ETA statement of ethical principles, a copy of which you will find with my testimony.

No. 2, to me, day-trading firms must be accountable for the manner in which they advertise to the public. I believe we must be truthful in all of our communications with customers. And while we do very little advertisement, Momentum does not make misleading or exaggerated claims about our services or the overall benefits of day trading. We believe we have an excellent relationship with our customers and we receive very few complaints given our size and reach.

No. 3, I believe internal compliance is also important to developing best industry practices. At Momentum, we are fully committed to the highest standards. That having been said, have we made mistakes? Can we do better? Absolutely. Momentum has only been in existence for 4 years, and in many ways we are still in our infancy. We strive to refine and improve our system. Our operation is far better today than it was when we first opened.

We have implemented greater internal controls. Among these are a formalized compliance department; commitment of additional resources for compliance personnel; development of new policies on risk disclosure and account opening guidelines; and we have instituted regulator self-imposed compliance visits to our branch offices.

No. 4, I recognize that there is a learning curve involved in successful day trading. While we are not required to do so today, we have developed voluntarily a threshold guideline of available risk capital. At Momentum we developed such a guideline because I believe it is the right thing to do. We now ask for a minimum initial deposit of \$50,000 and—collectively—and a minimum disclosed net

worth of \$100,000 to open a day trading account. If a customer does not meet these two factors, a customer may still appeal their initial rejection if they demonstrate such factors as prior trading experience.

No. 5, I believe day trading has made a positive impact on the securities markets by increasing market liquidity, vastly improving pre and post-trade transparency, furthering the standards of best execution, and significantly helping to reduce agency cost. Day trading also helped break a collusive monopoly and now individual investors, rather than institutions, are increasingly gaining control of their transactions.

Moreover, day trading has fostered new technology to transmit information and accelerate executions, which has resulted in larger benefits to the overall economy.

No. 6, there have been conflicting press reports regarding profitability of day-trading firms. Based on my years in the business, and I believe I have some sense for what really occurs with respect to profitability, in my judgment not every trader will make money from the start. And many will lose in the first 3 to 5 months in which traders are learning the skills required to trade.

After the learning curve in which dedicated traders are developing skills and proficiencies with the systems, I believe the number of profitable traders improves significantly. The simple fact is that many of our traders are successful. I remain proud of their success.

No. 7, I am sensitive to the concerns regarding the traders who have, arguably, insufficient risk capital. While in the past there may have been exceptions with my firm, I believe customers currently in our system either have the means or the experience to be day traders. Today, the vast majority of our customers are mature, educated, professional, and financially secure women and men.

No. 8, I am sensitive to the concerns regarding lending practices. I was recently appointed vice chairman of the NASD task force on day trading margin rules to help address these issues. To my knowledge, my firm has at all times complied with the rules that exist in this area.

No. 9, one of the reasons behind the development of the ETA was to provide day-trading firms with a forum for discussions about the very issues we are reviewing today. While I am speaking today for myself and what I believe and strive for with my own company, and while I cannot make commitments for other firms, it is my hope that through responsible leadership we may use the ETA to encourage other day-trading firms to strive for best practices.

No. 10, at Momentum we strive to improve our company and learn from our mistakes. We acknowledge that our operation is in many ways better today than it was when we first started. We suffer immeasurably as an industry when other companies' practices are sub par. As with any industry, I believe there are good, well-intended companies who represent industry best practices, and there are others that fall short. We strive to set ourselves apart from the latter group through our business ethic, practices, client services, and proactive policies aimed at full disclosure of risk, balanced and fair advertising, and heightened account opening guidelines.

While there may be some disagreement about which regulatory changes are desirable, I welcome the opportunity to work with you to develop appropriate recommendations for change.

In closing, I wish to emphasize that I am proud of Momentum. We strive to be a leader. We have made mistakes, but we correct them. Hopefully today's discussion will be used to forge an alliance between thoughtful, legitimate, proactive companies who are working to improve the system and members of the industry who would like to explore ways to promote efficient markets and design appropriate customer protections.

Thank you, Senators.

Senator COLLINS. Thank you, Mr. Lee. I do want to recognize that although we did discover several problems with Momentum's past practices that you also have made and implemented significant reforms. I want to recognize and commend your firm for recognizing the mistakes that have been made and for implementing some reforms that should make a difference.

Mr. LEE. Thank you.

Senator COLLINS. Mr. Houtkin, last night on CNN you disputed information provided to the Subcommittee by one of your branch managers, that only 10 percent of his customers were profitable. Yesterday, at our hearing under oath and also in his deposition, another one of your branch managers, Mr. Parish, testified that 80 percent to 90 percent of the day traders in San Diego were losing money, at least within the first 6 months.

Another one of your branch managers in Boca Raton testified or provided information to the Subcommittee that zero—not one of the customers of that branch office were profitable. Yet another branch manager, Mr. Zayas, who testified yesterday, said that only one out of his approximately 50 customers were profitable. Are all your branch managers wrong?

Mr. HOUTKIN. They are not all my branch managers. As a matter of fact, those branch managers you are talking about, I do not believe any of them are still with us, and have gone off either to competitive firms or whatever. I do not know what they base those statistics on. As a firm, we do not keep track of how well our customers do in general.

I do not believe it is a practice in the industry. And if this is a practice the industry would like our people to start keeping, if you would recommend that firms in general keep track of the profitability of their clients' investments, then we would go along with those regulations.

Senator COLLINS. The president of your firm, Mark Shefts, also told the Subcommittee that three out of 10 day traders, only three out of 10 would be profitable.

Mr. HOUTKIN. Yes.

Senator COLLINS. So if you are not tracking this, how does the president know?

Mr. HOUTKIN. It is by observation. I was the one who first said that several years ago when I was pressed I think by *Business Week* magazine, about how many people make it and how many do not? Let us discuss that.

Senator COLLINS. Are you not concerned that the vast majority of your customers are losing money?

Mr. HOUTKIN. I am concerned that people have the best possible execution, the best possible information, and freedom to perform in the financial markets as they choose as free American citizens. If they do—and give them the best possible service for what they can do. It is up to them to decide.

I believe that people should be responsible for what they do. We have the highest risk disclosure standards, and have so for the past 5 years. We invented risk disclosure back in 1995. We have maintained the highest suitability standards in the industry for as long as I can remember.

Now if a person—and we have the best, probably one of the best training programs in the industry. So if a person is qualified to trade, if a person has the financial wherewithal to trade, and if the person has been advised of the risks and they are a mature, responsible person, then it is up to them to decide what they want to do.

Senator COLLINS. We heard considerable testimony yesterday that your customers are not apprised of the risk and that the training was not adequate. But let me ask you a question. Senator Levin yesterday quoted from a deposition and asked Mr. Parish what All-Tech's philosophy was concerning customer recruitment, and Mr. Parish said that the philosophy was, take whoever comes in.

Mr. HOUTKIN. That is not true.

Senator COLLINS. That is not correct?

Mr. HOUTKIN. That is not true, and Mr. Parish is also the one who is accused of forging documents and is in a hot seat right now—

Senator COLLINS. So you have had a lot of—

Mr. HOUTKIN [continuing]. And might be very inclined to say or will accommodate the panel here because of pressures he is under by the regulators.

Senator COLLINS. Did you hire Mr. Parish?

Mr. HOUTKIN. Years ago.

Senator COLLINS. Did you hire Mr. Zayas, another branch manager of yours of whom you have been critical?

Mr. HOUTKIN. He was hired by the firm. Mr. Zayas was a CPA, a practicing CPA.

Senator COLLINS. Did you hire him?

Mr. HOUTKIN. I do not know if I hired him or someone at the firm hired him.

Senator COLLINS. It is my understanding that you did hire him. Were you chief compliance officer at the time that all these problems that you have been very critical of Mr. Zayas were occurring?

Mr. HOUTKIN. All these problems?

Senator COLLINS. Were you chief—

Mr. HOUTKIN. How many problems do we have relative to the millions of transactions and thousands of customers we deal with?

Senator COLLINS. Mr. Houtkin, last night on CNN Money Line you said that Mr. Zayas caused the problems in Massachusetts and "that he should be in jail."

Mr. HOUTKIN. If he did what they accuse him of doing, which is taking funds, unauthorized funds, and forging documents, the man committed a serious violation and he should be punished for that.

Senator COLLINS. Mr. Houtkin, is it not true that you and All-Tech were named in the complaint by the State of Massachusetts for failing to supervise Mr. Zayas and that you settled those charges, and that included an agreement that All-Tech would not conduct business in the State of Massachusetts for 2 years?

Mr. HOUTKIN. You are a regulator, Senator Collins. Regulators always see things as half—

Senator COLLINS. Is that true or is it—

Mr. HOUTKIN [continuing]. The glass is always half empty. Yes, we settled with Massachusetts because we have a relatively small firm and I cannot devote the rest of my life in administrative hearings, running around, spending hundreds of thousands of dollars in legal fees to adjudicate something that was able to be settled basically for a \$50,000 contribution to the investor education fund. So yes, we settled it as a matter of practicality.

Senator COLLINS. Mr. Fahman, I would like to show you an exhibit. It is Exhibit 75<sup>1</sup> and it is in the book that is before you. Are you familiar with the advertisement that is shown in this exhibit?

Mr. FAHMAN. Yes. I believe this advertisement was prepared by an outside printer. We used it just briefly and then we canceled because of the claims on the ad. So we did use it but just for a very brief period of time.

Senator COLLINS. This is an advertisement that Providential used. It says, and I have highlighted the section, it says, day traders, it is a very simple game. Trading is not complex, but the tough part is knowing when the stock is falling out of debt or going to skyrocket. Do you think that day trading is a simple game and not complex?

Mr. FAHMAN. Trading can be very complex; very complex.

Senator COLLINS. Do you think this advertisement might mislead people, particularly those who do not have a lot of investment background?

Mr. FAHMAN. Actually, this advertising was designed by an outside group of trainers and we used it just for a very brief period of time knowing that we should not use it any more. We did not use it that long, maybe about a week or so and we canceled it knowing that it was not wholesome in all context.

Senator COLLINS. Mr. Fahman, Mr. Moon who was the branch manager for Providential's Los Angeles office told the Subcommittee staff that none of the day traders in his office had ever made money. None of them were profitable. And he estimated that the average loss of the day trader customer in Providential's Los Angeles office was about \$50,000. Do you have any reason to dispute that estimate?

Mr. FAHMAN. I have not had a chance to review the data and I do not know that the statement is correct or incorrect. That is only Mr. Moon's statement and I do not have any—

Senator COLLINS. Mr. Fahman, in the letter to the Subcommittee staff you wrote that Mr. Cao, whom we heard from yesterday, day traded at Providential's Fountain Valley office of himself, for two family members, for four other individuals. Were you concerned

<sup>1</sup> See Exhibit No. 75 which appears in the Appendix on page 714.

that he was not licensed as an investment advisor even though he was trading for others?

Mr. FAHMAN. Actually, according to certain State laws if you are authorized to act on behalf of a few number of people I think it is OK to do that. But beyond a certain limit the person has to be registered, and we have brought that issue with Mr. Cao and he is in the process of taking classes to be registered. But whether or not we would like to have him continue to trade at our office is something we have to consider.

Senator COLLINS. At one point Mr. Cao testified he was trading for 20 to 21 clients. That is clearly over the amount for which licensing is required.

Mr. FAHMAN. I do not think that was a correct statement. Maybe over his lifetime he might have traded for 21 or 22 traders. But at any point in time, maybe two, three, or four clients at most, to the best of my knowledge.

Senator COLLINS. But there is no exemption if you are day trading at your place of business.

Mr. FAHMAN. I beg your pardon?

Senator COLLINS. I am sorry, we are having mike problems which we are trying to get rectified. There is no exemption if you are day trading at your place of business as opposed to at your home.

Mr. FAHMAN. I do not know if there is any distinction as far as if an individual authorizes or allows or another person to act as attorney on his or her behalf, that person can execute orders for the owner of the account.

Senator COLLINS. Let me approach the issue of Mr. Cao from a different perspective. As a result of his trading for Amy Le your firm has already had to pay a judgment to Amy Le; is that correct?

Mr. FAHMAN. Let me clarify the issue here a little bit, Madam Chairman. As I mentioned earlier, Amy Le's case and even Linda Richardson's case, those cases were brought to us from the Go Trading Company. Providential Securities did not start with those accounts. Those accounts happened way back. And because Mr. Moon being a registered person with our company, that is why we were named in those arbitrations.

Senator COLLINS. Right. But why would you allow Mr. Cao to continue to day trade on behalf of other individuals at one of your offices when he has already had a judgment entered against him by the National Association of Securities Dealers?

Mr. FAHMAN. The judgment happened a couple months ago. Some of the accounts Mr. Cao has brought over to our firm, and even his own account are still active at our firm at a very minimum level. And right now actually we just had a meeting in the last 2 weeks to consider measures that needs to be taken in order to address issues that would be of concern to the regulators in that regard.

Senator COLLINS. But he is trading even though he has filed bankruptcy?

Mr. FAHMAN. I do not know if there is any law that prohibits a person from trading if he has filed bankruptcy.

Senator COLLINS. I am going to yield at this point to Senator Levin in the hopes that we can get the mike working.

Senator LEVIN. I am not sure mine is working any better, but we will give it a go. Thank you, Madam Chairman.

First, Mr. Houtkin, let me ask you about the profitability issue. I think my mike is equally problematical. Mr. Zayas testified under oath yesterday that during his tenure as manager of the Watertown office of All-Tech between September 1997 and November 1998 about 50 customers engaged in day trading and only one person made a profit, and Madam Chairman made reference to that statement. Were you aware of that statement on his part?

Mr. HOUTKIN. No. I am not really aware of what he said. I am very dubious of what he said. After the actions, his actions that were uncovered by the State of Massachusetts, I have no reason to believe the man. He caused us tremendous problems with our reputation. And at the State, I do not know exactly what happened there. There were all kinds of accusations about people trading for one another; all unauthorized by our firm.

There are things called rogue brokers. I believe Mr. Zayas would be characterized as a rogue broker, and I do not know why his testimony would be taken as the gospel unless there was really a failure on the behalf of the staff to find more substantive people to testify.

Senator LEVIN. I take it your answer is no?

Mr. HOUTKIN. Yes, it is no.

Senator LEVIN. In his deposition Mr. Zayas told the Subcommittee staff that you were aware that most people lose money in day trading. Is that true? Did you ever make that statement, is my question.

Mr. HOUTKIN. I have made that statement for years. I said that about one in three, approximately. And actually, that—

Senator LEVIN. One in three what?

Mr. HOUTKIN. One in three people will succeed as a day trader. I said that for years. I have been published in many periodicals. I have written that in books.

Senator LEVIN. Do you tell your customers that one in three will be profitable?

Mr. HOUTKIN. Absolutely. We probably tell them even worse than that. We definitely warn people. The reality is, how do you know what is successful? If someone goes—

Senator LEVIN. That was your word, not mine.

Mr. HOUTKIN. OK. How does one determine—in other words, if I go—if you decide you have had enough of the Senate and you want to retire and you decide to go to my school and learn how to day trade. And we teach you the basics of trading, some basic trading strategies, you begin to trade and you lose a few thousand dollars and you realize that trading really is not for you. Does that make you a loser?

Senator LEVIN. I think you answered my question. I am not sure, but I will try it again.

Mr. HOUTKIN. OK.

Senator LEVIN. Mr. Zayas told the Subcommittee that you were aware that most people lose money at day trading; is that correct?

Mr. HOUTKIN. I have been quoted—I do not know if I told Mr. Zayas that. I have a fairly large firm. I speak to many, many people.

Senator LEVIN. Is that your—

Mr. HOUTKIN. I have said repeatedly that the majority—and I think the number I used was about 70 percent of the people will not make money as traders. So, yes, it is possible I said that.

Senator LEVIN. All right. Does that mean that most people will lose money?

Mr. HOUTKIN. That means that trading will not be suitable for most people and they will probably find that out after they lose a certain amount of money.

Senator LEVIN. So does that mean that most people will lose money? To put it in English.

Mr. HOUTKIN. That means that most people will lose some money.

Senator LEVIN. Yes, that most people will lose some money.

Mr. HOUTKIN. Yes.

Senator LEVIN. And that is what you tell people whom you are talking to about becoming day traders, that most people lose money? You specifically tell that to people; is that correct?

Mr. HOUTKIN. Absolutely.

Senator LEVIN. To people who you are asking, or urging, or soliciting, or suggesting, or notifying, or whatever your word is, relative to day trading, those folks whom you talk to about day trading who might come and day trade with your firm, you are telling them specifically, most people who engage in day trading will lose money? That is my question.

Mr. HOUTKIN. I do not know if I use those exact terms.

Senator LEVIN. Do you tell them approximately that?

Mr. HOUTKIN. Yes, I absolutely tell them approximately that. As a matter of fact, we sent you our—

Senator LEVIN. Would you give us the statements that you have made, I presume in your advertising, where you inform folks that most people engaged in day trading lose money? Would you submit that to the Subcommittee for our record? Not right at this instance.

Mr. HOUTKIN. Every word I have ever said on radio, television, in print, was presented to me by either the NASD, the SEC, or the Subcommittee. So every word I have said you probably have already.

Senator LEVIN. Good. Now my question to you is, will you submit to us any place where you have notified your potential customers that most people engaged in day trading will lose money? That is a question. Will you submit that to us for the record?

Mr. HOUTKIN. Just to put on the record that most people who begin—yes, I think that is an acceptable statement that I could submit to you.

Senator LEVIN. And that you notified people of that.

Mr. HOUTKIN. The other day I sent to all the Senators on this Subcommittee an extensive article that was printed—I do not know if you received it—in the *Star Ledger* this past weekend.

Senator LEVIN. I read it. My question to you is—

Mr. HOUTKIN. Did you walk away feeling that we did not warn people that they could probably lose money?

Senator LEVIN. My question to you is, will you submit to this Subcommittee your printed notice, disclosure to your potential customers that most people who engage in day trading lose money,

which is your belief? Will you just submit that to the Subcommittee? It is a simple question.

Mr. HOUTKIN. I do not know what the—you see, excuse me, but over the years I have learned not to have entire trust for the bureaucratic, for the regulatory, and possibly even for my political aspect of what is going on. I will speak to my attorney, and if they think it is appropriate and there is no behind-the-scene agenda to me making that statement, I will be more than happy to submit it.

Senator LEVIN. That is interesting. That is not my question. I asked you would you submit disclosures that you have given to potential customers saying that most people engaging in day trading lose money. You have turned that into a different question, which is whether or not you would say for the record, which you have now twice today, that most people lose money. That is not my question.

My question is, will you submit for the record any disclosures which you have made to your customers that most people engaged in day trading lose money? That is my question. So if you want to take that up with your attorney—

Mr. HOUTKIN. Is this the past tense or the present?

Senator LEVIN. Yes, that is past tense.

Mr. HOUTKIN. I would have to go through what I disclose and what we have. But I know—

Senator LEVIN. Will you do that?

Mr. HOUTKIN. If I could find it, I will do it. If it is there. You are saying, have I done that in the past?

Senator LEVIN. Exactly.

Mr. HOUTKIN. Does it exist?

Senator LEVIN. Yes.

Mr. HOUTKIN. I would have to check.

Senator LEVIN. Would you do that for the Subcommittee?

Mr. HOUTKIN. If we have that, I would be more than happy to submit it.

Senator LEVIN. And would you submit to the Subcommittee, if you can find any such disclosure where you have told potential customers that most people engaged in day trading will lose money, will you submit those if you can find one?

Mr. HOUTKIN. I believe if you read my books it says that the majority of the people, maybe one in three, will succeed. So by definition, I do not think, you know, it takes a vast intelligence here if—

Senator LEVIN. I do not claim a vast intelligence, but I claim to know how to ask a very important and a very precise question.

Mr. HOUTKIN. That is why I want—

Senator LEVIN. Most of your customers and potential customers do not read your books. You may not believe that. You may think everybody reads your books.

Mr. HOUTKIN. Most of my customers have read my book.

Senator LEVIN. Fine. Most of your potential customers do not read your books. Most of the public has not read your books. My question to you is very simple. When you hand disclosures to people who are your potential customers have you informed them of what you have said in your books, said here today, that most peo-

ple engaged in day trading lose money? Your answer to that question is, you do not know whether you can find such a statement.

Mr. HOUTKIN. I believe it exists in our risk disclosure documents.

Senator LEVIN. Fine.

Mr. HOUTKIN. I did not memorize them. But if they exist, and if I have them, which I am pretty sure we do, I would be more than happy to hand it to you.

Senator LEVIN. That is a very direct, final answer to a question that took me six times to get an answer to.

Now, next question, on margin lending. Approximately how much money was transferred between accounts in All-Tech to meet margin calls? Do you know, last year?

Mr. HOUTKIN. I do not have the exact number.

Senator LEVIN. Do you have an approximate number?

Mr. HOUTKIN. I am sure it was a significant amount of money.

Senator LEVIN. Does All-Tech have a policy against firm members arranging or providing uncollateralized loans to help customers to meet margin calls?

Mr. HOUTKIN. We have an internal policy that states that people, registered and affiliated people in my firm, people who are employees, should not lend money to customers.

Senator LEVIN. Now nonetheless, has it happened at All-Tech? Despite your policy of—

Mr. HOUTKIN. Based on what I have heard from—

Senator LEVIN. Let me finish my question.

Mr. HOUTKIN. Go ahead.

Senator LEVIN. Has it happened at All-Tech, that firm members have indeed arranged or provided loans to help customers meet margin calls? Has that happened?

Mr. HOUTKIN. I believe that in a few instances, if you want to stretch the regulations and interpret them to suit your purpose as a regulator, you could say that there might have been a small instance, unbeknownst to me, of people making loans to certain customers.

Senator LEVIN. Thank you. To cover margin?

Mr. HOUTKIN. They made loans to other customers, presumably, I assume, to meet a margin or maintenance requirement.

Senator LEVIN. Now yesterday Mr. Parish testified that the transfer of funds between accounts, which he called journals, in order to satisfy margin calls occurred hundreds of times. Mr. Zayas said the same thing.

The vice president for margin, Ms. Esposito, testified before our staff that there were two accounts at her disposal from which she could make margin loans to customers. One was held by a former All-Tech employee, David Waldman, someone who had a senior position and set of responsibilities in the organization. She said that Mr. Waldman had signed a blank journal authorization and she repeatedly photocopied it and used it to make loans at her discretion. Mr. Waldman charged a \$40 fee for each loan, and for every \$10,000 in principal he received a fee of \$10. This was all administered by Ms. Esposito.

She also had discretionary access to an account belonging to the sister of the manager of All-Tech's Edison branch. Moreover, she noted that both Mr. Lefkowitz, the senior vice president for oper-

ations, and Mark Shefts, I believe he is the All-Tech president, knew that she had been using those two accounts to make margin loans. My question to you, were you aware of the fact, if it is a fact, that those kinds of violations of margin requirements and regulations had occurred?

Mr. HOUTKIN. First of all, I do not believe that what transpired was a violation of margin requirements under the current law, as you probably found out during the last hearing, that those were not violations of the margin rules. And I did not know that this was going on, nor do I believe Mr. Shefts knew that it was going on. And as far as Mr. Lefkowitz, I did not—I do not believe that he believed there was a problem with it.

Senator LEVIN. If it did go on it was a violation of your internal rules.

Mr. HOUTKIN. It would have been a violation of my own internal rules, yes.

Senator LEVIN. My time is up.

Senator COLLINS. Mr. Lee, I want to share with you some of the testimony that we heard yesterday regarding your Atlanta branch manager, Justin Hoehn, and also particularly the account of Scott Webb. As you know, we heard from Scott Webb's mother, Alyce Wenzel, yesterday concerning the opening of her son's account.

Both of them testified that Mr. Webb, prior to opening his day trading account, had lost two jobs, including one as a retail stockbroker; had lost \$10,000 of borrowed money trading at another firm; had a very poor credit record; had very little cash; and had to borrow all of the money that he used to open up his day trading account. He borrowed \$30,000 from his father, and your firm arranged for him to get a \$30,000 loan from another customer.

Was that appropriate? Should Mr. Webb have been accepted as a day-trading customer of your firm?

Mr. LEE. Madam Chairman, I did not know Scott Webb, and after the horrific incident that happened last summer in Atlanta, obviously began to look at the situation in hindsight. I understand in discussions with the people involved in the situation that Mr. Webb was a registered broker, I believe with Dean Witter. I understand and what I have learned from our people, that he had day trading experience, not at one but at two firms. And given our opening account requirements at the time I believe he met the financial requirements at the time to become a trader.

Senator COLLINS. Even though he had had no income for the last 6 months, had a very low net worth, he had virtually no money at all, you think he was a suitable customer?

Mr. LEE. I think today that—again, I do not know the circumstances until they just came up here in these hearings. I think that we have to look at the situation at a policy level, and I think it is constructive to set a bright line test so that operations and branch managers are not called upon to make these kind of judgments on their own. I think that we should raise the standards, which we did in April, to a bright line financial test, and that once that test is met they are presumed to be suitable. I think it is an appropriate level.

I think though that there are circumstances that if somebody does not meet those tests that he/she could rebut that presump-

tion—the customer, if they chose to—and I understand that Mr. Webb sought this out. He asked to become a day trader. And you mentioned the loans arranged there, and I have looked into that as well, and I understand that he asked for those.

Senator COLLINS. But do you think it is appropriate for Momentum to accept a customer of limited financial means, who has not had a job, who is using money that is entirely borrowed, to open an account? I mean, I have to say I am troubled if your answer to that is yes. I mean, today would Momentum accept a customer that has that profile?

Mr. LEE. Madam Chairman, I would look at the profile slightly differently. The gentleman, I understand, was highly educated. He was a licensed securities broker by the NASD and the SEC. He is permitted to sell mutual funds to the elderly. I would think he was capable of making his own investment decisions. I just look at the facts and circumstances slightly different.

I think the whole thing is very tragic and I think that there are constructive points to be made on both sides. I try to look at this at a policy level and how a firm may establish guidelines universally that people can abide by throughout the country.

Senator COLLINS. Does Momentum today allow an individual who is relying entirely on borrowed funds to open an account?

Mr. LEE. I do not think that his new account records reflected that he was relying entirely on borrowed funds.

Senator COLLINS. I would really like a direct answer to my question. Do you allow—will you open an account today for someone who is relying entirely on borrowed funds for the minimum deposit?

Mr. LEE. Today we do not have an internal policy to look beyond what the customer discloses, and the source of those funds. Whether they are their own or from borrowed sources outside of the organization. Today it is not our policy to look into that, nor do I believe that it is the policy of online and full-service firms. But I do think, since you have made this point, that we should look at this and perhaps there is a more constructive approach to it going forward. Today it is not our policy.

Senator COLLINS. In September 1998, which was 3 months after Scott Webb opened his account, one of Momentum's own internal auditors flagged the account, they flagged both of his accounts and advised Momentum's home office in Houston that they were "only marginally suitable." Why, after your own auditor had flagged Scott Webb's two accounts and raised questions about the suitability of allowing him to day trade, was he allowed to continue to trade?

Mr. LEE. I think the time frame here, that office opened in the middle of 1998, and in the first 3 months—I kind of look at this from a different perspective. I think it is very constructive that we sought outside help. We went to a former NASD examiner and self-imposed these types of examinations on our own home office and branch offices. You are correct, records show that that examiner came back to us with deficiencies in the office, and I believe that the office has been improved significantly since that time.

Senator COLLINS. I want to show you another excerpt from that same audit. I have talked about—it is Exhibit 104<sup>1</sup> and it should be in the exhibit book before you as well. This is the same audit, it is another section of the same audit that flagged Scott Webb's accounts as being questionable.

As you can see, the auditor concluded that neither Justin Hoehn nor Kevin Dial—Justin Hoehn being the branch manager—“have a clue as to how to supervise. Despite supplying copies of the written supervisory procedures to each of them, neither one of them had read it. They have received little if any guidance from the Tyler office. Reports printed out entirely for a period of time were not forwarded to the Atlanta office until the SEC walked on.” It goes on and on and is very critical.

Given that critique from your own auditor that the branch manager did not have a clue how to supervise, why was Mr. Hoehn allowed to continue to run the office?

Mr. LEE. I think that what the auditor did on our behalf—and I look at the process as something constructive and positive—at least the deficiencies were pointed out. It was internal. I do understand in having discussions with Mr. Hoehn since that time and also the independent auditor who performed this function for us, that things have improved markedly.

If I can point out something—may I? Just 2 or 3 months after that disclosures were sent to all of our customers in the organizations including those in that office. And if you would like, I can read over some of those and point this—I think there are issues here as to risk disclosure. I think that there are issues as to appropriateness and suitability. Those words have meaning in a regulatory context as well as in a casual context. I think the whole area should be examined and that we could always do better.

Senator COLLINS. The auditor goes on to say in Exhibit 104—and I will only read the last line of it. She warns that this could be a disastrous experience if a well-seasoned regulatory team from the SEC would come in, considering the shape of the Atlanta office. In short, this audit is a pretty serious indictment of the Atlanta office.

Did it lead you to implement reforms? What specifically was done? You have mentioned that there were some changes in the disclosures. But what did you do as far as the criticisms of the employees that you had running the office?

Mr. LEE. Senator, I understand, again, this was within the first 3 months of operation of that office. Nearly 2 years, or over 2 years have passed since then. I do not have and I am not aware of any other issues that have been raised out of that office, and I trust that the people charged with compliance in the area took corrective action with these people. I think there was some testimony as to that yesterday, although I have not read the exact record.

Senator COLLINS. Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

Mr. Lee, at the last hearing or the hearing last year of this Subcommittee, Mr. Saul Cohen representing your organization, the Electronic Traders Association, testified as follows: That earlier this year ETA informally surveyed its members to obtain a rough

<sup>1</sup> See Exhibit No. 104 which appears in the Appendix on page 832.

estimate of customer profitability. These estimates were that after an initial period of 5 months of losses, 60 percent to 65 percent netted in the range of \$28,000 per month with the balance of customers losing \$6,500 to \$8,000 per month. Was that accurate?

Mr. LEE. Sir, I think that those were based off of an informal survey that our organization conducted between, I believe it was September 1998 and January 1999. And I think it was a snapshot in time in or about January 1999, of a 5-month period. I believe those figures were based on the findings of that review.

Senator LEVIN. What were the months of the study?

Mr. LEE. I believe he was referencing what we have submitted to the Subcommittee and is known as Texas Facts, and I think it was September 1998 through January 1999; I believe so.

Senator LEVIN. Did you personally participate in that?

Mr. LEE. I had some participation in the design of it. I did not construct it, no, sir.

Senator LEVIN. Do you believe that represents an accurate picture of the profitability of day trading?

Mr. LEE. Senator, I am testifying here on my own behalf, my judgments and observations. I think it was a fair reflection of a snapshot in time of our organization and what we were surveying.

Senator LEVIN. Do you believe it is a fair representation of profitability of day traders now?

Mr. LEE. I think that there could be inferences made to the larger organizations. I think that there is a big difference—

Senator LEVIN. I do not know what that means, inferences made?

Mr. LEE. There could be inferences. There are, in my opinion, large capable organizations with the infrastructure that can marginally improve results. And I am just not familiar with the practices of the vast number of other firms that are out there, so I could not possibly comment on their results. I am aware—

Senator LEVIN. Do you think two-thirds of your customers make money?

Mr. LEE. I think that is what Texas Facts showed at that snapshot in time?

Senator LEVIN. Do you think two-thirds of your customers today make money these days?

Mr. LEE. Sir, I think it said that two-thirds of experienced people, with more than 5 or 6 months, are profitable.

Senator LEVIN. Do you believe that?

Mr. LEE. I believe it sounds relatively accurate, yes, sir.

Senator LEVIN. You believe that two-thirds of your customers who have been there more than 5 months are profitable?

Mr. LEE. I believe that represents the numbers at that time. I do not think that the conditions have changed significantly since then, so I would think that it would hold true, but I do not have numbers to support that.

Senator LEVIN. Could you provide those numbers to us?

Mr. LEE. They are not readily available.

Senator LEVIN. Could you provide those to us?

Mr. LEE. I would be happy to work with the staff and Subcommittee to open our books, as we have very cooperatively done, for any information that you choose or any other oversight body, sir.

Senator LEVIN. Does that mean yes?

Mr. LEE. Would I construct that for you?

Senator LEVIN. Would you inform the Subcommittee as to what percentage of your clients are profitable?

Mr. LEE. I think we could produce whatever you would like, sir.<sup>1</sup>

Senator LEVIN. Thank you.

Now did you have an executive committee meeting last August to talk about the figures?

Mr. LEE. At my organization?

Senator LEVIN. No, did ETA have an executive committee meeting last August to go over those Texas figures?

Mr. LEE. I think, in preparation for the Senate testimony, that there was a board meeting by telephone among the ETA members. And I would, if I could, give a brief profile of ETA.

NASAA and others, and certainly this committee, have pinpointed that there are many, many, many organizations in the day trading business. ETA has about six members. I believe, though, the memberships are among the larger firms, and I think they are 60 to 70 percent of all the volume in day trading in those firms.

So if I could qualify, it was not a meeting among everybody in the industry. It was among, I think, four or five of the six or seven largest firms. Yes, sir, there was a telephone conference.

Senator LEVIN. Was it the ETA executive committee that met by that telephone conference?

Mr. LEE. Our board. I think there is not a difference.

Senator LEVIN. And did you make a decision as to whether those numbers were still representative?

Mr. LEE. I recall there being a discussion on that point, and I do not recall that there was opposition to those general findings on that telephone call, sir.

Senator LEVIN. And then ETA, at that point, was going to retain an accounting firm to conduct a day trading profitability study; is that correct?

Mr. LEE. There was consideration given to that, yes, sir.

Senator LEVIN. Were you in the process of retaining KPMG?

Mr. LEE. Yes, we did. We went through an engagement process with that firm, yes, sir.

Senator LEVIN. And decided not to engage them?

Mr. LEE. I think there were two parts of that. The engagement was not ultimately concluded for two reasons, and we did get to an engagement letter. No. 1, it was cost prohibitive.

Senator LEVIN. How much was it?

Mr. LEE. Over \$250,000. And I believe that there were also some internal conflict issues that they pinpointed in their ability to produce the study.

Sir, if I may add, that is twice the budget of ETA.

Senator LEVIN. Were you aware of the Washington State study<sup>2</sup> which found that 77 percent of day traders are found to have net losses?

Mr. LEE. I just learned of it in these hearings, sir.

<sup>1</sup> See Exhibit No. 156 which appears in the Appendix on page 1195.

<sup>2</sup> See Exhibit No. 23 which appears in the Appendix on page 365.

Senator LEVIN. And that was unrelated to how long somebody was day trading?

Mr. LEE. I just heard that this morning.

Senator LEVIN. Do you have any reason to disagree with that study, from what you heard this morning?

Mr. LEE. I have not seen it. I could not possibly comment. I do not know what the qualifications are. I do not know the firms.

Senator LEVIN. If you would take a look at that study and tell us, not now—

Mr. LEE. Is it part of the record?

Senator LEVIN. Yes, for the record.

Mr. LEE. No, I mean is it part of the record? I have not seen it.

Senator LEVIN. I am saying would you take a look at that study and then get back with us, for the record, your reaction to it, as to whether you state any disagreement with its procedures?

Mr. LEE. I would be happy to.<sup>1</sup> Is it available?

Senator COLLINS. We will provide you with a copy.

Senator LEVIN. Mr. Houtkin, just a couple of more questions for you. That has to do with the question of suitability. Ms. Esposito, who is your vice president for margins, testified to our staff that she had customers who opened accounts with less than your \$50,000 minimum deposit. At the time, that was your regulation and rule. Were you aware of that fact?

Mr. HOUTKIN. That was our company policy.

Senator LEVIN. To take them at less than \$50,000?

Mr. HOUTKIN. No, the company policy was \$50,000. For your information, the NASD has no suitability standards whatsoever.

Senator LEVIN. I understand.

Mr. HOUTKIN. For accounts that do unsolicited business. Our policy of \$50,000 was relatively high. I believe it was the highest in the industry.

Senator LEVIN. Let me ask my question again. Your vice president for margins, Ms. Esposito, testified to the Subcommittee staff that she had customers who opened accounts with less than the \$50,000 minimum deposit which was your rule.

My question to you is were you aware of that?

Mr. HOUTKIN. I was aware that there would be exceptions made based on the client opening the account.

Senator LEVIN. In 1999, you lowered your minimum deposit requirement from \$50,000 to \$25,000 and when you were asked about this by our staff you said, "I still think, as a day trader, an active day trader should have \$100,000 on deposit. But once again, I discussed with you before, there are competitive aspects of the business that we have to be cognizant of." Is that correct? It is a very brief, direct question. Is that what you told our staff?

Mr. HOUTKIN. That sounds correct.

Senator LEVIN. You published a book around the time that you lowered your minimum deposit to \$25,000, which included the following: "Before the market was booming to new record setting heights every other day and stock prices were uniformly lower, you could have had success trading with \$50,000 on margin. Today, probably \$150,000 is the most advantageous amount of capital for

<sup>1</sup> See Exhibit No. 156 which appears in the Appendix on page 1195.

trading, \$100,000 is adequate, and \$50,000 is a minimum.” That is what you wrote in your book?

Mr. HOUTKIN. Yes.

Senator LEVIN. Did you write that?

Mr. HOUTKIN. Yes.

Senator LEVIN. Is that your minimum?

Mr. HOUTKIN. Our minimum now is \$25,000, sir.

Senator LEVIN. So even though you said that \$50,000 is a minimum in your book for successful trading, you now accept people at \$25,000; is that true? What I just said.

Mr. HOUTKIN. To the extent, but it goes beyond that. Many things have happened over the last year, year-and-a-half, that changes my opinion that could make it different. Right now market makers are only required to post markets for 100 shares. They have lowered the minimum size requirements. A lot of lower priced stocks have become very active and very tradeable.

So while I do believe that a larger amount of money is preferable, and I do not believe there is anyone in the industry who would disagree with that, that in order to be competitive with many firms who are offering \$5,000 minimum or \$10,000 minimum, and to offer our services more practicably to the public investor, we lowered it to \$25,000.

That is a minimum standard. That is not what we advise.

Senator LEVIN. First of all, you lowered it to \$25,000 not a year later based on different market factors. At about the same time your book came out, saying \$50,000 is a minimum, you lowered it to \$25,000; is that not correct?

Mr. HOUTKIN. I do not know the exact dates. Relative to when I wrote the book, I started the book about 2 years before it finally became published. So when it finally came out and when we actually lowered it, I really cannot say.

Senator LEVIN. But you really have lowered it in order to stay competitive, have you not?

Mr. HOUTKIN. I believe most businesses take steps in order to maintain somewhat of a competitive—like I said, I believe our standards are still higher than most others, but we had to do something to be more practicably competitive.

Senator LEVIN. But is it not fair to say that even though you believed that \$50,000 was the minimum for successful day trading, you lowered yours to \$25,000 in order to meet the competition? Is that a fair statement?

Mr. HOUTKIN. My personal opinion in the book, it was written by myself, I believe \$50,000 would be an appropriate minimum. There are other people in the firm and we have other contributing opinions into what we had to do to maintain a competitive business. It was not just my decision to drop it. It was a decision of—

Senator LEVIN. Your firm.

Mr. HOUTKIN. Of the firm.

Senator LEVIN. Are you not CEO of this firm?

Mr. HOUTKIN. Yes, but I am not a dictator.

Senator LEVIN. You may or may not be that, but you are the CEO of a firm.

Mr. HOUTKIN. Yes, I am.

Senator LEVIN. And that firm has now got a minimum lower than what its CEO said was a minimum needed for successful day trading. That is, I believe, a fact. And you can say you have done that in order to meet what your competitors are doing.

That is well and good, but you are also then taking people and their money and you are doing it, although you believe the \$25,000 is less than what is a minimum necessary for them to be successful (and I doubt very much that you have told your potential customers that directly in disclosure statements, but we will find that out); and you are doing that at the same time you tell us two-thirds of the day traders are going to lose money.

Now that is something you may not be happy to hear, but I think what I stated is a very careful statement of fact, both as to what you have told us here this morning, what you have said in your book, and what your minimum standard is.

Mr. HOUTKIN. There are other factors. I believe you are making an assumption based on half facts. They also, as you noted, speaking to the people from the SEC and the NASD, they proposed about a year ago to increase day trade margin to 4-to-1. So if you were using \$50,000 at 2-to-1, you would be able to use \$25,000 at 4-to-1, and have the same working capital available to you.

Senator LEVIN. Is that 4-to-1 in place yet?

Mr. HOUTKIN. Well, it was—

Senator LEVIN. Is it in place yet?

Mr. HOUTKIN. They have been planning for it to be in place now for over a year.

Senator LEVIN. Is it in place?

Mr. HOUTKIN. I do not believe it is in place, sir.

Senator LEVIN. And you reduced yours to \$25,000 before that was in place; is that not accurate?

Mr. HOUTKIN. We reduced it to \$25,000.

Senator LEVIN. Before any change to 4-to-1; is that not factually accurate?

Mr. HOUTKIN. Yes, that is factually accurate.

Senator LEVIN. Thank you.

Senator COLLINS. Mr. Houtkin, if your minimum standard was \$50,000 originally, and you agree that that is the ideal amount, why did you run an ad for day trading that mentions \$10,000 as the amount? The ad that enticed Carmen Margala to come open an account?

Mr. HOUTKIN. I am glad you asked that question, because the \$10,000 minimum was not for day trading.

Senator COLLINS. That is what the whole ad was on. The whole ad is a day trading ad.

Mr. HOUTKIN. The \$10,000 minimum was for people who wanted to trade through All-Tech because All-Tech does not accept payment for order flow and gives very fast response. It was for a basic, more conventional, on-line type service, not for day trading. We never offered a \$10,000 account for day trading.

Senator COLLINS. Well, why does the ad say if you have \$10,000 or more in working capital, along with the will and desire to take advantage of the incredible opportunities offered by day trading, you need to call All-Tech Investment Group today?

Mr. HOUTKIN. But you would not be using our Attain trading system, the automated system. You would be able to trade similar to the way someone could trade at E-Trade or Waterhouse or DLJ Direct, where the minimum requirement is \$1,000.

Senator COLLINS. It says day trading, Mr. Houtkin. Is this bait and switch then? Get them in and then switch them over?

Mr. HOUTKIN. No, people day trade all day long on E-Trade, on Waterhouse, on DLJ, on NDB, just to name a few. Probably more day trading is being done through these firms than through the direct access firms. This was not an offer for direct access services.

Senator COLLINS. It says day trading in the ad.

Mr. HOUTKIN. It does not say direct access Attain system, does it?

Senator COLLINS. Let me ask you another question. Ms. Margala, as a result of this ad, went into the All-Tech San Diego office and tried to open a day trading account, was able to open a day trading account with only \$20,000. It was not even risk capital. It was her savings. It was not money she could afford to lose. She was able to open a day trading account with \$20,000 at a time when All-Tech's minimum standard was \$50,000. How did that happen?

Mr. HOUTKIN. If that happen, it would have been—it should have been picked up by compliance. I do not believe that happened. And I believe we are currently in litigation with this woman, and I really do not want to go into more on the record here.

Senator COLLINS. Did you do audits of your branch offices when you were the chief compliance officer?

Mr. HOUTKIN. Yes, we did.

Senator COLLINS. Is there a reason why your firm did not provide then copies of those audits in response to the Subcommittee's request?

Mr. HOUTKIN. I am not sure exactly, our general counsel provided whatever documentation was available. But we did supervise and audit our offices, what we believe was in compliance. Once again, this is a new, growing business. Were we doing everything to perfection? I cannot say.

Senator COLLINS. Did you personally conduct any audits, as the chief compliance officer?

Mr. HOUTKIN. I went out to several of the offices, but I usually assigned those duties to other people in the firm.

Senator COLLINS. Well, perhaps you should review your files again because, in response to our request, we did not receive a single audit from your firm from the time that you were the chief compliance officer.

Mr. HOUTKIN. This is the first I heard of it, and if these documents exist, and if I have them, we would be more than happy to supply them.

Senator LEVIN. Just one question for you, Mr. Fahman, or one series of questions. You were both president and CEO at Providential and, until recently, the chief compliance officer; is that correct?

Mr. FAHMAN. Yes, sir.

Senator LEVIN. I believe that, in your compliance manual, you say that suitability is the key to client recommendation; is that correct?

Mr. FAHMAN. Yes, generally, because our firm is not only doing day trading. We first started the firm as a retail brokerage. And that is the majority of our business. Day trading is only just a small portion of our overall business. We also do fixed income. We also have package products like annuities, insurance, some investment banking, the bulk of business is still traditional retail. And we also have on-line investment and trading, like E-Trade, and so forth. So it is just a small portion of our overall business, as far as day trading is concerned.

Senator LEVIN. Does the suitability requirement apply to day trading?

Mr. FAHMAN. Actually, that is an area that we—

Senator LEVIN. In your manual, do you intend that statement, suitability is the key to client recommendation, to apply to day traders? It is a very simple question.

Mr. FAHMAN. That is a general statement being used for all accounts, including day trading. But day trading is a little bit different because we do not directly recommend a purchase or a sell for security for day traders.

Senator LEVIN. But it does apply to all accounts, including day traders?

Mr. FAHMAN. Right.

Senator LEVIN. If you would put up that other form, if you look at Exhibit 83,<sup>1</sup> this is a typical account opening form. Just the form itself, this is a typical form; is that correct?

Mr. FAHMAN. Yes, that is correct.

Senator LEVIN. On this form, all the approval signatures are in place; is that correct? Down at the bottom there, where you say approved? Do you see those signatures?

Mr. FAHMAN. I believe those signatures were Mr. Moon's signatures.

Senator LEVIN. So this was approved. And yet there is no indication, if you will look at the blanks there, you see there, about annual income and net worth? Do you see that? In the middle there, those two lines? Those are blank, right?

Mr. FAHMAN. Yes, those are blank.

Senator LEVIN. In one office, the Hahna Global office, where Mr. Cao and Mr. Moon worked, apparently 74 percent of the forms lacked required information. Are you aware of that?

Mr. FAHMAN. These accounts came from Go Trading and when they were transferred over, I think what happened Mr. Moon, in order to expedite the process, he might have submitted the information without all the full documentation. But I am very sure those accounts came over from the Go Trading era, not started with our firm to begin with.

Senator LEVIN. Now you lowered your minimum capital deposit as well; is that correct? From \$50,000 to \$10,000; is that correct?

Mr. FAHMAN. Yes, the \$50,000 was a suggested or recommended level in the beginning.

Senator LEVIN. And you lowered that to \$10,000?

Mr. FAHMAN. We lowered it to \$10,000 and then to \$15,000.

<sup>1</sup> See Exhibit No. 83b. which appears in the Appendix on page .

Senator LEVIN. And even though you testified that a \$50,000 trader would have enough buying power to get into more shares of stock, in order that he could trade more effectively, you lowered it to \$10,000 in order to meet the competition; is that correct?

Mr. FAHMAN. No, I do not think we were trying to beat the competition.

Senator LEVIN. No, meet.

Mr. FAHMAN. Oh sorry, to meet, yes. I think there was tremendous competitive pressure in the market at that time. And in hindsight, we might not have done that.

Senator LEVIN. Because in order to keep up with your competitors, you lowered it from \$50,000 to \$10,000; is that correct? Even though you recommended \$50,000 as the minimum needed to be successful; is that correct?

Mr. FAHMAN. Yes, we did lower the suggested level to \$10,000 and then back to \$15,000, and then to \$25,000 again.

Senator LEVIN. Correct. But you did it to meet the competition, even though you believe that \$50,000 was needed in order to have a successful experience at day trading; is that correct?

Mr. FAHMAN. Actually, at that time, the day trading business was still very new and there was a tremendous lack of guidance from regulators.

Senator LEVIN. I am not talking about guides. I am talking about what you believed. Did you not testify to our staff that a \$50,000 level was what was needed in order to have a better day trading outcome?

Mr. FAHMAN. Internally, we believe, we thought that would be a good level to start with. That is why we—

Senator LEVIN. In order that there be a successful day trading experience; is that fair?

Mr. FAHMAN. I would say so.

Senator LEVIN. And so you lowered it despite that, in order to keep up with your competitors; is that correct?

Mr. FAHMAN. Yes.

Senator LEVIN. Thank you.

Mr. FAHMAN. You are welcome.

Senator COLLINS. Thank you, Senator Levin.

I am going to excuse this panel now. I would like to thank all of the witnesses who have testified before us during the past 2 days.

In the Subcommittee's first hearing on day trading last September, I expressed my concern about the risks that day trading poses, particularly to the small, unsophisticated investor. After hearing the testimony from a variety of witnesses over the past 2 days, I must say that my concerns have only increased.

We have learned that the best evidence suggests that 77 percent of all day traders will lose money; that they pay enormous commissions, in some cases over \$200,000 annually, before they are earning a cent of profit that they can keep; and that people of limited means are opening day trading accounts with money that they can ill afford to lose.

I am certain, based on the testimony that we have heard, that the industry and the regulators must do much more to clean up the abuses that we have uncovered. As I have indicated, I do not be-

lieve that day trading should be banned. I think that if people are fully apprised of the risks, and if they have adequate capital, they should be allowed to day trade. And who knows, maybe they will be one of the very few who are lucky enough to make it profitable.

However, we cannot continue to allow a system to go forward that does not adequately disclose the tremendous risks of day trading, and that continues to accept people for whom day trading is clearly unsuitable. We will continue to work with the regulators to assist them in strengthening their enforcement efforts, and also their regulatory guidance.

I would also call upon the industry to do its part. We have seen some firms increase their risk disclosure over the past few months, particularly as regulatory and Congressional scrutiny of the industry has increased. But it is clear that the industry still has a very long way to go.

I want to take this time to also thank the Subcommittee staff for its very hard work on this investigation. They deposed over 100 people, handled thousands of pages of documents, and did a very thorough and professional investigation. Many of the staff members were involved and did a terrific job, but I particularly want to salute the efforts of Lee Blalack, our Subcommittee staff director, and of Deborah Field, who is our detailee from the SEC. We may never allow her to go back to the SEC.

I also want to thank Senator Levin for his outstanding participation. He always brings a great deal to the Subcommittee's effort. Senator LEVIN. Thank you.

Madame Chairman, very briefly, let me first thank you and your staff for the extraordinary effort that you have made here, and for the great value which you are producing for our constituents.

I think the American people want the kind of freedom that we all believe in, but they also want to be treated fairly, they want disclosure of risks, and they also want regulators to regulate, to make sure that there are not abuses.

We have heard evidence that there is misconduct obviously, as there is in any large kind of operation. We heard today that there are too many examples of misuse of customer funds, exaggerated and misleading advertising, improperly registered persons, violations of NASD short sale rules, improper lending and margin practices, and so forth in the day trading business.

That does not mean that day trading, per se, should be banned. It should not be, but it has got to be regulated. It is something new and it has got to be regulated, taking into account the fact that it is so different from traditional stock trading.

One of the things about which I am most concerned is the disclosure of the odds. Our Chairman talked about the disclosure of the risk, and I could not agree with her more. But we have a Washington State study now which confirms another study, which is that over two-thirds of people in day trading, regardless of how long they have been in day trading, and unrelated to that question, lose money. Mr. Houtkin today basically confirmed that two-thirds of people in day trading lose money.

I believe that if people who are being solicited or being informed about day trading knew what those odds were against them, that

you would have a lot fewer tragedies and financial losses of the kind that we have heard about.

So disclosure is absolutely critical, both of the risk and included in the risk I would say, a very significant part of that, will be the odds. So we will look forward, Mr. Houtkin, to you and to you, Mr. Lee, sharing with this Subcommittee two things, if they exist in the first case. One, is any time you have disclosed in a disclosure document to your potential customers that two-thirds of them are going to lose money, or that most of them will lose money. I look forward to receiving such a written disclosure to customers, not a book, not a newspaper article, but a disclosure form to your customers.

And for you, Mr. Lee, I look forward to data, which the Subcommittee I believe would welcome, about your profit and loss figures of your customers.<sup>1</sup> Your organization represented to this Subcommittee that 65 percent of the people made significant profits. That runs exactly counter to what the Washington State study is, and dollar-wise is inconsistent with the SEC study, in terms of the amount of profit and loss.

And so we will look forward to you sharing with us data that supports your statement here today that you believe that Mr. Cohen's representation to this Subcommittee is still accurate, relative to your firm. We look forward to that data, as well.

Again, Madame Chairman, thank you for your leadership in this area.

Senator COLLINS. Thank you very much, Senator Levin.

The hearing record will remain open for 14 days. In addition, the Subcommittee will, within the next several weeks, be issuing a comprehensive report summarizing the results of its investigation and including its findings and recommendations.

The Subcommittee is now adjourned.

[Whereupon, at 12:28 p.m., the Subcommittee was adjourned.]

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<sup>1</sup> See Exhibit No. 156 which appears in the Appendix on page 1195.

## A P P E N D I X

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### PREPARED STATEMENT OF SENATOR AKAKA

Thank you Madam Chairman. I want to commend you and the Ranking Member for holding these series of hearings on day trading and focusing on the questionable practices, which surround this emerging industry.

In conversations with officials from the Hawaii Securities Commission, I learned that there are no active day-trading firms in my State. Interestingly, one firm opened a few years ago, but closed up and left town as soon as inquiries and complaints were made to the State Commission. Although there are people in my State who are day trading on an individual basis, problems associated with day-trading activities have not been of a serious nature. However, I am mindful that the lack of complaints to my State's Securities Commission only means that Hawaii has some breathing room. I would rather see Hawaii remain free of deceptive and abusive day-trading activities, and one way to do that is through these hearings.

It is for that reason that I am so pleased that this Subcommittee, through the Chairman and Ranking Member's leadership, is examining the ever-emerging problems with day trading. I am concerned that people are involving themselves in a speculative and risky business where they generally have no background and may stand little to gain. The financial risk is sizeable, and it appears from the testimony heard yesterday that there are companies luring customers under the guise of amassing substantial sums of money without adequate capital.

I am equally concerned with an issue raised by the Ranking Member who reported that seven firms accounted for 80 percent of all day traders and 80 percent of all day-trading volume. He rightly noted that the impact of day trading on the volatility of the market is unknown. SEC Chairman Levitt noted in his testimony from our first series of hearings that day traders do not look at the value of a company's stock, and indeed, are gambling more than investing. A day trader may make upwards of 100 trades per day, far exceeding the average number of trades that a normal investor would make over a year.

Madam Chairman, I hope that these hearings will continue to shed light on an industry where there are few consumer protection standards. Just this week, the SEC charged two companies, one a focus of this hearing, with "margin lending," or providing customers with more money for trading than permitted by Federal regulations. We heard from witnesses yesterday that the over-extension of funds can have disastrous consequences. I believe that an industry, where an estimated nine out of ten participants lose money, must be held accountable for its actions.

Thank you, and I look forward to hearing from today's witnesses.

Statement  
of  
**DEBORAH M. FIELD**  
Counsel  
Permanent Subcommittee on Investigations  
On Detail From The Securities & Exchange Commission  
Hearing On  
**DAY TRADING: EVERYONE GAMBLES BUT THE HOUSE**  
February 24, 2000

☆☆☆

Thank you Chairman Collins, Senator Levin, and Members of the Subcommittee. My name is Deborah Field, and I am Counsel to the Permanent Subcommittee on Investigations. I am currently on detail to the Subcommittee from the Securities and Exchange Commission. I have been a member of the SEC's Division of Enforcement for about two years. Prior to joining the SEC, I was an attorney with the law firm, Wilmer, Cutler & Pickering, where I worked in the firm's securities enforcement and litigation practice. As Counsel to the Subcommittee, I have been intimately involved with the staff's investigation of the day trading industry. Today, I am presenting a brief overview of that investigation.

Scope and Methodology of PSI's Investigation

The Subcommittee staff conducted this investigation by casting a wide net. We examined the largest day trading firms and some that were very small. The Subcommittee sent detailed and comprehensive document requests to 19 day trading firms. In response, those firms produced approximately 50,000 pages of documents and at least ten videotapes containing television advertisements. In addition to reviewing all of these materials, Subcommittee staff interviewed or deposed over 100 people. These witnesses included chief executive officers and other employees of day trading firms, former and current day traders, gambling experts, academics and authors. We also spoke with state and federal securities regulators and representatives of self-regulatory organizations.

Based on the evidence gathered by the Subcommittee, we narrowed our focus to three day trading firms: All-Tech Direct, Providential Securities, and Momentum Securities. The staff conducted a detailed examination of these three firms.

*General Findings*

While some of our findings pertain to potentially illegal conduct, such as forgery and unauthorized trading, perhaps the most disturbing evidence gathered by Subcommittee staff relates to business practices that are – under the current regulatory framework – entirely legal.

Perhaps the single most important finding of this investigation was that many firms allow – and even encourage – unsuitable customers to day trade. Contrary to their own internal policies, many firms have routinely failed to gather the information about their prospective customers that is necessary to determine whether those customers are suitable for day trading. Frequently, customers end up losing tens of thousands of dollars – losses that they cannot sustain.

[Refer to Ex. 3] This is a page from the compliance manual of Providential Securities. As you can see, Providential advises its employees that “[l]iving in such a litigious society, [brokers] need to take special care in gathering complete and accurate financial information about [their] customers. You must take the time with your clients to assess their situation on a regular basis, and make [sic] recommendations based on your fact finding mission. Suitability is the key to client recommendation.”

However, this next exhibit shows that Providential frequently disregarded its own compliance manual. [Refer to Ex. 4] This new account form contains virtually no information about the prospective day trader. Providential did not document the customer’s employer, credit references or tax status. And, even though Providential supposedly requires its day traders to disclose a minimum income of \$50,000 and a minimum net worth of \$200,000, it opened this new account without documenting this customer’s net worth or income. And, Providential had an initial deposit requirement, yet no initial deposit amount is written on this form. It’s hard to imagine what basis the firm had for determining that this customer was suitable for day trading.

Even when day trading firms have gathered the pertinent information, many have accepted customers whose disclosed financial condition did not meet their own criteria for opening day trading accounts. For example, firms have opened day trading accounts based on new account forms indicating that the customers’ investment objectives were “income” or “long term growth,” two objectives commonly understood to be at odds with a high risk, day trading strategy. In fact, we reviewed over 300 All-Tech new account forms that contained objectives that were inconsistent with day trading.

We have also uncovered evidence that some day trading firms altered new account forms to make their customers appear more suitable for day trading. [Refer to Ex. 5] For example, this is a new account form produced to the Subcommittee by Terra Nova Trading. As you can see from the form, this customer initially indicated that his income and net worth were \$24,000 and \$15,000, respectively. These figures were then crossed out, and someone wrote \$30,000 in each category. As you may have guessed, Terra Nova's minimum financial requirement for day traders is \$30,000 of income and \$30,000 of net worth.

The Subcommittee staff asked Terra Nova about the changes to this account form as well as four others. Terra Nova informed the Subcommittee that its employees made these changes but contended that they were made "with the knowledge and consent of the customer based on information received from the customer." However, we found 50 Terra Nova new account forms that were similarly altered. It's hard to believe that 50 customers first provided the firm with incorrect financial information and then later informed the firm that their net worth and income were actually \$30,000 or more.

Some day trading firms who formerly maintained sound minimum financial requirements for opening new accounts have lowered their standards. They have done so to compete with other day trading firms who have weak minimum requirements or no standards at all. These firms are now accepting customers whom they previously considered unsuitable for day trading. These firms readily admit that they are doing so because they do not wish to lose the commission revenue generated by those customers.

Not only do firms accept new customers that they know have very little chance of success, they also allow – and even encourage – those customers to trade beyond their means. For instance, the Subcommittee staff found that many day trading firms systematically arrange for customers who cannot satisfy margin calls to obtain from other customers short term loans at high interest rates. The firms then manage all of the administrative and clerical functions attendant to servicing those loans. As an example, we found that Momentum Securities used one customer's account to lend almost \$10 million to 52 customers in a single month. These margin loans often exceeded \$100,000.

We also found that day traders end up paying exorbitant commission fees throughout the course of the trading day. Although the fees per trade are not necessarily high, day traders may make up to 50, or even 100, trades per day, thereby generating significant fees. That means that day traders may spend much of their time and capital just trying to break even, before accruing one cent of profit.

Another troubling finding of our investigation related to the quality of the management and supervision of day trading firms. Some day trading firms have hired unqualified personnel to manage their branch offices. For example, some firms have hired branch managers who had little or no prior experience in the securities industry and some who weren't even licensed. They have also failed to adequately train and supervise branch personnel after they were hired. And, despite their claims to teach customers everything necessary for day trading, many day trading firms have provided their customers with poor training – training that gives customers a false sense of security about day trading and their likelihood of success. For that training, customers paid thousands of dollars. And, in fact, most day traders end up losing money.

#### Case Studies

The testimony over the next two days will focus primarily on the case study firms All-Tech, Providential, and Momentum. [Refer to Ex. 6] We have prepared this chart to help you understand the relationships between the hearing witnesses and the case study firms. Today, you will hear from former customers of these firms or their representatives. They will be followed by former and current branch managers of the firms as well as one third-party trader. The Chief Executive Officers whose names appear on the second line of the chart will each testify tomorrow morning. Harvey Houtkin is the CEO of All-Tech, Henry Fahman is the CEO of Providential, and James Lee is the President of Momentum.

#### Conclusion

In conclusion, the Subcommittee's investigation uncovered many disturbing – and in some cases – illegal practices by the day trading industry.

Chairman Collins, I would be pleased to answer any questions that you and the Subcommittee Members might have.

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**Statement  
of  
ALYCE WENZEL  
Before the U.S. Senate  
Permanent Subcommittee on Investigations  
Hearing On  
*DAY TRADING: EVERYONE GAMBLES BUT THE HOUSE*  
February 24, 2000**

☆☆☆

Thank you Chairman Collins, Senator Levin, and Members of the Subcommittee. My name is Alyce Wenzel and I appreciate the opportunity to share my story with all of you here today. I do so on behalf of my son, Scott Webb. As many of you know, Scott was a day trader at Momentum Securities in Atlanta, Georgia who was senselessly murdered by Mark Barton on July 29, 1999. The loss of my son continues to haunt me today, and it is still very difficult to talk about the incident and to reflect about him. Particularly troubling though is what I have learned about the world of day trading subsequent to his death. In fact, I wish I knew as much back then about this practice as I do now, because I would have done everything within my power to dissuade him from getting involved in day trading in the first place. My hope is that by communicating the story of my son today, others interested in day trading might better understand the many risks and dangers associated with the industry.

To begin, my son was an extremely bright, enthusiastic, and thoughtful person. He was also a very hard worker. Despite this, he experienced a number of setbacks in the months leading up to 1998. Among them, he lost the job that he loved at Enterprise Rent-a-Car, and then again, he was let go from Dean Witter for not meeting required quotas as a broker. I recall being concerned about his confidence and spirit after these layoffs. Shortly thereafter though, he called me to say that he had found a new way to make a living, day trading. I admit that at the time, I knew little about day trading, but based on how optimistically Scott described the practice, it sounded like a positive step for him. My daughter corroborated his optimism about day trading when she indicated that Scott told her, "I think I have finally found my niche." He informed us that he was going to relocate to Atlanta from St. Louis with a friend and start day trading at a company called Momentum Securities. In preparation for this, he traveled to Tyler, Texas to be trained. While there, Momentum put Scott up in a lavish apartment and as my daughter described, "wined and dined" him. With that, he packed up and moved to Atlanta with the expectation of being a successful day trader.

Not long after he arrived, Scott started having problems. His credit record was poor, a point illustrated by the fact that his father had to co-sign his car loan. He also had very little cash resources so once again, he turned to his father who loaned him \$30,000 for his day trading activities. In addition, Scott did not have any other source of income at the time and this concerned me. Despite all of these factors, Momentum allowed my son to open a day trading account. After his death, I learned that Scott also borrowed \$30,000 from a Momentum customer from Tyler, Texas on the day he opened his account. Unbelievably, he did so at an annual interest rate of 18 percent.

With the capital he was able to scrape together, Scott started trading. Based on what he confided to me, my daughter, and his girlfriend, my son lost money from the beginning. And in addition to the obvious pressures that accompany financial strains, I noticed a very real effect on Scott in general. His girlfriend described him as depressed often about his financial situation. When I spoke with him, he was not himself and appeared to be under extreme pressure and stress. Right before his death, I called Scott to inquire if he was going to attend his cousin's wedding in California. He responded that his financial situation was such that he did not know whether he had the money for a plane ticket to the event.

As I sit here today, I still cannot understand why my son was allowed to trade at Momentum. He made decisions that never should have been presented to him as options for a person in his financial situation. And I firmly believe that he was not adequately prepared for the harsh realities of day trading. I also am surprised that he was hired by Momentum to train other customers. Scott had a gift for working with others, but given the fact that he had not been successful as a day trader, it does not make sense to me that Momentum asked him to show people how to trade. After his death, I was shocked to learn that Scott had tried day trading before he moved to Atlanta, and was not successful. All told, he lost approximately \$10,000 of borrowed money. Sadly enough, Momentum officials knew this before he opened his account with them, and yet, they still allowed him to trade.

My son was not an appropriate person to be day trading based on his financial situation and background experience. For these reasons, he should never have been at Momentum in the first place. I hope my words provide comfort to all of those who lost family and friends on that awful July day. I also hope that by hearing Scott's story, people will take a closer look at day trading and realize the incredible risks inherent in the practice. By doing so, they might avoid some of the insurmountable pressures my son experienced.

Thank you again for inviting me here today.

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**Statement  
of  
STEVE BUCHWALTER  
Before The  
U. S. Senate Permanent Subcommittee on Investigations  
Hearing On  
Day Trading: Everyone Gambles But The House  
February 24, 2000**

My name is Steve Buchwalter. I am an attorney whose practice regularly entails representing investors against brokerage firms and brokerage firms against investors. A client of mine, Amy Le, was invited to be here today to tell you a story about her experiences with day trading. Unfortunately, Amy's health prevents her from being here today. I have been invited here to tell you her experiences in her stead.

I recently read a Washington Post article entitled "Daytrading's Showcase Victim" which essentially asked where the day trading victims were. I have read the article and I know and have seen and talked to the victims. Other attorneys in my position also know where the victims are.

Day trading has been around for a while, but it became popular only recently. It takes time for these problems to work their way through the system but we are seeing more and more of them every month. Right now, approximately 10% of our cases contain a daytrading element to them. Make no mistake about it, a problem does exist.

In general, the two biggest problems with day trading seem to be lack of disclosure of the risks and the suitability of the trading strategy to the investor. Quite frankly, most investors do not know, nor are they told the risks that they are facing when they start day trading.

In Amy's case, it was outright fraud. At the time she met her "broker," Huan Van Cao, she was working part time for minimum wage. She was a full-time mother with minimal experience when it comes to investments. This was her first brokerage account. Mr. Cao, a smooth-talking, well-dressed man walked into the store in which Amy worked and after a brief conversation, gave her his business card. The card identified him as the Senior Vice President of a brokerage firm. He told her he was also an attorney. When asked why an attorney would want to be a stock broker, he told her how easy it is to make money day trading and suggested that she open an account.

He invited her to visit the brokerage firm, Providential Securities. At first, Amy was very hesitant. After numerous phone calls from Mr. Cao, Amy agreed to meet Mr. Cao at this office. He had a big office right next to the president's; after all, he was the Executive Vice President of the firm. He proceeded to get on his computer showing how easy it was to make money, with just a click of the mouse.

Amy was very impressed, especially after he showed her some of his other client's accounts. He went so far as to show her an account which she was told had a million dollar profit. She

proceeded to open an account which allowed Mr. Cao to place trades without her prior authorization. Her initial deposit was \$10,000. When she wrote out the check, her hands were trembling. Mr. Cao told her not to worry and how fortunate she was to have someone like him trading for her. She invested the remainder of her life savings, \$26,000 after she received glowing reports from Mr. Cao as to how much she was making. He lied. She was actually losing money.

At the time, Amy was driving around in an old beat up car. Living in Southern California, she wanted to have a car with air conditioning. She was ecstatic when Mr. Cao asked her "Between a Mercedes, BMW, and a Lexus, what kind of car do you like the best?" Amy asked him if her account was doing that well. He said yes. She was further told that she should go out shopping now, since it takes some time to buy a car. In reality, she was losing money at that time.

Amy's monthly statements appeared to show that the account was losing money, which it was. Mr. Cao told her that because of the turnover in her account, the account was not up to date and that she was in fact making money. The fact that she was making money was continuously relayed to her. Those statements were outright lies. The truth was, of her \$36,000 that she deposited, she had lost \$22,000 in just three weeks. However, based on Mr. Cao's assertions, she thought that she was making money.

Still believing that she was making money, Amy made her last deposit: \$12,000 borrowed from her mother. This money was her mother's life savings and was to be used to renovate her parent's burial plots at the cemetery in Vietnam. Cao understood the importance of the funds and specifically wrote Amy a letter stating how careful he was going to be. This was another lie.

Every time Amy talked to Mr. Cao, she was falsely told that she was making money. In her eyes, it was strange that her statements appeared to be showing a loss. She became very puzzled and concerned. At this time, she felt that she needed to confirm Mr. Cao's statements with someone else at Providential. She eventually found a person who would talk to her, and in fact, told her the truth, she was losing heavily. She discussed this with Mr. Cao who said that the other employee was wrong. In fact, he said that he would buy her account for the full \$48,000 invested and faxed her a confirmation of the proposed transaction. But when Amy went to Providential to finalize the deal, Cao told her that he would not go through with it. Amy started crying. Mr. Cao seeing no more money to be made from Amy became mad. He told her if she didn't stop crying, he would not only call security and have her thrown out, but he would ruin her credit.

Amy went home and immediately faxed Providential instructions to liquidate her account, which they did. When all was said and done, she had lost in excess of \$35,000 in two months. She also found out that Cao was not licensed as a stock broker, nor was he an attorney. It had all been a lie. Amy realized that Mr. Cao was a predator and she was his prey.

We filed an arbitration with the NASD seeking damages. Providential disavowed any knowledge of Cao's activities. The NASD awarded Amy all of her money back with interest. The Arbitration Award split up the damages between the various defendants, including Providential. She

received partial payment of a little more than \$13,000 from Providential then Cao filed for bankruptcy. She has not received the remainder of her award.

Amy feels like she did everything right. She invested with a licensed stockbroker. She visited the brokerage firm. The broker guaranteed to make her whole, when he didn't, we filed an arbitration action and was awarded all of her losses, plus interest. She still hasn't seen all of her money.

Amy, like other investors, had no idea what she was getting into. Amy's \$48,000 deposit bought almost a million dollars in securities in just two months. We've seen cases where an account with only \$100,000 in it bought over \$200 million in securities--in one month. We've seen investor's losses so high that the brokerage firm needs to file bankruptcy just so they don't need to make good on the purchases. Your assistance is needed – this problem will not go away without it.

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**Written Testimony of Carmen Margala**  
**before the**  
**United States Senate**  
**Permanent Subcommittee on Investigations**  
**February 24, 2000**

My name is Carmen Margala. I reside in Oceanside, just north of San Diego, California and am a former client of All-Tech Investment Group. Prior to my experiences at All-Tech, I had bought and sold some stocks, mostly on a long term basis, but had never engaged in day-trading of securities.

In approximately August 1998, I saw an All-Tech television commercial which made it appear quite easy to make money and achieve financial independence as a "day-trader" at All-Tech. The commercial featured Barry Parish, the manager of All-Tech's San Diego office, and the ad stated that I could start with "as little as \$10,000."

At the time, I was not employed, had no income and was looking for a new profession so I contacted Mr. Parish by telephone and then met him at the All-Tech office. Mr. Parish explained that people make money by trading and scalping the difference between the bid and the ask price of a stock and then demonstrated this on a computer program. When I asked whether people were making money doing this he told me that they were.

Mr. Parish provided me with forms to open an account at All-Tech and when I returned with the forms, Mr. Parish told me that I needed \$20,000 to open the account. Neither Mr. Parish nor anyone else ever discussed risk, or my tolerance for risk, my background, goals or objectives, past experiences, my financial position or anything else other than how much money could I deposit in the All-Tech account. Since I did not have much money or a significant net worth, I opened the account with \$20,000. I "paper" traded my account for one month and then began live trading so that I could earn an income.

I experienced problems with the trading equipment that All-Tech provided to us. For example, I repeatedly experienced inaccurate quotes. At times, the quotes appeared to have been delayed by as much as 13 minutes. All-Tech set up a special computer line for Mr. Parish which would at least provide him with accurate quotes but even these sometimes were behind the market. The inaccurate quotes resulted in losses in my All-Tech account.

The trading software or system also allowed the purchase of any amount of stock, regardless of what was in my account. Without knowing it, I generated a number of margin calls which Mr. Parish then arranged for other clients to cover. Further, during much of the time I was at All-Tech, the system could not even show me status or

balances of my accounts. To encourage trading, the upgraded computers were given to those persons that executed the highest number of trades.

The atmosphere in the trading room at All-Tech was like a circus. Mr. Parish would sometimes play games directing clients to buy or sell; if there were losses, Mr. Parish would cover the losses, if there were gains, they would end up as a "credit" for the benefit of Mr. Parish.

Mr. Parish allowed one All-Tech client to trade other All-Tech clients' accounts. A fellow All-Tech client told me that Mr. Parish personally provided him with clients's accounts to trade. Neither of these people had a broker's license of any kind.

Mr. Parish would sometimes stand in front of his computer in the All-Tech trading room and shout out to the room or to individual clients "load to buy." Other times Mr. Parish would give instructions to "get ready to sell" stocks which he had picked.

All-Tech applied enormous pressure to trade our accounts. Mr. Parish would sometimes stand next to me or other All-Tech clients who were seated in the room and tell us what to trade and when to trade. In addition to the pressure to constantly trade, Mr. Parish made it very difficult to focus upon what we were doing.

Other forms of trading pressure at All-Tech were indirect. For example, Mr. Parish oftentimes discussed other All-Tech clients and made statements such as "he just comes in to take up space. I need people that trade."

All-Tech also pressured its clients to cover other clients' margin calls. At times, Mr. Parish simply shouted the margin call requests across the trading room. These requests were not limited to clients within All-Tech's San Diego office. The added pressure of trading with margin money loaned by other clients was very stressful for me.

Eventually I realized that what All-Tech had told me about making money day-trading was false and I left All-Tech. Unfortunately, before I left All-Tech I sustained tens of thousands of dollars in losses, due in part to the commissions which All-Tech realized from my account.

**Written Testimony of Sandra Harlacher**

before the

**United States Senate  
Permanent Subcommittee on Investigations**

**February 24, 2000**

My name is Sandra. I reside in San Diego, California and am a former client of All-Tech Investment Group. Prior to trading at All-Tech, I had minimal investment experience and I had never day-traded or short term traded securities.

In early 1997, I saw a couple of different All-Tech advertisements on television. The ads made day trading look easy and simple. The ads stated that All-Tech could level the playing field with the professionals and show me everything I needed to know to make money as a securities day-trader. The ads portrayed day-trading as a new career which could give me the opportunity to earn as much money as I wanted and to become financially independent for life. The impression given was that day-trading was simple and easy and anyone could do it.

After seeing the television ads, I visited All-Tech's office in San Diego, California and then attended a seminar presented by Harvey Houtkin, the CEO of All-Tech, at a hotel in La Jolla, California. During the seminar, Mr. Houtkin extolled the virtues of the All-Tech system, and stressed that All-Tech's training course and All-Tech's methods had created a level playing field which enabled the average individual to trade with professional market makers on equal terms and enabled the average individual to do well day-trading in the stock market. Mr. Houtkin promised that All-Tech would teach you everything you needed to know to be successful in the stock market. Mr. Houtkin and All-Tech implied that if you had the slightest bit of intelligence, you could make money day-trading and this gave me the strong impression that this was low risk or no risk at all.

I paid \$3,000 and took All-Tech's training course. The course was taught in All-Tech's San Diego office on a Saturday and a Sunday. The All-Tech course did not teach me how to be successful in the stock market. Rather, All-Tech taught me how to use the software and trained me to enter orders as frequently as possible to generate commissions for All-Tech. No one at All-Tech ever discussed risk, or my tolerance for risk, my background, goals or objectives, past experiences, my financial position or anything else. At All-Tech, none of this information seemed to matter. Furthermore, although some written documents contained disclosures, All-Tech led me to believe that anyone with ordinary intelligence simply could not fail at this.

I lost a tremendous amount of money trading at All-Tech and left All-Tech after only a few months. I realized that I did not know what I needed to know, and had not been taught by All-Tech what I needed to know to be successful day-trading stocks.

Additionally, the monies I lost were a sizable portion of what I had been able to accumulate over my lifetime and it will be extremely difficult at this point in my life to try to earn those monies back.

After I left All-Tech, I decided to pursue a proper education and took courses on technical analysis and read numerous books about the stock market in general and analyzing and trading in the stock market in particular. I also studied for, took and easily passed the Series 6, 7 and 63.

My education after leaving All-Tech made me realize how little All-Tech had taught me. I was trading at All-Tech but did not know enough to realize that I really did not know what I was doing. All-Tech had basically trained me to enter orders, but had not taught me why. The bottom line at All-Tech was that they wanted you to trade and trade often. All-Tech had set me and others up for failure because it taught virtually nothing about how the market works, the strategies of the market makers, order flow or the price action of stocks. Perhaps even more importantly, All-Tech taught me nothing about money management or risk management. Further, the staff at All-Tech constantly reiterated that anyone could be successful day-trading. The risks attendant to day-trading were either never discussed or extremely downplayed.

During the few months I was at All-Tech, I also found that the environment was more conducive to failure than to success. Mr. Parish was constantly harassing me and others, often making suggestions which stocks to buy and sell, including when to buy and sell. When I was hesitant to trade, he would egg me on, telling me that I would never get experience or learn to trade or make up my losses unless I traded often. After I had been at All-Tech for awhile, I realized that most people were losing and not making money. When I suggested to Mr. Parish that he was going to lose his clients if most of them continued losing money, he told me that he was not concerned because "there was always another body around the corner." I left soon after that comment.

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UNITED STATES SENATE  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
HEARING, FEBRUARY 24, 2000  
STATEMENT OF BARRY PARISH

Thank you for this opportunity to present this very succinct statement prior to my testimony before the committee.

I became interested in "day trading" when I learned from my previous job as a branch manager of a brokerage that major firm trading profits were being lost to "soes" traders. I determined that "soes" trading must be profitable for the traders and therefore the "soes" brokerage.

I answered an ad by All-Tech and paid substantial money to purchase equipment and be trained to head an All-Tech office.

Very early in my management, I encountered a situation in which a trader had made a computer mistake and had generated a margin call. All-Tech headquarters gave me forms, an example of which is attached, to "journal" money from one account to another to satisfy the margin call. The donor in the "journal" complained about a risk in the death of the recipient before the money was "journalled back. All-Tech headquarters solution was to prepare both the donor and the recipient "journal" at the same time. This was done and submitted to headquarters and approved.

This was the first of hundreds of "journals" to satisfy margin calls. My office did the administrative handling of these journals together with headquarters and also helped in finding other customers willing to journal. On two occasions though I should have known better, I "journalled" to assist a customer from my own account. I also overlooked the fact that although Adam Leeds acted as another trader customer, he was an employee of the firm therefore his involvement with "journaling" was improper.

In approximately the late Spring of 1999, headquarters began to require notarized signatures on "journals" and the software was improved so that it was possible to prevent unintended margin calls. I used this opportunity to end "journaling" in the San Diego office. "Journaling" had been a product of the day trading software and was made unnecessary by software improvement. As mentioned in the 12 customer declarations, "journaling" was an unwelcome headache to me.

As is evidenced by the 12 customer declarations, risk disclosure and warning was a constant theme in my communication with customers.

Attached hereto, with the intention of being made a part of the record are 12 declarations from customers

With various degrees of exposure to the day trading milieu in the San Diego office. Although simplistic and obviously designed to support me, these declarations were obtained from a hastily called get-together to which twenty people were invited. No one refused to help if given proper notice. The supplemental declarations are certainly not meant to be rude to the committee or other investigative agencies but to give a flavor of the temperament of many of the traders.

I stand ready to cooperate with the Subcommittee and other agencies to learn the facts and make decisions designed to promulgate clear rules that fit new technology while minimizing adverse effects on customers .

FEB-16-00 WED 12:36 PM ALL-TECH DIRECT  
Nov-25-98 03:37P Alltech

FAX NO. 8584539024

P.02

201 782 9090

P.04

# ALL-TECH INVESTMENT GROUP, INC.

MEMBER NATIONAL ASSOCIATION OF SECURITIES DEALERS • SECURITIES INVESTOR PROTECTION CORP.

