

# SEC NEWS DIGEST

Issue 2001-36

February 22, 2001

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## COMMISSION ANNOUNCEMENTS

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### COMMISSION MEETINGS

#### CLOSED MEETING – THURSDAY, MARCH 1, 2001 – 2:30 P.M.

The subject matter of the closed meeting will be: Institution and settlement of injunctive actions; and Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact. The Office of the Secretary at (202) 942-7070.

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## ENFORCEMENT PROCEEDINGS

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### **STEPHEN GREEN IS BARRED FROM ASSOCIATION WITH ANY BROKER, DEALER, OR INVESTMENT ADVISER**

On February 21, the Commission barred Stephen John Green, age 43, of Toronto, Canada, from association with any broker, dealer or investment adviser. Green consented to the Commission's action.

On October 19, 2000, Green pleaded guilty to one count of mail fraud (Title 18 U S C §§1341 and 1342) in U.S. District Court for the Eastern District of Oklahoma (Docket No. CR-00-17-S). The Indictment to which Green pleaded alleged that from about November 1989 and continuing to the date of the Indictment, Green and others devised a scheme and artifice to defraud by inducing and causing to induce individuals to send money to the Charter Group Inc. and European Investment Co. (EIC); that as part of the scheme and artifice to defraud, Green made and caused to be made false representations to individuals regarding the nature of their purported investment in the Charter Group, EIC, The Charter Fund, and the Global Growth Fund; that these false representations included

representations that the individuals would have access to their funds, and that their purported accounts were fully liquid; that as part of the scheme and artifice to defraud, from about January 1990 through February 1996, Green sent and caused to be sent via United States mails, materials, including monthly individual investor account statements, which were false and fraudulent, in part, in that the statements falsely described the value and nature of purported investments held by the individuals; and that from November 1989 and continuing to the date of the Indictment, Green failed to return and caused not to be returned an investor's funds upon the latter's demand.

The Commission found that between 1989 and at least 1996, in the conduct described above, Green acted as a broker within the meaning of Section 3(a)(4) of the Securities Exchange Act of 1934 (Exchange Act) without being registered with the Commission as a broker or associated with a registered broker as required by Section 15(a) of the Exchange Act; that he operated and controlled companies which issued securities and which held themselves out as being engaged primarily in the business of investing, reinvesting or trading in securities; and that he acted as an investment adviser by engaging in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, while accepting compensation for such advice. (Rel. 34-43990, IA-1926; File No. 3-10425)

#### **COMMISSION DISMISSES APPLICATION TO CONTINUE ASSOCIATION OF ENJOINED SALESPERSONS**

The Commission has dismissed American Investment Services, Inc's appeal of the NASD'S refusal to permit Carolyn F. Munn and Samuel H. Foreman to continue to associate with AIS as general securities representatives. At the time that AIS filed its application, Munn and Foreman were subject to statutory disqualifications arising as a result of a federal district court's Consent Order of Preliminary Injunction entered against them. During the pendency of AIS's appeal, the district court entered a Consent Order of Permanent Injunction

The consent orders stem from an injunctive action filed by the Commodity Futures Trading Commission alleging that Munn, Foreman, and others participated in the business of soliciting, accepting, and pooling money from investors for commodity pools that were not registered as required under the Commodity Exchange Act. The CFTC further alleged that Munn and Foreman misrepresented and failed to disclose material facts to investors. Pursuant to the consent orders, Munn and Foreman are enjoined from acting in any capacity for which registration with the CFTC is required under the CEA.

In dismissing the appeal, the Commission concluded that the NASD's denial of the application was determined in accordance with its rules and that such rules were applied consistent with the purposes of the Exchange Act. The Commission also found that the record demonstrates that the conduct of Munn and Foreman fell far short of the high standards expected of a securities professional. (Rel. 34-43991; File No. 3-10001)

## **INSIDER TRADING COMPLAINT FILED AGAINST BEST BUY EMPLOYEE**

On February 21, the Commission filed a civil insider trading case in the U.S. District Court for the District of Minnesota against Daniel J. Lagermeier (Lagermeier), a Minnesota resident, for trading in the securities of Best Buy, Inc. (Best Buy). Lagermeier is Director of Strategic Marketing for Best Buy.com, a division of Eden Prairie, Minnesota-based Best Buy. The complaint alleges that Lagermeier bought Best Buy call options while he was in possession of material non-public information regarding Best Buy's fourth quarter and year-end earnings projections. Lagermeier, without admitting or denying the Commission's allegations, has consented to the entry of an order which will impose the following relief (1) an injunction against future violations of the antifraud provisions of the federal securities laws, (2) an order of disgorgement in the amount of \$39,812.50, plus prejudgment interest of \$9,202.25, and (3) a civil penalty of \$39,812.50.

