

sec news digest

Issue 95-106

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COMMISSION ANNOUNCEMENTS

CHAIRMAN LEVITT TO TESTIFY

Chairman Levitt will testify on Tuesday, June 6, 1995, before the House Subcommittee on Telecommunications and Finance and the House Subcommittee on Commerce, Trade, and Hazardous Materials concerning H.R. 1062, the Financial Services Competitiveness Act of 1995. The hearing will begin at 10:00 a.m. in Room 2123 of the Rayburn House Office Building.

ORDER DENYING ACCESS

The General Counsel sent a letter to Steve Shirley, affirming the FOIA Officer's determination to deny access to an investigative opening report. The General Counsel concluded pursuant to FOIA Exemptions 5, 5 U.S.C. 552(b)(5), that the opening report was exempt as an intra-agency record that forms an integral part of the Commission's predecisional deliberative process and, having been prepared by an attorney in contemplation of litigation, as attorney work-product. The report was withheld in its entirety under Exemption 5 because releasing nonexempt material would leave only meaningless words and phrases. The opening report was also withheld pursuant to Exemption 2, 5 U.S.C. 552(b)(2), to protect substantial internal matters which, if disclosed, would significantly risk the circumvention of the Commission's regulations or statutes or impede the effectiveness of its law enforcement activities. The General Counsel also asserted Exemption 7(C), 5 U.S.C. 552(b)(7)(C), to prevent an unwarranted invasion of the personal privacy of Commission staff and third parties whose names and other personal information appear in this law enforcement document. (Appeal No. 94-1571)

ENFORCEMENT PROCEEDINGS

MOTIONS FOR EXPEDITED CONSIDERATION DENIED

The Commission has denied motions filed by the Division of Enforcement for expedited consideration of appeals that the Division filed in the Meyer Blinder and Ross Frankel administrative proceedings. The Division gave as its reason its desire for prompt resolution of the issue of whether the Commission has the authority to issue a bar from association with investment advisers, investment companies, municipal securities dealers, or other security professionals in administrative proceedings brought under the Securities Exchange Act of 1934.

The Commission noted that this issue is pending before it in another proceeding, Martin Sloate. The Commission also noted that the Ross Frankel matter involved two other respondents and that Blinder was currently incarcerated. The Commission ordered that briefs in the Meyer Blinder and Ross Frankel matters should be filed within 30 days of the date of the service of the order, and any reply brief be filed 30 days thereafter. (Rel. 34-35766 - Meyer Blinder; Rel. 34-35767 - Victor Teicher, Ross S. Frankel and Victor Teicher & Co., L.P.)

ADMINISTRATIVE PROCEEDINGS INSTITUTED AGAINST ELLIOTT ROSENBERG, JACK GILBERT, HOWARD CAPLAN, GERALD PERLMUTAR AND DOUGLAS MANSFIELD

The Commission today announced the entry of an Order Instituting Proceedings Pursuant to Section 8A of the Securities Act of 1933 (Securities Act) and Section 15(b)(6) of the Securities Exchange Act of 1934 (Exchange Act), Making Findings and Imposing Sanctions and Cease and Desist Orders (Order) against Elliott B. Rosenberg (Rosenberg), Jack A. Gilbert (Gilbert), Gerald J. Perlmutar (Perlmutar), Howard M. Caplan (Caplan) and Douglas H. Mansfield (Mansfield).

Simultaneously with the institution of these proceedings, the Commission accepted Rosenberg's, Gilbert's, Perlmutar's, Caplan's and Mansfield's offers of settlement in which they consented, without admitting or denying the Commission's findings, to the issuance of an order (1) ordering Rosenberg, Gilbert, Perlmutar, Caplan and Mansfield to cease and desist from committing or causing any violation of, and from committing or causing any future violation of, Sections 5(a), 5(c) and 17(a)(3) of the Securities Act; (2) barring Caplan and Perlmutar from association with any broker, dealer, investment adviser, investment company or municipal securities dealer; (3) ordering Rosenberg, Gilbert, Perlmutar, Caplan and Mansfield to pay disgorgement plus prejudgment interest but waiving all payments except \$200,000 each from Rosenberg and Gilbert and \$35,000 from Mansfield based upon their demonstrated inability to pay.

The sanctions are based on the Commission's findings that during the period of October 1987 through October 1988, Gilbert, Rosenberg, Mansfield, Caplan and Perlmutter engaged in a scheme to manipulate the prices for shares of Multireal Properties Inc. and Delicorp Foodservice Inc. and thereafter to distribute the securities of both entities at inflated prices in the United States without registration. (Refs. 33-7173; 34-35768)

JOSEPH MICHAEL HADDAD, JR. ENJOINED AND BARRED

The Commission today announced the issuance of an Order barring Joseph Michael Haddad, Jr. (Haddad), by consent, from association with any broker, dealer, municipal securities dealer, investment adviser or investment company, with a right to reapply after six years. The Commission's order was based upon the entry of an order, on May 11, 1995, by Judge Warren W. Eginton of the U. S. District Court for the District of Connecticut, enjoining Haddad from future violations of the registration and antifraud provisions of the federal securities laws.

