

# sec news digest

Issue 95-103

May 30, 1995

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## RULES AND RELATED MATTERS

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### DELAY OF EFFECTIVE DATE OF RECORDKEEPING REQUIREMENTS FOR AUTOMATED SYSTEMS OPERATED BY BROKER-DEALERS

The Commission has delayed the effective date of the recordkeeping requirements of Rule 17a-23, which establishes recordkeeping and reporting requirements for registered brokers and dealers that operate certain automated trading systems. As originally approved in December, 1994, the Rule is scheduled to take effect on June 1, 1995. Rule 17a-23 allows sponsors of systems currently operating on June 1, 1995 to comply with the reporting requirements of Rule 17a-23(d) no later than July 1, 1995. Due to extenuating circumstances, the Commission has determined that system sponsors also should be allowed to delay compliance with the recordkeeping provisions of Rule 17a-23(c) until July 1, 1995. Publication of the extension is expected in the Federal Register during the week of May 29. (Rel. 34-35775)

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## ENFORCEMENT PROCEEDINGS

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### NASD ACTION AGAINST R.B. WEBSTER INVESTMENTS, INC. AND ROBERT ORKIN SUSTAINED

The Commission has sustained findings of violations by the NASD against R.B. Webster Investments, Inc. (Webster) and Robert Bruce Orkin. The Commission found that Webster, through Orkin, charged excessive and fraudulent markups to retail customers in the sale of Sector Associates, Inc. (Sector) common stock. The Commission rejected Applicants' assertions that Webster was a market maker in Sector common stock and that Applicants were entitled to rely on quotations in pricing Sector stock. The Commission noted that it had repeatedly held that, where a dealer is not a market maker, the best evidence of the prevailing market

price is the dealer's contemporaneous cost, in the absence of countervailing evidence. Applicants charged markups ranging from 14 to 66% above their cost. The Commission found the markups excessive, as well as fraudulent, as Applicants, at a minimum, were reckless in charging their customers markups based on unsubstantiated ask quotations.

The Commission sustained the NASD's sanctions of a censure, fine of \$50,000, assessed jointly and severally, and an order to pay restitution of \$58,369 to customers. The Commission also sustained the suspension of Webster from executing principal transactions, except unsolicited liquidating transactions, for six months, and Orkin's suspension in all capacities for one year. Orkin was further ordered him to requalify by examination as a general securities principal before again acting in that capacity. (Rel. 34-35754)

#### RANDY DEPOISTER CONVICTED

On May 12, the U.S. Attorney for the Northern District of Illinois and the Securities and Exchange Commission announced that Randy M. Depoister (Depoister), the principal and control person of a registered investment adviser, was convicted of 19 criminal counts including mail fraud, wire fraud, making false statements to federal agencies, money laundering and causing the interstate transportation of property obtained by fraud. Depoister's conviction stemmed from his sale of purported short term high yield investments to at least 15 of his investment advisory clients thereby raising at least \$375,000. The conviction is essentially based upon the same conduct as is alleged in the Commission's complaint against Depoister and others which was filed in the Northern District of Illinois on September 26, 1994. The Commission's complaint alleges Depoister offered and sold investments in the form of notes to the public thereby raising over \$400,000 and, in connection with such activities, misrepresented and omitted to state material facts regarding, among other things, the risks, returns and duration of the investment and the use of investor funds. Similarly, Depoister was convicted of fraudulently promising his clients that their money would earn high yields in short term investments which were safe and guaranteed and of concealing the fact that he had converted a portion of the funds he raised to his own use. [U.S. v. Randy Depoister, N.D. Ill., Criminal Action File No. 94CR-50026] (LR-14512)

#### ORDERS OF PERMANENT INJUNCTION ENTERED AGAINST PATRICK FINN AND JEFFREY WALLEY IN CONNECTION WITH ACCOUNTING FRAUD AT PHAR-MOR

The Commission announced that Orders of Permanent Injunction were entered against Jeffrey Walley (Walley) and Patrick Finn (Finn) on May 10, 1995 and May 23, 1995, respectively, by the Honorable Kathleen O'Malley, District Court Judge for the Northern District of Ohio. The Orders leave open the issue of determining the appropriate amount, if any, of civil penalties to be imposed. Previously, on May 2, 1995, the

