BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE OF THE STATE OF TENNESSEE AT NASHVILLE

IN THE MATTER OF:	)	
	)	
TENNESSEE SECURITIES DIVISION	)	
	)	
Petitioner,	)	
	)	**File No. 03-010**
vs.	)	
	)	
UBS WARBURG LLC; and	)	
	)	
UBS PAINE WEBBER, INC.	)	
	)	
Respondents.	)	

CONSENT ORDER

The Tennessee Securities Division (the "Division") and UBS Warburg, LLC and UBS Paine Webber, Inc. (the "Firm") agree to the entry of this Consent Order in accordance with Tennessee Code Annotated §48-2-116 of the Tennessee Securities Act of 1980, as amended, Tennessee Code Annotated 48-2-101, et seq. (the "Act"), which states that the Commissioner of Commerce and Insurance from time to time may make such orders as are necessary to carry out the provisions of the Act.

I.
GENERAL PROVISIONS

WHEREAS, the Firm, hereby agrees, subject to the approval of the Commissioner of Commerce and Insurance (hereinafter referred to as the "Commissioner") as follows:

WHEREAS, UBS PaineWebber Inc. (CRD #8174) ("UBS PaineWebber") is a broker-dealer registered in the state of Tennessee since August 17, 1981; and

WHEREAS, UBS Warburg LLC (CRD #7654) ("UBS Warburg") is a broker-dealer registered in the state of Tennessee since August 5, 1991; and

WHEREAS, for purposes of this Order, PaineWebber, UBS PaineWebber and UBS Warburg will be collectively referred to as UBS or the Firm, except in circumstances where PaineWebber, UBS PaineWebber or UBS Warburg are specifically referenced.

WHEREAS, coordinated investigations into the Firm's activities in connection with certain of its equity research practices during the period of approximately 1999 through 2001 have been conducted by a multi-state task force and a joint task force of the U.S. Securities and Exchange Commission ("SEC"), the New York Stock Exchange ("Exchange"), and the National Association of Securities Dealers ("NASD") (collectively, the "regulators"); and

WHEREAS, the Firm has advised regulators of its agreement to resolve the issues raised in the investigations relating to its research practices; and

WHEREAS, the Firm agrees to implement certain changes with respect to its research practices to achieve compliance with all regulations and any undertakings set forth or incorporated herein governing research analysts, and to make certain payments; and

WHEREAS, the Firm elects to permanently waive any right to a hearing and appeal under the Tennessee Securities Act of 1980, as amended, and Tennessee's Uniform Administrative Procedures Act with respect to this Administrative Consent Order (the "Order");

NOW, THEREFORE, the Commissioner of Commerce and Insurance, as administrator of the Act, hereby enters this Order:

II.
FINDINGS OF FACT

The Firm admits the jurisdiction of the Commissioner of Commerce and Insurance, neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order, and consents to the entry of this Order by the Commissioner.

A. Background and Jurisdiction

1) UBS Warburg became a member organization of the Exchange on September 6, 1985. It is principally owned by UBS AG (UBS AG was formed through the June 1998 merger of

Union Bank of Switzerland with Swiss Bank Corporation) and is engaged in the business of global investment banking and securities. UBS Warburg also provides services on a worldwide basis, including investment banking, securities trading and principal investments, and asset management. The principal office of UBS Warburg is located at 677 Washington Boulevard, in Stamford, Connecticut.

2) PaineWebber Inc. ("PaineWebber"), founded in 1879, was a full-service securities firm located in New York, and became a member of the Exchange on November 17, 1982. The services provided by PaineWebber, on a global basis, included investment banking, research, trading, investing on a principal basis, and asset management.

3) On November 3, 2000, UBS AG purchased PaineWebber and PaineWebber became known as UBS PaineWebber. UBS PaineWebber is indirectly owned by UBS AG. As part of the merger, PaineWebber banking and research activities were shifted to UBS Warburg LLC, and some investment bankers and research analysts previously employed by PaineWebber became employees of UBS Warburg LLC. Since the merger, UBS PaineWebber is principally engaged in the business of servicing retail investors and no longer employs equity investment bankers or research analysts. UBS PaineWebber's principal office is located at 1285 Avenue of the Americas, New York, New York.

4) UBS AG has offices in over 50 countries, employing approximately 69,500 people, 35,000 of whom work for UBS PaineWebber or UBS Warburg. UBS Warburg has 90 stock exchange memberships in 30 countries and the firm's 500 equity research analysts cover about 3,300 companies world-wide.

5) UBS Warburg and UBS PaineWebber are registered with the Exchange, SEC, NASD and with all 50 states, the District of Columbia and Puerto Rico.

B. Overview

1) This action concerns the research and investment banking activities at UBS Warburg during the period July 1, 1999 through June 30, 2001 as well as the research and investment banking activities at PaineWebber from July 1, 1999 until its merger with UBS AG on November 3, 2000 (the "relevant periods").

2) During the relevant period, as set forth below, the Firm sought and did investment banking business with many companies covered by the Firm's Research Department. Research analysts were encouraged to participate in investment banking activities and that was a factor considered in the analysts' compensation. In addition, the decision to initiate and maintain research coverage of certain companies was in some cases coordinated with the Investment Banking Department and influenced by investment banking interests.

3) As a result of the foregoing, as set forth below, certain research analysts at the Firm were subject to investment banking influences and conflicts of interest between supporting the investment banking business at the Firm and publishing objective research.

4) As set forth below, the Firm had knowledge of these investment banking influences and conflicts of interest, yet failed to establish and maintain adequate policies, systems and procedures with respect to research analysts that were reasonably designed to detect and prevent those influences or manage those conflicts.

C. The Role of the Research Analyst

1) Research analysts were responsible for providing analyses of the financial outlook of particular companies in the context of the business sectors in which those companies operate and the securities markets as a whole.

2) The Firm publishes research on publicly traded companies based upon analysts' examining, among other things, financial information contained in public filings, questioning company management, investigating customer and supplier relationships, evaluating companies' business plans and the products or services offered, building financial models, and analyzing competitive trends.

3) After synthesizing and analyzing this information, analysts produced research in the form of full reports and more abbreviated formats that typically contained a rating, a price target, and a summary and analysis of the factors that generated the rating and/or price target. The Firm then distributed its analysts' research reports to the Firm's institutional clients, to the Firm's sales force and to retail clients upon request. Research reports were also made available to third party vendors, such as Bloomberg and First Call, who then made the reports available to subscribers to those vendors. In addition, the rating, but not the analysis contained in the research report, was published on Internet websites such as Multex, for viewing by the investing public. Similarly, UBS Warburg posted on its website (and provided in hard copy if requested), monthly summaries concerning the companies covered by its research analysts, the ratings issued, and any ratings changes from the previous month. These summaries did not include any of the analyses contained in the actual research reports.

4) Analysts were required according to UBS Warburg policy to submit any proposed rating upgrades or downgrades and initiations of coverage to an Investment Review Committee ("IRC") that consisted of compliance, institutional sales, equity capital markets and research department personnel. The IRC reviewed analysts' reports and approved rating and target changes as well as initiations of coverage.

5) Nevertheless, analysts were sometimes able to upgrade or downgrade ratings by requesting and receiving approval of one of several designated members of Research Management, who were also members of the IRC, rather than the full IRC, whenever that change in rating was based upon breaking news. Because Firm analysts sometimes changed their ratings based upon breaking news, upgrades or downgrades were authorized without the approval of the full IRC in nearly one-third of the instances in which ratings were changed during the Relevant Period.

6) Analysts also made themselves available to the Firm's institutional and retail sales force to answer questions about the sector and the covered companies. In addition, analysts provided periodic research updates to the Firm's sales force through "morning calls" or "morning notes," which are daily pre-market opening discussions of the market sectors and specific covered companies. Analysts also provided research updates through "blast" e-mails and voice messages, which typically provide a rating and a more abbreviated analysis than what is contained in a research report.

7) During the Relevant Period, analysts were expected to make independent determinations regarding coverage, stock price targets and ratings whether to buy, sell or hold certain stocks, without consideration of their research reports' potential impact upon Firm investment banking business or the business of Firm investment banking clients.

8) In the 1990's the importance of research issued by analysts increased as a result of the dramatic growth in the number of individual investors and the availability of online trading. Research coverage became a marketing tool, and issuers sometimes chose an investment bank based upon the expectation that a certain analyst would cover the company's stock favorably.

9) As the performance and coverage of research analysts became increasingly integral to the awarding of investment banking business, the Firm encouraged its research analysts to become more involved in investment banking activities, including marketing securities issued by investment banking clients (primarily to the Firm's institutional clients) and soliciting investment banking business.

D. Research Analyst Participation in Investment Banking Activities

1) The Investment Banking Division at the Firm advised corporate clients and helped them execute various financial transactions, including the issuance of stock and other securities. The Firm frequently served as one of the underwriters in initial public offerings ("IPOs") –

the first public issuance of stock of a company that has not previously been traded – and follow-on offerings of securities.

2) During the relevant period, investment banking was an important source of revenues and profits for UBS Warburg. UBS Warburg's investment banking department reported global revenues of $1.369 billion in 1999, $1.602 billion in 2000 and $1.369 billion in 2001, representing nearly 15% of UBS Warburg's global revenues during that time period.

3) In addition to performing research functions, some of the Firm's research analysts identified companies as prospects for investment banking services, participated in "pitches" of the Firm's investment banking services to companies, and participated in "roadshows" and other activities in connection with the marketing of underwriting transactions. At times, Firm research analysts were involved in meetings between companies, prior to their IPO's, and some of the Firm's institutional customers who had expressed an interest in purchasing shares in those IPOs. These meetings would take place in various cities all over the country in order to accommodate the institutional customers and were commonly known in the industry as "analyst roadshows."

