

# sec news digest

Issue 95-35

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## COMMISSION ANNOUNCEMENTS

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### CHAIRMAN LEVITT ANNOUNCES APPOINTMENT OF DANIEL SHEA TO HEAD ENFORCEMENT PROGRAM IN CENTRAL REGIONAL OFFICE

Chairman Levitt today announced the appointment of Daniel F. Shea as Associate Regional Director (Enforcement) in the Commission's Central Regional Office. The region comprises offices in Denver, Colorado, Fort Worth, Texas and Salt Lake City, Utah, and has jurisdiction over both enforcement and regulatory programs in an eleven-state area. As Associate Regional Director, Mr. Shea will oversee the Enforcement program in Denver and will coordinate enforcement efforts within the region. (Press Rel. 31)

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## RULES AND RELATED MATTERS

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### NOTICE OF PROPOSED RULEMAKING

The Commission has issued a release proposing for public comment revisions to its rules and forms and a new rule under the Securities Act of 1933 in order to implement two solutions to prospectus delivery issues arising in connection with the change to T+3 securities transaction settlement. The proposals are based on recommendations submitted by representatives of financial intermediaries. In addition, the release proposes amendment to the exemption from T+3 clearance and settlement for purchases and sales of specified securities pursuant to a firm commitment offering. For more information, contact: Anita Klein, (202) 942-2900, Office of Chief Counsel, Division of Corporation Finance; or Alexander Dill, (202) 942-4892, Office of Trading Practices, or Christine Sibille, (202) 942-4187, Office of Market Supervision, Division of Market Regulation. (Rel. 33-7141; 34-35396; IC-20903; File No. S7-7-95)

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## ENFORCEMENT PROCEEDINGS

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### ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS INSTITUTED AGAINST JAMES BULLARD, JR.

The Commission instituted public administrative proceedings pursuant to Sections 15(b) and 19(h) of the Securities Exchange Act of 1934 and cease and desist proceedings pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Exchange Act against James W. Bullard, Jr. In its Order the Commission alleges that Bullard willfully violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and caused and willfully aided and abetted Bullard, Inc.'s violations of Section 15(c) of the Exchange Act and Rule 15c1-2 thereunder. Specifically, it is alleged that, while operating a registered broker-dealer, Bullard, Inc., in August 1993, Bullard charged approximately 60 customers excessive undisclosed markups up to 178% above Bullard, Inc.'s contemporaneous cost, in connection with the sale of Tirex America, Inc. shares.

In addition, Bullard allegedly caused and willfully aided and abetted Bullard, Inc.'s violations of Section 15(g) of the Exchange Act and Rules 15g-2 through 15g-6 and 15g-9 thereunder.

A hearing will be scheduled to determine whether the allegations against Bullard are true and, if so, what sanctions, if any, are appropriate and in the public interest, whether Bullard should be barred from participating in a penny stock offering and whether a cease and desist order should be issued against Bullard and whether disgorgement and civil penalties are appropriate. (Rel. 33-7136; 34-35379)

### PROCEEDING PURSUANT TO RULE 2(e) OF THE COMMISSION'S RULES OF PRACTICE INSTITUTED AND SETTLED AGAINST L. KARL DENTON, CPA

On February 15, the Commission issued an Order pursuant to Rule 2(e)(1)(ii) of the Commission's Rules of Practice against L. Karl Denton (Denton), a certified public accountant from Englewood, Colorado. The Order finds that Denton engaged in improper professional conduct during the audit of the fiscal year 1991 financial statements of Pantheon Industries, Inc. (Pantheon), a reporting company. The Order finds that Pantheon reported as assets \$40 million in notes purportedly issued by the Krung Thai Bank of Thailand. According to the Order, Denton attempted to confirm the notes merely through a FAX number and procedures prescribed by the seller of the notes and accepted a return confirmation without assuring that it came from the Krung Thai Bank. Furthermore, although Denton was concerned about the authenticity of the notes, he failed to expand his audit procedures to obtain more persuasive evidence. As a result of these failures, Denton did not identify that the Krung Thai Bank notes were forgeries.