DATE: 4/6/99 BRANCH: SAN DIEGO

TO: SOUTHWEST CUSTOMER CASHIERING

PLEASE JOURNAL THE FOLLOWING:

The undersigned will hold Southwest Securities, Inc. free and harmless from any action as a result of this request. It is also understood by the undersigned that funds disbursed as a result of this request are being transferred to another customer account of All-Tech Investment Group, Inc., and that these funds represent a private transaction and may not be readily available to be returned to the undersigned. I also acknowledge receipt of Southwest Securities Inc.'s customer information brochure which was received by the undersigned.

\$ 2,885.00 FROM 19465344 TO 56616693  
Burnette MOORE, K

\$ \_\_\_\_\_ FROM \_\_\_\_\_ TO \_\_\_\_\_

[Signature]  
(Customer Signature)

Russell Burnette  
(Print Name)

(POA Signature)

(Print Name)

[Signature]  
(Branch Manager)

BARRY PARISH  
(Print Name)

Corresponding Office Approval

Fax back to (201) 782-0007

*This form was filled out in S.D. and faxed to N.S.T. It was then approved and faxed back to S.D.*

ALL-TECH'S FAX #

THIS IS SU'S WRITING

BY SIGNATURE

BARRY'S SIGN.

USE SIGNATURE THIS IS HARRY LEFKOWITZ SIGN.

## DECLARATION

OF

RUSSELL BURNETTE

I, RUSSELL BURNETTE, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between FEB, 1999 and DEC 1999. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 100 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 60 times per month. I have seen Mr. Parish being defied or consciously ignored by my fellow day-traders specifically IN REGARDS TO HOLDING LOSING POSITIONS

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT



DATE: 2-15-2000 SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF RUSSELL BURWITZ

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

  
\_\_\_\_\_

DATE: 2-15-2000 SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

I, Susan A. Hinckley have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between 10/98 and 8/99. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 50-60 times per month of practices that ~~were causing~~ <sup>may</sup> losses and the group and individuals were exhorted by Mr. Parish to

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 50-60 times per month. I have seen Mr. Parish being defied or consciously ignored by my fellow day-traders specifically "Carmen" & others

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

Susan A. Hinchley

DATE: 2/15/00 SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF Susan A. Hinchley

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

Susan A. Hinchley

DATE: 2/15/06 SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

JOHN B HAMMOND

I, John B Hammond, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between June, 1999 and December 2000. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed ~~and at a much greater volume~~ than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself ~~and my fellow day traders~~, All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally ~~approximately~~ several times per month of practices that ~~were causing~~ <sup>might cause</sup> losses and the group and individuals were exhorted by Mr. Parish to

<sup>avoid</sup>  
~~stop~~ those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. ~~I have observed these~~ types of warnings approximately \_\_\_\_\_ times per month. I have seen Mr. Parish being deflected or consciously ignored by my fellow day-traders specifically \_\_\_\_\_

~~During my day trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling", an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.~~

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, ~~that the proof was results~~, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

  
\_\_\_\_\_

DATE: Feb. 15, 2000 at SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF \_\_\_\_\_

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

\_\_\_\_\_  
DATE: \_\_\_\_\_ SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

Ronald J. Grellet

I, Ronald Grellet, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between approximately 1 1/2 yrs. and \_\_\_\_\_.

During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

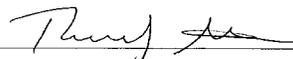
In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 2 or 3 times during the limited time times per month of I trade practices that were causing losses and the group and individuals were exhorted by Mr. Parish to at the office

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 2 to 3 times <sup>During the limited time I was trading at the office</sup> times ~~per-month~~. I have seen Mr. Parish being defied or consciously ignored by my fellow day-traders specifically Twice

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

  
 DATE: 2/15/2000 SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF \_\_\_\_\_

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

\_\_\_\_\_

DATE: \_\_\_\_\_ SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

PAUL J. KOCH

I, PAUL J. KOCH, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between NOV. 10, 1999 and DEC. 16, 1999. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 300 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 300 times per month. I have seen Mr.Parish being defied or consciously ignored by my fellow day-traders specifically by  
myself a time or two

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

Paul G. Jordan

DATE: 2-15-00 SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF PAUL J. KOCH

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

Paul J. Koch -

DATE: 2-15-00 SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

I, Dak James, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between 6/1999 and 12/2000. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders, All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 15/20 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to

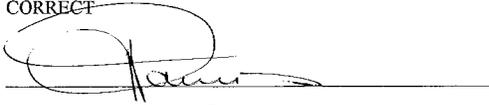
stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 15/20 times per month. I have seen Mr. Parish being

defied or consciously ignored by my fellow day-traders specifically not getting out of losing positions when told to or being told not to hold a losing position overnight

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT



DATE: 2-15-99 SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF Dak James

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

 \_\_\_\_\_

DATE: 2-15-99 SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

KEM RAMARIN

I, Kem Ramarin, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between Oct 97 and Dec 99. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 20 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 4-5 times per month. I have seen Mr. Parish being defied or consciously ignored by my fellow day-traders specifically don't  
remember names exactly...

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

K. Romani

DATE: 2/15/00 SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF KEM RAMARIN

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

K-Ramarin

DATE: 2/15/00 SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

I, WERNER HRADECKY, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between MAY 1999 and DEC 31 1999. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 15-20 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 10-15 times per month. I have seen Mr. Parish being defied or consciously ignored by my fellow day-traders specifically MOHAMMED, JB HAMMOND, ALEX MYSELF + MANY OTHERS.

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

Werner Heubach

DATE: 2-14-00 SAN DIEGO, CALIFORNIA

~~EMAIL:~~

EMAIL: WERNER@HOMEPLUS.NET

SUPPLEMENTAL DECLARATION OF \_\_\_\_\_

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

\_\_\_\_\_  
DATE: \_\_\_\_\_ SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

David Hughes

I, David Hughes, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between June 1999 and June 1999. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 20 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 20 times per month. I have seen Mr. Parish being defied or consciously ignored by my fellow day-traders specifically ?

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling", an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT



DATE: 2-15-00 SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF David Hughes

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

David Hughes

DATE: 2-15-00 SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

WILLIAM STALLONE

I, WILLIAM STALLONE, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between APRIL 99 and DEC 99. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 10 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 15 times per month. I have seen Mr. Parish being defied or consciously ignored by my fellow day-traders specifically \_\_\_\_\_

EVERYDAY \_\_\_\_\_

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

William Helton \_\_\_\_\_

DATE: 2-15-00 \_\_\_\_\_ SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF WILLIAM STALLONE

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

William Stallone

DATE: 2-15-00 SAN DIEGO, CALIFORNIA.

## DECLARATION

OF

I, MONTY A. ZAKI, have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between 5/1/97 and 9/1/99. During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

## WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

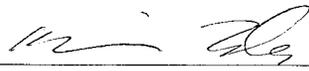
In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 40 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to

stop those practices. In addition, I observed Mr. Parish to orally warn the group and individuals that certain practices that he was observing in the group would likely cause the loss of the day-traders entire investment and that Mr. Parish had seen day-traders lose their entire investment by such practices and he did not want to see any more of that in his customers. I have observed these types of warnings approximately 40 times per month. I have seen Mr. Parish being defied or consciously ignored by my fellow day-traders specifically TRADERS WHO WERE CLOSE TO MY SEATING

During my day-trading tenure on occasions, I caused a margin call by trading outside my margin credit and satisfied the call by "journaling" , an overnight transfer from a fellow trader. These margin calls were generally caused by mistakes in entering a trade into the computer. These margin calls were clearly unwelcome problems to Barry Parish who would facilitate the "journaling" accounting and request more care to avoid margin calls.

During my trading Mr. Parish made plain to myself and fellow day-traders that only a small minority of people would be successful day-traders, that the proof was results, that his objective, first, was to have the day-traders be successful because they would be long term customers and that a losing day-trader should take a rest or a vacation or quit trading altogether .

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

  
\_\_\_\_\_

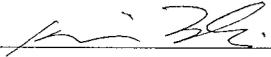
DATE: 2/15/00 \_\_\_\_\_ SAN DIEGO, CALIFORNIA

SUPPLEMENTAL DECLARATION OF MONTY ZAKI

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT



DATE: 2/15/00 SAN DIEGO, CALIFORNIA.

DECLARATION

OF  
Rich Morgan

I, Rich Morgan,

have been an active trader in the San Diego Office of All-Tech managed by Barry Parish for the period between 9/98 and 3/31/99

During this time, I have been more than satisfied by the Mr. Parish's integrity, professionalism, honesty, and service given to myself and the other traders that I was able to observe. For this reason I am making this declaration in support of Mr. Parish.

WARNINGS OF RISKS OF DAY TRADING

Before any detailed instructions regarding the operation of All-Tech's Day Trading Software were discussed, I clearly understood that I would be seeking a process whereby final purchases and sales could be made by me for my account at a much greater speed and at a much greater volume than I had previously experienced. I understood that if I sold securities at a higher price than the purchase price that I would have a profit (excluding commissions) and that if I failed to do that I would have a loss. I also understood that the decision making was in my hands and that the measure of my success or failure was the increase or decrease in the value of my account.

In addition to the obviousness of the risk to myself and my fellow day-traders. All-Tech provided written warnings of risk but in addition to that Mr. Parish orally warned the group of traders that I was able to observe orally approximately 10 times per month of practices that were causing losses and the group and individuals were exhorted by Mr. Parish to



SUPPLEMENTAL DECLARATION OF Rich Morgan

Besides my support for Barry Parish I am further motivated to make this declaration by my outrage at the implication in these proceedings that the Securities and Exchange Commission and the United States Senate is going to come to my aid and protect me from myself by limiting my ability to choose a trading vehicle or more fully warn me of the risk.

I would consider further warnings laughable and other restraints on my right to choose trading technology an arrogant usurpation of my rights.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

Rich Morgan

DATE: 2/15/2009 SAN DIEGO, CALIFORNIA.

Testimony of Lori A. Richards

Director

Office of Compliance Inspections and Examinations

United States Securities and Exchange Commission

Concerning Day Trading

Permanent Subcommittee on Investigations

Committee on Governmental Affairs

United States Senate

Washington, D.C. – February 25, 2000

Chairman Collins, Ranking Member Levin, and members of the Subcommittee:

I appreciate the opportunity to appear before the subcommittee today on behalf of the Securities and Exchange Commission (“Commission”) to discuss day trading and our current initiatives to address concerns in this area. As you know, the Commission has been actively monitoring the day-trading industry, and the Commission’s examination staff recently completed an examination sweep of broker-dealers providing day-trading opportunities to the public. The Commission’s staff has released a report today entitled *Report of Examinations of Day-Trading Broker-Dealers*, which describes our findings in some detail. It is included with my testimony. I am pleased to have this opportunity to provide you with our findings from these examinations, and also to update you on recent regulatory initiatives and enforcement cases.

**I. Examination Sweep: Findings**

In the last year, the Commission's examiners in its headquarters and regional and district offices conducted targeted examinations of 47 day-trading firms. The purpose of the examinations was to review firms' compliance with federal securities laws and self-regulatory organization ("SRO") rules, to evaluate how day-trading activities fit within the current securities regulatory structure and to identify regulatory issues that may require further consideration.

While these examinations did not reveal widespread fraud, they did reveal a number of serious violations warranting referral to the Commission's Division of Enforcement. The examinations also revealed deficiencies in the areas of short selling, net capital, books and records, advertising, and supervision, and that many firms need to take steps to improve compliance with these rules. Firms at which examiners found violations or deficiencies were cited in deficiency letters and corrective action was required. The Commission has also recently initiated enforcement action against two firms for violations related to day-trading lending.

In addition, while not explicitly required by Commission or SRO rule at the time of the examinations, the examinations also revealed that many day-trading firms were not providing potential customers with information concerning the nature and risks of day trading. Recently, many day-trading firms have enhanced their risk disclosure to potential customers.

Specific Staff findings from the examinations are outlined below and are described in detail in the Staff's *Report of Examinations of Day-Trading Broker-Dealers*.

- A September 1999 review indicated that many day-trading firms provided little or no information to prospective customers concerning the risks of day trading. A follow-up review in February 2000 indicates that day-trading firms generally have enhanced their risk disclosure.
- Several firms' advertisements contained exaggerated or unwarranted claims. While these claims may not amount to violations of the antifraud provisions of the federal securities laws, they appear to violate SRO rules. For example, some firms advertised services they did not actually offer.
- Several day-trading firms prepared inaccurate net capital computations due to the misapplication of the net capital rule, and a small number of firms experienced net capital deficiencies.
- Several firms extended credit in excess of that allowed by margin rules, and at least two firms indirectly extended credit to customers in apparent violation of margin rules. The Commission recently initiated enforcement actions alleging the unlawful extension of credit to customers (In the Matter of All-Tech Investment Group, Inc. et al. and In the Matter of Investment Street Company, et al.).
- Day-trading firms generally complied with disclosure requirements when they extended credit. Several day-trading firms, however, failed to adequately disclose

the essential terms of credit when the firm indirectly extended credit to meet a customer's margin obligation.

- Numerous firms permitted short sales on a minus or zero tick in violation of short sale rules. A significant number of firms also violated securities rules by failing to mark or improperly marking order tickets and failing to make an affirmative determination that they could locate and borrow stock being sold short.
- Many day-trading firms maintained inadequate written supervisory procedures relating to: the review of exception reports; the process for opening new day trading accounts; and compliance with short sale and margin rules. Some firms also were not adequately supervising branch offices.
- Many day-trading firms relied heavily on automated systems to perform certain supervisory functions, such as to ensure compliance with margin and short sale rules. Examinations disclosed, however, that some of these automated systems were easily bypassed or disabled by traders.
- The Staff found instances where unregistered entities and persons were apparently engaging in activity that may require registration as a broker-dealer or investment adviser under the federal securities laws or SRO rules.

**II. Conclusion**

Many day-trading firms need to take steps to improve compliance with rules. While the deficiencies found during the examinations are not unique to day-trading firms, the nature of day trading itself --- frequent, fast and risky trading --- makes compliance with securities laws difficult to achieve without an automated compliance infrastructure. As noted, recent reviews of day-trading firms' advertising and disclosure indicate improved practices - many firms are using more balanced advertising and providing potential customers with better information concerning the risks of day-trading. The Commission has also taken steps to educate investors about the risks of day trading. Also, the SROs have proposed rules to address regulatory concerns including rules tightening margin, requiring disclosure of the risks of day trading, and requiring day-trading firms to make determinations concerning the "appropriateness" of day trading for customers before opening accounts. The Commission's staff is committed to working in cooperation with the SROs to address the concerns described in the *Report of Examinations of Day-Trading Broker-Dealers* and to continue efforts to ensure that all firms comply with the securities laws and with any additional new rules that may govern their operations.



**Testimony**

**of**

**Barry R. Goldsmith  
Executive Vice President  
for Enforcement  
NASD Regulation, Inc.**

**before the**

**Permanent Subcommittee on Investigations  
Senate Committee on Governmental Affairs**

**on the**

**Securities Day-Trading Industry**

**February 25, 2000**

I am Barry R. Goldsmith, Executive Vice President for Enforcement of NASD Regulation, Inc. (NASDR). NASDR and its parent, the National Association of Securities Dealers, Inc. (NASD®), would like to thank the Subcommittee for this opportunity to testify at today's hearing. Madam Chairman, my testimony will address the specific issues relating to day trading that you identified in your invitation letter. Those issues deal with our enforcement actions and investigations relating to day trading, as well as NASD's recent rule proposals in this area. You also have asked us to address the issue of what additional enforcement tools, if any, are needed to deal with abuses in this area.

Let me first compliment Senator Collins and her colleagues on the Subcommittee, as well as its staff, for holding these hearings. Without question, they have provided the industry, the regulators, and the public with important new information in this area. Let me also reiterate what NASDR President Mary L. Schapiro said about day trading when she testified before this Subcommittee on September 16, 1999. NASDR recognizes that day trading is a legitimate trading strategy, and if it is conducted by individuals who understand and knowingly assume its risks, we do not intend to encourage or discourage such activities. However, that being said, NASDR continues to view day-trading as a highly risky form of trading that requires new regulatory initiatives and close attention by securities regulators.

As my testimony here today demonstrates, we are continuing to address those risks through dissemination of information to our members and investors, new rules, examinations, investigations and, where appropriate, the filing of formal enforcement actions. The eight day-trading enforcement

cases that we have brought this week, are further examples of our strong commitment to compliance by member firms and their personnel with the securities laws and NASD Rules.

### **The NASD**

First, let me briefly outline the role of the NASD in the regulation and operation of our securities markets. Established under authority granted by the 1938 Maloney Act Amendments to the Securities Exchange Act of 1934, the NASD is the largest self-regulatory organization for the securities industry in the world. Virtually every broker-dealer in the U.S. that conducts a securities business with the public is required by law to be a member of the NASD. The NASD's membership comprises 5,500 securities firms that operate in excess of 80,000 branch offices and employ more than 620,000 registered securities professionals.

The NASD is the parent company of NASD Regulation, Inc. (NASDR), The Nasdaq Stock Market, Inc. (Nasdaq) and the American Stock Exchange (AMEX). NASDR and Nasdaq operate under delegated authority from the parent, which retains overall responsibility for ensuring that the organization's statutory and self-regulatory functions and obligations are fulfilled. The NASD is governed by a 27-member Board of Governors, a majority of whom are non-securities industry affiliated. The NASDR subsidiary is governed by a 10 member Board of Directors, balanced between securities industry and non-industry members. Board members are drawn from leaders of industry, academia, and the public. Among many other responsibilities, the boards, through a series of standing

and select committees, monitor trends in the industry and promulgate rules, guidelines, and policies to protect investors and ensure market integrity.

***NASD Regulation***

NASDR is responsible for the registration, education, testing, and examination of member firms and their employees and the enforcement of federal securities laws and NASD rules. In addition, we oversee and regulate trading on Nasdaq and the over-the-counter markets.

The 1,650 member staff of NASDR is devoted exclusively to carrying out the NASD's regulatory and enforcement responsibilities. NASDR carries out its mandate from its Washington headquarters and 14 district offices located in major cities throughout the country. NASDR closely cooperates with federal and state authorities and other self-regulators, minimizing overlap and duplication and freeing governmental resources to focus on other areas of securities regulation.

NASDR Enforcement brings cases against members and their associated persons based on information developed internally and received from external sources. NASDR develops information internally through periodic examination of member firms, review of firms' reports of broker terminations for cause, market surveillance systems, and referrals from our arbitration, corporate finance and advertising programs. Enforcement receives and processes information from external sources that include federal and state agencies, customers who file complaints, news media, and anonymous tips. NASDR investigators gather information through on-site examinations, document requests, trading analyses, and customer and member interviews. If cases are not settled, they go to formal hearings for disposition, and may be appealed to the NASD's National Adjudicatory

Council, the Securities and Exchange Commission (SEC), and the U.S. Courts of Appeals. In 1999 alone, NASDR initiated more than 1,100 disciplinary cases and suspended or barred more than 740 individuals from the industry.

While our regulatory jurisdiction is limited to our broker-dealer member firms and their associated persons, our examinations, surveillance, and regulatory intelligence alert us to illegal conduct outside of our jurisdiction. We routinely refer such findings to the SEC, the states and criminal prosecutors for their action. We formed a Criminal Prosecution Assistance Group in April 1998 to help coordinate the substantial resources we devote to assisting prosecutors in bringing securities cases. Since the beginning of this program, we have provided assistance in more than 150 criminal investigations and prosecutions around the country.

NASDR is responsible for developing rules that govern the conduct of the brokerage industry in areas as diverse as sales practices, advertising, trading and underwriting. Rulemaking is a widely participatory process with broad input from industry members, trade associations, other regulators, and the public. Pursuant to the requirements of the Securities Exchange Act of 1934, NASDR rules do not become final until they are approved by the SEC.

NASDR has examination responsibilities for all of its 5,500 members. In addition to special cause investigations that address customer complaints and terminations of brokers for regulatory reasons or other cause, NASDR has established a comprehensive periodic cycle examination program. This program is carried out through a regulatory plan that prioritizes examination

efforts based on the firms, individuals, issues and practices that present the greatest regulatory challenges and concerns.

During 1999, 2,750 periodic examinations of main offices were completed and 6,671 customer complaints and 2,803 terminations for cause were investigated.

NASDR shares responsibility for developing and administering qualifications testing for securities professionals. All sales and supervisory persons associated with NASD member firms must demonstrate a requisite understanding of the products offered by their firms, as well as regulatory requirements. Individuals acting in a management capacity must pass the appropriate principal's examination, while sales personnel must demonstrate specific understanding of the products they intend to sell and the regulations that govern those products. In 1999, NASDR administered more than 300,000 examinations for 29 different qualification areas. In addition, NASDR administers proctored continuing education sessions for registered persons who deal with public investors.

#### ***The Nasdaq Stock Market***

Nasdaq develops, operates, and regulates a variety of marketplace systems and services. Nasdaq is the largest electronic, screen-based stock market in the world, capable of handling trading volume well in excess of one billion shares a day. Today, more than one-half of all equity shares traded in the United States each day are traded on Nasdaq.

#### ***The American Stock Exchange***

The AMEX is the nation's second largest floor-based securities exchange and is the only U.S. securities exchange that is both a primary

market for listed equity securities as well as a market for equity options, index options, and equity derivatives.

### **Day-Trading Examinations And Enforcement Actions**

#### ***Focused Examinations***

On September 16, 1999, NASDR President, Mary L. Schapiro, testified before this Subcommittee and described our cooperative day-trading examination initiative with the SEC. In 1999, the staffs of NASDR and the SEC launched a coordinated focused examination program of day-trading firms. As part of that effort, NASDR examined 22 day-trading firms that varied significantly in size and makeup. Fifty-five NASDR examiners received special training in the intricacies of day-trading. We developed and used customized examination modules to implement this special program.

During her testimony, Ms. Schapiro reported on several potential problem areas that surfaced during these examinations, including:

- Advertising – Many of the day-trading firms examined used potentially problematic advertisements that may violate NASD Rule 2210, which governs “Communications with the Public.” The problem areas noted included exaggerated statements of the profitability of day-trading without corresponding risk disclosure or qualifying language. Some day-trading firms appear to have failed to provide investors with a sound basis for evaluating the services being offered and may have made misleading statements.<sup>1</sup>

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<sup>1</sup> In May 1999, NASD Regulation filed a complaint against Lakeside Trading, a Metairie, Louisiana day-trading firm, and its president and principal for violation of our advertising rules. The complaint alleged, in addition to margin violations and improper use of customer funds, that the firm’s Internet Web Site failed to provide a balanced and complete presentation by omitting disclosure concerning the risks associated with day trading. *Department of Enforcement v. Lakeside Trading, et al.* (No. C05990018, May 26, 1999).

- Regulation T and Margin Lending – Our examiners found that at some day-trading firms, principals and employees arrange for credit to be extended by customers who have excess equity in their accounts to those customers who require funds to cover margin calls. Absent these infusions of capital, many of the recipients of the loans would be unable to continue to trade. We are investigating the role of the member firm in arranging these loans and what, if any, representations are made to the lending customers concerning the risks associated with making the loans. In addition, we are investigating the nature and amount of the fees and interest rates being charged to the borrowing customers.
- Registration Issues – NASD rules prohibit a firm’s proprietary equity traders from trading in the Nasdaq and over-the-counter markets without first passing a qualification examination for trading (the Series 55 examination) and registering with NASDR. NASDR examiners found instances where persons engaging in day trading for a firm’s proprietary account were not Series 55 registered.<sup>2</sup>
- Short Sales – We have found problematic short selling practices at some day-trading firms that appear to violate our rules and the federal securities laws. Specifically, our rules require that firms mark all sales as either “long” or “short” and that the firm determine if they can obtain shares of the security sold short to deliver to the buyer. We have seen practices at some day-trading firms that facilitate short sales by customers when the short sales are not marked as such and when no affirmative determination has been made that shares can be delivered to the buyer. We have also

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<sup>2</sup> On July 7, 1999, NASDR announced that it censured and fined On-Site Trading, Inc., a Great Neck, New York day-trading firm, \$25,000 for failure to properly qualify and register 14 individuals. These individuals effected approximately 3,700 trades in 250 Nasdaq securities on behalf of the firm’s proprietary accounts. Without admitting or denying the allegations, On-Site consented to findings that it lacked adequate oversight to ensure proper registration of its traders, and agreed to implement new compliance procedures to prevent future violations. *Letter of Acceptance, Waiver and Consent, On-Site Trading, Inc., CAF990009* (July 2, 1999).

seen potential violations of our rules prohibiting customer short sales on what is commonly known as a “downtick.”

- Supervision – It is important for all broker/dealers, including day-trading firms, to have adequate supervisory procedures and good compliance with those procedures. Our examiners have found that at some day-trading firms, written supervisory procedures have not adequately addressed many aspects of their core day-trading business. In other instances, firms have failed to enforce the written supervisory procedures they do have. Areas that have received potentially deficient supervision include margin lending procedures, review of advertising, marketing and training materials, short-selling compliance, and cancellation of transactions and use of firm error accounts.

#### ***Enforcement Actions***

This week NASDR brought eight new enforcement actions against six different day-trading firms and a total of fourteen individuals.<sup>3</sup> These formal disciplinary actions are the direct result of our focused examination efforts begun last year. These actions were investigated and filed by our New Orleans, Dallas and Chicago District Offices. While other day-trading investigations continue, the actions we announce here today represent an important step in NASDR’s efforts to address problems in this area and improve member firm compliance with the federal securities laws and NASD rules.<sup>4</sup>

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<sup>3</sup> See NASD Regulation Press Release (February 25, 2000).

<sup>4</sup> Five of the disciplinary actions announced today were resolved through an NASDR process called Acceptance, Waiver, and Consent (AWC). In settling a formal action through an AWC, the firm consents to findings and sanctions without admitting or denying the allegations. The three other cases are formal complaints. The issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASDR in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint.

These eight cases include allegations and, in some cases, findings of violations that reflect many of the concerns we originally reported to this Subcommittee last September:

- Misuse of customer funds and securities,
- Exaggerated and misleading advertising,
- Improperly registered persons,
- Violations of NASD short sale rules,
- Improper lending and margin practices,
- Improper use of the Small Order Execution System (SOES), and
- Supervisory inadequacies.

Two of these cases involve allegations of misuse of funds, including one in which the owner of a day-trading franchise solicited funds from outside investors, falsely representing that these moneys would be used for “risk-free” loans to day-trading customers of the firm. Instead, the funds were loaned to customers with no controls or restrictions, were improperly used for firm operating expenses, and were eventually lost.

Two other cases involve violations of the rules governing margin lending, including one in which a firm’s principal allowed a customer to effect 120 transactions while the customer’s account was coded “no more business” by the clearing firm for failing to meet a margin call. In another case, a firm employee established a separate entity, which then loaned funds to firm customers to meet Regulation T margin calls.

Four of the day-trading actions announced today include allegations or findings of violations of the NASD’s advertising rules, including instances in which firms placed exaggerated and potentially misleading advertising on the Internet, as well as in local print and radio media. These firms typically

exaggerated the ability of customers to immediately access markets, without disclosing the risks inherent in day-trading strategies, including market volatility.

Violations of the NASD's short sale rules were found in three cases, including the failure to make affirmative determinations that securities could be delivered prior to the execution of each customer short sale transaction. In one case, a firm impermissibly allowed its day-trading customers to review daily postings of securities' availability to be borrowed and make their own affirmative determinations of whether the securities could be borrowed prior to executing short sale transactions.

NASDR, in its formal complaints alleged, and in certain settled cases, made findings that firms failed to ensure that individuals actively engaged in their day-trading operations were properly registered, including one case in which the individual running the firm's day-trading business was not registered as a principal. In other cases, employees of the firm were acting as equity traders without having completed the NASD's Series 55 registration requirements. In one case, the firm allowed individuals to input trades for customers for periods of several weeks, without registering them in any capacity with the firm.

Finally, certain of the actions taken today involve serious supervisory deficiencies, including one case in which a firm engaged in day-trading activities without having any written procedures in place to address that area of the firm's business.

The sanctions in the group of settled actions announced this week include censures, suspensions and individual fines, and fines against firms ranging from \$13,000 to \$37,500.

I would like to discuss two of these cases in more detail. These involve customer lending and violations of our margin rules.

***Heath A. Butler***<sup>5</sup>

This complaint deals directly with firm-facilitated customer borrowing. In this case, we allege that a management company, Better Capital Management, L.L.C., Abstract Consulting, operated the branch office of a day-trading firm under a contract pursuant to which the management company was paid a percentage of commission revenue generated in the branch office.

It is alleged that the individuals operating the branch issued and sold investment contracts, styled "Loan Agreements" ("Investment Contracts") in an amount exceeding \$150,000 through an entity known as Abstract Consulting, which was controlled by Heath Butler. Under the express terms of the Investment Contracts, funds put up by the investors would be loaned to customers of the day-trading firm, who would in turn use the funds for day trading. The Investment Contracts further provided that controls would be in place to limit losses in the day-traders' accounts to the amounts that the day traders themselves had contributed, so that the funds put up by the investors would not be at risk. In addition, the Investment Contracts stated that the return to the investors would be the greater of 15 percent per year or 20 percent of the profits earned by the day traders to whom the funds were lent.

Notwithstanding the terms of the Investment Contracts, we allege that the corresponding contracts with the day traders expressly provided that the

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<sup>5</sup> *Department of Enforcement v. Heath A. Butler, et al.* (No. C05000006, February 22, 2000).

funds lent were at risk and that any loss exceeding the day traders' contribution would be borne by the lender, Abstract Consulting. Moreover, no controls to restrict losses in the day traders' accounts were ever implemented. Also, the complaint alleges that a portion of the funds advanced by the investors was used for payment of branch operating expenses and for trading in accounts controlled by Heath Butler.

Ultimately, the funds advanced by the investors were lost in securities trading by the day traders or were consumed in the payment of branch office expenses. The complaint alleges that to date, less than 10 percent of the investors' money has been repaid to them.<sup>6</sup>

***Choice Investments, Inc.***<sup>7</sup>

Choice Investments, Inc., a day-trading firm located in Austin, Texas, consented to findings that it allowed a public customer to effect approximately 120 transactions while the customer's account was coded "no more business" by the clearing firm for failing to meet an NASD Rule 2520 margin call. The firm caused the customer transactions to be placed in an account in the name of an entity in which a principal of the firm was a control person, without indicating on account documents that the public customer was the beneficial owner of the account. The firm subsequently

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<sup>6</sup> The violations alleged in the complaint include: the use of manipulative, deceptive or other fraudulent devices, in violation of NASD Conduct Rule 2120; violations of NASD Conduct Rule 3040, dealing with private securities transactions; inadequate supervision, in violation of NASD Conduct Rule 3010; and failure to observe high standards of commercial honor and just and equitable principles of trade, in violation of NASD Conduct Rule 2110.

<sup>7</sup> *Letter of Acceptance, Waiver and Consent, Choice Investments, Inc.* (No. C05000008, February 22, 2000).

moved these transactions into the customer's account after the margin call had been met.<sup>8</sup>

In addition, Choice Investments failed, in nine instances, prior to the execution of customer short sales, to make an affirmative determination that stock could be delivered and failed to establish and maintain supervisory procedures reasonably designed to achieve compliance with the NASD's short sale/affirmative determination rule. Instead, the firm allowed its day-trading customers to review daily postings of securities available to be borrowed and to make their own affirmative determinations that securities could be delivered prior to execution of each short sale transaction.<sup>9</sup>

#### **Enhanced Review Of Day-Trading Firms' Web Sites**

During its day-trading hearings last September, this Subcommittee highlighted the issues surrounding the content of day-trading Web sites. NASDR has instituted new, heightened procedures in our review of day-trading firms' Web sites. Last fall, senior staff from our Advertising Regulation, Enforcement, and Member Regulation Departments developed a process to identify and review all member firm day-trading Web sites on a regular basis. The protocol that emerged called for the regular review and capture of each day-trading member firm's Web site. NASDR staff have

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<sup>8</sup> These actions violated Rules 17a-3 and 17a-4 of the Securities Exchange Act of 1934 (Keeping and Preservation of Records), and NASD Rule Conduct 2110, failure to observe high standards of commercial honor and just and equitable principles of trade.

<sup>9</sup> These actions violated NASD Conduct Rules 3370(b)(2)(A) and 3370(b)(4)(B), dealing with affirmative determinations in short sales and NASD Conduct Rule 3010(a), dealing with member firm supervision.

looked at over 120 Web sites, reviewing each of those sites at least four times since the program's inception through the end of 1999.

To date, more than 30 sites have needed revisions to achieve full compliance with our rules. The subject firms have been notified of the deficiencies identified in their sites. In the more serious situations, NASDR staff has contacted the firms immediately with a recommendation that materials or representations on the sites be removed. In each case where this was done, the problematic portion of the site has been taken down by the firm. This review process is ongoing, focusing both on new firms and those firms whose Web sites have posed problems in the past.

One such site involved a day-trading firm's Web site that contained some very bold and misleading statements about the profitability customers could expect from day trading. This was all done in the absence of any meaningful disclosure of day-trading risks. Under the headline "You Do the Math" on one of the site's pages, the firm suggested that a typical day-trading customer could easily make almost a quarter million dollars per year. Their only support for this contention was a simplistic formula: one point on a thousand shares per day; 240 trading days per year; equals \$240,000 per year. After NASDR staff contacted the firm and expressed our concern, the firm took down that portion of its site immediately.

### **Rule Initiatives**

To address the risks presented by day-trading firms both to individuals and to firms, NASDR has engaged in several rulemaking initiatives. We have already taken action in three main areas – risk disclosure, appropriateness determinations, and margin requirements. In

particular, we have proposed new rules to further ensure that firms that promote day trading to individuals fully disclose the risks involved in day-trading as well as assess whether such a strategy is appropriate for the individual. We also are working closely with the New York Stock Exchange (NYSE) to amend margin requirements applicable to day traders to further promote the safety and soundness of member firms that extend credit to finance day-trading activities.

***Risk Disclosure and Appropriateness Determinations***

Last fall, NASDR proposed two new rules in the day-trading area. If approved by the SEC, these rules will require new account opening procedures for day-trading accounts, including risk disclosure and appropriateness determinations. After putting these proposed rules out for comment and reviewing the comments received, we filed with the Commission, on February 18, 2000, amendments to the proposed rules, which the Commission will publish for further comment.

As amended, the proposed rules will require a member firm that is promoting a day-trading strategy to furnish a risk disclosure statement to a non-institutional customer prior to opening an account for the customer and either to (1) approve the customer's account for a day-trading strategy or (2) obtain from the customer a written agreement that the customer does not intend to use the account for day-trading purposes. To approve the customer's account for a day-trading strategy, the firm will be required to make a threshold determination that day-trading is "appropriate" for the customer.

In making this determination, the firm will be required to exercise reasonable diligence to ascertain the essential facts relative to the customer,

including such items as his or her investment objectives, investment and trading experience and knowledge, financial situation, tax status, and employment status. The firm also will be required to document the basis on which the firm has approved the customer's account for day trading. A firm need not make this determination if it obtains from the customer a written representation that he or she does not intend to use the account for day trading purposes. If a firm later discovers that a customer who provided this written representation is using the account for day-trading, the firm will be required to approve the account for day-trading within ten days of the date of discovery.<sup>10</sup>

These new rules will also require a firm that is promoting a day-trading strategy to deliver a risk disclosure statement to a customer prior to opening an account for the customer. The disclosure statement would provide the following:

- **Day trading can be extremely risky.** Day-trading generally is not appropriate for someone of limited resources and limited investment or trading experience and low risk tolerance. You should be prepared to lose all of the funds that you use for day trading. In particular, you should not fund day-trading activities with retirement savings, student loans, second mortgages, emergency funds, funds set aside for purposes such as education or home ownership, or funds required to meet your living expenses.
- **Be cautious of claims of large profits from day trading.** You should be wary of advertisements or other statements that emphasize the potential for large profits in day trading. Day trading can also lead to large and immediate financial losses.

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<sup>10</sup> If the firm determines that a day-trading strategy is not appropriate for the person, the firm should prohibit the customer from using the account for day-trading purposes or close the account and return all funds to the customer.

- **Day trading requires knowledge of securities markets.** Day trading requires in-depth knowledge of the securities markets and trading techniques and strategies. In attempting to profit through day-trading, you must compete with professional, licensed traders employed by securities firms. You should have appropriate experience before engaging in day trading.
- **Day trading requires knowledge of a firm's operations.** Under certain market conditions, you may find it difficult or impossible to liquidate a position quickly at a reasonable price. This can occur, for example, when the market for a stock suddenly drops, or if trading is halted due to recent news events or unusual trading activity. The more volatile a stock is, the greater the likelihood that problems may be encountered in executing a transaction. In addition to normal market risks, you may experience losses due to system failures.
- **Day trading may result in your paying large commissions.** Day-trading may require you to trade your account aggressively, and you may pay commissions on each trade. The total daily commissions that you pay on your trades may add to your losses or significantly reduce your earnings.
- **Day trading on margin or short selling may result in losses beyond your initial investment.** When you day trade with funds borrowed from a firm or someone else, you can lose more than the funds you originally placed at risk. A decline in the value of the securities that are purchased may require you to provide additional funds to the firm to avoid the forced sale of those securities or other securities in your account. Short selling as part of your day-trading strategy also may lead to extraordinary losses, because you may have to purchase a stock at a very high price in order to cover a short position.

Under the proposed rules, members will be permitted to develop an alternative disclosure statement as long as it is substantially similar to the

mandated statement and is approved by NASDR's Advertising Department prior to use. A firm also will be able to file any of its advertisements with the Advertising Department to determine whether the firm would be deemed to be promoting a day trading strategy as a result of the advertisement and thus subject itself to the proposed rules.

NASDR has considered the views of a wide array of parties in formulating the proposed rules. Our members and the public at large were afforded the opportunity to comment on these rules on two prior occasions. In April 1999, NASDR issued *Special Notice to Members 99-32* ("NTM 99-32") to solicit comment on the proposed rules. In response to NTM 99-32, NASDR received thirty-nine comment letters.<sup>11</sup> The majority of the letters generally supported our efforts to address the investor protection concerns raised by individuals engaging in day trading activities. Commenters, however, made different suggestions on how best to regulate day-trading activities and presented disparate views on the scope of the activities that should be covered by the rules. The NASD concluded that its original

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<sup>11</sup> Comment letters were submitted from: A.G. Edwards & Sons, Inc.; Aldridge, Marlon R.; Arkansas Securities Department; Association for Investment Management and Research, Advocacy Advisory Committee; Astarita, Mark J., Gusrae, Kaplan & Bruno; Burkholder, Donn; Charles Schwab & Co., Inc.; Cornerstone Securities Corporation; *DLDirect* Inc.; Eclipse Trading, Inc.; Edward Jones; Electronic Traders Association (ETA); E\*TRADE Securities, Inc.; Fidelity Investments; Hall, Garry D.; Hoopes, Jonathan D.; Investment Company Institute; Jones, Kenneth; Kennedy, Cheryl; Kzfischer@aol.com; Lincoln Investment Planning; Lininger, Nancy; Lott, Chris; Merrill Lynch, Pierce, Fenner & Smith Incorporated; National Association of Investment Professionals, Legal Committee; National Discount Brokers; Nicastrì, Tom; North American Securities Administrators Association, Project Group on Day-trading (NASAA); Ornick, Herrington & Sutcliffe LLP; Pettin, Tom; Prytulak, Lubomyr; Public Investors Arbitration Bar Association; Rollins, Eugene C.; Securities Industry Association, Federal Regulation Committee, Discount Brokerage Committee, and Ad-hoc Committee on Technology and Regulation (SIA); Security Traders Association; Seeley, E.C.; Singer, Bill, Singer Frumento LLP; Skiersch, John; and Traders Advantage.

proposal would benefit from adopting a number of these suggestions, and accordingly, made appropriate modifications.<sup>12</sup>

In September 1999, the Commission published NASDR's modified proposal and solicited comments in the *Federal Register*. The Commission received three comment letters in response to the *Federal Register* publication.<sup>13</sup> Many of the issues raised by the commenters in response to the *Federal Register* publication also were raised in the comments in response to NTM 99-32. After considering this most recent set of comments, the NASD made additional changes to the proposed rules.

For instance, in the *Federal Register* publication, the Commission specifically requested comment on whether the proposed disclosure statement was adequate. While the ETA supported the concept of a risk disclosure statement, it proposed

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<sup>12</sup> Many of these changes were significant, and included: limiting the application of the rule to those firms that are "promoting a day-trading strategy," as compared to "recommending an intra-day trading strategy"; applying the rule to all non-institutional customers; requiring firms promoting a day trading strategy to have reasonable grounds for believing that the strategy is appropriate for the customers and to exercise reasonable diligence to ascertain the essential facts relative to the customers; revising the definition of "intra-day trading strategy"; requiring firms promoting a day trading strategy to deliver the risk disclosure statement to all non-institutional customers prior to opening an account for such customers; and revising the risk disclosure statement to include the additional key point that day trading generally is not appropriate for persons of limited resources and limited investment or trading experience and low risk tolerance.

<sup>13</sup> Each of those who responded to the *Federal Register* publication also commented in response to NTM 99-32. These comment letters were from the North American Securities Administrators Association, Inc. (NASAA), the Federal Regulation Committee, the Discount Brokerage Committee and Ad-Hoc Committee on Technology & Regulation of the Securities Industry Association (SIA), and the Electronic Traders Association (ETA). Each of these commenters represents a group of interested parties. NASAA is an international organization of securities regulators devoted to investor protection. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico and Puerto Rico. ETA is a trade association of on-site day trading firms. It has approximately 15 supporting organizations, including six of the ten largest on-site day trading firms. SIA brings together the shared interests of more than 740 securities firms. Its member-firms are active in all U.S. and foreign markets and in all phases of corporate and public finance.

alternative language in several sections of the document. Based on the ETA's comments, we made certain modifications to the disclosure statement, including advising potential customers that under certain market conditions, they may find it difficult or impossible to liquidate a position quickly at a reasonable price. We also revised the prescribed method for delivering the disclosure statement by specifying that it must be delivered to each customer individually, by mail or electronic means, prior to opening the account.

In addition, at the suggestion of the SIA, we revised the rule language to describe certain activities that we do not consider to be "promoting a day-trading strategy" and therefore would not trigger application of the proposed rules. These activities previously were set forth in the text of the rule filing – rather than the rule itself – and include (1) the promotion by a member of efficient execution services or lower execution costs; (2) providing general investment research or advertising the high quality or prompt availability of such general research; and (3) having a web site that provides general financial information or news or that allows the multiple entry of intra-day purchases and sales of the same securities. We also further delineated the types of information that a firm should consider in determining whether day trading is appropriate for an individual, modeling the requirements on the current account opening procedures for options trading.

NASDR believes that these rules will provide an effective means of ensuring that those firms that are promoting day trading to individuals fully disclose the risks of engaging in this activity, as well as examine and document whether day trading is appropriate for the individual. We also believe that the proposed rules, as amended, serve to maintain the standards necessary for the protection of investors without imposing overly burdensome regulatory requirements on firms that promote day-trading activities. We look forward, however, to receiving additional comments on the proposed rules and to further discussing the proposal with the Subcommittee.

***The Use of Margin by Day Traders***

Day traders often use margin to leverage their trading activity. Because Regulation T initial margin requirements and NASD/NYSE<sup>14</sup> standard maintenance margin requirements are only calculated at the end of each day, a day trader who has no positions in his or her account at the end of the day would not incur a Regulation T initial margin nor a standard maintenance margin requirement, assuming no losses in the account.<sup>15</sup> Current NASD/NYSE initial margin provisions require a customer to deposit margin of at least \$2,000, unless that amount is in excess of the cost of the security.

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<sup>14</sup> NASD Rule 2520 and NYSE Rule 431 are the margin provisions for each self-regulatory organization and are substantially similar.

<sup>15</sup> NYSE Interpretation Memo 96-5 states that losses resulting from day-trading are treated as withdrawals, requiring the creation of a margin call equal to 100% of the loss, which may be met by a deposit of cash or securities within seven business days from the trade date.

Although the day trader may end the day with no position, the day trader and the firm, if credit is extended, are at risk during the day. To address this risk, the NASD and NYSE require day traders to demonstrate that they have the ability to meet the initial margin requirements for at least their largest open position during the day. Specifically, a customer who meets the definition of day trader under the rule<sup>16</sup> must deposit in his or her account, the margin that would have been required under Regulation T (i.e., the 50 percent initial margin requirement) if the customer had not liquidated the position during the trading day. If the customer day trades, but is not considered a “day trader,” the customer is still required to post 25% of the largest open position during the day.

Currently, if a customer’s day trading results in a day-trading margin call, the customer has 7 days to meet the call by depositing additional cash or securities. Because day traders typically end the day flat and this day-trading “margin” deposit is not securing a margin loan, the customer is not required to leave the margin deposit in the account and may withdraw the deposit the day after the deposit is made.

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<sup>16</sup> A “day-trader” is any customer whose trading shows a pattern of day-trading. The term “pattern of day-trading” has been interpreted as day-trading more than 3 times in a calendar year.

The 431 Committee<sup>17</sup> has met frequently over the last year to consider different approaches to the margin rules that would better address the risks associated with day trading. Based on recommendations from the 431 Committee and NASDR's Financial Responsibility Committee, in December 1999, the Board of Directors of NASDR (the "Board") authorized a rule proposal that would amend the margin requirements that apply to pattern day traders. The amendments would:

- Change the Definition of Day Trader to Cover Only True Day Traders. Day-trading margin requirements would be imposed only on true day traders, not just incidental or occasional day traders. Day traders would be defined as those customers who day trade four or more times in five business days, unless their day-trading activities do not exceed 6% of their total trading activity for that period. In addition, if the firm knows or has reason to believe that the customer is a pattern day trader, for example, if the firm provided training to the customer on day-trading in anticipation of the customer opening an account, the customer must be designated as a day trader immediately, instead of having the determination delayed for five business days. A customer would be able to shed the day trader classification if he or she did not day trade for a ninety day period.
- Require Minimum Equity of \$25,000. A day trader would be required to have minimum equity in his or her account of \$25,000

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<sup>17</sup> After the Board of Governors of the Federal Reserve System extensively amended Regulation T a few years ago, an informal ad hoc committee (the "431 Committee") was formed to consider changes to the NYSE's and NASD's margin rules (NYSE Rule 431 and NASD Rule 2520, respectively). The 431 Committee also was formed to ensure that the NYSE's and NASD's margin rules were consistent in order to prevent confusion and to avoid conferring advantages on members that are required to comply with one rule and not the other. The 431 Committee is composed of NYSE staff, attorneys from the NYSE's outside counsel, Cleary, Gottlieb, Steen & Hamilton, NASD staff, Federal Reserve staff, and representatives from Bear Stearns, Pershing, Merrill Lynch, Prudential Securities, Morgan Stanley, and Sanford Bernstein & Co., as well as a small firm representative from Centennial Securities in Grand Rapids, MI. In addition, representatives from Charles Schwab, Goldman Sachs, Lombard Securities and A.G. Edwards participate on some subcommittees.

on any day in which the customer day trades. This minimum equity would have to remain in the account for at least two subsequent business days following the close of business on any day the deposit was required.

- Permit Day-Trading Buying Power of Up to Four Times the Day Trader's Maintenance Margin Excess.<sup>18</sup> Currently, the funds used to meet a day-trading margin call are deposited after the day-trading risk has already been incurred and need only remain in the account overnight. The proposed rule amendment requires that day-trading buying power not be permitted to exceed four times the day trader's maintenance margin excess and that these funds be in the account prior to any day trading. This calculation should be based on equity maintained in the account prior to each day's trading and, at the firm's option, can be based on either the largest open position at any given time during the day, or on the customer's total trading commitment during the day.
- Impose a Day-Trading Margin Call if Day-Trading Buying Power is Exceeded. The proposed rule change would require members to issue a day-trading margin call to day traders that exceed their day-trading buying power. Customers will have five business days to deposit funds to meet this day-trading margin call. The day-trading account will be restricted to day-trading buying power of two times maintenance margin excess based on the customer's daily total trading commitment until the call is met. Funds used to meet a day-trading margin call should be required to remain in the account for two business days. If the day-trading margin call is not met by the fifth business day, the account should be further restricted to trading only on a cash available basis for 90 days or until the call is met.
- Prohibit Cross Guaranteeing of Accounts. Day traders would be prohibited from using cross-guarantees to meet the minimum equity requirements or to meet day-trading margin calls.

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<sup>18</sup> For a typical day trader who has no positions at the end of the day, this would be the equivalent of four times the cash in the account.

The proposed rule change would also revise the current interpretation that requires the sale and repurchase on the same day of a position held from the previous day to be treated as a day trade. Instead, the sale of the position should be treated as a liquidation of the existing position and the subsequent repurchase as the establishment of a new position not subject to the rules affecting day trades.

An important distinction between the current and proposed day-trading margin rules is the significant consequences to the day trader under the proposed rules if he or she exceeds the day-trading buying power limitations. As noted above, under current rules, the funds used to meet a call are deposited after the day-trading risk has already been incurred and need only remain in the account overnight. Under the NASD's proposal, funds used to meet a day-trading margin call must remain in the account for two business days. In addition, once a day-trading margin call is issued, the day-trading account will be restricted to day-trading buying power of two times maintenance margin excess, based on the customer's daily total trading commitment. This will significantly reduce the amount of leverage available to the customer until the call is met. If the day-trading margin call is not met by the fifth business day, the account will be further restricted to trading only on a cash available basis for 90 days or until the call is met.

In authorizing the filing of the proposed rule change with the SEC, the Board recommended the formation of a Day Trading Margin Advisory Task Force (Task Force) to continue to review and evaluate the proposal, and if appropriate, recommend changes to the Board. The Task Force is composed of representatives from 15 member firms, including representatives from the ETA. The Task Force held its first meeting in early

February and anticipates presenting its preliminary recommendations to the Board in March.

Finally, NASDR is continuing to look at whether to impose any restrictions on day-trading firms' facilitating or participating in arranging of loans among customers. We believe that there is an inherent conflict of interest when members facilitate or participate in lending activities with or between their customers. These lending activities often allow customers to continue to trade when they would not otherwise be in a financial position to do so, thereby generating more commission income to the member. These same conflicts of interest arise when principals, registered representatives and significant shareholders of members lend funds to customers. Such conflicts of interests can arise in a variety of situations, certainly not limited to day-trading activities.

***Conclusion***

We will continue our regulatory initiatives with respect to day trading. To the extent that our ongoing investigations find violations of the securities laws or our rules, additional enforcement actions will follow. We have received a broad array of constructive comments on our new rule proposals and will work with the SEC and all interested parties to finalize these rules and get them in place as soon as possible. Working with this Subcommittee, other regulators, our member firms and the investing public, we pledge to continue our vigilance with respect to day-trading and to continue to address the investor protection and market issues this type of trading presents. At this time, we remain of the view that new legislation on this subject is not necessary.

On behalf of NASDR, I wish to thank the Chair for the opportunity to appear before the Subcommittee and provide testimony on these important issues, and would be happy to answer any questions you may have.



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DEPARTMENT OF FINANCIAL INSTITUTIONS

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## **TESTIMONY OF DEBORAH R. BORTNER**

**Director of Securities  
Washington State Department of Financial  
Institutions**

**Before the**

**Senate Governmental Affairs Committee  
Permanent Subcommittee on Investigations**

**Hearing on Day Trading**

**February 25, 2000**

Chairman Collins, Senator Levin and Members of the Subcommittee:

I am Deborah Bortner, Director of Securities for the State of Washington and president-elect of the North American Securities Administrators Association (NASAA).<sup>1</sup> I want to thank you for the opportunity to appear before you as you continue to look into issues associated with the day trading industry.

NASAA's Concern with Day Trading

As you know, Chairman Collins, day trading has been a concern of state securities regulators for several years now. In 1998, the Colorado Securities Commissioner raised concerns about day trading firms in his state and imposed restrictions on their operations. Massachusetts, Wisconsin and Texas also brought numerous enforcement actions after examining firms in their states. By sounding the alarm on questionable day trading practices, other states were alerted to the presence of these firms in their states and clients were also put on notice of regulators' concerns.

The states realized that the national scope of this problem required the assistance of their federal regulatory counterparts and we appreciate your leadership in bringing this issue to the attention of Congress.

Because of ongoing concerns, in December 1998, the NASAA Board of Directors formed a Day Trading Project Group to conduct research about the industry, prepare a report of its findings and make recommendations. The Project Group was also mandated to assist state securities agencies in confronting this issue by first providing them information to assist their enforcement efforts and secondly by educating the citizens of their states on the risks inherent in this type of investing.

The Project Group worked for seven months gathering information, analyzing issues and studying trading records with the assistance of a consultant. The result of that effort was the "NASAA Day Trading Project Group Report," dated August 9, 1999. NASAA President Peter Hildreth testified before this subcommittee on the specifics of the report last September and a copy of the report and appendix was submitted into the record. It is available on the NASAA web site at [www.nasaa.org](http://www.nasaa.org).

The NASAA report, the first of its kind, catalogued problems regulators found in the day trading industry, including misleading marketing, lax supervision and questionable loan schemes. The Report did not suggest major restrictions or a ban on day trading per se, but called on the firms to do a better job of screening potential customers and disclosing the substantial risks of day trading.

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<sup>1</sup> The oldest international organization devoted to investor protection, the North American Securities Administrators Association, Inc., was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico and Puerto Rico. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

### Regulatory Actions

Last fall, NASAA commented on the rules proposed by the National Association of Securities Dealers Regulation (NASDR) relating to the opening of day trading accounts.<sup>2</sup> The proposed rule change would require a member firm that is promoting a day trading strategy to furnish a risk disclosure statement to a non-institutional customer prior to opening an account for the customer and to either (1) approve the customer's account for a day trading strategy or (2) obtain from the customer a written agreement that the customer does not intend to use the account for day trading purposes.

NASAA supports the proposed rules which explicitly specify the industry's obligations and recommends that the member firm be required to obtain the customer's signature on the disclosure statement so that it would become part of the member firm's books and records.

This is an important point to emphasize. Currently, the NASD and the SEC require affirmative disclosure to customers prior to engaging in risky activities such as "margin borrowing," "options trading" and purchasing "penny stocks." The brokerage firm is obligated to provide the client with a disclosure statement that details the risk involved in engaging in such activity, the client must sign this disclosure and then it becomes part of the firm's permanent books and records and available for regulatory inspection.

### Washington State Report

I am here today not to go over the findings of the NASAA report or to comment on day trading in general, but to focus on a Washington State Report based on recent field examinations of all day trading firms believed to have branches in our State. These exams were undertaken in order to determine whether the branches in the State of Washington would evidence the same kind of problems identified in various state actions around the U.S.

The examination team was assigned the responsibility of inspecting the activities of day trading firms for misleading advertising, questionable loans or guarantees, third-party trading and unsuitable trading accounts. The team was also given the task of looking into possible unregistered broker-dealer and investment adviser activities and short sale violations.

The examination team limited its focus to firms promoting day trading strategies<sup>3</sup> and that offer Level II<sup>4</sup> trading to their clients. Through our registration and examination records we determined there were seven day trading firms with branches located in the State of Washington. All of the firms examined were located in or near the Seattle metropolitan

<sup>2</sup> Letter from NASAA President Bradley W. Skolnik to Jonathan G. Katz dated October 12, 1999.

<sup>3</sup> "Day trading" means buying and selling the same security on the same day. NASD Rule 2520.

<sup>4</sup> Level II Trading shows the customer every market maker and individual selling a particular security and the price they are willing to pay to buy or sell it.

area. The firms were divided among three members of the examination team with a Securities Division enforcement attorney assigned to oversee the legal aspects of the assignment. The examinations were conducted during the months of September, October and November 1999.

Of the seven day trading firms inspected by the examination team, two firms accounted for more than 80% of the 585 day trading accounts serviced by the firms. The likely reason for their dominance is that they have been in the community longer than the other day trading firms.

The firms have different ways in which they operate. Four of the seven firms cater to customers who are considered to be day traders by definition (that is investors who sell what they bought for the day regardless of whether they have profited from their activity). The other three firms also appeal to day traders but commonly allow customers to hold overnight positions in securities, a practice that is considered higher risk since day traders are generally highly margined.

Three of the firms provide their customers with the opportunity to trade "off-site," through terminals at their home, office or at a trading room at a location supervised by the firm. One firm provided only "off-site" trading. The remaining three firms only allow customers to trade at the firm's trading room. Over 60% of the accounts reviewed took advantage of "off-site" trading. There was no discernible difference between the level of trading activity for "off-site" customers as compared to those in a trading room.

#### Profitability of Day Trading Accounts

Monthly statements for 124 open and active day trading accounts were reviewed and analyzed as part of the examination process. The Washington State Report shows the net profits and losses for the accounts, the time period the accounts were open and the beginning balances for the accounts.

Seventy seven percent of the accounts examined were found to have net losses with an average net loss of \$36,043<sup>5</sup>. Nine of the accounts had losses of over \$100,000 with one losing \$641,000.

Twenty three percent of the accounts examined were calculated to have net profits. Only two accounts had gains of over \$100,000 with an average net profit found to be \$21,983<sup>6</sup>. The highest profit discovered was \$160,100.

The accounts reviewed were open from one month to 25 months. The length of time an account was open and active did not appear to have a correlation with the success of the account.

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<sup>5</sup> This average is neither time nor dollar weighted.

<sup>6</sup> Id.

### Questionable Activity

**Loans to Customers** - Activity involving loans to customers was examined at each firm. The most common questionable lending practice identified was the facilitation of loans between customers by several firms. The firm's books and records included loan authorization forms that appeared to be pre-signed photocopies. This may indicate that the firms were assisting the customers in finding the lender. Funds being journaled between accounts within the firms raises questions regarding proper internal controls, whether authorization was received prior to the funds being transferred and whether customers were receiving adequate information on terms of the loans. We believe such loan arrangements may exist to circumvent margin loan requirements and in some cases may have exacerbated customer losses.

One firm facilitated loans to its customers on a regular basis through a company solely owned by the firm's principal. The purpose of using the separate company appears to be an effort to avoid compliance with Regulation T and margin maintenance requirements. Regulation T is a Federal Reserve Board rule that establishes the initial margin requirements governing the extension of credit to customers (presently 50%) for new purchases and short sales. NASD Rule 2520 and NYSE Rule 431 govern margin maintenance and often the firms set higher rates than the rules require.

**Unregistered Investment Advisory Activity** – Discretionary trading forms were found that allow the day trader to trade on behalf of third parties. This may constitute a violation of the registration provisions of the investment adviser law. These accounts have been referred to Enforcement for further investigation.

**Suitability** – Each of the firms purported to require a minimum balance to open and continue to operate an account. In some instances, the branch manager or the compliance officer approved new accounts with opening balances substantially under the minimum or allowed customers to continue to trade after they had fallen below the minimum. These practices raise the question as to whether the firms are in violation of the suitability review requirements of NASD Rule 3010 and NASD Rule 2310.

### Other Findings

**Advertising** – The firms ran few advertisements from the branch offices during the examination period and two of the firms engaged in no advertising at all. Recently, questionable advertising appeared on the web site of one of the firms examined, touting the success of a principal of the firm without providing a disclaimer. This is an apparent violation of SEC Rule 270.34b-1 and NASD Rule 2210. The advertisement has been referred to Enforcement for further action.

**Short Sales** – Rules promulgated by the Securities and Exchange Commission and the National Association of Securities Dealers prohibit making a short sale on a down tick in price. Although short sales were made, the examination team did not detect any violations of this rule.

Washington State Report Conclusions

Seven day trading firms and 124 customer accounts were analyzed during the three-month period of September, October and November 1999. More than three-quarters (77%) of the customers at these firms appear to have lost money. Lending practices facilitated by the firms may have exacerbated those customer losses. These lending practices appear to have allowed customers to obtain loans in excess of the amounts available to them under normal trading conditions.

The exams also revealed one firm was offering day trading services without being registered.

The findings of the Washington State Report are consistent with the NASAA Day Trading Project Group Report and we stand by the conclusions of that report. Timely examinations and enforcement actions by state regulators have served to shine a spotlight on the problems of the day trading industry. Industry and federal securities regulators are now involved and are addressing the problem from a national perspective.

In conclusion, day trading is a highly risky form of trading that we continue to monitor closely. The states are working with the SEC and the NASDR to address issues in this area. I appreciate the opportunity to testify and stand ready to assist you in any way possible to protect investors and the integrity of our capital markets.

STATEMENT OF JAMES H. LEE  
BEFORE THE SENATE PERMANENT  
SUBCOMMITTEE ON INVESTIGATIONS  
FEBRUARY 25, 2000

Good morning Madame Chairman, Senator Levin and members of the Subcommittee.

I appreciate the opportunity to appear here today to discuss day trading and to address your concerns. As a member of the day-trading community, I commend this Subcommittee's effort to thoroughly review the industry and help suggest improvements in the system.

I am president of TRADESCAPE.com Securities, LLC (d/b/a "Momentum Securities"). My company is a registered broker/dealer with the National Association of Securities Dealers ("NASD") and the Securities and Exchange Commission ("SEC") and one of the largest e-brokerages in North America. TRADESCAPE.com Securities, LLC is a wholly owned subsidiary of TRADESCAPE.com, Inc. ("TRADESCAPE.com").

I serve on the Board of Directors of TRADESCAPE.com and also as chairman and president of the Electronic Traders Association ("ETA"). I am committed to working with industry leaders and policymakers to design appropriate proposals to protect the public, make the securities markets more efficient and enhance technology development. For example, in January 2000, I was appointed by the NASD Board to serve as vice-chairman of the NASD Task Force on Day Trading Margin Rules. In January of last year, I organized a meeting in New Orleans among senior officials of the North American Securities

Administrators Association ("NASAA") and members of ETA to provide a forum to address various consumer protection issues publicly raised by NASAA. In late 1999, I was appointed by the Lieutenant Governor of Texas to serve on the Advisory Council on the Digital Economy, a 22-member organization of high technology CEOs charged with advising the Texas legislature on state initiatives designed to further enhance the Texas economy.

And, in early 1997, I also helped create the ETA, an association of order entry and proprietary trading firms, vendors, affiliated companies and individuals. ETA was formed to represent day traders and public investors nationally in securities regulatory policy development affecting NASDAQ investor fairness and investor accessibility. ETA seeks to encourage education and awareness regarding the opportunities and risks of day trading, to promote price competition in the securities markets, and to be a responsible resource on compliance issues in these areas.

I also have appeared before the SEC on several occasions concerning industry policy issues and participated in a SEC-sponsored debate on the utility of the Small Order Execution System. Finally, I have testified before the U.S. House of Representatives concerning NASDAQ restructuring.

Before starting Momentum Securities, Inc. ("Momentum"), I earned my Bachelor and Master's degrees in Business Administration from the University of Texas at Austin. I later worked on Wall Street in the investment banking community for Lehman Brothers and First Boston Corporation in their respective Mergers and Acquisitions Groups in both New York and Houston. I

then joined a 31-year-old Registered Investment Advisor in Houston as vice-president and portfolio manager. I am a NASD registered Securities Supervisory Principal, and I have obtained my series 7, 24, 55 and 63 licenses.<sup>1</sup>

I co-founded Momentum in 1995, along with my partner who is a software development and trading technology expert. Since 1995, Momentum has grown to be one of the nation's largest e-brokerages, serving some 1,300 full-time day traders and employing over 150 people in various states. Through our facilities, Momentum also services several thousand other retail and institutional accounts. In January 2000, we executed approximately 800 million shares across approximately 3 million transactions. When we formed Momentum, we sought to combine the most advanced trading technology and order execution process with a customer-focused broker-dealer that would provide trading services to individuals.

Today, Momentum, as the primary broker/dealer subsidiary of TRADESCAPE.com, is part of an integrated enterprise focused on trading and technology development. TRADESCAPE.com, a leading supplier of software trading platforms, earlier this month agreed to purchase Market XT, Inc., a recently authorized Electronic Communications Network ("ECN") formed by two former SEC attorneys in a vertical acquisition valued at \$100 million dollars. The Market XT, Inc. acquisition will expand our liquidity pool, accelerate the offering of execution services and technology to institutions and benefit our retail customers who participate via our web-browser interface. Our organization is

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<sup>1</sup> Attached hereto at Tab 1 is the complete biological profile for James H. Lee.

backed by investment partners who are leaders in technology and financial services including: SOFTBANK, Morgan Stanley Dean Witter, Citigroup's Salomon Smith Barney, Bernard L. Madoff Investment Securities and Warburg Pincus Ventures, among others. SOFTBANK, a multi-billion dollar Japanese public company with Internet interests in Yahoo! and E\*Trade, among others, is also currently leading a \$100 million additional round of financing for TRADESCAPE.com.

Technological developments, in recent years, have had a fundamental and profound impact on our equity markets. The markets today are burgeoning with new technology and systems that provide quick access to multiple points of liquidity. Now, millions of Americans have incredible access to markets never before available. This new technology allows investors the ability to monitor, manage and trade their own portfolios without the need for intermediaries to place their investments. It also provides the investor more access to information and tools with which to inform and guide investment and trading decisions.

While individuals have been engaged in professional day trading for their own accounts on our national securities exchanges since their formation in the nineteenth century, the high-tech version that we are discussing today is relatively new. Both changes in technology and recent SEC regulations governing the securities markets now make it possible for day traders to have virtually the same access to market information, execution and order exposure as the traders on the floors of our national stock and commodity exchanges. Day

traders seek the speed provided by this new technology because it allows them to use their developed skills to closely follow real-time market indicators and fluctuations to guide their trading decisions.

Day trading is but one of many ways for an individual to earn a return on capital. Placing capital in the securities markets always involves some degree of risk. There is a continuum of risk. On one end of the investing continuum, there are forms of investment with low risk and low return, like CDs and savings bonds. On the other end, with higher risk, is day trading. The higher the risk, it generally follows, the greater potential for higher yield.

Our day traders generally understand these risks and choose day trading for the benefits it has to offer. They are not seeking slow, steady investments with little risk. They recognize and acknowledge that they are accountable for their own trading decisions. Those decisions are theirs and theirs alone. With adequate and appropriate disclosures and truthful advertisements, both of which you will find at Momentum, day trading can be a viable approach to the market. We have taken the lead in developing complete and full customer protections, and we cooperate with regulators to encourage appropriate self-regulating proposals to design customer protections and to promote more efficient securities markets.

Recognizing our next-generation technology, many mainstream online brokerages are now seeking to broaden the investment options they offer their customers by merging their resources with firms like mine. Not only have major participants, including SOFTBANK, invested in TRADESCAPE.com, but

earlier this month, The Charles Schwab Corporation ("Schwab"), America's leading discount and online brokerage, acquired CyberCorp, a day-trading boutique whose revenues are about one third of Momentum's. The transaction was valued at \$488 million dollars.<sup>2</sup>

CyberCorp's technology, like that available through my organization, offers traders executions in the best available market through direct and intelligent order routing. This direct access technology appeals to most active, sophisticated day traders who require the fastest, smartest, cost efficient, and most reliable trading systems. Schwab, which just three weeks before had acquired old-line U.S. Trust Co., which is at the opposite, that is the managed end of the investing spectrum, made it plain that its acquisition was a necessity in order to service its active traders. Although these individuals comprise only a fraction of one percent of Schwab's 6.6 million customers, they make up 10% of its volume.<sup>3</sup>

In noting the reasons behind the merger, the respected investment bank Hambrecht & Quist has indicated that:

We believe Schwab is making a bullish statement about the future of retail trading activity through this acquisition. The deal may finally open eyes to the positive developments coming out of the day trading world.<sup>4</sup>

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<sup>2</sup> See Gregory W. Smith, *The Charles Schwab Corporation (SCH)*, HAMBRECHT & QUIST INTERNET RESEARCH NOTE (Hambrecht & Quist, LLC, San Francisco, Calif), Feb. 3, 2000, at 1.

<sup>3</sup> See Sam Zuckerman, *Schwab Courting Traders*, S.F. CHRON., Feb. 3, 2000, at C1.

<sup>4</sup> Smith, *supra* note 2, at 1.

The CyberCorp acquisition also serves as recognition by a major securities firm of several emerging themes about the financial industry: (1) day trading is a viable approach for some individuals to make money in the stock market; (2) day traders seek what companies like Schwab were built upon: the reality that individuals want the greatest possible control of their trading decisions and executions; and (3) this new era of technology and information allows day traders this control and gives them access to unparalleled resources, such as access to news, information and connectivity.

With that background, I would like to outline some of the many policies Momentum has voluntarily and proactively implemented to enhance customer protections and to share some of my views on day trading:

**One:** To me, risk disclosure is the most important area from the standpoint of customer protection. The securities market always involves some degree of risk, and day trading certainly involves more risk than many other approaches to the market. The critical issue is whether the investor has been advised of the level of risk being assumed.

While I believe that individuals should be allowed to make their own investing and trading decisions, they need a clear and complete understanding of what the risks are so that they can make an informed decision. Indeed, SEC Chairman Levitt told this Subcommittee in September of 1999, "If day traders are adequately apprised of the risks of their day-trading strategy, the

Commission believes that the individual day traders bear responsibility to make sure that they do not day trade with funds they cannot afford to lose.<sup>5</sup> I agree.

At Momentum, we recognize Chairman Levitt's point. We make every effort to follow the rules of disclosure with our customers. But we do even more. Our present form of extensive risk disclosure has been in effect for approximately one year and exceeds those proposed by the NASD. Our rules are far beyond those found in either online or full-service securities firms.

We proactively and voluntarily designed a risk disclosure statement that we require our customers to read and execute before a day-trading account is opened. These guidelines were developed with guidance from NASAA and were later used by the NASD in developing its own risk disclosure proposal.

We require our customers to read and sign four separate documents that deal with the issue of day-trading risks before they may open an account. They are: (1) Chairman Levitt's cautionary advice about the risks of investing in general and the risks associated with trading; (2) Momentum's Risk Disclosure Statement; (3) Momentum's statement on "Risks Associated with Trading Internet Stocks"; and (4) SEC Commentary on "Day Trading: Your Dollars at Risk."<sup>6</sup>

Momentum's Risk Disclosure Statement advises customers that day trading has risks, and that they could lose more than 100% of their

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<sup>5</sup> See Written Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, before the U.S. Senate Permanent Subcommittee on Investigations, September 16, 1999 at 7.

<sup>6</sup> Attached hereto at Tab 2 are the risk disclosure materials currently provided to Momentum customers and the risk disclosure currently available on Momentum's web site.

investment. It also warns customers, among other things, that they should carefully consider whether trading is right for them, and states there are no guarantees that they will be successful. In addition, it provides guidance for new traders indicating that they "should strictly limit the number of trades they do and the size of their trades to reduce the risk of large dollar losses during the learning process." Moreover, our statement identifies other risks, such as the possibility of loss through system failures or the inability to liquidate positions because of market conditions. These materials are distributed to customers both in hard copy and are available on our web site.

Furthermore, as an ETA member firm, we also fully subscribe to the ETA Statement of Ethical Principles.<sup>7</sup>

**Two:** To me, day-trading firms must be accountable for the manner in which they advertise to the public. I believe we must be truthful in all of our communications with our customers. Momentum does not make misleading or exaggerated claims about our services or the benefits of day trading.

While Momentum does very little advertising because most of our customers come to us through referrals, to the extent we advertise, we do so in an appropriate manner. We disclose the risks of day trading, both orally and in writing. We do not obscure the reality that many of our customers lose money especially during the learning curve, and some may never become successful day

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<sup>7</sup> Attached hereto at Tab 3 is the Statement of Ethical Principles of the Electronic Traders Association.

traders. We believe we have an excellent relationship with our customers and receive very few complaints given our size and reach.

**Three:** I believe that internal compliance is also important to developing industry best practices. At Momentum, we are fully committed to the highest standards of our profession.

Momentum fully cooperates with our regulators and conducts self-imposed internal compliance reviews to ensure compliance with the securities laws and the best practices of our industry. Today, we have a strong record of compliance and when a problem is brought to our attention, we promptly fix it.

That having been said, have we made mistakes? Can we do better? Absolutely. Momentum has only been in existence for four years, and in many ways we are in our infancy. We strive to refine and improve our system. Our operation is far better today than it was when we first opened. We have implemented greater internal controls. Among these are: a formalized compliance department; commitment of resources to additional compliance personnel; development of new policies on risk disclosure and account opening guidelines; and institution of regular, self-imposed compliance visits to our branch offices. We have even hired a former NASD examiner to conduct exams.

**Four:** I recognize there is a learning curve involved in successful day trading. While we are not now required to do so, we have developed a threshold guideline of available risk capital. At Momentum, we have developed such a guideline because I believe it is the right thing to do.

To that end, we now ask for a minimum initial deposit guideline of \$50,000, and \$100,000 disclosed net worth prior to opening a day-trading account. If a customer does not meet these two factors, a customer may still open an account after an appeal, if the customer demonstrates other factors such as prior trading experience.

**Five:** I believe day trading has made a positive impact on the securities markets by increasing market liquidity; vastly improving pre- and post-trade transparency; furthering the standard of "best execution"; and reducing agency costs. Day trading also helped break a market-maker monopoly, and now individual investors, rather than institutions, are increasingly gaining control of their transactions. Moreover, day trading has fostered new technology to transmit information and accelerate executions, which has resulted in benefits to the larger economy.

**Six:** There have been conflicting press reports regarding the profitability of day-trading firms. Based on my years in the business, I believe that I have some sense for what really occurs with respect to profitability. In my judgment, not every trader will make money from the start, and many will lose money in the first three to five months in which traders are learning the skills required to trade. After the learning curve in which dedicated traders are developing skills and proficiency with the systems, I believe the number of profitable traders improves significantly. The simple fact is that many of our traders are very successful. I am proud of their success.

**Seven:** I am sensitive to the current concern about the trader who has arguably insufficient risk capital. While in the past there may have been occasional exceptions, I believe the customers currently in our system have either the means or the experience to be day traders. Today, the vast majority of our customers are mature, educated, professional and financially secure women and men.

**Eight:** I am sensitive to the concerns regarding margin rules. I was recently appointed to a NASD Task Force on Day Trading Margin Rules to help address these issues. To my knowledge, Momentum has at all times complied with the rules that exist in this area.

**Nine:** One of the reasons behind the development of the ETA was to provide day-trading firms with a forum for discussion about the very issues that we are reviewing today. While I am speaking today for myself and what I believe and strive for within my own company, and while I cannot make commitments for other firms, it is my hope that through responsible leadership, we may use the ETA to encourage other day-trading firms to strive for best policies and practices to improve our industry as a whole.

**Ten:** At Momentum, we strive to improve our company and to learn from our mistakes. We acknowledge that our operation is in many ways better today than it was when we first started. We suffer immeasurably as an industry when other companies' practices are below standard. As with any industry, I believe there are good, well-intentioned companies who represent best industry practices, and others that fall short. We strive to set ourselves apart from

the latter group through our business ethic, practices, client service and proactive policies aimed at full disclosure of risk, balanced advertising and heightened account opening guidelines.

As someone who has spent my entire career in the financial services industry, I have been invited to testify and comment on proposals regarding important industry concerns on many occasions. I recognize that virtually any system, no matter how well tailored when first devised, needs to be reviewed and updated after a period of time, in light of experience and to stay in step with ever-changing circumstances and regulations. While there may be disagreement about what regulatory changes are desirable in this industry, I welcome the opportunity to work with you to develop appropriate recommendations for change.

In closing, I wish to emphasize that I am proud of Momentum. We strive to be an industry leader. We have made mistakes, but we correct them. Hopefully today's discussion will be used to forge an alliance between thoughtful, legitimate, proactive companies who are working to improve the system for their customers, and members of the industry who would like to explore ways to promote efficient markets and design appropriate customer protections.

Thank you.

ATTACHMENTS TO  
STATEMENT OF JAMES H. LEE  
BEFORE THE SENATE PERMANENT  
SUBCOMMITTEE ON  
INVESTIGATIONS

FEBRUARY 25, 2000

**James H. Lee**

James H. Lee is president of TRADESCAPE.com Securities LLC, (dba "Momentum Securities") a NASD and SEC registered broker/dealer and one of the largest electronic trading organizations in North America. TRADESCAPE.com Securities LLC is a wholly owned subsidiary of TRADESCAPE.com, Inc. Mr. Lee serves on the Board of Directors of TRADESCAPE.com and also serves as chairman and president of the Electronic Traders Association.

Mr. Lee worked in the investment banking community during the late 1980s for Lehman Brothers and First Boston Corporation in their respective Mergers and Acquisitions Groups in both New York and Houston. He subsequently joined Pension Management Company, a 31 year-old Registered Investment Advisor, in Houston as a vice president/portfolio manager. In late 1995, Mr. Lee was a co-founder of Momentum Securities, Inc., which merged with TRADESCAPE.com, Inc. in mid-1999.

Appointed by the National Association of Securities Dealers, Mr. Lee currently serves as vice-chairman of the NASD Task Force on Day Trading Margin Rules. Appointed by Texas Lt. Governor Rick Perry in 1999, Mr. Lee currently serves on the Advisory Council on the Digital Economy, a 22 member organization of high technology CEOs and senior executives charged with advising the Texas legislature on state initiatives designed to further enhance the Texas economy.

In early 1997, Mr. Lee was instrumental in helping to establish the Electronic Traders Association (ETA), an association of order entry and proprietary trading firms, vendors, affiliated companies and individuals nationally. ETA was formed to represent electronic day-traders and public investors nationally in securities regulatory policy development affecting NASDAQ investor fairness and investor accessibility. Mr. Lee has appeared before the SEC on several occasions concerning industry policy issues and participated in a SEC sponsored debate on the utility of the Small Order Execution System. Additionally, Mr. Lee has testified before the U.S. House of Representatives concerning NASDAQ restructuring.

Recognized as a securities industry leader and innovator, Mr. Lee has appeared on CNBC, CNNfn and FOX NEWS and has been quoted in The Wall Street Journal, The New York Times, The Los Angeles Times, The Washington Post, Smart Money, Securities Industry News, Wall Street Letter, Dow Jones Newswire, Traders Magazine, Securities Week, The Dallas Morning News, The Houston Chronicle, The Kansas City Star, The Plain Dealer Cleveland, Seattle Post-Intelligencer and the Houston, Dallas, Austin and Atlanta Business Journals.

Mr. Lee was nominated as Entrepreneur of the Year in Houston by Ernst & Young in 1999. In 2000 Mr. Lee will be featured in Texas Men - 100 Big Guns, Rising Stars & Cowboys, a book featuring 100 men in Texas who are shaping the character and future of the state in the 21<sup>st</sup> Century.

James H. Lee resides in Houston, Texas. He earned his Bachelor and Master's degrees in Business Administration from the University of Texas at Austin. Today, Mr. Lee remains active in the University of Texas as an Endowed Presidential Scholarship donor - the youngest ever in University history - as well as serving on the Business Advisory Counsel of the College of Business.

Mr. Lee is a registered Securities Supervisory Principal (Series 7, 24, 55 & 63).

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**MOMENTUM SECURITIES, INC.**  
*Member: NASD and SIPC*

***STATEMENT BY CHAIRMAN ARTHUR LEVITT  
 SECURITIES AND EXCHANGE COMMISSION***

Chairman Arthur Levitt issued the following statement to investors:

The Internet and other new technologies are in many ways transforming how our capital markets operate. There are clear benefits to these changes including lower costs and faster access to the market for investors. I believe that investors need to remember the investment basics, and not allow the ease and speed with which they can trade to lull them either into a false sense of security or encourage them to trade too quickly or too often.

Over the last two years, particularly in recent months, the SEC has been hearing concerns about retail, on-line (Internet) investing. In fact, the number of complaints concerning on-line investing has increased 330 percent in the last year. Some of the issues raised specifically relate to on-line trading, others are generic to all investing. The majority of them can be addressed through better education and investors ensuring that they have done their homework.

Every day, more and more Americans are investing in the stock market, and many of them are doing so through the Internet. On-line brokerage accounts account for approximately 25 percent of all retail stock trades. And, the number of on-line brokerage accounts is expected to exceed 10 million by the end of the year.

While the manner in which orders are executed may be changing, the time-honored principles of evaluating a stock have not. An investor's consideration of the fundamentals of a company -- net earnings, P/E ratios, the products or services offered by the company -- should never lose their underlying importance.

