

# sec news digest

Issue 95-34

February 21, 1995

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## COMMISSION ANNOUNCEMENTS

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### NINTH EDGAR CONFERENCE SCHEDULED

An EDGAR Filer Conference has been scheduled for Wednesday, February 22, 1995. The conference will be held in the Jefferson Auditorium at the Department of Agriculture South Building at 14th Street and Independence Avenue N.W., in Washington, D.C. At the conference, the SEC will present the status of the project, a discussion of the EDGAR Rules, and a demonstration of the new EDGARLink software. Although the Jefferson Auditorium can accommodate more people than the Commission Meeting Room used in previous conferences, space is limited to the number of seats in the facility (500). To reserve space, please register for the conference by calling (202) 942-8800 and giving your name, your company, and telephone number. Initially, we will be able to register only two attendees per company because of the limited space. Beginning on February 16, additional spaces for each company may be reserved.

The conference will begin at 9:00 a.m. Enter the facility by the Wing 4 entrance, which is in the middle of the Independence Avenue side of the building. The Wing 1 entrance is handicapped accessible. The guards will have the list of registered attendees, which will streamline the process of admitting you to this Government facility. You will need to bring a picture ID that was issued by a federal or state agency, such as a driver's license, to be admitted. Work IDs will not be accepted. You will be able to enter the Jefferson Auditorium, located approximately 100 yards to the right of the Wing 4 entrance guard's desk, at 8:00 a.m. For those conference attendees who arrive earlier than that time, the Department of Agriculture Cafeteria, located in Wing 3 of the facility, will be open.

It is recommended that you do not bring computer equipment, tape recorders, or portable telephones with you to the conference. If you do, you MUST register this equipment when you enter the Department of Agriculture Building by giving the guards the serial number, make, and model of the equipment and your name, business, and social security number. This information will be used to authenticate ownership of the equipment when you leave the building. Please note that all briefcases and large bags will be searched upon leaving the facility.

Please also note that no solicitation of any kind is permitted in this Government building. For example, filing agents and training agents will not be permitted to leave brochures describing their services on the registration desks or on the chairs of those attending the conference, nor will they be permitted to give this information to conference attendees who are entering or leaving the Jefferson Auditorium. If you have any questions about the conference, please call (202) 942-8800.

Any member of the public who requires auxiliary aids such as a sign-language interpreter or material on tape to attend a public meeting should contact Nancy Wolynetz, Office of Administrative and Personnel Management, to make arrangements. Ms. Wolynetz can be reached at (202) 942-4091 or at a TTY number (202) 942-4075. Staff members at the Commission are encouraged to contact Ms. Wolynetz if they receive inquiries on availability of auxiliary aids.

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## ENFORCEMENT PROCEEDINGS

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### NASD ACTION AGAINST JONATHAN SALUK REMANDED

The Commission has remanded to the NASD an appeal by Jonathan Scott Saluk of Plainview, New York. The NASD denied an application by Continental Broker-Dealer Corp., a Carle Place, New York brokerage firm, to have Saluk associate with the firm as a registered representative. The application was necessary because Saluk is subject to a "statutory disqualification" stemming from his December 1988 nolo contendere plea in Broward County (Florida) Circuit Court to three felony counts arising from a dispute between Saluk and a former business partner. Saluk was sentenced to house arrest for two years. In 1989, the sentence was modified, and Saluk was placed on probation for the balance of his sentence. His probation ended in January 1991.

Before the Commission, Saluk moved to adduce evidence that he was granted clemency by the State of Florida on October 13, 1994. The Commission pointed out that this evidence was not available to the NASD at the time it reached its decision, and that it may be relevant to the central issues of this case. The Commission accordingly remanded these proceedings to the NASD to afford it the opportunity to consider the new evidence in the first instance. (Rel. 34-35371)

## REGISTRATION OF CENTER FOR FINANCIAL PLANNING, INC. REVOKED

On February 14, the Commission made findings and entered an order imposing remedial sanctions by default (Order) against Center for Financial Planning, Inc. (CFP), a registered investment adviser, located in Atlanta, Georgia. The Order stated that CFP failed to file an answer or other pleading in response to the order that instituted administrative proceedings and was therefore in default. The Order revoked CFP's registration as an investment adviser.

