

TESTIMONY OF JOSEPH P. BORG

Director, Alabama Securities Commission

And

Chairman of the Enforcement Section of the
North American Securities Administrators Association, Inc.

Before the
Committee on Banking, Housing, and Urban Affairs

United States Senate

“The Role of State Securities Regulators in Protecting Investors”

June 2, 2004

Chairman Shelby, Ranking Member Sarbanes and Members of the Committee,

I'm Joe Borg, Director of the Alabama Securities Commission and Chairman of the Enforcement Section of the North American Securities Administrators Association, Inc. (NASAA).¹ It's been a privilege for me to serve as Director of the Commission since 1994, and to have been elected as NASAA's President for during 2001 - 02. It's a particular honor for me to have the opportunity to publicly thank my Senator, Richard Shelby, for his thorough and thoughtful approach to restoring investor confidence in our markets. You just heard an overview of state securities regulation from NASAA's President, Ralph Lambiase, and I'm delighted to have the chance to share with you some highlights from the states' enforcement activities.

Overview

The Enforcement Section assists the NASAA Board and membership in coordinating enforcement efforts regarding multi-state frauds by facilitating the sharing of information and leveraging the fixed resources of the states more efficiently. Members of this Section act as points of contact for other federal agencies and the self-regulatory organizations (SROs), and help identify new fraud trends such as those involving promissory notes, viatical settlements and microcap securities. The Section has eight project groups under its jurisdiction, with over 40 volunteer members who focus on planning NASAA's annual enforcement conference, the enforcement portion of the 19(d) conference with the Securities and Exchange Commission (SEC) mandated by the Securities Act of 1933,

¹ The oldest international organization devoted to investor protection, the North American Securities Administrators Association, Inc., was founded 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.

maintaining our enforcement databases, coordinating special projects, and identifying enforcement trends.

The enforcement role of states securities regulators differs in some ways from the SEC and the self-regulatory organizations (SROs). Because our local offices are often the first to receive complaints from investors, state securities regulators serve as an early warning system, working on the front lines, investigating potentially fraudulent activity, and alerting the public to the latest scams. After identifying a problem, many states can take immediate enforcement action without the time-consuming need to obtain formal agency orders. States also have a history of taking enforcement actions against the very worst fraudsters, often those selling unlicensed products and Ponzi and pyramid schemes of all types.

In addition to investigating cases and bringing enforcement actions, states work with national regulators on market-wide solutions when they are needed. Although states do not engage in rulemaking for the national markets – that is rightly the purview of the SEC and the SROs – the state regulators are active participants in the SEC’s rulemaking process. That was the pattern followed with penny stock fraud, microcap fraud, day trading and the analyst cases discussed below.² We meet on a regular basis with SEC staff and provide written comment to the Commission as it receives information from the states’ front lines during its deliberative rulemaking process. In the past two years, NASAA has submitted more than two dozen formal comment letters to the SEC regarding rule proposals and concept releases. NASAA staff, frequently joined by state regulatory personnel, also has held numerous informal

² See State/Federal Dynamic Chart Attached.

discussions with Commissioners and SEC staff on issues of mutual interest, both in Washington, D.C. and the field.

Wall Street Analyst Conflict of Interest Global Settlement

Since the early 1990s, long before the recent research analyst global settlement, NASAA members were involved in a number of coordinated multi-state settlements with firms including Prudential Securities, Salomon Brothers, D.H. Blair, and Stratton Oakmont, amongst others.

Let me take just a moment to provide an update on the states' component of the Wall Street analyst conflict-of-interest global settlement. Christine Bruenn of Maine, then NASAA President, testified last May before this Committee on the states' role in the investigation and settlement with the Wall Street firms.

All 50 states, plus the District of Columbia and Puerto Rico, agreed to settle with the ten firms involved. Every jurisdiction, but one, has completed the process by executing the settlement documents. The global settlement was a model for state/federal cooperation and the process was completed in conjunction with the SEC, the New York Stock Exchange and the NASD. If you include the Merrill Lynch settlement, which was reached by the states almost a year before the others, the firms executed agreements with 52 state jurisdictions for a total of 520 settlements.

Those settlements achieved a number of very important objectives. For example, in addition to penalties and disgorgement, a portion of the payments required under the global settlement were earmarked for investor education. Specifically, seven of the firms agreed to pay a total of \$80 million for investor education with \$27.5 million directed to the states over five years for investor education purposes. That amount comprises the "Investor Education Fund" that will be overseen by the Investor Protection Trust (IPT), a charitable trust, classified by the IRS as a public charity.

