

1933 (15 U.S.C. 77s(b)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 18(c) of the Public Utilities Holding Company Act of 1935 (15 U.S.C. 79r(c)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)) and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).  
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Dated: May 3, 1994.  
By the Commission.  
Margaret H. McFarland,  
Deputy Secretary.  
[FR Doc. 94-11028 Filed 5-6-94; 8:45 am]  
BILLING CODE 8010-01-M

SECURITIES EXCHANGE ACT OF 1934  
Release No. 33999 / May 3, 1994

INVESTMENT COMPANY ACT OF 1940  
Release No. 20267 / May 3, 1994

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 557 / May 3, 1994

ADMINISTRATIVE PROCEEDING  
File No. 3-8357

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	)	ORDER INSTITUTING
	)	ADMINISTRATIVE PROCEEDINGS
	)	PURSUANT TO SECTION 21C OF
In the Matter of	)	THE SECURITIES EXCHANGE
	)	ACT OF 1934 AND SECTION
Brewster B. Gallup	)	9(b) OF THE INVESTMENT
	)	COMPANY ACT OF 1940,
	)	MAKING FINDINGS, AND
	)	IMPOSING REMEDIAL SANCTIONS

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I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest to institute administrative proceedings against Brewster B. Gallup ("Gallup") pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act") and Section 9(b) of the Investment Company Act of 1940 ("ICA").

In anticipation of the institution of these proceedings, Gallup has submitted an Offer of Settlement which Offer the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission or in which the Commission is a party, without admitting or denying the findings contained herein, Gallup consents to the issuance of this Order Instituting Administrative Proceedings Pursuant to Section 21C of the Securities Exchange Act and Section 9(b) of the Investment Company Act of 1940, Making Findings and Imposing Remedial Sanctions ("Order").

Accordingly, IT IS ORDERED that administrative proceedings against Gallup pursuant to Section 21C of the Exchange Act and Section 9(b) of the ICA be and hereby are instituted.

## II.

On the basis of this Order and the Offer of Gallup, the Commission finds:

### A. THE RESPONDENT

Brewster B. Gallup, 72 years old, is a resident of Huntington Beach, California. He has been a director of Vintage Group, Inc. since 1988.

### B. THE ENTITY INVOLVED

Vintage Group, Inc. ("Vintage") was incorporated in Colorado in 1983. On June 25, 1986, Vintage elected to be regulated as a Business Development Company ("BDC") under Section 54(a) of the ICA. Its principal place of business is in San Rafael, California.

### C. STATUTORY OBLIGATIONS IMPOSED ON A BDC REGARDING PERIODIC VALUATION OF THE BDC'S INVESTMENT PORTFOLIO

As a BDC, Vintage's securities were registered with the Commission pursuant to Section 12(g) of the Exchange Act. As such, Vintage was required to file periodic reports on Forms 10-K and 10-Q with the Commission pursuant to Section 13(a) of the Exchange Act. In these periodic reports, Vintage was required to list and value its portfolio securities pursuant to the methods set out in Section 2(a)(41)(B) of the ICA and Rule 2a-4 thereunder. Since "market quotations" for Vintage's portfolio securities were not "readily available", Section 2(a)(41)(B)(ii) of the ICA required that Vintage's Board of Directors determine the "fair value" of its portfolio securities in "good faith".

### D. GALLUP'S FAILURE TO FULFILL HIS STATUTORY OBLIGATION

As a director, Gallup had a statutory obligation along with Vintage's two other directors to together determine the fair value of Vintage's portfolio securities in good faith for financial reporting purposes. Gallup failed to satisfy his statutory obligation during fiscal year 1989 and the first three

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<sup>1</sup> Any findings contained in the Commission's Order are solely for the purpose of these proceedings and are not binding on any person or entity named as a respondent in any other proceedings.

quarters of fiscal year 1990 by not having any actual involvement in the valuation process. Vintage's Board of Directors did not hold any meetings during fiscal years 1989 and 1990, and Gallup did not review any materials relating to Vintage's portfolio securities or the valuations assigned to them by Vintage. During this entire period of time, Gallup's participation was essentially limited to signing Vintage's annual report which contained the list and values of Vintage's portfolio securities, and certificates of corporate resolution when requested to do so by Vintage.

**E. THE RESULTING VIOLATIONS OF THE PERIODIC REPORTING PROVISIONS OF THE EXCHANGE ACT AND INVESTMENT COMPANY ACT**

As a result of Gallup's failure to fulfill his statutory obligation, the periodic reports filed by Vintage for its fiscal year ended April 30, 1989 and its subsequent quarters ended July 31, 1989, October 31, 1989 and January 31, 1990, were materially deficient. The financial statements included in these periodic reports were not prepared in accordance with the applicable ICA Section and Rule.

In addition, Gallup's failure to exercise his statutory obligation rendered the narrative disclosure contained in the periodic reports false and misleading. Those reports represented that the Board of Directors was responsible for determining the fair value of Vintage's portfolio securities at each quarter's end. Gallup knew, or was reckless in not knowing, that the valuation process as described in Vintage's periodic filings was inaccurate.

Moreover, the periodic reports filed by Vintage for the fiscal year 1989 and the first three quarters of fiscal year 1990 materially overstated the value of Vintage's portfolio securities. These reports also materially overstated Vintage's net income, assets and shareholders equity for these same periods. Gallup signed the annual report on Form 10-K for the fiscal year ended April 30, 1989.

**F. GALLUP'S WILLFUL AIDING AND ABETTING VIOLATIONS OF THE FEDERAL SECURITIES LAWS**

In view of the foregoing, Gallup has willfully aided and abetted and caused Vintage's violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 promulgated thereunder.

**III.**

On the basis of the foregoing, it is appropriate and in the public interest to impose the sanctions which are set forth in the Offer submitted by Gallup.

Accordingly, **IT IS HEREBY ORDERED**, pursuant to Section 21C of the Exchange Act and Section 9(b) of the ICA, effective immediately:

1. Brewster B. Gallup be and hereby is barred from association with any broker, dealer, municipal securities dealer, investment adviser and investment company.

2. Brewster B. Gallup cease and desist from committing or causing any violation of, and from committing or causing any future violation of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 promulgated thereunder.

By the Commission.

Jonathan G. Katz  
Secretary

[Release No. 34-34000; File No. SR-NASD-93-61]

59 FR 23909 05/09/94

**Self-Regulatory Organizations;  
National Association of Securities  
Dealers, Inc; Order Instituting  
Proceedings to Determine Whether to  
Disapprove Rule Change Relating to  
the SelectNet Service**

May 3, 1994.

**I. Introduction**

On November 1, 1993, the National Association of Securities Dealers, Inc.