Previously, on January 13, 1994, the United States District Court for the Northern District of Georgia in SEC v. Homer W. Forster, et al., Civil Action No. 1 94-CV-0084-JEC (N.D. Ga.), granted the Commission's application for a temporary restraining order and other emergency relief against CFP (See LR-13937). On February 7, 1994, the Court entered a preliminary injunction against CFP (See LR-13969) and on September 21, 1994, entered a final judgment by default against CFP which permanently enjoins the CFP from violating Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 and Sections 206(1) and 206(2) of the Investment Advisers Act (See LR-14313). (Rel. 34-35372)

## FINAL JUDGMENT OF PERMANENT INJUNCTION ISSUED AGAINST CONTINENTAL CAPITAL FINANCIAL GROUP, INC.

The Commission announced that on December 16, 1994, the United States District Court for the Northern District of California entered a Final Judgment of Permanent Injunction and Other Equitable Relief against defendant Continental Capital Financial Group, Inc. (Continental Capital). The Final Judgment enjoins Continental Capital from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 (Securities Act) and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder.

The Commission's complaint alleges that from July 1992 through July 1994, defendants Hickey, Tang and Continental Capital offered and sold unregistered securities in the form of limited partnership interests to the general public, obtaining approximately \$15,000,000 from 400 investors via the securities offering, and that defendants Hickey, Tang and Continental Capital and their agents, have made numerous material misrepresentations and omissions concerning these securities. In particular, Hickey and Tang are alleged to have misrepresented the value of real estate purportedly securing the investment and overstated their personal net worth in connection with personal guarantees they provided. In addition, the complaint alleges that Hickey and Tang failed to use investors' funds for the purposes for which they were purportedly raised and diverted funds to their own use. [SEC v. John A. Hickey, Mamie Tang and Continental Financial Group, Inc., et al., Civil Action No. C-94-3336, FMS, ND Cal.] (LR-14415)

**FINAL JUDGMENT OF PERMANENT INJUNCTION ISSUED AGAINST JOHN HICKEY, MAMIE TANG AND CONTINENTAL CAPITAL FINANCIAL GROUP, INC.**

The Commission announced that on February 7 the United States District Court for the Northern District of California entered a Final Judgment of Permanent Injunction and Other Equitable Relief against defendants John A. Hickey (Hickey) and Mamie Tang (Tang). The Final Judgment enjoins Hickey and Tang from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 (Securities Act) and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder.

The Commission's complaint alleges that from July 1992 through July 1994, defendants Hickey, Tang and Continental Capital offered and sold unregistered securities in the form of limited partnership interests to the general public, obtaining approximately \$15,000,000 from 400 investors via the securities offering, and that defendants Hickey, Tang and Continental Capital and their agents, have made numerous material misrepresentations and omissions concerning these securities. In particular, Hickey and Tang are alleged to have misrepresented the value of real estate purportedly securing the investment and overstated their personal net worth in connection with personal guarantees they provided. In addition, the complaint alleges that Hickey and Tang failed to use investors' funds for the purposes for which they were purportedly raised and diverted funds to their own use. [SEC v. John A. Hickey, Mamie Tang and Continental Financial Group, Inc., et al., Civil Action No. C-94-3336, FMS, ND Cal.] (LR-14416)

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**INVESTMENT COMPANY ACT RELEASES**

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**TRANSAMERICA TAX-FREE FUNDS TRUST  
TRANSAMERICA STRATEGIC INCOME FUND**

Notices have been issued giving interested persons until March 13 to request a hearing on applications filed by Transamerica Tax-Free Funds Trust and Transamerica Strategic Income Fund for orders under Section 8(f) of the Investment Company Act declaring that applicants have ceased to be investment companies. (Rel. IC-20898 - February 14 and IC-20901 - February 16, respectively)

**NEW ENGLAND VARIABLE LIFE INSURANCE COMPANY, ET AL.**

A notice has been issued giving interested persons until March 13 to request a hearing on an application filed by New England Variable Life Insurance Company (NEVLICO), New England Variable Annuity Separate Account (Variable Account) and New England Securities Corporation (collectively, Applicants). Applicants seek an order under Section 6(c) of the Investment Company Act exempting them from the provisions

of Sections 26(a)(2)(C) and 27(c)(2) of the Act. The order would provide exemptions to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Variable Account and other separate accounts established by NEVLICO in the future in connection with the issuance and sale of certain flexible and single purchase payment deferred variable annuity contracts (Contracts) or contracts that are similar in all material respects to the Contracts. (Rel. IC-20902 - February 16)

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#### SIGNIFICANT NO-ACTION, EXEMPTIVE AND INTERPRETIVE LETTERS

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The following is a list of significant no-action and interpretative letters recently issued by the Division of Corporation Finance. These letters express the view of the Division respecting novel or important questions arising under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. Copies of these letters may be obtained by writing to the Public Reference Room, Securities and Exchange Commission, Washington, D.C. 20549, or by making a request in person at the Public Reference Room, 450 Fifth Street, N.W., Room 1024, Washington, D.C., stating the name of the subject company, the Act and the Section of the Act to which it relates, and the public availability date.