The settlements also resulted in much needed change in the way the firms conduct their business. The independent research component is scheduled to be implemented in July and will provide investors at the ten firms with research procured by independent consultants. The consultants are also charged with providing a track record of research success or failure that can be evaluated over time.

Finally, a rigorous separation between research and banking was effected by this settlement for the ten firms involved, and by NASD and NYSE rules for the rest of the industry. Over the last several years, NASAA members have been active participants in the rulemaking and legislative process in the area of analysts' conflicts of interest. The states worked closely with the SEC and the SROs, both to leverage limited investigative resources and to formulate new, market-wide rules that were needed to fix this problem. In addition, we commented on the NASD/NYSE's proposed rules relating to research analysts, making suggestions that we felt could make the rule stronger in some areas.

Many of our original proposals were incorporated in the final rule. Also, NASAA was strongly supportive of Title V in S. 2673, which became the Sarbanes-Oxley Act of 2002.

States' Investigations into Mutual Fund Industry Abuses

I commend this Committee for its thorough and deliberative examination of trading abuses in the mutual fund industry. State securities regulators, the SEC, NASD, and mutual-fund firms themselves have launched inquiries into mutual fund trading practices. To date, more than a dozen mutual funds are under investigation and several mutual fund employees have either pleaded guilty, been charged or settled with state regulators. I won't dwell on this subject because this Committee has already conducted comprehensive hearings demonstrating that some in the mutual fund industry were putting their own interests ahead of America's 95 million mutual fund shareholders. I can assure you that the states will continue to actively pursue inquiries into mutual fund improprieties and are committed to aggressively addressing mutual fund complaints raised by investors in our jurisdictions.

State Securities Enforcement Activity

These high profile national cases arise periodically, but they should not obscure the more routine caseload representing the bulk of the states' enforcement work. As always, state securities regulators continue to vigorously pursue sales practice abuses and a variety of scams and frauds against unsuspecting investors. State securities regulators have a long history of protecting investors at the local level day in and day out. We often initiate investigations as a result of complaints from investors in your states who feel they have been wronged by a broker-dealer, securities professional, or those claiming to be a

securities specialist. Each NASAA member has one or more offices within their state, with contact information readily available on the web. Many investors understandably feel that the logical place to start with a grievance is their local state securities regulator.

The states have compiled an impressive record in bringing enforcement cases, including criminal prosecutions. The chart before you, and attached to this testimony, illustrates state enforcement statistics for the reporting period 2002 to 2003 with over 70 percent of the 52 jurisdictions responding. The states filed a total of 2964 administrative, civil and criminal enforcement actions; assessed \$822,315,470 of monetary fines or penalties; collected \$660,109,508 in restitution, rescission and disgorgement and sentenced criminals to over 717 years of incarceration. NASAA sent out a recent survey to obtain this latest data, and I'd be pleased to follow-up with the Committee in a few weeks with more complete information.

Because we're grass roots regulators, we often serve as an early warning system of emerging corporate frauds and investment scams before they are detected at the federal level. Other frauds, generally relating to companies not traded on any exchange, never reach the federal level and are handled by state regulators. The Alabama Securities Commission's Enforcement Division opened an investigation on Francis Clark Sr., CEO and President of US Fabtec L.L.C, located in Alabama. US Fabtec, L.L.C. was to be a joint venture with Mitsubishi Aluminum Fabtec Holding, Inc., a subsidiary of Mitsubishi International Corporation. Complaints alleged that Clark spent corporate funds on personal items such as country club dues and his hobby of stock car racing. Mr. Clark

solicited seven domestic investors for \$1,407,676 and two Japanese Companies to invest \$1,287,553 for a total of \$2,695,229. It was determined that Clark thereafter continued to solicit additional investments and embezzled money from the company. In 2003, Mr. Clark was sentenced to 12 years and to pay restitution of \$1,603,117.04 for two counts of Securities Fraud and two counts of Theft of Property I.

For the past several years, NASAA has released its list of top 10 investment scams, schemes and scandals to alert investors to increasingly complex and confusing investment frauds. I will briefly describe several of these scams and provide a state enforcement case example for each.

1. UNREGISTERED/UNLICENSED- One problem area inundating state regulators is unlicensed securities sellers pitching securities that are unregistered. Scam artists use high commissions to entice some insurance agents, investment advisers and even accountants and lawyers into selling investments they may know little about, such as bogus limited partnerships or promissory notes, offering high returns with little or no risk.