4) During these roadshows, the analyst would discuss the issuer with the institutional customers and would frequently arrange "one on one" meetings between company executives and managers of institutional clients who had expressed interest in investing. These roadshows were considered to be a service provided by the Firm to both its institutional clients as well as its investment banking clients.

5) Research analysts also participated in commitment committee and due diligence activities in connection with underwriting activities and assisted the Investment Banking Department in providing merger and acquisition and other advisory services to companies.

6) The interactions between investment bankers and certain research analysts during the Relevant Period, at times impacted the independence of those analysts' as they became increasingly involved in the Firm's efforts to secure investment banking business. As a

result, an environment was created that may have led certain analysts to believe that they were expected to initiate and maintain positive research about Firm clients.

E. Participation in Investment Banking Activities was a Factor in Evaluating and Compensating Research Analysts

1) The compensation system at the Firm provided an incentive for research analysts to participate in investment activities and to assist in generating investment banking business for the Firm.

2) The performance of research analysts was evaluated by Research Management through an annual review process and analysts' bonuses were determined through this process, unless an analyst had a guaranteed bonus set by contract in advance. The guaranteed bonuses for the Firm's top analysts were frequently in the millions of dollars while the base salary was typically in the $125,000 to $150,000 range.

3) In addition to these guaranteed bonuses, six PaineWebber analysts were explicitly guaranteed "investment banking bonuses", meaning that those analysts were entitled to some portion of certain investment banking fees earned by PaineWebber.

4) For example, two PaineWebber analysts were promised compensation equal to 15% of the underwriting management fees earned in their respective sectors. In addition to the bonuses paid to those analysts pursuant to PaineWebber's annual review process, those two analysts received an additional $125,000 and $135,000, respectively, for the year 2000, because of the investment banking fees earned by PaineWebber in their respective sectors.

5) When UBS Warburg acquired the research and investment banking operations of PaineWebber in November, 2000, the Firm removed the direct link between investment banking revenues and analyst compensation.

6) The UBS annual evaluation process included an evaluation of each analyst's contribution to the Firm's investment banking business as a factor in determining bonus compensation.

7) Each year, prior to bonuses being paid, UBS conducted a comprehensive evaluation process that rated each analyst's performance and assigned analysts rankings in one of four quartiles. As part of that process, analysts submitted self-evaluations, and other UBS employees with whom the analyst had had significant contact were also asked to submit evaluations, including investment bankers.

8) In describing the analysts' performance, the UBS bankers frequently included comments relating to the analyst's abilities to attract and/or maintain investment banking clients.

9) For example, an investment banker at UBS Warburg evaluated one analyst as "the best business builder in research I have ever known."

10) Similarly, Research Management considered investment banking contributions as a component of analysts' performance evaluations. The Head of UBS Warburg's Research Division evaluated that same analyst as the "most prolific analyst at the firm when it comes to generating investment banking revenues" and that he "manages the tightest coordination between research and [the Corporate Finance Division] of any sector." This evaluation was included in the section of the performance review entitled "Accomplishment/Strengths."

11) Furthermore, the Head of UBS Warburg's Research Division, who was ultimately responsible for evaluating analysts and determining the exact amount of their bonus compensation, referenced analysts' contributions to investment banking business as one factor in the evaluation of their performance.

12) The Firm also specifically requested that analysts, in writing their own self-evaluations, include, among other criteria, an assessment of their contribution to the Firm's Investment Banking Department. This led to a perception among analysts that contribution to investment banking was a factor in compensation.

13) In response to this request, one analyst described his own performance for the Firm by highlighting his involvement with several investment banking deals done by the Firm

during the previous year. The analyst then boasted that he was responsible for generating $15 million in investment banking revenue for the Firm during that time.

F. Investment Banking Interests Influenced the Firm's Decisions to Initiate and Maintain Research Coverage

1) In general, the Firm determined whether to initiate and maintain research coverage based upon investor interest in a company or based upon investment banking considerations, such as attracting companies to generate investment banking business or maintaining a positive relationship with existing investment banking clients.

2) As a matter of practice, the Firm initiated coverage on companies that engaged the Firm in an investment banking transaction and maintained coverage for a period of time beyond the transaction.

3) Research analysts were aware that, in certain circumstances, their positive and continued coverage of particular companies was an important factor for the generation of investment banking business. Thus, some research analysts and investment bankers coordinated the initiation and maintenance of research coverage based upon, among other things, investment banking considerations.

4) For example, analysts were required to seek authorization from Research Management prior to dropping coverage of a company, unless the reason for dropping coverage was due the departure of the covering analyst. However, when the company involved was an investment banking client, the analyst was also expected to consult with the investment banking personnel responsible to that client.

5) Additionally, according to an e-mail by UBS Warburg Head of Global Technology Investment Banking, it was an implicit condition in the UBS Warburg investment banking agreements that UBS Warburg would continue to provide research coverage of its clients for a period of time following a transaction. Such implied promises to investment banking

clients impacted the Research Department's authority to make its own independent determinations concerning the continuation of coverage.

6) When a UBS Warburg analyst informed the Head of the Research Department that he intended to drop coverage of a particular company, he was asked whether there was any "banking relationship" and was told to "check with" the banker who worked with that company.

7) Although coverage of the company was dropped in that instance, the lead banker of the technology group at UBS Warburg reminded the research analyst and Research Management of the implicit promise made during pitch meetings that coverage would be maintained for a significant period of time: "The problem is that many companies . . . in asking for credentials for a pitch will ask directly if we are meeting our research obligations to the companies we bank. They generally expect an IPO fee to justify coverage for three years . . ."

8) In another instance, when a UBS Warburg research analyst informed his banking counterpart, that he intended to drop coverage of four biotechnology companies, the banker forwarded that message to a member of Investment Banking Management who sent an e-mail to the analyst stating that he wished "to have the opportunity to discuss future potential revenue opportunities from these clients" before coverage was dropped.

9) The Investment Banking Department also sometimes had an impact upon determinations made by analysts regarding the initiation of coverage. When investment bankers became aware of opportunities to cultivate investment banking business, they sometimes suggested to the analyst in that sector that coverage should be initiated.

10) For example, a Firm investment banker sent an e-mail to a Firm research analyst indicating that a company with whom he had discussed investment banking business had asked "if there was an interest by UBS Warburg to cover them from a research stand point." The banker went on to say that he believed that "the timing is good" for initiation of research

coverage of the company and offered to set up a meeting between the company and the analyst.

11) Similarly, a Firm analyst informed his banking counterparts that they should wait to call a company to discuss a potential investment banking deal until "after I pick up coverage."

G. The Firm's Pitch Materials Contained Discussions of Research Coverage

1) During the relevant period, research coverage was an important factor considered by companies in selecting a firm for an investment banking transaction.

2) Certain analysts understood that the issuance of positive research about an issuer was a pre-condition to the Firm's obtaining the issuer's banking business.

3) In competing for investment banking business from prospective issuers, the Firm typically sent investment bankers to meet with company management in order to persuade the company to select the Firm as one of the underwriters in a contemplated transaction. Research analysts often accompanied bankers on these "pitch" meetings. At these meetings, Firm investment bankers would present their level of expertise in the company's sector and discuss their previous experience with other companies, as well as their view of the company's merits and likelihood of success.

4) In some instances, the research analyst's coverage and impact on the market place concerning companies under coverage was a component of the pitch presented by the Firm. As a result of these presentations, certain issuers selected an investment bank because of the reputation of the analyst that would cover the company's stock and the issuer's belief that the coverage would be positive.

5) Furthermore, certain research analysts who covered the company's sector often worked with investment bankers to prepare the Firm's pitch presentation and attended the pitch meeting.

6) In preparation for each presentation, the investment bankers, sometimes with an analyst's input, prepared a "pitch book" that was distributed at the meeting and contained a summary of the Firm's presentation.

7) Some pitch books contained information relating to the company, its competition, the sector in which it operated and the nature of the services the Firm could provide to the company and its shareholders after the completion of a potential offering. Additionally, Firm pitch books sometimes contained implicit representations that the Firm would continue to provide service to the issuer after the offering by providing research coverage about the company.

8) Some pitch books contained information indicating that a specific analyst would cover the company and included data demonstrating how that analyst's positive comments about other companies in the sector had had a direct positive impact upon the stock prices of those companies.

9) For example, the pitch book presented to JDS Uniphase by PaineWebber, discussed the impact that PaineWebber research had on covered stocks by including a graphic depicting the performance of stocks on the Firm's "Buy List" as opposed to stocks on the Firm's "Attractive List" and "Neutral List." At the top of the graphic, PaineWebber quoted a report from Reuters which stated, "Shares of semiconductor companies specializing in chips for the communications market rose on Thursday after PaineWebber published a report citing the sector's growth prospects."

10) Similarly, in a pitch book presented to Avant Immunotherapeutics, Inc., PaineWebber presented a slide entitled "Demonstrated Strength in Equity Trading and Research." One of the sub-topics on the slide stated, "Buy and attractive recommendations have outperformed the S&P 500 by 84 percentage points for the period 1/90 through 12/99" while "Sell and unattractive ratings have underperformed the S&P 500 by 361 percentage points for the period 1/90 through 12/99."

11) Because analysts often participated in the Firm's efforts to win investment banking business, analysts were sometimes subjected to competing pressures after a stock became publicly traded. The type of information contained in the pitch books, such as the examples above, implied to issuers that the Firm would provide positive research coverage if selected for an investment banking transaction, and that such coverage could result in rising stock prices for those companies.