<u>COMPANY</u>	<u>ACT/SECTION/RULE OR RELEASE</u>	<u>DATE MAILED</u>	<u>PUBLIC AVAILABILITY DATE</u>
NACCO Industries, Inc.	1934 Act - Rule 16b-6(b)	1/17/95	1/17/95

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#### SELF-REGULATORY ORGANIZATIONS

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#### IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGE

The MBS Clearing Corporation filed a proposed rule change (SR-MBS-95-02), which became effective upon filing, to establish fees for the Electronic Pool Notification service. Publication of the proposal is expected in the Federal Register during the week of February 20. (Rel. 34-35390)

## AMENDED PROPOSED RULE CHANGE

On February 15, the National Association of Securities Dealers filed an amended proposed rule change (SR-NASD-94-62) to amend its Interpretation under Article III, Section 1 of the NASD Rules of Fair Practice relating to limit order protection for member-to-member limit order handling in The Nasdaq Stock Market. The amendments would clarify that the "terms and conditions" exception to the Interpretation applies only to limit orders from institutional accounts, whether such limit orders come from a firm's own customers or are member-to-member limit orders. Publication of the proposal is expected in the Federal Register during the week of February 20. (Rel. 34-35391)

## ACCELERATED APPROVAL OF PROPOSED RULE CHANGE

The Commission approved on an accelerated basis a proposed rule change (SR-ISCC-94-6) filed by the International Securities Clearing Corporation relating to its Global Clearance Networking service. Publication of the approval order is expected in the Federal Register during the week of February 20. (Rel. 34-35392; International Series Rel. 786)

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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-3 APPLE SOUTH INC, HANCOCK AT WASHINGTON, MADISON, GA 30650 (706) 342-4552  
- 2,300,000 (\$28,750,000) COMMON STOCK. UNDERWRITER:  
RAYMOND JAMES & ASSOCIATES INC, ROBINSON HUMPHREY CO INC,  
WESSELS ARNOLD & HENDERSON. (FILE 33-89332 - FEB. 10) (BR. 11)

SB-2 AID AUTO STORES INC /DE/, 275 GRAND BLVD, P.O. BOX 281, WESTBURY, NY  
11590 (516) 338-7889 - 2,070,000 (\$10,350,000) COMMON STOCK. 2,070,000  
(\$207,000) WARRANTS, OPTIONS OR RIGHTS. 2,070,000 (\$10,350,000)  
COMMON STOCK. 540,000 (\$19,998) WARRANTS, OPTIONS OR RIGHTS. UNDERWRITER:  
WHALE SECURITIES CO LP. (FILE 33-89190 - FEB. 09) (BR. 4 - NEW ISSUE)

S-1 SPIEGEL CREDIT CORP III, 400 WEST 9TH ST, STE 101B, WILMINGTON, DE 19801  
(302) 429-6924 - 2,000 (\$2,000) EQUIPMENT TRUST CERTIFICATES. (FILE  
33-89192 - FEB. 09) (BR. 11)

SB-2 MYSI INC, 8201 GREENSBORO DR, STE 106, MCLEAN, VA 22101 (703) 893-0857  
- 12,100,000 (\$58,670,000) COMMON STOCK. (FILE 33-89194 - FEB. 09)  
(BR. 10 - NEW ISSUE)

REGISTRATIONS CONT.