Unlicensed/Unregistered Case Example - The State of New Jersey is proceeding with efforts to obtain restitution for at least 195 investors who may have lost up to \$15 million in a real estate investment scam run by a Michael Casey in Upper Saddle River. The suit filed in December 2003 alleges fraud and the sale of unregistered securities through a complex set of real estate based investments. New Jersey alleges that the monies raised

were illegally co-mingled, mismanaged and/or diverted to pay Casey's personal expenses and for other purposes unrelated to what investors were promised.

Casey allegedly used his tax preparation business and a series of investment workshops under the name Midas Financial Planning Services Group to recruit investors. These workshops, held as recently as August 2003, involved numerous oral and written misrepresentations to potential investors. Casey allegedly continued to conduct the workshops in violation of a consent order he entered into with the Bureau of Securities on April 7, 2003 that barred him from "issuing, selling, offering to sell, purchasing or offering to purchase, promoting, negotiating, advertising or distributing from or within New Jersey any securities or investment advisory advice concerning securities."

Unlicensed/Unregistered Case Example - In Delaware, an insurance agent, who had been the subject of a prior Delaware Cease and Desist Order prohibiting him from selling unregistered securities, once again began selling unregistered securities in violation of the existing order. Subsequent to the filing of the Order, the Delaware Securities Division received a complaint from a senior citizen who had invested \$35,000 after responding to an anonymous advertisement in a senior citizen newspaper. The seller of the unregistered fraudulent offshore securities (certificate of deposit issued by the First International Bank of Grenada and Wellington Preferred Stock) was the same insurance agent who had been ordered to stop selling unregistered securities. This \$35,000 investment represented the victim's entire life savings. She received the \$35,000 by the sale of her marital home which she sold before moving in with her son after her retirement. The victim was a retired state employee who was forced to return to the work force as a result of the crime.

Through the use of a search warrant, Delaware seized the offender's computer and business records and was able to find fourteen, primarily elderly, victims who had invested in these fraudulent offshore investments sold by the insurance agent. He was convicted in Delaware Superior Court of twenty-nine felonies and received a term of incarceration of seven years. While the Court ordered over \$600,000 in restitution, the offender has not repaid any of his victims.

Unlicensed/Unregistered Case Example - In Alabama, an individual without use of ads, commercials or flyers was able to get 30,000 participations in an advance fee loan investment by use of the Internet within a period of less than 100 days. The Alabama Commission issued 18,682 checks to reimburse investors at 70% of their investment. The Commission, moving quickly, was able to freeze bank accounts before the funds could be transferred overseas.

2. **PRIME BANK** - Prime bank schemes are a perennial favorite of con artists who promise investors access to secret, high-yield investments made through trades among the world's top or "prime" banks. Promoters falsely claim the investment is guaranteed or secured by some kind of collateral insurance or bank guarantee. The investors ultimately find out that the prime banks simply do not exist. Negative publicity attached to these schemes has caused some promoters in recent cases to avoid explicitly referring to prime banks. Now it is common to avoid the term altogether and underplay the role of banks by referring to these schemes as "risk free guaranteed high yield instruments."

Prime Bank Case Example – The Arizona Corporation Commission shut down a prime bank scheme and ordered six companies and their representatives to pay over \$4.5 million in restitution and penalties for state securities violations. The state has already recovered \$3 million for investors. This case is unusual because it is rare that large amounts of money are recovered for investors in prime bank cases. The perpetrators told investors their money would be safely held in bank certificates of deposit while funds were traded in foreign banks. The duo also promised returns greater than 500 percent. They continually sent newsletters to investors trumpeting their million-dollar returns, but all the claims were false. The case involved 102 investors from Arizona and other states as well as from Germany and Japan. Most of the money was funneled through a bank in Arizona to a bank in Texas and ultimately to the Turks and Caicos Islands.

3. VARIABLE ANNUITIES - Sales of variable annuities have increased dramatically over the past decade. As sales have risen, so too have complaints from investors. State securities regulators are concerned that investors aren't being told about high surrender charges and the steep sales commissions agents often earn when they move investors into variable annuities. Often pitched to seniors through investment seminars, these products are unsuitable for many retirees.

Some investors also are misled with claims of guaranteed returns when variable annuity returns actually are vulnerable to the volatility of the stock market. The benefits of variable annuities – tax-deferral, death benefits among others – come with strings

attached and additional costs. High commissions often are the driving force for sales of variable annuities.

