

sec news digest

Issue 96-19

February 2, 1996

ENFORCEMENT PROCEEDINGS

STOCKBROKER BARRED FROM SECURITIES INDUSTRY

The Commission announced the entry of an Order against former stockbroker William Cho based upon a permanent injunction entered against him on January 17 by the U.S. District Court for the District of Massachusetts. Without admitting or denying the findings of the Commission, Cho consented to the entry of the Order, which permanently bars him from association with any broker, dealer, municipal securities dealer, investment adviser or investment company, and from participating in the offering of any penny stock.

In a complaint filed by the Commission on August 31, 1994, the Commission alleged that Cho violated Sections 5 and 17 of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder as a result of his participation in a fraudulent scheme to manipulate the price of Fairmont Resources Inc. stock. According to the complaint, Cho received kickbacks in the form of Fairmont stock from two of the controlling shareholders of Fairmont in exchange for recommending and selling Fairmont to his brokerage customers. The complaint further alleges that Cho failed to disclose the kickback scheme to his customers. On January 19, 1996, Cho was permanently enjoined from violating Sections 5 and 17 of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and was ordered to disgorge \$26,000, provided that payment of all but \$20,000 was waived based on his demonstrated inability to pay. Based on the same reason, a civil monetary penalty was not imposed. Previously, Cho pleaded guilty to securities fraud charges in connection with his participation in the fraudulent scheme (SEC v. Robert L. Shull, Leonard E. Fiessel, Colleen A. Fiessel, Patrick A. Collins, Mark J. Hamel, Robert J. Raffa, Jeffrey J. Fernandez, Michael J. Murphy and William Cho, Civ. Action No. 94-11759-REK, D. Mass., LR-14809). (Rel. 34-36787)

CEASE AND DESIST ORDER ENTERED AGAINST KERKHOFF INDUSTRIES, INC., JOHN WELLS AND MARK WELLS

The Commission ordered Kerkhoff Industries, Inc. (Kerkhoff), located in Victoria, British Columbia, and John Russell Wells (John Wells) and Mark J. Wells (Mark Wells), also of Victoria, British Columbia,

to cease and desist from committing or causing any violation, and from committing or causing any future violation, of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. The Order makes findings that Kerkhoff, John Wells and Mark Wells violated the antifraud provisions of the Exchange Act by issuing press releases during 1993 that falsely stated that Kerkhoff had increased its assets by \$30 million by acquiring certain bonds. The releases further falsely stated that the bonds were to be used to satisfy the creditors of a video digital electronics company that was then operating under Chapter 11 bankruptcy protection, and that Kerkhoff was acquiring a controlling interest in that company. Kerkhoff, John Wells and Mark Wells consented to the entry of the Order against them without admitting or denying the allegations, findings or conclusions of law contained in the Order. The Order concludes public administrative proceedings that had been instituted against the respondents on September 14, 1995. (Rel. 34-36800)

ADMINISTRATIVE PROCEEDING SETTLED AGAINST VALERIE JENSEN

The Commission announced that on February 1 it issued an Order Making Findings and Imposing Remedial Sanctions against Valerie Jensen (Jensen), formerly associated with Vestcorp Securities, Inc. (Vestcorp), a broker-dealer formerly registered with the Commission. On December 18, 1995, the Commission issued an Order Instituting Public Administrative Proceedings against Jensen alleging that Jensen and others, primarily while associated with Vestcorp, engaged in the fraudulent sale of securities in the form of limited partnership units. The Commission accepted Jensen's Offer of Settlement in which she consented, without admitting or denying the Commission's findings, to the entry of an order barring her from association with any broker, dealer, municipal securities dealer, investment adviser or investment company. On October 10, 1995, Jensen was permanently enjoined in a related matter from future violations of the antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. (Rel. 34-36804)

INVESTMENT COMPANY ACT RELEASES

M FUND INC., ET AL.

