

SEC NEWS DIGEST

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COMMISSION ANNOUNCEMENTS

FEE RATE ADVISORY #6

On November 28, the President signed the fiscal 2002 Commerce, Justice, State, and related agencies appropriations bill that funds the SEC. Effective 12:01 a.m. EST today, the fee rate on filings made pursuant to Section 6(b) of the Securities Act of 1933 decreased to \$239 per \$1,000,000 of the aggregate offering amount.

If you have any questions about the new fee rate, please contact the Filer Support Unit in the Office of Filings and Information Services at (202) 942-8900. (Press Rel. 2001-142)

RULES AND RELATED MATTERS

COMMISSION DETERMINATION NOT TO EXTEND EFFECTIVE DATE OF CERTAIN REQUIREMENTS OF REGULATION ATS

The Securities and Exchange Commission today determined that it is not necessary at this time to extend the effective date of certain requirements of Regulation ATS. The requirements, which become effective on December 1, 2001, pertain to alternative trading systems (ATS) that trade 20 percent or more of the average daily volume of corporate bonds traded in the United States. The Commission noted that, based on available data, no alternative trading system currently meets that 20 percent threshold. The Commission suggested that any ATS that believes it may exceed the threshold consult with the Division of Market Regulation.

ENFORCEMENT PROCEEDINGS

SEC SETTLES ADMINISTRATIVE AND CEASE AND DESIST PROCEEDINGS AGAINST CLYDE GREGORY

On November 28, the Commission entered an Order Making Findings, Imposing Remedial Sanctions, and Imposing Cease and Desist Order (Order) against Clyde Wayne Gregory, of Madison, Alabama (Gregory). The Order settled public administrative and cease and desist proceedings against Gregory instituted by the Commission on July 18, 2000.

The Order included findings that, from at least 1995 until at least his arrest in December 1997, Gregory engaged in fraudulent conduct that violated certain antifraud provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940. The Order found that, among other things, Gregory willfully misappropriated client funds, misrepresented and omitted material facts to clients, engaged in transactions that created material conflicts of interest with his clients, forged securities certificates, and delivered false account statements and other documents to clients. The Order also found that, in June 1999, Gregory pled guilty in the circuit court of Madison County, Alabama to thirty counts of theft of property in the first degree, and five counts of state securities fraud involving misrepresentations of material fact. Moreover, the Order found that, in July 1999, the court sentenced Gregory to thirty years in jail as a result of his conviction. Gregory currently is incarcerated in an Alabama correctional facility.

The Commission accepted an offer of settlement from Gregory in which he consented to the entry of the Order against him, substantially without either admitting or denying the Commission's findings. Specifically, Gregory consented to the entry of an order that (a) bars him from association with any broker, dealer, or investment adviser; and, (b) requires him to cease and desist from committing or causing any violation and any future violation of certain antifraud provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940. (Rels. 33-8038; 34-45111; IA-1999; File No. 3-10252)

INVESTMENT COMPANY ACT RELEASES

GOLDEN AMERICAN LIFE INSURANCE COMPANY, ET AL.

An order has been issued pursuant to Section 6(c) of the Investment Company Act to Golden American Life Insurance Company (Company), Separate Account B of Golden American Life Insurance Company (Account) and Directed Services, Inc. (DSI) (together, Applicants). The order grants exemptions from the provisions of Sections 2(a)(32), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit the recapture, under specified circumstances, of credits applied to purchase payments made under certain deferred variable annuity contracts that the Company will issue through the Account (Contract), as well as other contracts that the Company may issue in the future through existing or future separate accounts that are substantially

similar to the Contracts in all material respects (Future Contracts). The order also extends to any other National Association of Securities Dealers, Inc. member broker-dealer controlling or controlled by, or under common control or affiliated with DSI, whether existing or created in the future, that serves as distributor or principal underwriter for the Contracts or Future Contracts. (Rel. IC-25300 – November 27)

HERITAGE CAPITAL APPRECIATION TRUST, ET AL.