Investing in the stock market -- however you do it and however easy it may be -- will always entail risk. I would be very concerned if investors allow the ease with which they can make trades to shortcut or bypass the three golden rules for all investors: (1) Know what you are buying; (2) Know the ground rules under which you buy and sell a stock or bond; and (3) Know the level of risk you are undertaking. On-line investors should remember that it is just as easy, if not more, to lose money through the click of a button as it is to make it.

In recent months, we have begun to identify a number of issues every on-line investor should be aware of. First, investors must understand the issues and limitations of on-line investing. You may occasionally experience delays on these new systems. Demand has grown so quickly that many firms are racing to keep pace with it. In the meantime, you may have trouble getting on-line or receiving timely confirmations of trade executions. You should not always expect "instantaneous" execution and reporting. There can and will be delays in electronic systems. You should investigate and understand options and alternatives to executing and confirming your orders if you encounter on-line problems.



**Momentum Securities**

Second, investors may sometimes be surprised at how quickly stock prices actually move. For example, many technology stocks have recently had dramatic and rapid price movements. When many investors attempt to purchase (or sell) the same stock at the same time, the price can move very quickly. Just because you see a price on your computer screen doesn't mean that you will always be able to get that price in a rapidly changing market. You should take precautions to ensure that you do not end up paying much more for a stock than you intended or can afford.

One way to do this is to use limit orders rather than market orders when submitting a trade in a "hot" stock. The result for investors that do not limit their risk can be quite surprising. Say an investor wanted to buy a stock in an IPO that was trading earlier at \$9.00 and failed to specify the maximum they were willing to pay using a limit order. That investor could end up paying whatever price the stock has moved to at the time his order reaches the market -- \$60, \$90 or even more. If, on the other hand, the investor submitted a limit order to buy the stock at \$11.00 or less, the order would only be executed if the market price had not moved past that level. Investors should understand the risk associated with trading in a rapidly moving market and make sure that they take all possible actions to control their risk.

Third, I am concerned that investors buying securities on margin may not fully understand the risks involved. In volatile markets, investors who have put up an initial margin payment for a stock may find themselves being required to provide additional cash (maintenance margin) if the price of the stock subsequently falls. If the funds are not paid in a timely manner, the brokerage firm has the right to sell the securities and charge any loss to the investor. When you buy stock on margin, you are borrowing money. And as the stock price changes, you may be required to increase the cash investment. Simply put, you should make sure that you do not over-extend.

Fourth, while new technology available to retail investors may resemble that of professional traders, retail investors should exercise caution before imitating the style of trading and risks undertaken by market professionals. For most individuals, the stock market should be used for investment not trading. Strategies such as day trading can be highly risky, and retail investors engaging in such activities should do so with funds they can afford to lose. I am very concerned when I hear of stories of student loan money, second mortgages or retirement funds being used to engage in this type of activity. Investment should be for the long- run, not for minutes or hours.

Millions of new investors have taken advantage of the unprecedented access and individual control the Internet provides. But, new opportunities present all of us with new responsibilities, challenges and risks. The SEC will do everything it can to protect and inform investors during this time of great innovation and change. But, investor protection -- at its most basic and effective level -- starts with the investor. I say to all investors -- whether you invest on-line, on the phone, or in-person -- know what you are buying, what the ground rules are, and what level of risk you are assuming.

Momentum Securities encourages each of its customers and potential customers to carefully read and consider Chairman Levitt's remarks. Please acknowledge your understanding of the SEC's concerns as they relate to on-line trading and day trading -- services provided by Momentum Securities, Inc. Thank you.

_____	_____
Account Title – (Printed Name)	Date
_____	_____
Signature	Joint Account Holder Signature
Office _____	



**MOMENTUM SECURITIES, INC.**  
 Member: NASD and SIPC

**RISK DISCLOSURE STATEMENT**

***THE RISK OF LOSS IN ELECTRONIC DAY TRADING CAN BE SUBSTANTIAL. YOU SHOULD, THEREFORE, CAREFULLY CONSIDER WHETHER SUCH TRADING IS SUITABLE FOR YOU IN LIGHT OF YOUR CIRCUMSTANCES AND FINANCIAL RESOURCES. IN CONSIDERING WHETHER TO TRADE, YOU SHOULD BE AWARE OF THE FOLLOWING POINTS:***

- (1) The national securities markets are extremely efficient and competitive. Successful Electronic Day Trading typically requires skill and discipline as well as experience and knowledge of the capital markets. There is no guarantee that you will be successful in implementing your investment strategy. A substantial number of Electronic Day Traders will not be successful. Moreover, changes in market structure and competitive conditions also may affect your continued success. Only risk capital should be used for trading. Market structure and competitive changes in the markets may cause formerly successful traders to become less successful.
- (2) Electronic Day Trading involves a high volume of trading activity – the number of transactions in an account may exceed 100 per day. Each trade generates a commission and the total daily commission on such a high volume of trading can be in excess of any earnings.
- (3) Persons who are new to Electronic Day trading should strictly limit both the number of trades they do and the size of their trades to reduce the risk of large dollar losses during the learning process.
- (4) Electronic Day Trading is designed to produce short-term profits. However, the activity also may result in losses that can exceed more than 100% of your initial capital. You are solely responsible for any losses in your account.
- (5) Placing contingent orders, such as "stop-loss" or "stop-limit" orders, will not necessarily limit your losses to the intended amounts, since market conditions on the NASDAQ or any Alternative Trading System on which the order is placed may make it impossible to execute such orders. Similarly, using "market orders" can be very risky, since large gaps can occur in price movements of active stocks. You are urged in most instances to use "limit orders."
- (6) Under certain market conditions, you may find it difficult or impossible to liquidate a position quickly at a reasonable price. This can occur, for example, when the market for a stock suddenly drops, or if trading is halted due to recent news events or unusual trading activity. The more volatile a stock is, the greater the likelihood that problems may be encountered in executing a transaction.
- (7) In addition to normal market risks, you may experience losses due to system failures. The firm and its clearing broker rely upon sophisticated computer software and hardware to execute transactions, which are subject to failure due to a variety of factors. In addition, NASDAQ and the Alternative Trading Systems have computer systems that often malfunction. Among other events, you may experience losses due to: system crashes during both peak and low volume periods; the loss of orders on both SOES and Select Net; and, delayed, conflicting and inaccurate confirmations on orders or cancellations that you initiate.



Momentum Securities

(8) The use of any margin or leverage in an account can work against you as well as for you. Leverage can lead to large losses as well as gains. You may sustain a total loss of the initial margin funds and any additional funds that you deposit with your broker to establish or maintain a position, and you may incur losses beyond your initial investment. If the market moves against your position, you may be called upon to deposit a substantial amount of additional margin funds, on short notice, in order to maintain your position. If you do not provide the required funds within the time required, your position may be liquidated at a loss, and you will be liable for any resulting deficit in your account.

(9) You should consult your broker concerning the nature of the protections available to safeguard funds or property deposited in your account.

***ALL OF THE POINTS NOTED ABOVE APPLY TO ELECTRONIC DAY TRADING OF DOMESTIC EQUITY SECURITIES. IF YOU ARE CONTEMPLATING TRADING FUTURES OR OPTIONS CONTRACTS, YOU SHOULD BE AWARE THAT THESE INSTRUMENTS POSSESS ADDITIONAL RISKS.***

***THE RISK OF ELECTRONIC DAY TRADING MAY BE SUBSTANTIAL. THIS BRIEF STATEMENT CANNOT, OF COURSE, DISCLOSE ALL THE RISKS AND OTHER ASPECTS OF ELECTRONIC DAY TRADING. ONLY RISK CAPITAL SHOULD BE USED FOR SUCH TRADING.***

I hereby acknowledge that I have received and understood this risk disclosure statement.

X \_\_\_\_\_ X \_\_\_\_\_  
Signature Printed Name

X \_\_\_\_\_ X \_\_\_\_\_  
Joint Owner Signature, if any Printed Name

X \_\_\_\_\_  
Date



Momentum Securities

**MOMENTUM SECURITIES, INC.**  
 Member: NASD and SIPC

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**To:** New Customers of Momentum  
**From:** Momentum Management  
**Re:** Risks Associated with Trading Internet Stocks

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**Internet Stocks Are Excessively Risky** The *increased* market volatility has added excessive risk to day trading. Momentum recommends that you reconsider your individual trading patterns in light of this extreme volatility. Be certain to consider your specific risk tolerances, available risk/trading capital, financial objectives and overall goals. If you have partners or shareholders be sure to share these concerns directly with them. Perhaps, the current market conditions require a revised approach to your trading. Certain stocks have moved as much as 25-100 points in a *single trading session*. These movements subject you to the possibility of *extreme loss*. Momentum's personnel, as always, remain available to review your individual situation. Please feel free to schedule an appointment at any time.

**Your trading success, which includes the limitation of losses, remains our foremost concern.**

**We Remind You**.....Momentum does *not* provide its customers recommendations or investment advice. All orders executed in your account are "unsolicited" transactions for which you are solely responsible. However, Momentum brokers are available to assist you in the executions of your trades, your account management, technical help and reporting. Momentum is *not* responsible for directing your investment decisions or making recommendations.

**Understanding the Risk** Electronic day trading involves special risks and may not be suitable for everyone. Electronic day trading also involves a high volume of trading activity - the number of transactions in an account may exceed 10 to 700 per day. Each trade generates an agency commission and the total daily commission on such a high volume of trading can be considerable.

Electronic day trading accounts should be considered speculative in nature with the objective being to generate short-term profits. This activity may result in the loss of more than 100% of an investment, which is the sole responsibility of the customer. An electronic day trader should understand the operation of a margin account under various market conditions and review his or her investment objectives, financial resources and risk tolerances to determine whether margin trading is appropriate for them. The increased leverage which margin provides may heighten risk substantially, including the risk of loss in excess of 100% of an investment.

**This Notice was received on \_\_\_\_\_, 20\_\_**

**Customer Signature:** \_\_\_\_\_ **Customer Name** \_\_\_\_\_

**Joint Account Holder Signature:** \_\_\_\_\_ **Joint Customer Name:** \_\_\_\_\_

**Office Location:** \_\_\_\_\_



**MOMENTUM SECURITIES, INC.**

*Member: NASD and SIPC*

*SEC Commentary "Day Trading: Your Dollars at Risk"*

Day traders rapidly buy and sell stocks throughout the day in the hope that their stocks will continue climbing or falling in value for the seconds to minutes they own the stock, allowing them to lock in quick profits. Day traders usually buy on borrowed money, hoping that they will reap higher profits through leverage, but running the risk of higher losses too.

As SEC Chairman Levitt recently stated in his testimony before the U.S. Senate, "[Day trading] is neither illegal nor is it unethical, but it is highly risky." Most individual investors do not have the wealth, the time, or the temperament to make money and to sustain the devastating losses that day trading can bring.

Here are some of the facts that every investor should know about day trading:

**Be prepared to suffer severe financial losses**

Day traders typically suffer severe financial losses in their first months of trading, and many never graduate to profit-making status. Given these outcomes, it's clear: day traders should only risk money they can afford to lose. They should never use money they will need for daily living expenses, retirement, take out a second mortgage, or use their student loan money for day trading.

**Day traders do not "invest"**

Day traders sit in front of computer screens and look for a stock that is either moving up or down in value. They want to ride the momentum of the stock and get out of the stock before it changes course. They do not know for certain how the stock will move. They are hoping that it will move in one direction, either up or down in value. True day traders do not own any stocks overnight because of the extreme risk that prices will change radically from one day to the next, leading to large losses.

**Day trading is an extremely stressful and expensive full-time job**

Day traders must watch the market continuously during the day at their computer terminals. It's extremely difficult and demands great concentration to watch dozens of ticker quotes and price fluctuations to spot market trends. Day traders also have high expenses, paying their firms large amounts in commissions, for training, and for computers. Any day trader should know up front how much they need to make to cover expenses and break even.

**Day traders depend heavily on borrowing money or buying stocks on margin**

Borrowing money to trade in stocks is always a risky business. Day trading strategies demand using the leverage of borrowed money to make profits. This is why many day traders lose all their money and may end up in debt as well. Day traders should understand how margin works, how much time they'll have to meet a margin call, and the potential for getting in over their heads.

**Don't believe claims of easy profits**

Don't believe advertising claims that promise quick and sure profits from day trading. Before you start trading with a firm, make sure you know how many clients have lost money and how many have made profits. If the firm does not know, or will not tell you, think twice about the risks you take in the face of ignorance.

**Watch out for "hot tips" and "expert advice" from newsletters and websites catering to day traders**

Some websites have sought to profit from day traders by offering them hot tips and stock picks for a fee. Once again, don't believe any claims that trumpet the easy profits of day trading. Check out these sources thoroughly and ask them if they have been paid to make their recommendations.

**Remember that "educational" seminars, classes, and books about day trading may not be objective**

Find out whether a seminar speaker, an instructor teaching a class, or an author of a publication about day trading stands to profit if you start day trading.

**Check out day trading firms with your state securities regulator**

Like all broker-dealers, day trading firms must register with the SEC and the states in which they do business. Confirm registration by calling your state securities regulator and at the same time ask if the firm has a record of problems with regulators or their customers. You can find the telephone number for your state securities regulator in the government section of your phone book or by calling the North American Securities Administrators Association at (202) 737-0900. NASAA also provides this information on its website at [www.nasaa.org](http://www.nasaa.org).

Please acknowledge your understanding of the SEC's concerns as they relate to on-line trading and day trading -- services provided by Momentum Securities, Inc. Thank you.

\_\_\_\_\_  
Account Title -- (Printed Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Joint Account Holder Signature

Office \_\_\_\_\_



- Company Profile
- Principals Message
- Technology
- Customer Preparation
- Momentum In The Press
- Office Directory
- Remote/Internet
- Electronic Day Trading
- Contacting Momentum
- Links
- Momentum Home

Understanding the Risk

**MOMENTUM SECURITIES, INC. RISK DISCLOSURE STATEMENT**

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**SHOULD YOU HAVE ANY ADDITIONAL QUESTIONS OR CONCERNS REGARDING ANY ASPECTS OF THE RISKS INVOLVED IN ELECTRONIC DAY-TRADING, PLEASE CONSULT A MOMENTUM SECURITIES LICENSED BROKER.**

**BY MY SIGNATURE BELOW, I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND MOMENTUM SECURITIES, INC.'S RISK DISCLOSURE STATEMENT.**



U.S. SECURITIES  
AND EXCHANGE  
COMMISSION

**STATEMENT BY CHAIRMAN ARTHUR LEVITT  
SECURITIES AND EXCHANGE COMMISSION  
CONCERNING ON-LINE TRADING**

JANUARY 27, 1999

Chairman Arthur Levitt today issued the following statement to investors:

The Internet and other new technologies are in many ways transforming how our capital markets operate. There are clear benefits to these changes including lower costs and faster access to the market for investors. I believe that investors need to remember the investment basics, and not allow the ease and speed with which they can trade to lull them either into a false sense of security or encourage them to trade too quickly or too often.

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Millions of new investors have taken advantage of the unprecedented access and individual control the Internet provides. But, new opportunities present all of us with new responsibilities, challenges and risks. The SEC will do everything it can to protect and inform investors during this time of great innovation and change. But, investor protection at its most basic and effective level-starts with the investor. I say to all investors-whether you invest on-line, on the phone, or in-person-know what you are buying, what the ground rules are, and what level of risk you are assuming.

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**Statement of Ethical Principles**

Electronic Traders Association (ETA) is an association of broker-dealers that provide individuals, who day trade, with technology at a level generally available to institutions and securities dealers. ETA seeks to encourage education and awareness regarding the opportunities and risks of day trading, to promote price competition in all securities markets, and to be a resource for law, guidance and regulation in these areas.

Statement of Ethical Principles

Electronic Traders Association

Board of Directors

Members

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Regulation

Investment

Customer

Government

State

Regulation

ETAs

ETAs

Changes in technology now allow individuals direct access to the securities markets without the assistance of intermediaries or professional advice. These changes require day trading firms to meet high standards of ethical business conduct. As ETA members we pledge to observe these principles:

**I. Responsibility to Promote Reasonable Regulation in the Interests of Our Customers and the Securities Markets.**

We will cooperate with lawmakers and regulators to encourage appropriate regulation to protect day traders and to make securities markets more efficient.

We are dedicated to establishing and following appropriate policies and procedures to effect full compliance with the letter and spirit of the laws and regulations which govern our activities, maintaining all appropriate state and federal licenses.

**II. Responsibility to the Prospective Customer.**

We will be truthful in all communications with prospective customers, seeking to make sure that our communications are complete in all material respects.

We will not make misleading or exaggerated claims about our services, or the benefits of day trading, and will provide a balanced perspective in our advertisements and

presentations.

We will disclose fully and candidly, orally and in writing, the risks of day trading - knowing that successful day trading requires knowledge of the securities markets, skill, and commitment. We will not obscure the reality that most people lose money in their initial trading period and that many will not ultimately become successful day traders.

We will not make false statements, provide erroneous information, or fail to inform prospective customers of the limitations, conditions or constraints of our own systems or those of our vendors.

We will be candid in our assessment of any prospective customer's skills and potential for success. We will not open accounts for customers who do not appear to have the ability to sustain losses, or intend to trade with retirement assets, or assets necessary for daily living.

### **III. Responsibility to Our Customers and Our Commitment to Their Success.**

We will be frank and honest in our communications with customers, providing to each a statement explaining the risks of day trading, including the fact that many persons will not be successful and may lose money.

We recognize that customer's skills and potential for success will vary, and therefore we pledge to be candid in our appraisal of their individual abilities as they become apparent.

We will maintain facilities to enable customers to execute transactions efficiently - continually developing and refining systems and vendor relationships to promote customer success.

We will uphold each customer's right to privacy and confidentiality.

### **IV. Responsibility to Promote Best Practices.**

We will promote fair and open access to the securities markets and will resist discriminatory policies and practices. We will work with lawmakers and regulators to assure fair treatment of our customers and to promote efficient markets.

We will improve continually the training we offer customers

and encourage them to learn.

We will treat all persons fairly, regardless of race, religion, sex, age or national origin. We will not tolerate on our premises individuals who engage in offensive behavior.

We recognize that the markets continually change and that regulatory requirements change accordingly. We will not be satisfied with ethical standards as they were but will promote principles and practices that reflect the nature of the day trading industry as it may change.

**Unanimously approved by the ETA Board of Governors,  
July 28, 1999.**

**Andover Brokerage, LLC  
Mount Pleasant Brokerage Services, LP  
Momentum Securities, Inc.  
On-Line Investment Services, Inc.  
Tradescape.Com, Inc.**

*The Electronic Traders Association is an association of order entry and proprietary trading firms and other vendors, affiliated companies and individuals across the United States. ETA was formed to encourage education and awareness regarding the opportunities and risks of day trading, to promote access to the NASDAQ market for all investors, to promote price competition in the NASDAQ market, and to promote investor fairness and confidence in the NASDAQ market.*

###

[ [Statement of Ethical Principles](#) | [Officers/Board of Governors](#) ]  
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Your online broker  
may not live by  
commissions  
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of account  
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Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 1

[onsitetrading.com](http://onsitetrading.com) THE ON-SITE TRADER® offers the best opportunity for price improvement. Find out more today.

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the best opportunity for price improvement because we let you direct your own order flow. You always get the execution you've chosen because THE ON-SITE TRADER gives you a direct connection to our routing system, which provides high-speed access to all exchanges, ECNs, and market makers. And THE ON-SITE TRADER does more than help you achieve the execution you've chosen. We also provide access to the information you need to execute your trading strategy. This includes all the extras—like real-time and Level II quotes, charts, and Dow Jones News Service—all at no extra charge.\*\*

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72 Registered Representative / [www.rrmag.com](http://www.rrmag.com) / June 1999



# Medipoint Data Systems

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Calgary, Alberta T2J 3A4  
Tel: 1-403-262-9091  
Toll-Free: 1-800-214-6855  
e-mail: franl@paperlessoffice.com  
Fax No: 1-403-271-2776

Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 2

United States Senate  
Committee on Governmental Affairs  
Washington, DC  
205 10-6250

K. Lee Blalack, II and Linda J. Gustitus

September 17, 1999

Re: Your letter dated August 30, 1999

I am a Canadian selling a book about my personal experiences daytrading from Calgary, Canada via the Internet worldwide.

I have been doing this since February 1999.

I have no internal or external reports nor have I ever had any reports on the financial performance of individuals who purchased my book.

I do not have any relationships nor have I ever had any relationships with any company that provides day trading services including, but not limited to, stock order execution.

There are no internal or external audit reports nor have there ever been any reports which apply to the Lazy DayTrader.

There are no Lazy DayTrader branch offices in the United States, Canada or anywhere in the world nor have there ever been any.

There has never been any enforcement, disciplinary action, criminal action, civil action or lawsuit in any way shape or form by state or federal securities regulators, and state or federal civil or criminal actions against The Lazy DayTrader or its officers, directors and employees in the United States, Canada or anywhere else .

*Paperless Medical, Laboratory and Hospital Systems*

*Visit our Internet site at <http://www.paperlessoffice.com>*

September 17, 1999

Page 2

I have never received any complaints from potential customers or daytraders, governmental agencies or offices referring or relating to, or containing any information about a complaint.

With regards to the representations made on the Lazy DayTrader website:

-I can work my own hours, take as much time off as I want and when I am finished trading I am finished and the money is in my account insured up to \$ 500,000.-

When I am Daytrading from home I can indeed trade my own hours. I don't trade every day and do not hold a trade normally for more than a couple of minutes which means that after I am finished buying and selling for the day my brokerage account holds a cash balance only.

Cash balances are insured up to \$ 500,000.- by the Datek Corporation. See <http://www.datek.com> account information.

-I have developed a simple method to determine what to buy and sell, how much and when to buy and sell which everyone can follow.

My Method is extremely simple and can be followed by anyone:

1. At 9.15 EST I click on a website "<http://briefing.com>" to which I have a real-time subscription.
2. I go to the submenu ""headlines"" and write down the names of the stocks mentioned in ""headlines""
3. I plug these stocks into ""mytrack"" which is a real-time data feed to the stock markets.
4. I watch the stocks with the biggest upward price increases and the biggest volumes.
5. At 9.35 EST I buy the stock that has the largest upward price momentum.
6. I buy the stock through an Internet Broker within 3 to 30 seconds.
7. I buy the stock at a limit price entering at the same time a stop loss.
8. When I see the upward movement of the stock slowing down I sell within 3 to 30 seconds.
9. I do this 2 or 3 times within 45 minutes and then most of the time I quit for the day.
10. If the Nasdaq is down very much I only buy a small number of shares and use a tight stop loss

-You don't have to be able to understand Economics, the Stockmarket or International Finance.

With the above method you don't.

September 17, 1999

Page 3

-Most of the time your account will hold CASH only, which will increase, with some practice, every day.

As you notice from the above method, since I make a maximum of 3 trades per day being in a trade for only a couple of minutes most of the time my brokerage account holds cash only.

By using the above method always entering a trade with a built-in stoploss and always buying a stock that is moving up I only have to have a small number of winning trades to make money.

-I will show you how you can make money even when the market is down, up or sideways and how you can protect against losses while letting the winners ride.

Even when the market is down, when the news comes out, let us say, on [briefing.com](http://briefing.com) that Microsoft is buying Infoseek, chances are that Infoseek's shares will go up in price between 9.35 EST and 10.00 EST.

When you see the price of Infoseek indeed going up in real-time you can make money on buying Infoseek minimizing your possible loss by placing a limit order with a built-in stoploss making sure the stoploss is tight because the market in general is down.



Frank van der Lugt

Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 3

Taking Profits Publishing  
P.O. Box 505  
Middlesex, NJ. 08846

September 20, 1999

99 SEP 30 PM 2:26

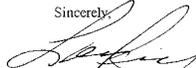
Dear Sir or Madam,

Enclosed are responses to your communication regarding the day trading industry.

1. The Day Trader newsletter currently has 32 subscribers. Taking Profits newsletter has 31. 16 people have taken the How to Beat the Market Course.
2. All documents or information about, How to Beat the Market course, Taking Profits or The Day Trader newsletters is found as advertised on our web site. Copies enclosed. We have no affiliation or relationship with our customers other than providing recommendations. Therefore, we do not know to what extent our customers use our information. None of our customers have volunteered performance information, nor have we asked.
3. None. Taking Profits Publishing has no relationships with other companies.
4. None. To date, there have been no audits conducted. We have no branch offices.
5. None. There has been no action taken or pending against Taking Profits Publishing.
6. None. There have been no complaints received from any one person, persons, or government agency.
7. None. All information is found on our web site. Copies enclosed.

If I can be of further assistance, please let me know.

Sincerely,



Louis Russo

Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 4



**Coastal Technologies Group**  
*Serving Telecom Providers*

5030 Champion Blvd  
Suite 6-183  
Boca Raton, Florida  
33498  
800 446 2845

United States Senate  
Committee on Governmental Affairs  
Washington, DC 20510-6250  
K. Lee Blalack, II  
Chief Counsel & Staff Director  
Permanent Subcommittee on Investigations

September 9, 1999

Dear Mr. Blalack,

CTG has never sold the Wealth Wizard™ system. It is awaiting a US patent serial number 09/170,745 with a filing date of October 13, 1998.

CTG is primarily a telecom operational support system provider to the phone industry. Our customers include a top 4 IXC and a variety of CLECs.

There has never been any enforcement or disciplinary action at the state or federal level, either civil or criminal, against CTG, it's officers, directors or employees.

Prior to sale of the software we will seek support to re-work the informational and disclosure sections of the license agreement, web site, and related materials to ensure compliance with both the spirit and intent of regulations and in keeping with good business practice.

We will await with great interest the findings of your committee and will abide by any guidelines developed. We would welcome changes to make this a more stable market place.

Regards,

Richard Kane  
Coastal Technologies Group

The Precision Management Group

A Division of 1-800-RETIRENOW.com, Inc.  
4820 Alpine Place, Suite B-201—Las Vegas, NV – 89107—(800) 738-4735— Fax: (941) 790-0206

10 November 1999

Eileen Fisher  
United States Senate  
Permanent Sub Committee on Investigation  
100 Russell – Senate Office Building  
First & C Street  
Washington, D.C., 20510

Dear Ms. Fisher:

Enclosed please find the documents that you requested in your letter dated August 30, 1999. Please note that the package is laid out in accordance to the Schedule A that was attached.

1) Paragraph 1.

1A) The spreadsheet labeled 1A is the complete list of participants in the seminars, dates and courses attended. I was unable to print out the information on the left side of the spreadsheet, so I have enclosed the diskette for you to use. It is an excel spreadsheet. Please note that the software was never sold separately, it was included as part of the price of the course.

1B) These are the print outs from the Master Mind chats as they were experienced by the students. You will be able to look through these and determine how many students participated.

1C) Printouts of the Trade Tutor Bulletin Boards as they were posted.

1D) Course Materials for S.W.A.T. Seminar

1E) Course Materials for The Precision Day Trade

1F) A CD Rom of the Precision Day Trader Software

2) To my knowledge, there are no additional documents or information that I can locate on the items requested.

3) To my knowledge, there is no relationship between our company and any company that provides day trading services.

4) The company has never had any internal or external audits performed.

5) The company has never had any disciplinary action ever taken by any one.

6) To my knowledge there have been no complaints regarding the courses taken. There have been issues with the way the credit card companies have handled the charge backs. We are currently attempting to get students funds refunded to them via the credit card companies. We are not having much luck. If you have suggestions, please contact me.

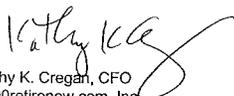
7A) Copies of all of the trades that were made in the company account during the seminars.

7B) The second part of the question was entirely our opinion and we have no written documentation to support our opinion. It was our goal to attempt to teach other people how the stock market works in a day trading environment.

7C) The final item is a newspaper article that our primary speaker and general manager participated in defining the goals and issues of day trading for a living.

I have kept the contracts for our students per our conversation. Should you decide that you need additional information, please contact me at the above address.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy K. Cregan". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Kathy K. Cregan, CFO  
1800retirenow.com, Inc.

REP. 1.04.14

Sorted by Date.

01/01/1999 - 09/15/1999

Account Number	Account Type	Symbol/CUSIP B/S	Trade Date	Execution Time	Settle Date	Trade Number	Quantity	Price	Principal Amt.	Commission	Net Amount
42000885	General Margin	ACL	1/14/1999	1019	1/17/1999	10164	100.00	150.000000	15,000.00	20.00	15,020.00
42000885	General Margin	ACL	1/14/1999	1026	1/17/1999	10420	-100.00	151.375000	-15,137.50	20.00	-15,116.99
42000885	General Margin	ANZN	1/14/1999	1120	1/17/1999	11775	100.00	338.625000	33,862.50	20.00	33,882.50
42000885	General Margin	ANZN	1/14/1999	1123	1/17/1999	11448	-100.00	340.000000	-34,000.00	20.00	-33,979.86
42000885	General Margin	ANZN	1/14/1999	1158	1/17/1999	11814	100.00	338.375000	33,837.50	20.00	33,857.50
42000885	General Margin	ANZN	1/14/1999	1203	1/17/1999	114167	-100.00	338.500000	-33,850.00	20.00	-33,828.37
42000885	General Margin	YHOO	1/14/1999	1519	1/17/1999	11931	100.00	245.375000	24,537.50	20.00	24,557.50
42000885	General Margin	YHOO	1/14/1999	1524	1/17/1999	114296	-100.00	245.562500	-24,556.25	20.00	-24,536.43
42000885	General Margin	DELL	1/14/1999	1525	1/17/1999	11954	100.00	73.875000	7,387.50	20.00	7,406.00
42000885	General Margin	DELL	1/14/1999	1527	1/17/1999	11313	-100.00	73.812500	-7,381.25	20.00	-7,361.00
42000885	General Margin	EBAY	1/15/1999	1001	1/18/1999	11010	100.00	224.312500	22,431.25	20.00	22,451.25
42000885	General Margin	EBAY	1/15/1999	1006	1/18/1999	11658	-100.00	226.000000	-22,600.00	20.00	-22,579.24
42000885	General Margin	EBAY	1/15/1999	1023	1/18/1999	11010	100.00	226.000000	22,600.00	20.00	22,620.00
42000885	General Margin	EBAY	1/15/1999	1026	1/18/1999	11010	-100.00	226.000000	-22,600.00	20.00	-22,579.24
42000885	General Margin	TB	1/15/1999	1257	1/18/1999	10657	200.00	77.687500	15,537.50	20.00	15,557.50
42000885	General Margin	TB	1/15/1999	1303	1/18/1999	10657	-100.00	77.500000	-7,750.00	20.00	-7,729.74
42000885	General Margin	TB	1/15/1999	1304	1/18/1999	10658	100.00	46.875000	4,687.50	20.00	4,706.00
42000885	Short	COMS	1/15/1999	1309	1/18/1999	11368	-100.00	46.875000	-4,687.50	20.00	-4,666.04
42000885	Short	COMS	1/15/1999	1324	1/18/1999	11368	15.00	46.875000	703.13	20.00	723.13
42000885	Short	COMS	1/15/1999	1328	1/18/1999	11368	65.00	47.062500	4,000.31	20.00	4,020.61
42000885	General Margin	YHOO	1/15/1999	1511	1/18/1999	11368	100.00	246.750000	24,675.00	20.00	24,695.00
42000885	General Margin	YHOO	1/15/1999	1512	1/18/1999	11368	-100.00	246.000000	-24,600.00	20.00	-24,579.17
42000885	General Margin	YHOO	1/15/1999	1519	1/18/1999	11368	100.00	246.000000	24,600.00	20.00	24,620.00
42000885	General Margin	YHOO	1/15/1999	1522	1/18/1999	11368	-100.00	247.000000	-24,700.00	20.00	-24,679.67
42000885	General Margin	CMGI	1/16/1999	1085	1/17/1999	11368	500.00	133.500000	66,750.00	20.00	66,770.50
42000885	General Margin	CMGI	1/16/1999	1088	1/17/1999	11368	-500.00	134.937500	-67,468.75	20.00	-67,448.30
42000885	General Margin	UBID	1/16/1999	1018	1/17/1999	11368	300.00	126.187500	37,856.25	20.00	37,876.25
42000885	General Margin	UBID	1/16/1999	1516	1/17/1999	11368	-300.00	123.687500	-37,106.25	20.00	-37,086.01
42000885	General Margin	NSPG	1/17/1999	1018	1/18/1999	11368	100.00	84.375000	8,437.50	20.00	8,457.50
42000885	General Margin	NSPG	1/17/1999	1018	1/18/1999	11368	-100.00	84.375000	-8,437.50	20.00	-8,417.21
42000885	General Margin	DELL	1/17/1999	1526	1/18/1999	11368	100.00	81.875000	8,187.50	20.00	8,206.00
42000885	General Margin	DELL	1/17/1999	1527	1/18/1999	11368	-100.00	81.750000	-8,175.00	20.00	-8,154.22
42000885	General Margin	YHOO	1/17/1999	1540	1/18/1999	11368	200.00	436.437500	87,287.50	20.00	87,307.50
42000885	General Margin	YHOO	1/17/1999	0931	1/19/1999	11368	-100.00	335.250000	-33,525.00	20.00	-33,505.00
42000885	General Margin	YHOO	1/17/1999	0932	1/19/1999	11368	100.00	337.125000	33,712.50	20.00	33,691.25
42000885	General Margin	YHOO	1/17/1999	1318	1/20/1999	11368	-100.00	31.750000	-3,175.00	20.00	-3,154.75
42000885	Short	C	1/14/1999	1318	1/20/1999	10205	500.00	51.437500	25,718.75	20.00	25,738.75
42000885	Short	C	1/14/1999	1336	1/20/1999	10466	-500.00	51.437500	-25,718.75	20.00	-25,698.75
42000885	General Margin	C	1/15/1999	0942	1/21/1999	10114	100.00	31.132000	3,113.20	20.00	3,133.20
42000885	General Margin	C	1/15/1999	0948	1/21/1999	10453	-100.00	31.132000	-3,113.20	20.00	-3,093.20
42000885	General Margin	CMCI	1/19/1999	0959	1/22/1999	11519	300.00	103.312500	30,993.75	20.00	31,013.75
42000885	General Margin	CMCI	1/19/1999	1008	1/22/1999	11519	-300.00	103.312500	-30,993.75	20.00	-30,973.75

Senate Permanent Subcommittee On Investigations

EXHIBIT # 6

9/23/1999

https://clerics.panson.com/QRy\_TradeHistory\_Content.asp?Button=1



42000885	General Margin	CSCO	S	2/2/1999	1253	2/5/1999	N3811	-100.00	112.877500	-11.21875	20.00	-11.09837
42000885	General Margin	CSCO	B	2/2/1999	1325	2/5/1999	N1719	200.00	112.000000	22.46000	20.00	22.46000
42000885	General Margin	CSCO	S	2/2/1999	1326	2/5/1999	N3893	-200.00	111.812500	-22.36250	20.00	-22.94175
42000885	General Margin	YHOO	B	2/3/1999	0945	2/8/1999	N1246	300.00	336.000000	100.90000	20.00	100.90000
42000885	General Margin	YHOO	S	2/3/1999	0950	2/8/1999	N2963	-300.00	335.000000	-100.30000	20.00	-100.97615
42000885	General Margin	YHOO	S	2/3/1999	0954	2/8/1999	N1335	300.00	338.000000	101.40000	20.00	101.40000
42000885	General Margin	YHOO	B	2/3/1999	1034	2/8/1999	N3282	-300.00	332.437500	-99.73125	21.50	-99.70642
42000885	General Margin	YHOO	S	2/3/1999	1457	2/8/1999	N2636	100.00	348.312500	34.84063	24.50	34.95575
42000885	General Margin	YHOO	B	2/3/1999	1458	2/8/1999	N2639	-100.00	348.406250	-34.84063	0.00	-34.84063
42000885	General Margin	YHOO	S	2/3/1999	1502	2/8/1999	N2658	200.00	348.500000	69.70000	20.00	69.99550
42000885	General Margin	AVZN	B	2/3/1999	1504	2/8/1999	N2658	-200.00	348.250000	-37.27500	20.00	-37.25825
42000885	General Margin	MSFT	S	2/3/1999	1517	2/8/1999	N3379	100.00	348.312500	36.97500	20.00	36.97500
42000885	General Margin	MSFT	B	2/3/1999	1517	2/8/1999	N3382	-100.00	348.312500	-15.73125	20.00	-16.10069
42000885	General Margin	YHOO	S	2/3/1999	1535	2/8/1999	N3625	200.00	351.937500	70.98750	20.00	71.00730
42000885	General Margin	YHOO	B	2/3/1999	1540	2/8/1999	N2115	-200.00	355.000000	-71.90000	20.00	-71.62711
42000885	General Margin	YHOO	S	2/3/1999	1541	2/8/1999	N3942	200.00	358.250000	71.65000	20.00	71.23500
42000885	General Margin	YHOO	B	2/3/1999	1549	2/8/1999	N2123	-200.00	358.250000	-71.65000	20.00	-71.62711
42000885	General Margin	YHOO	S	2/3/1999	1551	2/8/1999	N3949	300.00	37.397500	29.38125	20.00	29.49401
42000885	General Margin	CSCO	B	2/9/1999	1145	2/12/1999	N4151	-300.00	96.250000	-29.47500	20.00	-29.49401
42000885	General Margin	CSCO	S	2/9/1999	1149	2/12/1999	N4151	300.00	96.250000	29.47500	20.00	29.49401
42000885	General Margin	MSFT	S	2/9/1999	1152	2/12/1999	10449	300.00	88.625000	34.31250	20.00	34.33830
42000885	General Margin	MSFT	B	2/9/1999	1312	2/12/1999	10493	-300.00	88.375000	-34.18750	20.00	-34.40636
42000885	General Margin	MSFT	S	2/10/1999	0935	2/16/1999	N467X	300.00	87.500000	46.15000	20.00	46.17630
42000885	General Margin	MSFT	B	2/10/1999	0937	2/16/1999	N467X	-300.00	87.500000	-46.15000	20.00	-46.17630
42000885	General Margin	MSFT	S	2/10/1999	0945	2/16/1999	N467X	300.00	87.500000	46.15000	20.00	46.17630
42000885	General Margin	MSFT	B	2/10/1999	0948	2/16/1999	N467X	-300.00	87.500000	-46.15000	20.00	-46.17630
42000885	General Margin	DELL	S	2/10/1999	1032	2/16/1999	N4603	200.00	91.497500	16.28750	20.00	16.30715
42000885	General Margin	DELL	B	2/10/1999	1040	2/16/1999	N4603	-200.00	91.497500	-16.28750	20.00	-16.30715
42000885	General Margin	YHOO	S	2/10/1999	1045	2/16/1999	N4608	300.00	94.812500	23.94575	20.00	23.96875
42000885	General Margin	YHOO	B	2/10/1999	1046	2/16/1999	N4608	-300.00	94.812500	-23.94575	20.00	-23.96875
42000885	General Margin	YHOO	S	2/10/1999	1051	2/16/1999	N4612	300.00	100.312500	50.13625	20.00	50.17625
42000885	General Margin	YHOO	B	2/10/1999	1051	2/16/1999	N4612	-300.00	100.312500	-50.13625	20.00	-50.17625
42000885	General Margin	YHOO	S	2/10/1999	1100	2/16/1999	N4611	200.00	94.125000	19.29375	20.00	19.29375
42000885	General Margin	YHOO	B	2/10/1999	1100	2/16/1999	N4611	-200.00	94.125000	-19.29375	20.00	-19.29375
42000885	General Margin	YHOO	S	2/12/1999	1324	2/18/1999	10236	100.00	97.562500	8.75625	20.00	8.75625
42000885	General Margin	YHOO	B	2/12/1999	1324	2/18/1999	10236	-100.00	97.562500	-8.75625	20.00	-8.75625
42000885	General Margin	YHOO	S	2/12/1999	1326	2/18/1999	10237	100.00	150.250000	15.02500	20.00	15.02500
42000885	General Margin	YHOO	B	2/12/1999	1326	2/18/1999	10237	-100.00	150.250000	-15.02500	20.00	-15.02500
42000885	General Margin	YHOO	S	2/12/1999	1336	2/18/1999	10274	100.00	136.497500	13.94375	20.00	13.94375
42000885	General Margin	YHOO	B	2/12/1999	1336	2/18/1999	10274	-100.00	136.497500	-13.94375	20.00	-13.94375
42000885	General Margin	YHOO	S	2/12/1999	1356	2/18/1999	N5888	200.00	90.250000	18.65000	20.00	18.65000
42000885	General Margin	YHOO	B	2/12/1999	1356	2/18/1999	N5888	-200.00	90.250000	-18.65000	20.00	-18.65000
42000885	General Margin	YHOO	S	2/17/1999	0559	2/22/1999	10463	300.00	82.250000	23.37250	20.00	23.37250
42000885	General Margin	YHOO	B	2/17/1999	1018	2/22/1999	10463	-300.00	82.250000	-23.37250	20.00	-23.37250
42000885	General Margin	YHOO	S	2/17/1999	1031	2/22/1999	N4610	300.00	138.625000	17.41625	20.00	17.41625
42000885	General Margin	YHOO	B	2/17/1999	1031	2/22/1999	N4610	-300.00	138.625000	-17.41625	20.00	-17.41625
42000885	General Margin	YHOO	S	2/17/1999	1341	2/22/1999	N4610	300.00	138.625000	17.41625	20.00	17.41625
42000885	General Margin	YHOO	B	2/17/1999	1341	2/22/1999	N4610	-300.00	138.625000	-17.41625	20.00	-17.41625
42000885	General Margin	YHOO	S	2/17/1999	1438	2/22/1999	N4610	300.00	138.750000	38.93500	20.00	38.93500
42000885	General Margin	YHOO	B	2/17/1999	1438	2/22/1999	N4610	-300.00	138.750000	-38.93500	20.00	-38.93500

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42000685	General Margin	MSFT	B	3/4/1999	0943	3/4/1999	N1420	100.00	150.608375	15,050.94	0.00	15,050.94
42000685	General Margin	MSFT	B	3/4/1999	0943	3/4/1999	N1420	-100.00	150.608375	-15,050.94	0.00	-15,050.94
42000685	General Margin	INTC	B	3/2/1999	0943	3/8/1999	NACMK	300.00	113.250000	33,975.00	20.00	33,995.00
42000685	General Margin	INTC	B	3/2/1999	1588	3/8/1999	NACMK	-300.00	114.812500	-34,443.75	20.00	-34,422.60
42000685	Short	AOL	S	3/4/1999	0944	3/9/1999	10560	300.00	87.927500	26,381.25	20.00	26,360.37
42000685	Short	AOL	S	3/4/1999	0953	3/9/1999	10561	-300.00	87.625000	-26,287.50	20.00	-26,307.50
42000685	Short	HWP	S	3/4/1999	1313	3/9/1999	10591	-400.00	67.812500	-27,125.00	20.00	-27,104.09
42000685	Short	HWP	B	3/4/1999	1345	3/9/1999	10739	400.00	67.437500	26,975.00	20.00	26,995.00
42000685	Short	AMZN	S	3/4/1999	1413	3/9/1999	N4540	100.00	116.250000	11,625.00	20.00	11,648.35
42000685	Short	AMZN	B	3/4/1999	1419	3/9/1999	N4540	-100.00	112.812500	-11,281.25	20.00	-11,260.87
42000685	Short	INTC	S	3/4/1999	1557	3/9/1999	N475A	400.00	159.875000	63,950.00	20.00	63,970.50
42000685	General Margin	YHOO	B	3/5/1999	0935	3/10/1999	N485C	-200.00	88.312500	-17,662.50	20.00	-17,641.91
42000685	Short	AOL	S	3/5/1999	0937	3/10/1999	10612	200.00	88.000000	17,600.00	20.00	17,620.00
42000685	Short	AOL	S	3/5/1999	0939	3/10/1999	10942	200.00	88.000000	17,600.00	20.00	17,620.00
42000685	General Margin	INTC	B	3/5/1999	1114	3/10/1999	N464Z	100.00	115.812500	11,581.25	20.00	11,601.75
42000685	General Margin	EFAX	B	3/15/1999	1205	3/18/1999	N46CB	50.00	21.093750	1,054.69	20.00	1,074.69
42000685	Short	YHOO	S	3/23/1999	1342	3/26/1999	N2861	-400.00	157.375000	-62,500.00	20.00	-62,527.90
42000685	General Margin	YHOO	S	3/30/1999	0943	4/5/1999	N2861	500.00	171.000000	85,500.00	20.00	85,520.00
42000685	General Margin	YHOO	S	3/30/1999	0952	4/5/1999	N4224	-500.00	179.500000	-89,975.00	20.00	-89,952.00
42000685	General Margin	EFAX	B	3/30/1999	1046	4/5/1999	N4745	-50.00	19.000000	-950.00	20.00	-929.96
42000685	General Margin	AOL	S	3/30/1999	1103	4/5/1999	10472	500.00	146.812500	73,406.25	20.00	73,426.25
42000685	General Margin	AOL	S	3/30/1999	1108	4/5/1999	10472	-500.00	146.812500	-74,437.50	20.00	-74,415.01
42000685	Short	AOL	S	3/30/1999	1130	4/5/1999	10291	500.00	146.437500	73,281.25	20.00	73,301.25
42000685	Short	AOL	S	3/30/1999	1152	4/5/1999	10355	-500.00	146.562500	-73,281.25	20.00	-73,301.25
42000685	General Margin	NDB	B	3/30/1999	1153	4/5/1999	10483	1,000.00	33.375000	33,375.00	20.00	33,395.00
42000685	General Margin	NDB	S	3/30/1999	1207	4/5/1999	10483	-1,000.00	31.125000	-31,125.00	20.00	-31,103.96
42000685	Short	AOL	S	3/30/1999	1231	4/5/1999	10295	600.00	146.000000	87,600.00	20.00	87,620.00
42000685	Short	AOL	S	3/30/1999	1251	4/5/1999	10381	-600.00	146.000000	-85,837.50	20.00	-85,814.63
42000685	Short	PCLN	S	3/30/1999	1252	4/5/1999	N2902	-100.00	69.750000	-6,975.00	20.00	-6,954.76
42000685	Short	PCLN	S	3/30/1999	1254	4/5/1999	N2909	-20.00	67.312500	-1,343.75	20.00	-1,323.70
42000685	Short	PCLN	S	3/30/1999	1254	4/5/1999	N2913	-800.00	67.250000	-53,800.00	20.00	-53,780.20
42000685	Short	PCLN	S	3/30/1999	1302	4/5/1999	N4018	1,000.00	70.125000	70,125.00	20.00	70,145.00
42000685	Short	PCLN	B	3/30/1999	1303	4/5/1999	N4022	-1,000.00	69.562500	-6,956.25	20.00	-6,936.25
42000685	Short	PCLN	S	3/30/1999	1308	4/5/1999	N2917	1,000.00	73.000000	73,000.00	20.00	72,977.56
42000685	Short	PCLN	B	3/30/1999	1313	4/5/1999	N4029	-1,000.00	72.750000	-72,750.00	20.00	-72,730.00
42000685	General Margin	PCLN	B	3/30/1999	1321	4/5/1999	N0519	1,000.00	73.000000	73,000.00	20.00	73,020.00
42000685	General Margin	PCLN	S	3/30/1999	1324	4/5/1999	N4971	-1,000.00	73.250000	-73,250.00	20.00	-73,227.55
42000685	Short	PCLN	S	3/30/1999	1328	4/5/1999	N2921	-1,000.00	72.750000	-72,750.00	20.00	-72,727.57
42000685	Short	PCLN	B	3/30/1999	1335	4/5/1999	N4033	1,000.00	74.812500	74,812.50	20.00	74,832.50
42000685	Short	PCLN	S	3/30/1999	1338	4/5/1999	N2925	-1,000.00	73.750000	-73,750.00	20.00	-73,727.54
42000685	Short	PCLN	B	3/30/1999	1338	4/5/1999	N4945	1,000.00	73.750000	73,750.00	20.00	73,770.00
42000685	Short	PCLN	S	3/30/1999	1340	4/5/1999	N2928	-1,000.00	72.687500	-72,687.50	20.00	-72,665.07
42000685	Short	PCLN	B	3/30/1999	1401	4/5/1999	N4949	1,000.00	72.625000	72,625.00	20.00	72,645.00
42000685	General Margin	INTC	A	3/30/1999	1401	4/6/1999	N4949	1,000.00	72.500000	72,500.00	20.00	72,520.00



42000855	General Margin	DELL	B	4/6/1999	1610	4/9/1999	ML210	10.00	46.975000	469.38	20.00	489.36
42000855	General Margin	DELL	S	4/6/1999	1611	4/9/1999	NS081	-10.00	46.750000	-467.30	20.00	-447.36
42000855	Short	YHOO	B	4/7/1999	0939	4/12/1999	NA11F	-400.00	222.125000	-88.85000	20.00	-88.87100
42000855	Short	YHOO	S	4/7/1999	0941	4/12/1999	NA00A	400.00	220.250000	80.00000	20.00	80.07300
42000855	Short	ANZN	B	4/7/1999	0948	4/12/1999	NA20D	-100.00	180.975000	-18.09575	20.00	-18.09734
42000855	Short	ANZN	S	4/7/1999	0948	4/12/1999	NA20K	100.00	181.000000	18.10000	0.00	18.09934
42000855	Short	NSOL	B	4/7/1999	0954	4/12/1999	NA117	-200.00	183.000000	-36.60000	20.00	-36.62000
42000855	Short	NSOL	S	4/7/1999	0954	4/12/1999	NA216	400.00	110.750000	44.30000	20.00	44.27832
42000855	Short	NSOL	B	4/7/1999	0958	4/12/1999	NA449	-100.00	110.975000	-10.97500	0.00	-11.09844
42000855	Short	NSOL	S	4/7/1999	0958	4/12/1999	NA449	100.00	110.968750	10.96875	0.00	10.99844
42000855	General Margin	NSOL	B	4/7/1999	1001	4/12/1999	NA37U	100.00	118.000000	10.00000	0.00	10.00000
42000855	General Margin	NSOL	S	4/7/1999	1002	4/12/1999	NA37W	-100.00	118.500000	-10.50000	0.00	-10.50000
42000855	General Margin	YHOO	B	4/7/1999	1346	4/12/1999	NA35E	300.00	117.750000	30.00000	20.00	30.00000
42000855	General Margin	YHOO	S	4/7/1999	1354	4/12/1999	NA368	-300.00	117.750000	-30.00000	20.00	-30.00000
42000855	Short	YHOO	B	4/8/1999	0930	4/13/1999	NA377	-300.00	218.475000	-60.00000	0.00	-60.00000
42000855	Short	YHOO	S	4/8/1999	1001	4/13/1999	NA377	300.00	218.475000	60.00000	0.00	60.00000
42000855	General Margin	AOL	B	4/8/1999	1008	4/13/1999	NA346	-300.00	152.000000	-60.00000	20.00	-60.00000
42000855	General Margin	AOL	S	4/8/1999	1009	4/13/1999	NA345	300.00	154.250000	60.50000	20.00	60.50000
42000855	General Margin	USA	B	4/8/1999	1101	4/13/1999	NA376	-400.00	63.250000	-80.50000	0.00	-80.50000
42000855	General Margin	USA	S	4/8/1999	1131	4/13/1999	NA376	400.00	63.250000	80.50000	0.00	80.50000
42000855	General Margin	USA	B	4/8/1999	1138	4/13/1999	NA370	-500.00	75.500000	-100.00000	20.00	-100.00000
42000855	General Margin	USA	S	4/8/1999	1141	4/13/1999	NA370	500.00	75.500000	100.00000	20.00	100.00000
42000855	Short	TGLO	B	4/8/1999	0933	4/14/1999	NA420	-350.00	74.750000	-70.00000	0.00	-70.00000
42000855	Short	TGLO	S	4/8/1999	0933	4/14/1999	NA446	350.00	74.750000	70.00000	0.00	70.00000
42000855	Short	TGLO	B	4/8/1999	0941	4/14/1999	NA375	-350.00	76.000000	-70.00000	0.00	-70.00000
42000855	Short	TGLO	S	4/8/1999	0948	4/14/1999	NA375	350.00	76.000000	70.00000	0.00	70.00000
42000855	Short	TGLO	B	4/8/1999	1006	4/14/1999	NA374	-1,000.00	76.197500	-200.00000	20.00	-200.00000
42000855	Short	TGLO	S	4/8/1999	1007	4/14/1999	NA374	1,000.00	76.197500	200.00000	20.00	200.00000
42000855	General Margin	TGLO	B	4/8/1999	1010	4/14/1999	NA372	-300.00	79.350000	-60.00000	20.00	-60.00000
42000855	General Margin	TGLO	S	4/8/1999	1010	4/14/1999	NA372	300.00	79.350000	60.00000	20.00	60.00000
42000855	General Margin	TGLO	B	4/8/1999	1016	4/14/1999	NA377	-400.00	80.875000	-80.75000	20.00	-80.75000
42000855	General Margin	TGLO	S	4/8/1999	1016	4/14/1999	NA377	400.00	80.875000	80.75000	20.00	80.75000
42000855	General Margin	INXT	B	4/8/1999	1018	4/14/1999	NA376	-400.00	113.125000	-40.00000	0.00	-40.00000
42000855	General Margin	INXT	S	4/8/1999	1018	4/14/1999	NA376	400.00	113.125000	40.00000	0.00	40.00000
42000855	General Margin	TGLO	B	4/9/1999	1020	4/14/1999	NA378	-200.00	81.875000	-40.00000	20.00	-40.00000
42000855	General Margin	TGLO	S	4/9/1999	1020	4/14/1999	NA378	200.00	81.875000	40.00000	20.00	40.00000
42000855	General Margin	TGLO	B	4/9/1999	1022	4/14/1999	NA379	-500.00	82.250000	-100.00000	20.00	-100.00000
42000855	General Margin	TGLO	S	4/9/1999	1022	4/14/1999	NA379	500.00	82.250000	100.00000	20.00	100.00000

42000835	General Margin	TGLO	B	4/9/1999	1024	4/14/1999	NS937	423.00	83.433594	35,459.28	35.00	35,494.28
42000835	General Margin	TGLO	B	4/9/1999	1024	4/14/1999	NS939	25.00	83.406250	2,095.16	0.00	2,095.16
42000835	General Margin	TGLO	B	4/9/1999	1024	4/14/1999	NS601	200.00	83.421875	16,684.38	0.00	16,684.38
42000835	General Margin	TGLO	B	4/9/1999	1024	4/14/1999	NS603	150.00	83.375000	12,506.25	0.00	12,506.25
42000835	General Margin	TGLO	B	4/9/1999	1024	4/14/1999	NS605	200.00	83.359375	16,671.88	0.00	16,671.88
42000835	General Margin	MSFT	S	4/9/1999	1043	4/14/1999	NS422	-1,000.00	94.432500	-84,437.50	20.00	-84,414.68
42000835	General Margin	MSFT	S	4/9/1999	1521	4/14/1999	NS422	900.00	94.921875	85,429.69	20.00	85,449.69
42000835	General Margin	MSFT	S	4/9/1999	1523	4/14/1999	NS422	-700.00	94.187500	-65,031.25	20.00	-65,009.05
42000835	General Margin	MSFT	S	4/9/1999	1523	4/14/1999	NS422	500.00	94.187500	45,375.00	20.00	45,395.00
42000835	General Margin	YHOO	B	4/12/1999	0934	4/15/1999	M907	200.00	196.975000	39,481.25	20.00	39,501.25
42000835	General Margin	YHOO	B	4/12/1999	0936	4/15/1999	M907	200.00	196.975000	39,481.25	20.00	39,501.25
42000835	General Margin	YHOO	B	4/12/1999	0937	4/15/1999	M921	200.00	196.812500	39,762.50	20.00	39,782.50
42000835	General Margin	YHOO	B	4/12/1999	0938	4/15/1999	M9813	200.00	196.812500	39,762.50	20.00	39,782.50
42000835	General Margin	YHOO	B	4/12/1999	0941	4/15/1999	M9986	400.00	136.000000	55,200.00	20.00	55,220.00
42000835	General Margin	YHOO	B	4/12/1999	0942	4/15/1999	M9822	-400.00	137.750000	-55,100.00	20.00	-55,078.15
42000835	General Margin	YHOO	B	4/12/1999	0953	4/15/1999	10594	300.00	154.250000	46,275.00	20.00	46,295.00
42000835	General Margin	YHOO	B	4/12/1999	0958	4/15/1999	10594	-300.00	156.000000	-46,800.00	20.00	-46,778.44
42000835	General Margin	YHOO	B	4/12/1999	1126	4/15/1999	NS134	100.00	186.500000	18,650.00	20.00	18,670.50
42000835	General Margin	YHOO	B	4/12/1999	1126	4/15/1999	NS134	100.00	187.000000	18,700.00	20.00	18,720.50
42000835	General Margin	YHOO	B	4/12/1999	1141	4/15/1999	NS427	200.00	68.125000	-13,762.50	20.00	-13,742.04
42000835	General Margin	YHOO	B	4/12/1999	1141	4/15/1999	NS427	200.00	68.000000	-13,800.00	20.00	-13,820.00
42000835	General Margin	YHOO	B	4/12/1999	1226	4/15/1999	NS1024	40,000.00	0.095000	2,360.00	100.00	2,460.00
42000835	General Margin	YHOO	B	4/12/1999	0940	4/20/1999	NA33V	-1,000.00	161.000000	-32,200.00	20.00	-32,178.52
42000835	General Margin	YHOO	B	4/15/1999	0943	4/20/1999	11306	500.00	79.375000	-79,875.00	20.00	-79,352.35
42000835	General Margin	YHOO	B	4/15/1999	1444	4/20/1999	11258	-500.00	143.187500	-71,593.75	20.00	-71,613.75
42000835	General Margin	YHOO	B	4/15/1999	1447	4/20/1999	11359	-100.00	121.250000	-12,125.00	20.00	-12,104.59
42000835	General Margin	YHOO	B	4/15/1999	0933	4/22/1999	NA5LH	265.00	118.875000	30,907.50	20.00	30,927.50
42000835	General Margin	YHOO	B	4/15/1999	0947	4/22/1999	NA5LH	265.00	120.937500	48,375.00	20.00	48,353.38
42000835	General Margin	YHOO	B	4/15/1999	1007	4/22/1999	NA5WH	240.00	115.750000	27,760.00	20.00	27,800.00
42000835	General Margin	YHOO	B	4/15/1999	1103	4/22/1999	NA5CU	300.00	247.937500	74,381.25	20.00	74,401.25
42000835	General Margin	YHOO	B	4/15/1999	1130	4/22/1999	NA5BG	-300.00	239.962500	-71,981.25	20.00	-71,958.85
42000835	General Margin	YHOO	B	4/15/1999	1134	4/22/1999	NA5OS	300.00	241.750000	74,381.25	20.00	74,401.25
42000835	General Margin	YHOO	B	4/15/1999	1134	4/22/1999	NA5UJ	200.00	241.750000	48,350.00	20.00	48,370.00
42000835	General Margin	YHOO	B	4/15/1999	1138	4/22/1999	NA5LJ	100.00	241.562500	24,156.25	20.00	24,176.25
42000835	General Margin	YHOO	B	4/15/1999	1209	4/22/1999	11484	400.00	166.187500	67,275.00	20.00	67,295.00
42000835	General Margin	YHOO	B	4/15/1999	1227	4/22/1999	11230	-500.00	108.312500	-54,656.25	20.00	-54,634.42
42000835	General Margin	YHOO	B	4/15/1999	1244	4/22/1999	11488	500.00	109.562500	54,781.25	20.00	54,801.25
42000835	Cash	PABN	T	4/19/1999	1255	4/22/1999	ND298	-2,038.00	0.169000	-2,038.00	35.00	-1,992.93
42000835	Cash	PABN	T	4/19/1999	1255	4/22/1999	ND298	12,000.00	0.169000	2,038.00	35.00	1,992.93
42000835	Cash	PABN	S	4/19/1999	0937	4/22/1999	ND967	-12,000.00	0.169000	-2,038.00	180.00	-1,947.53
42000835	General Margin	DCLK	B	4/20/1999	0937	4/22/1999	ND967	500.00	116.500000	58,250.00	20.00	58,270.00
42000835	General Margin	CFX	R	4/20/1999	0937	4/22/1999	ND967	200.00	116.500000	24,629.50	20.00	24,649.50

Account	Symbol	Quantity	Price	Market Value	Unrealized Gain/Loss	Cost Basis	Acquisition Date	Account	Symbol	Quantity	Price	Market Value	Unrealized Gain/Loss	Cost Basis	Acquisition Date
42000885	General Margin DCL	S	4/20/1999	0944			4/23/1999	N5969							4/23/1999
42000885	General Margin DCL	S	4/20/1999	0944			4/23/1999	N5972							4/23/1999
42000885	Short DCL	S	4/20/1999	0947			4/23/1999	N2325							4/23/1999
42000885	Short DCL	S	4/20/1999	0948			4/23/1999	N2333							4/23/1999
42000885	General Margin DCL	B	4/20/1999	1002			4/23/1999	N4158							4/23/1999
42000885	Short DCL	B	4/20/1999	1002			4/23/1999	N5389							4/23/1999
42000885	General Margin DCL	S	4/20/1999	1004			4/23/1999	N4170							4/23/1999
42000885	General Margin DCL	S	4/20/1999	1016			4/23/1999	N6035							4/23/1999
42000885	Short DCL	S	4/20/1999	1030			4/23/1999	N2603							4/23/1999
42000885	General Margin DCL	B	4/20/1999	1042			4/23/1999	N5931							4/23/1999
42000885	General Margin DCL	B	4/20/1999	1044			4/23/1999	N4744							4/23/1999
42000885	General Margin DCL	S	4/20/1999	1128			4/23/1999	N6165							4/23/1999
42000885	General Margin AOL	B	4/20/1999	1132			4/23/1999	10315							4/23/1999
42000885	General Margin SEK	B	4/20/1999	1138			4/23/1999	N7109							4/23/1999
42000885	General Margin DCL	B	4/21/1999	0947			4/26/1999	N6894							4/26/1999
42000885	General Margin DCL	B	4/21/1999	0952			4/26/1999	N6894							4/26/1999
42000885	General Margin DCL	B	4/21/1999	0953			4/26/1999	N4212							4/26/1999
42000885	General Margin DCL	B	4/21/1999	0955			4/26/1999	N6895							4/26/1999
42000885	General Margin DCL	B	4/21/1999	0955			4/26/1999	N6895							4/26/1999
42000885	General Margin DCL	B	4/21/1999	0955			4/26/1999	N6895							4/26/1999
42000885	General Margin DCL	B	4/21/1999	1001			4/26/1999	N6892							4/26/1999
42000885	General Margin DCL	B	4/21/1999	1001			4/26/1999	N4212							4/26/1999
42000885	General Margin AOL	B	4/21/1999	1005			4/26/1999	N4212							4/26/1999
42000885	General Margin AOL	S	4/21/1999	1023			4/26/1999	10461							4/26/1999
42000885	General Margin SEK	S	4/23/1999	1019			4/28/1999	N4212							4/28/1999
42000885	General Margin SEK	S	4/23/1999	1023			4/28/1999	N4212							4/28/1999
42000885	General Margin AOL	S	4/23/1999	1026			4/28/1999	N4212							4/28/1999
42000885	General Margin AOL	S	4/23/1999	1026			4/28/1999	N4212							4/28/1999
42000885	General Margin AOL	S	5/4/1999	1502			5/7/1999	N4212							5/7/1999
42000885	General Margin AOL	S	5/4/1999	1505			5/7/1999	N4212							5/7/1999
42000885	General Margin AOL	S	5/4/1999	1512			5/7/1999	N4212							5/7/1999
42000885	General Margin AOL	S	5/4/1999	1330			5/7/1999	N4212							5/7/1999
42000885	General Margin AOL	S	5/6/1999	1320			5/11/1999	N4212							5/11/1999
42000885	General Margin AOL	S	5/6/1999	1331			5/11/1999	N4212							5/11/1999
42000885	General Margin AOL	S	5/6/1999	1331			5/11/1999	N4212							5/11/1999
42000885	General Margin AOL	S	5/6/1999	1449			5/11/1999	N4212							5/11/1999
42000885	General Margin AOL	S	5/6/1999	1509			5/11/1999	N4212							5/11/1999
42000885	General Margin AOL	B	5/7/1999	0944			5/12/1999	N4212							5/12/1999
42000885	General Margin MSFT	B	5/7/1999	0946			5/12/1999	N4212							5/12/1999
42000885	General Margin MSFT	B	5/7/1999	0959			5/12/1999	N4212							5/12/1999
42000885	General Margin MSFT	S	5/7/1999	0959			5/12/1999	N4212							5/12/1999
42000885	General Margin MSFT	S	5/7/1999	1002			5/12/1999	N4212							5/12/1999



42000885	Short	BRCH	5/18/1999	0952	5/21/1999	NA660	100.00	97,781.250	9,778.13	0.00	9,778.13
42000885	Short	BRCH	5/18/1999	0952	5/21/1999	NA66R	900.00	97,750.000	87,975.00	0.00	87,975.00
42000885	Short	AOL	5/18/1999	1043	5/21/1999	NA66R	-1,000.00	13,563.500	-132,562.50	20.00	-132,538.08
42000885	Short	TLAB	5/18/1999	1053	5/21/1999	NA3CW	-1,000.00	58,937.500	-58,937.50	20.00	-58,915.53
42000885	Short	TLAB	5/18/1999	1210	5/21/1999	NA471	1,000.00	58,500.000	58,500.00	20.00	58,520.50
42000885	General Margin	AOL	5/18/1999	1211	5/21/1999	NA471	1,000.00	136,312.500	136,312.50	30.00	136,312.50
42000885	General Margin	CHGI	5/18/1999	1405	5/21/1999	NA354	50.00	253,500.000	25,351.25	0.00	12,675.00
42000885	General Margin	CHGI	5/18/1999	1405	5/21/1999	NA353	50.00	253,500.000	25,351.25	0.00	12,675.00
42000885	General Margin	CHGI	5/18/1999	1405	5/21/1999	NA354	50.00	253,500.000	25,351.25	0.00	12,675.00
42000885	General Margin	CHGI	5/18/1999	1405	5/21/1999	NA355	50.00	253,500.000	25,351.25	0.00	12,675.00
42000885	General Margin	AOL	5/18/1999	1413	5/21/1999	10303	-1,000.00	136,437.500	-136,437.50	20.00	-136,412.95
42000885	General Margin	CHGI	5/18/1999	1413	5/21/1999	NA3ZF	-20.00	246,625.000	-4,972.50	20.00	-4,952.33
42000885	General Margin	CHGI	5/18/1999	1413	5/21/1999	NA3ZK	-480.00	246,250.000	-119,160.00	0.00	-119,136.02
42000885	General Margin	CHGI	5/18/1999	1413	5/21/1999	NA3ZP	-500.00	246,531.250	-124,465.63	0.00	-124,261.48
42000885	General Margin	AOL	5/18/1999	1419	5/21/1999	10394	1,000.00	137,312.500	137,312.50	20.00	137,332.50
42000885	Short	BRCH	5/18/1999	1429	5/21/1999	NA3D9	-1,000.00	94,562.500	-94,562.50	20.00	-94,539.34
42000885	Short	BRCH	5/18/1999	1435	5/21/1999	NA47F	340.00	96,120.000	32,682.50	20.00	32,702.50
42000885	Short	BRCH	5/18/1999	1440	5/21/1999	NA47H	440.00	96,000.000	43,120.00	0.00	43,120.00
42000885	General Margin	BRCH	5/18/1999	1501	5/21/1999	NA36L	650.00	96,000.000	64,680.00	20.00	64,700.00
42000885	General Margin	BRCH	5/18/1999	1501	5/21/1999	NA47H	-390.00	96,625.000	-38,463.75	0.00	-38,462.46
42000885	General Margin	BRCH	5/18/1999	1501	5/21/1999	NA40A	-50.00	96,640.000	-4,932.03	20.00	-4,911.86
42000885	General Margin	ALTR	5/18/1999	1539	5/21/1999	NA40F	1,000.00	77,187.500	77,187.50	20.00	77,208.00
42000885	General Margin	AOL	5/18/1999	1558	5/21/1999	NA37L	-1,000.00	135,687.500	-135,687.50	20.00	-135,662.97
42000885	General Margin	AMAT	5/18/1999	1608	5/21/1999	NA33Z	1,000.00	64,500.000	64,500.00	20.00	64,520.00
42000885	General Margin	LCOS	5/18/1999	1618	5/21/1999	NA388	1,000.00	114,875.000	114,875.00	20.00	114,895.00
42000885	General Margin	LCOS	5/18/1999	1618	5/21/1999	NA41B	-50.00	115,250.000	-5,762.50	20.00	-5,742.30
42000885	General Margin	LCOS	5/18/1999	1618	5/21/1999	NA41J	-950.00	115,250.000	-109,388.75	0.00	-109,365.10
42000885	General Margin	LCOS	5/18/1999	1620	5/21/1999	NA388	450.00	115,800.000	51,750.00	20.00	51,770.00
42000885	General Margin	LCOS	5/18/1999	1625	5/21/1999	NA41E	-450.00	115,800.000	-52,143.75	20.00	-52,122.01
42000885	General Margin	AMAT	5/18/1999	1645	5/21/1999	NA41E	-100.00	65,000.000	-6,500.00	20.00	-6,479.78
42000885	General Margin	ALTR	5/18/1999	1646	5/21/1999	NA787	-900.00	65,000.000	-88,500.00	20.00	-88,478.05
42000885	General Margin	ALTR	5/18/1999	1654	5/21/1999	NA78B	1,000.00	76,812.500	-76,812.50	20.00	-76,789.50
42000885	General Margin	CHGI	5/18/1999	1229	5/21/1999	NA748	1,000.00	246,000.000	246,000.00	20.00	246,020.00
42000885	General Margin	CHGI	5/18/1999	1229	5/21/1999	NA748	-200.00	245,937.500	-48,387.50	0.00	-48,365.88
42000885	General Margin	CHGI	5/18/1999	1229	5/21/1999	NA748	-100.00	245,937.500	-24,300.00	0.00	-24,278.19
42000885	General Margin	CHGI	5/18/1999	1229	5/21/1999	NA748	-100.00	245,937.500	-24,300.00	0.00	-24,278.19
42000885	General Margin	ALTR	5/18/1999	1229	5/21/1999	NA748	400.00	79,937.500	31,675.00	20.00	31,955.00
42000885	General Margin	ALTR	5/18/1999	1229	5/21/1999	NA748	400.00	80,000.000	8,000.00	0.00	8,000.00
42000885	General Margin	ALTR	5/18/1999	0941	5/21/1999	NA76W	-1,000.00	38,250.000	-39,250.00	0.00	-39,246.69
42000885	General Margin	ALTR	5/18/1999	0941	5/21/1999	NA76W	1,000.00	38,250.000	16,125.00	0.00	16,125.00
42000885	General Margin	PSFT	5/18/1999	0943	5/21/1999	NA76W	-1,000.00	16,125.000	-16,250.00	0.00	-16,246.45
42000885	General Margin	PSFT	5/18/1999	0946	5/21/1999	NA76W	400.00	15,375.000	6,500.00	0.00	6,500.00
42000885	General Margin	PSFT	5/18/1999	0947	5/21/1999	NA76W	600.00	15,375.000	9,806.25	0.00	9,806.25
42000885	General Margin	CHGI	5/18/1999	1000	5/21/1999	NA76W	-600.00	242,000.000	-145,200.00	0.00	-145,195.16
42000885	General Margin	CHGI	5/18/1999	1000	5/21/1999	NA76W	-1,000.00	242,000.000	-145,200.00	0.00	-145,195.16

9/23/1999

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1) We have had 5 people so far used the consulting services. We have been in operation by obtaining customers since May-June 1999 although the corporation has been in existence since May 1998. We have approximately 40-60 paying members so far and have had trials in the neighborhood of about 700 people actually taking the trials. We just released our "Secrets of WinningDayTraders" handbook on 9/3/99 to our members. Our service is based on an interactive chat facility where we encourage others to ask questions as we facilitate the answers. We do not trade nor attempt to trade stocks that are recommended. Our training program is interactive and occurs everyday. In fact, each morning between 12:00 pm EST and 2:30 pm EST we usually discuss a topic of the day. If you check through our logs you will find that we take time to answer any questions regarding the subject matter. We heavily recommend Cybercorp in our room every day to ensure that people are provided with an excellent day trading software. Where many of these chat rooms seem to break for lunch hours we stay and provide answers to anyone's questions as well as train on our material covered in our handbook as well as other day trading topics. Our performance numbers are only calculated off of the recommended trades and are clearly stated on the web site to show an example, and that past performance is not indicative of similar results, especially since we are not making any trades. We run more indirect but more interactive courses through the trading day where trades are made and explanations are given to discuss the insights into day trading as the day unfolds. We find this is where learning really occurs during the practice thereof. We encourage tight stop losses should persons execute trades. We try to minimize risk as much as possible for our clients through various practices in our room. As far as executions are concerned we always warn those against using certain slower execution systems and provide affiliates such as CyBerCorp.com and TrendTrader.com who provide education in the software and brokerage side. As far as formalized training is concerned, we plan to run courses in the near future, but again due to our size of our firm, we have not held any as of yet. I think if you discuss with our clients, you will find that they have been very satisfied. We have only lost a few members so far. We email our customers periodically to get a feeling for any areas that we can improve upon. We also have CyBercorp in every other Friday in our Trading Auditorium where they answer sales related and training related questions in our web site. Our site is a training site in itself.

2) So far we have had 5 consulting sessions. The purpose of these is to answer any questions that the user may feel uncomfortable discussing about. These range of execution systems that we recommend such as Cybertrader, to the handling of executions, to technical issues about software, to psychology aspects in day trading. Basically, these are designed to support the customer in whatever areas they need to be supported, or areas where they may need improvement. One of the areas we like to focus on is to develop a conservative trading plan for individuals such that their risk will be minimized as they enhance their day trading career. One of those things is by limiting the amount of shares for stocks that are volatile in nature.

- 3) The only affiliates that we have are Cybercorp and Trendtrader as far as executions or brokerages are concerned, although we have used clicktrade affiliates, to host banner ads and exchanges.
- 4) None
- 5) None
- 6) None so far
- 7) Some of the strategies that we have uncovered we share with our users in the Trading Auditorium and now in our Handbook. Because of our Free Week Trial no one is encouraged to sign up for membership, just observe. The slogans that are represented are slogans that we came up.

Our intent is to help people understand day trading through our forum where persons are encouraged to ask questions and learn in a relaxing environment. We also track all of our performance numbers based on these simulated paper trades. Our members and guests are made well aware of the fact that we do not trade our picks. We keep track of the performance numbers in a spreadsheet. The results are calculated off of customer executions and time and sales screen data. The idea of our performance numbers is to illustrate that our trading & training capabilities are above average and that there is potential there. We emphasize the fact in our disclaimer and when a trial or member logs into the auditorium about the risks of day trading.

**WinningDayTraders.com Summary of Services**

Our goal is to provide the highest level of day trader education by offering various interactive training methodologies. The first component of our business is the Trading Auditorium. This is a real-time interactive java based chat room where the head traders Thomas Wolski and Brian Zavodnik conduct interactive real-time training. This training encompasses all key elements of day trading. Many times a certain topic is discussed in theory and then applied in practice when we give out our trading recommendations with detailed explanations to members and guests. Daily training sessions are held on day trading topics (for example on 8/17 it was Candlestick Chart Training) to discuss different components of day trading. Questions and answer sessions are provided for members and guests at all times throughout the trading day.

We give out a list of trading rules and recommendations to all members and guests who want to be serious day traders and emphasize that it takes the best software, broker, and technical equipment in order to be competitive and successful. From our personal experience we have found the CyBerTrader software developed by our affiliate CyberCorp to give day traders the edge.

When we give out trading recommendations, we provide stop loss targets and potential profit targets to aid our customers when being in a trade. We highly emphasize discipline and cutting one's losses as our major theme in the chat room!

Our qualifications to train beginning and advancing day traders are based on our experience with day trading over the last few years and our financial background (Brian worked in the aerospace industry for many years while Tom went to business school at an early age). In addition, we are both highly successful tournament chess players (in the top 1% of the world), which has given us all the necessary skills to analyze well and make quick decisions when needed. We are also highly skilled in the areas of computers

and are very familiar with the major day trading software programs available.

The reason we started the business was that we felt that we had uncovered certain strategies that were working and could help many people. We are both gifted in the area of teaching. Tom has extensive experience in teaching, while Brian has a natural talent to bring out the best in others.

Our performance numbers should be used to obtain customer trust and verification of our techniques. The performance numbers are derived from verified executions by our customers and actual fills observed in the time and sales screen. We also emphasize that it is not possible or desirable for all traders to take all recommended trades. We tell our clients that they should not expect these results and that past performance is not indicative of future results. Performance numbers are given on the web site and are recorded in an Excel spread sheet. This sheet represents ALL actual recommendations given in the Trading Auditorium that allowed at least one of our subscribers to get filled. We never trade the stocks that are recommended to our clients.

We also try to protect our customers as much as we can by suggesting conservative share sizes. We warn our trial members and beginning traders to paper trade for at least several weeks. Every day we highly emphasize that one shall not attempt to day trade with an on-line brokerage in our real-time Trading Auditorium. We also close out all positions at the end of each day and never recommend holding a position overnight. This is to avoid the potential risk of a news item or gap affecting the stock in the wrong direction. Our main objective is to allow our customers to witness our training, trades and strategies. If they wish to apply what they are learning, it is at their own risk. We count on CyBerCorp as well as other real-time day trading businesses to provide the hands on software training, execution training and brokerage support, which we do not provide. Our main objective is to provide our members and guests with the best customer

service that we can by going the extra mile. Our consulting services are given as an alternative for our customers, as some feel awkward about discussing things amongst others in the Trading Auditorium. Many of the topics discussed will be the software set up, psychological aspects of day trading, potential executions, developing a trading plan, etc.

We also distribute a nightly Swing Trade newsletter. This service provides our customers with 2-5 day trading recommendations or observations and are distributed on three evenings a week.

We recently released our "Secrets of WinningDayTraders Handbook", which is a 208-page manual. In 43 chapters we share our own opinions, experiences and strategies regarding day trading as well as other factual content. Students are encouraged to use this handbook to accompany their learning during their membership in Trading Auditorium. We offer the WinningSwingTrader along with the "Secrets of WinningDayTraders Handbook" free to our quarterly membership subscribers to the Trading Auditorium.

We have signed a contract with CyBerCorp, where we are paid on an order flow basis. This is based on customer orders for clients who sign up and use the CyBerTrader software for day trading. The SEC allows an order flow basis if the fee is nominal. Our order flow fee is .35 per order. Our corporation has existed since 1998 under Hummingbird Investments Inc., and DBA WinningDayTraders.com since May 1999.

We strongly agree with the need for education in the day trading field in order to reduce the amount of people who lose in their first half a year of trading. An interactive real-time chat room such as ours should provide support for the aspiring day trader in areas of training, psychology, software, etc. As clients become more advanced, they also add to the success of the room by being able to recognize winning patterns and notify us of such. Our feedback to their suggestions aids them in the learning process.

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EXHIBIT # 8

September 29, 1999

VIA FEDERAL EXPRESS  
AIRBILL NO. 811342655073

Mr. K. Lee Blalack, II  
Chief Counsel & Staff Director  
Permanent Subcommittee on  
Investigations  
United States Senate  
Committee on Governmental Affairs  
Washington, DC 20510-6250

Ms. Linda J. Gustitus  
Minority Chief Counsel &  
Staff Director  
Permanent Subcommittee on  
Investigations  
United States Senate  
Committee on Governmental Affairs  
Washington, DC 20510-6250

Re: RML Trading, Inc.

Dear Mr. Blalack and Ms. Gustitus:

Our law firm represents RML Trading, Inc. ("RML"). Set forth below and included herein are answers, documents, and records that respond to the information requested in Schedule A of your August 30, 1999, letter, a copy of which is enclosed herewith:

- (1) RML has no documents or records that set forth information about the number of individuals who have completed the StockCam Training program. Individuals sign up with RML electronically and either send a check or have an account debited. Upon receipt of the required fee, a switch is turned on for the account and a self-study book is mailed to the subscriber. Approximately 60-70 persons have purchased the self-study book. A subscriber has unlimited access to the website as long as the subscriber maintains an active account. There is no separate log maintained as to which individual completed the StockCam Training program.

KRAGE & JANVEY, L.L.P.