An order has been issued pursuant to Section 6(c) of Investment Company Act of exempting M Fund, Inc. (Company) and M Financial Investment Advisers, Inc. (Adviser) from Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder. The order permits shares of any current or future series of the Company and shares of any other investment company that is offered as a funding medium for insurance products, and for which the Adviser or any of its affiliates may in the future serve as manager, investment adviser, administrator, principal underwriter or sponsor, to be sold to and held by the following: (1) variable

annuity and variable life insurance company separate accounts of both affiliated and unaffiliated life insurance companies; and (2) qualified pension and retirement plans outside the separate account context. (Rel. IC-21727 - February 1)

THE ONE GROUP INVESTMENT TRUST

An order has been issued pursuant to Section 6(c) of the Investment Company Act exempting The One Group Investment Trust (Trust) from Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder. The order permits shares of the Trust and all future open-end investment companies for which Banc One Investment Advisors Corporation, or any affiliate thereof, serves as manager, principal underwriter, or sponsor and whose shares are sold to separate accounts of insurance companies and qualified pension and retirement plans to be sold to and held by the following: (1) variable annuity and variable life insurance company separate accounts of both affiliated and unaffiliated life insurance companies; and (2) qualified pension and retirement plans outside the separate account context. (Rel. IC-21728 - February 1)

SELF-REGULATORY ORGANIZATIONS

DELISTINGS

A notice has been issued giving interested persons until February 22 to comment on the application of Greenman Bros, Inc., to withdraw from listing and registration on the American Stock Exchange its common stock, \$.10 Par Value. (Rel. 34-36801)

IMMEDIATE EFFECTIVE OF PROPOSED RULE CHANGE

A proposed rule change (SR-CBOE-96-03) filed by the Chicago Board Options Exchange to issue a regulatory circular to its membership which clarifies the application of the rules and procedures of the Options Clearing Corporation to the exercise of American-style options has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act. Publication of the notice is expected to appear in the Federal Register during the week of February 5. (Rel. 34-36797)

PROPOSED RULE CHANGES

The Philadelphia Stock Exchange filed a proposed rule change (SR-Phlx-95-79) relating to an amendment to the bid test exemption. Publication of the proposal is expected in the Federal Register during the week of February 5. (Rel. 34-36784)

The Philadelphia Stock Exchange filed a proposed rule change (SR-Phlx-95-69) relating to amendments to the bid test exemption.

Publication of the proposal is expected in the Federal Register during the week of February 5. (Rel. 34-36785)

The American Stock Exchange filed a proposed rule change (SR-Amex-95-56) relating to the listing and trading of warrants on the EMDX. Publication of the notice is expected in the Federal Register during the week of February 5. (Rel. 34-36794)

On January 2, the Philadelphia Stock Exchange (Phlx) filed a proposed rule change (SR-Phlx-95-68) pursuant to Rule 19b-4 under the Securities and Exchange Act to amend Phlx Rule 110A, "Terms of Options Contracts," to incorporate new strike (exercise) prices for index options. Under the proposal, the strike price interval for near-term index options generally will be \$5, except: (1) where the exercise price exceeds \$500, the strike price interval may be \$10; and (2) where the exercise price exceeds \$1,000, the strike price interval may be \$20. For out-of-money, far-term (fifth month), or long-term index options series, the proposal provides that the exercise price interval generally will be \$25, except: (1) where the exercise price exceeds \$500, the strike price interval may be \$50; and (2) where the exercise price exceeds \$1,000, the strike price interval may be \$100. Publication of this notice is expected to appear in the Federal Register during the week of February 5. (Rel. 34-36796)

APPROVAL OF PROPOSED RULE CHANGE

The Commission approved a proposed rule change (SR-DTC-95-14) filed by The Depository Trust Company under Section 19(b)(2) of the Securities Exchange Act. The rule change permits cent-denominated securities and fractional shares of securities to be eligible for book-entry delivery and other DTC services. (Rel. 34-36798)