Simultaneously with the institution of the Order, the Commission accepted Denton's Offer of Settlement wherein, without admitting or denying the Commission's findings, Denton agreed to the entry of an Order providing that Denton is denied the privilege of appearing or practicing before the Commission, except that after 18 months, he may apply to resume appearing and practicing before the Commission by submitting an application to the Commission showing that he has complied with certain undertakings. (Rel. 34-35381; AAE Rel. 644)

#### ADMINISTRATIVE PROCEEDINGS INSTITUTED AGAINST BARCLAYS BANK PLC

The Commission announced that it instituted cease and desist proceedings pursuant to Section 21C of the Securities Exchange Act of 1934 (Exchange Act) against Barclays Bank PLC (Barclays). The Commission simultaneously accepted Barclays' offer of settlement, in which Barclays consented, without admitting or denying the findings therein, to an order that it cease and desist from violating Section 7(d) of the Exchange Act and Regulation U promulgated by the Board of Governors of the Federal Reserve Board. Barclays was ordered to pay disgorgement of \$2,510 (representing the fees received by Barclays with respect to a customer's custodial trust account), plus interest.

The Commission found that from in or about January 8, 1992 through in or about January 31, 1992 Barclays permitted a customer to use a custodial trust account to settle offsetting purchases and sales of the same securities, although the customer did not have sufficient funds in the account to pay for such purchases. By this conduct, Barclays extended credit to a customer, secured by margin stock, which exceeded the maximum loan value of the collateral pursuant to Regulation U.

The Commission also noted that Barclays has undertaken to pay \$50,000 into the court registry, to be disposed of in accordance with the final judgments previously entered in SEC v. Ronald Margolin, et al., 92 Civ 6307, PKL, SDNY. For further information see Litigation Releases 13342, 13362 and 13396. (Rel. 34-35382)

#### KENNETH VON KOHORN, VK PARTNERSHIP MANAGEMENT, INC. SANCTIONED

The Commission announced the entry of an Order Instituting Proceedings, Making Findings and Imposing Remedial Sanctions against Kenneth Von Kohorn (Von Kohorn), a registered investment adviser doing business as the sole proprietor of Von Kohorn Research and Advisory, and VK Partnership Management, Inc. (VK Management). The Order alleged that Von Kohorn and VK Management violated the Advisers Act antifraud and reporting provisions described herein by failing to disclose Von Kohorn's practice of charging multiple fees to clients. Between March 1990 and December 1992, when he ceased this practice, Von Kohorn charged at least \$248,021.33 in undisclosed fees. Additionally, Von Kohorn failed to disclose the fact that clients paid additional investment advisory fees to a third party trading adviser and that Von Kohorn had received payments totalling nearly \$580,000 from the trading adviser. The Order also alleges related violations of the reporting provisions of the Advisers Act, and that von Kohorn's practices resulted in the operation of an unregistered investment company.

Simultaneously, the Commission accepted offers of settlement in which Von Kohorn was ordered to pay a \$250,000 civil penalty, to pay disgorgement of \$248,021.33 plus prejudgment interest thereon, and to comply with certain remedial undertakings, and Von Kohorn and VK Management were censured and ordered to cease-and-desist from future violations. (Rel. 34-35402; IA-1417; IC-20907)

#### GEORGE COATES AND COATES INTERNATIONAL, LTD. PERMANENTLY ENJOINED

The Commission announced today that the United States District Court for the Southern District of New York has issued final consent judgments permanently enjoining defendants George Jennings Coates (Coates) and Coates International, Ltd. (CIL) from violating Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, and ordering other equitable relief against each of them.

The Commission alleges in this action that Coates and CIL violated the above stated registration and antifraud provisions of the federal securities laws and raised \$6,492,000 by offering and selling stock to hundreds over 300 investors by misrepresenting their attempts to develop and market an automobile engine.