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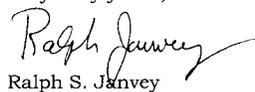
- (2) Enclosed herewith is the StockCam Training manual and enrollment/disclosure forms. RML does not have information, including any internal or external reports, on the financial performance of the individuals who have completed the StockCam Training program.
- (3) RML is a Texas corporation that is privately owned by three individuals. Mr. Luecke owns 100% of the stock of StockCam, Inc., a Delaware corporation. A copy of RML's website is enclosed. RichMark Capital Corporation is an SEC registered broker-dealer and NASD member firm that provides general securities settlements. RichMark Capital Corporation's CRD number is 43162.
- (4) There are no internal or external audit reports that apply to RML. RML's only office is in Bellevue, Washington.
- (5) None.
- (6) RML has received no complaints relating to its operations. RichMark Capital Corporation has received a letter from the NASD, a copy of which is enclosed herewith along with its response to the NASD.
- (7) As set forth in paragraph (3), enclosed is a copy of RML's current website which has been submitted to the NASD for review. The statement set forth in the first paragraph of #7 contains opinions expressed by successful day traders. The Class Enrollment Agreement and the StockCam Training program state that there are risks involved in day trading. The website highlights the risk of loss in electronic day trading and refers to Chairman Arthur Levitt's speech on online trading. When a person opens an account with RML and completes the new account form on page 4 of the enclosed website, the subscriber is provided disclosures similar to that contained in proposed NASD Rule 2361, a copy of which is also enclosed.

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On behalf of RML, please be assured that it intends to fully cooperate with your investigation and would be pleased to provide additional information and/or testimony about the day trading industry to the Subcommittee.

Very truly yours,

  
Ralph S. Janvey

RSJ/clm  
Enclosures

cc: Mr. Robert D. Luecke  
via fax to 425-452-0312  
without enclosures

cm\3338



Contact: Marc Beauchamp  
(202) 737-0900  
[mb@nasaa.org](mailto:mb@nasaa.org)

### "Day trading" craze should give investors pause, state securities regulators warn

WASHINGTON (November 25, 1998) – The increasing popularity of stock "day trading" – which has spawned how-to books and pricey day-trading "schools" – should give investors pause, according to an association of state securities regulators.

"For the typical retail investor, day trading isn't investing, it's gambling. If you want to gamble, go to Las Vegas; the food is better," says Philip A. Feigin, executive director of the North American Securities Administrators Association (NASAA). "For sophisticated investors, there's nothing wrong with day trading per se. We have a problem with firms that are trying to create a mystique about day trading that suggests it's something for Main Street investors."

The allure of day trading is easy to understand, says Feigin. "Who wouldn't want to work at home in front of their computer and retire at 40?" Largely unsketched media coverage has glamorized day trading, downplaying the risks, says Feigin, who was Colorado's Securities Commissioner for 10 years. Amazon.com recently advertised no less than three how-to books targeted at electronic day traders. Last spring *Forbes* magazine featured a youthful day trader on its cover. Cable financial news shows have aired segments on day trading, generating an enormous viewer response.

Several dozen day trading firms operate around the country and they have thousands of customers, according to media reports. At day trading firms, investors use computers and proprietary software to make rapid-fire trades, hoping to capitalize on a stock's momentum. By darting in and out of stocks they hope to lock in profits of pennies per share. They typically close out all their positions by the end of the trading day. Most day traders eschew fundamental research. "Most of them don't care what kind of business the company's in; they're just watching numbers on the computer screen," notes Feigin.

Last month regulators in Massachusetts brought actions against two day trading firms, Block Trading and Bright Trading, and other states—from Texas to Colorado—are looking at day trading firms. NASAA has formed a day trading task force to study the phenomenon. In Massachusetts, regulators sued Texas-based Block Trading, alleging among other things, that the now-bankrupt firm engaged in deceptive advertising that overstated possible profits and played down risks.

State regulators are concerned that many of the novice day traders are given unrealistic expectations. "A mouse and a modem alone won't make you a successful day trader," says Peter C. Hildreth, New Hampshire's Director of Securities and NASAA's president. "Successful day trading takes hard work, discipline, a strong stomach and luck."

Regulators say the same message applies to the hundreds of thousands of investors who are actively trading from home using on-line brokerages such as E\*Trade, Datek Online and Ameritrade. For regulators, among the issues on-line trading raises is the question of suitability. At traditional brokerage houses, brokers have an obligation to ensure that investments they recommend meet the financial goals of their customers. Says Hildreth: "When you trade on line there's no one standing between you and the

market. No one's obligated to ensure that the investment is appropriate given your age, income and financial goals."

To be sure, the Internet is revolutionizing Wall Street, empowering individual investors and leveling the information playing field. The Net has made Wall Street quality research available to investors on Main Street and it has pushed down trading costs. But investors need to watch out, say regulators. Referring to the rock-bottom commissions electronic brokers charge, NASAA President Hildreth cautions: "Just because something's on sale doesn't mean you need to buy it." State regulators have been contacted by day traders or their relatives concerned about the possibility of addiction to day trading. "You can get quite a rush from it—but you can also end up with a big financial hangover," says Hildreth.

If you want to day trade, state regulators urge investors to be sure they: check out the day trading firm with their state securities regulator to see if it's properly registered and learn if it has a disciplinary history; only invest money they can afford to lose; carefully examine commissions and other fees, including the cost of day-trading seminars that can cost thousands of dollars; carefully read contracts or agreements with the firm; and, finally, be very skeptical about promises of huge returns.

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Speech by SEC Chairman:  
**Plain Talk About On-line Investing**

by **Chairman Arthur Levitt**

*U.S. Securities & Exchange Commission*

at the National Press Club

May 4, 1999

Today, you can hardly pick up a newspaper, turn on a television, overhear a conversation, or talk to a friend without mention of the Internet. It has done nothing short of change the way our world works and the way our nation invests. And overall, it has changed us for the better.

I'm here today not to extol the Internet's virtues -- as they are self-evident -- or to raise a red flag of danger. Instead, I want to talk plainly and sensibly about the challenges it presents in the most practical ways.

Last week, I visited Martin Luther King High School in New York City to talk about the importance of financial literacy. The first question I got was from a young student who asked what "Internet stock should I buy." We are living in a time when the stock market is more a part of the American consciousness than ever before. After years of nothing but "up" markets and empowering technology, the investor psyche has gone through a lot of changes. Memories have shortened and important points may have gotten lost in the excitement.

We -- as a nation, as investors, as businesses and as regulators -- should not get manic about the mania. One day, a little-known company stock soars 38,000 percent after on-line investors invest using the wrong ticker symbol. Another day, someone fabricates a news story by copying a web page of a news organization and the stock in question rises 32 percent. Or, sadly, it's an investor who didn't take the time to appreciate what he was getting into and ended up losing his life savings in one fell swoop. It seems that with every passing day, we come across one story more amazing than the other.

As cliché as it may be, fundamentals still apply. I want to review them here -- whether they take the form of advice to investors, guidance to brokers, or reasoned action for regulators.

I want to discuss a number of important issues that should give all of us sufficient pause. **First** to investors, I want to talk about your responsibilities when investing over the Internet; **second**, to on-line brokerages, in the enthusiasm over on-line trading, you can never lose sight of the fundamental obligations to customers; and **third**, I want to discuss how the SEC is responding to these rapid changes to protect investors and help maintain market integrity.

By one account, more than seven million Americans trade on-line -- comprising 25 percent of all trades made by individual investors. In 1994, not one person traded over the Internet. In the next few years, the number of on-line brokerage accounts will roughly equal the metropolitan populations of Seattle, San Francisco, Boston, Dallas, Denver, Miami, Atlanta and Chicago, combined.

The breadth and pace of change prompted by the Internet are phenomenal. But, while it changes the way millions of Americans invest, on-line investing does not alter the basic framework that has governed our markets for the past 65 years.

The laws regulating our markets are a product of the New Deal era. To me, their concepts are as

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indelible as the Constitution. They have weathered challenge after challenge, decade after decade, and are every bit as relevant and effective today as they were the day they were written. Companies offering their shares -- whether off a website or through a paper prospectus -- still have to disclose what they are selling and why. Brokers -- whether traditional or on-line -- still have the same obligations to their customers. And fraud -- whether perpetrated over the Internet, on the phone, or in-person -- is still fraud.

Consequently, I am not convinced it's necessary for the SEC to pronounce a totally new and radical scheme of regulation specifically tailored to on-line investing. Yet, I don't rule out the possibility that there may come a time when the SEC sees a need for new approaches to better meet the imperatives of the Internet.

What must occur now is a greater recognition by investors of their individual responsibility. I'm talking specifically about an individual investor's duty to understand and control the level of risk he or she is assuming. That level can vary with the type of activity an investor undertakes. On one end of the spectrum lie investors who trade occasionally on-line and hold their investments for the longer term. They are basically retail investors who manage their portfolios through on-line accounts.

On the other end of that spectrum are so-called "day traders" whose time horizon for moving in and out of stock positions is measured by minutes, if not seconds. Some argue day trading is really nothing more than speculation. And, speculation is not new to our markets. Personally, I don't think day traders are speculating because traditional speculation requires some market knowledge. They are instead gambling, which doesn't. Historically, short-term trading has been an activity filled by a relatively small number of professional traders.

I am concerned that more and more people may be undertaking day trading strategies without a full appreciation of the risk and difficulty involved. No one should have any illusions of what he is getting involved in. I know of one state that recently found that 67 out of 68 day traders at a firm had in fact lost money.

Somewhere in the middle of this spectrum -- with long-term investors on one side and day traders on the other -- is an increasing number of Americans who use their on-line accounts both to invest longer term and to trade short term on momentum or small changes in the price of a stock. Call this mixed strategy day trading "light."

I'm concerned about the great influx of new and relatively inexperienced investors who may be so seduced by the ease and speed of Internet trading that they may be trading in a way that does not match their specific goals and risk tolerance. I also wonder about many of these investors who have never experienced a down market. On the other hand, a greater number of Americans investing for their futures and helping to raise capital is, in the long-term, good for our markets and good for our country.

#### **INDIVIDUAL RESPONSIBILITY**

As far as I'm concerned, for most individuals, the stock market is best used for investing, not trading. And, it's important to make that distinction. On-line trading may be quick and easy; on-line investing -- and I emphasize investing -- requires the same old-fashioned elbow grease like researching a company or making the time to appreciate the level of risk. I'm often surprised by investors who spend more time deciding what movie they'll rent than on which stock to buy.

Regardless of how frequently a person trades or invests, the opportunity to make these decisions comes with the responsibility to take the time to understand the implications of those decisions. We have noticed four common misconceptions that investors have about on-line trading.

The first is that although the Internet makes it seem as if you have a direct connection to the securities markets, you don't. When you push that enter key, your order is sent to your broker, who then sends it to a market to be executed. This process is usually seamless and electronic; it is not, however, guaranteed. Lines may clog; systems may break; orders may back-up.

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Even when automated systems can handle a lot of investors who want to buy or sell the same stock at the same time, a line often forms. Price quotes are only for a limited number of shares; some investors may not receive the currently quoted price. And, as you would expect, the price of that stock will then go up if there are more buyers and down if there are more sellers. By the time you get to the front of the line, the price of the stock could be very different.

So, how do investors protect themselves from a rapid change in the price of a stock? One way is to use a limit order. That's the second thing every on-line investor needs to know. A limit order buys or sells a security at a specific price. In other words, the order can be executed only if the market price has not moved past a certain level. On the other hand, a market order buys or sells the stock at whatever price the security is at the time the order reaches the market. So, if you place a market order to buy an IPO stock at \$9, you could end up paying \$90 by the time your order is executed.

This isn't theoretical. More than a few investors have lost most of their savings -- thousands and thousands of dollars -- because they failed to limit their price. Now, sometimes limit orders may not get executed in a fast moving market and some firms may charge more for them. But, at the very least, I'd rather not own a stock or pay a little more upfront than be totally unprepared or incapable of paying a whole lot more later. My goals as an investor may be different from yours, but considering the costs and benefits of a limit order is part of responsible investing in today's market.

The third misconception is that an order is canceled when you hit "cancel" on your computer. But, the fact is it's canceled only when the market receives the cancellation. You may get an electronic confirmation, but that may only mean your request to cancel was received -- not that your order was actually canceled. Recently, one major brokerage wasn't able to process 20 percent of the cancellation orders on a fast moving IPO. One investor placed an on-line order for 2,000 shares of the stock -- thought she canceled it -- and then placed another order for 1,000 shares.

After realizing that she had two orders outstanding, she tried to cancel both. Instead, she owed her broker over a quarter-million dollars for 3,000 shares after wanting to invest roughly \$18,000. Most cases may not be this exceptional, but I urge investors to contact their firms to see how they can ensure a cancellation order actually worked.

Fourth, if you plan to borrow money to buy a stock, you also need to know the terms of the loan your broker gave you. This is called margin. When you buy on margin, the stock you purchase is collateral for that loan. In volatile markets, investors who put up an initial margin payment for a stock may find themselves required to provide additional cash if the price of the stock falls.

But, some investors have been shocked to find out that if they don't meet the margin call the brokerage firm has the right to sell their securities -- without any notification and potentially at a substantial loss to the investor. Others investors have been surprised to learn that they are lending to or borrowing from other customers in their firm through excess balances in their margin accounts. It's clear that if an investor fails to understand the use and consequences of a margin account, he does so at his own peril.

You also may have heard about plans by the major markets to extend their trading hours into the evening. That's another way the markets are being responsive to ever-changing investment patterns brought about by individual investors. But with this new flexibility comes a catch -- the price you pay or receive might be affected by the fewer number of people in the market at that hour. That's simply a product of the law of supply and demand.

#### **THE CARDINAL RULE OF ACTING IN THE CUSTOMER'S INTEREST**

Let me turn to some of the concerns I have about the role of on-line firms. Firms should remember that while on-line trading may place significantly more responsibility in the hands of investors, it doesn't absolve the firms of their obligations to customers. Most firms are doing a pretty good job -- especially in light of the dramatic growth they are experiencing. But as the Internet rapidly becomes more and more an integral part of investing for more and more Americans, I ask brokerage firms to help protect the integrity of it for the long-run.

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First, firms need to ensure that their ability to provide effective customer service keeps pace with their growth. If you're marketing your firm to new customers, you'd better be able to provide them service when they do business with you. Firms are opening roughly 15,000 new accounts a day. That means 15,000 new potential complaints a day -- especially if a system goes down. Are investors having a hard time getting their e-mails answered? Are customer service 800 numbers always busy? Are complaints about failures or delays in order execution, account accessibility, and other issues overwhelming the firm's compliance department?

If the answer to any of these questions is "yes," then what are firms doing about it? It doesn't take a regulator to tell you what unhappy customers mean to a company's future, or more broadly, to the future of on-line investing.

Second, all firms -- whether on-line, discount or full service -- have an obligation to ensure the best execution of their customers' orders. That's not just good business practice; it's a legal obligation. Firms have this same duty to their customers to find the best prices -- whether they charge \$10 per trade or \$100 per trade.

The Commission has long stressed to firms the importance of obtaining the best possible price when they route their customers' orders. They simply can't let payment for order flow or other relationships or inducements determine where they do business. That's why I have directed our examiners to focus in on firms' order routing practices in an examination sweep. I urge all firms now to review their practices to ensure they're doing right by their customers.

Third, firms need to communicate more clearly to investors. We have reviewed the disclosure in account agreements both on paper and on web pages. Overall, we found that most firms address the different types of orders available, fewer firms discuss how market volatility and the use of margin can affect on-line investors, and almost none talk about the risks or what to do in the event of system capacity and outage problems. I know that customers' orders can be slowed down for reasons outside of a firm's control. But explaining clearly to customers rather than merely disclaiming liability through complex and legalistic language would go a long way toward reducing the complaints pouring into the SEC, Congress and firms.

So, to every on-line firm I challenge you to meaningfully communicate with your customers. Talk in realistic terms; let them know their options; and focus on the quality of your disclosure in your agreements, instead of just the acceptability of them.

Lastly, I worry about how some on-line firms advertise. Quite frankly, some advertisements more closely resemble commercials for the lottery than anything else. When firms, again and again, tell investors that on-line investing can make them rich, it creates unrealistic expectations. And, when firms sow those grandiose and unrealistic expectations, they stand a good chance of reaping the adverse results when many of them go unmet.

Now, in today's Bull Market, there may be an increasing population of tow truck drivers who now own their own islands as a result of on-line investing. Assuming there's not, I don't rule out the fact that some of these commercials are tongue-in-cheek. But, in a market environment where many investors are susceptible to quixotic euphoria, I'm worried these commercials step over the line and border on irresponsibility.

I recently saw one commercial that showed two women rushing in from their job to trade before the stock market closed. After a few clicks of the mouse, one woman proclaims, "I just made \$1700." The other woman sheepishly replies by admitting she invests in mutual funds. What's the implication of the message here? Has it become passé to invest for the longer-term and to diversify your risk?

Now, some may argue that we shouldn't tell firms how to sell their products as long as its lawful. I agree. But selling securities is not like selling soap. Brokers have always had duties to their customers that go beyond simply "buyer beware."

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I've asked the NASD regulatory unit to hold a roundtable on advertising to add to the work they're already doing to improve fairness in advertising. I call on all of the firms to join in this effort. I've also asked Jay Chiat, former head of the advertising firm, Chiat Day, to work with the NASD and industry leaders to consider the public interest issues this type of advertising implicates.

#### **WHAT THE SEC IS DOING**

Today, I've talked about what investors need to be aware of if they invest over the Internet and I've also discussed some of the issues firms should be addressing. As technology recasts our markets and helps attract more and more investors than ever before, the SEC's mission to protect investors and maintain market integrity remains absolute.

Securities fraud perpetrated over the Internet represents a signal challenge for the SEC. While the scams we have seen on the Internet are the same basic frauds that have always accompanied the flow of money, the Internet's speed, low cost and relative anonymity give con artists access to an unprecedented number of innocent investors.

Policing this marketplace will require more resources, more manpower, and more money. Nevertheless, we are prepared to do whatever is necessary to help protect investors. While we contend with the Internet's growing presence, it offers us important tools to track down and catch criminals. Law enforcement will tell you that it's a lot easier to catch someone who uses the Internet than the telephone. For example, although the individual who perpetrated last month's news hoax about a corporate takeover tried to cover up his footprints, we tracked him down within a week.

Last year, we created the SEC's Cyberforce -- a specially trained nationwide corps of 125 attorneys, accountants and analysts tasked with searching for Internet fraud. This year, we will increase that number by 100 percent. For next year, the Commission has asked for an \$11 million increase to expand our efforts to combat fraud. And, with the support and insight of Congressional and Administration leaders, we will continue to step up our efforts in the future.

In the mean time, we are vigilantly pursuing those who seek to take advantage of innocent investors. In the next two weeks, the SEC's Enforcement Division will present a number of cases charging fraudulent offerings over the Internet. These cases would charge issuers and promoters with making false claims about companies or offering investments in entirely fictitious companies. We have also been working with the FBI on a project called "Operation InvestNet" -- a nationwide initiative to address fraudulent securities activities taking place over the Internet.

Second, the SEC's Office of Compliance and Inspections will continue to inspect firms offering on-line trading. We've already conducted inspections of firms that represent 80 percent of the market share. Based on our initial findings, I sent a letter this morning to all of the on-line brokerage firms asking them to improve the quality of their disclosure to investors. When firms achieve the highest quality of service and continually act in the interests of their customers, they create a customer for life -- instead of just another short-term trading opportunity.

The SEC and the self-regulatory agencies are also inspecting all of the brokerage firms that specialize in day trading. Clearly providing day trading opportunities is not itself against the law, but these firms should be on notice that they are still broker-dealers and must operate within the existing rules. That means complying with disclosure, capital, margin, and best execution requirements as well as maintaining updated and comprehensive books and records. And any firm, whether day trading or on-line, that recommends a type of investment strategy or customizes research should ensure that it is suitable for its customers.

Third, I'm announcing today the formation of a formal SEC private sector Advisory Committee on Technology. The Advisory Committee's mandate will be a broad one. It will encompass not only how the Commission might better leverage its resources to protect investors and safeguard market integrity, but also examine issues specifically relating to on-line trading. I've asked General Ken Minihan, former

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head of the National Security Agency and Bran Ferren, a true innovator in technology, to lead this effort in lending cutting edge expertise to the SEC.

As its first priority, I will ask the Committee to convene a group of industry executives to hear their thoughts and concerns about how technology will affect our markets and its participants.

Fourth, the Commission is unveiling its new Investor Education Web Page. The Web site is [www.sec.gov/invkhome.htm](http://www.sec.gov/invkhome.htm). It includes detailed information and tips on on-line investing, how to detect fraud both on and off the Internet and other important information on saving and investing.

In addition, in the letter that I sent to on-line firms, I have asked them to create links from their web sites to the SEC's investor education site. This is an idea that came up during a Senate hearing on this subject. I hope we can all agree that an informed and knowledgeable investor is good for the industry and good for individual businesses.

Lastly, I want to raise some points about chat rooms, which increasingly have become a source of information and mis-information for many investors. They have been compared to a high-tech version of morning gossip or advice at the company water cooler. But, at least you knew your co-workers at the water cooler. That just isn't true on the Internet. And, I hope investors recognize that.

I wonder how many chat room participants realize that if someone is waxing poetic about a certain stock, that person could well be paid to do it. For the future sake of this medium, I encourage investors to take what they see over chat rooms -- not with a grain of salt -- but with a rock of salt. By doing so, you protect yourself and you protect the Internet.

I've asked the major Internet providers who host these chat rooms to place a link to the SEC's website where investors can learn more about on-line investing and file a complaint with us if necessary. I want everyone in a chat room to know that if someone is taking advantage of the technology, you have the opportunity to shine the light on it. Think of it as neighborhood watch on the Internet. With the help of investors, we can get those people who have only one motivation -- to ruthlessly make money at the expense of others -- out of our communities.

The SEC will do everything it can to protect and inform investors during this time of great innovation and change. But, I've said many times before that investor protection -- at its most basic and effective level -- starts with the investor. In this day and age, there simply is no substitute for a person's awareness and wariness.

#### CONCLUSION

Many of the issues I have raised today were not even a blip on the screen a few years ago. Who can confidently say what on-line issues will demand our time and attention in the future? But we won't stop examining and thinking about how the Internet will affect investors and our markets. Through the efforts of Commissioner Unger who is spearheading the Commission's work on technology issues and the rest of the SEC staff, we are going to do our best to ensure investors remain protected and our markets remain the strongest in the world.

All of us are participants in an extraordinary social phenomena. The democratization of our markets is a desirable development which regulators should not frustrate. Our mission is not to prevent losers or to modulate the sometimes mercurial movement of our markets. The standard by which we will determine our methods of surveillance, education, market structure, disclosure and, if need be, enforcement will be an unyielding commitment to the well being of investors. I call on all market participants, the media, fellow regulators and lawmakers to help us fulfill this commitment by working together to make the 21st Century defined as much by trust as technology.

**Professional Traders Group**  
Training Seminar  
January 4, 1999 – January 29, 1999

## Syllabus

- I. Introduction (Jan. 4)
- A. Topics Covered
1. Real Tick
  2. CSI Software
  3. Market Watch
  4. Philosophy
  5. Administrative Details
  6. Paper Trading
- II. Real Tick (Jan. 4 – 7)
- A. Market Maker Box
1. Market Makers
    - a. Axes
  2. Electronic Communication Networks (ECNs)
  3. Bid/ Ask
    - a. Best Bid/ Ask (Colors)
  4. Directional Movement
  5. Level One Portion
    - a. High/ Low
    - b. Volume
    - c. Bid Side Up and Down Ticks
    - d. Last Print
- B. Tickers
- C. Charts/ Indicators
1. S&P 500 Futures
  2. Nasdaq Index
  3. US 30 year Bond Futures
- D. Boardview
- III. CSI Software (Jan. 7 – 8)
- A. MTrade
  - B. MPosition
  - C. SE HiLo
  - D. SE Scan
  - E. Island Monitor
  - F. Limit Order
- IV. Market Watch (Jan. 11 – 12)
- A. Lock Ups/ Downs
  - B. Cross Ups/ Downs
  - C. Theory
    1. Indicator or Execution System
    2. Valid and Non-valid Indications
- Reading Assignment for Jan. 7  
Chapters 1-3 and 6-10
- Quiz #1 on Jan. 8

- V. Application of Knowledge (Jan. 13 –14)
- A. Five Ways of Obtaining Stock
    - 1. SOES ( Market\ Limit Orders )
    - 2. Select Net ( Preferencing )
    - 3. Instanet ( INCA )
    - 4. Island ( ISLD )
    - 5. Bloomberg Trade Book ( BTRD )
  - B. Key Strokes
- VI. Administrative Details (See Addendum) (Jan. 18 –22)
- VII. Philosophy (Jan. 25 – 26)
- A. Techniques
    - 1. Scalping
    - 2. Position Trading
    - 3. Gambling
  - B. Most Common Mistakes
  - C. Good Habits
  - D. Choosing Stocks to Watch
  - E. Reasons for Bad Trades
  - F. Increasing Chances for Success
  - G. Helpful Hints
  - H. Trading Tips
- VIII. Paper Trading (Jan. 27 – 29)
- A. Rules
  - B. Review
- Reading Assignment for Jan. 14  
Chapters 4 -5  
Quiz #2 on Jan. 15
- Final Exam on Jan. 27

## Review Trading Rules

### TIPS

- Watch where the largest Market Makers are moving, whether it's the BID or OFFER. It will most likely indicate the direction of the stock.
- Know what level a stock is at, whether it is 1st, 2nd, or 3rd level. If you don't know, do not try to buy or sell this stock.
- Try to BUY or SELL a stock at 1st, 2nd, or 3rd level. If the stock goes past that, let it go, or otherwise this would be called chasing. You do not want a stock that goes higher than 3rd level.
- Do not buy or sell stocks with little or no volume.
- Always take profits and cut losses. You must have a goal every day of the amount of money you want to make in the stock market. When you reach your goal, stop, and quit trading. Try not to get greedy and still trade. Remember, you are gambling and most likely you will lose what you have made.
- Traded only certain times of the day
  - Morning - (9:00 to 11:00) EDT always
  - Lunchtime - (11:00 to 3:00) EDT rarely too sometimes
  - Afternoon - (3:00 to 4:00) EDT sometimes too, always
- If y
- Do
- No
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- Don't Ever Chase Stocks. If you miss a runner, don't worry about it, there will always be other stocks.
- Learning Curve

**When you reach your goal, stop, and quit trading. Try not to get greedy and still trade. Remember, you are gambling and most likely you will loss [sic] what you have made.**



*If you're not on the inside, you're on the outside.*

**I**NSIDER TRADING was founded by day-traders who understand the keys to successfully trade today's fast moving markets. **INSIDER TRADING** offers a trading system which employs state-of-the-art hardware and software to instantly provide active day-traders with streaming real time Level II market data interfaced with a split second execution system. Routing your orders directly to the exchanges enabling trade executions and confirmations in seconds. Electronic Communications Network (ECN) allows customers to anonymously enter orders directly into the NASDAQ quotation system. With **INSIDER TRADING** you no longer just view the market, you *are* the market. In addition **INSIDER TRADING** lets you see the entire Island ECN book not just the best bid and ask. The net result is unsurpassed liquidity and executions. In today's trading environment **INSIDER TRADING** gives you the edge you need...unlimited access to real time quotes, charts, time and sales, news, plus decision support windows including 52 week highs and lows, locked and crossed markets, alarms and much more. **INSIDER TRADING** offers the flexibility to trade from anywhere via the internet or you can choose to trade from one of our growing list of professional day-trading rooms nationwide.

- ▶ **DECISION SUPPORT TOOLS**
- ▶ **STREAMING REAL TIME DATA**
- ▶ **ECN EXECUTIONS AND DATA**
- ▶ **DIRECT ACCESS TO EXCHANGES**
- ▶ **TRADER SUPPORT LINE**
- ▶ **TRAINING CLASSES**

### **Technology**

**INSIDER TRADING** was created upon the idea that to successfully day trade one must utilize the fastest and most reliable information and execution system available. To that idea **INSIDER TRADING** has provided our trading rooms as well as our remote systems with just that. Super fast networks, computers, and software combine to provide our clients all the tools they need to view the market data, make the investment decision and execute their order before the average trader or broker with inferior systems even see the quote change. A proven client-server architecture, a state-of-the-art frame relay network, multiple internet connections and hierarchical servers all add up to a network architecture that is easily scalable and robust. A tech support team that is ready for the challenges of today's high speed networks to ensure a reliable connection even on record volume days. Active day-traders demand split second information and reliability, **INSIDER TRADING** is their solution. SOES SELECT-NET, DOT and ECN's all on one trading platform allow the active day-trader to direct their orders to the right place at the right time every time. **INSIDER TRADING** has invested the time and money in research, personnel, and hardware to insure that we offer the most reliable trading platform available.

- ▶ **ADVANCED SERVERS**
- ▶ **SUPERIOR SOFTWARE**
- ▶ **SUPER-FAST NETWORK**
- ▶ **RELIABILITY**
- ▶ **WINDOWS 95 AND NT COMPATIBLE**
- ▶ **SPLIT SECOND EXECUTIONS & CONFIRMATIONS**

### **Trading Rooms**

**INSIDER TRADING** has been the choice of the most active day-traders for over three years. Day-Traders who prefer to trade in a professional trading environment, appreciate the advantages of trading along side fellow traders, sharing ideas and information, creating an energy level that can only be accomplished in person. **INSIDER TRADING** is committed to providing active day-traders professionally equipped and staffed trading rooms allowing experts and novice alike to experience the advantages that until recently were only available to a select few on Wall Street's most coveted trading desks.

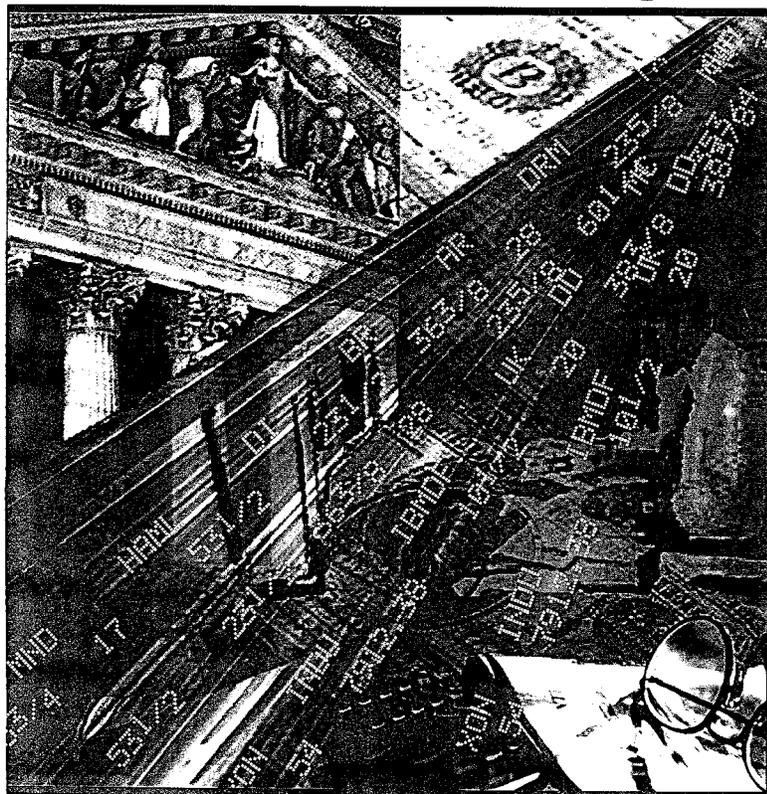
## Review Trading Rules

### TIPS

- Watch where the largest Market Makers are moving, whether it's the BID or OFFER, it will most likely indicate the direction of the stock
- Know what level a stock is at, whether it is 1st, 2nd, or 3rd level. If you don't know, do not try to buy or sell this stock
- Try to BUY or SELL a stock at 1st, 2nd, or 3rd level. If the stock goes past that, let it go, or otherwise this would be called chasing. You do not want a stock that goes higher than 3rd level
- Do not buy or sell stocks with little or no volume
- Always take profits and cut losses. You must have a goal every day of the amount of money you want to make in the stock market. When you reach your goal, stop, and quit trading. Try not to get greedy and still trade. Remember, you are gambling and most likely you will lose what you have made
- Traded only certain times of the day  
**Morning** - (9:00 to 11:00) EDT always  
**Lunchtime** - (11:00 to 3:00) EDT rarely too sometimes  
**Afternoon** - (3:00 to 4:00) EDT sometimes too always
- If you lose most or all the time on a certain stock, do not play the same stock anymore. Take it off your ticker, there are 4000 stocks on NASDAQ
- Do not Double Down on losers
- No overnight losers
- Only trade stocks that are moving
- **Never play stocks** that you do not know the history of
- **Always know** who the number one *Market Maker* is, in the stock
- **Don't ever buy a stock** that you haven't watched for at least 10 minutes or you haven't been watching
- Try not to buy stocks between **11:00 A.M.** and **3:00 P.M. EDT**
- **Don't play stocks** that have low share volume
- **Don't Ever Chase Stocks**, if you miss a runner, don't worry about it, there will always be other stocks
- **Learning Curve**



## Introduction To Trading



## Training Manual

## **WHAT I CAN'T TEACH YOU – THE TRAITS REQUIRED TO BE A WINNING TRADER**

I know most of you don't believe this, but successful trading, like any profession, requires years of training in the form of hands-on real time experience. It took Marty Schwartz, arguably the greatest trader of our time, 10 years to figure out how to become a winner. I labored 14 years before I became proficient at this game. Just as you wouldn't expect to become a doctor, lawyer or engineer in a few short years, don't expect to become a winning trader in a couple of years.

About a year ago, I got embroiled in a controversy that I inadvertently started when I inferred that winning traders are born, and can't be taught or made. I of all people should have known better, not only because it took me so long to become a successful trader, but also because as a trader, I certainly am not blessed with any special talents or skills. On the other hand, I firmly believe that there are many traders out there, no matter how committed or dedicated they may be, simply will never become a winner at trading. This is contrary to what several of the psychological gurus tell you, but remember, those fellows are in business as vendors to convince you that they have the ability to make you successful.

I am convinced that anyone who aspires to become profitable in this business **MUST** possess certain skills, traits or abilities – and almost all of these in the psychological arena. If you are unable to develop these skills, no matter how many seminars you attend, or systems you purchase, you will be destined to be in the rubble of the 90% to 98% of career losers. Below, in no particular order, I am listing the ten traits that all consistent winners must develop. And I emphasize that **ALL**, not just some or part of these skills must be attained:

1. The ability to always cut losses.
2. The ability to not overtrade.
3. The ability to think independently (The most difficult to achieve).
4. The ability to be flexible – never having rigid opinions.
5. The ability to pull the trigger – to make the trade.
6. The ability to NOT try to pick tops and bottoms.
7. You must be of a competitive nature, having an absolute passion for trading that far transcends any expected monetary rewards.

8. The ability to develop some methodology that is unique from all others.
9. The ability to continually and constantly make adjustments in your trading methodology, since you realize that markets are always changing.
10. The ability to completely rid yourself of the gambler's mentality. This is the most important of all ten, and lacking this trait is the primary reason so many traders fail.

As you can see from the above, #8 is the only skill that involves some type of fundamental or technical knowledge of market price action. The other traits are all concerned with knowing, understanding and accepting who you are as a person.

Dr. Alexander Elder, a renowned authority on the psychological aspects of stock trading and author of the 1993 book, Trading for a Living, has authorized us to excerpt several passages of his book to incorporate into this manual. Dr. Elder is a regular speaker nationwide and also comes in periodically to address On-Site traders in our in-house stress management clinics.

The following passages are representative of our philosophies at On-Site. Many of our successful traders are disciples of Dr. Elder. His clarity on the subject is refreshing and can help you stay on target. His viewpoints and methods may enable you to unlock your limitations and start you on a successful track in stock trading. Enjoy reading!

### WHY TRADE?

Trading appears deceptively easy. When a beginner wins, he feels brilliant and invincible. Then he takes wild risks and loses everything.

People trade for many reasons – some rational and many irrational. Trading offers an opportunity to make a lot of money in a hurry. Money symbolizes freedom to many people, even though they often do not know what to do with their freedom.

If you know how to trade, you can make your own hours, live and work wherever you please, and never answer to a boss. Trading is a fascinating intellectual pursuit: chess, poker, and a crossword rolled in one. Trading attracts people who love puzzles and brainteasers.

Trading attracts risk-takers and repels those who avoid risk. An average person gets up in the morning, goes to work, has a lunch break, returns home, has a beer and dinner, watches TV, and goes to sleep. If he makes a few extra dollars, he puts them into a savings account. A trader keeps odd hours and puts his capital at risk. Many traders are loners who abandon the certainty of the present and take a leap into the unknown.

Most people have an innate drive to achieve their personal best, to develop their abilities to the fullest. This drive, along with the pleasure of the game and the lure of money, propels traders to challenge the markets.

### TRADING PSYCHOLOGY

Your feelings have an immediate impact on your account equity. You may have a brilliant trading system, but if you feel frightened, arrogant, or upset, your account is sure to suffer. When you recognize that a gambler's high or fear is clouding your mind, stop trading. Your success or failure as a trader depends on controlling your emotions.

**When you trade, you compete against the sharpest minds in the world.** The field on which you compete has been slanted to ensure your failure. **If you allow your emotions to interfere with your trading, the battle is over.**

**You are responsible for every trade that you make.** A trade begins when you decide to enter the market and ends only when you decide to take yourself out. Having a good trading system is not enough. **Most traders with good systems wash out of the markets because psychologically they are not prepared to win.**

LIKE AN OCEAN

The market is like an ocean – it moves up and down regardless of what you want. You may feel joy when you buy a stock and it explodes in a rally. You may feel drenched with fear when you go short but the market rises and your equity melts with every uptick. These feelings have nothing to do with the market – they exist only inside you.

The market does not know you exist. You can do nothing to influence it. You can only control your behavior.

The ocean does not care about your welfare, but it has no wish to hurt you either. You may feel joy on a sunny day, when a gentle wind pushes your sailboat where you want it to go. You may feel panic on a stormy day when the ocean pushes your boat toward the rocks. Your feelings about the ocean exist only in your mind. They threaten your survival when you let your feelings rather than intellect control your behavior.

A sailor cannot control the ocean, but he can control himself. He studies currents and weather patterns. He learns safe sailing techniques and gains experience. He knows when to sail and when to stay in the harbor. A successful sailor uses his intelligence.

An ocean can be useful – you can fish in it and use its surface to get to other islands. An ocean can be dangerous – you can drown in it. The more rational your approach, the more likely you are to get what you want. When you act out your emotions, you cannot focus on the reality of the ocean.

A trader has to study trends and reversals in the market the way a sailor studies the ocean. **He must trade on a small scale while learning to handle himself in the market. You can never control the market but you can learn to control yourself.**

A beginner who has a string of profitable trades often feels he can walk on water. He starts taking wild risks and blows up his account. On the other hand, an amateur who takes several losses in a row often feels so demoralized that he cannot place an order even when his system gives him a strong signal to buy or sell. If trading makes you feel elated or frightened, you cannot fully use your intellect. When joy sweeps you off your feet, you will make irrational trades and lose. When fear grips you, you'll miss profitable trades.

A professional trader uses his head and stays calm. Only amateurs become excited or depressed because of their trades. Emotional reactions are a luxury that you cannot afford in the markets.

### EMOTIONAL TRADING

Most people crave excitement and entertainment. Singers, actors, and professional athletes command much higher incomes in our society than do such mundane workmen as physicians, pilots, or college professors. People love to have their nerves tickled – they buy lottery tickets, fly to Las Vegas, and slow down to gawk at road accidents.

Trading is a heady experience and can be very addictive. Losers who drop money in the markets receive a tremendous entertainment value.

The market is among the most entertaining places on the face of the Earth. It is a spectator sport and a participant sport rolled into one. Imagine going to a major-league ball game in which you are not confined to the bleachers. For a few hundred dollars you can run into the field and join the game. If you hit the ball right, you will get paid like a professional.

You would probably think twice before running onto the field the first few times. This cautious attitude is responsible for the well-known “beginner’s luck.” Once a beginner hits the ball well a few times and collects his pay, he is likely to get the idea that he is better than the pros and could make a good living at it. Greedy amateurs start running out onto the field too often, even when there are no good playing opportunities. Before they know what hits them, a short string of losses destroys their careers.

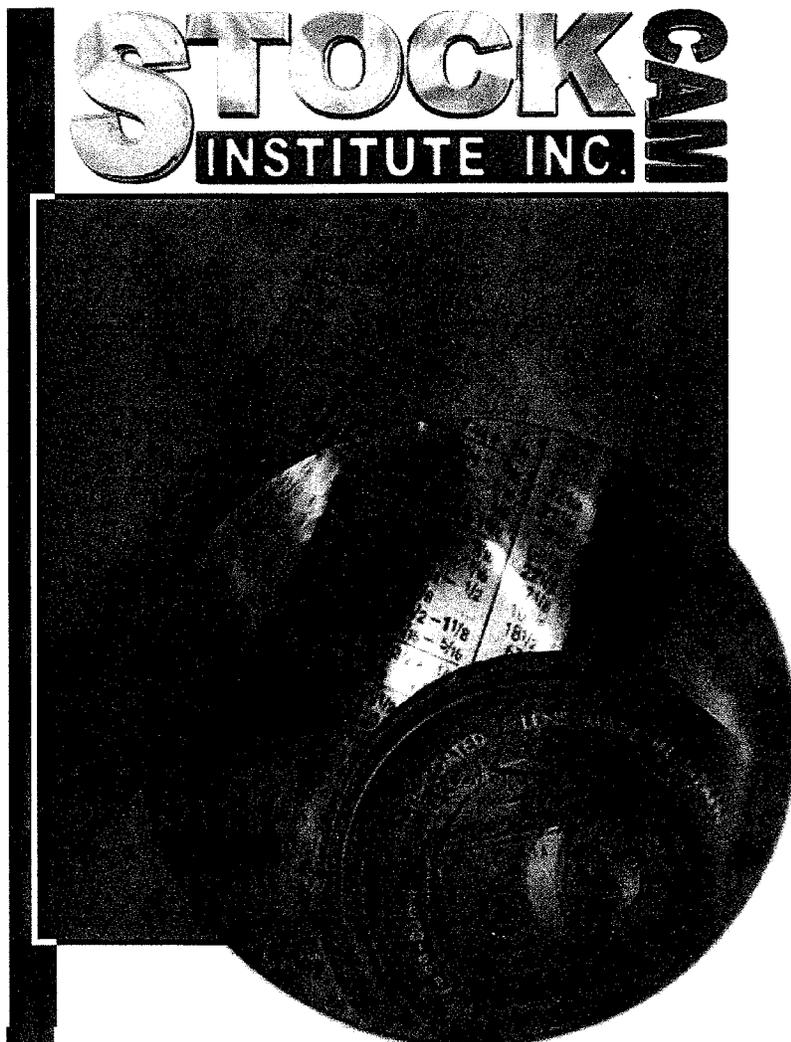
Emotional decisions are lethal in the markets. You can see a good model of emotional trading by going to a racetrack, turning around, and watching the humans instead of the horses. Gamblers stomp their feet, jump up and down, and yell at horses and jockeys. Thousands of people act out their emotions. Winners embrace and losers tear up their tickets in disgust. The joy, the pain, and the intensity of wishful thinking are caricatures of what happens in the markets. A cool handicapper who tries to make a living at the track does not get excited, yell, or bet the bulk of his roll on any race.

Casinos love drunk patrons. They pour gamblers free drinks because drunks are more emotional and gamble more. Casinos try to throw out intelligent card-counters. There is less free liquor on Wall Street than in a casino, but at least here they do not throw you out of the game for being a good trader.

**TAKE CHARGE OF YOUR LIFE**

1. **Decide that you are in the market for the long haul** – That is, you want to be a trader even 20 years from now.
2. **Learn as much as you can** – Read and listen to experts, but keep a degree of healthy skepticism about everything. Ask questions, and do not accept experts at their word.
3. **\*Do not get greedy and rush to trade** – Take your time to learn. The markets will be there with more good opportunities in the months and years ahead.
4. **\*Develop a method for analyzing the market** – That is, “If A happens, then B is likely to happen.” Markets have many dimensions – use several analytic methods to confirm trades. Test everything on historical data and then in the markets, using real money. Markets keep changing – you need different tools for trading bull and bear markets and transitional periods as well as a method for telling the difference.
5. **\*Develop a money management plan** – Your first goal must be long-term survival; your second goal, a steady growth of capital; and your third goal, making high profits. Most traders put the third goal first and are unaware that goals 1 and 2 exist.
6. **Be aware that a trader is the weakest link in any trading system** – Go to a meeting of Alcoholics Anonymous to learn how to avoid losses or develop your own method for cutting out impulsive trades.
7. **Winners think, feel, and act differently than losers** – You must look within yourself, strip away your illusions, and change your old ways of being, thinking, and acting. Change is hard, but if you want to be a professional trader, you have to work on changing your personality.

**\* Key Disciplines**



## TRADING PSYCHOLOGY

We feel this section is the most important section in the manual. At least two-thirds of learning to be successful in the market can be attributed to strong mental psychological habits. The other third is developing a consistent winning system that will put the probabilities on your side. Trading Psychology is so important that our company philosophy is based in a large part on giving you the support you need as a new trader to help you get off on the right psychological foot.

Day traders are in a unique position of trading quickly in and out of the market. At StockCam, we focus on a long term career in the market although many of our trades are short term in nature. You can put the percentages on your side because you are in an advantageous position. Your probability of making money when you use a proven system is considerably higher if you follow some basic rules and stay in control. There are reasons why some trades win and others lose. Day traders MUST be adaptable, consistent, persistent and focused. These are some of the most important characteristics a trader can develop.

Day trading has its own unique demands. We believe that certain systems continually have proven to be profitable. Only you can decide to overcome your own particular brand of limitations while maximizing your strong points. There are certain major issues in the psychology of trading that are unique and they are discussed below.

### Confidence

You will be given the tools and support to help you develop inner confidence to be ready, willing, and able to make money as a electronic day trader. The idea of self-confidence is so important that in order to help you achieve this we will be supporting your trading efforts by giving you access to the StockCam for free, as long as you maintain an active account with RML Trading. Watching, learning and paper trading will help you develop confidence in your own decisions. You will need this level of self-confidence to help you through the inevitable periods of losses. After losses you MUST be willing to keep trading. This is a numbers game. Gains and losses occur in cycles but you should quickly learn to trade less or with smaller lots on choppy days. You must maintain your self-confidence and believe that tomorrow is another trading day, and it can provide you with new opportunities. Follow a proven system and your profits should exceed your losses.

While confidence is necessary and critically important, when confidence becomes arrogance or stubbornness it can be fatal to a electronic day trader. If you become too arrogant and stubborn and DO NOT QUICKLY cut your losses short you may lose your capital. While you need to be confident enough to admit when you are wrong and need to change direction, if you allow your confidence to evolve into stubbornness, you will be sorry, very quickly.

### Discipline

We have all heard this term hundreds of times during our lives. Saying the word is one thing but truly understanding the definition operationally on a behavioral level, is quite another thing. What does the word "Discipline" really mean to a trader?

Discipline is not just the ability to develop and stick to a basic proven plan. It is also the ability to know when your trading plan is NOT working and, therefore knowing when to set it aside and use another. There are times when the market is trending and you will be able to stay in a trade for a longer period of time. However, there are times when the market has very little volume or is choppy and you need to take smaller profits by entering and exiting a trade quickly.

Discipline is the ability to trade again once you have taken a loss. It is the ability to admit to taking a loss and trying to differentiate between your error or an external problem. Taking responsibility for your loss is the first step in changing a behavior problem.

Discipline is maintaining reasonable position size and avoiding the emotional psychology which can lead to overtrading. Many traders feel that they must trade all day every day, or at least every day. In other words, they are addicted to trading. An hour or day without a trade is like a day without a meal. The fact is that there are some days which offer few if any trading opportunities. Overtrading is also the trader who has a string of losses and experience the overwhelming desire to keep trading (pushing a trade) in order to "get their money back", without taking time to analyze what is really going on. A great technique to help you control the overtrading urge is to STOP trading when you feel this urge. Take some time, walk away for awhile until you regain your perspective.

Discipline is maintaining the persistence necessary in preserving and honoring your trading system, and to consistently and correctly calculate timing indicators during the day. It is also knowing when it is NOT the time to enter a trade.

Above all, however, discipline is the ability to cut your losses SHORT. Do not let a loss get out of control. If you do you will lose enough money to prevent you from continuing to trade. Discipline is the ability to come back to trading regardless of whether you have won, lost, or broken even the day before. Discipline is many things and it is critical for a trader to develop.

#### **Concentration and Focus**

The ability to stay exclusively focused on the essential elements of the market through your screen is a critical requirement. During trading times, you need the ability to wholeheartedly concentrate on the best entry and exit points. Regardless of where you physically trade you must be comfortable enough to be able to realize this level of focus.

Large sums of money are made and lost every moment in the market. The market is not forgiving. If you are not watching your position you stand to lose a considerable amount of money if your position moves against you. You must stay focused.

#### **Memory**

It is not necessary to be a genius to be a successful day trader. However, the better you can remember, recall and especially conclude, the higher your odds are of spotting trends before or at the moment they happen. You need to continually monitor various important information on your NASDAQ Level II quotation equipment. This requires not only concentration but a good memory. If you get frustrated or confused easily this job is not for you.

#### **Realism**

Set yourself up emotionally to win by being able to accept, control and manage losses. You must understand the vital statistics of the trading system you are using.

What is your win/loss ratio? What is your plan? It is all about money management. Decide on your loss ratio. For example you might decide that you will not lose more than 1% of your capital on any given day. If you should lose 1% you will walk away until tomorrow. You might decide you will not lose more than 3/8 or 1/2 point before you quit for the day. By the way you don't necessarily have to leave. You could paper trade the rest of the day, or until you feel comfortable again. This is for you to decide but make it part of your trading plan. Making a plan and sticking to it is critical for your success.

Some traders ignore the prospect of losses. This sets them up for a losing scenario. It is important to think and talk about losses. Keep a trading diary and be REALISTIC about WHY you had that loss. Was it a question of bad entry, an unexpected market turn, overtrading, or were you chasing the stock? If you don't acknowledge and take responsibility for a losing trade when your behavior is the culprit, you cannot begin to change the behavior problem.

Realistically speaking it isn't in the cards to make money every day. If you have a system and a plan to cut losses short and let profits ride, your win ratio in the long run will be higher than your loss ratio.

Make a goal for yourself. A good basic goal is to concentrate on learning how to trade by developing a consistent skill pattern and controlling and overcoming negative psychological behavioral problems.

Your attitude toward money is an important consideration which could determine whether you win or lose in this competitive game. If you are trading with sacred money and you are obsessed with losing you will probably lose.

If money is just too important to you don't trade. If you have greatly unrealistic goals and you do not set a limit for losses you will lose.

I once knew a trader who began trading multiple positions his first day as a live trader. After about two weeks and extensive losses I asked him, "How important is \$500.00 to you"? He replied, "It took me 10 years to earn one million dollars and I have lost a good portion of it in my jewelry business, and I am determined that by trading I will get it back quickly, therefore, \$500.00 is not very important to me right now". He usually expected to gain more than 1 point on every trade. He overtraded so much he left in about two months.

You have to have respect for money but not too tied up with the idea of making money every moment of the day. I know this might be difficult for some of you, but I am talking about focusing on the trade not the money.

Make a commitment to yourself to be realistic and I think you will see wonderful results, even over a short time frame.

#### **Conclusion**

Traders need to manage losses properly, have realistic ideas about money, start with adequate capital, and be able to handle stress. For the newcomer I would recommend limiting your trades until techniques have been mastered and self-confidence has largely been achieved. Your own personal positive psychology will dictate your trading style and become your best ally.

The ideal day trader is someone who is comfortable with what he or she is doing in life and wants to enhance their life with a real challenge. The long-term winners tend to be easygoing people who enjoy the process of trading, handle stress well and treat trading as an incredible challenge. Above all they are having fun.

#### **COMMON MISTAKES MADE BY BEGINNERS**

##### **Pushing the wrong key:**

Corrective action: The keys are organized with a common sense approach, take time to learn how the keys are organized before you start. If you are having trouble learning to use the mouse, practice using the mouse by playing games like solitaire or hearts on computer. Any game that helps you to practice moving the mouse will not only be fun and enjoyable, but skill building as well.

**Buying up or selling down to many levels:**

Corrective action: If you have initiated a trade try to cancel it. Try not to pay up. Don't trade unless you know exactly where momentum started, or the trend is overwhelming. There is always another trade on the horizon.

**Giving back profits:**

Corrective action: Maintain the concentration and discipline that helped you to earn the profits. Review your plan. Above all do not let the trade go to the negative side. Always have a stop above your entry point. Beginning traders will give a profit back in a trade they are positive in because they don't want to emotionally accept the fact that the stock is not jiggling but has turned. Don't let the stock go down past your entry. Take a profit. There is always another trade.

**Not closing trades well:**

Corrective action: Work on using ECNs to exit a fast moving stock before it stops or turns and momentum begins in the opposite direction

**Overtrading:**

Corrective action: The first line of defense on this one is to always try to recognize when the overwhelming psychological desire to overtrade begins and curb it. Be more selective when there is little or no volume in the market. Learn to recognize the emotional feelings that trigger the overtrading reaction.

**Not recognizing overall trend:**

Corrective action: Watch market indicators of the overall trend of the market. When in doubt, don't trade until you are comfortable with the trend.

**Spacing out or lack of concentration:**

Corrective action: Get up and walk away (provided you are not in a trade). Have a cup of tea, coffee or coke. We all have these moments. The best corrective action is to FOCUS FOCUS FOCUS.

Jun-23-97 09:09A

Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 15

### Branch Office Survey

Branch: BOCA RAJON  
Survey Date: 6/22-24

#### Branch Information

Branch Manager: MILL ZUNDARA

Branch Manager: \_\_\_\_\_

Secretary/ Receptionist: NONE. NOT YET.

Additional Staff: Tony Balciano 3, 000 all, man, etc  
single

#### Branch Staff Responsibilities/ Duties

Branch Manager  
1: ALL OTHERS - NEW CUSTOMERS

Branch Manager  
2: \_\_\_\_\_

Secretary/  
Receptionist: \_\_\_\_\_

Additional Staff:  
Tony Balciano TRACER ADAMS - GENERAL  
ISIA MANAGER ROBERTS

*Insurance, T-Systems + Services - Affiliates of Bradley  
 don't run BATEK = }*

**Competitor Information**

Competitor	Ticket Charge	System Used
Largest competitor: <i>BROADWAY</i>	<i>2.4</i>	<i>ALL TECH SERVICES</i>
Second largest competitor: <i>CONVULSER</i>	<i>2.50</i>	<i>ALL TECH SERVICES</i>
Third largest competitor: <i>JPR</i>	<i>2.50</i>	<i>ALL TECH SERVICES</i>

*470-5363*

Please Provide: Copies of competitor advertising.

Distance in miles of All-Tech Branch office and

Competitor \_\_\_\_\_

Competitor strengths:

*ACCU 1st to 3rd market  
 Current Post Fee to DRY  
 6/1/11*

Competitor Weaknesses:

*CONVULSER - 2.50 Pick up less 1,000 S&W charge  
 2.50 - 2.50 S&W charge  
 ALL TECH - 2.50 Terminal Personal copies 95*

Have you lost customers to competitor?

*NO - NONE TO LOSE*

Reason given for leaving:

Action taken to keep customer:

*Ticket charge for 500.00 share loss  
 JPR 15.00  
 BATEK 2.4 fee = 12.00  
 JPR center - 25.00 (Out Service)*

CUSTOMER INFORMATION

Current number of licenses: 15 Licenses 18 <sup>max</sup> <sup>from off</sup>

Current number of customers: 3 <sup>Includa</sup> <sup>MERTY</sup> <sup>Pr: - 1000</sup>

Current number of Remote customers: 0

Average tickets per day: 30-50 <sup>300-600 per month</sup>

Commission Charge: WAS 25 NOW 18

Which customer is doing the most tickets: MERTY

Which customer is doing the least tickets: Bill where <sup>dis. 1000</sup>

How many customers would you consider Part-time traders 1 <sup>Bill where</sup>

What percentage of your customers are making money: 0%

Are you meeting with customers daily and evaluating their progress: YES

What are your customers comments on:

The ATTAIN™ System: lots of Exception EMS of use

Day Trading in general: NOT SURE YET

ATTAIN™ System Reliability: VERY Good

Branch Office Advertising & Marketing

Where are you currently advertising: 2 ADS - SEE CASH  
 Television  Radio  Newspaper  Not advertising obviously

How often do you advertise: SPOT CASH

Where have you received your best response from: NOT INTERESTED  
some - no results

Are you asking callers where they heard about you: yes

What is your average monthly advertising costs: N/A - NO ADVERTISING

Do you have an advertising budget: NO - \$1,050.00 per month

Are you using Multi Media Communications: (Becca Tebon) yes

How do you like their service? Very well

Does the person who answers your phone use a standard inquiry script: yes - WE WILL TRY TO HELP  
PLEASE ADVISE US

Do you send an ATTAIN™ brochure to qualified potential customers: yes - when needed

How do you qualify potential customers: OTH

How many phone calls do you average per day: most days about 100  
13:00 - 17:00 about 2

How many tours do you schedule per week: 10 last week  
0 before

Do you have a tour procedure: will have a tour procedure

Do you have a closing procedure: we will

Are you conducting monthly seminars: we will

What area's of your advertising, sales and marketing do you feel you need the most assistance: every thing

Jun-23-97 09:10A

P. U

\* *Get Experience*

Additional Branch Office Information

What free services do you provide for your customers:

Lunch:          Coffee:          Beverages:          None:         

Child care:          Gym/ Health Club:         

Is your parking sufficient: YES

Do you employ a cleaning service: YES - 30.00 per wk

Are all chairs in good working condition: yes

Is your heating/ air conditioning sufficient: yes

Do you have a reception area: yes

Have you had any customer appreciation events: ( party, dinner, free tickets to sporting events or shows) None - as they occurred last

What kind of on going support are you providing customers: nothing

Are you planning a Rushmore Financial Services, Inc. Bootcamp in the future: yes When: not sure 6-8 wk

How has the response of your customers been to past Bootcamps: Good

What improvements would you recommend for Bootcamps: more - not content - more - more on system

Are the paper trading messages helping: yes - you can see when Emporia are best

What can Rushmore do to improve their current teaching procedure: could be more on system - need to cover more on system - more on system

*less than \$50.00 for bootcamp*

*2,004.35 per month*

All-Tech Investment Group, Inc.

Please comment in detail on All-Tech's support services: Problems and recommended solutions in dealing with the main office:

Accounting Department: n/a YES.

Computer Department: Mr. GALT. Needs Skill  
Mr. / Barbara sub.

Margin/ Account analysis Department: LISA + PDS Mr. GALT

Back Office: Just Good.

Legal Department: N/A

Executive Offices: Harold + Mike + D. Harris  
George of John - who do I talk  
to? please?

Help Desk: GALT - awesome.

Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 16

### Branch Office Survey

Branch: SEATTLE  
Survey Date: JUNE 5, 1997

**Branch Information**

Branch Manager: MIKE BENSON  
Branch Manager: DAVE NIEDERKROME  
Secretary/Receptionist: STEPHANIE GALLAGHER  
Additional Staff: NONE @ THIS TIME  
LOOKING @ A SALES POSITION ONLY

**Branch Staff Responsibilities/Duties**

Branch Manager  
1: MIKE BENSON - MARKETING, SALES, BUDGET  
FINANCIAL PLANNING, FACILITIES, AND ANY  
THING ELSE.

Branch Manager  
2: DAVID NIEDERKROME - NEW ACCTS /  
COMPLIANCE, TRADER TRAINING / SUPERVISION  
FINANCIAL PLANNING, TRADE PROBLEMS, MARGIN,  
AND ANYTHING ELSE.

Secretary/  
Receptionist: STEPHANIE GALLAGHER

Additional  
Staff: NONE @ THIS TIME! LOOKING @ CREATING A  
SALES POSITION - WILL MAKE A DECISION WITHIN  
THE NEXT 2-4 WEEKS.

*Benson 1*

### Competitor Information

Largest competitor	BLOCK	20.00	THEIDS
Second largest competitor	BANK ONE	15.00	CHARGE CARD
Third largest competitor			

Please Provide: Copies of competitor advertising.

Distance in miles of All-Tech Branch office and  
Competitor 10.

Competitor strengths: TICKET CHARGES - DISCOUNTED  
EDUCATION FREE OR 1000.00

Competitor Weaknesses: POOR MGT., FOLLOW THROUGH,  
CAPITAL, LOCATION.

Have you lost customers to competitor? NOT TO DATE, BUT PROSPECTS TO COST OF TRAINING.

Reason given for leaving: N/A

Action taken to keep customer: N/A

## CUSTOMER INFORMATION

Current number of licenses: 52  
 Current number of customers: 51  
 Current number of Remote customers: 7  
 Average tickets per day: 100  
 Commission Charge: 25.00  
 Which customer is doing the most tickets: S. BAKER 30+  
 Which customer is doing the least tickets: J. BAKER >1  
 How many customers would you consider Part-time traders: 35-40  
 What percentage of your customers are making money: >10%  
 Are you meeting with customers daily and evaluating their progress: AS TIME PERMITS.  
What are your customers comments on:

## The ATTAIN™

System: GOOD: COULD USE A LITTLE MORE BUT WILL SURVEY CUSTOMERS + SEND IN FOLLOW UP.

## Day Trading in

general: OVERALL GOOD! WE NEED TO HAVE A COUPLE OF PEOPLE MAKING MONEY.

## ATTAIN™ System

Reliability: GOOD: MOST COMPLAINTS ARE ABOUT PAPER TRADING EXECUTION.

Branch Office Advertising & Marketing

Where are you currently advertising:

Television X Radio X Newspaper X Not advertising \_\_\_\_\_

How often do you advertise: ALL THE TIME

Where have you received your best response from: NEWS REPORTS + ADVERT

Are you asking callers where they heard about you: YES

What is your average monthly advertising costs: 7-10,000<sup>00</sup>

Do you have an advertising budget: YES

Are you using Multi Media Communications: (Becca

Tebon) NO

How do you like their service? DO NOT!

Does the person who answers your phone use a standard inquiry script: NO.

Do you send an ATTAIN™ brochure to qualified potential customers: YES - TO ALL

How do you qualify potential customers: OVER PHONE / WHO IS BROKER, # OF TRADES PER MONTH CAP. AVAIL +

How many phone calls do you average per day: 3-5

How many tours do you schedule per week: 14 6:30 AM + 12:00 PM

Do you have a tour procedure: YES

Do you have a closing procedure: YES

Are you conducting monthly seminars: YES

What area's of your advertising, sales and marketing do you feel you need the most assistance: NONE.

Additional Branch Office Information

What free services do you provide for your customers:

\*10 JULY

Lunch:  Office:  Beverages:  None: \_\_\_\_\_

Child care: \_\_\_\_\_ Gyo/ Health Club:  IN JULY

Is your parking sufficient: YES

Do you employ a cleaning service: YES

Are all chairs in good working condition: YES

Is you heating/ air conditioning sufficient: YES

Do you have a reception area: YES

Have you had any customer appreciation events:( party, dinner, free tickets to sporting events or shows) YES (LAST NIGHT) SEASON TICKETS TO SPORTS EVENTS

What kind of on going support are you providing customers: \_\_\_\_\_

Are you planning a Rushmore Financial Services, Inc. Bootcamp in the future: YES When: JUNE 7<sup>TH</sup> - 8<sup>TH</sup> JULY 18<sup>TH</sup>, 19<sup>TH</sup> AUG.

How has the response of your customers been to past Bootcamps: THE QUESTION OF "VALUE" FOR THE \$ AMT HAS BEEN MENTIONED / INSTRUCTED FOR 24 PEOPLE FOR 4 DAYS @ 3,000 VS 4 WEEKS @ 5,000

What improvements would you recommend for Bootcamps: 1 SOLID WEEK W/ A FOLLOW UP & GOOD SYMULINE. THIS "VALUE" NEEDS TO BE CLOSE TO WHAT A PERSON RECEIVES IN REALITY W/ A CLASS SIZE, PERHAPS A LITTLE MORE STRUCTURE.

Are the paper trading messages helping: YES + NO THEY USED TO BE USED MORE OFTEN IF THE EXECUTION PROBLEMS CAN BE SOLVED IT WOULD HELP IE. (9999 @ PRICE GURN)

What can Rushmore do to improve their current teaching procedure: THE PEOPLE IN MY 1<sup>ST</sup> BOOTCAMP DID NOT FEEL THAT THEY GOT THEIR MONEY'S WORTH. I FEEL THE SAME AS DOES DAVE. WOULD BE ABLE TO PROVIDE QUALITY INSTRUCTION IN HOW TO TRADE NOT JUST THE SYSTEM. OUR TRADERS FELT THAT WE GAVE THEM BETTER INSTRUCTION BECAUSE OF THE AMOUNT OF TIME THAT WE WERE ABLE TO SPEND W/ THEM.

All-Tech Investment Group, Inc.

Please comment in detail on All-Tech's support services: Problems and recommended solutions in dealing with the main office:

Accounting

Department: BOB V. + CO. ARE EXCELLENT. WE APPRECIATE THE EFFORTS OF COLLECTION OF INFORMATION + ARE IMPRESSED W/ THE RESPONSE THAT WE RECEIVE. THEY ARE THE #1 + THEY DON'T LIE! THANKS FOR YOUR HELP!!!

Computer

Department: MARK S., BOB L., STEVE W., DEVIN S. GILBERT + ALL THAT WE DO NOT TALK W/ ARE IMPRESSIVE. RESPONSE + COOPERATION IS IMPRESSIVE... THEY ARE THE CO. W/O THEM + THEIR COMMITMENT WE WOULD BE D.O.A. - THE BEST!

Margin/ Account analysis

Department: LISA - PLEASE REMEMBER... YOU ARE THE BEST!

ROD - "KISS WILL NEVER DIE" WE WILL NEVER HAVE ANOTHER CALL YOU KNOW THAT THERE IS NO QUESTION THAT YOU "ROCK" MARGAN.

Office: MICHELLE CO. - THE UNSURE HANDS OF THE OFFICE, EXCELLENT!!! THANK YOU FOR ALL OF YOUR HELP YOU GALS NEED A ROOM W/ A VIEW!!!! MARKS. IT IS UP TO YOU

Legal

Department: LINDA + ROSE. WE HOPE TO NEVER BE ON THE OTHER SIDE, AGAINST YOU! THANKS FOR YOUR HELP

Executive

Offices: KATHY, CHRIS, JESSICA (DAVID W. ?) + MARK... WE FEEL THAT WE ARE ENJOYING W/ ALL TECH + WANT TO SET THE STANDARD FOR THE CO. THANK YOU FOR ALL YOUR HELP! D.S. HARVEY - YOU DA MAN!

Help

Desk: DEVIN, GILBERT + MARK + STEVE

I + LOVE LOVE YOU GUYS!  
(CORREY!)

D.S. Harvey 6/5/97 M.W.S. 6/5/97

JUN 19 97 AM 11:20 REC

# Branch Office Survey

Branch: CHICAGO  
Survey Date: 6/04/97

## Branch Information

Branch Manager: WILLIAM L DEMAS  
Branch Manager: \_\_\_\_\_  
Secretary/ Receptionist: LINDA McSWANEY  
Additional Staff: JEFF SADOWSKI

## Branch Staff Responsibilities/ Duties

Branch Manager  
1: TAKING CARE OF MORN CALLS - RECRUITING  
NEW PEOPLE - TRAINING NEW TRADERS - ASSISTING  
DAY TRADER WITH ANY PROBLEMS ETC

Branch Manager  
2: \_\_\_\_\_  
\_\_\_\_\_

Secretary/  
Receptionist: ANSWER PHONE - TALLY UP TICKETS  
FAX & MAIL ALL OUTGOING ITEMS - GENERAL  
RECEPTIONIST

Additional  
Staff: JEFF SADOWSKI - OVERSEE ENTIRE  
OPERATION & DAILY ACTIVITIES - FROM SOUP TO  
NUTS

### Competitor Information

Competitor	Ticket Charge	System Used
Largest competitor:		
Second largest competitor:		
Third largest competitor:		

Please Provide: Copies of competitor advertising.

Distance in miles of All-Tech Branch office and

Competitor: LA SURE SECURITIES

Competitor strengths: GOOD LOCATION - LESSER COMMISSIONS

Competitor Weaknesses: POOR EVALUATION

Have you lost customers to competitor? YES

Reason given for leaving: LOCATION

Action taken to keep customer: NUMEROUS CALLS & INVITATION TO RETURN AT ANY TIME.

CUSTOMER INFORMATION

Current number of licenses: -  
Current number of customers: 13  
Current number of Remote customers: 5  
Average tickets per day: 100 10 PM 200  
Commission Charge: \$25  
Which customer is doing the most tickets: MacNeil  
Which customer is doing the least tickets: DAOYAN  
How many customers would you consider Part-time traders 4  
What percentage of your customers are making money: 30%  
Are you meeting with customers daily and evaluating their progress: WITH THE IN-HOUSE TRADERS  
What are your customers comments on:

The ATTAIN™ System: VERY EXCITING

Day Trading in general: MORE DIFFICULT LIVE TRADING THAN PAPER TRADING. HARD TO BRING OUT PROFITS

ATTAIN™ System Reliability: VERY GOOD

### Branch Office Advertising & Marketing

Where are you currently advertising:

Television  Radio \_\_\_\_\_ Newspaper \_\_\_\_\_ Not advertising \_\_\_\_\_

How often do you advertise: DAILY

Where have you received your best response from: REFERRALS

Are you asking callers where they heard about you: YES

What is your average monthly advertising costs: \$1,000's

Do you have an advertising budget: YES

Are you using Multi Media Communications: (Becca Tebon) YES

How do you like their service? OKAY BUT THERE HAVE BEEN DEFINITE PROBLEMS

Does the person who answers your phone use a standard inquiry script: NO

Do you send an ATTAIN™ brochure to qualified potential customers: YES

How do you qualify potential customers: BY A QUESTIONING FOLLOWED UP BY CONVERSION

How many phone calls do you average per day: MANY

How many tours do you schedule per week: AS MANY AS NEEDED

Do you have a tour procedure: YES

Do you have a closing procedure: YES

Are you conducting monthly seminars: EVERY OTHER MONTH

What area's of your advertising, sales and marketing do you feel you need the most assistance: TV & RADIO

### Additional Branch Office Information

What free services do you provide for your customers:

Lunch: \_\_\_\_\_ Coffee:  Beverages: \_\_\_\_\_ None: \_\_\_\_\_

Child care: \_\_\_\_\_ Gym/ Health Club: \_\_\_\_\_

Is your parking sufficient: YES

Do you employ a cleaning service: YES

Are all chairs in good working condition: YES

Is you heating/ air conditioning sufficient: YES

Do you have a reception area: YES

Have you had any customer appreciation events:( party, dinner, free tickets to sporting events or shows) NO

What kind of on going support are you providing customers: ONLY

Are you planning a Rushmore Financial Services, Inc. Bootcamp in the future: YES When: JULY

How has the response of your customers been to past Bootcamps: MIXED

What improvements would you recommend for Bootcamps: MORE DETAILED & INTERIE BOOTCAMPS

Are the paper trading messages helping: YES

What can Rushmore do to improve their current teaching procedure: CONCENTRATE MORE ON THE CHARTS, ETC and EXPLAIN HOW THE SYSTEM CAN WORK TO THEIR Advantage

All-Tech Investment Group, Inc.

Please comment in detail on All-Tech's support services: Problems and recommended solutions in dealing with the main office:

Accounting

Department: GOOD

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Computer

Department: STEVE, DEVIN + GIL ARE VERY HELPFUL + VERY APPRECIATED

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Margin/ Account analysis

Department: ROB + LISA ARE THE BEST!

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Back

Office: VERY GOOD!

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Legal

Department: GOOD

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Executive

Offices: VERY SUPPORTIVE

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Help

Desk: VERY HELPFUL!

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On Investigations

EXHIBIT # 18

1900 AVENUE OF THE STARS, SUITE 2700  
LOS ANGELES, CALIFORNIA 90067-4508

TELEPHONE (310) 277-1441  
FACSIMILE (310) 277-2888

OF COUNSEL  
THOMAS A. MESEREAU, JR.  
A PROFESSIONAL CORPORATION

**DONAHUE, MESEREAU & LEIDS, LLP**  
A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
ATTORNEYS AT LAW

December 3, 1999

**VIA FEDERAL EXPRESS**

Mr. Wes Phillips  
United States Senate  
Permanent Subcommittee on Investigations  
Committee on Governmental Affairs  
100 Russell Senate Office Building  
Washington, D.C. 20510

**Re: Senate Subcommittee Investigation of the Day Trading Industry  
Tae Goo Moon**

Dear Mr. Phillips:

Our office represents Tae Goo Moon with regard to the Senate Subcommittee's investigation of the above referenced matter. This letter and the enclosed documents constitute Mr. Moon's response to the Senate Subcommittee's October 29, 1999 letter and document and information request. Enclosed please find documents numbered 00001 through 00624. These documents are separated according to request number and the requests are so noted on the corresponding folders. Please note that our office, on behalf of Mr. Moon, requests that confidential treatment be afforded all documents and information provided pursuant to your office's investigation. While it is my understanding pursuant to our telephone conversation on December 3, 1999 that there is no provision which specifically affords such protection, I hope that your office will give consideration to the fact that these documents contain confidential and proprietary information, the general dissemination of which would not be appropriate.

It may be helpful to reiterate that Mr. Moon is no longer in the securities industry and that the Hahna Global Securities office closed in September 1999. Mr. Moon requested that Providential Securities submit his Form U-5 to the NASD, thereby terminating his licensing as an individual registered to engage in the securities business. Because of the closure of the Hahna Global Securities office, all of the office's documents have been boxed up and put in storage. Mr. Moon has diligently attempted to locate all documents which are responsive to the Senate Subcommittee's requests. However, because documents have been boxed, he has had problems locating some of the documents requested. To the extent that he has been unable thus far to locate requested documents, we have so noted in these responses. Any documents which are responsive and which he is able to locate in his ongoing efforts will be forwarded forthwith. Additionally, pursuant to an examination of Hahna Global Securities conducted by the National Association of Securities Dealers, Inc. (the "NASD"), Mr. Moon believes that his office forwarded

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original documents, including the journal entries for margin loans from October 1997 through April 1999 and the trade authorization forms, to the NASD. Our office has contacted the NASD and is attempting to obtain whatever documents they may possess. Any documents which we obtain from the NASD which are responsive to your requests will also be forwarded forthwith.

**Schedule A**

**Request No. 1**

All Organizational charts and personnel rosters for Hahna Global Securities, ("Hahna").

Response:

There is neither an organization chart nor a personnel roster of the Hahna Global Securities office. Mr. Moon and Ms. Anne Kim were the registered individuals who worked in the Hahna Global Securities office. In approximately August 1997 Mr. Keith Kim, also a registered representative, also came to work at the Hahna Global Securities office.

**Request No. 2**

All documents referring or relating to, or containing information about, any affiliates that provide products or services to Hahna or offer products or services related to the securities industry.

Response:

Mr. Moon has no responsive documents.

**Request No. 3**

All branch office manager manuals and associated policy statements.

Response:

Mr. Moon is providing portions from the Providential Securities manuals. Mr. Moon is diligently attempting to locate copies of the entire manuals and will produce them immediately if he locates them.

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Request No. 4

All training manuals and course documents provided to branch office managers.

Response:

Mr. Moon is unable to respond to this request based on the fact that it is unclear exactly what type of documents are being requested. If your office could please clarify what it means by "training manuals" and "course documents," Mr. Moon will attempt respond to the request.

Request No. 5

A copy of all forms for new customer accounts and all documents referring or relating to, or containing information about, the suitability of a prospective customer to engage in day trading.

Response:

Mr. Moon is producing the forms used for opening new accounts, including the new account form, margin agreement, trading authorization, and risk disclosure form.

Request No. 5(a)

The names and telephone numbers of all Hahna customers who day traded at branch office locations between January 1, 1998 and September 30, 1999.

Response:

Please see enclosed document.

Request No. 6

A copy of all form documents to obtain customer authorization and any form documents to request a journal entry for a day trader's account authorizing loans to cover margin calls.

Response:

Please see enclosed documents. Mr. Moon has produced documents responsive to this request for the months of May, June and July 1999. Mr. Moon will produce all additional

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documents he is able to locate or which our office obtains from the NASD.

Request No. 7

All documents referring or relating to, or containing information about, the number of Hahna day traders as of June 30, 1999.

Response:

Mr. Moon is reviewing the Hahna Global Securities' files to obtain a specific number of day traders. However, Mr. Moon believes that as of June 30, 1999 there were approximately 3 to 5 day traders still trading at Hahna Global Securities.

Request No. 7(i)

The number of day traders who operate from branch offices.

Response:

There were no other offices of Hahna Global Securities.

Request No. 7(ii)

The number of day traders who operate from remote locations.

Response:

None.

Request No. 7(iii)

The number of day traders whose accounts have increased in value.

Response:

Mr. Moon is continuing to review account information regarding this request; however it is his belief that none of the accounts increased in value during their tenure at Hahna Global Securities.

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Request No. 8

All documents referring to relating to, or containing information about, lending to, between, or among day traders to meet margin call requirements.

Response:

Please see enclosed documents.

Request No. 9

All documents referring or relating to, or containing information about the number of margin loans to, between or among Hahna day traders and the dollar amount of such loans.

Response:

Please see enclosed documents. Mr. Moon is in the process of compiling information regarding the number of margin loans; however, he will not be able to completely respond to this request until he receives the documentation which he believes is in the possession of the NASD.

Request No. 10

All documents referring or relating to, or containing information about, third party trading by Hahna day traders, including without limitation, any policies.

Response:

Any policies are enumerated in the manuals produced pursuant to request number 3.

Request No. 11

All documents referring or relating to, or containing information about, the number of Hahna day traders who day trade on behalf of third parties and the number of day traders who borrow money from third parties to day trade.

Response:

Mr. Moon is in the process of compiling the trade authorizations responsive to this request

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that were not turned over to the NASD. Mr. Moon will produce all documents he is able to locate or which our office obtains from the NASD. Mr. Moon believes that there were three individuals who had authorization to trade in the accounts of third parties. These individuals were Mr. Huan Van Cao, Mr. Keith Kim and Mr. James Baik. Documentation will be forthcoming.

Mr. Moon is unable to respond to whether day traders borrowed money from third parties to day trade. It was not Mr. Moon's custom or practice, nor was it his obligation, to inquire of the customers the source of the funds that were used to open or maintain their accounts.

Request No. 12

All documents referring to, or containing information about, customer account confirmations, including, without limitation, a copy of form customer account confirmations and monthly statements, and all policies as to where such confirmations are to be sent.

Response:

Pursuant to our telephone conversation on November 30, 1999, Mr. Moon has provided a sample month of trade confirmations and account statements for day trading accounts. Please see the enclosed documents. The policy regarding to whom trade confirmations were sent was that all documents regarding a customer account were sent to the address listed on the new account form until and unless a customer provided written instructions otherwise. The policies regarding trade confirmations and account statements were dictated by the broker-dealer main office. Monthly account statements and trade confirmations were mailed directly from the clearing firm to the customer's address as listed on the new account form.

Request No. 13

All advertising materials including, without limitation, television commercials, radio advertisements, magazine and newspaper advertisements, and Internet Web page advertisements.

Response:

Mr. Moon has no responsive documents.

Request No. 14

All internal and external audit reports, including, without limitation, those audit reports that

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apply to Hahna branch offices nationwide.

Response:

Mr. Moon has no responsive documents.

Request No. 15

All documents referring or relating to, or containing information about, day trading training programs for new day traders, including, without limitation, (i) the number of individuals who completed the training programs; and (ii) the financial performance of individuals who have completed the training program and use or have used facilities or trading systems either from branch offices or remote locations to day trade.

Response:

Mr. Moon has no responsive documents.

Request No. 16

Documents referring or relating to, or containing information about, fees or other charges Hahna may charge a day trader, including without limitations, any fees or interest charged day traders receiving a loan to cover a margin call.

Response:

Please see enclosed documents.

Request No. 17

All communications received by or on behalf of Hahna from potential customers or day traders, governmental agencies or office referring or relating, to, or containing any information about a complaint.

Response:

Please see enclosed documents.

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Request No. 18

All communications by or on behalf of Hahna in response to the communications referred to in Document Request Number 17.

Response:

Please see enclosed documents.