Commission filed a complaint against Walley and Finn, as well as Michael Monus and John Anderson, alleging violations of the antifraud provisions of the securities laws. The complaint alleged that from at least 1987 through 1992, Monus, Finn and Anderson, and, beginning in July 1990, Walley, while employed at Phar-Mor, Inc., engaged in a fraudulent scheme in which they falsified Phar-Mor's books, records and financial statements in order to artificially increase corporate profits. As a result of the defendants' fraudulent activities, from fiscal year 1987 through 1991, Phar-Mor cumulatively overstated income by \$290 million. In fiscal year 1992, the year in which the fraud was detected, Phar-Mor overstated income by approximately \$238 million. [SEC v. Michael Monus, et al., N.D. OH., 4:95 CV 975] (LR-14513)

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#### INVESTMENT COMPANY ACT RELEASES

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##### SECURITY EQUITY LIFE INSURANCE COMPANY, ET AL.

A notice has been issued giving interested persons until June 20 to request a hearing on an application filed by Security Equity Life Insurance Company, Security Equity Separate Accounts 26 and 27 (Separate Accounts), and G.T. Global Financial Services, Inc. Applicants request an order under Section 6(c) of the Investment Company Act of 1940 exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the Act to permit the deduction of a mortality and expense risk charge from the assets of the Separate Accounts in connection with the offering of certain flexible premium variable deferred annuity contracts. (Rel. IC-21097 - May 25)

##### IDS CERTIFICATE COMPANY

A notice has been issued giving interested persons until June 20 to request a hearing on an application filed by IDS Certificate Company (IDSC), a registered face-amount certificate company, for an order under Section 28(b) of the Investment Company Act to permit IDSC to hold as "qualified investments" those investments permitted under the Minnesota life insurance code and to value those investments in accordance with the Minnesota code; under Section 6(c) to adopt a more conservative formula to calculate its minimum reserve requirements; under Section 18(j)(1) to engage in certain hedging transactions that are permitted under the Minnesota code; and under Section 28(c) to authorize certain custodial arrangements. (Rel. IC-21098 - May 26)

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## HOLDING COMPANY ACT RELEASES

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### WEST TEXAS UTILITIES COMPANY

A notice has been issued giving interested persons until June 19 to request a hearing on a proposal by West Texas Utilities Company, a wholly owned electric public-utility subsidiary company of Central and South West Corporation, a registered holding company, to issue and sell up to an additional \$130 million of first mortgage bonds, through December 31, 1997. (Rel. 35-26296)

### MISSISSIPPI POWER COMPANY

A notice has been issued giving interested persons until June 19 to request a hearing on a proposal by Mississippi Power Company (Mississippi), a wholly owned electric public-utility subsidiary company of The Southern Company, a registered holding company. Mississippi proposes to finance or refinance certain pollution control equipment at any time on or before December 31, 1995, in connection with the issuance and sale by public instrumentalities of one or more series of pollution control revenue bonds in an aggregate principal amount of up to \$25 million. (Rel. 35-26296)

### EUA ENERGY INVESTMENT CORPORATION

A notice has been issued giving interested persons until June 19 to request a hearing on a proposal by EUA Energy Investment Corporation (EEIC), a wholly-owned subsidiary of Eastern Utilities Associates (EUA), a registered holding company. EEIC requests authority to establish a wholly-owned subsidiary, which would form a joint venture partnership with an unrelated third party, to develop and market biomass-fired power generation facilities and related products and services. EEIC also requests authority to make up to \$3.907 million in capital contributions and to advance up to \$3 million to the partnership. (Rel. 35-26296)

### UNITIL CORP., ET AL.

A notice has been issued giving interested persons until June 19 to request a hearing on a proposal by UNITIL Corporation (UNITIL), a registered holding company, and its wholly owned subsidiary companies (Subsidiaries), Concord Electric Company, Exeter & Hampton Electric Company, Fitchburg Gas and Electric Light Company, UNITIL Power Corp., UNITIL Realty Corp., UNITIL Resources, Inc., and UNITIL Service Corp.,

for (i) short-term borrowing by UNITIL through June 30, 1997 of up to \$15 million in short-term bank borrowing on a revolving basis under current and proposed unsecured facilities from certain banks, (ii) short-term borrowings by the Subsidiaries pursuant to formal or informal credit lines up to stated maximum borrowing limits through June 30, 1997, and, (iii) continued use of the system money pool through June 30, 1997, pursuant to the February 1, 1985 Cash Pooling and Loan Agreement among UNITIL and the Subsidiaries. (Rel. 35-26296)