The Commission's complaint, filed in July 1991, alleged that Haddad, formerly a registered representative and a branch office manager with a registered broker-dealer, made false and misleading statements to investors in connection with the fraudulent unregistered public offering of securities of R W Technology, Inc. (RW). The complaint alleged that Haddad misled investors with statements recklessly projecting that RW's common stock price would increase from \$3.75 per share to as much as \$12 per share within a few months, and that he made additional false statements regarding the safety of the investment, the market for RW's common stock and the issuer's business prospects. (Rel. 34-35770)

ADMINISTRATIVE PROCEEDINGS AGAINST FREDERICK KRAUSE

The Commission announced today that public administrative proceedings against Frederick J. Krause have been settled. The Commission had instituted the proceedings on December 16, 1994. See Securities Act Release No. 33-7121; Exchange Act Release No. 34-35105. The Order Making Findings and Imposing Remedial Sanctions on Frederick J. Krause (Order) found that during the period from in or about October 1988 through in or about July 1990 Krause, while working as a stockbroker for The Stuart-James Company, Inc., violated certain antifraud provisions of the federal securities laws by making materially false and misleading statements to customers about securities he was recommending. The Order found that, for example, Krause made predictions of future stock prices without a reasonable basis; misrepresented the risks associated with speculative investments; failed to sell a customer's stock notwithstanding the fact that the customer had directed Krause to sell it, and effected unauthorized transactions in customers' accounts. The Commission also found that Krause willfully caused trading in customers' accounts he controlled that was excessive and unsuitable in light of those customers' investment objectives and the character of their accounts.

The Commission ordered that Krause be barred from association with any broker, dealer, municipal securities dealer, investment adviser or investment company. The Commission further ordered that Krause cease and desist from committing or causing violations or any future violation of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. Finally, the Commission ordered that Krause disgorge \$55,000, and pay interest thereon, but waived the disgorgement and all interest based on a sworn personal financial statement submitted by Krause. (Rel. 33-7174; 34-35771)

COMPLAINT FILED AGAINST JOSEPH EDWIN GIEWARTOWSKI AND JOAN MARIE GIEWARTOWSKI

The Commission announced that on May 30 a complaint was filed by the Commission in the United States District Court for the Middle District of Florida seeking injunctive and other equitable relief and civil penalties against Joseph Edwin Giewartowski (Giewartowski). The Commission is seeking equitable relief against Joan Marie Giewartowski (Joan Giewartowski).

The complaint alleges that from at least 1983 and continuing to the present, Giewartowski has been acting as an unregistered investment adviser and has been offering securities in the form of investment contracts. He has solicited investment funds through material misrepresentations and omissions, made false statements to investors concerning the nature and value of their investments, commingled his clients' investment funds with his personal funds and paid his and Joan Giewartowski's personal expenses from his client's investment funds. Giewartowski's investment activities have already resulted in over \$1,000,000 in losses to his investors.

The complaint seeks to enjoin Giewartowski from violating the antifraud and registration provisions of the federal securities laws and requests other emergency relief, seeks disgorgement from Giewartowski and Joan Giewartowski, and seeks civil penalties from Giewartowski. [SEC v. Joseph Edwin Giewartowski and Joan Marie Giewartowski, Civil Action No. 95-554-CIV-ORL-22, M.D. Fla.] (LR-14520)

INVESTMENT COMPANY ACT RELEASES

THE CHASE MANHATTAN BANK, N.A.

An order has been issued denying a request for a hearing on an application under Section 6(c) of the Investment Company Act filed by The Chase Manhattan Bank, N.A. (Chase) for an exemption from Section 17(f) of the Act, and granting the exemption requested in the application. The hearing was requested by Inner City Press/Community

on the Move, a community and consumers' membership organization based in New York. The order permits Chase to maintain foreign securities and other assets of United States registered investment companies for which it serves as custodian or subcustodian in the custody of Chase Manhattan Bank International, an indirect, wholly-owned subsidiary of Chase located in Russia. (Rel. IC-21101; International Series Rel. 813 - May 31)

BAYERISCHE VEREINSBANK AKTIENGESELLSCHAFT, ET AL.

An order has been issued under Section 6(c) of the Investment Company Act exempting applicants from subparagraphs (a)(1) and (a)(3) of Rule 3a-5 under the Act. The order permits a wholly-owned subsidiary of Bayerische Vereinsbank Aktiengesellschaft (BV) to sell its commercial paper in the United States to raise funds for the business operations of BV without registering as an investment company. (Rel. IC-21102 - May 31)

JANUS INVESTMENT FUND, ET AL.