Variable annuities are considered to be securities under federal law. Some states consider variable annuities to be insurance products and others consider them to be both insurance and securities. NASAA is encouraging changes in state laws that would allow state insurance regulators to continue to oversee the insurance companies that sell variable annuities while authorizing state securities regulators to investigate complaints about variable annuities and to take action against the companies and individuals who sell them. State securities regulators look only at the sales practices of those selling variable annuities as opposed to the licensing and registration of the product.

Variable Annuities Case Example - The Alabama Securities Commission and the Mississippi Secretary of State recently announced a joint enforcement action against AmSouth Investment Services, a subsidiary of AmSouth Bank, which had acquired a broker-dealer in a bank merger with First American of Nashville, Tennessee. In this joint investigation involving two state regulators, and information sharing with the SEC and the NASD, we found a number of cases of poor oversight and, in one case, serious violations by an AmSouth Investment Services representative. Most of the problems we found related to variable annuities and their unsuitability for most investors. The case began after a routine examination by state investigators discovered improper activity.

Under the agreement, AmSouth Investment Services paid a \$25,000 fine, reimbursed the states \$75,000 in investigative costs, contributed \$125,000 for investor education programs in Mississippi and Alabama, and set up an uncapped fund to handle claims for those who wish to surrender these policies if unsuitable. The broker-dealer must also pay for an independent review of all internal policies and procedures designed to detect and prevent securities law violations, and improve access to compliance and supervisory rules at every branch office including obtaining a new state of the art computer compliance system.

On a negative note, there has been a major push by certain insurance industry associations to remove variable annuities from state securities review, even though variable annuities are securities under federal law. These efforts have been successful in preventing or eliminating securities review in several states, hindering progress in the uniform treatment of what are essentially stock funds with an insurance element.

4. VIATICALS - Risky viatical settlement contracts are products that have been on our radar screen and subject to state securities enforcement actions for the past several years. The viatical industry began around 1990 as a way to help the terminally ill, most notably AIDS patients. In a typical transaction, the person holding a life insurance policy sells it to a third party “broker” in return for a portion of the death benefit. The broker then sells shares of the policy to investors, who collect a share of the death benefit from the broker when the original policyholder dies.

A viatical settlement transaction is a hybrid transaction that implicates both insurance and securities law. The securities law component of a viatical settlement transaction arises when a viatical settlement provider solicits investors to raise money to fund the payout to the insured. Although in some jurisdictions state insurance authorities have sole authority over viatical settlement transactions, in the states where securities and insurance regulators share oversight, securities regulators uniformly have stated that viatical settlement transactions constitute securities under state securities law and have vigorously pursued enforcement actions.

Viaticals Case Examples - In February 2002, NASAA issued a press release³ about viatical settlements, citing deceptive marketing practices, numerous instances of fraud, and warning investors not to be misled by claims that viaticals offer safe, guaranteed returns like certificates of deposit. The release cites a Vermont investigation into practices at Mutual Benefits Corporation (MBC). The Vermont Securities Division currently has a civil lawsuit pending in Superior Court alleging that MBC violated the Vermont Securities Act by: (1) selling unregistered securities; (2) employing unregistered sales reps (mostly insurance agents); (3) misrepresenting to investors the risks involved in the purchase of viatical settlements; (4) misrepresenting the life expectancies of viators; and (5) violating the suitability provisions of Vermont law. The lawsuit seeks a civil penalty and restitution of approximately \$2 million. The Superior Court denied MBC's motion to dismiss several months ago and the case is currently scheduled for trial during the first week of December.

³ NASAA press release dated February 26, 2002; "Risky 'death futures' draw warning from state regulators, congressional scrutiny."

Just last month, State and federal regulators stepped in to shut down and revoke the license of Mutual Benefits Corporation, for securities and insurance law violations, fraud and misrepresentation. Florida's Office of Statewide Prosecution has charged the company with racketeering and 15 counts of investor fraud, saying the company lured tens of thousands of investors into an elaborate Ponzi scheme that raised more than \$1 billion.

5. AFFINITY FRAUD – Con artists know that its only human nature to trust people who are like yourself. That's why scammers often use their victim's religious or ethnic identity to gain their trust and then steal their lifesavings. Unfamiliar with the financial markets, too many people don't know how to thoroughly research an investment and its salesperson. So, many fall prey to affinity group fraud in which a con artist is, or seems to be, a member of the same ethnic, religious, career or community- based group.

