

SEC NEWS DIGEST

Issue 97-54

March 20, 1997

COMMISSION ANNOUNCEMENTS

CLOSED MEETING - THURSDAY, MARCH 27, 1997 - 10:00 A.M.

The subject matter of the closed meeting scheduled for Thursday, March 27, 1997, at 10:00 a.m., will be: Institution and settlement of injunctive actions; and Institution and settlement of administrative proceedings of an enforcement nature.

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.

RULES AND RELATED MATTERS

ADOPTION OF UPDATED EDGAR FILER MANUAL; CORRECTION AND DELAY OF IMPLEMENTATION

The Commission is correcting an amendment to Regulation S-T to conform to the Office of Federal Register's requirements for incorporation by reference and postponing the implementation of an updated edition of the EDGAR Filer Manual which was published in the Federal Register on February 27, 1997 [62 FR 8877] in order to resolve technical issues that delayed system implementation from March 10, 1997 to March 24, 1997. The incorporation by reference into the Code of Federal Regulations remains March 10, 1997. (Rel. Nos. 33-7405; 34-38419; 35-26688; 39-2348; IC-22571)

ENFORCEMENT PROCEEDINGS

ADMINISTRATIVE LAW JUDGE DISMISSES PROCEEDING AGAINST DAVID EAST, JR.

In an initial decision, Administrative Law Judge Lillian A. McEwen ordered the proceeding against Respondent W. David East, Jr., be

dismissed. It was alleged that East had aided and abetted the fraudulent scheme conducted by John Day at the Birmingham, Alabama, PaineWebber options desk in which profitable trades were transferred to certain broker accounts and losing trades to customer trust accounts, thereby violating Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

Judge McEwen concluded that Day failed to inform the trustees or owners of the trust accounts of risks inherent in his options trades, executed trades without authorization, and allowed valuable options to expire as worthless. However, he did not engage in a scheme of siphoning profits to broker accounts while allocating unprofitable trades to the trust accounts as alleged. Accordingly, Judge McEwen dismissed the aiding and abetting violations against East since she found that there was no principal violation by Day as alleged and that East was unaware of the other violations by Day.

In the alternative, Judge McEwen ruled that the proceeding against East must be dismissed pursuant to 28 U.S.C. § 2462 as interpreted in Johnson v. SEC, 87 F.3d 484 (D.C. Cir. 1996), because the customers are satisfied and a cease and desist order or disgorgement order would constitute penalties against East. (Initial Decision Rel. # 108)

NYSE ACTION AGAINST HENRY JUDY, JR. SUSTAINED

The Commission has sustained disciplinary action taken by the New York Stock Exchange against Henry I. Judy, Jr., formerly an account executive trainee with Dean Witter Reynolds, Inc. and, subsequently, a job applicant with Prudential Securities Incorporated, both member firms of the NYSE. The Exchange had found that Judy engaged in conduct inconsistent with just and equitable principles of trade by submitting false information in an effort to gain employment with Prudential.

The Commission upheld the Exchange's finding of violation based upon its conclusion that Judy, while seeking employment with Prudential, provided the firm a Form U-5 he knew was falsified. In sustaining the sanctions assessed by the NYSE, the Commission stressed that Judy had engaged in "serious misconduct" as the securities business "relies heavily on candor and truthful representation." (Rel. 34-38418)

TEMPORARY RESTRAINING ORDER ISSUED AGAINST GLOBAL FINANCIAL TRADERS, LTD., BSGG HOLDING CORP., MICHAEL REILLY, JOHN KENNA, VINCENT IOVINE AND DAVID COLEMAN

United States District Judge Denny Chin has issued a temporary restraining order and other relief against Global Financial Traders, Ltd., BSGG Holding Corp., Michael Reilly, John Kenna, Vincent Iovine and David Coleman; the order also froze the assets of Global, BSGG, Reilly and Kenna.