- S-3 CREATIVE COMPUTER APPLICATIONS INC, 26115-A MUREAU RD, CALABASAS, CA 91302 (818) 880-6700 - 391,581 (\$978,953) COMMON STOCK. (FILE 33-89278 - FEB. 09) (BR. 9)
- S-8 SYBASE INC, 6475 CHRISTIE AVE, EMERYVILLE, CA 94608 (510) 922-3500 - 37,257 (\$530,276) COMMON STOCK. (FILE 33-89280 - FEB. 09) (BR. 9)
- S-8 CHESAPEAKE ENERGY CORP, 6104 N WESTERN, OKLAHOMA CITY, OK 73118 (405) 848-8000 - 116,000 (\$1,421,000) COMMON STOCK. (FILE 33-89282 - FEB. 08) (BR. 3)
- SB-2 SPARTA FOODS INC, 2570 KASOTA AVE, ST PAUL, MN 55108 (612) 646-1888 - 1,787,891 (\$2,458,349) COMMON STOCK. (FILE 33-89284 - FEB. 08) (BR. 4)
- S-8 QUALITY DINO ENTERTAINMENT LTD, 101-426 PORTAGE AVE, WINNIPEG MANITOBA CANADA R3C, A1 (204) 957-1744 - 500,000 (\$1,845,000) COMMON STOCK. (FILE 33-89286 - FEB. 08) (BR. 12)
- S-1 PERIPHONICS CORP, 4000 VETERANS MEMORIAL HIGHWAY, BOHEMIA, NY 11716 (516) 467-0500 - 3,162,500 (\$45,856,250) COMMON STOCK. (FILE 33-89294 - FEB. 09) (BR. 9 - NEW ISSUE)
- S-1 YOUNKERS CREDIT CORP, 7TH & WALNUT STS C/O YOUNKERS INC, P.P BOX 1495, DES MOINES, IA 50397 (515) 244-1112 - 2,000 (\$2,000) EQUIPMENT TRUST CERTIFICATES. UNDERWRITER: CHEMICAL SECURITIES INC. (FILE 33-89302 - FEB. 09) (BR. 12 - NEW ISSUE)
- S-8 TOP SOURCE TECHNOLOGIES INC, 2000 PGA BLVD STE 3200, PALM BEACH GARDENS, FL 33408 (407) 775-5756 - 300,000 (\$1,800,000) COMMON STOCK. (FILE 33-89304 - FEB. 09) (BR. 5)
- S-8 RESPIRONICS INC, 1001 MURRY RIDGE DR, MURRYSVILLE, PA 15668 (412) 733-0200 - 500,000 (\$14,454,393) COMMON STOCK. (FILE 33-89308 - FEB. 09) (BR. 8)
- S-8 PENFED BANCORP INC, 215 SHELBY ST, FALMOUTH, KY 41040 (606) 654-6961 - 8,345 (\$83,450) COMMON STOCK. (FILE 33-89310 - FEB. 09) (BR. 2)
- S-8 ZEMEX CORP, BCE PLACE, 161 BAY STREET STE 3750, TORONTO ONTARIO M5J, A6 (416) 365-8080 - 250,000 (\$2,250,000) COMMON STOCK. (FILE 33-89318 - FEB. 10) (BR. 2)
- S-8 LIVING CENTERS OF AMERICA INC, 15415 KATY FREEWAY, SUITE 800, HOUSTON, TX 77094 (713) 578-4600 - 600,000 (\$21,262,800) COMMON STOCK. (FILE 33-89320 - FEB. 10) (BR. 5)
- S-8 WEST MARINE INC, 500 WESTRIDGE DR, WATSONVILLE, CA 95076 (408) 728-2700 - 100,000 (\$2,100,000) COMMON STOCK. (FILE 33-89322 - FEB. 09) (BR. 1)
- S-8 BORAL LIMITED, 20TH FLR NORWICH HOUSE 6 10 OCONNELL ST, SYDNEY NSW 2000 AUSTRALIA, C3 - 1,300,000 (\$3,036,800) COMMON STOCK. (FILE 33-89324 - FEB. 09) (BR. 10)
- SB-2 HARVEST E-XPRESS INC, 2593 NORTH 400 EAST, OGDEN, UT 84414 (801) 580-1948 - 100,000 (\$100,000) COMMON STOCK. (FILE 33-89326 - FEB. 09) (BR. 3 - NEW ISSUE)
- F-6 TRANS HEX GROUP LTD, 48 WALL ST, NEW YORK, NY 10286 (212) 495-1727 - 10,000,000 (\$500,000) DEPOSITARY RECEIPTS FOR COMMON STOCK. DEPOSITOR: BANK OF NEW YORK. (FILE 33-89328 - FEB. 09) (BR. 99 - NEW ISSUE)

REGISTRATIONS CONT.