Request No. 19

All documents relating or referring to enforcement or disciplinary actions by state or federal securities regulators, including state or federal civil or criminal actions.

Response:

Please see enclosed documents.

Request No. 20

All documents relating or referring to any personal bankruptcies of an officer or branch manager.

Response:

Mr. Moon has no responsive documents.

Request No. 21

All documents referring or relating to, or containing information about, the retention of any psychotherapist, psychologist, psychiatrist or other counselor to assist day traders.

Response:

Mr. Moon has no responsive documents.

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**Schedule B**

**Request No. 1**

What is the total number of customer, as of October 1, 1999, that have or had one or more accounts for day trading at your firm, including branch office or remote locations?

Response:

Pursuant to our conversation on November 30, 1999 wherein I explained that as of October 1, 1999 the Hahna Global Office was no longer operating, you stated that we could provide a response as of June 1, 1999 for this requests and requests 3 and 10, below. Mr. Moon is in the process of reviewing the account statements to determine the number of day traders as of June 30, 1999. However, he approximates that there were between 3 and 5 day traders.

**Request No. 2**

Please identify and describe Hahna Global Securities' relationship with any affiliated broker-dealers.

Response:

In May 1997, Hahna Global Securities opened its office in Los Angeles, California as a branch office of Providential Securities. At that point in time, Hahna global Securities only offered traditional retail trading services. In 1997, Henry Fahman of Providential Securities and Tae Goo Moon were undertaking efforts to have day trading operations at both the Providential and Hahna Global Securities offices. By September 1997, the Providential office was not ready to begin day trading operations but the Hahna Global Securities office was. Because Providential operations were not equipped to handle the day trading operations, Mr. Fahman and Mr. Moon agreed to have Hahna Global Securities find a broker-dealer and clearing firm who could handle Hahna Global Securities' day trading operations. Providential Securities intended to continue handling the operations for Hahna Global Securities' retail trading operations. Mr. Fahman introduced Mr. Moon to Ray Reilly, the West Coast representative of Penson Financial Services, in an effort to help the Hahna Global Securities office contract with a firm that could handle the day trading operations. Thereafter, Ray Reilly introduced Tae Goo Moon to Grace Schroeder, the President of Go Trading. Mr. Moon and Ms. Schroeder reached an agreement whereby Hahna Global Securities would become registered as a branch office of Go Trading with Go Trading handling Hahna Global Securities' day trading operations. An agreement was reached that Go Trading, clearing through

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Penson Financial, would handle the day trading operations and that Providential Securities would continue to handle the retail trading operations of Hahna Global Securities. In August 1998 Go Trading ceased operations. Thereafter, in September 1998 Hahna Global Securities transferred its day trading operations to Providential Securities, which now handled the day trading and retail trading operations for Hahna Global Securities.

Request No. 3

Do customers who day trade at your firm lend money to other customers who are unable to meet margin calls?

Response:

Yes.

Request 3(a)

If yes, as of October 1, 1999, how many customers, included in #1 above, made or received such a loan at some at some point during their tenure with our firm?

Response:

Please see enclosed documents responsive to requests 6, 8 and 9.

Request No. 4

For those loans discussed in Question 2(a), were the loans between customers who trade at the same office? Or, were the loans between customers who trade at different offices? Or both?

Response:

Loans were between customers at the same office.

Request No. 5

Did your firm in any way promote, arrange, assist, or monitor such loans among customers, including identifying potential lenders or providing documentation?

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Response:

Yes.

Request No. 6

Has your firm ever or does it now charge customers a fee in exchange for promoting, arranging, assisting, or monitoring such customer tot customer lending?

Response:

No.

Request No. 7

What is your firm's policy regarding third party trading by your customers? If written, please provide a copy of the policy.

Response:

The firm's policy was to require that customers execute a trading authorization form before permitting any trading by a third party in a customer's account.

Request No. 8

Does the firm require customers who day trade on behalf of other individuals to submit documentation related to such trading? If yes, what documents are customers required to submit?

Response:

Trading authorization forms were required to be executed and submitted.

Request No. 9

Do you collect data on the number of firm customers who day trade on behalf of third parties? If yes, please provide such data.

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Response:

The firm maintains the trading authorizations forms.

Request No. 10

As of October 1, 1999, how many customers, referred to in Question 1, day traded on behalf of other individuals?

Response:

As of June 30, 1999, one customer was authorized to trade on behalf of other customers.

Request No. 11

What, if any, minimum financial standards (e.g., income and net worth) does your firm have for prospective customers who seek to open day trading accounts?

Response:

The office reviewed new account forms which provided information regarding income and net worth prior to permitting an account to be opened. The office assessed new accounts on a case by case basis and did not have specific minimum financial standards.

Request No. 12

When were the financial standards referred to in Question 10 implemented?

Response:

The review of new account forms was performed from the inception of the office's existence.

Request No. 13

Did the financial standards referred to in Question 10 change any financial standards that our firm previously had in place? If so, how were the financial standards change and why?

Mr. Wes Phillips  
United States Senate  
Permanent Subcommittee on Investigations  
Committee on Governmental Affairs  
December 3, 1999  
Page 13

Response:

The policies regarding opening day trading accounts were different than those employed for traditional retail accounts. In a traditional account, because there is a broker who is servicing the customer and that broker is making recommendations for the purchase and sale of securities based on the customer's investment objectives, the office was required to obtain certain information regarding investment experience, history and objectives in order to ensure recommendations made were suitable. Because in a day trading account the customer is making all investment decisions him or herself and is not relying on any person at the firm to recommend an investment strategy or a particular investment, the firm's inquiry into financial experience, history and objectives was not required.

Request No. 14

Please provide a copy of all new customer day trading account forms for all accounts opened by your firm between January 1, 1998 and September 30, 1999.

Response:

Please see enclosed documents.

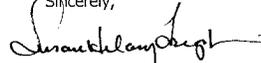
Request No. 15

Please provide a copy of all materials distributed by your firm at the International Day Trading EXPO held on September 25 and 26, 1999 in Ontario, California. Please include a transcript of any and all speeches delivered by representatives of your firm.

Response:

Mr. Moon did not attend that conference.

As stated above, any additional documents that Mr. Moon is able to locate will be immediately prepared and forwarded. Please feel free to contact me should you have any questions or comments or require anything further.

Sincerely,  
  
Susan H. Tregub



THE INFOMART, SUITE 2016  
1950 STEMMONS FREEWAY  
DALLAS, TEXAS 75207  
USA

Tel. (214) 939-0110  
FAX (214) 939-0116  
E-MAIL: InvestIN@InvestIN.com  
WEBSITE: InvestIN.com

November 18, 1999

VIA FACSIMILE & FEDERAL EXPRESS

K. Lee Blalack, II  
Chief Counsel & Staff Director  
Linda J. Gustitus  
Minority Chief Counsel & Staff Director  
Committee on Governmental Affairs  
Washington, DC 20510-6250

Dear Mr. Blalack and Ms. Gustitus

In letters dated September 2 and October 24, 1999, your committee requested information from Mr. Jon Floyd regarding the operations of DirectNet Trading. On September 1, 1999, DirectNet became an affiliate of our company. As a result of this affiliation, InvestIN.com is providing the requested information as of September 1, 1999 on behalf of DirectNet, currently known as Stoxxnow.

Enclosed are Exhibits A and B, which correspond to the questions in date order. If you have any questions, please contact Laurence Briggs at 214-939-0110.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Laurence Briggs', followed by the initials 'L.B.'.

Laurence Briggs  
Chief Executive Officer  
InvestIN.com Securities Corp.

**Exhibit A**

Question 1:

All organizational charts and personnel rosters for DirectNet Trading Inc. ("DirectNet").

**Response:**

See enclosure #1 (attach the organizational chart and Registered Representative spreadsheet of InvestIN.com)

Question 2:

All documents referring or relating to, or containing information about, any affiliates that provide products or services to DirectNet or offer products or services related to the securities industry.

**Response:**

InvestIN.com, an Introducing Broker/Dealer, is a member of the NASD and primarily offers on line and direct access equity trading. Stoxnow is considered a branch office of InvestIN.com Securities Corp. InvestIN.com provides Stoxnow with order execution and supervises Registered Representatives and customer accounts.

InvestIN.com clears their trades through Penson Financial Services. Tradecast provides direct access trading software and real-time quotes. The Vantra Group provides web-based on-line investing software.

Question 3:

All branch office manager manuals and associated policy statements.

**Response:**

A branch manager's manual is a work in progress and expected to be completed by the first of December. InvestIN.com's Written Supervisory Procedures manual is given to each registered representative (See enclosure # 2 (WSP's)). They must read, understand and comply with InvestIN.com's Written Supervisory procedures and policies, which are based on NASD and SEC rules.

Question 4:

All training manuals and course documents provided to branch office managers.

**Response:**

InvestIN.com does not provide any training manuals or course documents to the branch office managers at this time.

**Question 5:**

A copy of all forms for new customer accounts and all documents referring or relating to, or containing information about, the suitability of a prospective customer to engage in day trading.

**Response:**

See enclosure #3 (New account documents). InvestIN.com uses the "New Account Form" when determining suitability of a prospective customer. InvestIN.com considers a prospective client's investment objectives, income, and net worth to determine overall suitability of the customer. InvestIN.com may use additional information on a case by case basis. The additional information includes, but is not limited to, number of dependants, age, tax status, amount of risk capital, liquid net worth, and previous trading experience.

**Question 6:**

A copy of all form documents to obtain customer authorization and any form documents to request a journal entry for a day trader's account authorizing loans to cover margin calls.

**Response:**

InvestIN.com does not allow customers to journal funds to cover margin calls or provide loans to customers.

**Question 7:**

All documents referring or relating to, or containing information about, the number of DirectNet day traders as of June 30, 1999, including, without limitation, (i) the number of day traders who operate from branch offices, (ii) the number of day traders who operate from remote locations, and (iii) the number of day traders whose accounts have increased in value.

**Response:**

As of June 30, 1999 InvestIN.com had 90 day traders, and (i) had no day traders that operated from branch offices; (ii) had 90 number of traders who operated from remote locations; and (iii) Approximately 30-40% of total traders at any one time are making money. Typically, less experienced traders lose for three months and by the fourth month they have either become successful or given up.

**Question 8:**

All documents referring or relating to, or containing information about, lending to, between, or among day traders to meet margin call requirements.

**Response:**

InvestIN.com does not lend money to customers or have knowledge of traders lending between one another to meet margin call requirements.

**Question 9:**

All documents referring or relating to, or containing information about, the number of margin loans to, between, or among DirectNet day traders and the dollar amount of such loans.

**Response:**

InvestIN.com does not allow customers to journal funds, therefore there are not any documents relating or referring to margin lending.

**Question 10:**

All documents referring or relating to, or containing information about, third party trading by DirectNet day traders, including without limitation, any policies.

**Response:**

See enclosure # 4. (See Penson Limited Trading Authorization form)

**Question 11:**

All documents referring or relating to, or containing information about, the number of DirectNet day traders who day trade on behalf of third parties and the number of day traders who borrow money from third parties to day trade.

**Response:**

InvestIN.com has 3 traders who have authorization to trade on behalf of third parties. InvestIN.com has no knowledge, either direct or indirect, nor does it promote third party lending to traders so they may day trade.

**Question 12:**

All documents referring or relating to, or containing information about, customer account confirmations, including, without limitation, a copy of form customer account confirmations and monthly statements, and all policies as to where such confirmations are to be sent.

**Response:**

Customer account documents include but are not limited to confirmations, account balances, Trade history, Cash history, and positions report, which may be accessed daily by the customer on the Penson Financial Services customer web site.

Penson Financial Services sends confirmations on a daily and monthly basis to InvestIN.com customers at their addresses of record. See enclosure # 5 (Copy of customer confirm and monthly statement)

Question 13:

All advertising materials including, without limitation, television commercials, radio advertisements, magazine and newspaper advertisements, and internet Web page advertisements.

**Response:**

See enclosure # 6.

Question 14:

All internal and external audit reports, including without limitation, those audit reports that apply to DirectNet branch offices nationwide.

**Response:**

InvestIN.com internal, which are used to audit customers on a daily basis, include but are not limited to (i) reports from Penson Financial Services, which include but are not limited to (a) the Day Trader Buying Power Report, (b) the Combined Hedge Report, (c) the Positions report, and (d) the Equity Report and (ii) trading reports which include but are not limited to (a) SOES report and (b) Short Sale report.

See enclosure # 7, for the external report.

Question 15:

All documents referring or relating to, or containing information about day trading training programs for new day traders, including, without limitation, (i) the number of individuals who completed the training programs; and (ii) the financial performance of individuals who have completed the training program and use or have used facilities or trading systems either from branch offices or remote locations to day trade.

**Response:**

InvestIN.com does not teach any day trading courses.

Question 16:

Documents referring or relating to, or containing information about, fees or other charges DirectNet may charge a day trader, including without limitations, any fees or interest charged day traders receiving a loan to cover a margin call.

**Response:**

See enclosure #8 regarding InvestIN.com's commission schedule. As previously stated, InvestIN.com does not lend money to traders for any purpose.

Question 17:

All communications received by or on behalf of DirectNet from potential customers or day traders, governmental agencies or offices referring or relating to, or containing any information about a complaint.

**Response:**

InvestIN.com has received no written complaints from potential customers, day traders, governmental agencies or offices.

Question 18:

All communications by or on behalf of DirectNet in response to the communications referred to in Document Request Number 17.

**Response:**

See response to question #17.

Question 19:

All documents relating or referring to enforcement or disciplinary actions by state or federal securities regulators, including state or federal civil or criminal actions.

**Response:**

InvestIN.com has not been subject to any enforcement or disciplinary actions by state or federal securities regulators or state or federal civil or criminal justice systems.

Question 20:

All documents relating or referring to any personal bankruptcies of an officer or branch manager.

**Response:**

InvestIN.com does not have knowledge of any personal bankruptcies of an officer or branch manager.

Question 21:

All documents referring or relating to, or containing information about, the retention of any psychotherapist, psychologist, psychiatrist or other counselor to assist day traders.

**Response:**

InvestIN.com does not retain any psychotherapist, psychologist, psychiatrist or other counselor to assist day traders.

**Exhibit B**

1. What is the total number of customers, as of October 1, 1999, that have or had one or more accounts for day trading at your firm, including branch office or remote locations?

**Response:**

As of October 1, 1999 InvestIN.com had (i) approximately 40 accounts that operated from branch offices; and (ii) 250 accounts that operated from remote locations.

2. Do customers who day trade at your firm lend money to other customers who are unable to meet margin calls?

**Response:**

InvestIN.com does not have knowledge of traders lending between one another to meet margin call requirements. Moreover, InvestIN.com does not allow customers to journal funds to cover margin calls.

3. For those loans discussed in Question 2(a), were the loans between customers who trade at the same office? Or, were the loans between customers who trade at different offices? Or both?

**Response:**

See Response to Question 2.

4. Did your firm in any way promote, arrange, assist, or monitor such loans among customers, including identifying potential lenders or providing documentation?

**Response:**

See Response to Question 2.

5. Has your firm ever or does it now charge customers a fee in exchange for promoting, arranging, assisting, or monitoring such customer to customer lending?

**Response:**

See Response to Question 2.

6. What is your firm's policy regarding third party trading by your customers? If written, please provide a copy of the policy.

**Response:**

InvestIN.com allows customers to trade on behalf of third parties; however, before doing so, each customer must sign a Limited Trading Authorization Form.

7. Does your firm require customers who day trade on behalf of other individuals to submit documentation related to such trading? If yes, what documents are customers required to submit?

**Response:**

See response to Question 6.

8. Do you collect data on the number of firm customers who day trade on behalf of third parties? If yes, please provide such data.

**Response:**

As of October 1, 1999, InvestIN.com had 3 traders who had authorization to trade on behalf of third parties.

9. As of October 1, 1999, how many customers, referred to in Question 1, day traded on behalf of other individuals?

**Response:**

As of October 1, 1999, InvestIN.com had 3 traders who had authorization to trade on behalf of third parties.

10. What, if any, minimum financial standards (e.g., income and net worth) does your firm have for prospective customers who seek to open day trading accounts?

**Response:**

InvestIN.com determines the suitability of each prospective customer on a case-by-case basis according guidelines set forth by the NASD. InvestIN.com considers a prospective client's investment objectives, income, and net worth to determine overall suitability of the customer. InvestIN.com may use additional information on a case by case basis. The additional information includes, but is not limited to, number of dependants, age, tax status, amount of risk capital, liquid net worth, and previous trading experience. (See enclosure #3 "New Account Documents")

11. When were the financial standards referred to in Question 10 implemented?

**Response:**

The methods used by InvestIN.com to determine a potential customer's suitability to trade have been used since the company began doing business in March 1998.

12. Did the financial standards referred to in Question 10 change any financial standards that your firm previously had in place? If so, how were the financial standards changed and why?

**Response:**

See response to Question 11.

13. Please provide a copy of all new customer day trading account forms for all accounts opened by your firm between January 1, 1998 and September 30, 1999.

**Response:**

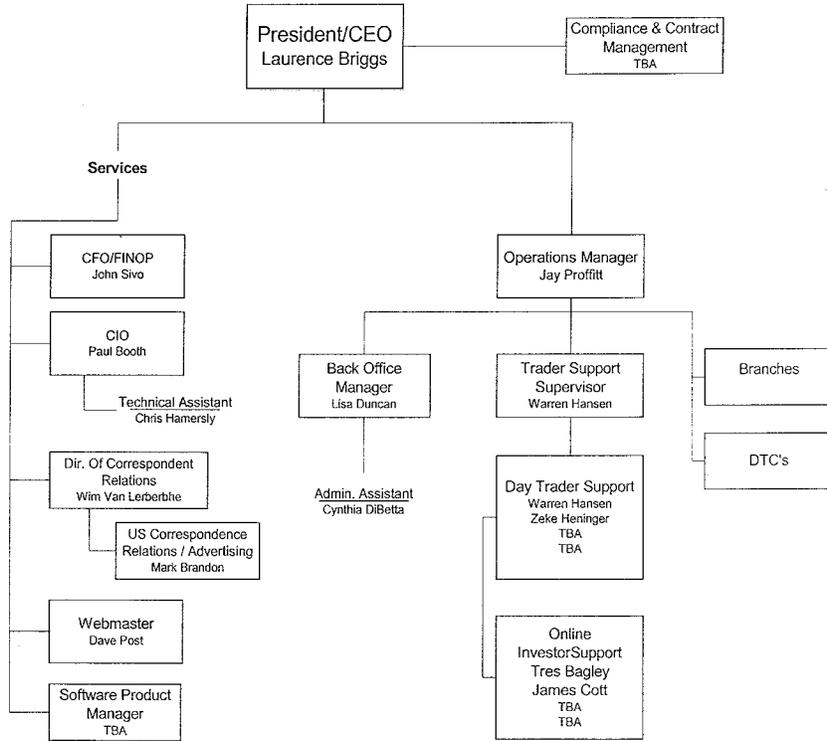
Please see attached copies.

14. Please provide a copy of all materials distributed by your firm at the International Day Trading EXPO held on September 25 and 26, 1999 in Ontario, California. Please include a transcript of any and all speeches delivered by representatives of your firm.

**Response:**

InvestIN.com did not attend the EXPO held in Ontario.

**InvestIN.com Securities Corp.**  
 Organization Chart





GP= General Principal  
 LP=Limited Principal  
 R=Responsible Reporting Representative

### InvestIN.com NASD and SFA Registered Employees

<b>investin.com</b>	<b>Registered Employees</b>	<b>NASD Licenses</b>
President/CEO/Chief Supervisory Officer	Laurence Briggs, GP	7, 24 & 63
FINOP	John Sivo	27
Director of Correspondent Relationships	Wim Van Lerberghe, LP	7, 24 & 63
Operations Manager/Assistant Supervisory Officer	Jay Proffitt, GP	4, 7, 24 & 63
Promotion Manager	Mark Brandon, LP	7, 24, 27, 55 & 63
Supervisor of Trader Support/Options Principal	Warren Hansen, LP	4, 7, 24, 55 & 63
Trader Support	Zeke Heninger	7 & 63
Trader Support/ROP	Tres Bagley	4, 7, 55 & 63
Trader Support	James Cott	7 & 63
<b>InvestIN.com Options</b>	<b>Registered Representatives</b>	<b>NASD Licenses</b>
Operations Manager/CROP	Jay Proffitt, GP	4, 7, 24 & 63
Supervisor of Trader Support/SROP	Warren Hansen, LP	4, 7, 24, 55 & 63
Trader Support/ROP	Tres Bagley	4, 7, 55 & 63
<b>InvestIN.com Compliance</b>	<b>Registered Representatives</b>	<b>NASD Licenses</b>
President/CEO/Chief Supervisory Officer	Laurence Briggs, GP	7, 24 & 63
Operations Manager/CROP	Jay Proffitt, GP	4, 7, 24 & 63
<b>Physical Branch Offices</b>	<b>Registered Representatives</b>	<b>NASD Licenses</b>
Firefly	Olutosin Osunsanya	7 & 63
	Muhammed Saeed, R	7 & 63
Yourtrade	John Barrigan, R	7 & 63
	Jason Garofalo	7 & 63
<b>Remote Branch Offices</b>	<b>Registered Representatives</b>	<b>NASD Licenses</b>
Stoxnow	Jonathon Floyd, R	24
	Arin Iavicoli	7, 24 & 63
Daylight Trading	Jeromee Johnson, R	7 & 63
<b>Remote Representatives</b>	<b>Registered Representatives</b>	<b>NASD Licenses</b>
Remote Representatives	John Blohm	7 & 63
Remote Representatives	Diane Latronica, R	7 & 63
<b>Europe</b>	<b>NASD Licenses</b>	<b>SFA Licenses</b>
London		
Laurence Briggs, Principal, acting SFA supervisor	7, 24 & 63	
Stephen Coles - SFA Compliance Officer		Securities Representative
Michael Stables		Securities Representative

Trader Performance Analysis - Based on Gross P&L

JANUARY	
total number of accounts	163
total volume	138,381,302
number of profitable accounts	117
% of profitable accounts	72%
sum profit on accounts	13,069,003
volume of profitable accounts	132,847,784
% volume by profitable accounts	96%
average profit per account	111,701
number of negative accounts	46
% of negative accounts	28%
sum loss on accounts	(403,349)
volume of negative accounts	5,439,518
% volume by negative accounts	4%
average loss per account	(8,768)

FEBRUARY	
total number of accounts	193
total volume	126,046,104
number of profitable accounts	107
% of profitable accounts	55%
sum profit on accounts	3,904,083
volume of profitable accounts	168,009,247
% volume by profitable accounts	84%
average profit per account	36,487
number of negative accounts	86
% of negative accounts	45%
sum loss on accounts	(849,647)
volume of negative accounts	20,036,857
% volume by negative accounts	16%
average loss per account	(9,868)

MARCH	
total number of accounts	211
total volume	135,373,922
number of profitable accounts	158
% of profitable accounts	75%
sum profit on accounts	7,539,933
volume of profitable accounts	118,913,742
% volume by profitable accounts	88%
average profit per account	55,440
number of negative accounts	76
% of negative accounts	36%
sum loss on accounts	(303,614)
volume of negative accounts	16,460,080
% volume by negative accounts	12%
average loss per account	(4,119)

APRIL	
total number of accounts	228
total volume	128,999,072
number of profitable accounts	170
% of profitable accounts	75%
sum profit on accounts	14,438,636
volume of profitable accounts	122,682,693
% volume by profitable accounts	95%
average profit per account	84,924
number of negative accounts	58
% of negative accounts	25%
sum loss on accounts	(486,586)
volume of negative accounts	6,116,179
% volume by negative accounts	5%
average loss per account	(8,688)

MAY	
total number of accounts	252
total volume	122,449,009
number of profitable accounts	195
% of profitable accounts	77%
sum profit on accounts	4,609,734
volume of profitable accounts	102,129,389
% volume by profitable accounts	83%
average profit per account	30,635
number of negative accounts	57
% of negative accounts	23%
sum loss on accounts	(884,571)
volume of negative accounts	20,320,210
% volume by negative accounts	17%
average loss per account	(9,477)

JUNE	
total number of accounts	319
total volume	195,086,748
number of profitable accounts	219
% of profitable accounts	69%
sum profit on accounts	8,089,123
volume of profitable accounts	177,759,669
% volume by profitable accounts	91%
average profit per account	37,626
number of negative accounts	100
% of negative accounts	31%
sum loss on accounts	(479,549)
volume of negative accounts	17,306,689
% volume by negative accounts	9%
average loss per account	(4,801)

SUMMARY JANUARY-JUNE 1999	
average number of accounts	227
total volume	846,323,457
number of profitable accounts	1,658
% of profitable accounts	68%
sum profit on accounts	\$1,829,610
volume of profitable accounts	760,643,724
% volume by profitable accounts	90%
average profit per account	59,454
number of negative accounts	77
% of negative accounts	34%
sum loss on accounts	(3,420,295)
volume of negative accounts	85,678,733
% volume by negative accounts	10%
average loss per account	(7,576)

SUMMARY	
ending number of accounts	319
total volume	846,323,457
average profit per account	48,409,315
average loss per account	212,844,20

Trader Performance Analysis - Based on Net P&L (Net of commissions)

APRIL	
ending number of accounts	163
total volume	138,307,392
number of profitable accounts	84
% of profitable accounts	52%
sum profit on accounts	10,090,858
sum loss on accounts	(830,588)
volume of profitable accounts	112,676,058
% volume by profitable accounts	82%
average profit per account	118,988
number of negative accounts	69
% of negative accounts	42%
sum loss on accounts	(830,588)
volume of negative accounts	25,409,203
% volume by negative accounts	18%
average loss per account	(6,139)

MAY	
ending number of accounts	103
total volume	126,146,104
number of profitable accounts	62
% of profitable accounts	60%
sum profit on accounts	2,644,888
sum loss on accounts	(1,536,793)
volume of profitable accounts	71,822,888
% volume by profitable accounts	57%
average profit per account	36,206
number of negative accounts	41
% of negative accounts	39%
sum loss on accounts	(1,536,793)
volume of negative accounts	53,883,216
% volume by negative accounts	43%
average loss per account	(11,731)

SUMMARY	
ending number of accounts	319
total volume	646,323,457
sum profit on accounts	143,282,15
sum loss on accounts	(1,480,823)
volume of profitable accounts	37,693,767
% volume by profitable accounts	31%
average profit per account	(1,411)

MARCH	
ending number of accounts	211
total volume	135,374,822
number of profitable accounts	82
% of profitable accounts	44%
sum profit on accounts	6,549,938
sum loss on accounts	(801,068)
volume of profitable accounts	91,542,938
% volume by profitable accounts	68%
average profit per account	60,276
number of negative accounts	129
% of negative accounts	61%
sum loss on accounts	(801,068)
volume of negative accounts	43,822,884
% volume by negative accounts	32%
average loss per account	(6,731)

JUNE	
ending number of accounts	141
total volume	196,010,740
number of profitable accounts	74
% of profitable accounts	52%
sum profit on accounts	6,264,725
sum loss on accounts	(121,423,737)
volume of profitable accounts	121,423,737
% volume by profitable accounts	62%
average profit per account	37,339
number of negative accounts	178
% of negative accounts	58%
sum loss on accounts	(1,279,476)
volume of negative accounts	75,622,851
% volume by negative accounts	38%
average loss per account	(7,188)

SUMMARY	
ending number of accounts	319
total volume	646,323,457
sum profit on accounts	143,282,15
sum loss on accounts	(1,480,823)
volume of profitable accounts	37,693,767
% volume by profitable accounts	31%
average profit per account	(1,411)

**Important Information About our Statistics**

This page contains important information about our trader profitability statistics. Please take some time to review the information on this page to better ensure your understanding of our statistics. Feel free to e-mail us with any questions, comments or suggestions.

1. **Monthly Statistics.** When we first began disclosing our traders' profitability statistics, we thought it would be best to advise visitors to our web site of our traders' profitability on a daily basis so that visitors could observe whether or not our traders were successful each day. Absent any technological problems, the statistics were disclosed each day whether or not our traders were successful and, therefore, we believed that this would be very informative and give our visitors a realistic picture of how our traders were performing. However, we were not able to easily provide daily statistics for days prior to September 29, 1999 (the day on which we began disclosing statistics on our web site). In order to give our visitors a better idea of how our traders are performing over a longer period of time, and in order to ensure that the daily information is not in any way misleading due to its inherent short term, we are now disclosing our traders' profitability statistics on a monthly basis, retroactive to January, 1999. We are still considering providing both daily and monthly statistics.
2. **Active Traders.** At the time that we were disclosing our statistics on a daily (rather than monthly) basis, we included statistics from only those traders who were "active" on a given day. We defined the term "Active Trader" as one who traded at least 3,000 shares that day. We believe that a person who trades less than 3,000 shares per day is not actively engaging in "day trading" and, therefore, should not be included in our statistics. However, to ensure our visitors that our statistics are not exaggerated, unwarranted or misleading, we now define "Active Trader" as one who executes at least one trade in any given month (regardless of the number of shares involved). No inference should be made that trading more than 3,000 shares per day will increase the likelihood that a trader will be profitable.
3. **Positive Traders.** A trader is considered "Positive" if his aggregate net profit in a given month exceeds his aggregate monthly net losses by any amount (i.e., one cent or more). The net profit (or loss) is derived by subtracting from a trader's gross trading profits (or losses) fees payable to the SEC and the ECNs and commissions. Our calculations do not take into consideration the effects of any taxes.
4. **Source of Statistical Data.** Each trader's profits and losses, commissions and fees (including SEC and ECN fees) are obtained from the software that operates our traders' order entry terminals. That software tracks the monthly net and gross profits and losses for each trader. At the time that we were disclosing our statistics on a daily (rather than monthly) basis, we did not account for SEC and ECN fees, which we considered negligible and, therefore, not a factor which would have caused our statistics to be misleading. We now do account for SEC and ECN fees. Thus, the monthly numbers are net of fees payable to the SEC and the ECNs and commissions.
5. **Calculation of Statistics.** We calculate the monthly profitability statistics by aggregating the monthly profits and losses of all our active traders and then subtracting from that number fees payable to the SEC and the ECNs and commissions. We then provide the percentage of traders who were positive (or made any net profit) for the month.
6. **Calculation of Profitability Ratio.** We calculate the profitability ratio for any given month by dividing the aggregate net profit of our active traders for that month by the aggregate net losses of our active traders for that month. This ratio reveals the number of dollars earned for each dollar lost in a given month.
7. **Categories.** We have provided statistics for the following categories of traders

- a. All: All active traders.
  - b. Pre 1999: All active traders who began trading with Broadway Trading prior to January 1, 1999. This category is informative because it includes statistics for only traders with some experience.
  - c. Post 1999: All active traders who began trading with Broadway Trading on or after January 1, 1999.
  - d. Post 2000: All active traders who began trading with Broadway Trading on or after January 1, 2000.
  - e. Manhattan: All active traders who trade primarily in our Manhattan office.
  - f. New Jersey: All active traders who trade primarily in our New Jersey trading center.
  - g. Long Island: All active traders who trade primarily in our Long Island branch office.
  - h. Boca: All active traders who trade primarily in our Boca branch office.
  - i. Miami: All active traders who trade primarily in our Miami branch office.
  - j. Atlanta: All active traders who trade primarily in our Atlanta trading center.
  - k. Remote: All active traders who trade from remote locations.
  - l. Macon: All active traders who primarily in our Macon trading center.
8. NASDAQ Composite: The source of the monthly NASDAQ composite data is [www.nasdaqnews.com](http://www.nasdaqnews.com).
9. **ATTENTION**: Our statistics are based on the performance of our customers and are not intended to be a reflection of the day trading industry as a whole. Our statistics are provided for informational purposes only and in no way imply that any current or prospective customer will be successful or make money day trading.

### **Continue to Statistics**

[Home](#) | [Site Map](#)

**Traders' Profitability Statistics (All traders)**Statistics for other months

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
<a href="#">January</a>	257	384	67	19.39
<a href="#">February</a>	178	411	43	1.78
<a href="#">March</a>	241	473	51	6.51
<a href="#">April</a>	313	466	67	6.04
<a href="#">May</a>	248	520	48	2.32
<a href="#">June</a>	246	569	43	1.94
<a href="#">July</a>	189	574	33	0.97
<a href="#">August</a>	279	585	48	4.21
<a href="#">September</a>	258	591	44	2.21
<a href="#">October</a>	301	583	52	2.48
<a href="#">November</a>	409	591	69	15.60
<a href="#">December</a>	445	597	74	21.122

**IMPORTANT INFORMATION ABOUT OUR STATISTICS**

[All](#) | [Pre 1999](#) | [Post 1999](#) | [Manhattan](#) | [New Jersey](#) | [Long Island](#)  
[Boca Raton](#) | [Miami](#) | [Atlanta](#) | [Remote](#) | [Macon](#) | [Home](#) | [Site Map](#)

**Traders' Profitability Statistics (Pre 1999 traders)**

Statistics for other months

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
January	251	368	68	19.39
February	175	280	63	1.78
March	226	388	58	6.51
April	262	350	75	6.04
May	198	347	57	2.32
June	191	339	56	1.94
July	149	322	46	0.97
August	190	299	64	4.21
September	168	292	57	2.21
October	169	273	62	2.48
November	226	272	83	15.60
December	231	268	86	21.122

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**Traders' Profitability Statistics (Post 1999 traders)**

Statistics for other months

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
January	5	16	31	19.39
February	3	31	10	1.78
March	16	85	19	6.51
April	51	116	44	6.04
May	46	173	27	2.32
June	55	230	24	1.94
July	40	252	16	0.97
August	89	286	31	4.21
September	93	299	31	2.21
October	132	310	43	2.48
November	185	319	58	15.60
December	214	329	65	21.122

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**Traders' Profitability Statistics- January, 1999**Statistics for other months [Statistics for other months](#)

Change in Monthly NASDAQ Composite:	Data not yet available
-------------------------------------	------------------------

	Positive Traders	Active Traders	% Positive
All	257	384	67
Pre 1999	252	368	68
Post 1999	5	16	31
Manhattan	81	116	70
New Jersey	13	17	76
Long Island	35	48	73
Boca Raton	31	47	66
Miami	4	8	50
Remote	93	148	63

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**Traders' Profitability Statistics- February, 1999**[Statistics for other months.](#)

<b>Change in Monthly NASDAQ Composite:</b>	-217.86
--	---------

	<b>Positive Traders</b>	<b>Active Traders</b>	<b>% Positive</b>
All	178	411	43
Pre 1999	175	380	46
Post 1999	3	31	10
Manhattan	66	124	53
New Jersey	7	17	41
Long Island	31	54	57
Boca Raton	13	47	28
Miami	5	11	45
Remote	56	158	35

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**Traders' Profitability Statistics- March, 1999**Statistics for other months

Change in Monthly NASDAQ Composite:	+173.37
-------------------------------------	---------

	Positive Traders	Active Traders	% Positive
All	241	473	51
Pre 1999	225	388	58
Post 1999	16	85	19
Manhattan	77	151	51
New Jersey	11	20	55
Long Island	33	66	50
Boca Raton	31	49	63
Miami	7	13	54
Remote	82	174	47%

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**Traders' Profitability Statistics- April, 1999**

Statistics for other months

Change in Monthly NASDAQ Composite:	+\$1.45
-------------------------------------	---------

	Positive Traders	Active Traders	% Positive
All	313	466	67
Pre 1999	262	350	75
Post 1999	51	116	44
Manhattan	105	153	69
New Jersey	19	25	76
Long Island	46	62	74
Boca Raton	34	51	67
Miami	7	13	54
Remote	102	162	63

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**Traders' Profitability Statistics- May, 1999**

Statistics for other months

Change in Monthly NASDAQ Composite:	-72.33
-------------------------------------	--------

	Positive Traders	Active Traders	% Positive
All	248	520	48
Pre 1999	200	347	58
Post 1999	48	173	28
Manhattan	98	170	58
New Jersey	10	39	26
Long Island	43	72	60
Boca Raton	24	52	46
Miami	3	17	18
Remote	70	170	41

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**Traders' Profitability Statistics- June, 1999**Statistics for other months [.](#)

Change in Monthly NASDAQ Composite:	+215.6
-------------------------------------	--------

	Positive Traders	Active Traders	% Positive
All	246	569	43
Pre 1999	191	339	56
Post 1999	55	230	24
Manhattan	87	195	45
New Jersey	12	44	27
Long Island	38	82	46
Boca Raton	22	53	42
Miami	8	17	47
Remote	79	178	44

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**Traders' Profitability Statistics- July, 1999**

Statistics for other months

Change in Monthly NASDAQ Composite:	-47.63
-------------------------------------	--------

	Positive Traders	Active Traders	% Positive
All	189	574	33
Pre 1999	149	322	46
Post 1999	40	252	16
Manhattan	65	194	34
New Jersey	8	45	18
Long Island	34	87	39
Boca Raton	19	50	38
Miami	6	18	33
Remote	57	180	32

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**Traders' Profitability Statistics- August, 1999**

Statistics for other months.

<b>Change in Monthly NASDAQ Composite:</b>	+100.86
--	---------

	Positive Traders	Active Traders	% Positive
All	279	585	48
Pre 1999	190	299	64
Post 1999	89	286	31
Manhattan	101	197	51
New Jersey	16	45	36
Long Island	47	96	49
Boca Raton	32	49	65
Miami	8	21	38
Remote	75	177	42

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**Traders' Profitability Statistics- September, 1999**[Statistics for other months](#)

Change in Monthly NASDAQ Composite:	+6.81
-------------------------------------	-------

	Positive Traders	Active Traders	% Positive
All	258	591	44
Pre 1999	165	292	57
Post 1999	93	299	31
Manhattan	90	193	47
New Jersey	20	44	45
Long Island	44	100	44
Boca Raton	20	52	38
Miami	8	21	38
Macon	5	13	38
Remote	71	168	42

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**Traders' Profitability Statistics- October, 1999**

Statistics for other months

Change in Monthly NASDAQ Composite:	+220.27
-------------------------------------	---------

	Positive Traders	Active Traders	% Positive
All	301	583	52
Pre 1999	169	273	62
Post 1999	132	310	43
Manhattan	103	189	54
New Jersey	24	45	53
Long Island	58	99	59
Boca Raton	30	52	58
Miami	6	23	26
Macon	3	12	25
Remote	77	163	47

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**Traders' Profitability Statistics- November, 1999**

Statistics for other months

<b>Change in Monthly NASDAQ Composite:</b>	Data not yet available
--	------------------------

	Positive Traders	Active Traders	% Positive
All	409	591	69
Pre 1999	226	272	83
Post 1999	185	319	58
Manhattan	148	190	78
New Jersey	35	46	76
Long Island	68	101	67
Boca Raton	37	55	67
Miami	14	24	58
Atlanta	20	26	77
Macon	4	14	29
Remote	83	135	61

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**Traders' Profitability Statistics- December, 1999**[Statistics for other months](#)

Change in Monthly NASDAQ Composite:	Data not yet available
-------------------------------------	------------------------

	Positive Traders	Active Traders	% Positive
All	445	597	74
Pre 1999	231	268	86
Post 1999	214	329	65
Manhattan	150	188	80
New Jersey	38	47	81
Long Island	79	105	75
Boca Raton	45	56	80
Miami	15	25	60
Atlanta	20	25	80
Macon	6	13	46
Remote	92	138	67

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**Traders' Profitability Statistics (Manhattan)**

Statistics for other months.

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
January	81	116	70	19.39
February	66	124	53	1.78
March	77	151	51	6.51
April	105	153	69	6.04
May	98	170	58	2.32
June	87	195	45	1.94
July	65	194	34	0.97
August	101	197	51	4.21
September	90	193	47	2.21
October	103	189	54	2.48
November	148	190	78	15.60
December	150	188	80	21.122

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**Traders' Profitability Statistics (New Jersey)**

Statistics for other months

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
January	13	17	76	19.39
February	7	17	41	1.78
March	11	20	55	6.51
April	19	25	76	6.04
May	10	39	26	2.32
June	12	44	27	1.94
July	8	45	18	0.97
August	16	45	36	4.21
September	20	44	45	2.21
October	24	45	53	2.48
November	35	46	76	15.60
December	38	47	81	21.122

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**Traders' Profitability Statistics (Long Island)**

Statistics for other months.

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
January	35	48	73	19.39
February	31	54	57	1.78
March	33	66	50	6.51
April	46	62	74	6.04
May	43	72	60	2.32
June	38	82	46	1.94
July	34	87	39	0.97
August	47	96	49	4.21
September	44	100	44	2.21
October	58	99	59	2.48
November	68	101	67	15.60
December	79	105	75	21.122

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**Traders' Profitability Statistics (Boca Raton)**

Statistics for other months

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
January	31	47	66	19.39
February	13	47	28	1.78
March	31	49	63	6.51
April	34	51	67	6.04
May	24	52	46	2.32
June	22	53	42	1.94
July	19	50	38	0.97
August	32	49	65	4.21
September	20	52	38	2.21
October	30	52	58	2.48
November	37	55	67	15.60
December	37	55	67	21.122

**IMPORTANT INFORMATION ABOUT OUR STATISTICS**

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**Traders' Profitability Statistics (Miami)**

Statistics for other months

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
January	4	8	50	19.39
February	5	11	45	1.78
March	7	13	54	6.51
April	7	13	54	6.04
May	3	17	18	2.32
June	8	17	47	1.94
July	6	18	33	0.97
August	8	21	38	4.21
September	8	21	38	2.21
October	6	23	26	2.48
November	14	24	58	15.60
December	15	25	60	21.122

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**Traders' Profitability Statistics (Atlanta traders)**[Statistics for other months](#)

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
November	20	26	77	15.60
December	20	25	80	21.122

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**Traders' Profitability Statistics (Macon traders)**

Statistics for other months

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
September	5	13	38	2.21
October	3	12	25	2.48
November	4	14	29	15.60
December	6	13	46	21.122

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**Traders' Profitability Statistics (Remote)**

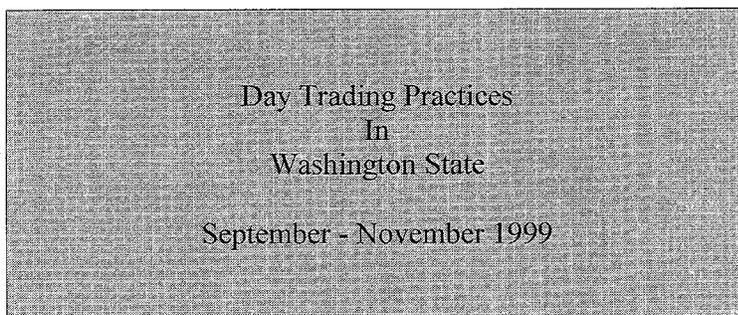
Statistics for other months.

	Positive Traders	Active Traders	% Positive	Monthly Profitability Ratio
January	93	148	63	19.39
February	56	158	35	1.78
March	82	174	47	6.51
April	102	162	63	6.04
May	70	170	41	2.32
June	79	178	44	1.94
July	57	180	32	0.97
August	75	177	42	4.21
September	71	168	42	2.21
October	77	163	47	2.48
November	83	135	61	15.60
December	92	138	67	21.122

**IMPORTANT INFORMATION ABOUT OUR STATISTICS**

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Report to the United States Senate  
Permanent Subcommittee on Investigations



*Deborah R. Bortner, Director of Securities*

Prepared by the Securities Division  
Washington State Department of Financial Institutions

February 10, 2000

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**REPORT TO THE UNITED STATES SENATE  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

**EXECUTIVE SUMMARY**

In September 1999 the examination section of the Washington State Securities Division<sup>1</sup> undertook the task of conducting field examinations of all day trading firms with branches in the State of Washington<sup>2</sup>. The examinations focused on gathering information regarding alleged predatory practices by day trading firms.

From September through November 1999, the Securities Division examined seven day trading firms doing business in the State of Washington. Three areas of regulatory concern arose from the examination of these firms: (1) Extensive Customer Losses (2) Unregistered Broker-Dealer and Investment Adviser Activity and (3) Questionable Loans to Customers.

**Customer Losses:** Information gathered from the exams indicates that the majority of customers (77%) who participated in day trading at these firms lost money. Customers lost an average of \$36,000, with some customer losses reaching over \$600,000.

**Unregistered Activity:** The Securities Division found that one firm appeared to be engaging in broker-dealer activity without being registered. The Securities Division also found certain persons trading accounts for other customers were not registered as investment advisers.

**Questionable Loan Activity:** The Securities Division found questionable loan activity at three firms. These loans appeared to be attempts to circumvent margin limits.

**Enforcement Actions:** Specific findings regarding questionable lending, unregistered broker-dealers and investment advisers have been referred to the Securities Division's Enforcement Division for further investigation and possible regulatory action.

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<sup>1</sup> The Securities Division is a Division of the Department of Financial Institutions. The Division of Securities was established in the early 1930's and now administers the Securities Act, Franchise Investment Protection Act, Business Opportunity Fraud Act, and Commodities Act. The primary mission of the Division of Securities is to protect Washington State residents from the dishonest or fraudulent practices of people offering and selling securities and investment advice. The Division accomplishes this mission through a variety of regulatory and enforcement tools, including registration and examination requirements of broker-dealers and investment advisers.

<sup>2</sup> The firms reviewed were Action II, All-Tech Investment Group Inc., Bright Trading, Cornerstone Securities Corporation, Day Trade Technologies, On-Line Investment Services, and Richmark Capital Corporation.

### THE PROJECT

The examination team was assigned the responsibility of inspecting the activities of day trading firms for sales practice violations, questionable loans or guarantees, third-party trading and unsuitable trading accounts. The team was also given the task of looking into possible unregistered broker-dealer and investment adviser activities, short sale violations, and any evidence of misleading advertising.

#### **Assignments and Choice of Firms:**

A review of our registration records and advertising indicated there were seven day trading firms with branches located in the State of Washington. All examined day trading firms were located in or near the Seattle metropolitan area. The firms were divided among three members of the examination team; a Securities Division enforcement attorney was assigned to oversee the legal aspects of the assignment. Those members representing the audit team were Mr. Gene Nakano, Mr. Gary Smith, and Ms. Joanne Jones. Ms. Kristina Kneip represented the enforcement staff. These examinations were conducted during the months of September, October and November, 1999. Certain facets of those examinations have been referred to Enforcement for further investigation and possible regulatory action.

#### **Project Findings:**

Of the seven day trading firms examined by the audit team, two firms accounted for more than 80 percent of the 585<sup>3</sup> day trading accounts serviced by the firms. In part, the reason for their dominance in the area is that they have been in the community longer than the other day trading firms.

**Types of Customer and Accounts:** Of the 585 customer accounts serviced by day trading firms in the Puget Sound Region, 481 are actively traded<sup>4</sup>; the remainder are either closed or maintain long-term investment positions. Four of the seven firms examined cater only to day trading customers. Three of the firms have some accounts held by longer-term investors.

**Off-site Trading:** Three of the seven firms examined provided their customers with the opportunity to trade at an "off site" location as well as at a trading room location supervised by the firm. One firm provided only "off-site" trading. Three hundred and sixty customers took advantage of "off-site" trading.<sup>5</sup> Customers trading "off-site" were found to be as active as on site traders.

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<sup>3</sup> See Exhibit "A".

<sup>4</sup> See Exhibit "A".

<sup>5</sup> See Exhibit "A".

**Accounts Reviewed:**

Monthly statements for 124 open and active day trading accounts were reviewed and analyzed as part of the examination process. The analysis shows the net profits and losses for those accounts, the time period the accounts were open and the beginning balances for the accounts.

**Net Profits and Losses:** Of the accounts examined, 96 (or 77%) were found to have net losses.<sup>6</sup> Of these accounts, 9 had losses over \$100,000.<sup>7</sup> The highest loss discovered was \$641,000.<sup>8</sup> The average net loss in these accounts was calculated to be \$36,043.<sup>9</sup>

Of the accounts examined, 28 (or 23%) were calculated to have net profits.<sup>10</sup> Only two accounts were found to have gains of over \$100,000.<sup>11</sup> The highest profit discovered was \$160,100.<sup>12</sup> The average net profit in these accounts was calculated to be \$21,983.<sup>13</sup>

**Time Period:** Accounts reviewed ranged from those open for one month to accounts traded for as long as 25 months.<sup>14</sup> Some closed accounts were also reviewed, but these accounts remained open for short periods of time. After having suffered trading losses, many accounts were closed within six months after they were initially opened. The length of time an account was open and active did not appear to have a correlation with the success of the account.

**Beginning Account Balances:** Most of the firms examined claimed to have a \$20,000 minimum opening account balance threshold. Examination of customers' monthly statements showed that opening balances for accounts ranged from as little as \$6,000 to as much as \$1,800,000.<sup>15</sup> These opening balances were composed of both cash and securities. In accounts where the opening balance was over \$100,000 the deposit was generally made up of securities from another broker-dealer.

**Questionable Activity:**

**Loans to Customers:** Activity involving loans to customers was examined at each firm.<sup>16</sup> The most common type of loan situation found involved the firms facilitating loans between customers through journal entry notations. This was revealed to

<sup>6</sup> See Exhibit "B".

<sup>7</sup> See Exhibit "C".

<sup>8</sup> See Exhibit "D", page 1.

<sup>9</sup> See Exhibit "B".

<sup>10</sup> See Exhibit "B".

<sup>11</sup> See Exhibit "C".

<sup>12</sup> See Exhibit "D", page 3.

<sup>13</sup> See Exhibit "B".

<sup>14</sup> See Exhibit "C".

<sup>15</sup> See Exhibit "C".

<sup>16</sup> See Exhibit "A".

be a common practice at two of the firms examined. The loan authorization forms used at the firms appeared to be pre-signed photocopies, indicating that the firms were assisting the customers in finding the lender. Funds being journaled between accounts within the firm raise questions regarding proper internal controls and whether authorization was received prior to the funds being transferred.

A second questionable loan practice was discovered at a firm that was unregistered. The firm facilitated loans to its customers, on a regular basis, through a company solely owned by the firm's principal. The purpose of the separate company appears to be a way to get around compliance with Regulation T.

A third type of situation was found where the company operating the day trading firm obtained a loan from a customer. The practice of a broker-dealer obtaining a loan from a customer is prohibited as an unethical practice. The Securities Division is looking into whether loans by affiliates to customers of the day trading firm are an unethical practice.

**Unregistered Investment Advisory Activity:** Our review of trading activity, account information and correspondence revealed that one firm had customers or employees engaging in third party trading.<sup>17</sup> Though the customers signed discretionary trading forms allowing these individuals to "trade" for them, the individuals who were given this authorization were not registered as Investment Advisers. As such they violate Investment Advisory regulations and these activities clearly point to a paucity of on-site supervision by the firm. The on-site principal clearly lacked the capacity to understand the gravity and the consequences that unregistered Investment Adviser activity has on the firm, and the clients and employees who engage in it. Two accounts where third-party trading has taken place have been referred to Enforcement for further investigation regarding investment adviser registration violations.

**Suitability:** The review of opening balances did raise suitability concerns. Each of the firms had established a policy regarding the minimum balance required to open a day trading account. In some instances the branch manager or the compliance officer approved new accounts with opening balances substantially under the minimum, rather than holding firm's pre-determined minimum account balance. These practices raise the question as to whether the firms are violating suitability review requirements, as required under NASD Rule 3010 and NASD Rule 2310.

**Other Findings:**

**Advertising:** The examination teams examined the advertising of day trading firms. The firms reviewed were running few advertisements during the examination period, and two of the firms were not engaging in any advertising at all. While no misleading claims of performance or success were discovered during the time period of

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<sup>17</sup> See Exhibit "A".

the initial examinations,<sup>18</sup> questionable advertising recently appeared on the web site of one of the firms examined. The advertising touted the success of a principal of the firm, without providing a disclaimer, in violation of SEC Rule 270.34b-1 and NASD Rule 2210. Affirmative disclaimers are required due to the high risk of the activity. The offending advertisement has been referred to Enforcement for further action.

**Short Sales:** Firms were examined for compliance with the short sale rules. Rules promulgated by the Securities and Exchange Commission and the National Association of Securities Dealers prohibit making a short sale on a downtick in price. Each firm that operated a trading room was examined to ensure that it had procedures to detect short sale violations. The examination team did not detect any violations of this rule.

**Background for the Project:**

**Sampling Techniques:** Of the five smaller firms examined, almost all accounts were reviewed. For the two firms that did the bulk of day trading business, the audit team randomly sampled certain actively traded accounts by pulling every tenth account. The emphasis was on examining between 10-15 percent of the actively traded accounts. Some of the active accounts that had been closed were also examined on a random basis. There was no discernable difference between active or closed accounts in the amount of losses or in the opening account balances each account brought to the day trading firm when they started their day trading activity.

**Conclusions:**

Over the three-month period of September, October and November 1999, seven day trading firms and 124 customer accounts were analyzed by members of the Securities Division's Examination Team. More than three-quarters of the customers at these firms lost money. Lending practices facilitated by the firms may have exacerbated those customer losses. These lending practices appear to have allowed customers to obtain loans in excess of the amounts available to them under normal trading conditions.

The examinations also revealed that some firms were offering day trading services without being registered. A review of activities at the day trading firms also revealed that customers and employees at the firms may be giving investment advice to other customers without being registered. Such unregistered activities heighten the risks of customers trading through those firms, since the safeguards and disclosure required under the regulatory rubric are missing.

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<sup>18</sup> The examinations in Washington State occurred during a time when advertising across the day trading industry waned following scrutiny by the NASD and the State of Massachusetts.

Tab A

**DAY TRADING PRACTICES EXAMINATION RESULTS  
DEPARTMENT OF FINANCIAL INSTITUTIONS - SECURITIES DIVISION  
DEBORAH BORTNER, DIRECTOR OF SECURITIES**

FIRM	TOTAL # OF CLIENTS	TOTAL ACCOUNTS ACTIVELY TRADED	TOTAL CUSTOMER ACCOUNTS REVIEWED	CLOSED CUSTOMER ACCOUNTS REVIEWED	% OF TOTAL ACCOUNTS REVIEWED	MISLEADING ADVERTISING	LOANS *	OFF SITE CLIENTS	3rd PARTY TRADING
A	250	250	32	4	13%	**	C to C	100	NONE
B	240	150	21	8	14%	**	NONE	240	2
C	21	21	21	0	100%	**	NONE	0	NONE
D	42	30	30	6	100%	**	NONE	10	NONE
E	15	14	14	7	100%	***	C to C	0	NONE
F	7	6	6	0	100%	***	NONE	0	NONE
G: File data provided.	10	10	10	0	100%	**	F to C	10	NONE
<b>Totals:</b>	<b>585</b>	<b>481</b>	<b>1066</b>	<b>25</b>				<b>360</b>	<b>2</b>

\* Loans: C to C = customer to customer loan  
F to C = Firm/affiliate to customer loan.

\*\* Advertising Violations were not detected at these firms during the examination period.

\*\*\* These Firms had no advertising during the examination period.

**DAY TRADER EXAMINATION RESULTS**  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**  
**SECURITIES DIVISION**  
*DEBORAH BORTNER, DIRECTOR OF SECURITIES*

**GAINS**

<b>FIRM</b>	<b># OF ACCOUNTS</b>	<b># GAINERS</b>	<b>TOTAL GAIN</b>	<b>AVG. GAIN</b>	<b>% GAINERS</b>
A	32	5	\$ 196,600	\$ 39,320	16%
B	21	3	\$ 59,800	\$ 19,933	14%
C	21	0	\$ -	\$ -	0%
D	30	11	\$ 142,200	\$ 12,927	37%
E	14	5	\$ 116,100	\$ 23,220	36%
F	6	4	\$ 146,000	\$ 36,500	67%
G					
<b>TOTAL</b>	124	28	\$ 660,700	\$ 21,983	23%

**LOSSES**

<b>FIRM</b>	<b># OF ACCOUNTS</b>	<b># LOSERS</b>	<b>TOTAL LOSS</b>	<b>AVG. LOSS</b>	<b>% LOSERS</b>
A	32	27	\$ 2,751,000	\$ 101,889	84%
B	21	18	\$ 551,100	\$ 30,617	86%
C	21	21	\$ 330,004	\$ 15,714	100%
D	30	19	\$ 427,100	\$ 22,479	63%
E	14	9	\$ 401,500	\$ 44,611	64%
F	6	2	\$ 1,900	\$ 950	33%
G					
<b>TOTAL</b>	124	96	\$ 4,462,604	\$ 36,043	77%

Tab C

**DAY TRADING PRACTICES EXAMINATION RESULTS  
DEPARTMENT OF FINANCIAL INSTITUTIONS - SECURITIES DIVISION  
DEBORAH BORTNER, DIRECTOR OF SECURITIES**

FIRM	# OF LOSS ACCOUNTS REVIEWED -- TOTAL LOSSES						# OF GAIN ACCOUNTS REVIEWED -- TOTAL GAIN						OPENING ACCOUNT BALANCE	ACCOUNT REVIEW TIME PERIOD		
	Under \$25K		\$25 - \$50K		\$50 - \$100K		Under \$25K		\$25 - \$50K		\$50 - \$100K				Over \$100K	
	LOSS	7	LOSS	10	LOSS	4	LOSS	6	GAIN	4	GAIN	0				GAIN
A.	(\$81,700)	7	(\$356,300)	10	(\$322,600)	4	(\$1,990,400)	6	\$36,500	4	0	0	\$160,100	1	19K - 903K	25 months
B.	(\$190,000)	13	(\$86,400)	2	(\$115,400)	2	(\$159,300)	1	\$31,100	2	\$28,700	0	0	0	6K-1.8M	16 months
C.	(\$144,943)	15	(\$185,000)	6	0	0	0	0	0	0	0	0	0	0	20K	20 months
D.	(\$104,700)	13	(\$102,400)	3	(\$100,000)	1	(\$120,000)	1	\$45,200	9	\$30,000	\$67,000	0	1	17K-250K	9 months
E.	(\$47,600)	5	(\$26,900)	1	(\$114,900)	2	(\$212,100)	1	\$37,600	4	0	\$78,500	0	1	15K-504K	11 months
F.	(\$1,900)	2	0	0	0	0	0	0	\$35,000	3	0	0	\$110,900	1	30K-81K	3 months
G: Financial data N/A															25K	Unk.

Total losses/gains by category:	(\$570,843)	(\$757,000)	(\$652,900)	(\$2,481,800)	\$185,400	\$58,700	\$145,500	\$271,000
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Total losses/gains: (\$4,462,543)

Net loss/gain: (\$3,801,943)

\$660,600

Tab D

Day Trading Detail Report  
All Transactions Sorted by P/L

Firm	Acct. #	Beginning Balance	Profit/ Loss	Months Open
A	Z6	\$ 74,000	(641,000)	4
A	Z5	\$ 40,000	(613,200)	19
A	Z4	\$ 205,000	(287,800)	21
E	N	\$ 504,000	(212,100)	10
A	Z3	\$ 46,000	(196,900)	13
B	U	\$ 95,000	(159,300)	9
A	Z2	\$ 90,000	(127,500)	4
A	Z1	\$ -	(124,000)	-
D	CC	\$ 200,000	(120,000)	9
D	BB	\$ 250,000	(100,000)	8
A	Z	\$ -	(96,100)	-
A	Y	\$ 70,000	(79,000)	18
A	X	\$ 903,000	(75,100)	25
A	W	\$ -	(72,400)	-
B	T	\$ 1,811,000	(62,900)	2
E	M	\$ 79,000	(58,200)	10
E	L	\$ 33,000	(56,700)	11
B	S	\$ 19,000	(52,500)	5
B	R	\$ 68,000	(47,500)	8
D	AA	\$ 100,000	(47,000)	5
A	V	\$ 186,000	(42,500)	15
A	U	\$ 164,000	(40,000)	10
B	Q	\$ 30,000	(38,900)	12
C	U	\$ 20,000	(38,197)	15
A	T	\$ 148,000	(37,700)	9
A	S	\$ 50,000	(36,500)	12
A	R	\$ 74,000	(36,100)	10
C	T	\$ 20,000	(36,041)	14
A	Q	\$ -	(35,900)	-
A	P	\$ 25,000	(34,500)	1
A	O	\$ 41,000	(33,100)	18
A	N	\$ -	(30,600)	-
D	Z	\$ 40,000	(30,000)	2
A	M	\$ 65,000	(29,400)	12
C	R	\$ 20,000	(28,500)	13
C	S	\$ 20,000	(28,500)	22
C	Q	\$ 20,000	(27,673)	7
E	K	\$ 32,000	(26,900)	8
C	P	\$ 20,000	(26,150)	12
D	Y	\$ 100,000	(25,400)	4
C	O	\$ 20,000	(24,319)	20
E	J	\$ 49,000	(24,100)	4
B	P	\$ 20,000	(24,100)	3
C	N	\$ 20,000	(23,710)	3
D	X	\$ 75,000	(23,300)	9
B	O	\$ 102,000	(22,900)	16

Tab D

Day Trading Detail Report  
All Transactions Sorted by P/L

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
C	M	\$ 20,000	(22,500)	15
B	N	\$ 11,000	(21,800)	10
C	L	\$ 20,000	(20,449)	4
B	M	\$ 50,000	(20,300)	3
A	L	\$ -	(20,200)	-
D	W	\$ 25,000	(20,000)	6
A	K	\$ 75,000	(18,800)	10
B	L	\$ 250,000	(16,700)	4
B	K	\$ 22,000	(16,600)	1
B	I	\$ 10,000	(16,400)	5
B	J	\$ 6,000	(16,400)	7
A	J	\$ 90,000	(16,300)	21
D	V	\$ 100,000	(15,000)	5
C	K	\$ 20,000	(12,912)	10
E	I	\$ 15,000	(12,200)	11
D	U	\$ 25,000	(12,000)	5
B	H	\$ 8,000	(10,400)	2
A	I	\$ 19,000	(10,000)	9
D	S	\$ 85,000	(10,000)	8
D	T	\$ 190,000	(10,000)	6
C	J	\$ 20,000	(9,049)	13
B	G	\$ 6,000	(8,700)	3
B	F	\$ 300,000	(8,600)	3
C	I	\$ 20,000	(8,291)	6
A	H	\$ 43,000	(8,100)	17
E	H	\$ 30,000	(7,700)	10
A	G	\$ 73,000	(6,000)	1
C	H	\$ 20,000	(5,691)	2
C	G	\$ 20,000	(5,558)	7
B	E	\$ 76,000	(5,500)	3
D	R	\$ 25,000	(4,000)	9
C	F	\$ 20,000	(3,844)	3
C	E	\$ 20,000	(3,373)	3
D	Q	\$ 25,000	(3,300)	3
D	P	\$ 25,000	(3,000)	3
C	D	\$ 20,000	(2,586)	3
A	F	\$ 21,000	(2,300)	2
E	G	\$ 46,000	(2,300)	6
D	O	\$ 20,000	(2,000)	4
C	C	\$ 20,000	(1,917)	7
B	D	\$ 20,000	(1,600)	4
E	F	\$ 21,000	(1,300)	11
F	F	\$ 50,000	(1,200)	3
D	N	\$ 30,000	(1,000)	5
F	E	\$ 49,000	(700)	2
D	M	\$ 25,000	(700)	4

Tab D

Day Trading Detail Report  
All Transactions Sorted by P/L

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
C	B	\$ 20,000	(544)	1
D	L	\$ 20,000	(400)	4
C	A	\$ 20,000	(200)	1
A	E	\$ 30,000	400	2
E	E	\$ 20,000	500	9
D	J	\$ 100,000	900	9
D	K	\$ 72,000	900	8
D	I	\$ 20,000	1,800	6
D	H	\$ 25,000	2,500	6
D	G	\$ 25,000	2,600	8
D	F	\$ 20,000	3,000	6
D	E	\$ 90,000	5,500	1
F	D	\$ 50,000	7,100	3
E	D	\$ 70,000	7,400	2
D	D	\$ 17,000	8,000	6
B	C	\$ 60,000	9,100	9
E	C	\$ 30,000	9,200	10
A	D	\$ -	10,300	-
F	C	\$ 30,000	11,800	2
A	B	\$ 108,000	12,900	12
A	C	\$ 97,000	12,900	18
F	B	\$ 64,000	16,200	2
D	C	\$ 77,000	20,000	5
E	B	\$ 23,000	20,500	7
B	B	\$ 10,000	22,000	6
B	A	\$ 102,000	28,700	11
D	B	\$ 160,000	30,000	9
D	A	\$ 90,000	67,000	8
E	A	\$ 100,000	78,500	2
F	A	\$ 81,000	110,900	3
A	A	\$ 82,000	160,100	22

Day Trading Detail Report  
All Transactions Sorted by Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
A	P	\$ 25,000	(34,500)	1
B	K	\$ 22,000	(16,600)	1
A	G	\$ 73,000	(6,000)	1
C	B	\$ 20,000	(544)	1
C	A	\$ 20,000	(200)	1
D	E	\$ 90,000	5,500	1
B	T	\$ 1,811,000	(62,900)	2
D	Z	\$ 40,000	(30,000)	2
B	H	\$ 8,000	(10,400)	2
C	H	\$ 20,000	(5,691)	2
A	F	\$ 21,000	(2,300)	2
F	E	\$ 49,000	(700)	2
A	E	\$ 30,000	400	2
E	D	\$ 70,000	7,400	2
F	C	\$ 30,000	11,800	2
F	B	\$ 64,000	16,200	2
E	A	\$ 100,000	78,500	2
B	P	\$ 20,000	(24,100)	3
C	N	\$ 20,000	(23,710)	3
B	M	\$ 50,000	(20,300)	3
B	G	\$ 6,000	(8,700)	3
B	F	\$ 300,000	(8,600)	3
B	E	\$ 76,000	(5,500)	3
C	F	\$ 20,000	(3,844)	3
C	E	\$ 20,000	(3,373)	3
D	Q	\$ 25,000	(3,300)	3
D	P	\$ 25,000	(3,000)	3
C	D	\$ 20,000	(2,586)	3
F	F	\$ 50,000	(1,200)	3
F	D	\$ 50,000	7,100	3
F	A	\$ 81,000	110,900	3
A	Z6	\$ 74,000	(641,000)	4
A	Z2	\$ 90,000	(127,500)	4
D	Y	\$ 100,000	(25,400)	4
E	J	\$ 49,000	(24,100)	4
C	L	\$ 20,000	(20,449)	4
B	L	\$ 250,000	(16,700)	4
D	O	\$ 20,000	(2,000)	4
B	D	\$ 20,000	(1,600)	4
D	M	\$ 25,000	(700)	4
D	L	\$ 20,000	(400)	4
B	S	\$ 19,000	(52,500)	5
D	AA	\$ 100,000	(47,000)	5
B	I	\$ 10,000	(16,400)	5
D	V	\$ 100,000	(15,000)	5
D	U	\$ 25,000	(12,000)	5

Tab E

Day Trading Detail Report  
All Transactions Sorted by Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
D	N	\$ 30,000	(1,000)	5
D	C	\$ 77,000	20,000	5
D	W	\$ 25,000	(20,000)	6
D	T	\$ 190,000	(10,000)	6
C	I	\$ 20,000	(8,291)	6
E	G	\$ 46,000	(2,300)	6
D	I	\$ 20,000	1,800	6
D	H	\$ 25,000	2,500	6
D	F	\$ 20,000	3,000	6
D	D	\$ 17,000	8,000	6
B	B	\$ 10,000	22,000	6
C	Q	\$ 20,000	(27,673)	7
B	J	\$ 6,000	(16,400)	7
C	G	\$ 20,000	(5,558)	7
C	C	\$ 20,000	(1,917)	7
E	B	\$ 23,000	20,500	7
D	BB	\$ 250,000	(100,000)	8
B	R	\$ 68,000	(47,500)	8
E	K	\$ 32,000	(26,900)	8
D	S	\$ 85,000	(10,000)	8
D	K	\$ 72,000	900	8
D	G	\$ 25,000	2,600	8
D	A	\$ 90,000	67,000	8
B	U	\$ 95,000	(159,300)	9
D	CC	\$ 200,000	(120,000)	9
A	T	\$ 148,000	(37,700)	9
D	X	\$ 75,000	(23,300)	9
A	I	\$ 19,000	(10,000)	9
D	R	\$ 25,000	(4,000)	9
E	E	\$ 20,000	500	9
D	J	\$ 100,000	900	9
B	C	\$ 60,000	9,100	9
D	B	\$ 160,000	30,000	9
E	N	\$ 504,000	(212,100)	10
E	M	\$ 79,000	(58,200)	10
A	U	\$ 164,000	(40,000)	10
A	R	\$ 74,000	(36,100)	10
B	N	\$ 11,000	(21,800)	10
A	K	\$ 75,000	(18,800)	10
C	K	\$ 20,000	(12,912)	10
E	H	\$ 30,000	(7,700)	10
E	C	\$ 30,000	9,200	10
E	L	\$ 33,000	(56,700)	11
E	I	\$ 15,000	(12,200)	11
E	F	\$ 21,000	(1,300)	11
B	A	\$ 102,000	28,700	11

Tab E

Day Trading Detail Report  
All Transactions Sorted by Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
B	Q	\$ 30,000	(38,900)	12
A	S	\$ 50,000	(36,500)	12
A	M	\$ 65,000	(29,400)	12
C	P	\$ 20,000	(26,150)	12
A	B	\$ 108,000	12,900	12
A	Z3	\$ 46,000	(196,900)	13
C	R	\$ 20,000	(28,500)	13
C	J	\$ 20,000	(9,049)	13
C	T	\$ 20,000	(36,041)	14
A	V	\$ 186,000	(42,500)	15
C	U	\$ 20,000	(38,197)	15
C	M	\$ 20,000	(22,500)	15
B	O	\$ 102,000	(22,900)	16
A	H	\$ 43,000	(8,100)	17
A	Y	\$ 70,000	(79,000)	18
A	O	\$ 41,000	(33,100)	18
A	C	\$ 97,000	12,900	18
A	Z5	\$ 40,000	(613,200)	19
C	O	\$ 20,000	(24,319)	20
A	Z4	\$ 205,000	(287,800)	21
A	J	\$ 90,000	(16,300)	21
C	S	\$ 20,000	(28,500)	22
A	A	\$ 82,000	160,100	22
A	X	\$ 903,000	(75,100)	25
A	Z1	\$ -	(124,000)	-
A	Z	\$ -	(96,100)	-
A	W	\$ -	(72,400)	-
A	Q	\$ -	(35,900)	-
A	N	\$ -	(30,600)	-
A	L	\$ -	(20,200)	-
A	D	\$ -	10,300	-

## Firm "A" Sorted By P/L

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
A	Z6	\$ 74,000	(641,000)	4
A	Z5	\$ 40,000	(613,200)	19
A	Z4	\$ 205,000	(287,800)	21
A	Z3	\$ 46,000	(196,900)	13
A	Z2	\$ 90,000	(127,500)	4
A	Z1	\$ -	(124,000)	-
A	Z	\$ -	(96,100)	-
A	Y	\$ 70,000	(79,000)	18
A	X	\$ 903,000	(75,100)	25
A	W	\$ -	(72,400)	-
A	V	\$ 186,000	(42,500)	15
A	U	\$ 164,000	(40,000)	10
A	T	\$ 148,000	(37,700)	9
A	S	\$ 50,000	(36,500)	12
A	R	\$ 74,000	(36,100)	10
A	Q	\$ -	(35,900)	-
A	P	\$ 25,000	(34,500)	1
A	O	\$ 41,000	(33,100)	18
A	N	\$ -	(30,600)	-
A	M	\$ 65,000	(29,400)	12
A	L	\$ -	(20,200)	-
A	K	\$ 75,000	(18,800)	10
A	J	\$ 90,000	(16,300)	21
A	I	\$ 19,000	(10,000)	9
A	H	\$ 43,000	(8,100)	17
A	G	\$ 73,000	(6,000)	1
A	F	\$ 21,000	(2,300)	2
A	E	\$ 30,000	400	2
A	D	\$ -	10,300	-
A	B	\$ 108,000	12,900	12
A	C	\$ 97,000	12,900	18
A	A	\$ 82,000	160,100	22

Tab G

## Firm "A" Sorted By Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
A	G	\$ 73,000	(6,000)	1
A	P	\$ 25,000	(34,500)	1
A	E	\$ 30,000	400	2
A	F	\$ 21,000	(2,300)	2
A	Z2	\$ 90,000	(127,500)	4
A	Z6	\$ 74,000	(641,000)	4
A	I	\$ 19,000	(10,000)	9
A	T	\$ 148,000	(37,700)	9
A	K	\$ 75,000	(18,800)	10
A	R	\$ 74,000	(36,100)	10
A	U	\$ 164,000	(40,000)	10
A	B	\$ 108,000	12,900	12
A	M	\$ 65,000	(29,400)	12
A	S	\$ 50,000	(36,500)	12
A	Z3	\$ 46,000	(196,900)	13
A	V	\$ 186,000	(42,500)	15
A	H	\$ 43,000	(8,100)	17
A	C	\$ 97,000	12,900	18
A	O	\$ 41,000	(33,100)	18
A	Y	\$ 70,000	(79,000)	18
A	Z5	\$ 40,000	(613,200)	19
A	J	\$ 90,000	(16,300)	21
A	Z4	\$ 205,000	(287,800)	21
A	A	\$ 82,000	160,100	22
A	X	\$ 903,000	(75,100)	25
A	D	\$ -	10,300	-
A	L	\$ -	(20,200)	-
A	N	\$ -	(30,600)	-
A	Q	\$ -	(35,900)	-
A	W	\$ -	(72,400)	-
A	Z	\$ -	(96,100)	-
A	Z1	\$ -	(124,000)	-

## Firm "B" Sorted By P/L

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
B	U	\$ 95,000	(159,300)	9
B	T	\$ 1,811,000	(62,900)	2
B	S	\$ 19,000	(52,500)	5
B	R	\$ 68,000	(47,500)	8
B	Q	\$ 30,000	(38,900)	12
B	P	\$ 20,000	(24,100)	3
B	O	\$ 102,000	(22,900)	16
B	N	\$ 11,000	(21,800)	10
B	M	\$ 50,000	(20,300)	3
B	L	\$ 250,000	(16,700)	4
B	K	\$ 22,000	(16,600)	1
B	I	\$ 10,000	(16,400)	5
B	J	\$ 6,000	(16,400)	7
B	H	\$ 8,000	(10,400)	2
B	G	\$ 6,000	(8,700)	3
B	F	\$ 300,000	(8,600)	3
B	E	\$ 76,000	(5,500)	3
B	D	\$ 20,000	(1,600)	4
B	C	\$ 60,000	9,100	9
B	B	\$ 10,000	22,000	6
B	A	\$ 102,000	28,700	11

Tab I

## Firm "B" Sorted By Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
B	K	\$ 22,000	(16,600)	1
B	H	\$ 8,000	(10,400)	2
B	T	\$ 1,811,000	(62,900)	2
B	E	\$ 76,000	(5,500)	3
B	F	\$ 300,000	(8,600)	3
B	G	\$ 6,000	(8,700)	3
B	M	\$ 50,000	(20,300)	3
B	P	\$ 20,000	(24,100)	3
B	D	\$ 20,000	(1,600)	4
B	L	\$ 250,000	(16,700)	4
B	I	\$ 10,000	(16,400)	5
B	S	\$ 19,000	(52,500)	5
B	B	\$ 10,000	22,000	6
B	J	\$ 6,000	(16,400)	7
B	R	\$ 68,000	(47,500)	8
B	C	\$ 60,000	9,100	9
B	U	\$ 95,000	(159,300)	9
B	N	\$ 11,000	(21,800)	10
B	A	\$ 102,000	28,700	11
B	Q	\$ 30,000	(38,900)	12
B	O	\$ 102,000	(22,900)	16

## Firm "C" Sorted By P/L

Firm	Acct. #	Beginning Balance	Profit/ Loss	Months Open
C	U	\$ 20,000	(38,197)	15
C	T	\$ 20,000	(36,041)	14
C	R	\$ 20,000	(28,500)	13
C	S	\$ 20,000	(28,500)	22
C	Q	\$ 20,000	(27,673)	7
C	P	\$ 20,000	(26,150)	12
C	O	\$ 20,000	(24,319)	20
C	N	\$ 20,000	(23,710)	3
C	M	\$ 20,000	(22,500)	15
C	L	\$ 20,000	(20,449)	4
C	K	\$ 20,000	(12,912)	10
C	J	\$ 20,000	(9,049)	13
C	I	\$ 20,000	(8,291)	6
C	H	\$ 20,000	(5,691)	2
C	G	\$ 20,000	(5,558)	7
C	F	\$ 20,000	(3,844)	3
C	E	\$ 20,000	(3,373)	3
C	D	\$ 20,000	(2,586)	3
C	C	\$ 20,000	(1,917)	7
C	B	\$ 20,000	(544)	1
C	A	\$ 20,000	(200)	1

## Firm "C" Sorted By Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
C	B	\$ 20,000	(544)	1
C	A	\$ 20,000	(200)	1
C	H	\$ 20,000	(5,691)	2
C	N	\$ 20,000	(23,710)	3
C	F	\$ 20,000	(3,844)	3
C	E	\$ 20,000	(3,373)	3
C	D	\$ 20,000	(2,586)	3
C	L	\$ 20,000	(20,449)	4
C	I	\$ 20,000	(8,291)	6
C	Q	\$ 20,000	(27,673)	7
C	G	\$ 20,000	(5,558)	7
C	C	\$ 20,000	(1,917)	7
C	K	\$ 20,000	(12,912)	10
C	P	\$ 20,000	(26,150)	12
C	R	\$ 20,000	(28,500)	13
C	J	\$ 20,000	(9,049)	13
C	T	\$ 20,000	(36,041)	14
C	U	\$ 20,000	(38,197)	15
C	M	\$ 20,000	(22,500)	15
C	O	\$ 20,000	(24,319)	20
C	S	\$ 20,000	(28,500)	22

Tab L

## Firm "D" Sorted By P/L

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
D	CC	\$ 200,000	(120,000)	9
D	BB	\$ 250,000	(100,000)	8
D	AA	\$ 100,000	(47,000)	5
D	Z	\$ 40,000	(30,000)	2
D	Y	\$ 100,000	(25,400)	4
D	X	\$ 75,000	(23,300)	9
D	W	\$ 25,000	(20,000)	6
D	V	\$ 100,000	(15,000)	5
D	U	\$ 25,000	(12,000)	5
D	S	\$ 85,000	(10,000)	8
D	T	\$ 190,000	(10,000)	6
D	R	\$ 25,000	(4,000)	9
D	Q	\$ 25,000	(3,300)	3
D	P	\$ 25,000	(3,000)	3
D	O	\$ 20,000	(2,000)	4
D	N	\$ 30,000	(1,000)	5
D	M	\$ 25,000	(700)	4
D	L	\$ 20,000	(400)	4
D	J	\$ 100,000	900	9
D	K	\$ 72,000	900	8
D	I	\$ 20,000	1,800	6
D	H	\$ 25,000	2,500	6
D	G	\$ 25,000	2,600	8
D	F	\$ 20,000	3,000	6
D	E	\$ 90,000	5,500	1
D	D	\$ 17,000	8,000	6
D	C	\$ 77,000	20,000	5
D	B	\$ 160,000	30,000	9
D	A	\$ 90,000	67,000	8

## Firm "D" Sorted By Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
D	E	\$ 90,000	5,500	1
D	Z	\$ 40,000	(30,000)	2
D	P	\$ 25,000	(3,000)	3
D	Q	\$ 25,000	(3,300)	3
D	L	\$ 20,000	(400)	4
D	M	\$ 25,000	(700)	4
D	O	\$ 20,000	(2,000)	4
D	Y	\$ 100,000	(25,400)	4
D	AA	\$ 100,000	(47,000)	5
D	C	\$ 77,000	20,000	5
D	N	\$ 30,000	(1,000)	5
D	U	\$ 25,000	(12,000)	5
D	V	\$ 100,000	(15,000)	5
D	D	\$ 17,000	8,000	6
D	F	\$ 20,000	3,000	6
D	H	\$ 25,000	2,500	6
D	I	\$ 20,000	1,800	6
D	T	\$ 190,000	(10,000)	6
D	W	\$ 25,000	(20,000)	6
D	A	\$ 90,000	67,000	8
D	BB	\$ 250,000	(100,000)	8
D	G	\$ 25,000	2,600	8
D	K	\$ 72,000	900	8
D	S	\$ 85,000	(10,000)	8
D	B	\$ 160,000	30,000	9
D	CC	\$ 200,000	(120,000)	9
D	J	\$ 100,000	900	9
D	R	\$ 25,000	(4,000)	9
D	X	\$ 75,000	(23,300)	9

## Firm "E" Sorted By P/L

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
E	N	\$ 504,000	(212,100)	10
E	M	\$ 79,000	(58,200)	10
E	L	\$ 33,000	(56,700)	11
E	K	\$ 32,000	(26,900)	8
E	J	\$ 49,000	(24,100)	4
E	I	\$ 15,000	(12,200)	11
E	H	\$ 30,000	(7,700)	10
E	G	\$ 46,000	(2,300)	6
E	F	\$ 21,000	(1,300)	11
E	E	\$ 20,000	500	9
E	D	\$ 70,000	7,400	2
E	C	\$ 30,000	9,200	10
E	B	\$ 23,000	20,500	7
E	A	\$ 100,000	78,500	2

## Firm "E" Sorted By Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
E	A	\$ 100,000	78,500	2
E	D	\$ 70,000	7,400	2
E	J	\$ 49,000	(24,100)	4
E	G	\$ 46,000	(2,300)	6
E	B	\$ 23,000	20,500	7
E	K	\$ 32,000	(26,900)	8
E	E	\$ 20,000	500	9
E	C	\$ 30,000	9,200	10
E	H	\$ 30,000	(7,700)	10
E	M	\$ 79,000	(58,200)	10
E	N	\$ 504,000	(212,100)	10
E	F	\$ 21,000	(1,300)	11
E	I	\$ 15,000	(12,200)	11
E	L	\$ 33,000	(56,700)	11

## Firm "F" Sorted By P/L

Firm	Acct. #	Beginning Balance	Profit/ Loss	Months Open
F	F	\$ 50,000	(1,200)	3
F	E	\$ 49,000	(700)	2
F	D	\$ 50,000	7,100	3
F	C	\$ 30,000	11,800	2
F	B	\$ 64,000	16,200	2
F	A	\$ 81,000	110,900	3

## Firm "F" Sorted By Months Open

Firm	Acct. #	Beginning Balance	Profit/Loss	Months Open
F	B	\$ 64,000	16,200	2
F	C	\$ 30,000	11,800	2
F	E	\$ 49,000	(700)	2
F	A	\$ 81,000	110,900	3
F	D	\$ 50,000	7,100	3
F	F	\$ 50,000	(1,200)	3

<b>Firm "G" General Data</b>	
Firm "G" is a non-registered firm that does not maintain records on site. Accordingly, we were unable to obtain detailed information from this firm. The requested information is now being sought via subpoena. Summary data, as follows, was provided during the interview process.	
The firm had 10 Washington accounts.	
Most gain	\$ 200,000
Average gain	\$ 20,000
Most loss	\$ 50,000
Average loss	\$ 10,000

Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 24

Andover Brokerage, LLC  
111 Great Neck Road, Suite 314  
Great Neck, NY 11021  
Tel. 516-466-1768  
Fax. 516-466-8435

November 15, 1999

Via Facsimile and U.S. Mail

K. Lee Blalack, II  
Chief Counsel & Staff  
Permanent subcommittee on Investigations  
U.S. Senate  
Committee in Governmental Affairs  
Washington, D.C. 20510-6250

Dear Mr. Blalack:

In connection with your request letter dated October 24, 1999, the purpose of this letter is to respond to your inquires in seriatim:

Number of Customers

1. The total number of customers, as of October 1, 1999, that have or had one or more accounts for day trading at Andover. As of October 1, 1999, Andover had 103 such accounts. This number is based on accounts effectuating 50 or more trades per month.