The Commission's complaint alleges the defendants have been violating Section 10(b) of the Securities Exchange Act, Rules 10b-5 and 10b-6 and Rules 101 and 102 of Regulation M. Reilly and Kenna are allegedly engaged in sales of large blocks of stock using a telemarketing campaign by personnel at Global, which Reilly and Kenna control, and recommendations in a newsletter published by Global, making misrepresentations concerning the market for the stock and failing to disclose Reilly and Kenna's interest in the security and their stock sales. It is alleged Reilly, Kenna, Iovine and Coleman have maintained the market price within a desired trading range by bidding for and purchasing the stock and that Global, BGSF, Reilly and Kenna have realized over \$5.8 million in net profits from their stock sales. Judge Chin scheduled a March 24, 1997, hearing on the Commission's application for a preliminary injunction. [SEC v. Global Financial Traders, Ltd., et al., Docket No. 97 CIV. 1753, DC, USDC, SDNY] (LR-15292)

CIVIL ACTION AGAINST DUNNE FINANCE LIMITED

The Commission announced that on February 28 in the matter of SEC v. Dunne Finance Limited, the Royal Court of the Island of Guernsey, Channel Islands, entered an order releasing to the Commission and repatriating \$ 195,305 in previously-frozen funds. The Dunne Finance proceeding was the first ever brought by the Commission in Guernsey. The action, filed in April 1993, sought to freeze assets of Dunne Finance Limited, a British Virgin Islands Corporation and a relief defendant in a related action filed by the Commission in 1993 in U.S. District Court in Reno, Nevada.

In the Nevada action, the Commission alleged that unregistered stock of Pacific Waste Management, Inc., which was sold in the U.S. and Canada through fraudulent misrepresentations concerning the purported assets and value of the company, emanated from shell companies incorporated in the British Virgin Islands and operated through a Guernsey trust company. The Commission further alleged that the proceeds of these fraudulent sales were consolidated in a "money box" bank account in Guernsey in Dunne Finance's name. [SEC v. Dunne Finance Limited, (Royal Court of Guernsey)] (LR-15300; IS-1065)

FINAL JUDGMENT OF PERMANENT INJUNCTION ENTERED AGAINST PAMELA TOPPER

On March 13, the Honorable G. Ernest Tidwell, United States District Judge for the Northern District of Georgia, entered an order of permanent injunction against defendant Pamela Sue Topper (Topper), enjoining her from violating Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. Topper was ordered to pay disgorgement in the amount of \$8,450.00 plus \$1,183.27 in prejudgment interest within thirty days of the date of the judgment. Further, Topper was ordered to pay a civil penalty under the Insider Trading Sanctions Act of 1984 in the amount of \$8,450.00 within thirty days of the date of the order.

Topper consented to the relief without admitting or denying the allegations set forth in a complaint filed by the Commission on March 10, 1997. The complaint alleged that on June 13, 1996, Topper, as General Counsel of Medaphis Corporation (Medaphis), an Atlanta-based medical services company, was in possession of material non-public information regarding search warrants that were executed by the Federal Bureau of Investigation (FBI) on two Medaphis offices in California. In violation of her fiduciary duty to Medaphis, Topper disclosed the information about the FBI investigation to her mother and co-defendant Gregg Michael Brenner (Brenner) who sold their shares of Medaphis stock. The complaint further alleged that Brenner then disclosed the FBI action against Medaphis to his father and brother, who promptly sold their shares of Medaphis stock.

On June 15, 1995 at the close of trading, Medaphis issued a public announcement about the FBI investigation of Medaphis. The price of Medaphis stock dropped sharply the next day. By selling their shares of Medaphis stock prior to the announcement, Topper's mother, Brenner, Brenner's father and brother avoided losses of approximately \$94,000. [SEC v. Gregg Michael Brenner and Pamela Sue Topper; Civil Action No. 1:97-CV-0607-GET, ND GA] (LR-15301)

INVESTMENT COMPANY ACT RELEASES

PARTNERS INCOME FUND

An order has been issued on an application filed by Partners Income Fund for an order under Section 6(b) of the Investment Company Act amending a prior order that granted an exemption from all of the provisions of the Act except Section 7, 8(a), (9), certain provisions of Section 17, Sections 36 through 53, and the rules and regulations relating to those sections. The order amends a condition of the prior order to permit the employer of certain employees' securities companies to invest in those companies on terms no more favorable than those available to eligible employees. (Rel. IC-22570 - March 18)

SELF-REGULATORY ORGANIZATIONS

ACCELERATED APPROVAL OF PROPOSED RULE CHANGES

The Commission granted accelerated approval to a proposed rule change submitted by the American Stock Exchange (SR-Amex-97-12) to permanently adopt amendments to Amex Rule 170 that permit a specialist to effect liquidating transactions under certain circumstances. (Rel. 34-38379)

The Commission granted accelerated approval to a proposed rule change and Amendment No. 1 thereto, filed by the Chicago Board Options Exchange (SR-CBOE-97-01), which amends the listing criteria for "Other Securities" to conform to those of other exchanges. (Rel. 34-38414)