Affinity Fraud Case Example –The Alabama Securities Commission initiated an investigation into an affinity fraud case that resulted in six defendants being sentenced to jail by a Judge for the Nineteenth Judicial Circuit. The charges surrounded financial activities including non-existent bonds, money laundering, and securities fraud involving the proposed expansion of the former Daystar Assembly of God church located in Prattville, Alabama. It is estimated that the congregation lost about \$3,000,000. As a result of this scam the congregation lost their church building because funds were not available to meet mortgage payments. This case clearly shows the power of cooperation and communication among the local police department, County, and State legal authorities to work together and take strong actions against white collar crime and

people who steal from members of their own community. The principal perpetrator received a 31-year prison sentence.

International Efforts

My colleague, Ralph Lambiase, has already summarized most of the states' international outreach efforts. In addition, I recently represented NASAA at the United Nations Commission on International Trade and Law's Colloquium on International Commercial Fraud. The Colloquium was convened to address various aspects of the problem of commercial fraud from the point of view of private law and to permit an exchange of views from various interested parties, including those working in national Governments, intergovernmental organizations and relevant private organizations with a particular interest and expertise in combating commercial fraud, what we generally call "investment fraud." The idea was to begin an exchange of views with the international criminal law and regulatory sectors that combat commercial fraud and to identify matters that could be coordinated or harmonized. I was invited to present issues related to securities fraud including the difficulties we experience in conducting investigations, document production, and bringing civil and criminal prosecutions due to "red tape" across international borders. I believe we will see greater efforts made to share information and expedite investigations with a view to freezing and preserving assets for investors.

Coordination

As we move forward, NASAA will enhance its existing cooperative relationships and launch new projects to coordinate enforcement activities. Even with the funding increase Congress allocated for the SEC, the Commission can't go it alone. That is why

there must be cooperation and division of labor among state, industry and federal regulators.

In September 2003, the NASAA President and SEC Chairman announced a joint initiative to address issues of coordination and cooperation between federal and state securities enforcement authorities. Since December 2003, a working group consisting of six representatives of the Commission staff and six representatives of NASAA has been meeting on a regular basis to study ways to improve federal and state cooperation. I am a member of this working group and assure you that the discussions have been thorough, constructive, and educational.

Another entity that NASAA works closely with is the Securities and Commodities Fraud Working Group, which is an informal association of law enforcement departments and regulatory agencies at the federal, state, and international levels. Organized under the auspices of the Justice Department in 1988, the Group seeks to enhance criminal and civil enforcement of securities and commodities laws through tri-annual meetings and other information sharing activities. For example, the Group maintains a “Directory and Resource Guide” containing contact information for a broad range of law enforcement and regulatory agencies.

State securities regulators routinely work and cooperate with other agencies such as the Department of Justice, the National White Collar Crime Center, the U.S. Postal Service,

the Department of Homeland Security, the Regional Organized Crime Information Center and others.

In December 2001, the NASAA/NAIC Enforcement Coordination Subgroup was formed. Comprised of delegates from each association, its mission is to improve enforcement coordination between insurance and securities regulators at the state level. A key focus of the group is the persistent problem of insurance agents engaged in the unlawful sale of various securities investments. Last month, the group hosted its first joint training seminar for the benefit of regulators from both disciplines.

Conclusion

Mr. Chairman and Members of the Committee, state securities regulators are dedicated to pursuing those firms and individuals who have violated the securities laws. We will fight to ensure that state securities regulators maintain the authority to regulate at the local level and bring enforcement actions with appropriate remedies against those firms that violate securities laws in their jurisdictions.

The NASAA membership wishes to work with the Committee to provide you with any additional information or assistance you may need. Thank you again for inviting me to speak on behalf of the states to discuss our efforts to protect the investing public. I am happy to answer any questions you may have.