An order has been issued under Section 6(c) of the Investment Company Act for an exemption from Section 12(d)(1)(A)(ii), under Sections 6(c) and 17(b) for an exemption from Section 17(a), and under Rule 17d-1 to permit certain transactions in accordance with Section 17(d) and Rule 17d-1 on an application filed by Janus Investment Fund, et al. The order permits certain money market funds to sell their shares to affiliated investment companies and the money market funds subsequently to redeem such shares. (Rel. IC-21103 - May 31)

THE GUARDIAN INSURANCE & ANNUITY COMPANY, INC., ET AL.

A notice has been issued giving interested persons until June 26 to request a hearing on an application filed by The Guardian Insurance & Annuity Company, Inc. (Guardian), The Guardian Separate Account K (Separate Account) and Guardian Investor Services Corporation (collectively, Applicants). Applicants request an order under Section 6(c) of the Investment Company Act granting exemptions from Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(1), 26(a)(2), 27(a)(1), 27(c)(1), 27(c)(2), 27(d), and 27(e) of the 1940 Act and paragraphs (b)(1), (b)(12), (b)(13)(i), (b)(13)(iii), (b)(13)(iv), (b)(13)(v), (b)(13)(vii), (c)(1), (c)(4) of Rule 6e-2, and Rules 6e-3(T)(c)(4)(v), 22c-1 and 27e-1 under the Act, that would permit Applicants to offer certain variable whole life insurance contracts with modified scheduled

premiums (Contracts). The Contracts will provide: (1) a death benefit that may or may not vary based on investment experience; (2) both a sales charge deducted from premium payments and as a contingent deferred sales charge; (3) a contingent deferred administrative charge; (4) deduction from Account Value of charges for cost of insurance, guaranteed insurance amount, substandard mortality risks and incidental insurance benefits; (5) values and charges based on the 1980 Commissioners' standard Ordinary Mortality Tables; (6) the holding of underlying fund shares by the Separate Account without the use of a trustee under an open account arrangement and without trust indenture; and (7) a waiver of notice of refund and withdrawal rights. Applicants also propose to deduct a charge from premium payments received under the Contracts, and under certain other single premium, scheduled premium, and flexible premium variable life insurance contracts to be issued through the Separate Account or any other separate account established by Guardian, to compensate Guardian for its increased federal tax burden resulting from the receipt of such premiums. (Rel. IC-21104 - May 31)

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-8 UNIQUE MOBILITY INC, 425 CORPORATE CIRCLE, GOLDEN, CO 80401
(303) 278-2002 - 1,000,000 (\$4,156,250) COMMON STOCK. (FILE 33-92288 - MAY. 25) (BR. 8)
- F-10 ALGOMA STEEL INC, 105 WEST ST, PO BOX 1400, SAULT STE MARIE ONTARIO, A6
(705) 945-2351 - 275,000,000 (\$275,000,000)
FOREIGN GOVERNMENT AND AGENCY DEBT. 22,000,000 (\$141,878,000)
FOREIGN COMMON STOCK. (FILE 33-92544 - MAY. 22) (BR. 6)
- S-3 DAVIDSON & ASSOCIATES INC, 19840 PIONEER AVE, TORRANCE, CA 90503
(310) 793-0600 - 211,539 (\$6,531,266.63) COMMON STOCK. (FILE 33-92680 - MAY. 24) (BR. 9)
- S-3 BAY APARTMENT COMMUNITIES INC, 4340 STEVENS CREEK BLVD, STE 275,
SAN JOSE, CA 95129 (408) 983-1500 - 200,000,000 (\$200,000,000)
PREFERRED STOCK. (FILE 33-92688 - MAY. 24) (BR. 6)
- S-1 PENN TREATY AMERICAN CORP, 3440 LEHIGH ST, ALLENTOWN, PA 18103
(215) 965-2222 - 2,599,000 (\$30,538,250) COMMON STOCK. (FILE 33-92690 - MAY. 24) (BR. 9)
- S-3 ADT OPERATIONS INC, 902 MARKET ST, 13TH FL, WILMINGTON, DE 19899
(302) 655-1143 - 776,250,000 (\$287,523,000) STRAIGHT BONDS. UNDERWRITER:
MERRILL & LYNCH. (FILE 33-92694 - MAY. 24) (BR. 5)

REGISTRATIONS CONT.