APPROVAL OF PROPOSED RULE CHANGES

The Commission granted approval to a proposed rule change submitted by The Options Clearing Corporation (SR-OCC-96-18) authorizing OCC to enter into limited cross-guarantee agreements with other clearing entities. (Rel. 34-38410)

The Commission approved a proposed rule change (SR-PHLX-97-05) and Amendment No. 1 thereto, filed by the Philadelphia Stock Exchange to reduce the value of the Super Cap Index option to one-half its present value. The Index is comprised of the top five options-eligible common stocks of U.S. companies traded on the New York Stock Exchange, as measured by capitalization. Publication of the approval order is expected in the Federal Register during the week of March 24. (Rel. 34-38415)

PROPOSED RULE CHANGE

The New York Stock Exchange filed a proposed rule change (SR-NYSE-97-01) relating to amendments to Rule 431 (Margin Requirements). Publication of the proposal is expected in the Federal Register during the week of March 24. (Rel. 34-38411)

IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGES

A proposed rule change filed by the Cincinnati Stock Exchange (SR-CSE-97-05) relating to submission of regulatory data submissions has become effective upon filing with the Commission. Publication of the proposal is expected in the Federal Register during the week of March 24. (Rel. 34-38413)

A proposed rule change filed by the Philadelphia Stock Exchange (SR-PHLX-97-10) relating to a clarification of the exemptions from the exchange examination fee has become effective upon filing with the Commission. Publication of the proposal is expected in the Federal Register during the week of March 24. (Rel. 34-38416)

SECURITIES ACT REGISTRATIONS

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-3 SHAMAN PHARMACEUTICALS INC, 213 E GRAND AVE SO, SAN FRANCISCO, CA 94080 (415) 952-7070 - 2,000,000 (\$9,375,000) COMMON STOCK. (FILE 333-23211 - MAR. 13) (BR. 1)
- S-8 MACROVISION CORP, 1341 ORLEANS DR, SUNNYVALE, CA 94089 (408) 743-8600 - 1,280,390 (\$7,404,353 10) COMMON STOCK. (FILE 333-23213 - MAR. 13) (BR. 7)
- S-8 WESTMARK GROUP HOLDINGS INC, 355 N E FIFTH AVE, STE 4, DELRAY BEACH, FL 33483 (561) 243-8010 - 6,000 (\$5,460) COMMON STOCK. (FILE 333-23215 - MAR. 13) (BR. 8)
- S-4 WASHINGTON MUTUAL INC, 1201 THIRD AVENUE, SEATTLE, WA 98101 (206) 461-2000 - 132,690,700 (\$6,277,597,017) COMMON STOCK. (FILE 333-23221 - MAR. 13) (BR. 7)
- S-4 CULLEN FROST BANKERS INC, 100 W HOUSTON ST, P O BOX 1600, SAN ANTONIO, TX 78205 (210) 220-4841 - 100,000 (\$100,000,000) COMMON STOCK. (FILE 333-23225 - MAR. 13) (BR. 7)
- S-4 DUKE POWER CO /NC/, 422 S CHURCH ST, CHARLOTTE, NC 28242 (704) 594-0887 - 166,000,000 (\$6,691,077,271) COMMON STOCK. (FILE 333-23227 - MAR. 13) (BR. 4)
- S-3 FRONTIER CORP /NY/, ROCHESTER TEL CENTER, 180 S CLINTON AVE, ROCHESTER, NY 14646 (716) 777-1000 - 110,526 (\$2,383,217) COMMON STOCK. (FILE 333-23229 - MAR. 13) (BR. 3)
- S-2 CIATTIS INC /DE/, 5555 W 78TH ST, EDINA, MN 55439 (612) 941-0108 - 2,000,000 (\$2,000,000) STRAIGHT BONDS. (FILE 333-23233 - MAR. 13) (BR. 2)
- S-8 RADIANT SYSTEMS INC, 1000 ALDERMAN DR, STE A, ALPHARETTA, GA 30202 (770) 772-3000 - 4,000,000 (\$38,250,000) COMMON STOCK. (FILE 333-23237 - MAR. 13) (BR. 3)
- S-3 GOTHIC ENERGY CORP, 5727 S LEWIS AVE STE 700, P O BOX 186, TULSARD, OK 74105 (918) 749-5666 - 2,335,364 (\$6,130,330) COMMON STOCK 6,640 (\$7,271,250) PREFERRED STOCK. 2,400,000 (\$6,790,000) COMMON STOCK. (FILE 333-23239 - MAR. 13) (BR. 4)
- S-1 NANOPHASE TECHNOLOGIES CORPORATION, 453 COMMERCE STREET, BURR RIDGE, IL 60521 (630) 323-1200 - \$38,000,000 COMMON STOCK. (FILE 333-23241 - MAR. 13)
- S-3 USA GROUP SECONDARY MARKET SERVICES INC, 8350 CRAIG STREET, INDIANAPOLIS, IN 46250 (317) 594-1981 - 363,000 (\$363,000) EQUIPMENT TRUST CERTIFICATES (FILE 333-23243 - MAR. 13) (BR. 8)
- S-2 ITEQ INC, 2727 ALLEN PARKWAY SUITE 760, HOUSTON, TX 77019 (713) 285-2700 - 5,807,500 (\$40,478,275) COMMON STOCK. (FILE 333-23245 - MAR. 13)
- S-8 TENNECO INC /DE, 1275 KING STREET, GREENWICH, CT 06831 (203) 863-1000 - 2,500,000 (\$99,700,000) COMMON STOCK. (FILE 333-23249 - MAR. 13) (BR. 5)
- S-8 CONSECO INC ET AL, 11825 N PENNSYLVANIA ST, CARMEL, IN 46032 (317) 573-6100 - 225,285 (\$5,395,330) COMMON STOCK. (FILE 333-23251 - MAR. 13) (BR. 1)
- N-2 NEW AMERICA HIGH INCOME FUND INC, TEN WINTHROP SQ, FIFTH FLOOR, BOSTON, MA 02110 (617) 350-8610 - 2,000 (\$50,000,000) PREFERRED STOCK. (FILE 333-23253 - MAR. 13) (BR. 17)
- S-8 MYRIAD GENETICS INC, 320 WAKARA WAY, SALT LAKE CITY, UT 84108 - 500,000 (\$18,000,000) COMMON STOCK (FILE 333-23255 - MAR. 13) (BR. 1)
- S-4 COVENANT BANCORP INC, 18 KINGS HIGHWAY W, HADDONFIELD, NJ 08033 - 3,363,555 (\$45,407,993) COMMON STOCK. 300,000 (\$14,669,438) PREFERRED STOCK. (FILE 333-23257 - MAR. 13) (BR. 7 - NEW ISSUE)

