

# sec news digest

Issue 95-178

September 14, 1995

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## COMMISSION ANNOUNCEMENTS

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### CHANGE IN THE MEETING: CANCELLATION

The closed meeting previously scheduled for Friday, September 8, 1995, at 10:00 a.m. was cancelled.

AT TIMES CHANGES IN COMMISSION PRIORITIES REQUIRE ALTERATIONS IN THE SCHEDULING OF MEETING ITEMS. FOR FURTHER INFORMATION AND TO ASCERTAIN WHAT, IF ANY, MATTERS HAVE BEEN ADDED, DELETED OR POSTPONED, PLEASE CONTACT: The Office of the Secretary at (202) 942-7070.

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## ENFORCEMENT PROCEEDINGS

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COMMISSION ISSUES ORDER AGAINST THE CAPITAL FUND, THE COLLATERAL CLUB, LEON DUFTLER, JOHN ELEF AND JOSEPH GUERRIERI TO CEASE AND DESIST FROM VIOLATING THE ANTIFRAUD PROVISIONS OF THE SECURITIES ACT OF 1933

The Commission issued an Order Instituting Proceedings Pursuant to Section 8A of the Securities Act of 1933, and Making Findings and Imposing a Cease and Desist Order (Order) against The Capital Fund (TCF), The Collateral Club (TCC), John A. Elef (Elef), Leon Duftler (Duftler) and Joseph Guerrieri (Guerrieri) (collectively, Respondents).

The Order finds that TCF and Elef offered to the public unregistered "units" in TCF for the purpose of trading in so-called "prime bank" securities and distributed offering materials containing materially false and misleading information provided by TCC, Duftler and Guerrieri. The Order further finds that the Respondents each violated Sections 17(a)(1) and 17(a)(3) of the Securities Act of 1933 (Securities Act).

Without admitting or denying the findings therein, the Respondents each consented to entry of the Order directing them to cease and desist from committing or causing any violation of Sections 17(a)(1) and 17(a)(3) of the Securities Act, and any future violation of Section 17(a) of the Securities Act. (Rel. 33-7214)

#### PROCEEDINGS INSTITUTED AGAINST WILLIAM MCCARTY, JR.

The Commission announced today that it has instituted administrative and cease-and-desist proceedings against William Roderick McCarty, Jr. d/b/a McCarty & Co. (McCarty), an investment adviser located in Nashville, Tennessee.

McCarty, a sole proprietor, became registered with the Commission as an investment adviser in May 1993.

The order instituting public proceedings alleges that McCarty made untrue statements in his filings with the Commission, failed to state other facts which were required to be disclosed in such filings, and violated books and records provisions of the federal securities laws. The order further alleges that McCarty failed to amend his filings with the Commission to disclose sanctions which had been imposed by the National Association of Securities Dealers, Inc. (NASD) barring him from association with any NASD member, that he failed to disclose this information to his clients on a timely basis, and that he failed to deliver to his clients the required disclosure brochure.

The administrative proceedings will determine whether remedial action, the entry of cease-and-desist orders and the imposition of civil penalties are appropriate and in the public interest. (Rel. IA-1519)

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#### INVESTMENT COMPANY ACT RELEASES

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#### INTEGRITY LIFE INSURANCE COMPANY, ET AL.

A notice has been issued giving interested persons until October 10 to request a hearing on a proposal by Integrity Life Insurance Company (Integrity), Separate Account I of Integrity Life Insurance Company (Account I), Separate Account II of Integrity Life Insurance Company (Account II, Account I together with Account II, Separate Accounts) and Integrity Financial Services, Inc. (Services) (collectively, Applicants). Applicants seek an order under Section 6(c) of the Investment Company Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction of a mortality

and expense risk charge from the assets of the Separate Accounts or other Separate Accounts (Other Accounts) established by Integrity to support certain flexible premium variable annuity policies (Contracts) as well as other variable annuity contracts that are substantially similar in all material respects to the Contracts (Future Contracts). In addition, Applicants propose that Services replace Integrity as principal underwriter for the Contracts, and that the order extend the same exemptions granted to Services, and to any other broker-dealer that may in the future serve a principal underwriter for the Contracts or Future Contracts, the same exemptions currently granted to Integrity. (Rel. IC-21349 - September 12)