As part of the settlement, CIL has undertaken to make a registered rescission offer and, if it fails to successfully complete the rescission offer, CIL must disgorge \$6,492,000, plus prejudgment interest. Coates is ordered to transfer to CIL approximately \$1.6 million in assets. Coates is required to fund the first \$773,500 in rescission claims, and under certain circumstances is required to disgorge an additional \$1,028,500, plus prejudgment interest. The defendants consented to the entry of the final judgments without admitting or denying the allegations in the complaint. The only remaining issue is the imposition of civil penalties against Coates. [SEC v. Coates, et al., 94 Civ. 5361, KMW, USDC, SDNY] (LR-14418)

#### ORDER OF PERMANENT INJUNCTION, DISGORGEMENT AND OTHER RELIEF ISSUED AGAINST SANJAY SAXENA

On February 21, the United States District Court for the District of Massachusetts entered a Final Judgment of Permanent Injunction, Disgorgement, and Other Relief (Final Judgment) against Sanjay Saxena (Saxena) formerly of Ashland, Massachusetts, a registered investment adviser, individually and d/b/a/ The Phoenix Group, d/b/a Vital Information, and d/b/a Infinity Investments Partnership. Saxena consented, without admitting or denying the Commission's allegations, to the entry of the Final Judgment, which also ordered him to pay disgorgement of \$703,000, and prejudgment and postjudgment interest totalling \$71,793.04. Saxena simultaneously consented to the entry of an order by the Commission permanently barring him from association with any broker, dealer, municipal securities dealer, investment adviser or investment company.

The Commission's complaint alleged that Saxena fraudulently sold at least \$3.2 million of unregistered securities, consisting of interests in his managed investment pool, to 165 investors in 32 states. During the offering, Saxena falsely stated that the pool's investments were profitable, when it actually was incurring substantial losses. Saxena also fraudulently projected rates of return in excess of 50% annually, and falsely stated that he would repay one-quarter of any investor losses. Despite promises to liquidate the pool, at least 45 investors were not repaid at least \$656,000, and Saxena used their funds to repay other investors. For further information see LR-14348. [SEC v. Sanjay Saxena, individually and d/b/a The Phoenix Group, d/b/a Vital Information, and d/b/a/ Infinity Investments, Civil Action. No. 94-12419REK, D. MA.] (LR-14419)

#### INJUNCTION ENTERED AGAINST JAY DEFOREST MOORE

The Commission announced that on February 13 the United States District Court for the Northern District of Ohio entered an Order of Permanent Injunction and Other Equitable Relief (Order) against defendants Jay DeForest Moore (Moore) and DeForest Company Inc. (DCI). Moore and DCI consented to the entry of the injunction without admitting or denying any of the allegations made against him in the Commission's complaint. The Court also ordered the Moore and DCI to disgorge all ill-gotten gains, but the Order provided that the amount of disgorgement will be set at a future date. On February 14, the Court issued an order freezing Moore's and DCI's assets.

In the complaint, the Commission alleged that Moore misappropriated money from clients of DCI, a registered investment adviser which Moore controlled. The complaint further alleged that Moore solicited clients of DCI to invest in DeForest Investors Inc (DII). The complaint also states that Moore did not provide the investor's money to DII. Instead, Moore deposited the money in a DCI account and used the money to pay personal and business expenses and to pay investors who wished to withdraw money from DII. [SEC v. Jay DeForest Moore, USDC, ND Ohio, 1:95 CV 0331] (LR-14420)

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#### HOLDING COMPANY ACT RELEASES

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#### THE SOUTHERN COMPANY, ET AL.

A notice has been issued giving interested persons until March 15 to request a hearing on a proposal by The Southern Company (Southern), a registered holding company, and Southern Nuclear Operating Company Inc. (Southern Nuclear), a wholly owned subsidiary company of Southern. Southern Nuclear proposes to borrow, from time to time through March 31, 1998, up to an aggregate principal amount of \$10 million from Southern or other lenders. (Rel. 35-26233)

## CENTRAL AND SOUTH WEST CORPORATION, ET AL.

A notice has been issued giving interested persons until March 15 to request a hearing on a proposal by Central and South West Corporation (CSW), a registered holding company, and its subsidiary companies, Central and South West Services, Inc., Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company and Transok, Inc., to continue to issue, sell and acquire short-term notes under their short-term borrowing program and the CSW System Money Pool in aggregate outstanding principal amounts of up to \$1.2 billion, through March 31, 1997. (Rel. 35-26233)