SB-2 BELL TECHNOLOGY GROUP LTD, 611 BROADWAY, STE 415, NEW YORK, NY 10012
(212) 594-5300 - 661,250 (\$8,513,594) COMMON STOCK. (FILE 333-23259 -
MAR. 13) (BR. 9)

S-8 DELPHI INFORMATION SYSTEMS INC /DE/, 3501 ALGONQUIN RD, STE 500,
ROLLING MEADOWS, IL 60008 (708) 506-3100 - 6,000,000 (\$6,187,500)
COMMON STOCK. (FILE 333-23261 - MAR. 13) (BR. 3)

S-3 KOO KOO ROO INC/DE, 11075 SANTA MONICA BLVD STE 225, LOS ANGELES, CA
90025 (310) 479-2080 - 5,650,000 (\$40,079,970) COMMON STOCK. (FILE
333-23263 - MAR 13) (BR 2)

S-8 COULTER PHARMACEUTICALS INC, 550 CALIFORNIA AVE STE 200, PALO ALTO, CA
94306 (415) 842-7300 - 2,571,471 (\$18,349,989) COMMON STOCK (FILE
333-23265 - MAR 13) (BR. 1)

SB-2 DIPLOMAT CORP, 25 KAY FRIES DR, STONY POINT, NY 10980 (914) 786-5552 -
1,519,000 (\$2,705,718.50) COMMON STOCK (FILE 333-23269 - MAR. 13)
(BR. 9)

S-3 LASALLE RE HOLDINGS LTD, 25 CHURCH ST, PO BOX HM 1502,
HAMILTON HM FX BERMU, DO (441) 292-3339 - 3,000,000 (\$75,000,000)
PREFERRED STOCK. (FILE 333-23273 - MAR. 13) (BR. 1)

S-8 AMERICAN GENERAL CORP /TX/, 2929 ALLEN PKWY, HOUSTON, TX 77019
(713) 522-1111 - 7,000,000 (\$303,375,000) COMMON STOCK. (FILE 333-23275 -
MAR. 13) (BR. 1)

S-4 FIRSTAR CORP /WI/, 777 E WISCONSIN AVE, MILWAUKEE, WI 53202
(414) 765-5977 - 150,000,000 (\$150,000,000) COMMON STOCK (FILE 333-23277
- MAR. 13) (BR. 7)