H. Research Analysts Rarely Issued Neutral or Negative Ratings

1) During the relevant period, PaineWebber's rating system allowed research analysts to assign one of four ratings to a stock: "Buy", defined as total return expected to exceed that of the S&P 500 by 20 percentage points or more over the next 12 months; "Attractive", 12 month total return potential that is 10-20 percentage points greater than the market's; "Neutral", 12 month total return potential within 10 percentage points of the market's; "Unattractive", expected to underperform the market by more than 10 percentage points on a total return basis over the next 12 months.

2) During the relevant period, UBS Warburg's rating system differed slightly from PaineWebber's and allowed research analysts to assign one of five ratings to a stock: "Strong Buy", defined as greater than 20% excess return potential; "Buy", positive excess return potential; "Hold", low excess return potential; "Reduce", negative excess return potential; "Sell", greater than 20% negative excess return potential. All of these ratings related to a 12 month time horizon.

3) During the relevant period, the level of the price target and the strength of the recommendation placed on a stock by covering analysts sometimes had a significant impact on the stock price. Investment bankers and issuers, being fully aware of the potential impact of analysts' recommendations, were motivated to seek research coverage containing positive recommendations.

4) In fact, certain analysts considered the investment banking implications for the Firm when contemplating issuing even a neutral rating about an investment banking client. For example, a member of Equity Sales Management, sent an e-mail to one of UBS Warburg's telecom analysts stating "The salesforce is extremely frustrated with your research, price targets, ratings . . . . They feel that you're being somewhat flippant and not taking responsibility for your recommendations and for having lost hundreds of millions of dollars for people." The analyst responded that he would never utilize a Hold rating on a stock unless one of two conditions occurred: "1) if I believe the company is about to go bankrupt; 2) if there is no investment banking business to be had there."

5) Notwithstanding that PaineWebber had four available ratings and UBS Warburg had five, the Firm's research analysts rarely issued ratings other than "Strong Buy" and "Buy" on the stocks of investment banking clients. Out of several thousand companies covered by UBS Warburg during the relevant period, UBS Warburg issued only seven "Hold" ratings and two "Sell" ratings on companies with which it had an investment banking relationship.

6) Similarly, from July 1, 1999 until the time of the merger, PaineWebber issued only sixteen "Neutral" ratings and five "Unattractive" ratings on companies with which it had an investment banking relationship.

I. <u>In Certain Instances, the Firm Published Exaggerated or Unwarranted Research</u>

1) On several occasions, the conflicts of interest discussed above resulted in analysts publishing ratings and/or recommendations that were exaggerated or unwarranted, and/or contained opinions for which there was no reasonable basis. The following are examples of how these conflicts affected the research:

2) In April of 1998, UBS Warburg served as the lead manager on an IPO for Triangle Pharmaceuticals ("Triangle") and received $1.8 million in investment banking fees.

3) Notwithstanding a market capitalization value of approximately $352,000,000, in November of 1999, Triangle had yet to earn any revenue. Rather, investor optimism for the

stock was based upon the anticipated approval by the Food and Drug Administration ("FDA") of several new drugs, including its "lead HIV drug", Coactinon.

4) In a research report issued on October 8, 1999, the UBS Warburg research analyst who covered Triangle issued a research report that maintained a "Buy" rating while relaying news to investors that a study of the drug Coactinon had proved "inconclusive." The analyst also wrote that the form of testing used by Triangle to gain approval from the FDA had been used before but "had been in less favor recently," and that accordingly it "is unclear what the FDA's requirements will now be" for testing the drug.

5) On December 10, 1999, the FDA informed the company that it would require an additional round of testing, which would cause at least a substantial delay, and perhaps ultimately a cancellation, of the release and sale of the drug. As a result the stock price fell more than $3 -- or 23% -- from $15.63 to $12.00 on the date of the announcement.

6) On that same day, the analyst published a new research report in which she relayed the news to investors but maintained her "Buy" rating, based in part, according to the report, upon the analyst's belief that a different drug in development by Triangle was the company's "most important near-term opportunity."

7) The analyst spoke to the UBS Warburg sales force before the market opened following Triangle's announcement of the FDA's decision and made a statement in form or in substance that the FDA's action had been an anticipated possibility notwithstanding the analyst's "Buy" rating on the stock.

8) Following that call, a member of UBS Warburg's Equity Trading Management contacted the analyst by e-mail and expressed disappointment that the analyst anticipated that the FDA might take this action but had failed to adequately emphasize that possibility to the sales force.

9) The analyst responded that her failure to emphasize negative information regarding Triangle was, at least partially, a result of the analyst's allegiance to the investment banking

client: "Triangle is a very important client of [the firm]. We could not go out with a big research call trashing their lead product, although we had a feeling the FDA might balk. Had we been right or wrong, it would have been a disaster. I just wanted the salesforce to know we were not surprised, and that where appropriate we had had some conversations with the buyside. Sorry this was not conveyed."

10) Similarly, in September 1999, UBS Warburg acted as a co-lead underwriter of Interspeed's IPO and received approximately $700,000 in investment banking fees as a result.

11) In October 1999, the analyst initiated coverage on Interspeed with a "Buy" rating and a $15 price target and maintained that position for several months. On January 3, 2000, the Firm's analyst received an e-mail from a junior analyst who asked what to do if Interspeed's annual report reflects inventory and a sales breakout which "differ materially from what we have in the model." The junior analyst also remarked that Interspeed should "get new auditors, their cash flow statement doesn't add up."

12) That same day, the analyst issued a research report stating the Interspeed had fallen "dramatically short on the top line" in the prior quarter "due to various consumer financing and delivery issues." Additionally, the analyst issued the "Buy" rating in spite of the fact that the stock price had risen above the analyst's price target.

13) Two days later, on January 5, 2000, the analyst instructed a member of the Firm's sales force, "Don't put people into Interspeed – very risky." Nevertheless, the analyst maintained his Buy rating on the stock.

14) Approximately 15 minutes later, the recipient of that e-mail replied, asking "so why is ispd [stock symbol for Interspeed] a short?" The analyst replied, "Just lumpy revenue, some stuffing of channel, creative accounting."

15) The analyst's reference to "customer financing and delivery issues" in his January 3rd report should have more fully described his concern that Interspeed was suffering from lumpy revenue or channel stuffing.

16) A week after that, on January 11, 2000, the analyst received a question from an institutional sales force member asking about Interspeed. He responded, "BE CAREFUL about being long Interspeed. They will report a great number for the December quarter, at least on the surface of things, but the quality of that number is not necessarily self-evident." (emphasis in the original).

17) On February 4, 2000, the UBS Warburg analyst issued another research report following Interspeed's announcement of its fourth quarter results, which exceeded the analyst's expectations. In that report, the analyst reiterated his "Buy" rating and raising his price target from $15 to $28.

18) On March 20, 2000, while the analyst still maintained his "Buy" rating and $28 price target and with the stock price exceeding that target, the analyst sent an e-mail to UBS Warburg's sales force informing them that another company had developed a product to compete with Interspeed. One of the members of the sales force responded, "This sounds like a short . . . correct? (Off the record, of course)." The analyst responded, "YES." However, the analyst still maintained the "Buy" rating.

19) On May 31, 2000, the analyst sent an e-mail to two institutional customers saying that "The two shorts of the group I would suggest are (1) [another issuer] and (2) Interspeed. I'd be wary of shorting any of the others." Nevertheless, the analyst still maintained his "Buy" rating on Interspeed.

20) On July 21, 2000, the analyst dropped the rating on Interspeed from a "Buy" to a "Hold".

J. <u>UBS Warburg Received and Made Payments for Research</u>

1) UBS Warburg received payments from the lead manager of offerings in which UBS Warburg did not participate for the issuance of research during the relevant time period.

2) During the relevant period, UBS Warburg received a payment of $100,000 from an outside firm in connection with the offering of Flextronics International, Ltd. The cover letter enclosing the check indicated that the check was a "special research check." However,

UBS Warburg failed to disclose in its research reports concerning Flextronics that it had received the payment, nor did it disclose the source or amount of the payment.

3) During the relevant period, UBS Warburg also received a payment from an outside firm in the amount of approximately $113,000 in connection with the offering of Atmel, Inc. The cover letter enclosing the check stated that the check represented "guaranteed economics for research." However, UBS Warburg failed to disclose in its research reports concerning Atmel that it had received the payment, nor did it disclose the source or amount of the payment.

4) During the relevant period, UBS Warburg also paid a "research fee" of $150,000 at the direction of the issuer, to two broker-dealers in conjunction with the underwriting transaction of Netopia, Inc. in which UBS Warburg was the lead-manager. However, UBS Warburg did not take steps to ensure that this broker-dealer disclosed in its research reports that it had been paid to issue research. Further UBS Warburg did not disclose or cause to be disclosed the details of these payments.

5) During the relevant period, UBS Warburg also made several payments totaling approximately $283,000, at the direction of the issuer, for "research" to broker-dealers in conjunction with an underwriting transaction of Espeed, Inc., in which UBS Warburg was the lead manager. However, UBS Warburg did not take steps to ensure that this broker-dealer disclosed in its research reports that it had been paid to issue research. Further UBS Warburg did not disclose or cause to be disclosed the details of these payments.

K. The Firm Failed To Adequately Supervise Its Research and Investment Banking Departments

1) While one of the roles of research analysts was to produce objective research, the Firm also encouraged them to participate in investment banking activities. As a result of the foregoing, these analysts were subject to investment banking influences and conflicts of

interest between supporting the Firm's investment banking business and publishing objective research.