Customer Lending

2. No.  
3.-5. - N/A

Third Party Trading

6. Third Party Written Procedures. N/A. In general, if another person trades on behalf of another account, Andover attempts to ensure that the proper paperwork is in place. For example, the agent trading on behalf of the another brokerage account must complete a power of attorney form provided by Spear Leeds & Kellogg, Andover's clearing broker. The third party agent and the customer sign this form. Moreover, this form must be either witnessed or notarized before it is accepted by Andover and/or Spear Leeds & Kellogg. Finally, Andover's disclaimer specifically addresses some of the risks associated with third party trading (see attached). Both the third party agent and the customer must also sign this form.

7. Third Party Documentation. Standard customer forms are completed to evidence the "know your customer" requirements. Also see response number 6 above.

8. Data Collected on Behalf of Third Party Traders. None.

9. The number of customers, referred to in Question number 1, that day traded on behalf of other individuals. As of October 1, 1999, Andover had 7 such accounts. This number is based on accounts effectuating 50 or more trades per month.

Customer Financial Qualifications

10. Day traders are required to read and sign disclaimers prior to day trading. In general, day trading customers have a minimum capital requirement of approximately \$25,000. risk capital.

11. Disclaimers have been in place for over 1 year. Andover Brokerage, LLC was formed in 1996

12. No.

13. See enclosed.

Advertising

14. N/A. Andover did not participate in the International Day Trading EXPO.

Sincerely,

  
David Laurent  
Chief Operating Officer

Hello,

EXHIBIT # 25

I am Harvey Houtkin, and many people now call me "The Father of Electronic Day Trading". While once being branded the SOES Bandits, my firm and I are now proud to be considered the group leading the financial markets into the 21<sup>st</sup> Century. After eight years of fighting with market makers, regulators and the established financial community and spending millions of dollars on legal fees, I am proud to say we have finally been instrumental in creating an environment where the average person can now compete on a level playing field with the market professionals.

You've probably read about the many successes utilizing my trading techniques in *Time Magazine*, *Barron's*, *Forbes*, *Inc.*, *Business Week*, *Investors Business Daily*, *The New York Times*, *The London Financial Times*, *The Los Angeles Times*, *The Wall Street Journal* and virtually every other legitimate publication covering Wall Street or business news on this topic. You might have seen me interviewed on television shows such as Wall Street Journal Report, CNBC, CNN, WWOR-TV, and even the BBC (British Broadcasting Corp.). Why all the interest? Well, some people claim I have found the key to financial independence - Electronic Day Trading. Not just any day trading, but day trading stocks utilizing All-Tech's **ATTAIN™** System.

All-Tech's revolutionary **ATTAIN™** Trading Execution System, in conjunction with Rushmore Financial Services highly respected training program, can provide the prospective candidate all the information, access, and know how necessary to compete effectively in today's fast moving trading markets. It is simply the best on-line electronic trading system available.

If you have always had the desire to be a stock trader and compete aggressively in the Wall Street arena, now is your chance. Recently adopted SEC rules make the market much more friendly to the general public participant. See for yourself how the **ATTAIN™** System utilizes new technology in junction with the new, fairer trading environment to create this exciting opportunity.

Come see if it's for you!

Senate Permanent Subcommittee  
On InvestigationsEXHIBIT # 26NEW JERSEY OFFICE  
MARITIME LAW CENTER  
37 MARIN BOULEVARD  
JERSEY CITY, NJ 07302(201) 507-9900  
(201) 507-3995 FACSIMILESINGER FRUMENTO  
LLP

ATTORNEYS AT LAW

40 EXCHANGE PLACE  
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(212) 344-0394 FACSIMILE(E-MAIL) SROSENBLATT@SINGERFRU.COM  
WEBSITE: HTTP://SINGERFRU.COMBILL T. SINGER  
AEGIS J. FRUMENTO

OF COUNSEL

ANTHONY K. MODAFFER, III\*  
THOMAS A. RICILANO  
AINEE D. GOLDSTEIN\*COREY S. MARELL†  
STEPHANIE ROSENBLATT\*LICENSED IN NEW YORK, NEW JERSEY, AND DISTRICT OF COLUMBIA  
†LICENSED IN NEW JERSEY AND DISTRICT OF COLUMBIA  
\*LICENSED IN NEW YORK, NEW JERSEY, AND DISTRICT OF COLUMBIA  
\*NEW JERSEY BOARD OF ACCOUNTS

November 12, 1999

K. Lee Blalack, II  
Linda J. Gustitus  
United States Senate  
Permanent Subcommittee on Investigations  
Committee on Governmental Affairs  
Washington, D.C. 20510-6250Re: All-Tech Investment Group, Inc./Requests for Information

Dear Mr. Blalack and Ms. Gustitus:

By letter dated October 24, 1999, the United States Senate Permanent Subcommittee on Investigations has demanded that All-Tech Investment Group, Inc. ("All Tech") provide it with certain documents and information. Numbered items below correspond to the numbered items in your letter.

*Request No. 1. What is the total number of customers, as of October 1, 1999, that have or had one or more accounts for day trading at your firm, including branch office or remote locations?*

Response: The total number of day trading accounts as of October 1, 1999, was approximately 1,421.

*Request No. 2: Do customers who day trade at your firm lend money to other customers who are unable to meet margin calls?*

*(a) If yes, as of October 1, 1999, how many customers, included in #1 above, made or received such a loan at some point during their tenure with your firm?*

Response: Some customers at All-Tech lend money to other customers to meet margin calls. In each case the lending customer fills out a document called a journal, which is signed by the

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United States Senate  
Permanent Subcommittee on Investigations  
November 15, 1999  
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customer and the branch manager and notarized and is sent to the home office, which reviews the form and transmits these instructions to All-Tech's clearing firm.

All-Tech arranges its journal forms by branch and date. To respond to Question 2(a) would require All-Tech's staff to review by hand the thousands of journals which have been done since inception, sort them by customer, then by customer on October 1, then to eliminate all journals sent by the customer from one of his/her accounts to another of his/her accounts, then to cross match all journals to eliminate double counting. We estimate that this task would take two temporary helpers at least two months to accomplish. The request is unduly burdensome and cannot be complied with without an unreasonable expenditure of time and money.

*Request No. 3: For those loans discussed in Question 2(a), were the loans between customers who trade at the same office? Or, were the loans between customers who trade at different offices? Or both?*

Response: Loans are generally made between people who trade in the same office unless people who trade in different offices know each other, which occasionally is the case.

*Request No. 4: Did your firm in any way promote, arrange, assist, or monitor such loans among customers, including identifying potential lenders or providing documentation?*

Response: It is against All-Tech's written policies for its employees to arrange such loans between customers. While in the past there have been occurrences of such arranging and identifying of a potential lender by an employee, when these occurrences came to the attention of All-Tech's management, the employee was severely rebuked and such practices have not recurred. With respect to monitoring the loan, All-Tech's margin department will alert a potential lender when it is clear to the margin department that the borrower does not have the excess "available cash" to repay the loan.

*Request No. 5: Has your firm ever or does it now charge customers a fee in exchange for promoting, arranging, assisting, or monitoring such customer to customer lending?*

Response: No fee has ever been charged by All-Tech.

*Request No. 6: What is your firm's policy regarding third party trading by your customers? If written, please provide a copy of the policy.*

Response: All-Tech's policies permit trading by a third party. A copy of All-Tech's policy is attached hereto as Exhibit 6.

*Request No. 7: Does your firm require customers who day trade on behalf of other individuals to submit documentation related to such trading? If yes, what documents are customers*

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United States Senate  
Permanent Subcommittee on Investigations  
November 15, 1999  
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*required to submit?*

Response: All-Tech requires customers who day trade on behalf of other individuals to submit documentation related to such trading. The customer and the third party trader sign one of two disclosure forms and submit them to All-Tech with their account documentation. Copies of such forms are attached hereto as Exhibit 7.

*Request No. 8: Do you collect data on the number of firm customers who day trade on behalf of third parties? If yes, please provide such data.*

Response: All-Tech does not collect data on the number of firm customers who day trade on behalf of third parties.

*Request No. 9: As of October 1, 1999, how many customers, referred to in Question 1, day traded on behalf of other individuals?*

Response: This question is confusing because it is the person whose account is being traded who is the customer, not the trader. All-Tech does not collect data on the number of firm customers who day trade on behalf of other individuals. This question appears to require the same information as is specified in question 8.

*Request No. 10: What, if any, minimum financial standards (e.g., income and net worth) does your firm have for prospective customers who seek to open day trading accounts?*

Response: Customers who day trade must have a minimum net worth of \$100,000. The minimum opening deposit for a day trading account is \$25,000. The opening deposit may not exceed 75% of net worth for individuals, 50% of net worth for married persons, and 25% of net worth for persons with dependents.

*Request No. 11: When were the financial standard referred to in Question 10 implemented?*

Response: The net worth financial standard referred to in question 10 was implemented in approximately 1997. The minimum opening deposit standard and the percentage test were implemented in early 1999.

*Request No. 12: Did the financial standards referred to in Question 10 change any financial standards that your firm previously had in place? If so, how were the financial standards changed and why?*

Response: The minimum net worth standard implemented in approximately 1997 was the initial implementation of a minimum net worth standard. The minimum opening deposit

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standard was a change from a previous minimum opening deposit of \$50,000 which was implemented in approximately 1995. The percentage test was first developed and implemented in early 1999.

*Request No. 13: Please provide a copy of all new customer day trading account forms for all accounts opened by your firm between January 1, 1998 and September 30, 1999.*

Response: The sorting and duplication of every account opening form submitted for day trading accounts which were opened from January 1, 1998 to September 30, 1999, will take at least one month from the date hereof to accomplish.

*Request No. 14: Please provide a copy of all materials distributed by your firm at the International Day Trading EXPO held on September 25 and 26, 1999 in Ontario, California. Please include a transcript of any and all speeches delivered by representatives of your firm.*

Response: The materials distributed at the International Day Trading EXPO held on September 25 and 26 in Ontario, California are attached hereto as Exhibit 14.

\* \* \*

We wish the Staff to be aware that its demands have been submitted within a couple of weeks of Thanksgiving Day and within a few weeks of the Christmas and New Year's holidays. With expected reductions in force for those holidays, All-Tech may not be able to continue to immediately respond to further extensive production demands. Similarly, as your demands fall within the fourth quarter, they are competing with various year-end accounting and business issues that frequently require All-Tech management's attention. Furthermore, within the next few weeks All-Tech's staff will need to be prepared for possible Y2K problems. All these factors may limit All-Tech's ability to immediately retrieve documents, submit them for management and legal review, and prepare submissions for copying and production. Finally, All-Tech is presently being subjected to competing demands by other regulatory agencies apparently investigating the same issues as you. There has been little effort to coordinate such repetitive demands and even less of an effort to fairly consider the enormous burden placed upon All-Tech. As you are likely aware, each regulator demands that its production be accomplished or its interrogation conducted within whatever arbitrary time frame its staff has selected and the usual threats concerning non-compliance are sternly communicated.

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United States Senate  
Permanent Subcommittee on Investigations  
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If you have any questions or comments, please do not hesitate to contact myself or Bill Singer, Esq. of this firm.

Very truly yours,

  
Stephanie Rosenblatt, Esq.

enclosures

Trading Authorizations:

All-Tech accepts customers who give trading authorizations to other. Such arrangement generally implicate the rules governing investment advisory services. Most states have minimum exemptions. For example, current law in California allows a trader to have up to 6 clients before requiring such a customer to register as an investment advisor; conversely, current law in the state of Texas does not have such an exemption. Whenever a customer wishes to give trading authority to a trader/person, the customer should sign a trading authorization evidencing the conferment of such authority. The trader, in turn should be advised by the Branch Manager that he/she may have to register as an investment adviser under the relevant law. The trader must represent on the back page of the trading authorization that (i) he/she is aware that All-Tech's branch office is not the office of the investment adviser, but simply a facility where the investment adviser enters orders on behalf of his/her advisory customers; (ii) that he/she is registered as an investment adviser or (iii) that he/she is not required to be registered as an investment adviser under the relevant law. If the trader represents that he/she is registered as an investment adviser, then the Branch Manager is required to obtain evidence of the registration from the trader.

EXHIBIT 7

TRADING AUTHORIZATION LIMITED TO PURCHASES AND SALES OF SECURITIES AND COMMODITIES

All-Tech Investment Group, Inc.  
160 Summit Ave.  
Montvale, NJ 07046

Penson Financial Services, Inc.  
1700 Pacific Ave.  
Suite 1400  
Dallas, TX 75201

Gentleman/Ladies:

The undersigned hereby authorizes \_\_\_\_\_ ("LPOA") (whose signature appears below) as his/her agent and attorney-in-fact to buy, sell (including short sales) and trade in stocks, bonds, put and call options and any other securities and/or contracts relating to the same on margin or otherwise in accordance with the terms and conditions of either of your for the undersigned's account and risk and in the undersigned's name, or number on your respective books. The undersigned hereby agrees to indemnify and hold each of your harmless from and to pay Penson Financial Services, Inc. promptly on demand any and all losses arising therefrom or debit balance due thereon.

Each of you is authorized to follow the instructions of my LPOA in every respect concerning the undersigned's account with you, and he/she is authorized to act for the undersigned and in the undersigned's behalf in the same manner and with the same force and effect as the undersigned might or could do with respect to such purchases, sales or trades as well as with respect to all other things necessary or incidental to the furtherance or conduct of such purchases, sales or trades.

The undersigned acknowledges and agrees that \_\_\_\_\_ is his/her agent and is not an officer, director, shareholder, principal, agent, employee, independent contractor or other representative of All-Tech Investment Group, Inc. or Penson Financial Services, Inc. and that neither of you is responsible in any way for the determinations and actions of the LPOA. The LPOA has informed me that he/she will not become a registered employee of either of you without notifying me in writing. The undersigned acknowledges and agrees that neither of you have any relationships with the LPOA. The undersigned acknowledges and agrees that because the LPOA is not registered, he/she is not subject to any supervision or review by either of you and that neither of you will undertake any supervision of his/her conduct on any basis whatsoever.

\_\_\_\_\_  
(Initial)

The undersigned hereby ratifies and confirms any and all transactions with each of you heretofore or hereafter made by the aforesaid agent or for the undersigned's account.

The authorization and indemnity is in addition to (and in now way limits or restricts) any rights which either of you may have under any other agreement or agreements between the undersigned and your respective firm.

This authorization and indemnity is also a continuing one and shall remain in full force and effect until revoked by the undersigned by a written notice addressed to you and delivered to your respective office at the address set forth above, but such revocation shall not affect any liability in any way resulting from transactions initiated prior to such revocation. This authorization and indemnity shall incur to the benefit of your present firms and of any of your respective successor firms or firms irrespective of any change or changes at any time in the personnel thereof for any cause whatsoever, and of the assignees of your present respective firm or any successor firm(s).

Dated: \_\_\_\_\_

Very truly yours,

\_\_\_\_\_  
(City, State)

Account No: \_\_\_\_\_

SIGNATURE OF AUTHORIZED AGENT

\_\_\_\_\_

Printed Name \_\_\_\_\_

FULL TRADING AUTHORIZATION WITH PRIVILEGE  
TO WITHDRAW MONEY AND/OR SECURITIES

All-Tech Investment Group, Inc.  
160 Summit Ave.  
Montvale, NJ 07046

Penson Financial Services, Inc.  
1700 Pacific Ave.  
Suite 1400  
Dallas, TX 75201

Gentleman/Ladies:

The undersigned hereby authorizes \_\_\_\_\_ ("POA") (whose signature appears below) as his/her agent and attorney-in-fact to buy, sell (including short sales) and trade in stocks, bonds, put and call options and any other securities and/or contracts relating to the same on margin or otherwise in accordance with the terms and conditions of either of you for the undersigned's account and risk and in the undersigned's name, or number on your respective books. The undersigned hereby agrees to indemnify and hold each of you harmless from and to pay Penson Financial Services, Inc. promptly on demand any and all losses arising therefrom or debit balance due thereon.

Each of you is authorized to follow the instructions of my POA in every respect concerning the undersigned's account with you, and make deliveries of securities and payment of moneys to him/her or as s/he may order and direct. In all matters and things aforementioned, as well as in all other things necessary or incidental to the furtherance or conduct of the account of the undersigned, the aforesaid agent and attorney-in-fact is authorized to act for the undersigned and in the undersigned's behalf in the same manner and with the same force and effect as the undersigned might or could do.

The undersigned acknowledges and agrees that \_\_\_\_\_ is his/her agent and is not an officer, director, shareholder, principal, agent, employee, independent contractor or other representative of All-Tech Investment Group, Inc. or Penson Financial Services, Inc. and that neither of you is responsible in any way for the determinations and actions of the POA. The POA has informed me that he/she will not become a registered employee of either of you without notifying me in writing. The undersigned acknowledges and agrees that neither of you have any relationships with the POA. The undersigned acknowledges and agrees that because the POA is not registered, he/she is not subject to any supervision or review by either of you and that neither of you will undertake any supervision of his/her conduct on any basis whatsoever.

\_\_\_\_\_  
(Initial)

The undersigned hereby ratifies and confirms any and all transactions with each of you heretofore or hereafter made by the aforesaid agent or for the undersigned's account.

The authorization and indemnity is in addition to (and in now way limits or restricts) any rights which either of you may have under any other agreement or agreements between the undersigned and your respective firm.

This authorization and indemnity is also a continuing one and shall remain in full force and effect until revoked by the undersigned by a written notice addressed to you and delivered to your respective office at the address set forth above, but such revocation shall not affect any liability in any way resulting from transactions initiated prior to such revocation. This authorization and indemnity shall inure to the benefit of your present firms and of any of your respective successor firms or firms irrespective of any change or changes at any time in the personnel thereof for any cause whatsoever, and of the assignees of your present respective firm or any successor firm(s).

Dated: \_\_\_\_\_

Very truly yours,

\_\_\_\_\_  
(City, State)

Account No \_\_\_\_\_

SIGNATURE OF AUTHORIZED AGENT

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**DAY TRADING**

What it takes to trade

MONTVALE, New Jersey - (CNNfn) - The trend is your friend. Trade with your head, not with your heart. Don't chase stocks...

The catch phrases are spewing out on day one of All-Tech's training class, a sort of Day Trading 101. But most of the students paying \$5,000 apiece to take the four-week course don't seem to mind.

They're here for one simple reason: They want to get rich.

All across the country, hundreds of housewives, school teachers and middle managers are quitting their jobs to take on the pros of Wall Street.

OK, so maybe it's not that romantic after all. But, for many would-be day traders, the lure seems to be the excitement - and the potential riches - associated with buying and selling thousands of shares at a moments notice.

"I was bored," Don Ptalis, a student at All-Tech's latest class admits. At 56, he's a retired executive who has bought and sold more companies than he cares to remember. After retiring, he found he was working seven days a week as a director of a company and with his wife's antiques business.

Don't let the name fool you. This is not the average trader!

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Like his fellow class members, he's had some success investing, and he figures he'll try his hand at trading. And, like many of the people taking All-Tech's course, he doesn't plan to lose.

"If I thought I was going to lose money, I wouldn't do it," he said.

Jitendra Patel, 60 and a retired civil engineer with an Asea Brown Boveri division, has set aside 10 percent of his assets to trade. He has invested for 30 years and plans on keeping that separate. "Day trading, I'm going to go by their philosophy. I'll open an account with them, and then this other [investment] account will be long term," he says.

He considers his new career risky, but he feels OK because he's not going to trade more than he can afford to lose. "We have the sense to put X amount of money aside for the gambling - playing day trading. And if you don't touch the rest of it, you're all right, you know."

Patel and Rogers disagree with Patel. Neither consider it gambling. Patel says he just won't lose any money. He knows most day traders lose money but he thinks that's because they don't follow the strategy. "I'm smarter than the average bear," he says.

Rogers has only set aside \$50,000. He says he can't afford to lose it and will stop before he gets to that point. "If I get down \$20,000 I know I'm going to have to quit, because if not my wife will kick me out of the house," he says.

#### Week One: The Basics

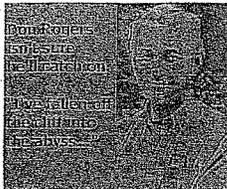
Phase One of the class, a week, covers basics, from how the markets operate to how not to day trade stock. It's part pep rally, part analytics, a lot of basics and a hefty dose of anecdotes and aphorisms.

"The trend is your friend," the instructors like to say. By the end of the week, the customers are running drills to get in and out of trades quickly.

"You're using a very dangerous tool," Director of Training Jai Ramoutar says by way of introduction. "And it's also very profitable if it's used the right way." Trading isn't easy, he points out. "How much can I make day trading? How long will my learning curve be? The length of your learning curve depends on the thickness of your skin."

The instructors rattle through the primary ways day traders lose money. Don't take home overnight positions, they drum into their customers. "That is the No. 1 reason why traders

fail," Ramoutar says. Don't chase stocks. Don't trade on your emotions. Don't make predictions. Stay disciplined. Take quick profits and cut your losses.



Don't trade Cisco, Dell, Intel, Microsoft and something.com, Ramoutar says. "These stocks have the personality of a schizophrenic drunk." But several of the examples the instructors give do mention those stocks.

Rogers sees the contradiction. "You're going to get that, I'm sure," he says at lunch, "because everybody has got their individual approach. The fact of the matter is, the vast majority of day traders are trading tech stocks. It's 'Do as I say, not as I do.'"

At the end of the first day, Rogers is still worried. "I feel like I've fallen off the cliff into the abyss," he said. Others are more confident. "I don't feel like I went into the abyss, I feel ready," says Mary Ellen. She's a financial software consultant "in her mid-30s" who didn't want her last name used because she might want to go back to software consulting.

She's looking for a change after working for the same client for three years and making good profits position trading stocks like America Online. "If I can't make \$500, \$600 dollars a day, I might as well work," she says. But she's heard women make good day traders.

Week Two: I think I can...

Phase Two, another week, covers setting up a computer screen using All-Tech's Attain system and how to place trades. For those who can't come for all four weeks of training, All-Tech also runs week-long bootcamps at \$3,000, that cram in the four weeks of training into seven days. Customers are free to come back for training if they don't feel ready.

By the end of Phase Two, Ptalis is even more convinced he can make it trading. "I read a lot about how this is gambling. If you follow their curriculum it's far from it." Why? He'll cut his

losses at 1/8 to 1/4 of a point if a trade starts going against him, he says. "Minimize your losses, maximize your gains," he said. "Gambling is buying a stock and holding it for a few days, hoping that it's going up."

Rogers is also more confident. He's not going to hold stocks overnight, he says, and he's learned that he shouldn't get in or out of a stock too late. How will he know? "You'll know based on what you see on the screen with experience, hopefully," he said. "I feel like I'm a long way from being ready to trade." He plans on contradicting some of what he's learned by trading on news about stocks, though, something the All-Tech instructors tell him not to do.

Phase Two also covers some trading techniques. But the "Strategies" part of All-Tech's training manual only covers the mechanics of making trades. The advice the customers get is more general than anything. You can be a grinder, who watches many stocks, or a specialist, who sticks to a few, Rogers says he has learned. Rogers plans the latter, perhaps watching as few as four or five stocks.

#### Week Three: Charts and Indexes

In Phase Three, All-Tech's customers learn more about charts and how to recognize when a stock is ready for buying. At this point, the trades are strictly on paper - no real money is actually changing hands - and those who need more time to master the art of trading can stay in this phase for as long as they like.

On a day when the market is heading down, Ramoutar notices Apple Computer Inc. and Genzyme Corp. are diverging with the market. If the Nasdaq 100 starts to rebound, look for the chance to get in, he advises. "There's a reason why the stock is heading higher. Why is the money going into Apple? I don't care."

### The **ATTAIN**® System The Traders Edge

The **ATTAIN**® System offers real-time level II quotes and market data with client controlled instantaneous point & click order entry. Immediate confirmations of the client's orders are displayed after execution. There is virtually no need for live broker intervention. All orders are entered by the client and sent directly to the markets via **ATTAIN**®. The client controls how, when and where the orders are entered. **ATTAIN**® allows clients to modify or update their own orders to maximize profit potential.

**ATTAIN**® was designed by successful traders... for traders who want to be successful!

### **ATTAIN**® Reliability you can trade on

All-Tech also offers Internet access to our **ATTAIN**® System for the trader or investor who simply wants to receive stock quotes and enter orders via the Internet. The clients will obtain the best execution at the best publicly available price. **ATTAIN**® also offers charting, and history of securities. **ATTAIN**® provides the client with what All-Tech believes is the most reliable service and system dependability available through the Internet.

### "Earning your business everyday"

Customer satisfaction is the ultimate goal at every level of our staff. All-Tech knows what it means, and what it takes for a client to be satisfied. It may mean the client is satisfied with the way business with All-Tech is conducted or that a client is satisfied with the value of the All-Tech trading system. One thing is certain, that a satisfied client will continue to do business with All-Tech and All-Tech will do everything possible to continue earning that business.

### Technical Support 877-9-ALLTECH

All-Tech understands that seconds count when you are trading and that a call to technical support is a call that you do not want to make. The manner in which your technical support question is handled is the difference between a positive experience and a negative one. All-Tech's highly qualified and motivated technical support team is there to assist you as quickly as possible. The team is available to troubleshoot any communication, computer or installation problem a client may encounter.

### Customer Service 888-3-ATTAIN

Our clients are the most important aspect of All-Tech's business. We have learned through them what is expected for a fulfilling trading experience and we go to great lengths to meet and exceed their expectations. Our highly trained customer service team is available to answer all questions until there is a clear understanding of the information and the client is completely satisfied.

### All-Tech provides you with more than you need to succeed!

### **ALL-TECH INVESTMENT GROUP, INC.**

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**All-Tech Investment Group, Inc.**  
**"EXCEEDING EXPECTATIONS"**

All-Tech Investment Group, Inc. is a broker-dealer specializing in direct access electronic trading, serving clients who trade their own accounts actively utilizing All-Tech's proprietary **ATTAIN** System. All-Tech's clients engage in direct access electronic trading of Nasdaq securities, New York and American Stock exchange securities and options traded on various exchanges. The **ATTAIN** System also links All-Tech clients to various electronic communications networks (ECNs), including All-Tech's own proprietary ECN **ATTAIN** "ATTN".

For the casual trader or investor All-Tech offers **ATTAIN** an Internet Accessed System, which provides a reliable and dependable way to receive stock quotes and enter orders to obtain the best execution at the best publicly available price.

All-Tech's clients include individuals trading their own account, broker/dealers, institutions, mutual funds and hedge funds. Clients can trade from one of All-Tech's many branch offices nationwide or from their own homes or offices.



**All-Tech Trading Floor**  
 Montvale, NJ



All-Tech CEO  
 Harvey Houston  
 All-Tech President  
 Hank Shultz

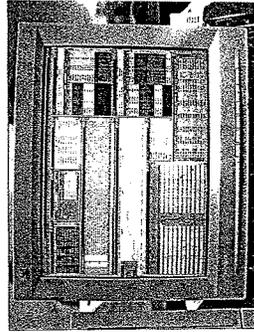
**All-Tech's History**

During the market break of October, 1987, many market makers informally withdrew from their markets by refusing to answer their telephones. Stock prices declined precipitously as customers were left with no way to obtain immediate execution of their orders. In 1988 the National Association of Securities Dealers (NASD) required mandatory market maker participation in the Small Order Execution System (SOES). SOES forced market makers to honor their quotes. In March 1989 All-Tech began using SOES to execute its clients' orders which helped create a new opportunity on Wall Street, "Electronic Day Trading". All-Tech was instrumental in removing many of the industry's other obstacles to electronic trading, including narrowing the spread between the bid and offer on Nasdaq securities. In 1996 the Department of Justice entered into an agreement with 24 leading market makers and the Securities Exchange Commission. The consent agreements prevent price fixing and collusively wide spreads on Nasdaq. In December 1997 a civil class action on behalf of investors arising from the DOJ and SEC investigation was settled by the 24 market makers in excess of one billion dollars. Today All-Tech offers its clients unprecedented access to the markets. All-Tech's vigilance in protecting the rights of the individual investor has prevailed and All-Tech had carved its name in the history of the financial markets!

All-Tech is an NASD/SIPC Member.

**The **ATTAIN** ECN**  
**"ATTN"**  
**Moving Markets**

All-Tech's proprietary **ATTAIN** ECN is an order display alternative to the traditional market making price quote system on Nasdaq. The **ATTAIN** ECN "ATTN" allows its subscribers immediate and direct posting of orders to the ATTN book. Subscribers can enter orders on ATTN either at the bid, the offer, or in-between the spread without market maker intervention. The best bid and offer, to each security on ATTN, is posted on the Nasdaq System. Clients can utilize the ATTN ECN to post a new "inside" buy or sell order at a price better than the current price on Nasdaq. The **ATTAIN** ECN was designed to deliver optimal efficiency and performance to both its subscribers and users. As a result, **ATTAIN** provides its subscribers with the highest level of exposure for the best execution at the best publicly available price. All-Tech's integrity and neutrality are irrefragable. All subscriber orders are placed anonymously.



**The **ATTAIN** ECN**  
**"Integrity through Neutrality"**



## All-Tech Training Group, Inc.

### Electronic Stock Trading Training Program

All-Tech Training Group, Inc. (ATG) was the first to offer a curriculum based training program in the art of electronic stock trading. All-Tech's staff of highly qualified instructors will teach you the techniques you will need to compete successfully in the financial markets.

All-Tech's state of the art classrooms utilizing the latest technology and the **ATTAIN**® System for training have been highlighted in many financial publications and broadcasts. Kiplinger's Magazine called the training "First Rate".

---

All-Tech offers its highly acclaimed **Four Phase** training program

in conjunction with

All-Tech Investment Group, Inc. in  
Montvale, NJ and Seattle, WA.

All-Tech Training Group "Bootcamps" are available throughout the country.

Call an advisor today for locations and class dates.

Call Toll Free 1-877-4 DAYTRADE

[www.traintotrade.com](http://www.traintotrade.com)

---

**Phase III:** After satisfactorily completing Phase I students begin advanced simulated trading which allows the student more freedom to explore the market with instructors offering advice and enforcing the techniques taught in prior phases. Weak points are isolated and corrected as the student begins to get a feel for the reality of trading by keeping trade results of simulated profits and losses. Results are evaluated through individual and group discussions. Students may remain in this phase for two weeks; honing their skills and preparing for live trading where the profits are real...a "Psychology" with ATG's staff psychologist is offered during this phase to explore and help the novice trader realize the levels of emotion trader experience, and how it can affect the decision making process. Daily stress management is also discussed.

**Phase IV:** This Phase consists of supervised live trading for the student who has met the criteria and has opened an account with All-Tech Training Group's affiliate, All-Tech Investment Group, Inc. This phase is individually customized to meet the needs of the novice trader. Entering and exiting trades, cutting losses, riding profits, and recognizing true trading opportunities are re-emphasized and refined. This Phase has proven to be the most effective way to ease the novice trader into the "real world" of trading. Experienced traders have also gone "back to school" in Phase IV to learn new trading strategies and refine their current trading techniques.

All-Tech Training Group, Inc. offers its client simulated trading from your home or office or any All-Tech Investment Group branch office nationwide. It is recommended that traders begin live trading in Phase IV.

**Phase I:** Week one of classroom instruction introduces the student to the basics. ATG instructors have learned through experience that the best way to teach students to trade is with a comprehensive yet self-paced hands on approach to trading. Students are taught how to set up, customize, and use the many features of the **ATTAIN**® System.

**Phase II:** Students are introduced to the real world of trading by learning through simulated trading ("paper trading") how to ride profits and take losses. Trading strategies, recognizing momentum and understanding the day's market trends including wiggles, jiggles, and head-lakes are explained in detail while students observe and comment on the day's live real-time market quotes and data. Trading strategies and short selling are taught in this phase through drills and exercises designed to create an actual live trading environment. Students practice the mechanics of trading by entering and canceling simulated orders through SOES, SelectNet, and ECN's. Students are evaluated and informed of strengths and weaknesses daily. A final evaluation is given at the completion of Phase II and any additional instruction needed by a student is scheduled at that time.

## “First Rate” ...

*Kiplingers Magazine*

**Our students say...**

...“in one word...excellent”...

...“greatest advantage to the trader”...

...“they take a personal interest in the success of every trader”...

With every trade you learn something new. How much do you think your “Trial and Error” education will be costing you?

All-Tech has the experience and knowledge to help turn your learning trades into earning trades. All-Tech's staff of professional instructors have helped both novice and experienced traders become profitable traders. Call All-Tech for information and class dates because in today's fast paced and competitive market what you don't know will hurt you.

A great trader once said, “When it comes to trading, knowledge is never expensive... a lack of knowledge is.”

All-Tech's highly acclaimed training programs have been high-lighted in many financial publications and broadcasts.

**You've read about All-Tech in...**

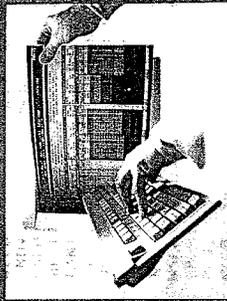
**The Wall Street Journal  
Forbes**

**INC. Magazine  
Kiplinger's Magazine  
Investors Business Daily  
The New York Times  
Businessweek  
Fortune**

**All-Tech has  
appeared on...**

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BBC (England)  
RTL (Germany)  
NTV (Japan)**

  
Headquarters:  
**ALL-TECH TRAINING GROUP, INC.**  
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**SINGER FRUMENTO LLP**  
United States Senate  
Permanent Subcommittee on Investigations  
January 20, 2000  
Page 2

*Request (c): Standard commission charge per trade, or if your firm has no standard charge, an estimate of the average commission charge per trade.*

Response: The standard commission charge is \$25.00, with discounts available for high volume traders on a case-by-case basis.

*Request (d): An estimate of the average number of trades per customer per day.*

Response: All-Tech is unable to estimate the average number of trades per customer per day.

*Request (e): When your firm first began to offer day trading services to its customers.*

Response: All-Tech first began to offer day trading services to its customers in early 1988.

*Request (f): With respect to the total number of day trading customers or accounts that your firm identified in response to Question No. 1 of the Subcommittee's previous information request, dated October 24, 1999, please identify (i) how many of those accounts remained open for six months after day trading in those accounts commenced; and (ii) how many of those customers (or accounts) were active day traders after six months of day trading activity.*

Response: All-Tech is unable to calculate how many of its day trading customers or accounts were active day traders after six months of day trading activity. It has been the practice of All-Tech's clearing firms that these accounts remain open even if there has been no activity in them. All-Tech is unable to calculate how many accounts were proactively closed by the customer.

\* \* \*

If you have any questions or comments, please do not hesitate to contact myself or Bill Singer, Esq. of this firm.

Very truly yours,



Stephanie Rosenblatt, Esq.

Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 28

08/19/99

ALL TECH INVESTMENT GROUP  
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ASST. CH. CEO ASSISTANT TO PRESIDENT/HUMAN RESOURCES  
JESSICA HANCOCK JEFF HERNIMAN

CHIEF COMPLIANCE OFFICER  
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JOHN SHAMOONI  
CORNELIUS PARREL  
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MARIO DUCCI  
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MARIO DUCCI  
CURTS BALLY  
MATT MITRUS

SECRETARIES  
DEBRA WILSON  
DEBBIE FONTES

**Disclosure Occurrence Composite**

Senate Permanent Subcommittee  
On Investigations

Individual CRD#: 251066 Individual Name: HOUTKIN, HARVEY I EXHIBIT # 29

Occurrence:	FCPI
Disclosure:	Regulatory Action
Public:	Yes
Disclosable:	
Reportable:	Reportable Reason Initial Value
Filing:	Event Date Questions Answered
Latest Filing:	FCI CONVERSION REGULATORY ACTION 07/25/1990 DOMESTIC SECURITIES, INC. (6471) FCI CONVERSION REGULATORY ACTION 07/25/1990 NJ
Last Review:	
Comments:	FCI CONVERSION REGULATORY ACTION DOMESTIC SECURITIES, INC. (6471) REGULATORY ACTION DRP

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response

Check item(s) you are responding to:  
 Regulatory Action

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

- Regulatory Action initiated by:  
 SEC  Other Federal  State  SRO  Foreign  
(Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange)  
STATE OF NEW JERSEY SECURITIES BUREAU
- Principal Sanction:  
Other Sanctions:
- Date Initiated (MM/DD/YYYY):  
06/25/1990  Exact  Explanation  
If not exact, provide explanation:
- Docket/Case Number:  
BOS 3957-89
- Employing Firm when activity occurred which led to the regulatory action:  
DOMESTIC SECURITIES, INC.

6. Principal Product Type:  
Other Product Types:

---

7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.):  
ALLEGED UNDISCLOSED PRINCIPAL AND UNREGISTERED REPRESENTATIVE ALLEGED FAILURE TO SUPERVISE.

---

8. Current status ?  Pending  On Appeal  Final

---

9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:

---

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.

10. How was matter resolved:  
Consent

11. Resolution Date (MM/DD/YYYY):  
06/25/1990  Exact  Explanation  
If not exact, provide explanation:

---

12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

<input type="checkbox"/> Monetary/Fine Amount:\$	<input type="checkbox"/> Disgorgement/Restitution
<input type="checkbox"/> Revocation/Expulsion/Denial	<input type="checkbox"/> Cease and Desist/Injunction
<input type="checkbox"/> Censure	<input type="checkbox"/> Suspension
<input type="checkbox"/> Bar	

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:  
AGREES NOT TO APPLY FOR REGISTRATION IN THE STATE OF NEW JERSEY FOR A PERIOD OF THREE YEARS. MR HOUTKIN REGISTERED IN NEW JERSEY IN 1993. DOMESTIC REGISTERED IN 1994

---

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)  
CONSENT ORDERS BY NJ BUREAU OF SECURITIES, HAVING NEGOTIATED AN AMICABLE RESOLUTION WITHOUT ADMITTING OR DENYING ANY ALLEGATIONS. HOUTKIN AND DOMESTIC SECURITIES INC AGREED NOT TO REAPPLY TO THE STATE OF NEW JERSEY FOR REGISTRATION FOR THREE YEARS FROM 6/26/90 AND HOUTKIN'S FIRM PAID \$50,000 TO REIMBURSE THE STATE FOR THE COSTS AND EXPENSES OF THE INVESTIGATION. MR HOUTKIN REGISTERED IN NEW JERSEY IN 1993, DOMESTIC SECURITIES WAS REGISTERED IN 1994.

---

REG-CONVERSION:  
07/07/1999  
83

REGULATORY ACTION DRE

---

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response

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Check item(s) you are responding to:

Regulatory Action	
One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.	
1. Regulatory Action initiated by:	<input type="radio"/> SEC <input type="radio"/> Other Federal <input checked="" type="radio"/> State <input type="radio"/> SRO <input type="radio"/> Foreign (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange) NJ BUREAU OF SECURITIES
2. Principal Sanction:	
	Other Sanctions:
3. Date Initiated (MM/DD/YYYY):	06/25/1990 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
4. Docket/Case Number:	BOS 3957-89
5. Employing Firm when activity occurred which led to the regulatory action:	DOMESTIC SECURITIES, INC.
6. Principal Product Type:	
	Other Product Types:
7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided):	SETTLEMENT. ORDER OF DENIAL WITHDRAWN AND VACATED. CONSENT ORDER FOR COSTS AND THREE YEAR STIPULATION NOT TO APPLY FOR ANY REGISTRATION IN NJ.
8. Current status ? <input type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final	
9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:	
If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.	
10. How was matter resolved:	Consent
11. Resolution Date (MM/DD/YYYY):	06/25/1990 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:

## 12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

- |  |  |
|--|--|
| <input type="checkbox"/> Monetary/Fine Amount:\$     | <input type="checkbox"/> Disgorgement/Restitution    |
| <input type="checkbox"/> Revocation/Expulsion/Denial | <input type="checkbox"/> Cease and Desist/Injunction |
| <input type="checkbox"/> Censure                     | <input type="checkbox"/> Suspension                  |
| <input type="checkbox"/> Bar                         |  |

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived.  
 NOT REGISTERED--MAY NOT APPLY FOR 3 YEARS.

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)  
 ORDER OF DENIAL OF APPLICATION FOR BROKER-DEALER REGISTRATION, AND NAMING HARVEY HOUTKIN INDIVIDUALLY ENTERED. HEARING REQUESTED AND DECISION OF ADMINISTRATIVE LAW JUDGE RENDERED. CANNOT APPLY FOR REGISTRATION IN NJ FOR 3 YEARS FROM DATE OF ORDER.

Disclosure Occurrence Composite

Individual CRD#: 251066		Individual Name: HOUTKIN, HARVEY I	
Occurrence:	76436		
Disclosure:	Regulatory Action		
Publicly Disclosable:	Yes		
Reportable:	Reportable	Reason	
	Y	Initial Value	
Latest Filings:	Filing	Event Date	Questions Answered
	UG-CONVERSION		
	Regulatory Action	01/11/1985	
	07/06/1999		
Latest Filings:	DOMESTIC SECURITIES, INC (34721)		
	UG-CONVERSION		
	Regulatory Action	01/11/1985	
	07/07/1999		
SASD			
Last Review:			
Comments:			
UG-CONVERSION			
07/06/1999			
DOMESTIC SECURITIES, INC (34721)			
REGULATORY ACTION DRP			

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response

Check item(s) you are responding to:

Regulatory Action

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

1. Regulatory Action initiated by:  
 SEC  Other Federal  State  SRO  Foreign  
 (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange)  
 DBCC DISTRICT 12
2. Principal Sanction:  
 Other Sanctions:
3. Date Initiated (MM/DD/YYYY):  
 01/11/1985  Exact  Explanation  
 If not exact, provide explanation:
4. Docket/Case Number:  
 NY-3013
5. Employing Firm when activity occurred which led to the regulatory action:  
 DOMESTIC ARBITRAGE GROUP (DAG)

6. Principal Product Type:  
Other Product Types:

7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided):  
VIOLATION OF ARTICLE III, SECTION 1 OF RULES OF FAIR PRACTICE.

8. Current status ?  Pending  On Appeal  Final

9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.

10. How was matter resolved:  
Decision

11. Resolution Date (MM/DD/YYYY):  
09/07/1985  Exact  Explanation  
If not exact, provide explanation:

12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

<input checked="" type="checkbox"/> Monetary/Fine Amount: \$2000.00	<input type="checkbox"/> Disgorgement/Restitution
<input type="checkbox"/> Revocation/Expulsion/Denial	<input type="checkbox"/> Cease and Desist/Injunction
<input checked="" type="checkbox"/> Censure	<input type="checkbox"/> Suspension
<input type="checkbox"/> Bar	

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:  
FOUND GUILTY, FINED JOINTLY AND SEVERALLY \$2,000.00, ASSESSED COSTS OF \$400.00.

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)

REGISTRATION  
09/07/1985  
NASD  
REGULATORY ACTION DRP

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response

Check item(s) you are responding to:

Requires Action

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

1. Regulatory Action initiated by: <input type="radio"/> SEC <input type="radio"/> Other Federal <input type="radio"/> State <input checked="" type="radio"/> SRO <input type="radio"/> Foreign (Full name of regulator, <i>foreign financial regulatory authority</i> , Federal, State, SRO or commodities exchange) NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
2. Principal Sanction:  Other Sanctions:
3. Date Initiated (MM/DD/YYYY): 01/11/1985 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
4. Docket/Case Number: NY-3013
5. Employing Firm when activity occurred which led to the regulatory action: DOMESTIC ARBITRAGE GROUP (DAG)
6. Principal Product Type:  Other Product Types:
7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided):
8. Current status ? <input type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final
9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:
If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.
10. How was matter resolved: Decision
11. Resolution Date (MM/DD/YYYY): 09/07/1985 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:

12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

<input checked="" type="checkbox"/> Monetary/Fine Amount: \$2000.00	<input type="checkbox"/> Disgorgement/Restitution
<input type="checkbox"/> Revocation/Expulsion/Denial	<input type="checkbox"/> Cease and Desist/Injunction
<input checked="" type="checkbox"/> Censure	<input type="checkbox"/> Suspension
<input type="checkbox"/> Bar	

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:

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13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)

COMP #NY-3013, FILED 1/11/85, DIST. #12, ALLEGING VIOLATIONS OF ARTICLE III, SECTION 1 OF THE RULES OF FAIR PRACTICE IN THAT RESPONDENT MEMBER, AS A SOES ORDER ENTRY FIRM, ACTING THROUGH HARVEY I. HOUTKIN, EFFECTED TRANSACTIONS WITH OTHER MEMBERS OF THE ASSOCIATION FOR ITS PROPRIETARY ACCOUNT THROUGH SOES, WHICH TRANSACTIONS WERE IN CONTRAVENTION OF THE PROVISIONS OF THE AGREEMENT BETWEEN THE MEMBER, THE ASSOCIATION AND NASD MARKET SERVICES, INC. \*\*\*\*\* DECISION RENDERED JULY 25, 1985, WHEREIN RESPONDENTS DOMESTIC ARBITRAGE GROUP AND HARVEY I. HOUTKIN ARE CENSURED, FINED \$2,000 AND ASSESSED COSTS OF \$400, JOINTLY AND SEVERALLY. IF NO FURTHER ACTION, DECISION IS FINAL SEPTEMBER 7, 1985. \*\*\*\*\* DECISION FINAL 9/7/85. \*\*\*\*\* 2/13/85, FC #9140, PAID IN FULL.

Disclosure Occurrence Composite

Individual CRD#: 251066		Individual Name: HOUTKIN, HARVEY I	
Occurrence:	E10324		
Disclosure:	Regulatory Action		
Publicly Disclosable:	Yes		
Reportable:	Reportable	Reason	Initial Value
	Y		
	Filing	Event Date	Questions Answered
	U4-CONVERSION		
	Regulatory Action	12/10/1998	
	07/06/1999		
Latest Filings:	DOMESTIC SECURITIES, INC. (34721)		
	U6-CONVERSION		
	Regulatory Action	12/10/1998	
	07/07/1999		
	MA		
Last Review:			
Comments:	SFR NOTE 29(0) WAS ANSWERED ON THE DRP		
	U4-CONVERSION		
	07/06/1999		
	DOMESTIC SECURITIES, INC. (34721)		
	REGULATORY ACTION DRP		
This Disclosure Reporting Page is an <input checked="" type="radio"/> INITIAL OR <input type="radio"/> AMENDED response			
Check item(s) you are responding to:			
Regulatory Action			
One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.			
1. Regulatory Action initiated by:			
<input type="radio"/> SEC <input type="radio"/> Other Federal <input checked="" type="radio"/> State <input type="radio"/> SRO <input type="radio"/> Foreign			
(Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange)			
MASSACHUSETTS SECURITIES DIVISION			
2. Principal Sanction:			
Other Sanctions:			
3. Date Initiated (MM/DD/YYYY):			
12/10/1998 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation			
If not exact, provide explanation:			
4. Docket/Case Number:			
R-98-77			
5. Employing Firm when activity occurred which led to the regulatory action:			
ALL-TECH INVESTMENT GROUP, INC.			

6. Principal Product Type:  
Other Product Types:

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7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.):  
"MISLEADING ADVERTISEMENT", FAILURE TO SUPERVISE.

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8. Current status ?  Pending  On Appeal  Final

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9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:

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If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.

10. How was matter resolved:  
Stipulation and Consent

11. Resolution Date (MM/DD/YYYY):  
05/19/1999  Exact  Explanation  
If not exact, provide explanation:

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12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

<input type="checkbox"/> Monetary/Fine Amount:\$	<input type="checkbox"/> Disgorgement/Restitution
<input type="checkbox"/> Revocation/Expulsion/Denial	<input type="checkbox"/> Cease and Desist/Injunction
<input type="checkbox"/> Censure	<input type="checkbox"/> Suspension
<input type="checkbox"/> Bar	

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:  
N/A

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13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)

IS CONVERSION  
07/1999  
REGULATORY ACTION DRP

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response

Check item(s) you are responding to:  
REGULATORY ACTION

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

1. Regulatory Action initiated by: <input type="radio"/> SEC <input checked="" type="radio"/> Other Federal <input checked="" type="radio"/> State <input type="radio"/> SRO <input type="radio"/> Foreign (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange) MASSACHUSETTS SECURITIES DIVISION
2. Principal Sanction:  Other Sanctions:
3. Date Initiated (MM/DD/YYYY): 12/10/1998 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
4. Docket/Case Number: R-98-77
5. Employing Firm when activity occurred which led to the regulatory action: ALL-TECH INVESTMENT GROUP, INC.
6. Principal Product Type:  Other Product Types:
7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.) On December 10, 1998, the Massachusetts Securities Division (the "Division") filed an Administrative Complaint against All-Tech Investment Group, Inc. ("All-Tech"); its president, Mark D. Shefts ("Shefts"); its chief compliance officer, Harvey I. Houtkin ("Houtkin"); the branch manager of its Watertown office, Fred A. Zayas; and two unregistered individuals, Isaac Belbel ("Belbel") and John L. Powell ("Powell") (collectively, the "Respondents"). The Division alleged that All-Tech, through its principals and agents, used deceptive marketing to promote its daytrading business to retail investors; that All-Tech, through Zayas, engaged in numerous violations of Massachusetts securities laws, that Zayas exercised discretion in day trading customers' accounts without written authorization; commingled funds of customers and failed to comply with customers' instructions; forged customers' signatures to authorization forms, and used these forms to have funds transferred among customers' accounts, without their authorization or knowledge; made misrepresentations to the Division during an examination on November 13, 1998; cooperated in the creation of fraudulent accounts; and encouraged and cooperated the unlawful activities of unregistered investment advisers, including preying upon customers of All-Tech. The Division also alleged that Belbel and Powell acted as unregistered investment advisers, opened fraudulent accounts at All-Tech, and defrauded customers of All-Tech. The Division also alleged that All-Tech failed to send confirmations to customers, and failed to supervise the Watertown office. This complaint was brought seeking an order to revoke the registration of All-Tech as a broker-dealer in Massachusetts and to order All-Tech to cease and desist from further violations of the Act; to retroactively revoke the registrations of Shefts, Houtkin and Zayas, and to order them to cease and desist from further violations of the Act, to
8. Current status ? <input type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final
9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:
If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.
10. How was matter resolved: Stipulation and Consent
11. Resolution Date (MM/DD/YYYY): 05/19/1999 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:

12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

- Monetary/Fine Amount: \$
- Revocation/Expulsion/Denial
- Censure
- Bar
- Disgorgement/Restitution
- Cease and Desist/Injunction
- Suspension

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:  
 IN ORDER TO RESOLVE THE PROCEEDING, RESPONDENTS ALL-TECH, SHEFTS, HOUTKIN, AND LEFKOWITZ CONSENTED TO THE ENTRY OF A STIPULATED ORDER AND AGREED THAT: 1) ALL-TECH WILL NOT OPEN OR OPERATE A BRANCH OFFICE IN MASSACHUSETTS FOR A PERIOD OF TWO (2) YEARS FROM THE DATE OF THE ORDER; 2) ALL-TECH WILL NOT OPEN ANY NEW ACCOUNTS FOR MASSACHUSETTS CUSTOMERS FOR A PERIOD OF TWO (2) YEARS; 3) ALL-TECH WILL SEND A COPY OF THE ORDER AND ORDER TO THE OWNERS OF ALL CURRENT MASSACHUSETTS ACCOUNTS; 4) ALL-TECH WILL NOT ALLOW IMPERMISSIBLE JOURNALING AND/OR LENDING OF FUNDS TO, FROM, BETWEEN, OR AMONG THE ACCOUNTS OF MASSACHUSETTS CUSTOMERS BEYOND THAT PERMITTED UNDER REGULATION T AND REGULATION U; 5) ALL-TECH WILL NOT ENCOURAGE OR ALLOW ANY MASSACHUSETTS CUSTOMERS TO EFFECT TRANSACTIONS FOR ANY THIRD PARTIES, NOR WILL ALL-TECH PERMIT A THIRD PARTY TO HAVE TRADING AUTHORIZATION FOR ANY MASSACHUSETTS CUSTOMER FOR A PERIOD OF LESS THAN TWO (2) YEARS FROM THE DATE OF THIS ORDER; 6) ALL-TECH WILL HIRE, WITHIN THREE (3) MONTHS OF THE ORDER, A COMPLIANCE OFFICER WHO MEETS THE CRITERIA SPECIFIED IN THE ORDER; 7) ALL-TECH WILL RETAIN AN INDEPENDENT CONSULTANT WHO SHALL SUBMIT REPORTS TO THE DIVISION ON 11/15/99, 5/15/00, 11/15/00, AND 5/15/01; ALL-TECH SHALL MAKE PAYMENTS TO THE CUSTOMERS IN ACCORDANCE WITH EXHIBIT B OF THE ORDER; 9) ALL-TECH PAID \$50,000 TO THE MASSACHUSETTS INVESTORS PROTECTION FUND; 10) LEFKOWITZ WILL WITHDRAW FROM MASSACHUSETTS AS AN AGENT, AND WILL NOT REAPPLY FOR REGISTRATION IN ANY CAPACITY FOR TWO (2) YEARS FROM THE DATE OF ORDER. THE PRESIDING OFFICER FOUND THAT LEFKOWITZ FAILED REASONABLY TO SUPERVISE THE OPERATION OF THE WATERTOWN OFFICE AND LEFKOWITZ WAS ORDERED TO CEASE AND DESIST FROM FURTHER VIOLATIONS OF THE ACT. IN ORDER TO RESOLVE THE PROCEEDING, RESPONDENTS BELBEL, POWELL, AND ZAYAS, CONSENTED TO THE ENTRY OF A STIPULATED ORDER AND AGREED THAT THEY WILL NOT APPLY FOR REGISTRATION WITH THE DIVISION IN ANY CAPACITY \*See FAQ #1\*

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)

CONTACT: JOE SHEEHAN / (617) 727-3548 \*\*\*\*\* SRR NOTE:  
 5/27/99/W UPON PHONE INQUIRY MADE TO JOE SHEEHAN OF THE MASSACHUSETTS SECURITIES DIVISION, REGARDING WHETHER OR NOT SHEFTS AND HOUTKIN WERE SANCTIONED WITH THIS DISC. ACTION, JOE SHEEHAN STATED THAT SHEFTS AND HOUTKIN BOTH SIGNED THIS STIPULATION ORDER IN THEIR CAPACITY AS OFFICERS OF ALL-TECH, ALTHOUGH SHEFTS AND HOUTKIN WERE NOT INDIVIDUALLY SANCTIONED. \*\*\*\*\*

Disclosure Occurrence Composite

Individual CRD#: 251066		Individual Name: ROUTKIN, HARVEY I	
Occurrence:	144430		
Disclosure:	Regulatory Action		
Publicly Disclosable:	Yes		
Reportable:	Reportable	Reason	
	Yes	Initial Value	
Latest Filings:	Filing	Event Date	Questions Answered
	U4-CONVERSION		
	Regulatory Action	07/31/1989	
	DOMESTIC SECURITIES, INC. (3472)		
Last Review:	U6-CONVERSION		
	Regulatory Action	07/31/1989	
	DOMESTIC SECURITIES, INC. (3472)		
	NASD		
Comments:	U4-CONVERSION 07/31/1989 DOMESTIC SECURITIES, INC. (3472)  REGULATORY ACTION DRP		
This Disclosure Reporting Page is an <input checked="" type="radio"/> INITIAL OR <input type="radio"/> AMENDED response			
Check item(s) you are responding to:			
Regulatory Action			
One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.			
1. Regulatory Action initiated by:			
<input type="radio"/> SEC <input type="radio"/> Other Federal <input type="radio"/> State <input checked="" type="radio"/> SRO <input type="radio"/> Foreign (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange) NASD			
2. Principal Sanction:			
Other Sanctions:			
3. Date Initiated (MM/DD/YYYY):			
07/31/1989 <input type="radio"/> Exact <input type="radio"/> Explanation			
If not exact, provide explanation:			
4. Docket/Case Number:			
PHL-847			
5. Employing Firm when activity occurred which led to the regulatory action:			
DOMESTIC ARBITRAGE GROUP, INC.			

6. Principal Product Type:  
Other Product Types:

7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.):  
VIOLATION OF ARTICLE III SECTION 1, 2(A), 4 OF THE RULES OF FAIR PRACTICE.

8. Current status ?  Pending  On Appeal  Final

9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.

10. How was matter resolved:  
Decision

11. Resolution Date (MM/DD/YYYY):  
05/09/1991  Exact  Explanation  
If not exact, provide explanation:

12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

<input checked="" type="checkbox"/> Monetary/Fine Amount: \$1000.00	<input type="checkbox"/> Disgorgement/Restitution
<input type="checkbox"/> Revocation/Expulsion/Denial	<input type="checkbox"/> Cease and Desist/Injunction
<input checked="" type="checkbox"/> Censure	<input type="checkbox"/> Suspension
<input type="checkbox"/> Bar	

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:  
FINED 10,000, REQUALIFY FOR SERIES 24 AND 27, AND PAY REPARATIONS TO CLIENTS OF DOMESTIC ARBITRAGE GROUP INC. IN THE AMOUNT OF \$10,975.

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)  
CASE WAS APPEALED. HOUTKIN WAS FINED \$1000 FOR VIOLATING ARTICLE III SECTION 1 OF THE RULES.

REGISTRATION  
FINRA  
MSB  
REGULATORY ACTION DRP

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response

Check item(s) you are responding to:  
 Regulatory Action

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related

the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

<p>1. Regulatory Action initiated by:  <input type="radio"/> SEC <input type="radio"/> Other Federal <input type="radio"/> State <input checked="" type="radio"/> SRO <input type="radio"/> Foreign                  (Full name of regulator, <i>foreign financial regulatory authority</i>, Federal, State, SRO or commodities exchange)                  NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.</p>
<p>2. Principal Sanction:                   Other Sanctions:</p>
<p>3. Date Initiated (MM/DD/YYYY):                  07/31/1989 <input type="radio"/> Exact <input type="radio"/> Explanation                  If not exact, provide explanation:</p>
<p>4. Docket/Case Number:                  PHL-347</p>
<p>5. Employing Firm when activity occurred which led to the regulatory action:                  DOMESTIC ARBITRAGE GROUP, INC.</p>
<p>6. Principal Product Type:                   Other Product Types:</p>
<p>7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided):</p>
<p>8. Current status ? <input type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final</p>
<p>9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:</p>
<p>If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.</p> <p>10. How was matter resolved:                  Decision</p> <p>11. Resolution Date (MM/DD/YYYY):                  05/09/1991 <input type="radio"/> Exact <input type="radio"/> Explanation                  If not exact, provide explanation:</p>

## 12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

- Monetary/Fine Amount: \$1000.00  
 Revocation/Expansion/Denial  
 Censure  
 Bar  
 Disgorgement/Restitution  
 Cease and Desist/Injunction  
 Suspension

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:

## 13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)

[TOP] COMPLAINT NUMBER PHL 847 (DISTRICT NO. 11) FILED 7/31/89 AGAINST HARVEY L HOUTKIN, ET AL. ALLEGING VIOLATIONS OF ART. III, SECT. 1, 4, 21(a), 27(a) & 33 OF THE RULES OF FAIR PRACTICE. HOUTKIN FAILED TO: 1) ACCURATELY PREPARE RECORDS; 2) PREPARE AN ACCURATE FOCUS I REPORT; 3) COMPLY WITH EXEMPTION FROM SEC RULE 15c3-3; 4) MAKE DISCLOSURES ON CONFIRMATIONS; 5) ADOPT WRITTEN SUPERVISORY PROCEDURES IN BRANCH OFFICES; 6) PROMPTLY DEPOSIT LTD. PARTNERSHIP OFFERING FUNDS TO ESCROW ACCOUNT; 7) EFFECTED SECURITIES CUSTOMERS TRANSACTIONS AT UNFAIR PRICES. FAILED TO: 8) MAINTAIN INFO. OF OPTION ACCOUNTS; 9) ACCEPT IN WRITING, BY A REGISTERED OPTIONS PRINCIPAL, DISCRETIONARY ACCOUNTS; 10) PROVIDE FOR APPROVAL/INITIALING BY A REGISTERED OPTIONS PRINCIPAL OF DISCRETIONARY OPTIONS TRANSACTIONS; AND, 11) DEVELOP A WRITTEN SUPERVISORY PROGRAM OF OPTIONS ACCOUNTS AND TRANSACTIONS. DECISION 8/29/90, HOUTKIN, ET AL. ARE CENSURED, FINED \$10,000 JOINTLY AND SEVERALLY (J+S), AND REQUIRED J+S TO PAY \$10,975 TO CUSTOMERS HE MUST REQUALIFY AS GENERAL SECURITIES OR FINANCIAL AND OPERATIONS PRINCIPAL; AND ARE ASSESSED COSTS OF \$1,002, J+S. THE COMMITTEE DISMISSED A PORTION OF COMPLAINTS: FAILURE TO PREPARE A CHECK RECORD AS FIRM DID NOT RECEIVE CHECKS TO RECORD; FAILURE TO DISCLOSE, AS THE FIRM COMPILED AND PROVIDED INFO FOR CONFIRMATIONS SUPERVISORY PROCEDURES, DIRECT PARTICIPATION PROGRAMS AS IT WAS UNABLE TO CONCLUDE THAT FIRM HAD TO DEPOSIT/FORWARD INVESTOR FUNDS IN ESCROW ACCOUNT; AND VARIOUS OPTIONS VIOLATIONS. 9/5/90 - HOUTKIN APPEALED TO THE BOARD OF GOVERNORS (BOG). DECISION RENDERED 4/9/91, C9A896004 (PHL 847) FINDINGS AND SANCTIONS MODIFIED; SO HOUTKIN, ET AL. ARE CENSURED, FINED \$1,000, J+S, PLUS DECC COSTS OF \$1,002, J+S; HOUTKIN IS RELIEVED FROM OBLIGATION TO REQUALIFY BOG REVERSED DECC'S FINDINGS WITH REGARD TO THE 7TH CAUSE. 5/9/91 - DECISION IS FINAL. \*\*\*\$2,002.00 J&S PAID ON 4/30/91 INVOICE #91-9A-486\*\*\*

Legacy Disclosure Occurrence Details

Individual CRD#: 251066		Individual Name: HOUTKIN, HARVEY I	
Occurrence Details - #11			
Incident Type	Filing	Updated By	Details
	MA 05/19/1999	MA	<p>11-6 ELECTRONICALLY ENTERED BY MA/TRANS #400009-14499</p> <p>1. Action Code: SSO</p> <p>2. Action Date: 5/19/1999</p> <p>3. Provision: Not Provided</p> <p>4. Previously Reported: Yes</p> <p>8a. Occurrence Number: 7</p> <p>5. Initiated by: Massachusetts Securities Division</p> <p>6a. Docket/Case#: R-98-77</p> <p>6b. Court Name/Location: Not Provided</p> <p>7. Allegations: See Allegations</p> <p>8. Results: In order to resolve the proceeding, Respondents All-Tech, Shefts, Houtkin, and Leikowitz consented to the entry of a Stipulated Order and agreed that: 1) All-Tech will not open or operate a branch office in Massachusetts for a period of two (2) years from the date of the Order; 2) All-Tech will not open any new accounts for Massachusetts customers for a period of two (2) years; 3) All-Tech will send a copy of the Offer and Order to the owners of all current Massachusetts accounts; 4) All-Tech will not allow impermissible journaling and/or lending of funds to, from, between, or among the accounts of Massachusetts customers beyond that permitted under Regulation T and Regulation U; 5) All-Tech will not encourage or allow any Massachusetts customers to effect transactions for any third parties, nor will All-Tech permit a third party to have trading authorization for any Massachusetts customer for a period of less than two (2) years from the date of this Order; 6) All-Tech will hire, within three (3) months of the Order, a compliance officer who meets the criteria specified in the Order; 7) All-Tech will retain an independent consultant who shall submit reports to the Division on 11/15/99, 5/15/00, 11/15/00, and 5/15/01. All-Tech shall make payments to the customers in accordance with Exhibit B of the Order; 9) All-Tech paid \$50,000 to the Massachusetts Investors Protection Fund; 10) Leikowitz will withdraw from Massachusetts as an agent, and will not reapply for registration in any capacity for two (2) years from the date of the Order. The Presiding Officer found that Leikowitz failed reasonably to supervise the operation of the Watertown Office and Leikowitz was ordered to cease and desist from further violations of the Act. In order to resolve the proceeding, Respondents Belbel, Powell, and Zayas consented to the entry of a Stipulated Order and agreed that they will not apply for registration with the Division in any capacity until after January 1, 2002.</p> <p>9. Subject Wanted for Prosecution: No</p> <p>10. Summary: CONTACT: JOE SHEPHAN (617) 727-5548</p>

			U-G ELECTRONICALLY ENTERED BY MA - TRANS #400006-34898
			1. Action Codes: AAI
			2. Action Date: 12/10/1998
			3. Proviso: Not Provided
			4. Previously Reported: No
			4a. Occurrence Number: Not Provided
			5. Initiated by: MA
			6a. Docket/Case#: R-98-77
			6b. Court Name/Location: Not Provided
			7. Allegations: On December 10, 1998, the Massachusetts Securities Division (the "Division") filed an Administrative Complaint against All-Tech Investment Group, Inc. ("All-Tech"), its president, Mark D. Sherts ("Sherts"), its chief compliance officer, Harvey J. Houkin ("Houkin"), the branch manager of its Watertown office, Fred A. Zayas, and two unregistered individuals, Isaac Belbel ("Belbel") and John L. Powell ("Powell") (collectively, the "Respondents"). The Division alleged that All-Tech, through its principals and agents, used deceptive marketing to promote its day trading business to retail investors, that All-Tech, through Zayas, engaged in numerous violations of Massachusetts securities laws, that Zayas exercised discretion in day trading customers' accounts without written authorization, commingled funds of customers and failed to comply with customers' instructions, forged customers' signatures to authorization forms, and used these forms to have funds transferred among customers' accounts, without their authorization or knowledge, made misrepresentations to the Division during an examination on November 13, 1998, cooperated in the creation of fraudulent accounts, and encouraged and cooperated the unlawful activities of unregistered investment advisers, including preying upon customers of All-Tech. The Division also alleged that Belbel and Powell acted as unregistered investment advisers, opened fraudulent accounts at All-Tech, and defrauded customers of All-Tech. The Division also alleged that All-Tech failed to send confirmations to customers and failed to supervise the Watertown office. This complaint was brought seeking an order to revoke the registration of All-Tech as a broker-dealer in Massachusetts and to order All-Tech to cease and desist from further violations of the Act, to retroactively revoke the registrations of Sherts, Houkin and Zayas, and to order them to cease and desist from further violations of the Act, to order Belbel and Powell to cease and desist from transacting business in Massachusetts as investment advisers or as investment adviser representatives, and to cease and desist from further violations of the Act, to order an accounting of Respondents' expense of all activity respecting all accounts ever maintained through the Watertown office of All-Tech and all accounts over which Zayas, Belbel, and Powell exercised control or discretion, to order restitution by All-Tech, Sherts, Houkin, and Zayas of all losses caused by the misconduct of Zayas, to order restitution by Belbel and Powell of all losses in all brokerage accounts over which Belbel and
MA		MA	
05/19/1999			

Rowell exercised discretion and to order the imposition of administrative fines on each of the Respondents.

8. Results: Not Provided.

9. Subject Wanted for Prosecution: No.

10. Summary: CONTACT: JOE SHEEHAN (617) 727-3343

LTR: 05/27/99; TRK: 8/02/99; IO: SDR (1992); CODES: A.O.P.T.

1. Action Codes: SSO

2. Action Date: 5/19/1999

3. Proviso: Not Provided

4. Previously Reported: Yes

4a. Occurrence Number:

5. Initiated by: MASSACHUSETTS SECURITIES DIVISION

6a. Docket Cases: R-98-77

6b. Court Name/Location: Not Provided

7. Allegations: On December 10, 1998, the Massachusetts Securities Division (the "Division") filed an Administrative Complaint against All-Tech Investment Group, Inc. ("All-Tech"), its president, Mark DeShets ("Shets"), its chief compliance officer, Harry J. Houlkin ("Houlkin"), the branch manager of its Watertown office, Eric A. Zayas, and two unregistered individuals, Isra. Belbel ("Belbel") and John L. Powell ("Powell"), (collectively, the "Respondents"). The Division alleged that All-Tech, through its principals and agents, used deceptive marketing to promote its day trading business to retail investors; that All-Tech, through Zayas, engaged in numerous violations of Massachusetts securities laws; that Zayas exercised discretion in day trading customers' accounts without written authorization, commingled funds of customers and failed to comply with customers' instructions; forged customers' signatures to authorization forms and used these forms to have funds transferred among customers' accounts without their authorization or knowledge; made misrepresentations to the Division during an examination on November 13, 1998; cooperated in the creation of fraudulent accounts; and encouraged and cooperated the unlawful activities of unregistered investment advisers, including preying upon customers of All-Tech. The Division also alleged that Belbel and Powell acted as unregistered investment advisers, opened fraudulent accounts at All-Tech, and defrauded customers of All-Tech. The Division also alleged that All-Tech failed to send confirmations to customers, and failed to supervise the Watertown office. This complaint was brought seeking an order to revoke the registration of All-Tech as a broker-dealer in Massachusetts and to order All-Tech to cease and desist from further violations of the Act; to retroactively revoke the registrations of Shets, Houlkin and Zayas; and to order them to cease and desist from further violations of the Act.