## EASTERN UTILITIES ASSOCIATES, ET AL.

A notice has been issued giving interested persons until March 15 to request a hearing on a proposal by Eastern Utilities Associates (EUA), a registered holding company, and its wholly owned subsidiary, EUA Cogenex Corporation (Cogenex). Cogenex requests authority to acquire Highland Energy Group, Inc. (Highland Energy), an energy services company, for common stock of EUA estimated to be worth \$4.2 million. Cogenex would also pay additional shares of EUA worth up to \$3.8 million to shareholders of Highland Energy, dependent on the future earnings of the acquired business. EUA requests authority to issue up to 1.5 million of its shares to finance the acquisition. In addition, Cogenex requests authority to provide up to \$10 million in short-term financing and/or capital contributions to finance Highland Energy's operations and \$10 million to guarantee its performance obligations to third parties. (Rel. 35-26233)

## NEW ENGLAND ELECTRIC SYSTEM, ET AL.

A notice has been issued giving interested persons until March 15 to request a hearing on a proposal by New England Electric System (NEES), a registered holding company and its wholly owned nonutility subsidiary, New England Electric Resources, Inc. (NEERI). NEERI proposes to engage in preliminary research and development activities for possible investments in exempt wholesale generators and foreign utility companies. NEES proposes to make capital contributions and/or non-interest bearing loans to NEERI from time-to-time through December 31, 1997 for its research and development activities. (Rel. 35-26233)

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## SELF-REGULATORY ORGANIZATIONS

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### PROPOSED RULE CHANGES

The National Association of Securities Dealers filed a proposed rule change (SR-NASD-95-07) to establish a vendor fee of \$.01/query for delivery, on a non-continuous basis, to the vendor's subscribers of

inside bid/ask and last sale information for Nasdaq and OTCBB securities. Publication of the proposal is expected in the Federal Register during the week of February 20. (Rel. 34-35393)

The Chicago Stock Exchange filed a proposed rule change (SR-CHX-95-03) to amend Article VI, Rule 5 and add an interpretation thereto to require that members and member organizations maintain written procedures to ensure compliance with the securities laws and the rules of the CHX rules; amend Article XI Rule 4 to provide the CHX with the authority to require that a member or member organization have an accounting firm audit its books and to clarify that all members and member organizations are required to comply with the disclosure requirements of Rule 17a-5; and add Article XI, Rule 9 to require that floor brokers who do not clear their own trades procure a letter of guarantee prior to trading. Publication of the proposal is expected in the Federal Register during the week of February 20. (Rel. 34-35394)

The Pacific Stock Exchange filed a proposed rule change (SR-PSE-95-03) to establish new listing fees applicable to Small Corporate Offering Registration (SCOR) securities. Publication of the proposal is expected in the Federal Register during the week of February 20. (Rel. 34-35395)

The Commission received a proposed rule change filing (SR-CBOE-95-05) by the Chicago Board Options Exchange that would codify the Exchange's existing practices regarding factors considered in a decision to halt or suspend trading and regarding the circumstances under which trading will be halted or suspended, to establish procedures for the resumption of trading after a halt or suspension is lifted, and to grant the Control Room the authority to turn off the Retail Automatic Execution System (RAES) if the Control Room receives a credible indication that trading has stopped in the underlying stock. Publication of the notice is expected in the Federal Register during the week of February 27. (Rel. 34-35397)

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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-8 METROLOGIC INSTRUMENTS INC, COLES ROAD AT RTE 42, BLACKWOOD, NJ 08012  
(609) 228-8100 - 600,000 (\$11,250,000) COMMON STOCK. (FILE 33-89376 -  
FEB. 13) (BR. 9)

REGISTRATIONS CONT.