2) The Firm had knowledge of these investment banking influences and conflicts of interest yet failed to manage them adequately to protect the objectivity of its published research.

3) The Firm failed to establish and maintain adequate policies, systems and procedures reasonably designed to ensure the objectivity of its published research. Although the Firm had some policies governing research analyst activities during the relevant period, these policies were not adequate to fully address the conflicts of interest that existed.

III.
CONCLUSIONS OF LAW

1) The Commissioner of Commerce and Insurance has jurisdiction over this matter pursuant to T.C.A. § 48-2-115(a). The Division is the lawful agent through which the Commissioner discharges this responsibility.

2) The Commissioner of Commerce and Insurance finds that the Firm violated T.C.A. § 48-2-112(a)(2)(G) by:

   i) engaging in the acts and practices that created or maintained inappropriate influence by the Investment Banking Department over research analysts, therefore imposing conflicts of interest on its research analysts, and failing to manage these conflicts in an adequate or appropriate manner;

   ii) issuing research reports that were affected by the conflicts of interest imposed on its research analysts as described above;

   iii) making payments for research to other broker-dealers not involved in underwriting transactions when the Firm knew that these payments were made, at least in part, for research coverage, and by failing to disclose or cause to be disclosed in offering documents or elsewhere the fact of such payments; and

iv) receiving payments in conjunction with underwriting transactions from outside entities for research issued without disclosing receipt of those payments to the public as required by Section 17(b) of the Securities Act of 1933, as amended.

3) The Commissioner of Commerce and Insurance finds that the firm failed to establish and maintain adequate policies, systems and procedures for supervision and control of the Research and Investment Banking Departments reasonably designed to detect and prevent the foregoing investment banking influences and manage the conflicts of interest to assure compliance with applicable securities laws and regulations, in violation of T.C.A. § 48-2-112(a)(2)(J).

4) The Commissioner of Commerce and Insurance finds the following relief appropriate and in the public interest.

IV.
ORDER

On the basis of the Findings of Fact, Conclusions of Law, and UBS Warburg's and UBS PaineWebber's consent to the entry of this Order, for the sole purpose of settling this matter, prior to a hearing and without admitting or denying any of the Findings of Fact or Conclusions of Law,

IT IS HEREBY ORDERED:

1) This Order concludes the investigation by the Tennessee Securities Division and any other action that the Division could commence under the Tennessee Securities Act of 1980, as amended, on behalf of the State of Tennessee as it relates to the Firm, relating to certain research practices at the Firm described herein.

2) The Firm will CEASE AND DESIST from violating T.C.A. §§ 48-2-112(a)(2)(G) and (J) in connection with research practices referenced in this Order, and will comply with T.C.A. §§ 48-2-112(a)(2)(G) and (J) in connection with the research practices referenced in this Order and will

comply with the undertakings of Addendum A, incorporated herein by reference.

3) As a result of the Findings of Fact and Conclusions of Law contained in this Order, the Firm shall pay a total amount of $80,000,000.00. This total amount shall be paid as specified in the SEC Final Judgment as follows:

   a) $25,000,000 to the states (50 states, plus the District of Columbia and Puerto Rico) (the Firm's offer to the state securities regulators hereinafter shall be called the "state settlement offer").

   b) Upon execution of this Order, the Firm shall pay the sum of $438,366 of this amount to the Tennessee Securities Division as a civil monetary penalty pursuant to T.C.A. § 48-2-112(d). Said contribution shall be made by check payable to the **Tennessee Department of Commerce and Insurance** and mailed to the attention of:

Broker-Dealer Registration Section
Tennessee Securities Division
500 James Robertson Parkway
Nashville, Tennessee 37243

   c) The total amount to be paid by the Firm to state securities regulators pursuant to the state settlement offer may be reduced due to the decision of any state securities regulator not to accept the state settlement offer. In the event another state securities regulator determines not to accept the Firm's state settlement offer, the total amount of the Tennessee payment shall not be affected, and shall remain at $438,366;

   d) $25,000,000 as disgorgement of commissions, fees and other monies as specified in the SEC Final Judgment;

   e) $25,000,000, to be used for the procurement of independent research, as described in the SEC Final Judgment;

   f) $5,000,000, to be used for investor education, as described in Addendum A, incorporated by reference herein.

4) If payment is not made by the Firm or if the Firm defaults in any of its obligations set forth in this Order, the Commissioner of Commerce and Insurance may vacate this Order, at its sole discretion, upon 10 days notice to the Firm and without opportunity for administrative hearing.

5) The Firm agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification, including but not limited to payment made pursuant to any insurance policy, with regard to all penalty amounts that the Firm shall pay pursuant to this Order or section II of the SEC Final Judgment, regardless of whether such penalty amounts or any part thereof are added to the Distribution Fund Account referred to in the SEC Final Judgment or otherwise used for the benefit of investors. The Firm further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any penalty amounts that the Firm shall pay pursuant to this Order or section II of the SEC Final Judgment, regardless of whether such penalty amounts or any part thereof are added to the Distribution Fund Account referred to in the SEC Final Judgment or otherwise used for the benefit of investors. The Firm understands and acknowledges that these provisions are not intended to imply that the State of Tennessee would agree that any other amounts the Firm shall pay pursuant to the SEC Final Judgment may be reimbursed or indemnified (whether pursuant to an insurance policy or otherwise) under applicable law or may be the basis for any tax deduction or tax credit with regard to any state, federal or local tax.

6) This Order is not intended by the Commissioner of Commerce and Insurance to subject any Covered Person to any disqualifications under the laws of any state, the District of Columbia or Puerto Rico (collectively, "State"), including, without limitation, any disqualifications from relying upon the State registration exemptions or State safe harbor provisions. "Covered Person" means the Firm, or any of its officers, directors, affiliates, current or former employees, or other persons that would otherwise be disqualified as a result of the Orders (as defined below).

7) The SEC Final Judgment, the NYSE Stipulation and Consent, the NASD Letter of Acceptance,

Waiver and Consent, this Order and the order of any other State in related proceedings against the Firm (collectively, the "Orders") shall not disqualify any Covered Person from any business that they otherwise are qualified, licensed or permitted to perform under the applicable law of the State of Tennessee and any disqualifications from relying upon this state's registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.

8) The Orders shall not disqualify any Covered Person from any business that they otherwise are qualified, licensed or permitted to perform under applicable state law.

9) For any person or entity not a party to this Order, this Order does not limit or create any private rights or remedies against the Firm including, without limitation, the use of any e-mails or other documents of the Firm or of others regarding research practices, or limit or create liability of the Firm, or limit or create defenses of the Firm to any claims.

10) Nothing herein shall preclude the State of Tennessee, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations, other than the Tennessee Securities Division and only to the extent set forth in paragraph 1 above, (collectively, "State Entities") and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against the Firm in connection with certain research practices at the Firm.

V.
GENERAL PROVISIONS

This order and any dispute related thereto shall be construed and enforced in accordance, and governed by, the laws of the state of Tennessee.

The parties represent, warrant and agree that they have received independent legal advice from their attorneys with respect to the advisability of executing this Order.

IT IS ORDERED that this Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner of Commerce and Insurance against UBS Warburg, LLC and UBS Paine Webber, Inc. for research and banking practices during the relevant periods which may be deemed violations of the Act.

This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, UBS Warburg, LLC and UBS Paine Webber, Inc. affirmatively states that it neither admit nor deny the findings of fact and the conclusions of law contained herein, that they have freely agreed to the entry of this Consent Order, that they waive their rights to a hearing on the matters underlying this Consent Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

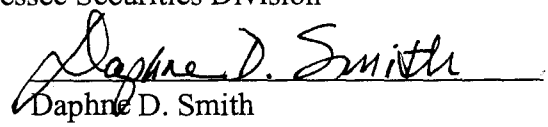
ENTERED this 29th day of September, 2003.

Paula A. Flowers

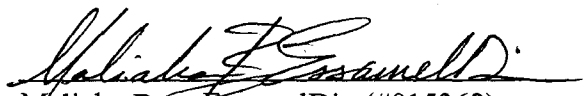
Paula A. Flowers, Commissioner
Department of Commerce and Insurance

Approved for Entry:

Tennessee Securities Division

By: 

Daphne D. Smith
Assistant Commissioner for
Securities



Maliaka Bass EssamelDin (#015362)
Counsel for Petitioner
Department of Commerce and Insurance
Davy Crockett Tower, 5th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243
(615) 741-2199

CONSENT TO ENTRY OF ADMINISTRATIVE ORDER

BY UBS SECURITIES LLC, f/k/a UBS WARBURG LLC

UBS SECURITIES LLC, formerly known as UBS WARBURG LLC, hereby acknowledges that it has been served with a copy of this Administrative Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

UBS SECURITIES LLC admits the jurisdiction of the Commissioner of Commerce and Insurance, neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the Commissioner as settlement of the issues contained in this Order.

UBS SECURITIES LLC states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

ROBERT C. DINERSTEIN represents that he/~~she~~ is A MANAGING DIRECTOR of UBS SECURITIES LLC and HUN JENKINS represents that he/~~she~~ is A MANAGING DIRECTOR of UBS SECURITIES LLC and that, as such, they have been authorized by UBS SECURITIES LLC to enter into this Order for and on behalf of UBS SECURITIES LLC.

Dated this 10th day of September, 2003.