According to the complaint, Lagermeier supervised Best Buy's Planning and Analysis Group. In early February 1998, the Planning and Analysis Group prepared financial statements for use at a Board of Directors' Meeting on February 17, 1998. The financial statements projected earnings for the fourth quarter and year-end that were significantly higher than those forecast by outside analysts. Lagermeier saw the financial statements before they were submitted to the board. On February 23, 1998, Lagermeier purchased 65 Best Buy option contracts for over \$46,000. On March 4, 1998, Best Buy announced its earnings estimates. As a result of that announcement, Best Buy stock rose from approximately \$61 to approximately \$64 per share and Lagermeier's options rose in value by over \$39,000. The Commission wishes to thank the Chicago Board Options Exchange for its assistance in this matter [SEC v. Daniel J Lagermeier, USDC, D.Minn., Civil Action No. C 01-318] (LR-16903)

## **SEC SETTLES CASE AGAINST REMAINING PARTIES IN FERROFLUIDICS COURT CASE**

On February 16, the U.S. District Court for the Southern District of New York entered a final judgment as to Bruce S. Moody and The 1991 RPM Irrevocable Trust in SEC v. Ferrofluidics Corp., et al. (97 Civ. 7174 (RMB)). Without admitting or denying the Commission's allegations, Moody and the Trust consented to the entry of an injunction prohibiting future violations of Section 13(d) of the Securities Exchange Act of 1934 and Rule 13d-2 thereunder. This represents the final resolution of this civil action, which was filed on September 25, 1997. [SEC v. Ferrofluidics Corp., Ronald Moskowitz, Jerome R. Allen, Jan R. Kirk, Stephen P. Morin, Bruce S. Moody, and The 1991 RPM Irrevocable Trust, 97 Civ. 7174, RMB, SDNY] (LR-16904)

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## **HOLDING COMPANY ACT RELEASES**

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## **DOMINION RESOURCES, INC., ET AL.**

A notice has been issued giving interested persons until March 13, 2001, to request a hearing on an application filed by Virginia Electric and Power Company (Veeco) and its parent, Dominion Resources, Inc., a registered holding company, requesting approval of Veeco's proposed acquisition of three electric generating plants located within Veeco's present service territory. (Rel. 35-27347)

## **ENTERGY CORPORATION, ET AL.**

A supplemental notice has been issued giving interested persons until March 13, 2001, to request a hearing on a proposal by Entergy Corporation (Entergy), a registered holding company, Entergy's public utility subsidiary companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana Inc., Entergy Mississippi, Inc. (Mississippi), Entergy New Orleans, Inc. (New Orleans), Entergy Services, Inc. (ESI) and System Fuels, Inc. (SFI) (Mississippi, New Orleans, ESI and SFI, collectively, "Applicants"), to increase Applicants' short-term borrowing authority by the following amounts: (1) \$ 57 million for Mississippi; (2) \$25 million for New Orleans; (3) \$50 million for ESI; and (4) \$105 million for SFI. (Rel. 35-27347)

## **ALLIANT ENERGY CORPORATION, ET AL.**

A notice has been issued giving interested persons until March 13, 2001, to request a hearing on a proposal by Alliant Energy Company (Alliant), a registered holding company, Alliant's utility subsidiary companies, Wisconsin Power & Light Company (WPL) and South Beloit Water, Gas & Electric Company (South Beloit) and two partly owned subsidiaries of WPL, American Transmission Company, LLC (Transco) and ATC Management, Inc. (Corporate Manager) Transco proposes to redeem its own Member Units from WPL and South Beloit and WPL and South Beloit propose to sell a portion of their Member Units to Transco. (Rel 35-27347)

## **CONSOLIDATED EDISON, INC., ET AL.**

A notice has been issued giving interested persons until March 13, 2001, to request a hearing on a proposal by Consolidated Edison, Inc. (CEI), a holding company currently claiming an exemption from registration under Section 3(a)(1) of the Act by Rule 2, Northeast Utilities, a registered holding company, and certain subsidiaries of each (collectively, Applicants). CEI and NU have previously filed an application seeking approvals required to complete CEI's proposed acquisition of NU (Merger). Applicants now request authority to engage in various Merger-related and post-Merger financing and other related transactions. (Rel. 35-27347)