STATE/FEDERAL DYNAMIC:
HOW STATE DETECTION OF INVESTOR PROTECTION ISSUES LEADS TO NATIONAL RESPONSE

<u>Issues Identified by State Securities Regulators</u>	<u>Problem</u>	<u>National Response</u>
1989 - States determined Penny Stock offerings by newly formed shell companies to be per se fraudulent. ⁴ These “blank check” companies had no business plan except a future merger with an unidentified company.	\$2 billion/yr. Losses in Penny Stocks⁵	1990- Congress passed Penny Stock Reform Act which mandated SEC to adopt special rules governing sale of Penny Stocks (<\$5.00 per share) and public offerings of shares in Blank Check companies (SEC Rule 419). ⁶
1991 - States found that rollups of poorly performing public limited partnerships disadvantaged individual investors by not providing meaningful dissenters’ rights.	Lack of dissenters’ rights	1993- Congress passed the Limited Partnership Rollup Act which mandated that NASD adopt rules containing specific provisions to protect dissenters’ rights. ⁷
1996-97 - 33 States participated in sweep of 15 broker-dealer firms that specialized in aggressively retailing low-priced securities to individual investors. States found massive fraud in firms’ manipulation of shares of start-up companies, most of which had no operating history.	\$6 billion/yr. Losses in Micro-cap Stocks⁸	1997-98- Congress held hearings on fraud in the micro-cap securities markets (shares selling between \$5-10). 2002 - Congress passed Sarbanes-Oxley Act which made certain state actions a basis for federal statutory disqualification from the securities industry. ⁹

⁴*Resolution of the North American Securities Administrators Association Declaring Blank Check Blind Pool Offerings to be Fraudulent Practices* (4 April 1989), NASAA Reports (CCH) ¶7028.

⁵*NASAA Investor Alert: Penny Stock Fraud* (December 1989).

⁶15 U.S.C. §78o(g); 15 U.S.C. §77g(b)(1).

⁷15 U.S.C. §78o(b)(12) and (13).

⁸Opening Statement of Senator Susan Collins, Chair, Senate Permanent Subcommittee on Investigations (22 September 1997).

⁹U.S. Senate Permanent Subcommittee on Investigations (22 September 1997 and 10 February 1998); 15 U.S.C. §78o(b)(4)(H); 15 U.S.C. §80b-3(e).

1996-97 - States were the first regulators anywhere to issue uniform interpretative guidance on use of Internet for legitimate securities offerings and dissemination of product information by licensed financial services professionals. ¹⁰	Risks of Securities offerings on The Internet	1998- SEC issued interpretative guidance based on the States' Model on the use of Internet for securities offerings and dissemination of services and product information by licensed financial services professionals. ¹¹
1999 - In a report on trading of securities on the Internet, States found that investors did not appreciate certain risks, including buying on margin and submitting market orders. ¹²	Risks of Online Trading	2001- SEC approved a new NASD rule requiring brokers to provide individual investors with a written disclosure statement on the risks of buying securities on margin. ¹³
1999 - In a first-ever report on individuals engaged in day trading, States found that day trading firms failed to tell prospective investors that 70% of day traders would lose their investment while the firm earned large trading commissions. ¹⁵	Risks of Day Trading	2000- SEC approved new NASD rules making day trading firms give written risk disclosure to individual investors. ¹⁴ 2001 - SEC approved new NASD and NYSE rules governing margin extended to day traders. ¹⁶

¹⁰*Resolution of the North American Securities Administrators Association Regarding Securities Offering on the Internet* (7 January 1996), NASAA Reports (CCH) ¶7040; *Resolution of the North American Securities Administrators Association Regarding Internet Advertising of Information on Products and Services* (27 April 1997), NASAA Reports (CCH) ¶2191.

¹¹*Statement of the Commission Regarding use of Internet Websites to Offer Securities, Solicit Securities Transactions, or Advertise Investment Services Offshore*, U.S. Securities and Exchange Commission, Release No. 33-7516 (23 March 1998).

¹²*From Wall Street to Web Street: A Report on the Problems and Promise of the Online Brokerage Industry*, Office of the New York Attorney General (22 November 1999).

¹³*Delivery Requirement of a Margin Disclosure Document to Non-Institutional Customers*, U.S. Securities and Exchange Commission, Release No. 34-44223 (26 April 2001).

¹⁴NASD Rules 2360 and 2361.

¹⁵*Report of the NASAA Project Group on Day Trading*, North American Securities Administrators Association (August 1999).

¹⁶NASD Rule 431; NYSE Rule 2520.

STATE SECURITIES REGULATORS ENFORCEMENT STATISTICS

(2002/2003 Reporting Period)

ENFORCEMENT ACTIONS
(Includes administrative, civil, and criminal)

2,964

MONETARY FINES & PENALTIES
(Includes civil and criminal)

\$822 million

**MONEY ORDERED
RETURNED TO INVESTORS**
(Includes restitution, rescission, and disgorgement)

\$660 million

**YEARS OF INCARCERATION
SENTENCED**

717.91 years

NOTES

All data are for the 2002/2003 reporting period, which is reflected either as calendar year 2002 or most recent fiscal year, July 1, 2002 through June 30, 2003. Totals are preliminary as of May 28, 2004 and are based on responses from 37 of 52 jurisdictions.

SOURCE: North American Securities Administrators Association