**NORTHSTAR ADVANTAGE MULTI-SECTOR BOND FUND, ET AL.**

A notice has been issued giving interested persons until October 4 to request a hearing on an application filed by Northstar Advantage Multi-Sector Bond Fund, et al. for an order under Section 17(b) of the Investment Company Act for an exemption from Section 17(a), and under Rule 17d-1 to permit certain transactions in accordance with Section 17(d) of the Act and Rule 17d-1 thereunder. The requested order would permit Northstar Advantage Strategic Income Fund to acquire all of the assets of Northstar Advantage Multi-Sector Bond Fund, a series of Northstar Advantage Trust. Because of certain affiliations, the two funds may not rely on Rule 17a-8 under the Act. (Rel. IC-21350 - September 13)

**FIRST VARIABLE LIFE INSURANCE CO., ET AL.**

An order has been issued under Section 6(c) of the Investment Company Act exempting First Variable Life Insurance Company (First Variable), First Variable Annuity Fund E (Separate Account), and First Variable Capital Services, Inc. (collectively, Applicants) from Sections 26(a)(2)(C) and 27(c)(2) of the Act. The order provides exemptions to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account or any other separate account established by First Variable in connection with the offer and sale of certain variable annuity contracts (Contracts) as well as other variable annuity contracts that are substantially similar in all material respects to the Contracts. This order supersedes prior orders issued by the Commission permitting Applicants to issue variable annuity contracts that provide for the deduction of mortality and expense risk charges from the Separate Account. (Rel. IC-21351 - September 13)

**THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY, ET AL.**

An order has been issued under Section 6(c) of the Investment Company Act exempting The Minnesota Mutual Life Insurance Company (Minnesota Mutual), Minnesota Mutual Variable Life Account, and MIMLIC Sales Corporation (collectively, Applicants), from the provisions of Sections

27(a)(1) and 27(a)(3) of the Act and paragraphs (b)(13)(i) and (b)(13)(ii) of Rule 6e-2 thereunder. Applicants have been granted exemptive relief to the extent necessary to permit the issuance and sale of a new Policy Enhancement Agreement (PE Rider) as a new rider to Minnesota Mutual's Variable Adjustable Life Insurance Contract (VAL Contract). The PE Rider will provide Contract owners with the option of scheduling automatic face amount increases each Contract year in an amount selected by the Contract owner at the time of initial purchase of the VAL Contract. (Rel. IC-21352 - September 13)

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, ET AL.

An order has been issued on an application filed by Merrill Lynch, Pierce, Fenner & Smith Incorporated, et al. under Sections 6(c) and 17(b) of the Investment Company Act exempting applicants from Section 17(a) of the Act. The order permits the trustees of certain unit investment trusts to place orders to sell municipal bond portfolio securities of the trusts with the trust sponsors, who then will serve as introducing dealers. As introducing dealers, the sponsors will retain a clearing broker to sell the securities for the trusts through a wire service. (Rel. IC-21353 - September 13)

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## SECURITIES ACT REGISTRATIONS

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The following registration statements have been filed with the SEC under the Securities Act of 1933. The reported information appears as follows: Form, Name, Address and Phone Number (if available) of the issuer of the security; Title and the number and/or face amount of the securities being offered; Name of the managing underwriter or depositor (if applicable); File number and date filed; Assigned Branch; and a designation if the statement is a New Issue.

F-6 HARTEBEESTFONTEIN GOLD MINING CO LTD /ADR/, 2 RECTOR ST,  
C/O CORPORATE TRUST DIVISION, NEW YORK, NY 10006 (212) 978-5009 -  
20,000,000 (\$1,000,000) DEPOSITARY RECEIPTS FOR COMMON STOCK. (FILE  
33-96344 - SEP. 01) (BR. 0)

F-6 BLYVOORUITZICHT GOLD MINING CO LTD/ADR/, 23 WALL ST,  
C/O MORGAN GUARANTY TRUST CO OF NEW YORK, NEW YORK, NY 10015 (212) 483-2323  
- 10,000,000 (\$500,000) DEPOSITARY RECEIPTS FOR COMMON STOCK. (FILE  
33-96346 - SEP. 01)

S-8 CII FINANCIAL INC, 5627 GIBRALTAR DR, PLEASANTON, CA 94588  
(510) 416-8700 - 120,000 (\$1,125,000) COMMON STOCK. (FILE 33-96484 -  
AUG. 30) (BR. 10)

S-8 CLUB CORP INTERNATIONAL, 3030 LBJ FREEWAY, STE 500, DALLAS, TX 75234  
(214) 243-6191 - 4,000,000 (\$6,840,000) COMMON STOCK. (FILE 33-96568 -  
SEP. 06) (BR. 11)

S-4 PIONEER BANCSHARES INC, 801 BROAD STREET, CHATTANOOGA, TN 37402  
(615) 755-0000 - 480,092 (\$21,618,542.76) COMMON STOCK. (FILE 33-96572 -  
SEP. 06) (BR. 2)