UBS Securities LLC
f/k/a UBS Warburg LLC

By: [signature]
ROBERT C. DINERSTEIN

Title: MANAGING DIRECTOR AND GLOBAL GENERAL COUNSEL

SUBSCRIBED AND SWORN TO before me this 10th day of September, 2003

Cynthia M. Walshe
Notary Public

My commission expires: 8/31/08

CYNTHIA M. WALSHE
Notary Public, State of Connecticut
No. [illegible]
My Commission Expires Aug. [illegible]

UBS Securities LLC
f/k/a UBS Warburg LLC

By: [signature]
HUN JENKINS

Title: MANAGING DIRECTOR

SUBSCRIBED AND SWORN TO before me this 10th day of September, 2003

Cynthia M. Walshe
Notary Public

My commission expires: 8/31/08

CYNTHIA M. WALSHE
Notary Public, State of Connecticut
No. 118780
My Commission Expires Aug. 31, 2008

CONSENT TO ENTRY OF ADMINISTRATIVE ORDER

BY UBS FINANCIAL SERVICES INC., f/k/a UBS PAINEWEBBER INC.

UBS FINANCIAL SERVICES INC., formerly known as UBS PAINEWEBBER INC., hereby acknowledges that it has been served with a copy of this Administrative Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

UBS FINANCIAL SERVICES INC. admits the jurisdiction of the Commissioner of Commerce and Insurance, neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the Commissioner as settlement of the issues contained in this Order.

UBS FINANCIAL SERVICES INC. states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

Robert F. Lustig III represents that he/she is General Counsel of UBS FINANCIAL SERVICES INC. and _____ represents that he/she is EVP of UBS FINANCIAL SERVICES INC. and that, as such, they have been authorized by UBS FINANCIAL SERVICES INC. to enter into this Order for and on behalf of UBS FINANCIAL SERVICES INC.

Dated this 12th day of September, 2003.

UBS Financial Services Inc.
f/k/a UBS PaineWebber Inc.

By: _____

Title: General Counsel

SUBSCRIBED AND SWORN TO before me this 12th day of September, 2003

_____
Notary Public
My commission expires:

IVAN STERLING
Notary Public, State of New Jersey
No. 2281122
Qualified in Hudson County
Commission Expires Nov. 09, 2006

UBS Financial Services Inc.
f/k/a UBS PaineWebber Inc.

By: _____

Title: EVP

SUBSCRIBED AND SWORN TO before me this 9 day of 16, 2003

_____
Notary Public
My commission expires:

DONNA NAPORANO
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires October 3, 2007

Addendum A

Undertakings

The firm shall comply with the following undertakings:

I. Separation of Research and Investment Banking

1. Reporting Lines. Research and Investment Banking will be separate units with entirely separate reporting lines within the firm – i.e., Research will not report directly or indirectly to or through Investment Banking. For these purposes, the head of Research may report to or through a person or persons to whom the head of Investment Banking also reports, provided that such person or persons have no direct responsibility for Investment Banking or investment banking activities.

    a. As used throughout this Addendum, the term "firm" means the Respondent, Respondent's successors and assigns (which, for these purposes, shall include a successor or assign to Respondent's investment banking and research operations), and their affiliates, other than "exempt investment adviser affiliates."

    b. As used throughout this Addendum, the term "exempt investment adviser affiliate" means an investment adviser affiliate (including for these purposes, a separately identifiable department or division that is principally engaged in the provision of investment advice to managed accounts as governed by the Investment Advisers Act of 1940 or investment companies under the Investment Company Act of 1940) having no officers (or persons performing similar functions) or employees in common with the firm (which, for purposes of this Section I.1.b, shall not include the investment adviser affiliate) who can influence the activities of the firm's Research personnel or the content of the firm's research reports; provided that the firm (i) maintains and enforces written policies and procedures reasonably designed to prevent the firm, any controlling persons, officers (or persons performing similar functions), or employees of the firm from influencing or seeking to influence the activities of Research personnel of, or the content of research reports prepared by the investment adviser affiliate; (ii) obtains an annual independent assessment of the operation of such

policies and procedures; and (iii) does not furnish to its customers research reports prepared by the investment adviser affiliate or otherwise use such investment adviser affiliate to do indirectly what the firm may not do directly under this Addendum.

c. As used throughout this Addendum, the term "Investment Banking" means all firm personnel engaged principally in investment banking activities, including the solicitation of issuers and structuring of public offering and other investment banking transactions. It also includes all firm personnel who are directly or indirectly supervised by such persons and all personnel who directly or indirectly supervise such persons, up to and including Investment Banking management.

d. As used throughout this Addendum, the term "Research" means all firm personnel engaged principally in the preparation and/or publication of research reports, including firm personnel who are directly or indirectly supervised by such persons and those who directly or indirectly supervise such persons, up to and including Research management.

e. As used throughout this Addendum, the term "research report" means any written (including electronic) communication that is furnished by the firm to investors in the U.S. and that includes an analysis of the common stock, any security convertible into common stock, or any derivative thereof, including American Depositary Receipts (collectively, "Securities"), of an issuer or issuers and provides information reasonably sufficient upon which to base an investment decision; provided, however, that a "research report" shall not include:

    i. the following communications, if they do not include (except as specified below) an analysis, recommendation or rating (e.g., buy/sell/hold, under perform/market perform/outperform, underweight/market weight/overweight, etc.) of individual securities or issuers:

        1. reports discussing broad-based indices, such as the Russell 2000 or S&P 500 index;

2. reports commenting on economic, political or market (including trading) conditions;

3. technical or quantitative analysis concerning the demand and supply for a sector, index or industry based on trading volume and price;

4. reports that recommend increasing or decreasing holdings in particular industries or sectors or types of securities; and

5. statistical summaries of multiple companies' financial data and broad-based summaries or listings of recommendations or ratings contained in previously-issued research reports, provided that such summaries or listings do not include any analysis of individual companies; and

ii. the following communications, even if they include information reasonably sufficient upon which to base an investment decision or a recommendation or rating of individual securities or companies:

1. an analysis prepared for a current or prospective investing customer or group of current or prospective investing customers by a registered salesperson or trader who is (or group of registered salespersons or traders who are) not principally engaged in the preparation or publication of research reports; and

2. periodic reports, solicitations or other communications prepared for current or prospective investment company shareholders (or similar beneficial owners of trusts and limited partnerships) or discretionary investment account clients, provided that such communications discuss past performance or the basis for previously made discretionary investment decisions.

2. Legal/Compliance. Research will have its own dedicated legal and

compliance staff, who may be a part of the firm's overall compliance/legal infrastructure.

3. Budget. For the firm's first fiscal year following the entry of the Final Judgment in the SEC's action against Respondent in a related proceeding ("Final Judgment") and thereafter, Research budget and allocation of Research expenses will be determined by the firm's senior management (e.g., CEO/Chairman/management committee, other than Investment Banking personnel) without input from Investment Banking and without regard to specific revenues or results derived from Investment Banking, though revenues and results of the firm as a whole may be considered in determining Research budget and allocation of Research expenses. On an annual basis thereafter, the Audit Committee of the firm's holding/parent company (or comparable independent persons/group without management responsibilities) will review the budgeting and expense allocation process with respect to Research to ensure compliance with this requirement.

4. Physical Separation. Research and Investment Banking will be physically separated. Such physical separation will be reasonably designed to prevent the intentional and unintentional flow of information between Research and Investment Banking.

5. Compensation. Compensation of professional Research personnel will be determined exclusively by Research management and the firm's senior management (but not including Investment Banking personnel) using the following principles:

    a. Investment Banking will have no input into compensation decisions.

    b. Compensation may not be based directly or indirectly on Investment Banking revenues or results; provided, however, that compensation may relate to the revenues or results of the firm as a whole.

    c. A significant portion of the compensation of anyone principally engaged in the preparation of research reports (as defined in this Addendum) that he or she is required to certify pursuant to the U.S. Securities and Exchange's Regulation Analyst Certification

("Regulation AC") (such person hereinafter a "lead analyst") must be based on quantifiable measures of the quality and accuracy of the lead analyst's research and analysis, including his or her ratings and price targets, if any. In assessing quality, the firm may rely on, among other things, evaluations by the firm's investing customers, evaluations by the firm's sales personnel and rankings in independent surveys. In assessing accuracy, the firm may use the actual performance of a company or its equity securities to rank its own lead analysts' ratings and price targets, if any, and forecasts, if any, against those of other firms, as well as against benchmarks such as market or sector indices.

d. Other factors that may be taken into consideration in determining lead analyst compensation include: (i) market capitalization of, and the potential interest of the firm's investing clients in research with respect to, the industry covered by the analyst; (ii) Research management's assessment of the analyst's overall performance of job duties, abilities and leadership; (iii) the analyst's seniority and experience; (iv) the analyst's productivity; and (v) the market for the hiring and retention of analysts.

e. The criteria to be used for compensation decisions will be determined by Research management and the firm's senior management (not including Investment Banking) and set forth in writing in advance.

f. Research management will document the basis for each compensation decision made with respect to (i) anyone who, in the last 12 months, has been required to certify a research report (as defined in this Addendum) pursuant to Regulation AC; and (ii) anyone who is a member of Research management (except in the case of senior-most Research management, in which case the basis for each compensation decision will be documented by the firm's senior management).

On an annual basis, the Compensation Committee of the firm's holding/parent company (or comparable independent persons/group without management responsibilities) will review the compensation process for Research personnel. Such review will be reasonably

designed to ensure that compensation decisions have been made in a manner that is consistent with these requirements.

6. Evaluations. Evaluations of Research personnel will not be done by, nor will there be input from, Investment Banking personnel.

7. Coverage. Investment Banking will have no input into company-specific coverage decisions (i.e., whether or not to initiate or terminate coverage of a particular company in research reports furnished by the firm), and investment banking revenues or potential revenues will not be taken into account in making company-specific coverage decisions; provided, however, that this requirement does not apply to category-by-category coverage decisions (e.g., a given industry sector, all issuers underwritten by the firm, companies meeting a certain market cap threshold).