#### BLACKSTONE VALLEY ELECTRIC COMPANY

A notice has been issued giving interested persons until June 19 to request a hearing on a proposal by Blackstone Valley Electric Company, an electric public-utility subsidiary company of Eastern Utilities Associates, a registered holding company, to extend from October 1, 1995 through October 1, 2000, its authority to issue or assume unsecured debt having maturities of less than ten years in excess of the 10% limitation. Approval of a majority of the outstanding preferred stockholders is necessary and in connection therewith there will be a special meeting to be held on July 6, 1995. Blackstone has been authorized to solicit proxies from its preferred stockholders in connection with the proposal. (Rel. 35-26297)

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#### SELF-REGULATORY ORGANIZATIONS

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#### ACCELERATED APPROVAL OF PROPOSED RULE CHANGE

The Commission approved on an accelerated basis a proposed rule change filed by the National Association of Securities Dealers (SR-NASD-95-11) relating to requiring use of the facilities of a registered clearing agency for the clearance of transactions in corporate debt securities. Publication of the approval order is expected in the Federal Register during the week of May 29. (Rel. 34-35769)

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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.

S-11 REDWOOD TRUST INC, 591 REDWOOD HWY, STE 3100, MILL VALLEY, CA 94941  
(415) 389-7373 - 1,649,396 (\$26,390,336) PREFERRED STOCK. 1,666,063  
(\$24,990,945) COMMON STOCK. (FILE 33-92272 - MAY. 19) (BR. 12 - NEW ISSUE)

REGISTRATIONS CONT.

- SB-2 NUTRITION FOR LIFE INTERNATIONAL INC, 8801 JAMEEL, STE 100, HOUSTON, TX 77040 (713) 460-1976 - 920,000 (\$5,060,000) COMMON STOCK. 1,080,000 (\$152,500) WARRANTS, OPTIONS OR RIGHTS. 580,000 (\$4,653,000) COMMON STOCK. (FILE 33-92274 - MAY. 19) (BR. 4)
- S-4 BELL SPORTS CORP, 10601 N HAYDEN RD, STE I-100, SCOTTSDALE, AR 85260 (217) 951-0033 - 6,216,915 (\$74,379,171.06) COMMON STOCK. (FILE 33-92344 - MAY. 16) (BR. 11)
- S-1 METRA BIOSYSTEMS INC, 265 NORTH WHISMAN RD, MOUNTAIN VIEW, CA 94043 (415) 903-9100 - 3,450,000 (\$41,400,000) COMMON STOCK. (FILE 33-92452 - MAY. 18) (BR. 8 - NEW ISSUE)
- SB-2 CAM DESIGNS INC, 460 PARK AVE, STE 1100, NEW YORK, NY 10022 - 1,265,000 (\$11,475,000) COMMON STOCK. UNDERWRITER: MEYERSON M H & CO INC. (FILE 33-92456 - MAY. 18) (BR. 4 - NEW ISSUE)
- S-8 JOCKEY CLUB INC, 1515 N FEDERAL HIGHWAY SUITE 310, BOCA RATON, FL 33432 (305) 893-3344 - 500,000 (\$295,000) COMMON STOCK. (FILE 33-92462 - MAY. 18) (BR. 12)
- S-8 JOCKEY CLUB INC, 1515 N FEDERAL HIGHWAY SUITE 310, BOCA RATON, FL 33432 (305) 893-3344 - 600,000 (\$354,000) COMMON STOCK. (FILE 33-92464 - MAY. 18) (BR. 12)
- S-6 NASL VARIABLE LIFE ACCOUNT, 116 HUNTINGTON AVENUE, BOSTON, MA 02116 (617) 266-6008 - INDEFINITE SHARES. (FILE 33-92466 - MAY. 18) (BR. 20)
- S-8 LIGAND PHARMACEUTICALS INC, 9393 TOWNE CENTRE DR STE 100, SAN DIEGO, CA 92121 (619) 535-3900 - 499,517 (\$2,872,222.75) COMMON STOCK. (FILE 33-92470 - MAY. 18) (BR. 4)
- S-1 SAFETY COMPONENTS INTERNATIONAL INC, 3190 PULLMAN ST, COSTA MESA, CA 92626 (714) 662-7756 - 1,725,000 (\$33,853,125) COMMON STOCK. (FILE 33-92472 - MAY. 19) (BR. 4)
- S-8 WESTCOAST ENERGY INC, 3400-666 BURRAD ST, VANCOUVER BC CANADA V6C 3M8, A1 (604) 691-5513 - 2,000,000 (\$32,875,000) COMMON STOCK. (FILE 33-92474 - MAY. 19) (BR. 8)
- S-8 KINDERCARE LEARNING CENTERS INC /DE, 2400 PRESIDENTS DR, MONTGOMERY, AL 36116 (205) 277-5090 - 6,000 (\$84,000) COMMON STOCK. (FILE 33-92480 - MAY. 18) (BR. 5)
- S-3 ICU MEDICAL INC/DE, 951 CALLE AMANECER, SAN CLEMENTE, CA 92763 (714) 366-2183 - 2,070,000 (\$30,273,750) COMMON STOCK. (FILE 33-92482 - MAY. 19) (BR. 8)
- SB-2 FIRST NATIONAL CORP /GA/, 100 WEST MAIN ST, FOLKSTON, GA 31537 (912) 882-9587 - 170,000 (\$3,400,000) COMMON STOCK. (FILE 33-92484 - MAY. 18) (BR. 1 - NEW ISSUE)
- S-8 GARTNER GROUP INC, 56 TOP GALLANT RD, P O BOX 10212, STAMFORD, CT 06904 (203) 964-0096 - 1,635,000 (\$77,368,200) COMMON STOCK. (FILE 33-92486 - MAY. 18) (BR. 5)