8. Results: IN ORDER TO RESOLVE THE PROCEEDING, RESPONDENTS ALL-TECH, SHETS, HOULKIN, AND LEFKOWITZ CONSENTED TO THE ENTRY

OF A STIPULATED ORDER AND AGREED THAT (1) ALL-TECH WILL NOT OPEN OR OPERATE A BRANCH OFFICE IN MASSACHUSETTS FOR A PERIOD

	MA 08/18/99	WASHINGTON	<p>OF TWO (2) YEARS FROM THE DATE OF THE ORDER. 2) ALL-TECH WILL NOT OPEN ANY NEW ACCOUNTS FOR MASSACHUSETTS CUSTOMERS FOR A PERIOD OF TWO (2) YEARS; 3) ALL-TECH WILL SEND A COPY OF THE OFFER AND ORDER TO THE OWNERS OF ALL CURRENT MASSACHUSETTS ACCOUNTS; 4) ALL-TECH WILL NOT ALLOW IMPERMISSIBLE JOURNALING AND/OR LENDING OF FUNDS TO, FROM, BETWEEN, OR AMONG THE ACCOUNTS OF MASSACHUSETTS CUSTOMERS BEYOND THAT PERMITTED UNDER REGULATION T AND REGULATION U; 5) ALL-TECH WILL NOT ENCOURAGE OR ALLOW ANY MASSACHUSETTS CUSTOMERS TO EFFECT TRANSACTIONS FOR ANY THIRD PARTIES, NOR WILL ALL-TECH PERMIT A THIRD PARTY TO HAVE TRADING AUTHORIZATION FOR ANY MASSACHUSETTS CUSTOMER FOR A PERIOD OF LESS THAN TWO (2) YEARS FROM THE DATE OF THIS ORDER; 6) ALL-TECH WILL HIRE, WITHIN THREE (3) MONTHS OF THE ORDER, A COMPLIANCE OFFICER WHO MEETS THE CRITERIA SPECIFIED IN THE ORDER; 7) ALL-TECH WILL RETAIN AN INDEPENDENT CONSULTANT WHO SHALL SUBMIT REPORTS TO THE DIVISION ON 11/15/99, 3/15/00, 7/15/00, AND 5/15/01. ALL-TECH SHALL MAKE PAYMENTS TO THE CUSTOMERS IN ACCORDANCE WITH EXHIBIT B OF THE ORDER; 8) ALL-TECH PAID \$50,000 TO THE MASSACHUSETTS INVESTORS PROTECTION FUND; 9) LEFKOWITZ WILL WITHDRAW FROM MASSACHUSETTS AS AN AGENT, AND WILL NOT REAPPLY FOR REGISTRATION IN ANY CAPACITY FOR TWO (2) YEARS FROM THE DATE OF ORDER. THE PRESIDING OFFICER FOUND THAT LEFKOWITZ FAILED REASONABLY TO SUPERVISE THE OPERATION OF THE WATER-TOWN OFFICE AND LEFKOWITZ WAS ORDERED TO CEASE AND DESIST FROM FURTHER VIOLATIONS OF THE ACT, IN ORDER TO RESOLVE THE PROCEEDING. RESPONDENTS BELBEL, POWELL, AND ZAVAS, CONSENTED TO THE ENTRY OF A STIPULATED ORDER AND AGREED THAT THEY WILL NOT APPLY FOR REGISTRATION WITH THE DIVISION IN ANY CAPACITY UNTIL AFTER JANUARY 1, 2002.</p> <p>9/ Subject Wanted for Prosecution No. _____</p> <p>10. Summary CONTACT: JOE SHEEHAN / (617) 727-3548</p> <p>*****</p> <p>SRK NOTE: 5/27/99 UPON PHONE INQUIRY MADE TO JOE SHEEHAN OF THE MASSACHUSETTS SECURITIES DIVISION, REGARDING WHETHER OR NOT SHEETS AND HOUTKIN WERE SANCTIONED WITH THIS DISC. ACTION, JOE SHEEHAN STATED THAT SHEETS AND HOUTKIN BOTH SIGNED THIS STIPULATION ORDER IN THEIR CAPACITY AS OFFICERS OF ALL-TECH, ALTHOUGH SHEETS AND HOUTKIN WERE NOT INDIVIDUALLY SANCTIONED.</p> <p>*****</p>
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		<p>JDS 1263-11299 Form U4 Amend 3 B/D 34731</p> <p>1. Questions Not Provided</p> <p>2. Update No</p> <p>3. Initiated by: ***2211 WAS ANSWERED ON THE DRP*** MASSACHUSETTS SECURITIES DIVISION</p> <p>4. Type of Event/Proceeding: ADMINISTRATIVE</p> <p>5. Date Initiated: 12/10/98</p> <p>6. Docket/Case#: Not Provided</p> <p>7. Allegations: "MISLEADING ADVERTISEMENT" FAILURE TO SUPERVISE</p> <p>8a. Current Status: PENDING</p> <p>8b. Status Date: N/A</p> <p>8c. Results: N/A</p> <p>9. Summary: Not Provided</p> <p>10. Attachments: Not Applicable</p>
<p>OR 01/23/1999</p>	<p>BUTLER</p>	
		<p>JDS 1176-01299 Form U4 Amend 3 B/D 15992</p> <p>1. Questions Not Provided</p> <p>2. Update No</p> <p>3. Initiated by: ***2211 WAS ANSWERED ON THE DRP*** MASSACHUSETTS SECURITIES DIVISION</p> <p>4. Type of Event/Proceeding: ADMINISTRATIVE</p> <p>5. Date Initiated: 12/10/98</p> <p>6. Docket/Case#: MISLEADING ADVERTISEMENT</p> <p>7. Allegations: FAILURE TO SUPERVISE</p> <p>8a. Current Status: PENDING</p> <p>8b. Status Date: N/A</p> <p>8c. Results: N/A</p> <p>9. Summary: Not Provided</p> <p>10. Attachments: Not Applicable</p>
<p>U4 01/23/1999</p>	<p>STACKBOA</p>	

		<p>1. Questions: Not Provided  2. Update No.  3. Initiated by: MASSACHUSETTS SECURITIES DIVISION  4. Type of Event/Proceeding: ADMINISTRATIVE  5. Date Initiated: 12/10/88  6. Docket/Case#: Not Provided  7. Allegations: "MISLEADING ADVERTISEMENT" FAILURE TO SUPERVISE  8a. Current Status: PENDING  8b. Status Date: N/A  8c. Results: N/A  9. Summary: ***SRR NOTE 22(1) WAS ANSWERED ON THE DRP***  10. Attachments: Not Applicable</p>
U1 11/23/1999	GOOLSBY	

Legacy Disclosure Occurrence Details

Individual CRD#: 251066		Individual Name: HOUTKIN, HARVEY I	
Occurrence Details - #10			
Incident Type	Filing	Updated By	Details
			C. ELECTRONICALLY ENTERED BY NI TRANS #400015-23590 1. Action Codes: OTH 2. Action Date: 6/25/90 3. Proviso: Not Provided 4. Previously Reported: No 4a. Occurrence Number: Not Provided 5. Initiated by: NI BUREAU OF SECURITIES 6a. Docket/Case#: OAL DKT NO: BOS 3937-89 6b. Court Name/Location: OFFICE OF ADMINISTRATIVE LAW WASHINGTON STREET NEWARK NJ 07102 7. Allegations: SETTLEMENT, ORDER OF DENIAL WITHDRAWN AND VACATED, CONSENT ORDER FOR COSTS AND THREE YEAR STIPULATION NOT TO APPLY FOR ANY REGISTRATION IN NJ 8. Results: NOT REGISTERED - MAY NOT APPLY FOR 3 YEARS 9. Subject Wanted for Prosecution: No 10. Summary: ORDER OF DENIAL OF APPLICATION FOR BROKER-DEALER REGISTRATION, AND NAMING HARVEY HOUTKIN INDIVIDUALLY ENTERED. HEARING REQUESTED AND DECISION OF ADMINISTRATIVE LAW JUDGE RENDERED. CANNOT APPLY FOR REGISTRATION IN NJ FOR 3 YEARS FROM DATE OF ORDER.
	NJ 06/25/1990		
			S2089 FORM U6 (R131-11889) DISCLOSES AN ORDER OF DENIAL OF BROKER/DEALER APPLICATION WAS ISSUED AGAINST DOMESTIC SECURITIES, INC. ALLEGING APPLICATION FOR REGISTRATION WAS FALSE AND MISLEADING CONCERNING MATERIAL FACTS [58(a)(2)(D)] DOCKET/CASE NO. (NOT GIVEN), DATED APRIL 25, 1989.
	NJ 06/25/1990	LIGHTING	
			1. Action Codes: SSO 2. Action Date: 6/25/90 3. Proviso: Not Provided 4. Previously Reported: No 4a. Occurrence Number: Not Provided 5. Initiated by: NI BUREAU OF SECURITIES 6a. Docket/Case#: OAL DKT NO: BOS 3937-89 6b. Court Name/Location: OFFICE OF ADMINISTRATIVE LAW WASHINGTON STREET NEWARK NJ 07102

<p>NJ 06/25/1990</p>	<p>CRAZE</p>	<p>7. Allegations: SETTLEMENT ORDER OF DENIAL WITHDRAWN AND VACATED. CONSENT ORDER FOR COSTS AND THREE YEAR STIPULATION NOT TO APPLY FOR ANY REGISTRATION IN NJ 8. Results: NOT REGISTERED - MAY NOT APPLY FOR 3 YEARS. 9. Subject Wanted for Prosecution: No 10. Summary: ORDER OF DENIAL OF APPLICATION FOR BROKER-DEALER REGISTRATION AND NAMING HARVEY HOUTKIN INDIVIDUALLY ENTERED. HEARING REQUESTED AND DECISION OF ADMINISTRATIVE LAW JUDGE RENDERED. CANNOT APPLY FOR REGISTRATION IN NJ FOR 3 YEARS FROM DATE OF ORDER</p>
<p>U4 07/02/1991</p>	<p>PIFELLER</p>	<p>IDS 7273-21397 Form U4, Nonc, B/D 34721 1. Questions: 22F4 22F5 2. Update: Yes 3. Initiated by: STATE OF NEW JERSEY SECURITIES BUREAU 4. Type of Event/Proceeding: INVESTIGATION 5. Date Initiated: 5/24/89 6. Docket Case#: Not Provided 7. Allegations: ALLEGED UNDISCLOSED PRINCIPAL AND UNREGISTERED REPRESENTATIVE ALLEGED FAILURE TO SUPERVISE 8a. Current Status: AMICABLY RESOLVED 8b. Status Date: 7/24/90 8c. Results: AGREES NOT TO APPLY FOR REGISTRATION IN THE STATE OF NEW JERSEY FOR A PERIOD OF THREE YEARS. MR HOUTKIN REGISTERED IN NEW JERSEY IN 1993. DOMESTIC REGISTERED IN 1994 9. Summary: CONSENT ORDERS BY NJ BUREAU OF SECURITIES HAVING NEGOTIATED AN AMICABLE RESOLUTION WITHOUT ADMITTING OR DENYING ANY ALLEGATIONS. HOUTKIN AND DOMESTIC SECURITIES INC AGREED NOT TO REAPPLY TO THE STATE OF NEW JERSEY FOR REGISTRATION FOR THREE YEARS FROM 6/26/90 AND HOUTKIN'S FIRM PAID \$50,000 TO REIMBURSE THE STATE FOR THE COSTS AND EXPENSES OF THE INVESTIGATION. MR HOUTKIN REGISTERED IN NEW JERSEY IN 1993. DOMESTIC SECURITIES WAS REGISTERED IN 1994 10. Attachments: Not Applicable</p>
		<p>IDS 7192-30793 Form U4, Nonc, B/D 13992 1. Questions: 22F4 22F5 2. Update: Yes 3. Initiated by: STATE OF NEW JERSEY SECURITIES BUREAU 4. Type of Event/Proceeding: INVESTIGATION 5. Date Initiated: 5/24/89 6. Docket Case#: Not Provided 7. Allegations: ALLEGED DISCLOSED PRINCIPAL AND UNREGISTERED REPRESENTATIVE ALLEGED FAILURE TO SUPERVISE 8a. Current Status: AMICABLY RESOLVED 8b. Status Date: 7/24/90</p>

04 07/02/1991	BIGUEST	<p>9c Results: AGREES NOT TO APPLY FOR REGISTRATION IN THE STATE OF NEW JERSEY FOR A PERIOD OF THREE YEARS. MR. HOUTKIN REGISTERED IN NEW JERSEY IN 1993.</p> <p>9. Summary: CONSENT ORDERS BY NJ BUREAU OF SECURITIES, HAVING NEGOTIATED AN AMICABLE RESOLUTION WITHOUT ADMITTING OR DENYING ANY ALLEGATIONS, HOUTKIN AND DOMESTIC SECURITIES, INC. AGREED NOT TO REAPPLY TO THE STATE OF NEW JERSEY FOR REGISTRATION FOR THREE YEARS FROM 6/26/90 AND HOUTKIN'S FIRM PAID \$50,000 TO REIMBURSE THE STATE FOR THE COSTS AND EXPENSES OF THE INVESTIGATION. MR. HOUTKIN REGISTERED IN NEW JERSEY IN 1993. DOMESTIC SECURITIES REGISTERED IN 1994.</p> <p>10. Attachments: Not Applicable</p> <p>IDS 687-09594, Form U4, Full: B/D-34721</p> <p>1. Questions: 27E4, 27E5</p> <p>2. Update: Yes</p> <p>3. Initiated by: STATE OF NEW JERSEY SECURITIES BUREAU</p> <p>4. Type of Event/Procedure: INVESTIGATION</p> <p>5. Date Initiated: 5/24/89</p> <p>6. Docket/Cases: Not Provided</p> <p>7. Allegations: ALLEGED DISCLOSED PRINCIPAL AND UNREGISTERED REPRESENTATIVE ALLEGED FAILURE TO SUPERVISE</p> <p>8a. Current Status: AMICABLY RESOLVED</p> <p>8b. Status Date: 7/24/91</p>
04 07/02/1991	DISINGH	<p>9c Results: AGREES NOT TO APPLY FOR REGISTRATION IN THE STATE OF NEW JERSEY FOR A PERIOD OF THREE YEARS. MR. HOUTKIN REGISTERED IN NEW JERSEY IN 1983.</p> <p>9. Summary: CONSENT ORDERS BY NJ BUREAU OF SECURITIES, HAVING NEGOTIATED AN AMICABLE RESOLUTION WITHOUT ADMITTING OR DENYING ANY ALLEGATIONS, HOUTKIN AND DOMESTIC SECURITIES, INC. AGREED NOT TO REAPPLY TO THE STATE OF NEW JERSEY FOR REGISTRATION FOR THREE YEARS FROM 6/26/90 AND HOUTKIN'S FIRM PAID \$50,000 TO REIMBURSE THE STATE FOR THE COSTS AND EXPENSES OF THE INVESTIGATION. MR. HOUTKIN REGISTERED IN NEW JERSEY IN 1993. DOMESTIC SECURITIES HAS NOT YET REAPPLIED.</p> <p>10. Attachments: Not Applicable</p> <p>IDS 1283-20791, Form U4, None: B/D-13992</p> <p>1. Questions: Not Provided</p> <p>2. Update: Not Provided</p> <p>3. Initiated by: STATE NEW JERSEY</p> <p>4. Type of Event/Procedure: INVESTIGATION</p> <p>5. Date Initiated: 1/90</p> <p>6. Docket/Cases: Not Provided</p> <p>7. Allegations: ALLEGED UNDISCLOSED PRINCIPAL AND UNREGISTERED REPRESENTATIVE ALLEGED FAILURE TO SUPERVISE</p> <p>8a. Current Status: JUNE 26, 1990</p> <p>8b. Status Date: AGREES NOT TO APPLY FOR REGISTRATION IN THE STATE OF NEW JERSEY FOR A PERIOD OF 3 YEARS</p>
04 07/02/1991	DEHSU	<p>9c Results: Not Provided</p> <p>9. Summary: Not Provided</p> <p>10. Attachments: Not Applicable</p>

<p>04 07/02/1991</p>	<p>D2HUSAIN</p>	<p>IDS 1168-17591, Form U-4, Full, B/D 13992                  1. Questions: 22B4, 22B5                  2. Update: Not Provided                  3. Initiated by: STATE OF NEW JERSEY                  4. Type of Event/Proceeding: ADMINISTRATIVE                  5. Date Initiated: Not Provided                  6. Docket/Cases#: BOS83957-89                  7. Allegations: UNDISCLOSED PRINCIPAL UNREGISTERED FAILURE TO SUPERVISE                  8a. Current Status: SETTLED                  8b. Status Date: JUNE 1990                  8c. Results: CONSENT ORDER AGREEING NOT TO REGISTER FOR 3 YEARS IN THE STATE OF NJ                  9. Summary: Not Provided                  10. Attachments: Not Applicable</p>
<p>04 07/02/1991</p>	<p>P2CHIZYN</p>	<p>1. Questions: 22B4, 22B5                  2. Update: Yes                  3. Initiated by: STATE OF NEW JERSEY SECURITIES BUREAU                  4. Type of Event/Proceeding: INVESTIGATION                  5. Date Initiated: 5/24/89                  6. Docket/Cases#: Not Provided                  7. Allegations: ALLEGED UNDISCLOSED PRINCIPAL AND UNREGISTERED REPRESENTATIVE ALLEGED FAILURE TO SUPERVISE                  8a. Current Status: AMICABLY RESOLVED                  8b. Status Date: 7/24/90                  8c. Results: AGREES NOT TO APPLY FOR REGISTRATION IN THE STATE OF NEW JERSEY FOR A PERIOD OF THREE YEARS. MR HOUTKIN REGISTERED IN NEW JERSEY IN 1993. DOMESTIC REGISTERED IN 1994                  9. Summary: CONSENT ORDERS BY NJ BUREAU OF SECURITIES, HAVING NEGOTIATED AN AMICABLE RESOLUTION WITHOUT ADMITTING OR DENYING ANY ALLEGATIONS. HOUTKIN AND DOMESTIC SECURITIES INC AGREED NOT TO REAPPLY TO THE STATE OF NEW JERSEY FOR REGISTRATION FOR THREE YEARS FROM 6/26/90 AND HOUTKIN'S FIRM PAID \$80,000 TO REIMBURSE THE STATE FOR THE COSTS AND EXPENSES OF THE</p>

INVESTIGATION MR. HOUTKIN REGISTERED IN NEW JERSEY IN 1993.  
DOMESTIC SECURITIES WAS REGISTERED IN 1994.  
10. Attachments: Not Applicable.

**Current Disclosure Summary**

Individual CRD#: 709147 Individual Name: SHEFTS, MARK D

Occurrence	Reportable/ Disclosable		Composite Filing	Event Date	Questions Answered
	Yes	Yes			
Investigation (693927)	Yes	Yes	U4-AMENDMENT Investigation 01/28/2000 ALL-TECH DIRECT, INC. (13992)	12/27/1999	23G(2)
Customer Complaint (371234)	Yes	Yes	U4-CONVERSION Customer Complaint 07/06/1999 ALL-TECH DIRECT, INC. (13992)		
Regulatory Action (310864)	Yes	Yes	U4-CONVERSION Regulatory Action 07/06/1999 DOMESTIC SECURITIES, INC. (34721)	12/10/1998	
			U6-CONVERSION Regulatory Action 07/07/1999 MA	12/10/1998	
Regulatory Action (82256)	Yes	Yes	U4-CONVERSION Regulatory Action 07/06/1999 DOMESTIC SECURITIES, INC. (34721)	10/06/1988	
			U5-CONVERSION Regulatory Action 07/07/1999 ALL-TECH DIRECT, INC. (13992)	10/06/1988	
			U6-CONVERSION Regulatory Action 07/07/1999 NASD	10/06/1988	

Disclosure Occurrence Composite

## Disclosure Occurrence Composite

Individual CRD#: 709147		Individual Name: SHEFTS, MARK D	
Occurrence:	693927		
Disclosure:	Investigation		
Publicly Disclosable:	Yes		
Reportable:	Reportable	Reason	
	Y	Initial Value	
Latest Filings:	Filing	Event Date	Questions Answered
	U4-AMENDMENT Investigation 01/28/2000 ALL-TECH DIRECT, INC. (13992)	12/27/1999	23G(2)
Last Review:			
Comments:			
U4 - AMENDMENT 01/28/2000 ALL-TECH DIRECT, INC. (13992)			
- INVESTIGATION DRP			
This Disclosure Reporting Page is an <input checked="" type="radio"/> INITIAL OR <input type="radio"/> AMENDED response			
Check item(s) you are responding to:			
Investigation			
1. Notice Received From: (Name of Regulator, Agency, SRO, etc. initiating the investigation): SEC			
2. Notice Date(MM/DD/YYYY): 12/27/99 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:			
3. Describe briefly the nature of the investigation, if known, or details of the resolution. (Your information must fit within the space provided.): APPLICANT WAS NOTIFIED BY THE SEC THAT HE IS THE SUBJECT OF AN INVESTIGATION IN CONNECTION WITH ALLEGED FAILURE TO SUPERVISE RESULTING IN ALLEGED VIOLATIONS OF REGULATION 1 AND RULE 10B-16			
4. Date Resolved (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation: MATTER IS STILL UNDER INVESTIGATION.			

**Disclosure Occurrence Composite**

<b>Individual CRD#: 709147</b>		<b>Individual Name: SHEFTS, MARK D</b>	
<b>Occurrence:</b>	371234		
<b>Disclosure:</b>	Customer Complaint		
<b>Publicly Disclosable:</b>	Yes		
<b>Reportable:</b>	<b>Reportable</b>	<b>Reason</b>	
	Y	Initial Value	
<b>Latest Filings:</b>	<b>Filing</b>	<b>Event Date</b>	<b>Questions Answered</b>
	U4-CONVERSION Customer Complaint 07/06/1999 ALL-TECH DIRECT, INC. (13992)		
<b>Last Review:</b>			
<b>Comments:</b>			
<b>U4 - CONVERSION 07/06/1999 ALL-TECH DIRECT, INC. (13992)</b>			
<b>- CUSTOMER COMPLAINT DRP</b>			
This Disclosure Reporting Page is an <input type="radio"/> INITIAL OR <input checked="" type="radio"/> AMENDED response			
<b>Customer Complaint</b>			
One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.			
1. Customer Name(s): ***22H(1)(a) WAS ANSWERED ON THE DRP*** FRED COOK, CARMEN MARGALA, JUDITH PAYNE COOK			
2. Customer(s) State of Residence:  Other state(s) of residence/detail:			
3. Employing Firm when activities occurred which led to the complaint:			
4. Date Complaint was received (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:			
5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred:			

\$225,000 + INTEREST + \$50,000 FALSE ADVERTISING, FRAUD, BREACH OF FIDUCIARY DUTY, UNSUITABLE RECOMMENDATIONS-ALL UNDER AGENCY THEORY BECAUSE REGISTRANT IS A PRINCIPAL OF FIRM.
6. Principal Product Type: Other Product Types:
7. Alleged Compensatory Damage Amount:
8. Is complaint pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
9. If the complaint is not pending, provide status: If status is settlement, complete questions 11 and 12; if status is arbitration/reparation, complete questions 13-19; if status is litigation, complete questions 20-27. Complete question 28 for all statuses. <input type="checkbox"/> No Action <input type="checkbox"/> Withdrawn <input type="checkbox"/> Denied <input type="checkbox"/> Settled <input checked="" type="checkbox"/> Arbitration/Reparation <input type="checkbox"/> Litigation
10. Resolution Date (MM/DD/YYYY): 5/24/99 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
11. Settlement Amount (if settled without Arbitration, Litigation or Reparation):
12. Individual Contribution Amount:
<b>IF ARBITRATION OR CFTC REPARATION</b>
13. Arbitration/Reparation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number:
14. Date notice/process was served (MM/DD/YYYY): 5/24/99 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
15. Is arbitration/reparation pending? <input checked="" type="radio"/> Yes <input type="radio"/> No
16. If the arbitration is not pending, what was the disposition?
17. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:

18. Amount of Monetary Compensation (award, settlement, \$ reparation amount):
19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).
21. Date notice/process was served (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input type="radio"/> No
23. If the civil litigation is not pending, what was the disposition?
24. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, \$ settlement amount):
26. Individual Contribution Amount: \$
27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.) Not Provided CUSTOMERS LOST MONEY IN UNSOLICITED TRADING AND SEEK TO RECOVER AGAINST PRINCIPALS OF FIRM

**Disclosure Occurrence Composite**

<b>Individual CRD#: 709147</b>		<b>Individual Name: SHEFTS, MARK D</b>	
<b>Occurrence:</b>	310864		
<b>Disclosure:</b>	Regulatory Action		
<b>Publicly Disclosable:</b>	Yes		
<b>Reportable:</b>	<b>Reportable</b>	<b>Reason</b>	
	Y	Initial Value	
<b>Latest Filings:</b>	<b>Filing</b>	<b>Event Date</b>	<b>Questions Answered</b>
	U4-CONVERSION Regulatory Action 07/06/1999 DOMESTIC SECURITIES, INC. (34721)	12/10/1998	
	U6-CONVERSION Regulatory Action 07/07/1999 MA	12/10/1998	
<b>Last Review:</b>			
<b>Comments:</b>	SRR NOTE: 22I(1) WAS ANSWERED ON THE DRP		
<b>U4 - CONVERSION</b> <b>07/06/1999</b> <b>DOMESTIC SECURITIES, INC. (34721)</b>			
<b>REGULATORY ACTION DRP</b>			
This Disclosure Reporting Page is an <input type="radio"/> INITIAL OR <input checked="" type="radio"/> AMENDED response			
<b>Check item(s) you are responding to:</b>			
<input checked="" type="checkbox"/> <b>Regulatory Action</b>			
One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.			
1. Regulatory Action initiated by: <input checked="" type="radio"/> SEC <input type="radio"/> Other Federal <input type="radio"/> State <input type="radio"/> SRO <input type="radio"/> Foreign (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange) MASSACHUSETTS SECURITIES DIVISION			
2. Principal Sanction:  Other Sanctions:			
3. Date Initiated (MM/DD/YYYY): 12/10/1998 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation			

If not exact, provide explanation:

4. Docket/Case Number: R-98-77
5. Employing Firm when activity occurred which led to the regulatory action: ALL-TECH INVESTMENT GROUP, INC.
6. Principal Product Type:  Other Product Types:
7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.): PENDING
8. Current status ? <input type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final
9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:
<b>If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.</b>
10. How was matter resolved: Stipulation and Consent
11. Resolution Date (MM/DD/YYYY): 05/19/1999 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
12. Resolution Detail: A. Were any of the following Sanctions Ordered? (Check all appropriate items): <input type="checkbox"/> Monetary/Fine Amount:\$ <input type="checkbox"/> Revocation/Expulsion/Denial <input type="checkbox"/> Disgorgement/Restitution <input type="checkbox"/> Censure <input type="checkbox"/> Cease and Desist/Injunction <input type="checkbox"/> Bar <input type="checkbox"/> Suspension B. Other Sanctions Ordered: C. Sanction detail: If suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived: Not Provided

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)

<b>U6 - CONVERSION</b> <b>07/07/1999</b> <b>MA</b>
<b>- REGULATORY ACTION DRP</b>
This Disclosure Reporting Page is an <input checked="" type="radio"/> <b>INITIAL</b> OR <input type="radio"/> <b>AMENDED</b> response
<b>Check item(s) you are responding to:</b>
<input checked="" type="radio"/> <b>Regulatory Action</b>
One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.
1. Regulatory Action initiated by: <input checked="" type="radio"/> <b>SEC</b> <input type="radio"/> <b>Other Federal</b> <input checked="" type="radio"/> <b>State</b> <input type="radio"/> <b>SRO</b> <input type="radio"/> <b>Foreign</b> (Full name of regulator, <i>foreign financial regulatory authority</i> , Federal, State, SRO or commodities exchange) MASSACHUSETTS SECURITIES DIVISION
2. Principal Sanction:  Other Sanctions:
3. Date Initiated (MM/DD/YYYY): 12/10/1998 <input checked="" type="radio"/> <b>Exact</b> <input type="radio"/> <b>Explanation</b> If not exact, provide explanation:
4. Docket/Case Number: R-98-77
5. Employing Firm when activity occurred which led to the regulatory action: ALL-TECH INVESTMENT GROUP, INC.
6. Principal Product Type:  Other Product Types:
7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.):  On December 10, 1998, the Massachusetts Securities Division (the "Division") filed an Administrative Complaint against All-Tech Investment Group, Inc. ("All-Tech"); its president, Mark D. Shefts ("Shefts"); its chief compliance officer, Harvey I. Houtkin ("Houtkin"); the branch manager of its Watertown office, Fred A. Zayas; and two

unregistered individuals, Isaac Belbel ("Belbel") and John L. Powell ("Powell") (collectively, the "Respondents"). The Division alleged that All-Tech, through its principals and agents, used deceptive marketing to promote its daytrading business to retail investors; that All-Tech, through Zayas, engaged in numerous violations of Massachusetts securities laws; that Zayas exercised discretion in day trading customers' accounts without written authorization; commingled funds of customers and failed to comply with customers' instructions; forged customers' signatures to authorization forms, and used these forms to have funds transferred among customers' accounts, without their authorization or knowledge; made misrepresentations to the Division during an examination on November 13, 1998; cooperated in the creation of fraudulent accounts; and encouraged and cooperated the unlawful activities of unregistered investment advisers, including preying upon customers of All-Tech. The Division also alleged that Belbel and Powell acted as unregistered investment advisers, opened fraudulent accounts at All-Tech, and defrauded customers of All-Tech. The Division also alleged that All-Tech failed to send confirmations to customers, and failed to supervise the Watertown office. This complaint was brought seeking an order to revoke the registration of All-Tech as a broker-dealer in Massachusetts and to order All-Tech to cease and desist from further violations of the Act; to retroactively revoke the registrations of Shefts, Houtkin and Zayas, and to order them to cease and desist from further violations of the Act; to

8. Current status ?  Pending  On Appeal  Final

9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:

**If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.**

10. How was matter resolved:  
Stipulation and Consent

11. Resolution Date (MM/DD/YYYY):  
05/19/1999  Exact  Explanation  
If not exact, provide explanation:

12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

<input type="checkbox"/> Monetary/Fine Amount:\$	<input type="checkbox"/> Disgorgement/Restitution
<input type="checkbox"/> Revocation/Expulsion/Denial	<input type="checkbox"/> Cease and Desist/Injunction
<input type="checkbox"/> Censure	<input type="checkbox"/> Suspension
<input type="checkbox"/> Bar	

B. Other Sanctions Ordered:

C. Sanction detail: If suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion

levied against you, date paid and if any portion of penalty was waived:  
 IN ORDER TO RESOLVE THE PROCEEDING, RESPONDENTS ALL-TECH, SHEFTS,  
 HOUTKIN, AND LEFTKOWITZ CONSENTED TO THE ENTRY OF A STIPULATED  
 ORDER AND AGREED THAT: 1) ALL-TECH WILL NOT OPEN OR OPERATE A BRANCH  
 OFFICE IN MASSACHUSETTS FOR A PERIOD OF TWO (2) YEARS FROM THE DATE  
 OF THE ORDER; 2) ALL-TECH WILL NOT OPEN ANY NEW ACCOUNTS FOR  
 MASSACHUSETTS CUSTOMERS FOR A PERIOD OF TWO (2) YEARS; 3) ALL-TECH  
 WILL SEND A COPY OF THE OFFER AND ORDER TO THE OWNERS OF ALL CURRENT  
 MASSACHUSETTS ACCOUNTS; 4) ALL-TECH WILL NOT ALLOW IMPERMISSIBLE  
 JOURNALING AND/OR LENDING OF FUNDS TO, FROM, BETWEEN, OR AMONG THE  
 ACCOUNTS OF MASSACHUSETTS CUSTOMERS BEYOND THAT PERMITTED UNDER  
 REGULATION T AND REGULATION U; 5) ALL-TECH WILL NOT ENCOURAGE OR  
 ALLOW ANY MASSACHUSETTS CUSTOMERS TO EFFECT TRANSACTIONS FOR ANY  
 THIRD PARTIES, NOR WILL ALL-TECH PERMIT A THIRD PARTY TO HAVE TRADING  
 AUTHORIZATION FOR ANY MASSACHUSETTS CUSTOMER FOR A PERIOD OF LESS  
 THAN TWO (2) YEARS FROM THE DATE OF THIS ORDER; 6)ALL-TECH WILL HIRE,  
 WITHIN THREE (3) MONTHS OF THE ORDER, A COMPLIANCE OFFICER WHO MEETS  
 THE CRITERIA SPECIFIED IN THE ORDER; 7) ALL-TECH WILL RETAIN AN  
 INDEPENDENT CONSULTANT WHO SHALL SUBMIT REPORTS TO THE DIVISION ON  
 11/15/99, 5/15/00, 11/15/00, AND 5/15/01; ALLTECH SHALL MAKE PAYMENTS TO  
 THE CUSTOMERS IN ACCORDANCE WITH EXHIBIT B OF THE ORDER; 9) ALL-TECH  
 PAID \$50,000 TO THE MASSACHUSETTS INVESTORS PROTECTION FUND; 10)  
 LEFKOWITZ WILL WITHDRAW FROM MASSACHUSETTS AS AN AGENT, AND WILL  
 NOT REAPPLY FOR REGISTRATION IN ANY CAPACITY FOR TWO (2) YEARS FROM  
 THE DATE OF THE ORDER. THE PRESIDING OFFICER FOUND THAT LEFKOWITZ  
 FAILED REASONABLY TO SUPERVISE THE OPERATION OF THE WATERTOWN  
 OFFICE AND LEFKOWITZ WAS ORDERED TO CEASE AND DESIST FROM FURTHER  
 VIOLATIONS OF THE ACT. IN ORDER TO RESOLVE THE PROCEEDING,  
 RESPONDENTS BELBEL, POWELL, AND ZAYAS, CONSENTED TO THE ENTRY OF A  
 STIPULATED ORDER AND AGREED THAT THEY WILL NOT APPLY FOR  
 REGISTRATION WITH THE DIVISION IN ANY CAPA\*See FAQ #1\*

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)  
 CONTACT: JOE SHEEHAN / (617) 727-3548  
 \*\*\*\*\* SRR  
 NOTE: 5/27/99JW UPON AN INQUIRY MADE TO JOE SHEEHAN, OF MASSACHUSETTS  
 SECURITIES DIVISION TO CLARIFY AS TO WHETHER OR NOT SHEFTS AND HOUTKIN  
 WERE SANCTIONED WITH THIS DISCIPLINARY ACTION, JOE SHEEHAN STATED THAT  
 SHEFTS AND HOUTKIN WERE NOT SANCTIONED INDIVIDUALLY, BUT THAT THEY HAD  
 SIGNED THE ORDER IN THEIR CAPACITY AS PRESIDING OFFICERS OF THE FIRM.  
 \*\*\*\*\*

**View Historical Filing**

<b>Individual CRD#: 709147</b>	<b>Individual Name: SHEFTS, MARK D</b>
<b>Individual Name: SHEFTS, MARK DAVID</b>	<b>SSN: 064-40-9983</b>
<b>Individual CRD#: 709147</b>	<b>Firm CRD#: 13992</b>
<b>U4 - AMENDMENT</b>	
<b>01/28/2000</b>	
<b>U4 - CRIMINAL DRP</b>	
No Information Filed	
<b>U4 - REGULATORY ACTION DRP</b>	

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to *Items 23C, 23D, 23E, 23F and 23G(1)* on page 3 of Form U-4;

Check item(s) you are responding to:

<b>Regulatory Action</b>			
<input type="checkbox"/> 23C(1)	<input type="checkbox"/> 23C(5)	<input type="checkbox"/> 23D(4)	<input type="checkbox"/> 23E(3)
<input type="checkbox"/> 23C(2)	<input type="checkbox"/> 23D(1)	<input type="checkbox"/> 23D(5)	<input type="checkbox"/> 23E(4)
<input type="checkbox"/> 23C(3)	<input type="checkbox"/> 23D(2)	<input type="checkbox"/> 23E(1)	<input type="checkbox"/> 23F
<input type="checkbox"/> 23C(4)	<input type="checkbox"/> 23D(3)	<input type="checkbox"/> 23E(2)	<input type="checkbox"/> 23G(1)

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

<p>1. Regulatory Action initiated by:</p> <p><input checked="" type="radio"/> SEC <input type="radio"/> Other Federal <input checked="" type="radio"/> State <input type="radio"/> SRO <input type="radio"/> Foreign</p> <p>(Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange)</p> <p>MASSACHUSETTS SECURITIES DIVISION</p>
<p>2. Principal Sanction:</p> <p>Other Sanctions:</p>
<p>3. Date Initiated (MM/DD/YYYY):</p> <p>12/10/1998 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation</p> <p>If not exact, provide explanation:</p>

4. Docket/Case Number: R-98-77
5. Employing Firm when activity occurred which led to the regulatory action: ALL-TECH INVESTMENT GROUP, INC.
6. Principal Product Type:  Other Product Types:
7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.): PENDING
8. Current status ? <input checked="" type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final
9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:
<b>If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.</b> 10. How was matter resolved: Stipulation and Consent 11. Resolution Date (MM/DD/YYYY): 05/19/1999 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
<b>12. Resolution Detail:</b> A. Were any of the following Sanctions Ordered? (Check all appropriate items): <input type="checkbox"/> Monetary/Fine Amount:\$ <input type="checkbox"/> Disgorgement/Restitution <input type="checkbox"/> Revocation/Expulsion/Denial <input type="checkbox"/> Cease and Desist/Injunction <input type="checkbox"/> Censure <input type="checkbox"/> Suspension <input type="checkbox"/> Bar B. Other Sanctions Ordered: C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived: Not Provided

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23C, 23D, 23E, 23F and 23G(1)** on page 3 of Form U-4;

Check item(s) you are responding to:

Regulatory Action			
<input type="checkbox"/> 23C(1)	<input type="checkbox"/> 23C(5)	<input type="checkbox"/> 23D(4)	<input type="checkbox"/> 23E(3)
<input type="checkbox"/> 23C(2)	<input type="checkbox"/> 23D(1)	<input type="checkbox"/> 23D(5)	<input type="checkbox"/> 23E(4)
<input type="checkbox"/> 23C(3)	<input type="checkbox"/> 23D(2)	<input type="checkbox"/> 23E(1)	<input type="checkbox"/> 23F
<input type="checkbox"/> 23C(4)	<input type="checkbox"/> 23D(3)	<input type="checkbox"/> 23E(2)	<input type="checkbox"/> 23G(1)

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

<p>1. Regulatory Action initiated by:  <input checked="" type="radio"/> SEC <input type="radio"/> Other Federal <input type="radio"/> State <input checked="" type="radio"/> SRO <input type="radio"/> Foreign                      (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange)                      MARKET SURVEILLANCE COMMITTEE</p>
<p>2. Principal Sanction:                       Other Sanctions:</p>
<p>3. Date Initiated (MM/DD/YYYY):                      10/06/1988 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation                      If not exact, provide explanation:</p>
<p>4. Docket/Case Number:                      MS-781</p>
<p>5. Employing Firm when activity occurred which led to the regulatory action:                      ALLSTATE INVESTMENT GROUP, INC.</p>
<p>6. Principal Product Type:                       Other Product Types:</p>
<p>7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.):                      VIOLATION OF ARTICLE III, SECTION I OF RULES OF FAIR PRACTICE.</p>

8. Current status ?  Pending  On Appeal  Final

9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.

10. How was matter resolved:  
Decision & Order of Offer of Settlement

11. Resolution Date (MM/DD/YYYY):  
01/25/1989  Exact  Explanation  
If not exact, provide explanation:

12. Resolution Detail:

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

Monetary/Fine Amount:\$10000.00  
 Revocation/Expulsion/Denial  Disgorgement/Restitution  
 Censure  Cease and Desist/Injunction  
 Bar  Suspension

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:  
CENSURED AND FINED \$10,000

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)  
Not Provided

**U4 - CIVIL JUDICIAL DRP**  
No Information Filed

**U4 - CUSTOMER COMPLAINT DRP**

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

Check item(s) you are responding to:

Customer Complaint  
 23I(1)(a)  23I(1)(b)  23I(1)(c)  23I(2)  23I(3)(a)  23I(3)(b)

One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.

1. Customer Name(s): ***22H(1)(a) WAS ANSWERED ON THE DRP*** FRED COOK, CARMEN MARGALA, JUDITH PAYNE COOK
2. Customer(s) State of Residence:  Other state(s) of residence/detail:
3. Employing Firm when activities occurred which led to the complaint:
4. Date Complaint was received (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred: \$225,000 + INTEREST + \$50,000 FALSE ADVERTISING, FRAUD, BREACH OF FIDUCIARY DUTY, UNSUITABLE RECOMMENDATIONS-ALL UNDER AGENCY THEORY BECAUSE REGISTRANT IS A PRINCIPAL OF FIRM.
6. Principal Product Type:  Other Product Types:
7. Alleged Compensatory Damage Amount:
8. Is complaint pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
9. If the complaint is not pending, provide status: If status is settlement, complete questions 11 and 12; if status is arbitration/reparation, complete questions 13-19; if status is litigation, complete questions 20-27. Complete question 28 for all statuses. <input type="checkbox"/> No Action <input type="checkbox"/> Withdrawn <input type="checkbox"/> Denied <input type="checkbox"/> Settled <input checked="" type="checkbox"/> Arbitration/Reparation <input type="checkbox"/> Litigation
10. Resolution Date (MM/DD/YYYY): 5/24/99 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
11. Settlement Amount (if settled without Arbitration, Litigation or Reparation):

12. Individual Contribution Amount:
<b>IF ARBITRATION OR CFTC REPARATION</b>
13. Arbitration/Reparation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number:
14. Date notice/process was served (MM/DD/YYYY): 5/24/99 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
15. Is arbitration/reparation pending? <input checked="" type="radio"/> Yes <input type="radio"/> No
16. If the arbitration is not pending, what was the disposition?
17. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
18. Amount of Monetary Compensation (award, settlement, \$ reparation amount):
19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).
21. Date notice/process was served (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input type="radio"/> No
23. If the civil litigation is not pending, what was the disposition?
24. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, \$ settlement amount):

26. Individual Contribution Amount: \$

27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY):  
 Exact  Explanation  
 If not exact, provide explanation:

28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.)  
 Not Provided CUSTOMERS LOST MONEY IN UNSOLICITED TRADING AND SEEK TO RECOVER AGAINST PRINCIPALS OF FIRM

**U4 - TERMINATION DRP**  
 No Information Filed

**U4 - INVESTIGATION DRP**

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response response to report details for affirmative responses to **Item 23G(2)** on page 3 of Form U-4;

Check item(s) you are responding to:

Investigation  
 23G(2)

Complete this DRP only if you are answering "yes" to Item 23G(2). If you answered "yes" to Item 23G(1), complete the Regulatory Action DRP. If you have been notified that the *investigation* has been concluded without formal action, complete items 1, 2, 3 and 4 of this DRP to update. One event may result in more than one *investigation*. If more than one authority is investigating you, use a separate DRP to provide details.

1. Notice Received From: (Name of Regulator, Agency, SRO, etc. initiating the *investigation*):  
 SEC

2. Notice Date(MM/DD/YYYY):  
 12/27/99  Exact  Explanation  
 If not exact, provide explanation:

3. Describe briefly the nature of the *investigation*, if known, or details of the resolution. (Your information must fit within the space provided.):  
 APPLICANT WAS NOTIFIED BY THE SEC THAT HE IS THE SUBJECT OF AN INVESTIGATION IN CONNECTION WITH ALLEGED FAILURE TO SUPERVISE RESULTING IN ALLEGED VIOLATIONS OF REGULATION 1 AND RULE 10B-16

4. Date Resolved (MM/DD/YYYY):  
 Exact  Explanation  
 If not exact, provide explanation:  
 MATTER IS STILL UNDER INVESTIGATION.

**U4 - BANKRUPTCY DRP**  
 No Information Filed

<b>U4 - BOND DRP</b>	No Information Filed
<b>U4 - JUDGMENT LIEN DRP</b>	No Information Filed

**View Historical Filing**

Individual CRD#: 709147	Individual Name: SHEFTS, MARK DAVID
Individual Name: SHEFTS, MARK DAVID	SSN: 064-40-9983
Individual CRD#: 709147	Firm CRD#:
<b>U4 - CONVERSION</b> 08/07/1999	
<b>U4 - CRIMINAL DRP</b> No Information Filed	
<b>U4 - REGULATORY ACTION DRP</b>	

This Disclosure Reporting Page is an  **INITIAL OR AMENDED** response to report details for affirmative responses to **Items 23C, 23D, 23E, 23F and 23G(1)** on page 3 of Form U-4;

**Check item(s) you are responding to:**

<b>Regulatory Action</b>			
<input checked="" type="checkbox"/> 23C(1)	<input type="checkbox"/> 23C(5)	<input type="checkbox"/> 23D(4)	<input type="checkbox"/> 23E(3)
<input type="checkbox"/> 23C(2)	<input type="checkbox"/> 23D(1)	<input type="checkbox"/> 23D(5)	<input type="checkbox"/> 23E(4)
<input type="checkbox"/> 23C(3)	<input type="checkbox"/> 23D(2)	<input type="checkbox"/> 23E(1)	<input type="checkbox"/> 23F
<input type="checkbox"/> 23C(4)	<input type="checkbox"/> 23D(3)	<input type="checkbox"/> 23E(2)	<input type="checkbox"/> 23G(1)

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

<p>1. Regulatory Action initiated by:  <input checked="" type="radio"/> SEC <input type="radio"/> Other Federal <input checked="" type="radio"/> State <input type="radio"/> SRO <input type="radio"/> Foreign                  (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange)                  MASSACHUSETTS SECURITIES DIVISION</p>
<p>2. Principal Sanction:                   Other Sanctions:</p>
<p>3. Date Initiated (MM/DD/YYYY):                  12/10/1998 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation                  If not exact, provide explanation:</p>

4. Docket/Case Number: R-98-77
5. Employing Firm when activity occurred which led to the regulatory action: ALL-TECH INVESTMENT GROUP, INC.
6. Principal Product Type:  Other Product Types:
7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.): PENDING
8. Current status ? <input checked="" type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final
9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:
<b>If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.</b> 10. How was matter resolved: Stipulation and Consent 11. Resolution Date (MM/DD/YYYY): 05/19/1999 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
<b>12. Resolution Detail:</b> A. Were any of the following Sanctions Ordered? (Check all appropriate items): <input type="checkbox"/> Monetary/Fine Amount:\$ <input type="checkbox"/> Disgorgement/Restitution <input type="checkbox"/> Revocation/Expulsion/Denial <input type="checkbox"/> Cease and Desist/Injunction <input type="checkbox"/> Censure <input type="checkbox"/> Suspension <input type="checkbox"/> Bar B. Other Sanctions Ordered: C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived: Not Provided

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)

This Disclosure Reporting Page is an  **INITIAL OR**  **AMENDED** response to report details for affirmative responses to **Items 23C, 23D, 23E, 23F and 23G(1)** on page 3 of Form U-4;

Check item(s) you are responding to:

<b>Regulatory Action</b>			
<input type="checkbox"/> 23C(1)	<input type="checkbox"/> 23C(5)	<input type="checkbox"/> 23D(4)	<input type="checkbox"/> 23E(3)
<input type="checkbox"/> 23C(2)	<input type="checkbox"/> 23D(1)	<input type="checkbox"/> 23D(5)	<input type="checkbox"/> 23E(4)
<input type="checkbox"/> 23C(3)	<input type="checkbox"/> 23D(2)	<input type="checkbox"/> 23E(1)	<input type="checkbox"/> 23F
<input type="checkbox"/> 23C(4)	<input type="checkbox"/> 23D(3)	<input type="checkbox"/> 23E(2)	<input type="checkbox"/> 23G(1)

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

<p>1. Regulatory Action initiated by:  <input checked="" type="radio"/> <b>SEC</b> <input type="radio"/> <b>Other Federal</b> <input type="radio"/> <b>State</b> <input type="radio"/> <b>SRO</b> <input type="radio"/> <b>Foreign</b>                      (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange)                      DISTRICT BUSINESS CONDUCT COMMITTEE DISTRICT.</p>
<p>2. Principal Sanction:                       Other Sanctions:</p>
<p>3. Date Initiated (MM/DD/YYYY):                      07/31/1989 <input checked="" type="radio"/> <b>Exact</b> <input type="radio"/> <b>Explanation</b>                      If not exact, provide explanation:</p>
<p>4. Docket/Case Number:                      PHL-847</p>
<p>5. Employing Firm when activity occurred which led to the regulatory action:                      DOMESTIC ARBITRAGE GROUP, INC</p>
<p>6. Principal Product Type:                       Other Product Types:</p>
<p>7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.):                      VIOLATIONS OF RULES OF FAIR PRACTICE.</p>

8. Current status ? <input type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final
9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:
<b>If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.</b>
10. How was matter resolved: Other
11. Resolution Date (MM/DD/YYYY): 05/09/1991 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
12. <b>Resolution Detail:</b> A. Were any of the following Sanctions Ordered? (Check all appropriate items): <input type="checkbox"/> Monetary/Fine Amount:\$ <input type="checkbox"/> Disgorgement/Restitution <input type="checkbox"/> Revocation/Expulsion/Denial <input type="checkbox"/> Cease and Desist/Injunction <input checked="" type="checkbox"/> Censure <input type="checkbox"/> Suspension <input type="checkbox"/> Bar
B. Other Sanctions Ordered:
C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived: CENSURE
13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.) CENSURE REVERSED ON APPEAL

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23C, 23D, 23E, 23F and 23G(1)** on page 3 of Form U-4;

Check item(s) you are responding to:

<b>Regulatory Action</b>			
<input type="checkbox"/> 23C(1)	<input type="checkbox"/> 23C(5)	<input type="checkbox"/> 23D(4)	<input type="checkbox"/> 23E(3)
<input type="checkbox"/> 23C(2)	<input type="checkbox"/> 23D(1)	<input type="checkbox"/> 23D(5)	<input type="checkbox"/> 23E(4)
<input type="checkbox"/> 23C(3)	<input type="checkbox"/> 23D(2)	<input type="checkbox"/> 23E(1)	<input type="checkbox"/> 23F
<input type="checkbox"/> 23C(4)	<input type="checkbox"/> 23D(3)	<input type="checkbox"/> 23E(2)	<input type="checkbox"/> 23G(1)

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

<p>1. Regulatory Action initiated by:  <input type="radio"/> SEC <input type="radio"/> Other Federal <input type="radio"/> State <input checked="" type="radio"/> SRO <input type="radio"/> Foreign  (Full name of regulator, foreign financial regulatory authority, Federal, State, SRO or commodities exchange)  MARKET SURVEILLANCE COMMITTEE</p>
<p>2. Principal Sanction:   Other Sanctions:</p>
<p>3. Date Initiated (MM/DD/YYYY):  10/06/1988 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation  If not exact, provide explanation:</p>
<p>4. Docket/Case Number:  MS-781</p>
<p>5. Employing Firm when activity occurred which led to the regulatory action:  ALLSTATE INVESTMENT GROUP, INC.</p>
<p>6. Principal Product Type:   Other Product Types:</p>
<p>7. Describe the allegations related to this regulatory action. (Your information must fit within the space provided.):  VIOLATION OF ARTICLE III, SECTION I OF RULES OF FAIR PRACTICE.</p>
<p>8. Current status ? <input type="radio"/> Pending <input type="radio"/> On Appeal <input checked="" type="radio"/> Final</p>
<p>9. If on appeal, regulatory action appealed to: (SEC, SRO, Federal or State Court) and Date Appeal Filed:</p>
<p><b>If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.</b></p> <p>10. How was matter resolved:  Decision &amp; Order of Offer of Settlement</p> <p>11. Resolution Date (MM/DD/YYYY):  01/25/1989 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation  If not exact, provide explanation:</p>

**12. Resolution Detail:**

A. Were any of the following Sanctions Ordered? (Check all appropriate items):

**Monetary/Fine** Amount:\$10000.00

**Revocation/Expulsion/Denial**       **Disgorgement/Restitution**

**Censure**       **Cease and Desist/Injunction**

**Bar**       **Suspension**

B. Other Sanctions Ordered:

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you, date paid and if any portion of penalty was waived:  
 CENSURED AND FINED \$10,000

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. (Your information must fit within the space provided.)  
 Not Provided

**U4 - CIVIL JUDICIAL DRP**  
 No Information Filed

**U4 - CUSTOMER COMPLAINT DRP**

This Disclosure Reporting Page is an  **INITIAL OR**  **AMENDED** response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

**Check Item(s) you are responding to:**

**Customer Complaint**

**23I(1)(a)**    **23I(1)(b)**    **23I(1)(c)**    **23I(2)**    **23I(3)(a)**    **23I(3)(b)**

One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.

1. Customer Name(s):  
 ALBERT FERSHING

2. Customer(s) State of Residence:  
 Other state(s) of residence/detail:

3. Employing Firm when activities occurred which led to the complaint:

<p>4. Date Complaint was received (MM/DD/YYYY):</p> <p><input type="radio"/> Exact <input type="radio"/> Explanation</p> <p>If not exact, provide explanation:</p>
<p>5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred:</p> <p>IN OR ABOUT JULY 1988 PLAINTIFF RECEIVED A MARGIN CALL FROM ALL-TECH'S CLEARING FIRM AND A COURTESY TELEPHONE CALL FROM MARK SHEFTS. PLAINTIFF DISAVOWED KNOWLEDGE OF STOCK POSITIONS BUT APPROVED LIQUIDATION. PLAINTIFF CLAIMED ACTUAL DAMAGES OF \$9349.38 AND ALLEGED THAT HE WAS ORALLY PROMISED NET PROFIT OF \$1200, RATHER THAN NET PROCEEDS OF \$1200, AND THAT SUCH "PROMISE" WAS ENFORCEABLE. PLAINTIFF FURTHER ALLEGED THAT HIS ACCOUNT POSITIONS WERE MISREPRESENTED.</p>
<p>6. Principal Product Type:</p> <p>Other Product Types:</p>
<p>7. Alleged Compensatory Damage Amount: 9349.38</p>
<p>8. Is complaint pending? <input type="radio"/> Yes <input checked="" type="radio"/> No</p>
<p>9. If the complaint is not pending, provide status:</p> <p>If status is settlement, complete questions 11 and 12;</p> <p>If status is arbitration/repairation, complete questions 13-19;</p> <p>If status is litigation, complete questions 20-27. Complete question 28 for all statuses.</p> <p><input type="checkbox"/> No Action <input type="checkbox"/> Withdrawn <input type="checkbox"/> Denied</p> <p><input type="checkbox"/> Settled <input type="checkbox"/> Arbitration/Repairation <input checked="" type="checkbox"/> Litigation</p>
<p>10. Resolution Date (MM/DD/YYYY):</p> <p><input type="radio"/> Exact <input type="radio"/> Explanation</p> <p>If not exact, provide explanation:</p>
<p>11. Settlement Amount (if settled without Arbitration, Litigation or Repairation):</p>
<p>12. Individual Contribution Amount:</p>
<p><b>IF ARBITRATION OR CFTC REPARATION</b></p>
<p>13. Arbitration/Repairation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number:</p>

14. Date notice/process was served (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
15. Is arbitration/reparation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
16. If the arbitration is not pending, what was the disposition?
17. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
18. Amount of Monetary Compensation (award, settlement, reparation amount): \$
19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number). SUPERIOR; ESSEX COUNTY, NJ; L-12665-89
21. Date notice/process was served (MM/DD/YYYY): 9/20/89 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition? Dismissed
24. Disposition Date (MM/DD/YYYY): 11/1/89 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, settlement amount): \$
26. Individual Contribution Amount: \$

27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY):

Exact  Explanation

If not exact, provide explanation:

28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.)

PLAINTIFF'S CLAIMS DISMISSED WITH PREJUDICE CLAIMANT ALLEGED THAT MARK SHEFTS, AS VICE-PRESIDENT OF BROKER-DEALER, REPRESENTED DURING COURTESY TELEPHONE CALL REGARDING A MARGIN CALL THAT CLAIMANT WOULD RECEIVE NET PROFIT (RATHER THAN EXCESS NET PROCEEDS) FROM LIQUIDATION OF A STOCK POSITION IN RESPONSE TO THE MARGIN CALL. PLAINTIFF'S CLAIMS WERE DISMISSED WITH PREJUDICE.

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

**Check item(s) you are responding to:**

**Customer Complaint**

23I(1)(a)  23I(1)(b)  23I(1)(c)  23I(2)  23I(3)(a)  23I(3)(b)

One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.

1. Customer Name(s):

JAMES JOURNEIGAN

2. Customer(s) State of Residence:

Other state(s) of residence/detail:

3. Employing Firm when activities occurred which led to the complaint:

4. Date Complaint was received (MM/DD/YYYY):

Exact  Explanation

If not exact, provide explanation:

5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred:

FAILURE TO FOLLOW PROPER DUE DILIGENCE AND RECORD KEEPING IN CONNECTION WITH CUSTOMER OPTIONS AND DISCRETIONARY TRADING, ALLEGING DAMAGES OF APPROXIMATELY \$135,000 AND SEEKING RESCISSION OF CUSTOMER OPTION TRADING AGREEMENT, GRANT OF DISCRETIONARY AUTHORITY AND AGREEMENT TO ARBITRATE.



19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number). US DIST; NJ; 88-4565 (MTB)
21. Date notice/process was served (MM/DD/YYYY): 10/19/88 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition? Dismissed
24. Disposition Date (MM/DD/YYYY): 2/1/91 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, \$ settlement amount):
26. Individual Contribution Amount: \$
27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.) PLAINTIFF'S CLAIMS DISMISSED Not Provided
This Disclosure Reporting Page is an <input checked="" type="radio"/> INITIAL OR <input type="radio"/> AMENDED response to report details for affirmative responses to <b>Items 23I</b> on page 3 of Form U-4;
<b>Check item(s) you are responding to:</b>
<b>Customer Complaint</b> <input type="checkbox"/> 23I(1)(a) <input type="checkbox"/> 23I(1)(b) <input type="checkbox"/> 23I(1)(c) <input type="checkbox"/> 23I(2) <input type="checkbox"/> 23I(3)(a) <input type="checkbox"/> 23I(3)(b)
One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.
1. Customer Name(s): FINANCIAL CLEARING & SERVICES CORP. AND DAVID FIRETTO

2. Customer(s) State of Residence: Other state(s) of residence/detail:
3. Employing Firm when activities occurred which led to the complaint:
4. Date Complaint was received (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred: FAILED TO PROPERLY SUPERVISE TORT AND LIABILITY OR VARIOUS OTHER THEORIES INCLUDING 34 ACT AND SECTION 20 OF RULES OF THE NYSE ALLEGED DAMAGES \$135,000
6. Principal Product Type: Other Product Types:
7. Alleged Compensatory Damage Amount: 67043.00
8. Is complaint pending? <input checked="" type="radio"/> Yes <input type="radio"/> No
9. If the complaint is not pending, provide status: If status is settlement, complete questions 11 and 12; if status is arbitration/reparation, complete questions 13-19; if status is litigation, complete questions 20-27. Complete question 28 for all statuses. <input type="checkbox"/> No Action <input type="checkbox"/> Withdrawn <input type="checkbox"/> Denied <input type="checkbox"/> Settled <input checked="" type="checkbox"/> Arbitration/Reparation <input type="checkbox"/> Litigation
10. Resolution Date (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
11. Settlement Amount (if settled without Arbitration, Litigation or Reparation):
12. Individual Contribution Amount:
<b>IF ARBITRATION OR CFTC REPARATION</b>
13. Arbitration/Reparation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number: New York Stock Exchange; 1990

14. Date notice/process was served (MM/DD/YYYY): 3/16/90 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
15. Is arbitration/reparation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
16. If the arbitration is not pending, what was the disposition? Withdrawn
17. Disposition Date (MM/DD/YYYY): 5/15/90 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
18. Amount of Monetary Compensation (award, settlement, reparation amount): \$
19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).
21. Date notice/process was served (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition?
24. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, settlement amount): \$
26. Individual Contribution Amount: \$

27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY):  
 Exact  Explanation  
 If not exact, provide explanation:

28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.)  
 CLAIMANT'S CLAIMS WERE DISMISSED WITH PREJUDICE AFTER CLAIMANT WAS SUED WITH RESPECT TO MARGIN CALL IN CONNECTION WITH LOSSES SUFFERED IN CLAIMANT'S DISCRETIONARY OPTION TRADING ACCOUNT DURING 1987 MARKET BREAK. CLAIMANT COUNTERCLAIMED, ALLEGING FAILURE TO PROPERLY SUPERVISE. MARK SHEFT WAS SUED IN HIS CAPACITY AS VICE PRESIDENT OF BROKERAGE FIRM; HE WAS NOT THE ACCOUNT EXECUTIVE NOR DID HE HAVE CONTACT WITH CLAIMANT. CLAIMANT'S CLAIMS WERE DISMISSED WITH PREJUDICE.

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

Check item(s) you are responding to:

**Customer Complaint**  
 23I(1)(a)  23I(1)(b)  23I(1)(c)  23I(2)  23I(3)(a)  23I(3)(b)

One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.

1. Customer Name(s):  
 ROBERT W. WITTY, SALLY V. WITTY, JOSEPH E. COLEMAN & RONNI FIEDLER

2. Customer(s) State of Residence:  
 Other state(s) of residence/detail:

3. Employing Firm when activities occurred which led to the complaint:  
 DOMESTIC ARBITRAGE GROUP, INC.

4. Date Complaint was received (MM/DD/YYYY):  
 Exact  Explanation  
 If not exact, provide explanation:

5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred:  
 LIABILITY UNDER AGENCY THEORY FOR ALLEGED MATERIAL MISREPRESENTATIONS OF REGISTERED REPRESENTATIVE. SEEKING RESTITUTION OF \$230,000, TREBLE DAMAGES ON COMMISSIONS AND NO LIABILITY FOR MARGIN CALLS UNDER 33 ACT. PLAINTIFF MADE SAME ALLEGATIONS UNDER N.J. SECURITIES LAWS IN NJ SUP. CT. CASE NO. C155489, COMMENCED 3/2/88.



19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number). SUPERIOR; ESSEX COUNTY, N.J.; C-15489-88E
21. Date notice/process was served (MM/DD/YYYY): 3/3/88 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition? Dismissed
24. Disposition Date (MM/DD/YYYY): 3/1/91 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, \$ settlement amount):
26. Individual Contribution Amount: \$
27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.) PLAINTIFFS' CLAIMS DISMISSED WITH PREJUDICE Not Provided
This Disclosure Reporting Page is an <input checked="" type="radio"/> INITIAL OR <input type="radio"/> AMENDED response to report details for affirmative responses to <b>Items 23I</b> on page 3 of Form U-4;
<b>Check item(s) you are responding to:</b>
<b>Customer Complaint</b> <input type="checkbox"/> 23I(1)(a) <input type="checkbox"/> 23I(1)(b) <input type="checkbox"/> 23I(1)(c) <input type="checkbox"/> 23I(2) <input type="checkbox"/> 23I(3)(a) <input type="checkbox"/> 23I(3)(b)
One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.
1. Customer Name(s): ROBERT W. WITTY, SALLY V. WITTY, JOSEPH E. COLEMAN & RONNI FIEDLER

2. Customer(s) State of Residence:	
Other state(s) of residence/detail:	
3. Employing Firm when activities occurred which led to the complaint: DOMESTIC ARBITRAGE GROUP, INC.	
4. Date Complaint was received (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:	
5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred: LIABILITY UNDER AGENCY THEORY FOR ALLEGED MATERIAL MISREPRESENTATIONS OF REGISTERED REPRESENTATIVE. SEEKING RESTITUTION OF \$230,000, TREBLE DAMAGES ON COMMISSIONS AND NO LIABILITY FOR MARGIN CALLS UNDER 33 ACT. PLAINTIFF MADE SAME ALLEGATIONS UNDER N.J. SECURITIES LAWS IN NJ SUP. CT. CASE NO. C155489, COMMENCED 3/2/88.	
6. Principal Product Type: Other Product Types:	
7. Alleged Compensatory Damage Amount:	230000.00
8. Is complaint pending? <input type="radio"/> Yes <input checked="" type="radio"/> No	
9. If the complaint is not pending, provide status: If status is settlement, complete questions 11 and 12; if status is arbitration/reparation, complete questions 13-19; if status is litigation, complete questions 20-27. Complete question 28 for all statuses. <input type="checkbox"/> No Action <input type="checkbox"/> Withdrawn <input type="checkbox"/> Denied <input type="checkbox"/> Settled <input type="checkbox"/> Arbitration/Reparation <input checked="" type="checkbox"/> Litigation	
10. Resolution Date (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:	
11. Settlement Amount (if settled without Arbitration, Litigation or Reparation):	
12. Individual Contribution Amount:	

**IF ARBITRATION OR CFTC REPARATION**

13. Arbitration/Reparation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number:
14. Date notice/process was served (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
15. Is arbitration/reparation pending? <input type="radio"/> Yes <input type="radio"/> No
16. If the arbitration is not pending, what was the disposition?
17. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
18. Amount of Monetary Compensation (award, settlement, reparation amount): \$
19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number). US DIST; NJ; 88-4443
21. Date notice/process was served (MM/DD/YYYY): 10/19/88 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition? Dismissed
24. Disposition Date (MM/DD/YYYY): 3/1/91 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, settlement amount): \$
26. Individual Contribution Amount: \$

27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY):

Exact  Explanation

If not exact, provide explanation:

28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.)

PLAINTIFFS' CLAIMS DISMISSED WITH PREJUDICE Not Provided

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

**Check item(s) you are responding to:**

**Customer Complaint**

23I(1)(a)  23I(1)(b)  23I(1)(c)  23I(2)  23I(3)(a)  23I(3)(b)

One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.

1. Customer Name(s):

\* ALLSTATE INVESTMENT VS. SUART ROSEN v. HOUTKIN, SHEFTS, CITRYNELL.

2. Customer(s) State of Residence:

Other state(s) of residence/detail:

3. Employing Firm when activities occurred which led to the complaint:

4. Date Complaint was received (MM/DD/YYYY):

Exact  Explanation

If not exact, provide explanation:

5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred:

6. Principal Product Type:

Other Product Types:

7. Alleged Compensatory Damage Amount:

8. Is complaint pending?  Yes  No

<p>9. If the complaint is not pending, provide status:          If status is settlement, complete questions 11 and 12;          if status is arbitration/reparation, complete questions 13-19;          if status is litigation, complete questions 20-27. Complete question 28 for all statuses.</p> <p> <input type="checkbox"/> No Action    <input type="checkbox"/> Withdrawn    <input type="checkbox"/> Denied  <input type="checkbox"/> Settled    <input type="checkbox"/> Arbitration/Reparation    <input checked="" type="checkbox"/> Litigation         </p>
<p>10. Resolution Date (MM/DD/YYYY):          1/12/89 <input type="radio"/> Exact <input type="radio"/> Explanation          If not exact, provide explanation:</p>
<p>11. Settlement Amount (if settled without Arbitration,          Litigation or Reparation):</p>
<p>12. Individual Contribution Amount:</p>
<p><b>IF ARBITRATION OR CFTC REPARATION</b></p>
<p>13. Arbitration/Reparation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and          Docket/Case Number:</p>
<p>14. Date notice/process was served (MM/DD/YYYY):  <input type="radio"/> Exact <input type="radio"/> Explanation          If not exact, provide explanation:</p>
<p>15. Is arbitration/reparation pending? <input type="radio"/> Yes <input type="radio"/> No</p>
<p>16. If the arbitration is not pending, what was the disposition?</p>
<p>17. Disposition Date (MM/DD/YYYY):  <input type="radio"/> Exact <input type="radio"/> Explanation          If not exact, provide explanation:</p>
<p>18. Amount of Monetary Compensation (award, settlement,        \$          reparation amount):</p>
<p>19. Individual Contribution Amount: \$</p>
<p><b>IF CIVIL LITIGATION</b></p>
<p>20. Court that case was filed in (include name of Federal, Military, State or Foreign Court,          Location of Court - City or County and State or Country, Docket/Case number).          SUPERIOR; NEW JERSEY; MORRIS COUNTY; L-2882-88</p>

21. Date notice/process was served (MM/DD/YYYY): 1/12/89 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition? Other
24. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, \$ settlement amount):
26. Individual Contribution Amount: \$
27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.) * LAWSUIT SHOULD BE REMOVED AS IT IS A INTERNAL MATTER BETWEEN FIRM AND FORMER EMPLOYEE. IT IS NOT A INVESTMENT RELATED CONSUMER INITIATED. SHOULD NOT HAVE EVER BEEN PLACED ON U-4.

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

**Check item(s) you are responding to:**

<b>Customer Complaint</b> <input type="checkbox"/> 23I(1)(a) <input type="checkbox"/> 23I(1)(b) <input type="checkbox"/> 23I(1)(c) <input type="checkbox"/> 23I(2) <input type="checkbox"/> 23I(3)(a) <input type="checkbox"/> 23I(3)(b)
One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.
1. Customer Name(s): SIMON, JULIUS AND LOUIS SRYBNIK AND SAUL WALLER
2. Customer(s) State of Residence: Other state(s) of residence/detail:

3. Employing Firm when activities occurred which led to the complaint:
4. Date Complaint was received (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred: THIS DISPUTE AMONG PARTNERS OF A BROKER-DEALER RELATED TO THE RESTRUCTURING OF THE BROKER-DEALER WAS ERRONEOUSLY REPORTED UNDER ITEM 22H
6. Principal Product Type: Other Product Types:
7. Alleged Compensatory Damage Amount:
8. Is complaint pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
9. If the complaint is not pending, provide status: If status is settlement, complete questions 11 and 12; if status is arbitration/repairation, complete questions 13-19; if status is litigation, complete questions 20-27. Complete question 28 for all statuses. <input type="checkbox"/> No Action <input type="checkbox"/> Withdrawn <input type="checkbox"/> Denied <input checked="" type="checkbox"/> Settled <input checked="" type="checkbox"/> Arbitration/Repairation <input type="checkbox"/> Litigation
10. Resolution Date (MM/DD/YYYY): 2/10/89 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
11. Settlement Amount (if settled without Arbitration, Litigation or Repairation):
12. Individual Contribution Amount:
<b>IF ARBITRATION OR CFTC REPARATION</b>
13. Arbitration/Repairation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number: NASD:
14. Date notice/process was served (MM/DD/YYYY): 12/1/85 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:

15. Is arbitration/repair pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
16. If the arbitration is not pending, what was the disposition? Dismissed
17. Disposition Date (MM/DD/YYYY): 2/10/89 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
18. Amount of Monetary Compensation (award, settlement, \$ reparation amount):
19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).
21. Date notice/process was served (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition?
24. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, \$ settlement amount):
26. Individual Contribution Amount: \$
27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.) N/A THIS ITEM WAS REPORTED IN ERROR UNDER 22H. SEE ATTACHED LETTER. PLEASE CORRECT APPLICANT'S RECORD BY OMITTING REPORTED MATERIAL.

This Disclosure Reporting Page is an  **INITIAL OR**  **AMENDED** response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

**Check item(s) you are responding to:**

<b>Customer Complaint</b> <input type="checkbox"/> <b>23I(1)(a)</b> <input type="checkbox"/> <b>23I(1)(b)</b> <input type="checkbox"/> <b>23I(1)(c)</b> <input type="checkbox"/> <b>23I(2)</b> <input type="checkbox"/> <b>23I(3)(a)</b> <input type="checkbox"/> <b>23I(3)(b)</b>
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One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.

<b>1. Customer Name(s):</b> FINANCIAL CLEARING AND SERVICES CORP
<b>2. Customer(s) State of Residence:</b> Other state(s) of residence/detail:
<b>3. Employing Firm when activities occurred which led to the complaint:</b>
<b>4. Date Complaint was received (MM/DD/YYYY):</b> <input checked="" type="radio"/> <b>Exact</b> <input type="radio"/> <b>Explanation</b> If not exact, provide explanation:
<b>5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred:</b>
<b>6. Principal Product Type:</b> Other Product Types:
<b>7. Alleged Compensatory Damage Amount:</b>
<b>8. Is complaint pending?</b> <input type="radio"/> <b>Yes</b> <input checked="" type="radio"/> <b>No</b>
<b>9. If the complaint is not pending, provide status:</b> If status is settlement, complete questions 11 and 12; if status is arbitration/repairation, complete questions 13-19; if status is litigation, complete questions 20-27. Complete question 28 for all statuses. <input type="checkbox"/> <b>No Action</b> <input type="checkbox"/> <b>Withdrawn</b> <input type="checkbox"/> <b>Denied</b> <input type="checkbox"/> <b>Settled</b> <input checked="" type="checkbox"/> <b>Arbitration/Repairation</b> <input type="checkbox"/> <b>Litigation</b>

10. Resolution Date (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
11. Settlement Amount (if settled without Arbitration, Litigation or Reparation):
12. Individual Contribution Amount:
<b>IF ARBITRATION OR CFTC REPARATION</b>
13. Arbitration/Reparation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number: NYSE
14. Date notice/process was served (MM/DD/YYYY): 8/31/88 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
15. Is arbitration/reparation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
16. If the arbitration is not pending, what was the disposition? Dismissed
17. Disposition Date (MM/DD/YYYY): 1/16/89 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
18. Amount of Monetary Compensation (award, settlement, reparation amount): \$
19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).
21. Date notice/process was served (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition?

24. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, \$ settlement amount):
26. Individual Contribution Amount: \$
27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.) OTHER RELATED ITEM 22I: AMENDED PG. 3 REC'D FROM ALL-TECH INVESTMENT GROUP, INC. DISCLOSES; FINANCIAL CLEARING and SERVICES CORP. v. SULLIVAN; SULLIVAN v. MARK SHEFTS et.al., BROUGHT A CLAIM, AS SUCCESSOR TO THOMAS MCKINNON'S RIGHTS, TO RECOVER A DEBIT BALANCE IN JOSEPH M. SULLIVAN'S ACCOUNT IN THE AMOUNT OF \$116,110.14 INCLUDING INTEREST AS OF 12/31/87. CLAIMANT FICS ASSERTED THAT SULLIVAN MADE NO TIMELY WRITTEN OBJECTION TO MONTHLY STATEMENTS AFTER AN OCTOBER 19, 1987 TRANSACTION. IN HIS THIRD PARTY CLAIM, DATED MAY 2, 1988, SULLIVAN ADMITTED THAT HE ENTERED AN ORDER FOR INDEX OPTIONS, INADVERTENTLY USING AN INCORRECT SYMBOL. SULLIVAN STATED THAT HE PERSONALLY WROTE THE SYMBOL. SULLIVAN INDICATED THAT THE CONFIRMATION WAS UNTIMELY, AND THAT THE FLOOR TRADER PROFITED FROM AN OBVIOUS ERROR. SULLIVAN FURTHER ALLEGED THAT THE TRANSACTION SHOULD HAVE BEEN PUT IN THE FIRM'S ERROR ACCOUNT RATHER THAN IN HIS PERSONAL ACCOUNT. MR. SULLIVAN SOUGHT TO BE FORGIVEN FOR THE DEBIT BALANCES IN HIS ACCOUNT, AND FURTHER SOUGHT \$385,000.00 FOR LOSS OF PAST AND FUTURE INCOME, PSYCHOLOGICAL AND PUNITIVE DAMAGES. THIRD PARTY RESPONDENTS ARE IN THE PROCESS OF FILING AN APPROPRIATE RESPONSE INCLUDING A REQUEST FOR PRELIMINARY FINDING OR STIPULATION THAT SULLIVAN'S DAMAGE CLAIMS ARE BEYOND THE SCOPE OF THE ARBITRATORS' POWERS. ***** 12/1/88}U4 FROM DOMESTIC SECURITIES, INC. DISCLOSES THE MATTER IS BEING HANDLED BY NYSE ARBITRATION. ***** 2/21/89* AMENDED PG. 3 DISCLOSES; ON JANUARY 16, 1989, THE NYSE ARBITRATORS DECIDED AND DETERMINED THAT THE CLAIM OF FINANCIAL CLEARING & SERVICES CORPORATION AGAINST THE DEFENDANTS BE, IN ALL RESPECTS, DENIED. THE COUNTERCLAIM OF THE DEFENDANTS WAS SIMILARLY DENIED, ALL WITHOUT PREJUDICE. COSTS, IN THE AMOUNT OF \$3,750.00, WAS ASSESSED AGAINST THE CLAIMANT, FINANCIAL CLEARING & SERVICES CORPORATION.

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

Check item(s) you are responding to:

Customer Complaint <input type="checkbox"/> 23I(1)(a) <input type="checkbox"/> 23I(1)(b) <input type="checkbox"/> 23I(1)(c) <input type="checkbox"/> 23I(2) <input type="checkbox"/> 23I(3)(a) <input type="checkbox"/> 23I(3)(b)
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One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.

1. Customer Name(s): FN WOLF & CO., INC.
2. Customer(s) State of Residence: Other state(s) of residence/detail:
3. Employing Firm when activities occurred which led to the complaint:
4. Date Complaint was received (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred: \$41,750 DAMAGES ARISING FROM CANCELLED TRANSACTION.
6. Principal Product Type: Other Product Types:
7. Alleged Compensatory Damage Amount: 41750.00
8. Is complaint pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
9. If the complaint is not pending, provide status: If status is settlement, complete questions 11 and 12; if status is arbitration/repairation, complete questions 13-19; if status is litigation, complete questions 20-27. Complete question 28 for all statuses. <input type="checkbox"/> No Action <input type="checkbox"/> Withdrawn <input type="checkbox"/> Denied <input type="checkbox"/> Settled <input checked="" type="checkbox"/> Arbitration/Repairation <input checked="" type="checkbox"/> Litigation
10. Resolution Date (MM/DD/YYYY): 5/16/89 <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
11. Settlement Amount (if settled without Arbitration, Litigation or Repairation):
12. Individual Contribution Amount:

**IF ARBITRATION OR CFTC REPARATION**

13. Arbitration/Reparation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number: NASD:89-02107
14. Date notice/process was served (MM/DD/YYYY): 5/16/89 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
15. Is arbitration/reparation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
16. If the arbitration is not pending, what was the disposition? Withdrawn
17. Disposition Date (MM/DD/YYYY): 5/16/89 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
18. Amount of Monetary Compensation (award, settlement, reparation amount): \$
19. Individual Contribution Amount: \$
<b>IF CIVIL LITIGATION</b>
20. Court that case was filed in (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).
21. Date notice/process was served (MM/DD/YYYY): 5/16/89 <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input checked="" type="radio"/> No
23. If the civil litigation is not pending, what was the disposition? Withdrawn
24. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input checked="" type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, settlement amount): \$
26. Individual Contribution Amount: \$

27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY):  
 Exact  Explanation  
 If not exact, provide explanation:

28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.)  
 DROPPED.

This Disclosure Reporting Page is an  INITIAL OR  AMENDED response to report details for affirmative responses to **Items 23I** on page 3 of Form U-4;

**Check item(s) you are responding to:**

**Customer Complaint**  
 23I(1)(a)  23I(1)(b)  23I(1)(c)  23I(2)  23I(3)(a)  23I(3)(b)

One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to one customer complaint. Use a separate DRP for each customer complaint.

1. Customer Name(s):  
 \*\*\*22H(1)(a) WAS ANSWERED ON THE DRP\*\*\* FRED COOK, CARMEN MARGALA,  
 JUDITH PAYNE COOK

2. Customer(s) State of Residence:  
 Other state(s) of residence/detail:

3. Employing Firm when activities occurred which led to the complaint:

4. Date Complaint was received (MM/DD/YYYY):  
 Exact  Explanation  
 If not exact, provide explanation:

5. Allegation(s) and a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred:  
 \$225,000 + INTEREST + \$50,000 FALSE ADVERTISING, FRAUD, BREACH OF FIDUCIARY DUTY, UNSUITABLE RECOMMENDATIONS-ALL UNDER AGENCY THEORY BECAUSE REGISTRANT IS A PRINCIPAL OF FIRM.

6. Principal Product Type:  
 Other Product Types:

7. Alleged Compensatory Damage Amount:

8. Is complaint pending?  Yes  No

<p>9. If the complaint is not pending, provide status:          If status is settlement, complete questions 11 and 12;          if status is arbitration/reparation, complete questions 13-19;          if status is litigation, complete questions 20-27. Complete question 28 for all statuses.</p> <p> <input type="checkbox"/> No Action    <input type="checkbox"/> Withdrawn    <input type="checkbox"/> Denied  <input type="checkbox"/> Settled    <input checked="" type="checkbox"/> Arbitration/Reparation    <input type="checkbox"/> Litigation         </p>
<p>10. Resolution Date (MM/DD/YYYY):          5/24/99 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation          If not exact, provide explanation:</p>
<p>11. Settlement Amount (if settled without Arbitration,          Litigation or Reparation):</p>
<p>12. Individual Contribution Amount:</p>
<p><b>IF ARBITRATION OR CFTC REPARATION</b></p>
<p>13. Arbitration/Reparation claim filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.) and          Docket/Case Number:</p>
<p>14. Date notice/process was served (MM/DD/YYYY):          5/24/99 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation          If not exact, provide explanation:</p>
<p>15. Is arbitration/reparation pending? <input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p>16. If the arbitration is not pending, what was the disposition?</p>
<p>17. Disposition Date (MM/DD/YYYY):  <input checked="" type="radio"/> Exact <input type="radio"/> Explanation          If not exact, provide explanation:</p>
<p>18. Amount of Monetary Compensation (award, settlement,    \$          reparation amount):</p>
<p>19. Individual Contribution Amount: \$</p>
<p><b>IF CIVIL LITIGATION</b></p>
<p>20. Court that case was filed in (include name of Federal, Military, State or Foreign Court,          Location of Court - City or County and State or Country, Docket/Case number).</p>

21. Date notice/process was served (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
22. Is the civil litigation pending? <input type="radio"/> Yes <input type="radio"/> No
23. If the civil litigation is not pending, what was the disposition?
24. Disposition Date (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
25. Amount of Monetary Compensation (judgment, restitution, \$ settlement amount):
26. Individual Contribution Amount: \$
27. If the action is currently on appeal enter date appeal filed (MM/DD/YYYY): <input type="radio"/> Exact <input type="radio"/> Explanation If not exact, provide explanation:
28. Provide details as to dispositions, including any limits or conditions. (Your information must fit within the space provided.) Not Provided CUSTOMERS LOST MONEY IN UNSOLICITED TRADING AND SEEK TO RECOVER AGAINST PRINCIPALS OF FIRM
<b>U4 - TERMINATION DRP</b> No Information Filed
<b>U4 - INVESTIGATION DRP</b> No Information Filed
<b>U4 - BANKRUPTCY DRP</b> This Disclosure Reporting Page is an <input checked="" type="radio"/> INITIAL OR <input type="radio"/> AMENDED response to report details for affirmative responses to <b>Items 23K(1), 23K(2) and 23K(3)</b> on page 3 of Form U-4; <b>Check item(s) you are responding to:</b> <b>Bankruptcy/SIPC/Compromise with Creditors</b> <input type="checkbox"/> 23K(1) <input type="checkbox"/> 23K(2) <input type="checkbox"/> 23K(3) If events result in affirmative answers to both 23K(1) and 23K(2), details to each must be provided on separate DRPs.
1. Action Type: Bankruptcy

<p>2. Action Date (MM/DD/YYYY):  10/1/87 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation  If not exact, provide explanation:</p>
<p>3. If the financial action relates to an organization over which you exercise(d) control, enter Organization Name and your position, title or relationship:   Was the Organization investment-related? <input type="radio"/> Yes <input checked="" type="radio"/> No</p>
<p>4. Court action brought in (Name of Federal, State or Foreign Court), Location of Court (City or County and State or Country), Docket/Case Number and Bankruptcy Chapter Number (if Federal Bankruptcy Filing):  N/A N/A N/A</p>
<p>5. Is action currently pending? <input type="radio"/> Yes <input checked="" type="radio"/> No</p>
<p>6. If not pending, provide Disposition Type:  Other</p>
<p>7. Disposition Date (MM/DD/YYYY):  10/1/87 <input checked="" type="radio"/> Exact <input type="radio"/> Explanation  If not exact, provide explanation:</p>
<p>8. Provide a brief summary of events leading to the action and if not discharged, explain. (Your information must fit within the space provided.):  N/A - REGISTRANT WAS AN OFFICER, DIRECTOR AND MINORITY SHAREHOLDER OF DOMESTIC ARBITRAGE GROUP, INC., A FAILED BROKER-DEALER</p>
<p>9. If a SIPA trustee was appointed or a direct payment procedure was begun, enter the amount paid or agreed to be paid by you; or the name of the trustee:   Currently Open? <input type="radio"/> Yes <input checked="" type="radio"/> No  Date Direct Payment Initiated/Filed or Trustee Appointed (MM/DD/YYYY):  <input type="radio"/> Exact <input type="radio"/> Explanation  If not exact, provide explanation:</p>
<p>10. Provide details to any status/disposition. Include details as to creditors, terms, conditions, amounts due and settlement schedule (if applicable). (Your information must fit within the space provided.)  N/A Not Provided</p>
<p><b>U4 - BOND DRP</b>  No Information Filed</p>
<p><b>U4 - JUDGMENT LIEN DRP</b>  No Information Filed</p>

## Regulatory Archive and Z Records

Individual CRD#: 709147		Individual Name: SHEFTS, MARK D			
Occurrence	Reportable/ Disclosable		Composite Filing	Event Date	Questions Answered
	No	No			
Customer Complaint (336462)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 Unknown Organization		
Customer Complaint (336452)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 Unknown Organization		
Customer Complaint (336429)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 ALL-TECH DIRECT, INC. (13992)		
Bankruptcy (336409)	No	No	U4-CONVERSION Bankruptcy 07/06/1999 DOMESTIC SECURITIES, INC. (34721)	10/01/1987	
Regulatory Action (336404)	No	No	U4-CONVERSION Regulatory Action 07/06/1999 ALL-TECH DIRECT, INC. (13992)	07/31/1989	
			U6-CONVERSION Regulatory Action 07/07/1999 NASD	07/31/1989	
Customer Complaint (313533)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 Unknown Organization		
Customer Complaint (82261)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 DOMESTIC SECURITIES, INC. (34721)		
Customer Complaint (82260)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 DOMESTIC SECURITIES, INC. (34721)		
Customer Complaint (82259)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 DOMESTIC SECURITIES,		

			INC. (34721) U6-CONVERSION Arbitration 07/07/1999 NYSE		
Customer Complaint (82258)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 DOMESTIC SECURITIES, INC. (34721)		
Customer Complaint (82257)	No	No	U4-CONVERSION Customer Complaint 07/06/1999 DOMESTIC SECURITIES, INC. (34721)		

5TH DECISION of Level 1 printed in FULL format.

IN THE MATTER OF: ALL-TECH INVESTMENT GROUP, INC. AND MARK  
SHEETS

[No Number in Original]

STATE OF NEW JERSEY  
BUREAU OF SECURITIES

1990 N.J. Sec. LEXIS 171

June 25, 1990

[\*1] William E. Graves, Esq., Deputy Attorney General, Attorney for Bureau of  
Securities

Brian F. Amery, Esq., Attorney for Respondents

James McLelland Smith, Bureau Chief

Opinion:

STIPULATION OF SETTLEMENT

WHEREAS, the Bureau of Securities ("Bureau") initiated an investigation of All-Tech Investment Group, Inc. ("All-Tech"), previously known as Allstate Investment Group, Inc., and Mark Shefts ("Shefts"); and

WHEREAS, the Bureau's investigation indicates that Shefts i) failed to supervise Harvey I. Houtkin ("Houtkin") on behalf of All-Tech, ii) permitted Houtkin to act as an unregistered agent of All-Tech, and iii) permitted Houtkin to be an undisclosed principal of All-Tech; and

WHEREAS, the Bureau's investigation indicates that All-Tech i) permitted Houtkin to act as an unregistered agent of All-Tech, ii) permitted Houtkin to be an undisclosed principal of All-Tech, and iii) failed to supervise Houtkin; and

WHEREAS, Shefts and All-Tech neither admit or deny the allegations contained in the second and third "Whereas" clauses of this agreement but desire to resolve the issues without a hearing and adjudication and without bearing the costs associated with such litigation; and

WHEREAS, the Bureau, [\*2] Shefts and All-Tech have negotiated an amicable resolution of the matter:

NOW THEREFORE the Bureau, Shefts and All-Tech hereby agree to the following:

1. All-Tech shall file form SB-10 withdrawing its registration as a broker-dealer with the Bureau effective thirty (30) days from the date of this Stipulation. All-Tech shall not reapply for registration with the Bureau in any capacity for three (3) years from the date of this Stipulation.