8. Termination of Coverage. When a decision is made to terminate coverage of a particular company in the firm's research reports (whether as a result of a company-specific or category-by-category decision), the firm will make available a final research report on the company using the means of dissemination equivalent to those it ordinarily uses; provided, however, that no final report is required for any company as to which the firm's prior coverage has been limited to purely quantitative analysis. Such report will be comparable to prior reports, unless it is impracticable for the firm to produce a comparable report (e.g., if the analyst covering the company and/or sector has left the firm). In any event, the final research report must disclose: the firm's termination of coverage; and the rationale for the decision to terminate coverage.

9. Prohibition on Soliciting Investment Banking Business. Research is prohibited from participating in efforts to solicit investment banking business. Accordingly, Research may not, among other things, participate in any "pitches" for investment banking business to prospective investment banking clients, or have other communications with companies for the purpose of soliciting investment banking business.

10. Firewalls Between Research and Investment Banking. So as to reduce further the potential for conflicts of interest or the appearance of conflicts of interest, the firm must create and enforce firewalls between Research

and Investment Banking reasonably designed to prohibit all communications between the two except as expressly described below:

a. Investment Banking personnel may seek, through Research management (or an appropriate designee with comparable management or control responsibilities ("Designee")) or in the presence of internal legal or compliance staff, the views of Research personnel about the merits of a proposed transaction, a potential candidate for a transaction, or market or industry trends, conditions or developments. Research personnel may respond to such inquiries on these subjects through Research management or its Designee or in the presence of internal legal or compliance staff. In addition, Research personnel, through Research management or its Designee or in the presence of internal legal or compliance staff, may initiate communications with Investment Banking personnel relating to market or industry trends, conditions or developments, provided that such communications are consistent in nature with the types of communications that an analyst might have with investing customers. Any communications between Research and Investment Banking personnel must not be made for the purpose of having Research personnel identify specific potential investment banking transactions.

b. In response to a request by a commitment or similar committee or subgroup thereof, Research personnel may communicate their views about a proposed transaction or potential candidate for a transaction to the committee or subgroup thereof in connection with the review of such transaction or candidate by the committee. Investment Banking personnel working on the proposed transaction may participate with the Research personnel in these discussions with such committee or subgroup. However, the Research personnel also must have an opportunity to express their views to the committee or subgroup outside the presence of such Investment Banking personnel.

c. Research personnel may assist the firm in confirming the adequacy of disclosure in offering or other disclosure documents for a transaction based on the analysts' communications with the company and other vetting conducted outside the presence of Investment Banking personnel, but to the extent communicated to Investment Banking personnel, such communication shall only be made in the presence of

underwriters' or other counsel on the transaction or internal legal or compliance staff.

d. After the firm receives an investment banking mandate, or in connection with a block bid or similar transaction, Research personnel may (i) communicate their views on the structuring and pricing of the transaction to personnel in the firm's equity capital markets group, which group's principal job responsibility is the pricing and structuring of transactions (including by participating with the firm's equity capital markets group in the preparation of internal-use memoranda and other efforts to educate the sales force), and (ii) provide to such personnel other information obtained from investing customers relevant to the pricing and structuring of the transaction.

e. Research personnel may attend or participate in a widely-attended conference attended by Investment Banking personnel or in which Investment Banking personnel participate, provided that the Research personnel do not participate in activities otherwise prohibited herein.

f. Research and Investment Banking personnel may attend or participate in widely-attended firm or regional meetings at which matters of general firm interest are discussed. Research management and Investment Banking management may attend meetings or sit on firm management, risk or similar committees at which general business and plans (including those of Investment Banking and Research) and other matters of general firm interest are discussed. Research and Investment Banking personnel may communicate with each other with respect to legal or compliance issues, provided that internal legal or compliance staff is present.

g. Communications between Research and Investment Banking personnel that are not related to investment banking or research activities may take place without restriction.

11. Additional Restrictions on Activities By Research and Investment Banking Personnel.

a. Research personnel are prohibited from participating in company or Investment Banking-sponsored road shows related to a public offering or other investment banking transaction.

b. Investment Banking personnel are prohibited from directing Research personnel to engage in marketing or selling efforts to investors with respect to an investment banking transaction.

12. Oversight. An oversight/monitoring committee or committees, which will be comprised of representatives of Research management and may include others (but not personnel from Investment Banking), will be created to:

a. review (beforehand, where practicable) all changes in ratings, if any, and material changes in price targets, if any, contained in the firm's research reports;

b. conduct periodic reviews of research reports to determine whether changes in ratings or price targets, if any, should be considered; and

c. monitor the overall quality and accuracy of the firm's research reports;

provided, however, that Sections I.12.a and I.12.b of this Addendum shall not be required with respect to research reports limited to purely quantitative analysis.

II. Disclosure/Transparency and Other Issues

1. Disclosures. In addition to other disclosures required by rule, the firm must disclose prominently on the first page of any research report and any summary or listing of recommendations or ratings contained in previously-issued research reports, in type no smaller than the type used for the text of the report or summary or listing, that:

a. "[Firm] does and seeks to do business with companies covered in its research reports. As a result, investors should be aware that the firm may have a conflict of interest that could affect the objectivity of this report."

b. With respect to Covered Companies as to which the firm is required to make available Independent Research (as set forth in Section III below): "Customers of [firm] can receive independent,

third-party research on the company covered in this report, at no cost to them, where such research is available. Customers can access this independent research at [website address/hyperlink] or can call [toll-free number] to request a copy of this research."

c. "Investors should consider this report as only a single factor in making their investment decision."

2. Transparency of Analysts' Performance. The firm will make publicly available (via its website, in a downloadable format), no later than 90 days after the conclusion of each quarter (beginning with the first full calendar quarter that commences at least 120 days following the entry of the Final Judgment), the following information, if such information is included in any research report (other than any research report limited to purely quantitative analysis) prepared and furnished by the firm during the prior quarter: subject company, name(s) of analyst(s) responsible for certification of the report pursuant to Regulation AC, date of report, rating, price target, period within which the price target is to be achieved, earnings per share forecast(s), period(s) for which such forecast(s) are applicable (e.g., 3Q03, FY04, etc.), and definition/explanation of ratings used by the firm.

3. Applicability. Except as specified in the second and third sentences of this Section II.3, the restrictions and requirements set forth in Sections I [Separation of Research and Investment Banking] and Section II [Disclosure/Transparency and Other Issues] of this Addendum will only apply in respect of a research report that is both (i) prepared by the firm, and (ii) that relates to either (A) a U.S. company, or (B) a non-U.S. company for which a U.S. market is the principal equity trading market; provided, however, that such restrictions and requirements do not apply to Research activities relating to a non-U.S. company until the second calendar quarter following the calendar quarter in which the U.S. market became the principal equity trading market for such company. Notwithstanding the foregoing, Section I.7 [Coverage] of this Addendum will also apply to any research report (other than the Independent Research made available by the firm pursuant to Section III [Independent, Third-Party Research]of this Addendum) that has been *furnished* by the firm to investors in the U.S., but not prepared by the firm, but only to the extent that the report relates to either (A) a U.S. company, or (B) a non-U.S. company for which a U.S. market is the

principal equity trading market. Also notwithstanding the foregoing, Section II.1 [Disclosures] of this Addendum will also apply to any research report (other than the Independent Research made available by the firm pursuant to Section III of this Addendum) that has been *furnished* by the firm to investors in the U.S., but not prepared by the firm, including a report that relates to a non-U.S. company for which a U.S. market is not the principal equity trading market, but only to the extent that the report has been furnished under the firm's name, has been prepared for the exclusive or sole use of the firm or its customers, or has been customized in any material respect for the firm or its customers.

a. For purposes of this Section II.3, the firm will be deemed to have furnished a research report to U.S. investors in the U.S. if the firm has made the research report available to investors in the U.S. or has arranged for someone else to make it available to investors in the U.S.

b. For purposes of this Section II.3, a "U.S. company" means any company incorporated in the U.S. or whose principal place of business or headquarters is in the U.S.

c. For purposes of this Section II.3, the calendar quarter in which a non-U.S. company's "principal equity trading market" becomes the U.S. market is a quarter when more than 50% of worldwide trading in the company's common stock and equivalents (such as ordinary shares or common stock or ordinary shares represented by American Depositary Receipts) takes place in the U.S. Trading volume shall be measured by publicly reported share volume.

4. General.

a. The firm may not knowingly do indirectly that which it cannot do directly under this Addendum.

b. The firm will adopt and implement policies and procedures reasonably designed to ensure that its associated persons (including but not limited to the firm's Investment Banking personnel) cannot and do not seek to influence the contents of a research report or the activities of Research personnel for purposes of obtaining or retaining investment banking business. The firm will adopt and

implement procedures instructing firm personnel to report immediately to a member of the firm's legal or compliance staff any attempt to influence the contents of a research report or the activities of Research personnel for such a purpose.

5. Timing. Unless otherwise specified, the restrictions and requirements of this Addendum will be effective within 120 days of the entry of the Final Judgment, except that Sections I.5 [Compensation], I.6 [Evaluations], I.7[Coverage], I.8[Termination of Coverage], I.9 [Prohibition on Soliciting Investment Banking Business], I.11 [Additional Restrictions on Activities by Research and Investment Banking Personnel], and II.4(a) [General subpart a)] and II.7 [Superseding Rules and Amendments] of this Addendum will be effective within 60 days of the entry of the Final Judgment, and Sections II.1.b [Disclosures (subpart b)] and III [Independent, Third-Party Research]of this Addendum will be effective within 270 days of the entry of the Final Judgment.