- S-4 VIATEL INC, 800 THIRD AVE, NEW YORK, NY 10022 (212) 935-6800 - 120,700,000 (\$61,223,027) STRAIGHT BONDS. (FILE 33-92696 - MAY. 24) (BR. 7 - NEW ISSUE)
- S-8 UNIVERSAL STANDARD MEDICAL LABORATORIES INC, 26500 NORTHWESTERN HIGHWAY, SOUTHFIELD, MI 48075 (313) 353-1450 - 750,000 (\$4,359,375) COMMON STOCK. (FILE 33-92698 - MAY. 25) (BR. 5)
- S-3 SMITH BARNEY SHEARSON HOLDINGS INC /DE/, 388 GREENWICH STREET, NEW YORK, NY 10013 (212) 816-6000 - 1,000,000,000 (\$1,000,000,000) STRAIGHT BONDS. (FILE 33-92706 - MAY. 25) (BR. 12)
- S-8 HEALTHPLAN SERVICES CORP, 3501 FRONTAGE RD, TAMPA, FL 33607 (813) 289-1000 - 150,000 (\$2,250,000) COMMON STOCK. (FILE 33-92708 - MAY. 25) (BR. 5)
- S-8 ADMAR GROUP INC, 1551 N TUSTIN AVE STE 300, SANTA ANA, CA 92701 (714) 953-9600 - 300,000 (\$281,250) COMMON STOCK. (FILE 33-92714 - MAY. 25) (BR. 10)
- S-8 BORDERS GROUP INC, 500 EAST WASHINGTON ST, ANN ARBOR, MI 48104 (313) 913-2333 - 15,155,521 (\$204,520,725.79) COMMON STOCK. (FILE 33-92716 - MAY. 25) (BR. 2)
- S-3 COLE NATIONAL CORP /DE/, 5915 LANDERBROOK DR, MAYFIELD HEIGHTS, OH 44124 (216) 449-4100 - 3,078,205 (\$31,166,825.63) COMMON STOCK. UNDERWRITER: MCDONALD & CO SECS INC. (FILE 33-92718 - MAY. 25) (BR. 2)
- S-8 FINANCING FOR SCIENCE INTERNATIONAL INC, 10 WATERSIDE DR, FARMINGTON, CT 06032 (203) 676-1818 - 975,000 (\$2,681,250) COMMON STOCK. (FILE 33-92758 - MAY. 26) (BR. 12)
- S-8 FINANCING FOR SCIENCE INTERNATIONAL INC, 10 WATERSIDE DR, FARMINGTON, CT 06032 (203) 676-1818 - 50,000 (\$137,500) COMMON STOCK. (FILE 33-92760 - MAY. 26) (BR. 12)

RECENT 8K FILINGS

Form 8-K is used by companies to file current reports on the following events:

- Item 1. Changes in Control of Registrant.
- Item 2. Acquisition or Disposition of Assets.
- Item 3. Bankruptcy or Receivership.
- Item 4. Changes in Registrant's Certifying Accountant.
- Item 5. Other Materially Important Events.
- Item 6. Resignations of Registrant's Directors.
- Item 7. Financial Statements and Exhibits.
- Item 8. Change in Fiscal Year.

The companies listed below have filed 8-K reports for the date indicated and/or amendments to 8-K reports previously filed, responding to the item(s) of the form specified. Copies of the reports may be purchased from the Commission's Public Reference Room (when ordering, please give the date of the report). An invoice will be included with the requested material when mailed.

NAME OF ISSUER	STATE CODE	8K ITEM NO.								DATE	COMMENT
		1	2	3	4	5	6	7	8		
TERRITORIAL RESOURCES INC	CO	X						X		02/09/95AMEND	
TEXACO INC	DE				X	X				04/24/95	
TEXAS STAR RESOURCES CORP		X				X				04/06/95	
THERAGENICS CORP	DE				X					04/20/95	
TITAN WHEEL INTERNATIONAL INC	IL	X				X				02/24/95AMEND	
TLM CORP	NV			X		X				10/06/94AMEND	
TMS MORTGAGE INC 1993-D						X				04/17/95	
TMS MORTGAGE INC 1994-C						X				04/17/95	
TMS MORTGAGE INC 1994-D						X				04/17/95	
TOP AIR MANUFACTURING INC	IA			X	X					04/11/95	
TRANSAMERICA OCCIDENTAL LIFE INSURANCE C	CA			X	X					04/17/95	
TRUSTCO BANK CORP N Y	NY			X						04/18/95	
TVI CORP	MD			X	X					04/11/95	
UMC ELECTRONICS CO	DE					X				03/31/95	
VALCOR INC	DE			X	X					04/25/95	
VALLEY NATIONAL BANCORP	NJ			X	X					04/13/95	
VALUE MERCHANTS INC	WI			X	X					04/20/95	
VENCOR INC	DE			X						04/23/95	
WHOLESOME & HEARTY FOODS INC	OR			X						04/13/95	
WILLIAMS CONTROLS INC	DE					X				02/03/95AMEND	
WITTER DEAN DISCOVER & CO	DE			X	X					04/25/95	
YAMAHA MOTOR RECEIVABLES CORP	DE			X						04/15/95	