An order has been issued on an application filed by Heritage Capital Appreciation Trust, et al., exempting applicants from Section 15(a) of the Investment Company Act and Rule 18f-2 under the Act. The order permits the applicants to enter into and materially amend subadvisory agreements without shareholder approval. (Rel. IC-25301 – November 28)

HOLDING COMPANY ACT RELEASES

KEYSPAN CORPORATION

A notice has been issued giving interested persons until December 24, 2001, to request a hearing on a proposal by KeySpan Corporation (KeySpan), a registered holding company, to form and capitalize a subsidiary captive insurance company, Captive, to engage in reinsuring certain levels of predictable risk for KeySpan and its associate companies in the areas of automobile liability, workers' compensation and general liability. Captive will issue and KeySpan will acquire all shares of Captive common stock for \$100. The aggregate amount of the initial insurance premiums required by Captive is \$36 million. Funding of the premiums to Captive will be as follows: the first \$18 million will be paid in cash from the participating KeySpan system companies based on their allocated share and the remaining \$18 million will be in the form of KeySpan common stock issued to Captive. (Rel. 35-27469)

PECO ENERGY COMPANY AND PECO ENERGY TRANSITION TRUST

A notice has been issued giving interested persons until December 24, 2001, to request a hearing on a proposal by PECO Energy Company (PECO), a utility subsidiary of Exelon Corporation (Exelon), a registered holding company, and PECO Energy Transition Trust (PETT), a special purpose subsidiary of Exelon (collectively, Declarants). Declarants request authority for PECO and PETT to enter into a servicing agreement under which PECO, as servicer, manages and administers collections related to transition bonds on behalf of PETT at a market rate basis. (Rel. 35-27469)

INVESTMENT ADVISERS ACT RELEASES

STERLING JOHNSTON CAPITAL MANAGEMENT, L.P. AND HIRTLE CALLAGHAN TRUST

An order has been issued on an application filed by Sterling Johnston Capital Management, L.P. (SJCM) and the Hirtle Callaghan Trust (Trust) under Section 206A of the Investment Advisers Act granting an exemption from Section 205 of the Act and Rule 205-1 under the Act. The order permits SJCM to charge a performance fee based on the performance of that portion of a Trust portfolio managed by SJCM (SJCM Account). The order further permits applicants to compute the performance-related portion of the fee using changes in the SJCM Account's gross asset value rather than net asset value. (Rel. IA-1998 – November 27)

SELF-REGULATORY ORGANIZATIONS

PROPOSED RULE CHANGES

The New York Stock Exchange filed a proposed rule change (SR-NYSE-2001-44) to amend NYSE Rule 407 (Transactions - Employees of Exchange, Members, and Member Organizations). Publication of the proposal is expected in the Federal Register during the week of November 26. (Rel. 34-45097)

The Chicago Board Options Exchange filed a proposed rule change (SR-CBOE-00-42) eliminating the obligation of Designated Primary Market-Makers to accord priority to non-public customer orders. Publication of the proposal is expected in the Federal Register during the week of December 3. (Rel. 34-45103)

IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGES

A proposed rule change (SR-PCX-2001-44) and Amendment No. 1 thereto filed by the Pacific Exchange relating to an increase in Registered Representative Fees has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the order is expected in the Federal Register during the week of December 3. (Rel. 34-45105)

A proposed rule change filed by the American Stock Exchange relating to the establishment of \$0.50 strike price intervals for options based on the iShares S&P 100 Index Fund (SR-Amex-2001-97) has become immediately effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of December 3. (Rel. 34-45106)

A proposed rule change and Amendment No. 1 thereto filed by the American Stock Exchange establishing a new exchange fee based on the number of order cancellations that are routed through the Amex Order File (SR-Amex-2001-90) has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of December 3. (Rel. 34-45110)

A proposed rule change (SR-NYSE-2001-47) by the New York Stock Exchange to implement three Web CRD processing fees and a one-time system transition fee in connection with the administration of Forms U-4 and U-5 has become effective under Section 19(b)(3)(A)(ii) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of December 3. (Rel. 34-45112)

DELISTING GRANTED

An order has been issued granting the application of the American Stock Exchange to strike from listing and registration the Common Stock, \$.01 par value, of Hotelworks.com, Inc., effective at the opening of business on November 28, 2001. (Rel. 34-45108)

WITHDRAWAL GRANTED

An order has been issued granting the application of Identix Incorporated to withdraw its Common Stock, \$.01 par value, from listing and registration on the American Stock Exchange, effective November 29, 2001. (Rel. 34-45113)