6. Review of implementation.
   a. The firm will retain, at its own expense, an Independent Monitor acceptable to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office to conduct a review to provide reasonable assurance of the implementation and effectiveness of the firm's policies and procedures designed to achieve compliance with the terms of this Addendum. This review will begin 18 months after the date of the entry of the Final Judgment. The Independent Monitor will produce a written report of its review, its findings as to the implementation and effectiveness of the firm's policies and procedures, and its recommendations of other policies or procedures (or amendments to existing policies or procedures) as are necessary and appropriate to achieve compliance with the requirements and prohibitions of this Addendum. The report will be produced to the firm and the Staff of the SEC, the NYSE and the NASD within 30 days from the completion of the review, but no later than 24 months from the date of entry of the Final Judgment. (The SEC Staff shall make the report available to the President of NASAA and the New York Attorney General's Office upon request.) The Independent Monitor shall have the option to seek an extension of time by making a written request to the Staff of the SEC.

b. The firm will have a reasonable opportunity to comment on the Independent Monitor's review and proposed report prior to its submission, including a reasonable opportunity to comment on any and all recommendations, and to seek confidential treatment of such information and recommendations set forth therein to the extent that the report concerns proprietary commercial and financial information of the firm. This report will be subject to the protections from disclosure set forth in the rules of the SEC, including the protections from disclosure set forth in 5 U.S.C. § 552(b) (8) and 17 C.F.R. § 200.80(b) (8), and will not constitute a record, report, statement or data compilation of a public office or agency under Rule 803(8) of the Federal Rules of Evidence.

c. The firm will adopt all recommendations contained in the written report of the Independent Monitor; provided, however, that as to any recommendation that the firm believes is unduly burdensome or impractical, the firm may demonstrate why the recommended policy or procedure is, under the circumstances, unreasonable, impractical and/or not designed to yield benefits commensurate with its cost, or the firm may suggest an alternative policy or procedure designed to achieve the same objective, and submit such explanation and/or alternative policy or procedure in writing to the Independent Monitor and to the Staff of the SEC. The firm and the Independent Monitor shall then attempt in good faith to reach agreement as to any policy or procedure as to which there is any dispute and the Independent Monitor shall reasonably evaluate any alternative policy or procedure proposed by the firm. If an agreement on any issue is not reached, the firm will abide by the determinations of the Staff of the SEC (which shall be made after allowing the firm and the Independent Monitor to present arguments in support of their positions), and adopt those recommendations the Staff of the SEC deems appropriate.

d. The firm will cooperate fully with the Independent Monitor in this review, including making such non-privileged information and documents available, as the Independent Monitor may reasonably request, and by permitting and requiring the firm's employees and agents to supply such non-privileged information and documents as the Independent Monitor may reasonably request.

e. To ensure the independence of the Independent Monitor, the firm (i) shall not have the authority to terminate the Independent Monitor without the prior written approval of the SEC staff; and (ii) shall compensate the Independent Monitor, and persons engaged to assist the Independent Monitor, for services rendered pursuant to this Order at their reasonable and customary rates.

f. For the period of engagement and for a period of three years from completion of the engagement, the Independent Monitor shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with the firm, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any entity with which the Independent Monitor is affiliated or of which he/she is a member, and any person engaged to assist the Independent Monitor in performance of his/her duties under this Order shall not, without prior written consent of the Staff of the SEC, enter into any employment, consultant, attorney-client, auditing or other professional relationship with the firm, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of three years after the engagement.

g. Five years after the date of the entry of the Final Judgment, the firm shall certify to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office, that the firm has complied in all material respects with the requirements and prohibitions set forth in this Addendum or, in the event of material non-compliance, will describe such material non-compliance.

7. Superseding Rules and Amendments. In the event that the SEC adopts a rule or approves an SRO rule or interpretation with the stated intent to supersede any of the provisions of this settlement, except Section IV [Investor Education] the SEC or SRO rule or interpretation will govern with respect to that provision of the settlement and such provision will be superseded. In addition, the SEC, NYSE, the NASD, the New York Attorney General's Office and any State that incorporates this Addendum into its settlement of related proceedings against the Respondent agrees that the SEC Staff may provide interpretive guidance with respect to the terms of the settlement, except for Section IV [Investor Education], as

requested by the firm and that, subject to Court approval, the SEC and the firm may agree to amend or modify any term of the settlement, except for Section IV [Investor Education], in each case, without any further action or involvement by any other regulator in any related proceeding. With respect to any term in Section I or II of this Addendum that has not been superseded (as set forth above) within five years of the entry of the Final Judgment, it is the expectation of Respondent, the SEC, NYSE, NASD, New York Attorney General's Office and the States that the SEC would agree to an amendment or modification of such term, subject to Court approval, unless the SEC believes such amendment or modification would not be in the public interest.

8. Other Obligations and Requirements. Except as otherwise specified, the requirements and prohibitions of this Addendum shall not relieve the firm of any other applicable legal obligation or requirement.

III. Independent, Third-Party Research

1. Obligation to Make Available. Each year, for the period ending five years after the effective date of this Section III (as set forth in Section II.5 [Timing] of this Addendum), the firm will be required to contract with no fewer than three independent providers of research ("Independent Research Providers") at a time in order to procure and make available Independent Research (as defined below) to the firm's customers in the U.S. as set forth below. There is, however, no requirement that there be at least three Independent Research Providers for the Common Stock of each Covered Company (as those terms are defined below):

    a. For common stock and equivalents (such as ordinary shares or common stock or ordinary shares represented by American Depositary Receipts) listed on a U.S. national securities exchange or quoted in Nasdaq (such securities hereinafter, collectively, "Common Stock") and covered in the firm's research reports (other than those limited to purely quantitative analysis) (an issuer of such covered Common Stock hereinafter called a "Covered Company"), the firm, through an Independent Consultant (as discussed below) will use its reasonable efforts to procure, and shall make available to its customers in the U.S., Independent Research on such Covered

Company's Common Stock. (If the Independent Research Providers drop coverage or do not timely pick up coverage of the Common Stock of a Covered Company, the firm will not be in violation of any of the requirements in this Section III, and may continue to disseminate its own research reports on the Common Stock of the Covered Company without making available any Independent Research on the Common Stock of the Covered Company, if the firm takes reasonable steps to request that the Independent Consultant procure such coverage promptly.)

i. For purposes of this Section III, the firm's research reports include research reports that have not been prepared by the firm, but only to the extent that such reports have been furnished under the firm's name, have been prepared for the exclusive or sole use of the firm or its customers, or have been customized in any material respect for the firm or its customers.

ii. A non-U.S. company for which a U.S. market is not the principal equity trading market shall only be considered a Covered Company if in the calendar quarter ended March 31, 2003, or in any subsequent calendar quarter during the period that the firm's obligations to procure and make available Independent Research under this Section III are effective, the publicly reported, average daily dollar volume of U.S. trading in such company's Common Stock (measured by multiplying the publicly reported, average daily share volume of U.S. trading during the quarter by the closing price per share of the Common Stock on the last day of the quarter), exceeded $2.5 million, and (b) the outstanding total public float of the Common Stock as of the last day of such calendar quarter exceeded $150 million. Further, the firm's obligation to procure and make available Independent Research with respect to such company shall become effective at the later of: (a) 90 days after the end of the calendar quarter in which the company met the foregoing trading and public float tests; or (b) the effective date of this Section III.

b. For purposes of this Section III, Independent Research means (i) a research report prepared by an unaffiliated person or entity, or (ii) a statistical or other survey or analysis of research reports (including ratings and price targets) issued by a broad range of persons and entities, including persons and entities having no association with investment banking activities, which survey or analysis has been prepared by an unaffiliated person or entity.

c. The firm will adopt policies and procedures reasonably designed to ensure that, in connection with any solicited order for a customer in the U.S. relating to the Common Stock of a Covered Company, and if Independent Research on the Covered Company's Common Stock is available, the registered representative will have informed the customer, during the solicitation, that the customer can receive Independent Research on the Covered Company's Common Stock at no cost to the customer (the "Notice Requirement").

d. Notwithstanding the foregoing, the Notice Requirement will not apply to (i) the solicitation of an institutional customer (an entity other than a natural person having at least $10 million invested in securities in the aggregate in its portfolio and/or under management) unless such customer, after due notice and opportunity, has advised the firm that it wishes to have the Notice Requirement apply to it (any customer who has not so advised the firm is hereinafter referred to as a "Non-Participating Institutional Customer"); (ii) orders as to which discretion was exercised, pursuant to a written discretionary account agreement or written grant of trading authorization; or (iii) a solicitation by an entity affiliated with the Respondent if such entity does not furnish to its customers research reports under the firm's name, prepared by the firm for the exclusive or sole use of the firm or its customers, or research reports that have been customized in any material respect for the firm or its customers.

e. Each trade confirmation sent by the Respondent to a customer with respect to an order as to which the Notice Requirement applies will set forth (or will be accompanied by a separate statement, which shall be considered part of the confirmation,

that will set forth), as of the time the trade confirmation is generated, the ratings, if any, contained in the firm's own research reports and in Independent Research procured for the firm with respect to the Common Stock of the Covered Company that is the subject of the order.

f. Each periodic account statement sent by the Respondent to a customer in the U.S. that reflects a position in the Common Stock of a Covered Company will set forth (or will be accompanied by a separate statement, which shall be considered part of the periodic account statement, that will set forth), as of the end of the period covered by the statement, the ratings, if any, contained in the firm's own research reports and in the Independent Research made available by the firm on the Common Stock of each such Covered Company; provided, however, that this requirement will not apply to Non-Participating Institutional Customers or discretionary accounts.