- S-8 SYBASE INC, 6475 CHRISTIE AVE, EMERYVILLE, CA 94608 (510) 922-3500 - 2,908,995 (\$53,461,590) COMMON STOCK. (FILE 33-89334 - FEB. 10) (BR. 9)
- S-8 CELESTIAL SEASONINGS INC, 4600 SLEEPYTIME DR, BOULDER, CO 80301 (303) 530-5300 - 75,000 (\$1,129,500) COMMON STOCK. (FILE 33-89338 - FEB. 10) (BR. 1)
- S-8 CELESTIAL SEASONINGS INC, 4600 SLEEPYTIME DR, BOULDER, CO 80301 (303) 530-5300 - 94,000 (\$1,415,640) COMMON STOCK. (FILE 33-89340 - FEB. 10) (BR. 1)
- S-8 MAGIC RESTAURANTS INC, ONE EXECUTIVE BLVD, YONKERS, NY 10701 (914) 969-0600 - 25,000 (\$14,750) COMMON STOCK. (FILE 33-89342 - FEB. 10) (BR. 12)
- S-3 TNT FREIGHTWAYS CORP, 9700 HIGGINS RD STE 570, ROSEMONT, IL 60018 (708) 696-0200 - 38,460 (\$1,052,843) COMMON STOCK. (FILE 33-89344 - FEB. 10) (BR. 4)
- S-8 U S DRUG TESTING INC, 10410 TRADEMARK ST, RANCHO CUCAMONGA, CA 91730 (800) 752-4625 - 500,000 (\$2,625,000) COMMON STOCK. (FILE 33-89346 - FEB. 10) (BR. 8)
- S-3 FIRST MONTAUK FINANCIAL CORP, 328 NEWMAN SPRINGS RD, PKWY 109 OFFICE CTR, RED BANK, NJ 07701 (908) 842-4700 - 4,605,000 (\$4,605,000) COMMON STOCK. (FILE 33-89348 - FEB. 10) (BR. 11)
- S-8 GAENSEL GOLD MINES INC, 1950 S PONTIAC, DENVER, CO 80224 (303) 433-9999 - 1,000,000 (\$10,000) COMMON STOCK. (FILE 33-89350 - FEB. 10) (BR. 11)
- S-8 AGOURON PHARMACEUTICALS INC, 10350 NORTH TORREY PINES ROAD, SUITE 100, LA JOLLA, CA 92037 (619) 622-3000 - 1,000,000 (\$15,500,000) COMMON STOCK. (FILE 33-89352 - FEB. 10) (BR. 4)
- S-8 CONCORDE GAMING CORP, 3290 LIEN ST, RAPID CITY, SD 57709 (605) 341-7738 - 1,100,000 (\$618,750) COMMON STOCK. (FILE 33-89354 - FEB. 10) (BR. 11)
- S-4 FIDELITY FINANCIAL BANKSHARES CORP, 2809 EMERYWOOD PKWY STE 500, RICHMOND, VA 23294 (804) 756-0200 - 2,221,091 (\$21,655,637) COMMON STOCK. (FILE 33-89362 - FEB. 10) (BR. 1 - NEW ISSUE)
- S-4 BRIDGEVILLE FINANCIAL CORP, 431 WASHINGTON AVE, BRIDGEVILLE, PA 15017 (412) 221-4000 - 1,124,125 (\$15,035,171.88) COMMON STOCK. (FILE 33-89364 - FEB. 10) (BR. 2)
- S-8 CELLULAR COMMUNICATIONS INTERNATIONAL INC, 150 EAST 58TH ST, NEW YORK, NY 10155 (212) 906-8480 - 450,000 (\$20,362,500) COMMON STOCK. (FILE 33-89366 - FEB. 10) (BR. 7)
- S-8 CELLULAR COMMUNICATIONS INTERNATIONAL INC, 150 EAST 58TH ST, NEW YORK, NY 10155 (212) 906-8480 - 37,500 (\$1,696,875) COMMON STOCK. (FILE 33-89368 - FEB. 10) (BR. 7)
- S-8 CELLULAR COMMUNICATIONS INTERNATIONAL INC, 150 EAST 58TH ST, NEW YORK, NY 10155 (212) 906-8480 - 24,375 (\$1,102,968.75) COMMON STOCK. (FILE 33-89370 - FEB. 10) (BR. 7)
- S-8 KBK CAPITAL CORP, 301 COMMERCE, 2200 CITY CENTER II, FORT WORTH, TX 76102 (817) 335-7557 - 487,000 (\$4,017,750) COMMON STOCK. (FILE 33-89372 - FEB. 13) (BR. 12)