REGISTRATIONS CONT.

- S-8 LXR BIOTECHNOLOGY INC, 1401 MARINA WAY SOUTH, RICHMOND, CA 94804  
(510) 412-9100 - 949,850 (\$1,858,638.70) COMMON STOCK. (FILE 33-92488 -  
MAY. 19) (BR. 4)
- S-3 SECURITY CAPITAL INDUSTRIAL TRUST, 14100 EAST 35TH PLACE, AURORA, CO  
80011 (303) 375-9292 - 955,864 (\$15,054,858)  
COMMON SHARES OF BENEFICIAL INTEREST. (FILE 33-92490 - MAY. 19) (BR. 6)
- S-3 HORACE MANN EDUCATORS CORP /DE/, 1 HORACE MANN PLZ, SPRINGFIELD, IL  
62715 (217) 789-2500 - 6,991,247 (\$160,361,728.06) COMMON STOCK. (FILE  
33-92492 - MAY. 19) (BR. 10)
- S-3 FRONTIER NATURAL GAS CORP, 9400 BROADWAY EXTENSION ONE BENHAM,  
PLACE SUITE 120, OKLAHOMA CITY, OK 73114 (405) 478-4455 - 1,241,820  
(\$7,450,920) COMMON STOCK. (FILE 33-92494 - MAY. 19) (BR. 3)
- S-3 HCC INSURANCE HOLDINGS INC/DE/, 13403 NORTHWEST FREEWAY, HOUSTON, TX  
77040 (713) 690-7300 - 2,436,275 (\$53,598,050) COMMON STOCK. (FILE  
33-92498 - MAY. 19) (BR. 9)
- S-8 VENTURE STORES INC, 2001 E TERRA LANE, O FALLON, MO 63366 (314) 281-5500  
- 150,000 (\$1,490,625) COMMON STOCK. (FILE 33-92500 - MAY. 19) (BR. 1)
- S-8 BAAN CO N V, P O BOX 250 6710 BG EDE, NETHERLAND, P7 (011) 318-3880 -  
8,400,000 (\$54,327,700) FOREIGN COMMON STOCK. (FILE 33-92502 - MAY. 19)  
(BR. 10)
- S-8 DEFIANCE INC, 1111 CHESTER AVE STE 750, CLEVELAND, OH 44114  
(216) 861-6300 - 200,000 (\$1,325,000) COMMON STOCK. (FILE 33-92504 -  
MAY. 19) (BR. 4)
- S-8 CARDINAL REALTY SERVICES INC, 6954 AMERICANA PKWY, REYNOLDSBURG, OH  
43068 (614) 759-1566 - OTHER SECURITIES INCLUDING VOTING TRUST. (FILE  
33-92508 - MAY. 19) (BR. 5)
- S-8 PROVIDENT BANKSHARES CORP, 114 EAST LEXINGTON ST, BALTIMORE, MD 21202  
(410) 281-7000 - 565,000 (\$11,102,081) COMMON STOCK. (FILE 33-92510 -  
MAY. 19) (BR. 1)
- S-8 SUSQUEHANNA BANCSHARES INC, 26 N CEDAR ST, LITITZ, PA 17543  