g. Notice of the availability of Independent Research on Covered Companies' Common Stock will also be included prominently in the periodic account statements of the Respondent's customers in the U.S., in the firm's research reports, and on the firm's website.

h. The firm will make the Independent Research available to its customers in the U.S. using, for each customer, the means of dissemination equivalent to those it uses to provide the customer with the firm's own research reports, unless the firm and customer agree on another means of dissemination; provided, however, that nothing herein shall require or authorize the firm to comply with the Notice Requirement or make available or disseminate Independent Research at a time when doing so would violate Section 5 of the Securities Act of 1933 or the other provisions of the federal securities laws or the rules and regulations thereunder. If and to the extent the firm is able to make available or disseminate its own research reports on the Common Stock of a Covered Company pursuant to Rule 137, Rule 138(a) or Rule 139(a) under the Securities Act of 1933 and in reliance on Regulation M under the Securities Exchange Act of 1934, then the firm is also authorized and

required to make available or disseminate Independent Research on the Common Stock of such Covered Company (even if the Independent Research does not meet the requirements of such Rule). Notwithstanding this Section III.1.h, if the firm determines, because of legal, compliance or similar concerns, not to furnish or make available its own research reports on the Common Stock of a Covered Company for a limited period of time, it shall not be required to make available the Independent Research on such Covered Company for such period of time.

i. If, during the period that the firm's obligations to procure and make available Independent Research under this Section III are effective, the firm terminates coverage of the Common Stock of a Covered Company, the firm, through its Independent Consultant, will make reasonable efforts to continue to procure and make available Independent Research on the Common Stock of such company for a period of at least 18 months after termination of coverage (subject to expiration of the firm's obligations under this Section III).

j. The firm will not be responsible or liable for (i) the procurement decisions of the Independent Consultant (as discussed in Section III.2 [Appointment of Independent Consultant to Oversee the Procurement of Independent Research] of this Addendum) with respect to the Independent Research, (ii) the Independent Research or its content, (iii) customer transactions, to the extent based on the Independent Research, or (iv) claims arising from or in connection with the inclusion of Independent Research ratings in the firm's confirmations and periodic account statements, to the extent such claims are based on those ratings. The firm will not be required to supervise the production of the Independent Research procured by the Independent Consultant and will have no responsibility to comment on the content of the Independent Research. The firm may advise its customers of the foregoing in its discretion.

k. The Independent Consultant will not be liable for (i) its procurement decisions, (ii) the Independent Research or its

content, (iii) customer transactions, to the extent based on the Independent Research, or (iv) claims arising from or in connection with the inclusion of Independent Research ratings in the firm's confirmations and periodic account statements, to the extent such claims are based on those ratings, unless the Independent Consultant has carried out such duties in bad faith or with willful misconduct. The firm will indemnify the Independent Consultant for any liability arising from the Independent Consultant's good-faith performance of its duties as such.

2. Appointment of Independent Consultant to Oversee the Procurement of Independent Research. Within 30 days of the entry of the Final Judgment, an Independent Consultant acceptable to the SEC Staff, the NYSE, the NASD, the President of NASAA, the New York Attorney General and the firm shall be named to oversee the procurement of Independent Research from Independent Research Providers. The Independent Consultant will have the final authority (following consultation with the firm and in accordance with the criteria set forth in Section III.3 [Selection of Independent Research Providers] of this Addendum) to procure the Independent Research. The Independent Consultant will not have had any significant financial relationship with the firm during the prior three years and may not have any financial relationship with the firm for three years following his or her work as the Independent Consultant. The Independent Consultant's fee arrangement will be subject to the approval of the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office. In the event that an Independent Consultant must be replaced, the replacement shall be acceptable to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, the New York Attorney General's Office and the firm, and shall be subject to these same conditions.

3. Selection of Independent Research Providers. The Independent Consultant will seek to procure research reports on the Common Stock of all Covered Companies from Independent Research Providers. Independent Research Providers may not perform investment banking business of any kind and may not provide brokerage services in direct and significant competition with the firm. In addition, the Independent Consultant will use the following criteria in selecting and contracting with Independent Research Providers to provide Independent Research.

a. whether and to what extent the Independent Research Provider or any of its affiliates or associated persons is engaged in activities (including, but not limited to, activities involving Covered Companies or their securities), or has a business or other relationship with the firm or any of its affiliates or associated persons, that may conflict or create the appearance of conflict with its preparation and publication of the Independent Research;

b. the desirability of multiple coverage of certain Covered Companies (e.g., by size of company, industry sector, companies underwritten by the firm, etc.);

c. the extent to which the Independent Research Provider has a client base and revenue stream broad enough to ensure its independence from the firm;

d. the utility of the Independent Research Provider's Independent Research to the firm's customers, including the inclusion of ratings and price targets in such research and the extent to which the firm's customers actually use the research; and with respect to surveys or analyses described above in Section III.1.b(ii), the extent to which the Independent Research provides customers with a means of comparing the firm's research reports to those published by other persons and entities, including persons and entities having no association with investment banking activities;

e. the quality and accuracy of the Independent Research Provider's past research, including during the term of the Independent Consultant's tenure;

f. the experience, expertise, reputation and qualifications (including, as appropriate, registrations) of the Independent Research Provider and its personnel; and

g. the cost of the Independent Research, especially in light of the five-year period set forth in Section III.1 above for the firm to

make Independent Research available to its investing customers.

4. Disclosure Language. Language substantially to the effect set forth below may be used by the firm and its registered representatives to inform the firm's customers of the availability of Independent Research:

   a. {Disclosure to customers as required by Section III.1.c [Obligation to Make Available subpart c] of this Addendum.}

      "There is also independent, third-party research available on this company, which you can get at no cost [from our website/hyperlink] or by calling [toll-free number], or which I can arrange to send to you if you would like."

   b. {General website and periodic customer account statement disclosure as required by Section III.1.g. [Obligation to Make Available subpart g] of this Addendum].}

      "Independent, third-party research on certain companies covered by the firm's research is available to customers of [firm] at no cost. Customers can access this research at [our website/hyperlink] or can call [toll-free number] to request that a copy of this research be sent to them."

5. Annual Reporting. The Independent Consultant will report annually to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office on its selection of Independent Research Providers, the Independent Research it has procured, the cost of the Independent Research it has procured to date, and the Independent Consultant's fees and expenses to date.

IV. Investor Education

1. General. The firm will pay a total of $5,000,000, payable in five equal installments on an annual basis (with the first payment to be made 90 days after the entry of the Final Judgment), to funds earmarked for investor education. Of this money, a total of $2,500,000 shall be paid pursuant to the firm's agreement with the

SEC, NYSE and NASD. The remainder of the funds earmarked for investor education, in the amount of $2,500,000, shall be paid to the Investor Education Fund at the Investor Protection Trust, a Wisconsin charitable trust, pursuant to agreement with the Board of Directors of NASAA, to be used for the purpose of investor education as described in Section IV.3.

2. Payments to the Investor Education Fund.

   a. As referenced in Section IV.1 above, the firm shall pay the amount of $2,500,000 in five equal annual installment payments as designated by the NASAA Board of Directors to the Investor Education Fund ("the Fund") to be held as a separate fund by the Investor Protection Trust, 411 East Wisconsin Avenue, Milwaukee, WI 53202-4497, c/o Quarles & Brady. The amount for investor education to be paid by the firm to the Fund may be reduced due to the decision of any state(s) not to enter into a settlement with the firm.

   b. The firm shall make the first such installment payment within ninety (90) days after the entry of the Final Judgment. This payment shall be made by wire transfer to the Investor Protection Trust at US Bank NA, Milwaukee, WI, ABA #075000022 for credit for the Trust Division Account 112-950-027, for further credit to the Investor Protection Trust Account Number 000012891800 together with a cover letter identifying the firm as a respondent in this action and the payment designated for the Investor Education Fund. The firm shall simultaneously transmit photocopies of its payment and letter to the President of NASAA, 10 G Street NE, Washington, DC 20002. By making this payment, and those payments referenced in Section IV.2.c. below, the firm relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to the firm. The Fund shall be administered in accordance with the terms of the investor education plan.

   c. The firm shall make subsequent installment payments annually on or before the month and day of the entry of the Final Judgment. Such payments shall be made into the Fund at the Investor Protection Trust as described in Section IV.2(b).

3. Purpose of and Limitations on the Use of the Fund.

a. The Fund (including all installment payments) shall be used to support programs designed for the purpose of investor education and research and education with respect to the protection of investors, and to equip investors with the knowledge and skills necessary to make informed investment decisions and to increase personal financial literacy. The Investor Protection Trust, in cooperation with NASAA, shall establish an investor education plan designed to achieve these purposes.

b. No principal or income from the Fund shall:
(i) inure to the general fund or treasury of any State;
(ii) be utilized to pay the routine operating expenses of NASAA; or
(iii) be utilized to pay the compensation or expenses of state officials or state employees except such expenses as are necessary to fulfill the purposes of the Fund.

c. Monies in the Fund may also be used to pay any taxes on income earned by such Fund. The firm shall provide the Investor Protection Trust with relevant information and otherwise cooperate with the Investor Protection Trust in fulfilling the Fund's obligations under applicable law.

d. All fees, costs, and expenses incurred by the Investor Protection Trust in connection with and incidental to the performance of its duties under this Addendum, including the fees, costs, and expenses of any persons engaged to assist it and all administrative fees, costs, and expenses related to the investor education plan shall be paid out of the Fund.