2. Mark Shefts shall not apply for registration in any capacity under the New Jersey Uniform Securities Law (1967), shall not act as an agent, broker-dealer,

investment advisor or issuer in or from the State of New Jersey or act as a principal of a broker-dealer registered in New Jersey for a period of three (3) years from the date of All-Tech's withdrawal of registration.

3. Mark Shefts and All-Tech shall not be associated, in any capacity, directly or indirectly, with Houtkin or Domestic Securities, Inc. ("Domestic") in the securities business in the State of New Jersey for a period of three (3) years. After the expiration of the three (3) year period contained in this paragraph, Mark Shefts and All-Tech shall not be associated, in any capacity, [\*3] directly or indirectly, with Houtkin or Domestic in the securities business in or from the State of New Jersey without the prior approval of the Bureau.

4. In the event that Shefts or All-Tech apply for registration after the three (3) years period provided in this Stipulation has expired, the Bureau will not rely upon the issues resolved by this Stipulation as the sole basis for denying such registration. However, Shefts understands and agrees that in the event he reapplies for registration in a supervisory, management or principal capacity after the running of the three (3) years period provided in this Stipulation, he may be required to demonstrate his qualifications by submitting additional evidence and information as may be required by the Bureau to satisfy the requirements of N.J.S.A. 49:3-57 & 58(a).

6TH DECISION of Level 1 printed in FULL format.

IN THE MATTER OF: DOMESTIC SECURITIES INCORPORATED,  
Respondent

[No Number in Original]

STATE OF NEW JERSEY  
BUREAU OF SECURITIES

1989 N.J. Sec. LEXIS 404

April 25, 1989

[\*1] Brian Amery, Esq., Attorney for Respondents

James McLelland Smith, Chief

Opinion:

ALLEGATIONS

i

N.J.S.A. 49:3-58(a)(1) and 58(a)(2)(i)

THE APPLICATION FOR REGISTRATION WAS FALSE OR MISLEADING CONCERNING MATERIAL  
FACTS

1. Domestic Securities Incorporated ("Domestic"), with its principal place of business at 620 Route 23, Pompton Plains, New Jersey 07444, has filed as an application form SB-1 to become registered as a broker-dealer with the Bureau of Securities ("Bureau"). Domestic has never been registered with the Bureau.

2. **Harvey I. Houtkin ("Houtkin")**, residing at 26 Saw Mill Road, Kinnelon, New Jersey 07405, is the President, Secretary and Treasurer of Domestic. Houtkin had been registered with the Bureau as an agent from approximately August, 1983 to November, 1987. From approximately March, 1972 to January, 1974, Houtkin was employed as a representative of Blyth Eastment Dillon and Company, Incorporated. From approximately December, 1973, to April, 1975, Houtkin was employed as a representative of American Securities Corporation. From approximately April, 1975 to October, 1975, Houtkin was employed as a representative of Oppenheimer and Company Incorporated. From approximately October, [\*2] 1975 to March, 1976, Houtkin was employed as a representative of Icahn and Company, Incorporated. From approximately March, 1976 to December, 1978, Houtkin was employed as an arbitrager by American Securities Corporation. From approximately December, 1978 to May, 1979, Houtkin was employed as an arbitrager by Arbitrage Securities Company. From approximately June, 1979 to December, 1979, Houtkin was a general partner of VVI Securities. From approximately December, 1979 to October, 1985, Houtkin was a general partner of Domestic Arbitrage Group, Incorporated. From approximately October, 1985 to October, 1987 Houtkin was the President and a Director of Domestic Arbitrage Group, Incorporated. From approximately March 11, 1981 to December, 1986, Houtkin was the President of HMS Securities, Incorporated. From approximately November, 1987 to the present Houtkin has been a private investor. Houtkin has taken and passed several

National Association of Securities Dealers, Incorporated ("NASD") sponsored examinations.

3. Stephen B. Grayer ("Grayer"), residing at 2235 Glenwood Road, Brooklyn, New York 11210 is listed on Domestic's application as Domestic's General Principal.

4. Item 4(b) of Domestic's [\*3] application asks whether Domestic is a foreign corporation properly licensed to transact business in the State of New Jersey. Domestic answered this question in the affirmative (Exhibit 1).

5. The New Jersey Department of State has certified to the Bureau that Domestic is not a foreign corporation authorized to transact business in this State (Exhibit 2).

6. Item 6 of Domestic's application requires Domestic to state the number of years Domestic has been a securities broker-dealer in this State or elsewhere. Domestic stated that it had been a broker-dealer for nine (9) years (Exhibit 1).

7. By letter dated March 30, 1989 (Exhibit 3), the Bureau requested that Domestic forward all documents concerning its incorporation, its by-laws and all minutes of meetings.

8. According to its own Articles of Incorporation, Domestic was incorporated in the State of New York on February 6, 1986 (Exhibit 4).

9. Mark Shefts ("Shefts"), who was listed in an earlier application as Domestic's Secretary, Director and shareholder stated in sworn testimony taken at the Bureau on March 6, 1989, that Domestic had been in business for about 4 years (Exhibit 5, page 36).

10. Item 9 of Domestic's broker-dealer [\*4] application requires Domestic to give the nature and location of each business in which Domestic has engaged in during the preceding five (5) years. Domestic stated that it was a floor broker on the New York Stock Exchange ("NYSE") from 1981 to 1988 (Exhibit 1). However, according to NYSE's records (Exhibit 6, page 2), Domestic was admitted as a member of the NYSE on May 2, 1986.

11. In addition, as part of the application process, the Bureau requested that Domestic forward to the Bureau its Articles of Incorporation and copies of all of its audited and unaudited financial statements from January 1, 1986 to the present (Exhibit 3).

12. According to the Articles of Incorporation dated February 6, 1986, Domestic was incorporated under the laws of the State of New York (Exhibit 4). However, according to audited (certified) financial statements filed on behalf of Domestic for years ending 1986, 1987 and 1988, Domestic was incorporated under the laws of the State of Delaware on May 1, 1986 (Exhibits 7, 8 and 9).

13. The allegations set forth above indicate that Domestic has filed an application that contains statements which are false or misleading concerning material facts which is cause [\*5] pursuant to N.J.S.A. 49:3-58(a)(1) and 49:3-58(a)(2)(i) for the entry of an order in the public interest denying the application submitted by Domestic for registration as a broker-dealer.

1989 N.J. Sec. LEXIS 404, \*5

WHEREFORE it is in the public interest and for the protection of investors and to accomplish the purposes of N.J.S.A. 49:3-47 et seq., to issue an Order denying the broker-dealer application for registration filed by Domestic Securities Incorporated.

Attachment:

EXHIBIT 1

BROKER-DEALER APPLICATION

[SEE EXHIBIT 1 IN ORIGINAL]

EXHIBIT 2

I, the Secretary of State of the State of New Jersey DO HEREBY CERTIFY that the records of this office show that DOMESTIC SECURITIES INC. has not been incorporated under the laws of the State of New Jersey nor is it a foreign corporation authorized to transact business in this State at the time of the issuance of this certificate.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at Trenton, this 11th day of April A.D. 1989.

EXHIBIT 3

March 30, 1989

Mr. Harvey Houtkin  
Domestic Securities, Inc.  
620 Route 23  
Pompton Plains, NJ 07444

Dear Mr. Houtkin:

Pursuant to N.J.S.A. 49:3-69 and in connection with an investigation concerning the application [\*6] of Domestic Securities, Incorporated ("Domestic"), it is hereby requested that you produce the following on or before April 5, 1989:

1. All opinion letters or correspondence from attorneys regarding Domestic's exemption from registration as a broker-dealer in this State.
2. A copy of all minutes of Domestic's board of directors meetings from January 1, 1986 to the present.
3. A copy of all resolutions from Domestic's board of directors from January 1, 1986 to the present.
4. A copy of Domestic's articles of incorporation, by-laws and any amendment.
5. Any and all financial statements, audited and unaudited, issued by Domestic from January 1, 1986 to the present.

6. Copies of all checks, including bank checks or money orders, both front and back, issued by or on behalf of Harvey Houtkin from January 1, 1986 to the present.

7. Copies of all Small Order Execution System transactions performed on or behalf of Harvey Houtkin from January 1, 1986 to the present.

8. A copy of all new account forms for all clients of Domestic from January 1, 1986 to the present.

Very truly yours,

Erwin J. Dugas, Jr.  
Unit Supervisor

EXHIBIT 4

[SEE EXHIBIT 4 IN ORIGINAL]

EXHIBIT 5

IN THE MATTER [\*7] OF AN INQUIRY REGARDING DOMESTIC SECURITIES, INC.,  
DEPOSITION OF MARK SHEFTS

TRANSCRIPT of deposition taken by and before RENEE RUSSO, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, at the offices of the BUREAU OF SECURITIES, Two Gateway Center, Newark, New Jersey, on MONDAY, MARCH 6, 1989, commencing at 1:00 A.M.

APPEARANCES:

EDWARD SHERIDAN, Investigator, N. J. Bureau of Securities

ERWIN DUGASZ, Investigator, N. J. Bureau of Securities

ALLSTATE INVESTMENT, BY: MITCHEL J. SHORNICK, ESQ. Attorney for Mr. Shefts

R.J. O'CONNELL ASSOCIATES, INC.

CERTIFIED SHORTHAND REPORTERS

P.O. BOX 277

CEDAR GROVE, NEW JERSEY 07009

(201) 239-7252 Shefts - Direct believe that was a copy of a U-4 from possibly Alltech where that date may be the proper date.

Q. And you had stated that Domestic Securities was started in '82, 1982?

A. Approximately. No. It must have been approximately four years ago.

Q. Four years ago?

A. I'm trying to remember when we started it. Well, I assume the date would be on there but approximately four years ago.

Q. And no business was started up until?

A. The only business Domestic Securities ever did was two-dollar business on the floor of the [\*8] New York Stock Exchange, the only active business we ever did.

Domestic Securities used to be a member of the New York Stock Exchange of which we had a broker on the floor who executed other brokerage firms' business commonly called two-dollar bids.

Q. Did Domestic Securities prior to the time of this application have clients?

A. No. We had other broker/dealers who we executed deals on the floor of the New York Stock Exchange, if you want to use the word "client" but

[SEE EXHIBIT 7 IN ORIGINAL]

DOMESTIC SECURITIES INC.

Financial Report

December 31, 1986

TABLE OF CONTENTS:

Accountants' Comment.

Exhibit "A" - Statement of Financial Condition.

Exhibit "B" - Statement of Income.

Exhibit "C" - Statement of Changes in Stockholders' Equity.

Exhibit "D" - Statement of Changes in Subordinated Accounts.

Exhibit "E" - Statement of Changes in Financial Position.

Schedule 1. - Computation of Net Capital Under S.E.C. Rule 15c3-1.

Accountants' Report.

Frederick S. Todman & Company

Certified Public Accountants

111 Broadway

New York N.Y. 10006

Telephone 962-5930

To the Officers and Directors of

Domestic Securities Inc.  
620 Route 23  
Pompton Plains, N.J. 07444

Gentlemen:

We have examined the financial [\*9] statements of Domestic Securities Inc. for the eight months ended December 31, 1986 and have issued our report thereon dated February 24, 1987. As part of our examination, we made a study and evaluation of the system of internal accounting control to the extent we considered necessary to evaluate the system as required by generally accepted auditing standards and Rule 17a-5 of the Securities and Exchange Commission. This study and evaluation included the accounting system, the procedures for safeguarding securities, and the practices and procedures followed by the Company (i) in making the periodic computations of aggregate indebtedness and net capital under Rule 17a-3 (a)(11) and (ii) compliance with the exemptive provision of Rule 15c3-3(k)(2)(b). Rule 17a-5 states that the scope of the study and evaluation should be sufficient to provide reasonable assurance that any material weakness existing at the date of our examination would be disclosed. Under generally accepted auditing standards and Rule 17a-5, the purposes of such study and evaluation are to establish a basis for reliance thereon in determining the nature, timing, and extent of other auditing procedures necessary for expressing [\*10] an opinion on the financial statements and to provide a basis for reporting material weaknesses in internal accounting control.

The objective of internal accounting control is to provide reasonable, but not absolute, assurance concerning the safeguarding of assets against loss from unauthorized use or disposition and the reliability of financial records for preparing financial statements and maintaining accountability for assets. The concept of reasonable assurance recognizes that the cost of a system of internal accounting control should not exceed the benefits derived and also recognizes that the evaluation of these factors necessarily requires estimates and judgments by management. However, for the purposes of this report under Rule 17a-5, the determination of weaknesses to be reported was made without considering the practicability of corrective action by management within the framework of a cost/benefit relationship.

There are inherent limitations that should be recognized in considering the potential effectiveness of any system of internal accounting control. In the performance of most control procedures, errors can result from misunderstanding of instructions, mistakes of judgment, [\*11] carelessness, or other personal factors. Control procedures whose effectiveness depends on segregation of duties can be circumvented by collusion. Similarly, control procedures can be circumvented intentionally by management either with respect to the execution and recording of transactions or with respect to estimates and judgments required in the preparation of financial statements. Further, projection of any evaluation of internal accounting control to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

1989 N.J. Sec. LEXIS 404, \*11

Our examination of the financial statements made in accordance with generally accepted auditing standards, including the study and evaluation of the Company's system of internal accounting control for the eight months ended December 31, 1986, that was made for the purposes set forth in the first paragraph of this report, would not necessarily disclose all weaknesses in the system because it was based on selective tests of accounting records and related data. However, such study and evaluation disclosed no conditions that we believe to be material weaknesses. [\*12] In addition, no facts came to our attention that would indicate that conditions of the exemption from Rule 15c3-3(k)(2)(b) had not been complied with during the period.

In the light of the foregoing comment, we declare that we found no material inadequacies in your accounting system, internal accounting control and procedures for safeguarding securities. Further, that no material differences existed between our computation of your net capital, and your corresponding Focus Report Part II A filing.

We hereby attest that the requirements prescribed by the Securities and Exchange Commission for audit, under authority of Rule 17a-5, have been observed by us in the conduct of our examination.

Respectfully submitted,

Certified Public Accountants (N.Y.)

I, ALAN OSOFSKY, swear that, to the best of my knowledge and belief, the accompanying financial statements and supporting schedules pertaining to the firm of DOMESTIC SECURITIES INC., as of December 31, 1986, are true and correct. I further swear that neither the company nor any partners, proprietor, principal officer or director has any proprietary interest in any account classified solely as that of a customer, except as follows:

No Exceptions

[\*13] Irene Corwin  
(Notary Public)

EXHIBIT "A" Page 1.

DOMESTIC SECURITIES INC.

Statement of Financial Condition

December 31, 1986

ASSETS:	
Cash in bank	\$ 39,608
Due from brokers	27,666
Organization expense	8,900
Total Assets	\$ 76,174
LIABILITIES AND STOCKHOLDERS' EQUITY:	
Liabilities:	
Accrued expenses and taxes	6,807
Total Liabilities	6,807

1989 N.J. Sec. LEXIS 404, \*13

Stockholders' Equity:	
Common stock	
Authorized 200 shares no par value	
Issued and outstanding 100 shares	100
Additional paid-in capital	40,000
Retained earnings	29,267
Total Stockholders' Equity	69,367
Total Liabilities and Stockholders' Equity	\$ 76,174

The accompanying notes are an integral part of this statement.

EXHIBIT "A" Page 2.

DOMESTIC SECURITIES INC.

Notes to Financial Statement

December 31, 1986

NOTES TO STATEMENT OF FINANCIAL CONDITION:

1. Significant Account Policies:

Securities transactions and recognition of related income and expenses are recorded on a settlement date basis, which is generally five business days after trade date for securities and one business day for options.

All investments of the Company are in marketable securities and are stated at quoted market value.

[\*14] 2. The company was incorporated under the laws of the State of Delaware on May 1, 1986. The company was organized to engage in the securities brokerage business. The company is a member of the New York Stock Exchange through a lease agreement with its parent company, Domestic Arbitrage Group, Inc.

3. Capital Ratio:

The capital ratio, as independently computed by our auditors was - 11% - versus an allowable maximum of 1,500% pursuant to the Uniform Net Capital Rule 15c3-1 under the Securities and Exchange Act of 1934. The firm's net capital requirement pursuant to said Rule is \$ 25,000. The net capital as computed was \$ 60,467, leaving an excess over requirements of \$ 35,467.

4. The company has issued 100 shares of common stock for cash in the amount of \$ 40,100. The company is a wholly owned subsidiary of its parent company.

A copy of the Firm's Statement of Financial Condition as at December 31, 1986 pursuant to the S.E.C. Rule 17a-5 is available for examination at the Firm's office and at the regional office of the Securities and Exchange Commission.

The accompanying notes are an integral part of this statement.

EXHIBIT "B"

1989 N.J. Sec. LEXIS 404, \*14

## DOMESTIC SECURITIES INC.

## Statement of Income [\*15]

For the Eight Month Period from May 1, 1986 (inception) to

December 31, 1986

REVENUES:	
Commissions	\$ 311,871
Total Revenues	\$ 311,871
EXPENSES:	
Salaries and benefits	\$ 104,268
Clearance	3,146
Commissions	9,112
Consultants	93,947
Telephone	7,673
Dues and assessment	17,257
Travel & entertainment	11,530
Stationery, printing and postage	3,155
Other expenses	27,016
Total Expenses	\$ 277,104
Income before provision for income taxes.	34,767
Provision for federal income taxes.	5,500
Net income.	\$ 29,267

The accompanying notes are an integral part of this statement.

## EXHIBIT "C"

## DOMESTIC SECURITIES INC.

## Statement of Changes in Stockholders' Equity

For the Eight Month Period from May 1, 1986 (inception) to

December 31, 1986

	Additional			Total
	Common Stock	Paid-in Capital	Retained Earnings	
Balance - beginning	- 0 -	- 0 -	- 0 -	- 0 -
Issuance of 100 shares of common stock	\$ 100	\$ 40,000		\$ 40,100
Net income			\$ 29,267	29,267
Balance - end	\$ 100	\$ 40,000	\$ 29,267	\$ 69,367

The accompanying notes are an integral part of this statement.

## EXHIBIT "D"

## DOMESTIC SECURITIES INC.

1989 N.J. Sec. LEXIS 404, \*15

## Statement of Changes in Subordinated [\*16] Accounts

For the Eight Month Period May 1, 1986 (inception) to

December 31, 1986

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N

E

The accompanying notes are an integral part of this statement.

## EXHIBIT "E"

## DOMESTIC SECURITIES INC.

## Statement of Changes in Financial Position

For the Eight Month Period from May 1, 1986 (inception) to

December 31, 1986

## FUNDS PROVIDED BY:

Net income	\$ 29,267
Sale of common stock	40,100
Increases In:	
Accrued expenses and taxes	6,807
Total Funds Provided	\$ 76,174

## FUNDS APPLIED TO:

Increases In:	
Cash in bank	39,608
Due from brokers	27,666
Organization expense	8,900
Total Funds Applied	\$ 76,174

The accompanying notes are an integral part of this statement.

## SCHEDULE 1.

## DOMESTIC SECURITIES INC.

## Computation of Net Capital Under S.E.C. Rule 15c3-1

December 31, 1986

## CREDIT ITEMS:

Common stock	\$ 100
Paid-in capital	40,000
Retained earnings	29,267
Total Credit Items	69,367

## DEBIT ITEMS:

1989 N.J. Sec. LEXIS 404, \*16

Organization expense	8,900
Net Capital	60,467
Less: Minimum Net Capital Requirement	25,000
Remainder: Net capital in excess of all requirements.	\$ 35,467
Capital Ratio: (Maximum allowance 1,500%)	
* Aggregate Indebtedness	\$ 6,807
	= 11%
Dividend by: Net Capital	60,467
*Accrued expenses and taxes	\$ 6,807

[\*17]

The accompanying notes are an integral part of this statement.

Frederick S. Todman & Company  
Certified Public Accountants

111 Broadway

New York N.Y. 10006

Telephone 962-5930

ACCOUNTANTS' REPORT:

To the Officers and Directors of Domestic Securities Inc.:

We have examined the statement of financial condition of Domestic Securities Inc. as of December 31, 1986, and the related statements of income, changes in stockholder's equity, changes in liabilities subordinated to claims of general creditors and changes in financial position, for the period then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of Domestic Securities Inc. at December 31, 1986 and the results of its operations and changes in its financial position for the period then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Our examination was made for the purpose of [\*18] forming an opinion on the basic financial statements, taken as a whole. The information contained in Schedule 1 is presented for purposes of additional analysis and is not a required part of the basic financial statements, but is supplementary information required by rule 17a-5 of the Securities and Exchange Commission. Such information has been subjected to the auditing procedures applied in the examination of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

FREDERICK S. TODMAN & COMPANY

Certified Public Accountants (N.Y.)

[SEE EXHIBIT 8 IN ORIGINAL]

DOMESTIC SECURITIES INC.

Financial Report

December 31, 1987

TABLE OF CONTENTS:

Accountants' Comment.

Exhibit "A" - Statement of Financial Condition.

Exhibit "B" - Statement of Income.

Exhibit "C" - Statement of Changes in Stockholders' Equity.

Exhibit "D" - Statement of Changes in Subordinated Accounts.

Exhibit "E" - Statement of Changes in Financial Position.

Schedule 1. - Computation of Net Capital Under S.E.C. Rule 15c3-1.

Schedule 2. - Reconciliation of Net Capital Computation.

Accountants' Report.

FREDERICK S. TODMAN & COMPANY [\*19]

CERTIFIED PUBLIC ACCOUNTANTS

111 BROADWAY

NEW YORK, N.Y. 10006

TELEPHONE 962-5930

To the Officers and Directors of:

Domestic Securities Inc.

620 Route 23

Pompton Plains, N.J. 07444

We have examined the financial statements of Domestic Securities Inc. for the year ended December 31, 1987, and have issued our report thereon dated February 28, 1988. As part of our examination, we made a study and evaluation of the Company's system of internal accounting control (which includes the procedures for safeguarding securities) to the extent we considered necessary to evaluate the system as required by generally accepted auditing standards. The purpose of our study and evaluation, which included obtaining an understanding of the accounting system, was to determine the nature, timing, and extent of the auditing procedures necessary for expressing an opinion on the financial statements.

We, also, as required by Rule 17a-5(g)(1) of the Securities and Exchange Commission, made a study of the practices and procedures followed by the Company in making the periodic computations of aggregate indebtedness and net capital under Rule 17a-3(a)(11) and the procedures for determining compliance with the [\*20] exemptive provisions of Rule 15c3-3(k)(2)(b). We did not review the practices and procedures followed by the Company in making the quarterly securities examinations, counts, verifications and comparisons, and the recordation of differences required by Rule 17a-13; or in complying with the requirements for prompt payment for securities under Section 8 of Regulation T of the Board of Governors of the Federal Reserve System, because the Company does not carry security accounts for customers or perform custodial functions relating to customer securities.

The management of the Company is responsible for establishing and maintaining a system of internal accounting control and the practices and procedures referred to in the preceding paragraph. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures and of the practices and procedures referred to in the preceding paragraph and to assess whether those practices and procedures can be expected to achieve the Commission's above-mentioned objectives. The objectives of a system and the practices and procedures are to provide management with reasonable, [\*21] but not absolute, assurance that assets for which the Company has responsibility are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Rule 17a-5(g) lists additional objectives of the practices and procedures listed in the preceding paragraph.

Because of inherent limitations in any internal accounting control procedures or the practices and procedures referred to above, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of them to future periods is subject to the risk that they may become inadequate because of changes in conditions or that the degree of compliance with them may deteriorate.

Our study and evaluation made for the limited purpose described in the first paragraph would not necessarily disclose all material weaknesses in the system. Accordingly, we do not express an opinion on the system of internal accounting control of Domestic Securities Inc., taken as a whole. However, our study and evaluation [\*22] disclosed no condition that we believed to be a material weakness, and no facts came to our attention to cause us to believe that the Company was not in compliance with the exemptive provisions of Rule 15c3-3(k)(2)(b).

We understand that practices and procedures that accomplish the objectives referred to in the second paragraph of this report are considered by the Commission to be adequate for its purposes in accordance with the Securities and Exchange Act of 1934 and related regulations, and that practices and procedures that do not accomplish such objectives in all material respects indicate a material inadequacy for such purposes. Based on this understanding and on our study, we believe that the Company's practices and procedures were adequate at December 31, 1987, to meet the Commission's objectives.

This report is intended solely for the use of management, the Securities and Exchange Commission and the National Association of Securities Dealers, Inc., and other regulatory agencies which rely on Rule 17a-5(g) under the Securities and Exchange Act of 1934 in their regulation of members, and should not be used for any other purpose.

In the light of the foregoing comment, we declare [\*23] that we found no material inadequacies in your accounting system, internal accounting control and procedures for safeguarding securities. Further, that no material differences existed between our computation of your net capital, and your corresponding Focus Report Part IIA filing.

This report recognizes that it is not practicable in an organization the size of Domestic Securities Inc. to achieve all the divisions of duties and cross-checks generally included in a system of internal accounting control and that alternatively greater reliance must be placed on surveillance by management.

We hereby attest that the requirements prescribed by the Securities and Exchange Commission for audit, under authority of Rule 17a-5 have been observed by us in the conduct of our examination.

Respectfully submitted,

Certified Public Accountants (N.Y.)

I, ALAN OSOFSKY, swear that, to the best of my knowledge and belief, the accompanying financial statements and supporting schedule pertaining to the firm of DOMESTIC SECURITIES, INC., as of December 31, 1987, are true and correct. I further swear that neither the company nor any partner, proprietor, principal officer or director has any proprietary interest [\*24] in any account classified solely as that of a customer, except as follows:

No Exceptions.

Irene Corwin

(Notary Public)

EXHIBIT "A" Page 1.

DOMESTIC SECURITIES INC.

Statement of Financial Condition

As of December 31, 1987

ASSETS:

Due from brokers	\$ 52,485
Due from officer	25,000
Total Assets	\$ 77,485

LIABILITIES AND STOCKHOLDERS' EQUITY:

1989 N.J. Sec. LEXIS 404, \*24

Liabilities:	
Bank loan payable	\$ 3,350
Accrued expenses	10,836
Total Liabilities	14,186
Stockholders' Equity:	
Common stock, authorized 200 shares, no-par value, Issued and outstanding 100 shares	\$ 100
Additional paid-in capital	40,000
Retained earnings	23,199
Total Stockholders' Equity	63,299
Total Liabilities and Stockholders' Equity	\$ 77,485

The accompanying notes are an integral part of this statement.

EXHIBIT "A" Page 2.

DOMESTIC SECURITIES INC.  
Notes to Financial Statement

As of December 31, 1987

NOTES TO STATEMENT OF FINANCIAL CONDITION:

1. Nature of Business and Significant Accounting Policies:

Nature of Business:

Domestic Securities Inc., (the Company) is a Delaware corporation formed on May 1, 1986 for the purpose of conducting business as a broker/dealer in securities.

[\*25] The Company operates under the provisions of Paragraph (k)(2)(b) of Rule 15c3-3 of the Securities and Exchange Commission and, accordingly, is exempt from the remaining provisions of that Rule. Essentially, the requirements of Paragraph (k)(2)(b) provide that the Company clear all transactions on behalf of customers on a fully disclosed basis with a clearing broker/dealer, and promptly transmit all customer funds and securities to the clearing broker/dealer. The clearing broker/dealer carries all of the accounts of the customers and maintains and preserves all related books and records as are customarily kept by a clearing broker/dealer. The company is a member of the New York Stock Exchange through a lease agreement with Harvey Houtkin.

Significant Account Policies:

Revenue Recognition:

Securities transactions and recognition of related income and expenses are recorded on a settlement date basis, which is generally five business days after trade date for securities and one business day for options.

2. Capital Ratio:

The capital ratio, as independently computed by our auditors was 3.7% versus an allowable maximum of 1,500% pursuant to the Uniform Net Capital Rule 15c3-1 under [\*26] the Securities and Exchange Act of 1934. The firm's net capital requirement pursuant to said Rule is \$ 5,000. The net capital as computed was \$ 38,299, leaving an excess over requirements of \$ 33,299.

A copy of the Firm's Statement of Financial Condition as at December 31, 1987

1989 N.J. Sec. LEXIS 404, \*26

pursuant to the S.E.C. Rule 17a-5 is available for examination at the Firm's office and at the regional office of the Securities and Exchange Commission.

EXHIBIT "A" Page 3.

DOMESTIC SECURITIES INC.

Statement of Financial Condition

As of December 31, 1987

ACCOUNTANTS' REPORT

To the Officers and Directors of Domestic Securities Inc.:

We have examined the Statement of Financial Condition of Domestic Securities Inc., as of December 31, 1987. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying Statement of Financial Condition present fairly the financial position of Domestic Securities Inc., at December 31, 1987, in conformity with generally accepted accounting principles applied on a basis consistent [\*27] with that of the preceding year.

FREDERICK S. TODMAN & COMPANY

Certified Public Accountants (N.Y.)

IN THE MATTER OF: DOMESTIC SECURITIES, INCORPORATED AND HARVEY I. HOUTKIN,  
Respondents,

CONSENT ORDER

This matter being submitted to the Office of Administrative Law ("OAL") by the New Jersey Bureau of Securities ("Bureau" or "Petitioner") as a contested case on May 24, 1989 under the caption IN THE MATTER OF DOMESTIC SECURITIES, INC.; the Bureau having continued its investigation of Domestic Securities, Inc. ("Domestic" or "Respondent") and, in connection with that investigation, also commencing an investigation of Harvey I. Houtkin ("Houtkin" or "Additional Respondent"); the Bureau and Respondent having negotiated an amicable resolution of the matter, and the Bureau and the Additional Respondent having agreed to add the Additional Respondent as one of the two respondents in this matter for the purpose of resolving the issues raised by the Bureau's continuing investigation of Respondent and investigation of the Additional Respondent; the following being agreed between the Bureau, Domestic and Houtkin, ("Respondents") and the Respondents neither admitting nor denying any allegations [\*28] but desiring to resolve the issues without a hearing and adjudication and without bearing the costs associated with such litigation;

IT IS on this 25th day of June, 1990 ORDERED:

1. Respondent Domestic shall pay the Bureau fifty thousand dollars (\$ 50,000)

to reimburse it for the costs and expenses of its investigation. Houtkin shall be jointly liable for the payment should Domestic fail to pay as provided in paragraph 2.

2. The payment of the monies provided in paragraph 1 herein shall be made forthwith upon the signing of this Order.

3. Domestic's application for registration as a broker-dealer previously submitted to the Bureau is hereby withdrawn. Domestic shall not reapply to the Bureau for registration in any capacity for three (3) years from the date of this Consent Order.

4. The administrative proceedings which resulted in the Bureau's denial of Domestic's registration are dismissed and the denial of registration to Domestic previously entered is vacated.

5. Harvey I. Houtkin shall not apply for registration in any capacity under the New Jersey Securities Law, shall not act as an agent, broker-dealer, investment advisor or issuer in or from the State of New Jersey and shall [\*29] not act as a principal in a broker-dealer registered in New Jersey. He may reapply for such registration after a period of three (3) years from the date of this Order.

6. In the event that Houtkin applies for registration as an agent after the three (3) year period provided in this Order has expired, the Bureau will not rely upon the issues resolved by this Consent Order as the sole basis for denying such registration. However, Houtkin understands and agrees that in the event he reapplies for registration in a supervisory, management or principal capacity after the running of the three (3) year period provided in paragraph 5, he may be required to demonstrate his qualifications by submitting additional evidence and information as may be required by the Bureau to satisfy the requirements of N.J.S.A. 49:3-57 & 58(a). The issues resolved by this Consent Order are, in addition to those specified in the Amended Allegations dated July 26, 1989, whether Houtkin acted (i) as an undisclosed principal of All-Tech, (ii) as an unregistered representative and/or (iii) as an unregistered broker-dealer, and whether Houtkin failed to supervise Jerry Wolf Czin. In the event issues arise which are [\*30] not resolved by this Consent Order which serve as an independent basis for denial of registration, the existence of this Consent Order and the issues it resolves shall be considered by the Bureau in its determination of a subsequent application for registration filed by Houtkin.

James McLelland Smith

Chief

IN THE MATTER OF: DOMESTIC SECURITIES INCORPORATED Respondent

ORDER OF DENIAL

Based on the attached Allegations and in the public interest to protect investors and to accomplish the purposes fairly intended by N.J.S.A. 49:3-47 et seq.;

1989 N.J. Sec. LEXIS 404, \*30

It is on this 25th day of April, 1989, hereby

ORDERED pursuant to N.J.S.A. 49:3-58(a)(1) and 58(a)(2)(i) that the broker-dealer registration of Domestic Securities Incorporated is DENIED.

IN THE MATTER OF: DOMESTIC SECURITIES INCORPORATED Respondent

NOTICE OF ENTRY

TAKE NOTICE that an Order has been entered denying effectiveness to the Broker-Dealer Registration Application filed by Domestic Securities Incorporated ("Respondent") for the reasons set forth in the attached allegations.

TAKE FURTHER NOTICE that you may request, in writing, within thirty (30) days of your receipt thereof that this matter be set down for a hearing. The request for a hearing [\*31] must be accompanied by an Answer which addresses specifically each of the attached allegations. General denials will not be accepted. If no hearing is requested the Order of Denial will remain in full force and effect until modified or vacated by the Bureau Chief.

PLEASE TAKE FURTHER NOTICE that at any hearing on the within matter a corporation must be represented by an attorney of its choice, unless a non-attorney is representing the corporation in accordance with R. 1:21-1(e).

4TH DECISION of Level 1 printed in FULL format.

EXHIBIT# 33IN THE MATTER OF: DOMESTIC SECURITIES, INCORPORATED AND  
HARVEY I. HOUTKIN, Respondents

OAL Docket No. BOS 03957-89

STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW

1990 N.J. Sec. LEXIS 170

June 26, 1990

[\*1] Brian Amery, Esq., Attorney for Respondents

William E. Graves, Esq., Deputy Attorney General, Attorney for Petitioner

James McLelland Smith, Chief

Opinion:

CONSENT ORDER

This matter being submitted to the Office of Administrative Law ("OAL") by the New Jersey Bureau of Securities ("Bureau" or "Petitioner") as a contested case on May 24, 1989 under the caption IN THE MATTER OF DOMESTIC SECURITIES, INC.; the Bureau having continued its investigation of Domestic Securities, Inc. ("Domestic" or "Respondent") and, in connection with that investigation, also commencing an investigation of Harvey I. Houtkin ("Houtkin" or "Additional Respondent"); the Bureau and Respondent having negotiated an amicable resolution of the matter, and the Bureau and the Additional Respondent having agreed to add the Additional Respondent as one of the two respondents in this matter for the purpose of resolving the issues raised by the Bureau's continuing investigation of Respondent and investigation of the Additional Respondent; the following being agreed between the Bureau, Domestic and Houtkin, ("Respondents") and the Respondents neither admitting nor denying any allegations but desiring to resolve the issues without [\*2] a hearing and adjudication and without bearing the costs associated with such litigation;

IT IS on this 25th day of June, 1990 ORDERED:

1. Respondent Domestic shall pay the Bureau fifty thousand dollars (\$ 50,000) to reimburse it for the costs and expenses of its investigation. Houtkin shall be jointly liable for the payment should Domestic fail to pay as provided in paragraph 2.
2. The payment of the monies provided in paragraph 1 herein shall be made forthwith upon the signing of this Order.
3. Domestic's application for registration as a broker-dealer previously submitted to the Bureau is hereby withdrawn. Domestic shall not reapply to the Bureau for registration in any capacity for three (3) years from the date of this Consent Order.

4. The administrative proceedings which resulted in the Bureau's denial of Domestic's registration are dismissed and the denial of registration to Domestic previously entered is vacated.

5. Harvey I. Houtkin shall not apply for registration in any capacity under the New Jersey Securities Law, shall not act as an agent, broker-dealer, investment advisor or issuer in or from the State of New Jersey and shall not act as a principal in a broker-dealer [\*3] registered in New Jersey. He may reapply for such registration after a period of three (3) years from the date of this Order.

6. In the event that Houtkin applies for registration as an agent after the three (3) year period provided in this Order has expired, the Bureau will not rely upon the issues resolved by this Consent Order as the sole basis for denying such registration. However, Houtkin understands and agrees that in the event he reapplies for registration in a supervisory, management or principal capacity after the running of the three (3) year period provided in paragraph 5, he may be required to demonstrate his qualifications by submitting additional evidence and information as may be required by the Bureau to satisfy the requirements of N.J.S.A. 49:3-57 & 58(a). The issues resolved by this Consent Order are, in addition to those specified in the Amended Allegations dated July 26, 1989, whether Houtkin acted (i) as an undisclosed principal of All-Tech, (ii) as an unregistered representative and/or (iii) as an unregistered broker-dealer, and whether Houtkin failed to supervise Jerry Wolf Czinn. In the event issues arise which are not resolved by this Consent Order which serve [\*4] as an independent basis for denial of registration, the existence of this Consent Order and the issues it resolves shall be considered by the Bureau in its determination of a subsequent application for registration filed by Houtkin.

1ST DECISION of Level 1 printed in FULL format.

Re: Approval of the pending application for registration of  
All-Tech

Administrative No. 93.471.DOS

FLORIDA DEPARTMENT OF BANKING AND FINANCE, DIVISION OF  
SECURITIES

1993 Fla. Sec. LEXIS 49

December 7, 1993

Opinion:

[\*1]

REGISTRATION AGREEMENT

AGREEMENT made this 7th day of December, 1993, by and between All-Tech Investment Group, Inc., and the Division of Securities and Investor Protection of the Florida Department of Banking and Finance ("Department").

WHEREAS, an application was filed on August 20, 1993 by All-Tech Investment Group, Inc. (hereinafter "All-Tech") for registration of All-Tech as a broker/dealer and for a branch office in Florida; and

WHEREAS, All-Tech has been registered with the NASD as a dealer since approximately 1983 and with Florida, since April, 1988; and

WHEREAS, the application filed by All-Tech pursuant to S. 517.12(13), F.S., disclosed that Harvey J. Houtkin is an officer and control person of All-Tech; and

WHEREAS, All-Tech has represented that Mr. Houtkin has no interest in overseeing the management of All-Tech in Florida; and

WHEREAS, Shefts will be solely responsible for the management and supervision of All-Tech's operations in Florida; and

WHEREAS, the business plan for the All-Tech Florida branch office, for the period commencing with the approval of the Florida branch office application through December 31, 1994 (The "Business Plan"), is to execute unsolicited [\*2] customer trades; and

WHEREAS, based upon the review of the disciplinary contained in the application filed with the Department, there may be grounds pursuant to the provisions of Section 571.161, Florida Statutes, to deny the pending applications. However, the Department has determined that, notwithstanding these grounds, protection for the investing public does not require denial of the application for registration provided this Registration Agreement is executed as prerequisite to registration with the Department;

NOW THEREFORE, in consideration of the foregoing, the parties hereto recite,

acknowledge and agree as follows:

1. The parties hereto hereby adopt and incorporate each of the above WHEREAS clauses into this Agreement.

2. All-Tech neither admits nor denies that grounds exist for denial of All-Tech's application for registration as a broker/dealer and for registration of the branch office.

3. Subject to the caveat at the end of this paragraph, the Department agrees that upon execution of this Agreement by all parties hereto, it will approve the pending application for registration of All-Tech as a broker/dealer and for registration of the branch office subject to [\*3] the following terms and conditions:

a. All-Tech agrees that it and all persons acting on its behalf or at its direction shall not engage in any prohibited business practices as that term is defined in Rule 3E-600.013, Florida Administrative Code.

b. For a period of one year from the date its registration is granted by the Department, All-Tech agrees it shall have only one branch office in Florida, to initially be located at 2500 Hollywood Blvd., Hollywood, FL 33020. All-Tech agrees that it shall only file an application with the Department provided: (1) All-Tech or any person affiliated with All-Tech whose name has appeared on a Schedule A amendment to the Form BD has not been or is not the subject of any proceeding, action, or complaint which must be disclosed on a Form BD or Form U-4; and, (2) The branch office for which All-Tech seeks registration will be operated as an office of supervisory jurisdiction ("OSJ");

c. All-Tech agrees to immediately report to the Department any complaint or action filed against All-Tech or against any person presently or previously affiliated with All-Tech which directly or indirectly involves All-Tech's activities in or affiliation with the [\*4] securities industry and which would be required disclosure in response to question 7 of a Form BD or question 22 of a Form U-4. "Immediately report" as used herein shall mean no later than thirty (30) days from All-Tech's knowledge of the complaint; and

d. All-Tech agrees that all trades executed by it in Florida on the Small Order Execution System of the National Association of Securities Dealers, Inc. ("NASD") will comply with the Rules of Practice and Procedures for the Small Order Execution System, as published by the NASD.

e. All-Tech and Shefts agree that Shefts shall be the principal listed on All-Tech's Schedule A to its Form BD, who shall manage and supervise All-Tech's activities over which the Department has jurisdiction, pursuant to Chapter 517, F.S., and the rules promulgated thereunder.

f. All-Tech and Shefts agree that they will not permit Harvey I. Houtkin, directly or indirectly, to have any involvement in Florida in the trading, purchase, or sale of securities prior to the registration of Mr. Houtkin as an associated person in Florida.

g. All-Tech agrees that it and all persons acting on its behalf or at its direction shall not engage in any prohibited business [\*5] practice as that term is defined in Rule 3E-600.013, Florida Administrative Code;

h. All-Tech agrees that it, and all persons acting on its behalf or at its direction, shall comply with and abide by all conditions imposed in this Agreement; all state and federal securities law; and all rules lawfully promulgated thereunder. Shefts agrees to ensure All-Tech's compliance with all conditions imposed in this Agreement.

i. All-Tech agrees to promptly notify the Department in writing 15 business days prior to any change in its Business Plan, and also to forward to the Department any change in its NASD Restriction Letter promptly upon receipt of same.

However, it should be noted that in the event the Department discovers any additional adverse information concerning these applications before this executed Registration Agreement is returned to the Department, the Department reserves the right to take whatever action on these pending applications as may be appropriate. Such action may include withdrawing this agreement and instead issuing a notice of denial.

3. All-Tech agrees to report to the Department any violation of any provision of this agreement, as well as any and all [\*6] complaints or actions filed against All-Tech which directly or indirectly involve its activities in the securities industry.

4. All-Tech and Shefts each acknowledge that upon execution of this Registration Agreement, this Agreement shall constitute a valid written agreement between the persons executing this Agreement and the Florida Department of Banking and Finance. All-Tech and Shefts separately and jointly waive any right to separately stated findings of fact and conclusions of law and further waive any right to administrative or judicial review hereof, agreeing that upon execution this Agreement constitutes final agency action, enforcement of which may be sought pursuant to the provisions of Chapters 120 and 517, Florida Statutes.

5. All-Tech and Shefts each furthermore stipulate, recite, acknowledge and agree that failure to comply with this Agreement shall constitute demonstration of unworthiness by All-Tech to transact the business of broker/dealer, investment adviser, and/or associated person and shall constitute violation of an agreement made with the Department under Chapter 517, Florida Statutes. Upon such noncompliance, All-Tech and Shefts each consent to revocation [\*7] of any registration granted to All-Tech by the Department. Such revocation shall commence on a date certain which shall be no less than ten (10) days after receiving notice of the Department's intent to revoke. Such revocation may be stayed by the Department if compliance with this Agreement is assured to the Department's satisfaction within this period between notice and the intended date of revocation. Nothing herein shall be construed, however, as limiting the right of All-Tech or Shefts to contest determination of noncompliance with this Agreement in a prompt hearing. Regardless of the outcome of any such hearing, All-Tech and Shefts jointly and severally hereby release the Florida Department of Banking and Finance from liability for attorneys' fees or liability arising from any cause of action, including negligence, provided the revocation order was entered based upon this Registration Agreement. The Department agrees to accept this release without acknowledging, and expressly denies, that any such cause of action may exist.

6. Except where provided otherwise within this Agreement, relief from any provision of this Agreement may be sought by either All-Tech or Shefts by [\*8] petition in writing to the Department.

IN WITNESS WHEREOF, the parties have signed this document on the dates indicated below.

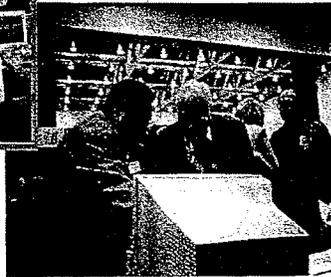
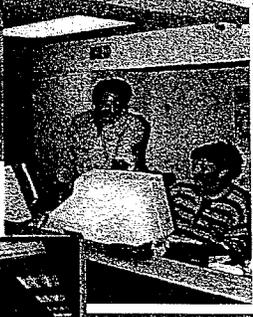
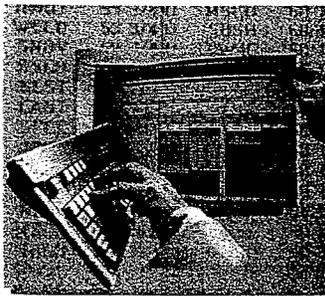
# Branch Office Manual

## *All-Tech Investment Group, Inc.*

Member NASD/SIPC

Branch Procedures      Compliance  
Manager Training      Margin Requirements  
Marketing & Advertising      Operations

**ATTAIN**® System Features



Houtkin #16

## Branch Procedures

All registered personnel should be familiar with the content of the firm's Supervisory and Compliance Manual and all industry rules, regulations and procedures. Strict adherence to all internal procedures, governing rules and regulations is required of all registered personnel.

All staff shall assist any supervisory or authoritative body that makes any inquiry. The request, along with all details, shall be promptly forwarded to the Main Office of the firm ("MO"), to the attention of the President.

No account may effect a securities transaction in any manner contrary to the requirements adopted by the firm and all governing and regulatory bodies. No transactions may be effected for any account until a proper review and acceptance of all of the account information by the MO.

All deposits, funds, securities, account documentation shall be promptly forwarded to the MO for further processing. Any written correspondence shall be forwarded promptly to the MO.

Branch offices may only accept and process agency orders from fully accepted and approved accounts. Should the need arise for other special types of transactions (buy in and/or sell out, etc.), this will be done in accordance with industry regulations and firm policies by the MO and the clearing broker. In accordance with industry regulation, prompt notification will be made to all parties involved and appropriate actions taken.

At this time, no account shall be opened, and no transaction shall be executed, for any associated person or their immediate family members. The term immediate family member shall be defined by the parameters set forth in Article III, Section 1 of the Rules of Fair Practice. The MO shall review, on a case by case basis, all requests for an account of an associated person or a member of his/her immediate family. Should the account be accepted, the MO reserves the right to restrict the kind and/or type of activity in the account at any time.

All branches must comply with all firm procedures and current industry rules, regulations and procedures. It is the responsibility of all associated branch personnel to keep current with any changes in these standards.

Any modification of procedures and any change in operations must first be cleared with the MO prior to its implementation. Changes in status of personnel and additions and deletions of personnel must also be approved by the MO prior to taking effect.

No branch office personnel may bind, state the firm's definitive position or in any way represent the authority of the firm over and above normal office operations. All inquiries of this nature should be referred promptly to the MO.

No branch office shall call the firm's clearing firm directly.

Specific Procedures:

Opening a new account:

1. Check:
  - A. New account information is complete;
  - B. Suitability of client;
  - C. Account executive is registered in the state of primary residence of the new account; and
  - D. Signatures of new account and branch manager approval must be obtained.
2. Make one copy and retain in branch files; forward originals to MO by overnight delivery.

Receipt of funds:

1. Keep monthly log.
2. Make two copies of all checks.
3. Promptly forward originals and one copy of all checks to the MO along with the transmittal form.
4. Retain and file one copy of each check and associated transmittal form.
5. On the first day of each month, send a copy of the log for the preceding month to the MO.

Receipt of stock:

1. Keep monthly log.
2. Make two copies of front and back of all certificates.
3. Promptly forward original stock certificates and one copy to the MO along with a transmittal form.
4. Retain and file one copy of each stock certificate and associated transmittal form.
5. On the first day of each month, send a copy of the log for the preceding month to the MO.

Corrections to new account form:

1. Fax to MO after review and approval by branch manager.
2. Retain original and attach to N/A approval form.

Trades:

1. All Nasdaq trades shall be communicated to the MO via the Attain™ system.
2. All non-Nasdaq over-the-counter and all listed transactions shall be called in to MO's order desk.
3. All option orders must be called in to the options desk for approval and execution.

Trade confirmations:

Hand one copy of consolidated confirmation report and day trader margin report (if applicable) to each customer.

Examination cycles:

MO shall review each branch annually or as needed.

Advertising:

All advertising must be approved by MO prior to first use. Keep advertising file.

Personnel:

1. Retain copy of U-4 and fingerprint card for each branch employee.
2. Overnight originals to MO.

Supervision:

The branch manager is responsible for keeping the branch in compliance with all industry rules and regulations, firm policies, and federal, state and local laws, rules and regulations. If a question or an unfamiliar situation arises, prior to taking any action, the branch office manager must immediately discuss with the President of the firm the proper procedures to be followed.

Incoming Mail:

1. To be opened by branch manager.

2. Checks, stock certificates and customer complaints must be taken out and processed immediately.

Outgoing mail:

All correspondence, whether or not sent out on firm letterhead, literature and printed materials must be approved by the MO prior to mailing. Approved copies should be retained in the branch file.

Customer complaints:

1. A file should be kept in the branch office.
2. All complaints, together with a copy of any related internal documentation and a written explanation of the circumstances related to the complaint, MUST be sent to the President of the firm immediately upon notification of the complaint.
3. A draft answer from the account executive and the branch office manager MUST be forwarded immediately to the President of the firm.

Physical security:

As set forth in the Rules of Practice and Procedure for the Small Order Execution System, physical security of Nasdaq Order Entry equipment if located on the branch premises must be maintained. At no time is any unauthorized, non-firm person allowed to be physically in the area designated as the Trading or Order Entry area. Under no circumstances is any public customer allowed to physically enter any order into any Nasdaq Order Entry equipment.

Margin:

By definition, the firm does not extend margin credit to any customers. We are a fully disclosed brokerage firm. The clearing agent will extend credit where proper and will make available on a daily basis all the particulars of each customer account. It is the responsibility of the branch office manager to review these reports daily and notify the customers of any monetary obligation or requirement, as defined by industry practice, firm standards or federal requirements. Should the customer be unable or unwilling to meet these obligations promptly, the branch office manager must notify the clearing firm and MO, attn: Branch Office Coordinator, immediately and take the appropriate action.

Account Review

Ending positions for all customers must be sent to the MO promptly at the end of each trading day. Prior to the opening of the market on the next business day, the MO will notify the branch of any discrepancy.

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10/13/97

Branch Procedures - Non OSJ's

All registered personnel should be familiar with the content of the Company's Supervisory and Compliance Manual and all industry rules, regulations and procedures.

It is the responsibility of all associated branch personnel to keep current with any changes in these standards. Strict adherence to all internal procedures, governing rules and regulations is required of all registered personnel.

All staff shall assist any supervisory or authoritative body that makes any inquiry. The request, along with all details, shall be promptly forwarded to the Main Office of the Company ("MO"), to the attention of the President.

No account may effect a securities transaction in any manner contrary to the requirements adopted by the Company and all governing and regulatory bodies. No transactions may be effected for any account until a proper review and acceptance of all of the account information by the MO.

All deposits, funds, securities and account documentation shall be promptly forwarded to the MO for further processing. Any written correspondence shall be forwarded promptly to the MO.

Branch offices may only accept and process agency orders from fully accepted and approved accounts. Should the need arise for other special types of transactions (buy in and/or sell out, etc.), this will be done in accordance with industry regulations and Company policies by the MO and the clearing broker. In accordance with industry regulation, prompt notification will be made to all parties involved and appropriate actions taken.

No account shall be opened, and no transaction shall be executed, for any associated person or their immediate family members without the approval of the MO. The term immediate family member shall be defined by the parameters set forth in Article III, Section I of the Rules of Fair Practice. The MO shall review, on a case by case basis, all requests for an account of an associated person, or a member of his/her immediate family. Should the account be accepted, the MO reserves the right to restrict the kind and/or type of activity in the account at any time.

Any modification of procedures and any change in operations must first be cleared with the MO prior to its implementation. Changes in status of personnel and additions and deletions of personnel must also be approved by the MO prior to taking effect.

No branch office personnel may bind, state the Company's definitive position or in any way represent the authority of the Company over and above normal office operations. All inquiries of this nature should be referred promptly to the MO.

No branch office shall call the Company's clearing Company directly.

Specific Procedures:

Opening a new account:

1. Check:
  - A. New account information is complete;
  - B. Suitability of client as required by NASD rules;
  3. Explain risks of active trading;
  - D. Account executive is registered in the state of primary residence of the new account; and
  - E. Signatures of new account and branch manager approval must be obtained.
2. Make one copy and retain in branch files; forward originals to MO by overnight delivery.

Receipt of funds:

1. Maintain monthly log.
2. Make two copies of all checks.
3. Promptly forward originals and one copy of all checks to the MO along with the transmittal form.
4. Retain and file one copy of each check and associated transmittal form.
5. On the first day of each month, send the log for the preceding month to the MO.

Receipt of stock:

1. Maintain monthly log.
2. Make two copies of front and back of all certificates.
3. Promptly forward original stock certificates and one copy to the MO along with a transmittal form.
4. Retain and file one copy of each stock certificate and associated transmittal form.
5. On the first day of each month, send the log for the preceding month to the MO.

Corrections to new account form:

1. All corrections to new account form (address, phone number, etc., must be made immediately upon learning such information.
2. Fax to MO after review and approval by branch manager.
3. Retain copy and attach to N/A approval form.

Trades:

1. All Nasdaq and listed trades shall be communicated to the MO via the Attain® system.

## 530

2. All non-Nasdaq over-the-counter transactions shall be called in to MO's order desk.
3. All option orders must be called in to the options desk for approval and execution.

### Trade confirmations:

Deliver one copy of consolidated confirmation report and day trader margin report (if applicable) to each customer.

### Examination cycle:

MO shall review each branch annually or as needed.

### Advertising:

All advertising, including all modifications, however slight, must be approved by MO prior to first use. Copies of all advertisements (newspaper copy, tape of tv or radio ad) must be sent to the MO, Attn: head of advertising and sales, together with a notation of where the ad was run, and all dates it ran. This must be done every time the ad is rerun.

### Personnel:

1. Retain copy of U-4 and fingerprint card for each branch employee.
2. Overnight originals to MO.

### Supervision:

The branch manager is responsible for keeping the branch in compliance with all industry rules and regulations, Company policies, and federal, state and local laws, rules and regulations. If a question or an unfamiliar situation arises, prior to taking any action, the branch office manager must immediately discuss with the President of the Company the proper procedures to be followed.

### Incoming Mail:

1. To be opened by branch manager.
2. Checks, stock certificates and customer complaints must be taken out and processed immediately.

### Outgoing mail:

All correspondence, whether or not sent out on Company letterhead, literature and printed materials or by modem, e-mail or other electronic media, must be approved by the MO prior to mailing. Approved copies should be retained in the branch file.

Customer complaints:

1. A file should be kept in the branch office.
2. All complaints, together with a copy of any related internal documentation and a written explanation of the circumstances related to the complaint, MUST be sent to the President of the Company immediately upon notification of the complaint.
3. A draft answer from the account executive and the branch office manager MUST be forwarded immediately to the President of the Company.

Margin:

By definition, the Company does not extend margin credit to any customers. We are a fully disclosed brokerage Company. The clearing agent will extend credit where proper and will make available on a daily basis all the particulars of each customer account. It is the responsibility of the branch office manager to review these reports daily and notify the customers of any monetary obligation or requirement, as defined by industry practice, Company standards or federal requirements. Should the customer be unable or unwilling to meet these obligations promptly, the branch office manager must notify the clearing Company and MO, attn: Branch Office Coordinator, immediately and take the appropriate action.

Account Review

Ending positions for all customers must be sent to the MO promptly at the end of each trading day. Prior to the opening of the market on the next business day, the MO will notify the branch of any discrepancy.

NEW EMPLOYEE MANUAL QUESTIONNAIRE

- |  | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 1. Did you read the Compliance Manual thoroughly?                                    | __         | __        |
| 2. Do you have any questions regarding the Manual?                                   | __         | __        |
| 3. Please specify your questions below.  |            |           |
| 4. Do you understand who your supervisor is?   | __         | __        |
| 5. Do you believe additional material needs to be included in the Compliance Manual? | __         | __        |
| 6. Please specify below the additional subjects you believe need to be included.     |            |           |

RE: DAY TRADING ACCOUNT GUIDELINES

Recommended deposit: \$100,000  
Minimum deposit: \$50,000

If the customer's equity drops below \$40,000, we may not permit any overnight positions other than hedges.

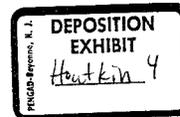
If the customer's equity drops below \$30,000, we may limit or stop the customer's trading activity (other than liquidation) until the account or equity is brought back above \$40,000.

The margin maintenance requirement is 40%, but may be higher depending on concentration and total equity. If the account falls below 40%, the client will need to bring in funds to bring the account to 40% or to liquidate positions in the account to bring the percent to 40%.

No client should hold more than 2,000-3,000 shares (depending on concentration and equity) of any stock in their account at any time. If they do, they may be asked to liquidate.

We recommend that customers not take overnight positions in a day trading account.

C:\MyFiles\MARKS\GuideLE  
5/13/97



**All-Tech Investment Group, Inc.**  
Member NASD, SIPC

## Memo

To: ALL EMPLOYEES  
From: MARK SHEFTS  
Date: February 11, 1999  
Re: LOANS TO CUSTOMERS

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No employee, relative of an employee or entity owned by either is permitted to lend money to any customer.

## Memo

**To:** ALL EMPLOYEES  
**From:** Mark Shefts  
**Date:** February 25, 1999  
**Re:** Remote Pricing

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- Remote access is \$250.00 per month.
- News is \$125.00 additional
- The customer need effectuate only 200 trades per month in order to waive the \$250.00 monthly fee.

Your branch will pay for the customers licensing and PC Quote fees just as if they were sitting in your office. You will receive your normal commission. Should the customer not complete the 200 trades per month, the \$250 will stay in corporate hands and you will not be charged the above mentioned fees.

**All-Tech Training Group, Inc.**  
**Training Program and Weekend Bootcamp**

Considered the leader in Stock Trading Education, ATG. Offers an intensive four phase training program for both the novice and experienced trader. The four phase training program is held in Montvale, New Jersey and Seattle, Washington on a weekly or bi-weekly basis. Attached is a description of all four phases of the program. Please note that Phase Four is reserved for All-Tech customers who have completed simulated paper trading on the Attain System and have met the criteria and opened an account with All-Tech Investment Group, Inc.

Branch offices are encouraged to recommend Phase Four training to customers who are struggling or appear to be in need of additional training. This phase has proven to be very helpful to beginning traders in need of confidence or discipline as well as the experienced trader who wants advanced training and market strategy. Please contact ATG. to schedule an available date. There is currently no charge to All-Tech customers for Phase Four Training. Branch managers and staff are also encouraged to attend.

ATG is available to travel to All-Tech branch offices and conduct a ATG Weekend Bootcamp. This intensive two day training program, which is held in the branch over a scheduled weekend, is designed to teach the basics of trading (see Phase 1).

ATG, if needed, will assign a paper-trading instructor to the branch for the week following the bootcamp. After the first week of paper trading branch managers and staff should be prepared to take over and continue the training process. You should not be too anxious for these new traders to begin live trading. Encourage them to take their time and be patient. Remember that a successful branch is built on a foundation of successful traders.

ATG's Weekend Bootcamp policy and procedure are as follows;

1. The bootcamp must be scheduled at least six weeks in advance. Not all dates will be available so please have an alternate date in mind.
2. The cost of the bootcamp is presently \$3,000.00 per attendee. The amount is subject to change with advanced notice from ATG. Branches are not authorized to offer any discounts, complimentary training, or two for one packages. If a potential customer has a question about the training fee they may contact Richard Raciti at All-Tech.
3. All-Tech will include the bootcamp date and branch location in its national advertising with no charge to the branch.

4. Branches should include the bootcamp date and location in its local advertising. Local advertising is the responsibility of the branch. All-Tech does not reimburse or credit branches for local advertising.
5. Branches should direct all bootcamp inquiries to ATG for information, qualifying and enrollment.
6. A minimum of ten students are required to conduct a bootcamp.
7. A maximum number of students will be determined by ATG on a per bootcamp basis.
8. Branches should have enough empty trading terminals to accommodate the amount of students attending the bootcamp for paper trading. Doubling up on terminal should only be reserved for couples or partners. The maximum number of students in the bootcamp will not exceed the number of empty terminals in the branch.
9. ATG's paper trading instructor will need assistance during the week of paper trading. Branch managers and staff should be prepared to help if needed. This is a good chance to interact with your new customers and to receive some additional training.
10. All expenses for the bootcamp are the responsibility of ATG.
11. ATG will not accept enrollment from any student who can not paper trade in a branch office following a bootcamp. It would be irresponsible for ATG and foolish for the student to attend a bootcamp and then attempt to paper trade from home or office without qualified instruction on the Attain System.
12. Branch Managers must be present at all times during a branch office bootcamp.

NOTE: All-Tech does not offer a rebate of the bootcamp fee on a per trade basis for bootcamp attendee's. Branches who wish to offer a per ticket rebate for the bootcamp fee must inform All-Tech Investment Group, Inc. in writing of the rebate amount per trade and any applicable expiration period for accounting.

As you know Day Trading is a serious business and may not be for everyone. Branch managers should explain to potential customers that they must be able to withstand losing part or all of the money in their account and still be able to continue living in their current lifestyle. Success is not guaranteed and capital used for trading should not be risk capital.

TRADING AUTHORIZATION LIMITED TO PURCHASES AND SALES OF SECURITIES AND COMMODITIES

All-Tech Investment Group, Inc.  
160 Summit Avenue  
Montvale, NJ 07645

Southwest Securities, Inc.  
1201 Elm Street  
Dallas, TX 75270

Gentlemen/Ladies:

The undersigned hereby authorizes TRADERS NAME (whose signature appears below) as his/her agent and attorney-in-fact to buy, sell (including short sales) and trade in stocks, bonds, put and call options and any other securities and/or contracts relating to the same on margin or otherwise in accordance with the terms and conditions of either of you for the undersigned's account and risk and in the undersigned's name, or number on your respective books. The undersigned hereby agrees to indemnify and hold each of you harmless from and to pay to Southwest Securities, Inc. promptly on demand any and all losses arising therefrom or debit balance due thereon.

Each of you is authorized to follow the instructions of TRADERS NAME in every respect concerning the undersigned's account with you, and s/he is authorized to act for the undersigned and in the undersigned's behalf in the same manner and with the same force and effect as the undersigned might or could do with respect to such purchases, sales or trades as well as with respect to all other things necessary or incidental to the furtherance or conduct of such purchases, sales or trades.

The undersigned acknowledges and agrees that TRADERS NAME is his/her agent and is not an officer, director, shareholder, principal, agent, employee or other representative of either of you and that neither of you is responsible in any way for the determinations and actions of my agent.

The undersigned hereby ratifies and confirms any and all transactions with each of you heretofore or hereafter made by the aforesaid agent or for the undersigned's account.

This authorization and indemnity is in addition to (and in no way limits or restricts) any rights which either of you may have under any other agreement or agreements between the undersigned and your respective firm.

This authorization and indemnity is also a continuing one and shall remain in full force and effect until revoked by the undersigned by a written notice addressed to you and delivered to your respective office at the address set forth above, but such revocation shall not affect any liability in any way resulting from transactions initiated prior to such revocation. This authorization and indemnity shall inure to the benefit of your present firms and of any of your respective successor firm or firms irrespective of any change or changes at any time in the personnel thereof for any cause whatsoever, and of the assigns of your present respective firm or any successor firm(s).

Dated: \_\_\_\_\_  
\_\_\_\_\_  
(City, State)

Very truly yours,

Account Number \_\_\_\_\_

SIGNATURE OF AUTHORIZED AGENT:

TRADERS SIGNATURE

X ACCT HOLDERS SIGNATURE  
Printed Name: \_\_\_\_\_  
Name: \_\_\_\_\_ PRINT NAME

FULL TRADING AUTHORIZATION WITH PRIVILEGE TO WITHDRAW MONEY AND/OR SECURITIES

Gentlemen:

The undersigned hereby authorizes TRADERS NAME (whose signature appears below) as his/her agent and attorney in fact to buy, sell (including short sales) and trade in stocks, bonds, put and call options and any other securities and/or contracts relating to the same on margin or otherwise in accordance with your terms and conditions for the undersigned's account and risk and in the undersigned's name, or number on your books. The undersigned hereby agrees to indemnify and hold you harmless from and to pay you promptly on demand any and all losses arising therefrom or debit balance due thereon.

You are authorized to follow the instructions of TRADERS NAME in every respect concerning the undersigned's account with you, and make deliveries of securities and payment of moneys to him/her or as he/she may order and direct. In all matters and things aforementioned, as well as in all other things necessary or incidental to the furtherance or conduct of the account of the undersigned, the aforesaid agent and attorney in fact is authorized to act for the undersigned and in the undersigned's behalf in the same manner and with the same force and effect as the undersigned might or could do.

The undersigned hereby ratifies and confirms any and all transactions with you heretofore or hereafter made by the aforesaid agent or for the undersigned's account.

This authorization and indemnity is in addition to (and in no way limits or restricts) any rights which you may have under any other agreement or agreements between the undersigned and your firm.

This authorization and indemnity is also a continuing one and shall remain in full force and effect until revoked by the undersigned by a written notice addressed to you and delivered to your office at OFFICE LOCATION, but such revocation shall not affect any liability in any way resulting from transactions initiated prior to such revocation. This authorization and indemnity shall insure to the benefit of your present firm and of any successor firm or firms irrespective of any change or changes at any time in the personnel thereof for any cause whatsoever, and of the assigns of your present firm or any successor firm.

Dated, (City) (State)

Account Number

Very truly yours,

X ACCT HOLDERS SIGNATURE

SIGNATURE OF AUTHORIZED AGENT :

Printed Name:

TRADERS SIGNATURE

INSTRUCTIONS FOR INVESTMENT ADVISOR REPRESENTATION LETTER

1. The name and address of the person who is primarily trading the account with or for another person (in a joint account or through a power of attorney) should be printed on top of the page.
2. Do not put the representation letter on All-Tech letterhead. It is not from All-Tech or anyone connected with All-Tech.
3. The representation letter should be signed and dated by the trader.
4. It is the trader who must register as an investment advisor with the State where the person for whom he is trading resides.

All-Tech Investment Group, Inc.  
160 Summit Avenue  
Montvale, NJ 07645

Gentlemen:

I hereby confirm to you that I am familiar with the \_\_\_\_\_ securities laws and regulations relating to the definition of and registration requirements pertaining to investment advisors. I hereby confirm to you that I am currently registered with the State of \_\_\_\_\_ as an investment advisor.

Nothing herein is intended to create any employment or agency relationship with All-Tech Investment Group, Inc. My relationship with All-Tech is solely as a customer or prospective customer or power of attorney therefor.

Very truly yours,

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Document Title

Senate Permanent Subcommittee  
On InvestigationsEXHIBIT # 36

File for:

Data Current as of: 01/21/2000

CRD# 2816153  
FRED ALBERT ZAYAS**PREVIOUS EMPLOYMENT**

A ten year employment history is viewable through the Public Disclosure Program. For an individual that is currently registered with a NASD member firm the ten years precedes from the current date. For an individual that is no longer registered with a NASD member firm, the ten years precedes from the end date of the last employment with an NASD member firm.

Employing Firm:	ATTAIN DIRECT, INC.
Firm CRD Number:	13992
Office of Employment Address:	WATERTOWN 02172
Start Date:	04/30/1996
End Date:	11/20/1998
Positions Held:	

Employing Firm:	FRED ZAYAS, CERTIFIED PUBLIC ACCOUNTANT
Firm CRD Number:	
Office of Employment Address:	BOSTON
Start Date:	09/01/1983
End Date:	09/01/1996
Positions Held:	

**Exam History**

Individual CRD#: 2816153		Individual Name: ZAYAS, FRED A					
Exam	Status	Status Date	Exam Date	Grade	Score	Window Begin Date	Window End Date
S7	Official Result	11/27/1996	11/27/1996	PASSED	78		
S24	Withdraw	11/30/1998					
	Expired	08/06/1998			0		
S63	Official Result	08/06/1997	08/06/1997	PASSED	78		
	Expired	04/28/1997			0		
	Expired	01/28/1997			0		

EXPERIENCED CUSTOMER LETTER OF UNDERSTANDING

1. I wish to open an account at All-Tech Investment Group, Inc. ("All-Tech"). I intend to use this account for active day trading of over-the-counter securities. I understand that All-Tech will execute my trades utilizing the method of execution selected by me.

2. I understand that although the staff of All-Tech will assist me by instructing me in the methods of active day trading, they will neither make recommendations about general market conditions nor recommend any particular transactions to me and all trading decisions both as to the identity of a particular security to be traded by me and the nature and timing of the transactions to be entered into by me will be my own decision.

I understand that All-Tech believes that because its customers are engaging in day trading, losses should be taken quickly and as a general policy positions should be flat by the close of each business day.

3. I understand that active day trading involves entering into many more transactions than does traditional investing and that, as a result of this high volume of transactions, even though the commissions charged by All-Tech are substantially discounted, I will incur substantial commission costs commonly associated with active trading and, because of volume, total commissions will be significantly higher than is the case with traditional investment strategies. These commission costs will be incurred regardless of whether I make or lose money on a trade.

4. I understand that active day trading requires substantial capital. I understand that I am responsible for monitoring the available capital in my account and must comply with all margin requirements and calls. Because of the use of margin, my losses could exceed the amount invested by me. I understand that active day trading is highly speculative. The capital in my trading account is capital not needed by me for my current or future necessary expenses and is capital which I can afford to lose in its entirety. All-Tech has made no representations to me as to expected return on my investment. I represent and warrant that I have available to me no less than \$ 50K in risk capital.

5. I understand that I am required to open my account with no less than \$50,000.00. If at any time my account falls below ~~\$40,000.00~~, I may not be permitted to hold overnight positions. If my account equity falls below \$30,000.00, I may be required to deposit funds to bring the account up to at least \$40,000.00 and may be required to ~~stop trading except for liquidating trades~~. I understand that I may be required not to hold more than 2,000-3,000 shares of a particular stock in my account at any time, depending in market value and concentration.

6. All-Tech will make every reasonable effort to execute my instructions at the requested limit price or the best market price. I understand, however, that I and not All-Tech assume the market risk of my orders. I understand that All-Tech is not responsible for transactions canceled or modified by any regulatory authority where such cancellation or modification is beyond the control of All-Tech nor is All-Tech responsible for a failure to carry out my instructions due to circumstances beyond All-Tech's control or arising from an equipment or telecommunications failure.

7. I understand that All-Tech recommends that potential electronic day trading customers complete a training course in the techniques of this trading method prior to trading. I represent and warrant that I am an experienced trader with more than one year of experience in active short-term trading of OTC securities, that All-Tech has advised me that such a course is available through All-Tech Training Group, Inc., All-Tech's subsidiary, and that, in light of my prior securities trading experience, I am prepared to undertake electronic day trading without obtaining additional training.

Date: 9/10/98

Signature: [Handwritten Signature]  
Print Name: CHRISTOPHER M. [Handwritten Name]

B

Senate Permanent Subcommittee  
On Investigations

EXHIBIT # 38

## CUSTOMER LETTER OF UNDERSTANDING

1. I wish to open an account at All-Tech Investment Group, Inc. ("All-Tech"). I intend to use this account for active day trading of over-the-counter securities. I understand that All-Tech will execute my trades utilizing the method of execution selected by me.

2. I understand that although the staff of All-Tech will assist me by instructing me in the methods of active day trading, they will neither make recommendations about general market conditions nor recommend any particular transactions to me and all trading decisions both as to the identity of a particular security to be traded by me and the nature and timing of the transactions to be entered into by me will be my own decision.

I understand that All-Tech believes that because its customers are engaging in day trading, losses should be taken quickly and, as a general policy, positions should be *flat* by the close of each business day.

3. I understand that active day trading involves entering into many more transactions than does traditional investing and that, as a result of this high volume of transactions, even though the commissions charged by All-Tech are substantially discounted, I will incur substantial commission costs commonly associated with active trading and, because of volume, total commissions will be significantly higher than is the case with traditional investment strategies. These commission costs will be incurred regardless of whether I make or lose money on a trade.

4. I understand that active day trading requires substantial capital. I understand that I am responsible for monitoring the available capital in my account and must comply with all margin requirements and calls. Because of the use of margin, my losses could exceed the amount invested by me. I understand that active day trading is highly speculative. The capital in my trading account is capital not needed by me for my current or future necessary expenses and is capital which I can afford to lose in its entirety. All-Tech has made no representations to me as to expected return on my investment. I represent and warrant that I have available to me no less than \$ 50,000 in risk capital.

5. All-Tech will make every reasonable effort to execute my instructions at the requested limit price or the best market price. I understand, however, that I and not All-Tech assume the market risk of my orders. I understand that All-Tech is not responsible for transactions canceled or modified by any regulatory authority where such cancellation or modification is beyond the control of All-Tech nor is All-Tech responsible for a failure to carry out my instructions due to circumstances beyond All-Tech's control or arising from an equipment or telecommunications failure.

6. I understand that I am required to open my account with no less than \$50,000.00. If at any time my account falls below \$40,000.00, I may not be permitted to hold overnight positions. If my account equity falls below \$30,000.00, I may be required to deposit funds to bring the account up to at least \$40,000.00 and may be required to stop trading except for liquidating trades. I understand that I may be required not to hold more than 2,000-3,000 shares of a particular stock in my account at any time, depending on market value and concentration.

Date: 10/12/98

Signature

Print Name

Yuzef Liberzon  
Yuzef Liberzon

 ALL-TECH INVESTMENT  
GROUP, INC.  
MEMBER, NATIONAL ASSOCIATION OF SECURITIES DEALERS

ACCOUNTS RECEIVABLE    OFE    RR    Filing    Social Sec. or Fed. Id. No.

Name: CHAREN MARLAN MARELA    REDACTED    REDACTED

Residence Address: REDACTED    REDACTED    REDACTED

Mailing Address: 1015 1/2 St. CA 92058    REDACTED    REDACTED

Employer's Address: 1163 1/2 St. CA    REDACTED    REDACTED

Legal Age: 23    U.S. Citizen: SA    Marital Status: S    M.    D    W    N/A    Employer: SELF    Position: N/A    Is this client a control person? (N)

Where long have you lived? N/A    Introduced by: N/A    Name of company/ies controlled: N/A    N/A    (List more on back)

Address: 1163 1/2 St. CA    City: SA    State: CA    Zip: 92058    Other: N/A

Income: N/A    Address: N/A    Employer: N/A    Tax Status: 367

Long term growth with safety        Annual Income \$: 4K    Any updates will be posted on Holding Page    INITIAL

Long term growth with greater risk        Est. Net Worth: 40K

Short term growth with high risk        Tax Free Interest Income   

Initial Deposit: 25K    1. Employee of the Company    2. Relative of a Relationship    3. Employee of an Insurance Co. Bank, Fund, or another Broker    4. None

Please indicate the type of registration: (Check only one)

Individual     Community Property     Trans in Common

Joint Tenants with Right of Survivorship (J.T., except CA or LA)

Custodian (Provide SSN & birthday of minor - all other information)

Other (Please specify: Trust, Sole Proprietorship)

Registered Manager    Barry Johnson    Date: 9/10/98

Signature    Barry Johnson    Date: 9/10/98

Initials    BJ    Date: 9/10/98

Additional PVID Information: Name: \_\_\_\_\_ Contact: \_\_\_\_\_

DTC #: \_\_\_\_\_ INST ID #: \_\_\_\_\_ AGENT ID #: \_\_\_\_\_

## FREQUENTY ASKED QUESTIONS EXHIBIT # 40

1. What are the advantages of Electronic Day Trading / SOES trading over other types of trading?

Finally the barriers are coming down. For decades the brokerage community has created innumerable obstacles making it impossible for the general public to compete effectively with the market making pro.

After eight years of intense fighting, All-Tech has been instrumental in bringing down many of these barriers. Through a much more enlightened regulatory environment and extensive use of computerization and electronics, the public customer can now readily compete in the financial markets. SOES Trading or Electronic Day Trading are the terms we use for the collage of the electronics and computerized advancements to access the financial markets.

The advantage of Electronic Day Trading is the elimination of many disadvantages, such as high commissions, slow access to markets, slow reports and failure to obtain the best prices.

2. Can anyone day trade successfully?

If you possess at least an average intelligence, and the traits of discipline, intensity and desire, you have a very good chance of ultimately becoming a successful trader. Like golf, the extent of talent you possess will ultimately determine how successful you become. Trading is an art and not a science.

3. How much money do you need to trade?

To be optimally capitalized, I would advise approximately \$150,000 of capital, which can be in the form of cash, stocks, bonds or any other marginable security. Many traders have started with less, but our Company policy is not to open an account for less than \$50,000. While you can succeed starting with only \$50,000, your chances of becoming successful are much greater if you trade with more capital.

This money should be considered risk capital, it should not be money you need for ordinary expenses, or to finance your child's education or your retirement. You should have the financial ability to withstand the loss of this capital.

4. How is this different from dealing with my regular broker?

As Time Magazine said, you will be "Bypassing your broker" by utilizing All-Tech's ATTAIN™ execution system to instantaneously send All-Tech your order for immediate execution of your trade in what you determine is the best possible fashion. By pointing and clicking your mouse, you control how your orders are executed. Most brokers won't do this because they are paid two or three cents a share to direct your orders to a particular market maker. All-Tech does not accept such payments because it believes its first obligation is to obtain the best execution for its customers.

5. Do I have to know anything about the stock market?

NO! As a matter of fact, in many instances, the less you know means the less baggage you have to discard when learning the new trading techniques that we teach.

6. Can you lose a lot of money Day Trading?

The amount of money you can lose is directly related to your degree of discipline in following the trading techniques you will be taught. If you are disciplined in following these techniques, your losses can and should be kept to a minimum. Accepting loss is a part of trading. The extent of those losses is a part of trading and discipline.

If you are not disciplined in following the trading techniques you will be taught, significant losses can be a very real possibility.

7. Is Electronic Day Trading or SOES trading perfectly legal?

Absolutely.

Years of extensive scrutiny by the NASD, SEC, Department of Justice and reputable members of the media have not only demonstrated that Electronic Day Trading is perfectly legal, but also that it's ethical and represents the future of the industry.

## 8. Is any experience necessary?

Only the life experience which you bring with you.

## 9. What do I need to get started?

Good training, discipline, some talent and an adequate amount of capital.

## 10. Can just any brokerage firm provide these services?

In theory they can. In reality, they won't, because they believe that giving you price information and direct access to the market is not in their economic best interest, which to them is much more important than your best interest.

Unfortunately for this new electronic trading industry, too many firms which actively use SOES and other electronic systems don't make sure their customers are trained properly and give them the ongoing support they need.

## 11. If it's good, why are you telling other people?

For almost ten years the market makers have been trying to eliminate SOES Trading / Electronic Day Trading in spite of my efforts to democratize trading for everyone. Everyone includes you, if you have the aptitude, the skills and the discipline.

As I discussed in my book The SOES Bandits' Guide, I taught people to trade in order to give this opportunity the highest probability of surviving. All too many powerful entities were trying to eliminate SOES Trading from the face of the earth, including the major market making firms, the NASD and other major financial institutions.

In greater numbers of Electronic Day Traders, there is strength. Now Electronic Day Trading is shaping the future of the financial markets for the better.

## 12. Can I trade part time?

Yes. But I believe that the more time you spend trading, the more you become part of the market, which should improve your chances of success.

Of course, you can ease into day trading one toe at a time. You can start part time and see if you develop the passion and fervor that infects most traders.

13. Do I have to know anything about computers?

NO! You will be taught all of the routine operations of the ATTAIN™ system.

14. What kind of person can benefit from this opportunity?

Virtually anyone who wanted to trade and never had the opportunity because of the tight knot nature of the industry where opportunities are few and far between. Now that I have been instrumental in opening up the industry, anyone with the financial capability and desire can participate in the market with the same advantages as the pro.