- S-8 BANKATLANTIC BANCORP INC, 1750 E SUNRISE BLVD, FORT LAUDERDALE, FL 33304  
(305) 760-5000 - 900,000 (\$14,287,500) COMMON STOCK. (FILE 33-89378 -  
FEB. 09) (BR. 2)
- S-8 APPLIX INC /MA/, 112 TURNPIKE RD, WESTBORO, MA 01581 (508) 870-0300 -  
200,000 (\$3,050,000) COMMON STOCK. (FILE 33-89382 - FEB. 13) (BR. 9)
- S-8 NEOLENS INC, 18963 N E 4TH COURT, MIAMI, FL 33179 (305) 651-0003 -  
1,889,292 (\$1,151,287) COMMON STOCK. (FILE 33-89390 - FEB. 10) (BR. 8)
- S-8 MAGIC RESTAURANTS INC, ONE EXECUTIVE BLVD, YONKERS, NY 10701  
(914) 969-0600 - 100,000 (\$59,000) COMMON STOCK. (FILE 33-89392 - FEB. 10)  
(BR. 12)
- S-8 UTAH MEDICAL PRODUCTS INC, 7043 S 300 WEST, MIDVALE, UT 84047  
(801) 566-1200 - 3,222,500 (\$31,822,187.50) COMMON STOCK. (FILE 33-89394 -  
FEB. 10) (BR. 8)
- S-8 STATE AUTO FINANCIAL CORP, 518 E BROAD ST, COLUMBUS, OH 43215  
(614) 464-5000 - 700,000 (\$10,500,000) COMMON STOCK. (FILE 33-89400 -  
FEB. 10) (BR. 10)
- S-3 RENAL TREATMENT CENTERS INC /DE/, 1180 WEST SWEDSFORD RD,  
BLDG 2, STE 300, BERWYN, PA 19312 (215) 644-4796 - 34,483 (\$780,177.88)  
COMMON STOCK. (FILE 33-89402 - FEB. 10) (BR. 5)
- S-11 FIRST REAL ESTATE INVESTMENT TRUST OF NEW JERSEY, 505 MAIN ST,  
P O BOX 667, HACKENSACK, NJ 07602 (201) 488-6400 - 750,000 (\$17,250,000)  
COMMON SHARES OF BENEFICIAL INTEREST. (FILE 33-89406 - FEB. 01) (BR. 6)
- S-3 YORK RESEARCH CORP, 280 PARK AVE STE 2700 WEST, NEW YORK, NY 10017  
(212) 557-6200 - 3,933,000 (\$21,385,688) COMMON STOCK. (FILE 33-89418 -  
FEB. 10) (BR. 7)
- S-8 RHONE POULENC S A, 25 QUAI PAUL DOUMER, 92408 COURBEVOIE CEDEX, FRANCE,  
10 - 1,500,000 (\$37,785,000) FOREIGN COMMON STOCK. (FILE 33-89482 -  
FEB. 13) (BR. 1)
- S-8 CONRAIL INC, TWO COMMERCE SQ, P O BOX 41417, PHILADELPHIA, PA 19101  
(215) 209-4434 - 98,000 (\$5,213,475) COMMON STOCK. (FILE 33-57717 -  
FEB. 15) (BR. 5)
- S-3 CMS ENERGY CORP, FAIRLANE PLZ SOUTH STE 1100, 330 TOWN CENTER DR,  
DEARBORN, MI 48126 (313) 436-9261 (FILE 33-57719 - FEB. 15) (BR. 8)
- S-3 CINTAS CORP, 6800 CINTAS BLVD, P O BOX 625737, CINCINNATI, OH 45262  
(513) 459-1200 - 1,606 (\$59,422) COMMON STOCK. (FILE 33-57721 - FEB. 15)  
(BR. 7)
- S-3 BANK OF BOSTON CORP, 100 FEDERAL ST, BOSTON, MA 02110 (617) 434-2200 -  
126,271 (\$3,756,562.25) COMMON STOCK. (FILE 33-57723 - FEB. 15) (BR. 1)
- S-4 FRONTIER CORP /NY/, ROCHESTER TEL CENTER, 180 S CLINTON AVE, ROCHESTER,  
NY 14646 (716) 777-1000 - 873,188 (\$66) COMMON STOCK. (FILE 33-57725 -  
FEB. 15) (BR. 7)
- S-8 CHARTER MEDICAL CORP, 577 MULBERRY ST, PO BOX 209, MACON, GA 31298  
(912) 742-1161 - 1,965,000 (\$40,854,534.93) COMMON STOCK. (FILE 33-57729 -  
FEB. 15) (BR. 6)