(717) 626-4721 - 500,000 (\$11,500,000) COMMON STOCK. (FILE 33-92512 -  
MAY. 19) (BR. 1)
- S-8 FIRST ENTERTAINMENT INC, 1380 LAWRENCE ST STE 1400, DENVER, CO 80204  
(303) 592-1235 - 800,000 (\$400,000) COMMON STOCK. (FILE 33-92514 -  
MAY. 19) (BR. 11)
- S-8 INTERNATIONAL SPECIALTY PRODUCTS INC, 818 WASHINGTON ST, WILMINGTON, DE  
19801 (302) 429-8554 - 2,000,000 (\$16,500,000) COMMON STOCK. (FILE  
33-92518 - MAY. 19) (BR. 2)
- S-3 METROCALL INC, 6677 RICHMOND HWY, ALEXANDRIA, VA 22306 (703) 660-6677 -  
6,978,074 (\$120,371,776.50) COMMON STOCK. (FILE 33-92520 - MAY. 19)  
(BR. 7)
- S-8 ZITEL CORP, 47211 BAYSIDE PARKWAY, FREMONT, CA 94538 (510) 440-9600 -  
500,000 (\$4,468,750) COMMON STOCK. (FILE 33-92522 - MAY. 19) (BR. 3)

REGISTRATIONS CONT.

- S-8 SODAK GAMING INC, 405 EAST OMAHA ST, RAPID CITY, SD 57701 (605) 341-5400  
- 750,000 (\$10,687,500) COMMON STOCK. (FILE 33-92524 - MAY. 19) (BR. 11)
- S-8 HANSEN NATURAL CORP, 2401 E KATELLA AVE STE 650, ANAHEIM, CA 92806  
(714) 634-4200 - 1,600,000 (\$2,400,000) COMMON STOCK. (FILE 33-92526 -  
MAY. 19) (BR. 11)
- S-8 PACKAGING PLUS SERVICES INC, 20 SOUTH TERMINAL DRIVE, PLAINVIEW, NY  
11803 (516) 349-1300 - 140,000 (\$79,800) COMMON STOCK. (FILE 33-92528 -  
MAY. 19) (BR. 12)
- S-8 ATRIX INTERNATIONAL INC, 14301 EWING AVE S, BURNSVILLE, MN 55306  
(612) 894-6154 - 800,000 (\$784,000) COMMON STOCK. (FILE 33-92530 -  
MAY. 19) (BR. 10)
- S-8 INTERNATIONAL COLIN ENERGY CORP, 333 11TH AVE SW STE 1210,  
CALGARY ALBERTA CANADA T2R 1L9, A0 (403) 269-6822 - 740,962  
(\$4,053,062.14) FOREIGN COMMON STOCK. (FILE 33-92532 - MAY. 19) (BR. 4)
- S-8 COMMUNITY FINANCIAL CORP /IL/, 240 E CHESTNUT ST, OLNEY, IL 62450  
(618) 395-8676 - 29,000 (\$290,000) COMMON STOCK. (FILE 33-92534 - MAY. 19)  
(BR. 2)