## **CONSOLIDATED NATURAL GAS COMPANY**

A notice has been issued giving interested persons until March 16, 2001, to request a hearing on a proposal by Consolidated Natural Gas Company (CNG), a registered public utility holding company to: (1) amend an indenture dated as of May 1, 1971, between

CNG and the Chase Manhattan Bank, as successor Trustee (Indenture), and (2) solicit consents from holders of debentures to make the proposed amendments to the Indenture (Rel. 35-27348)

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## **SELF-REGULATORY ORGANIZATIONS**

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### **APPROVAL OF PROPOSED RULE CHANGES**

The Commission approved a proposed rule change filed by the Philadelphia Stock Exchange (SR-Phlx-00-48) adopting rules on telephone use on the options floor. (Rel. 34-43972)

The Commission approved a proposed rule change, and Amendment No. 1 thereto, filed by the Philadelphia Stock Exchange (SR-Phlx-99-50) amending the Phlx's Certificate of Incorporation to give the Phlx certain authority relating to the terms and conditions under which memberships can be leased. Publication of the order is expected in the Federal Register during the week of February 26 (Rel 34-43987)

The Commission approved a proposed rule change submitted by the Philadelphia Stock Exchange (SR-Phlx-00-94) relating to prohibition of harassment and other improper behavior because of listing or competitive practices. Publication of the order in the Federal Register is expected during the week of February 26. (Rel. 34-43989)

### **PROPOSED RULE CHANGES**

The International Securities Exchange filed a proposed rule change (SR-ISE-01-02) relating to anticipatory hedging activity. Publication of the proposal is expected in the Federal Register during the week of February 26. (Rel. 34-43983)

The Chicago Board Options Exchange filed a proposed rule change (SR-CBOE-00-13) to amend the procedures and requirements for trading in joint accounts in equity and index options. Publication of the proposal is expected in the Federal Register during the February 26. (Rel. 34-43984)

### **IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGE**

A proposed rule change filed by the Pacific Exchange providing for the implementation of interim linkages with other options exchanges (SR-PCX-01-10) 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 February 26. (Rel. 34-43986)

## WITHDRAWAL OF PROPOSED RULE CHANGE

The National Association of Securities Dealers, through its subsidiary the Nasdaq Stock Market, Inc., has withdrawn a proposed rule change (SR-NASD-00-37) seeking permanent approval of the Nasdaq Application of the OptiMark System. Publication of the notice is expected in the Federal Register during the week of February 26. (Rel. 34-43988)

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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.

Registration statements may be obtained in person or by writing to the Commission's Public Reference Branch at 450 Fifth Street, N.W., Washington, D.C. 20549 or at the following e-mail box address: <publicinfo@sec>. In most cases, this information is also available on the Commission's website: <www.sec.gov>.

- F-6 EIMO PLC /ADR/, 111 WALL STREET, NEW YORK, NY 10043 (212) 657-5100 - 100,000,000 (\$5,000,000) DEPOSITARY RECEIPTS FOR COMMON STOCK. (FILE 333-13158 - FEB. 09) (BR. 99 - NEW ISSUE)
- F-6 BRESAGEN LTD /ADR/, ONE WALL STREET, NEW YORK, NY 10286 (212) 495-1727 - 10,000,000 (\$500,000) DEPOSITARY RECEIPTS FOR COMMON STOCK. (FILE 333-13162 - FEB. 09) (BR. 99 - NEW ISSUE)
- F-6 GENESYS SA /ADR/, ONE WALL STREET, NEW YORK, NY 10286 (212) 495-1784 - 20,000,000 (\$1,000,000) DEPOSITARY RECEIPTS FOR COMMON STOCK. (FILE 333-13164 - FEB. 12) (BR. 99 - NEW ISSUE)
- F-6 BRAZILIAN PETROLEUM CORP/ADR/, 111 WALL STREET, 20TH FL, NEW YORK, NY 10043 - 100,000,000 (\$5,000,000) DEPOSITARY RECEIPTS FOR PREFERRED STOCK. (FILE 333-13168 - FEB. 12) (BR. 99)
- S-3 CHARLES RIVER LABORATORIES INTERNATIONAL INC, 261 BALLARDVALE STREET, WILMINGTON, MA 01867 (978) 658-6000 - 8,050,000 (\$202,779,500) COMMON STOCK. (FILE 333-55670 - FEB. 15) (BR. 1)

SB-2 UNIVERSAL BEVERAGES HOLDINGS CORP, 7563 PHILIPS HWY, SUITE 110,  
 JACKSONVILLE, FL 32256 - 6,493,086 (\$5,377,087) COMMON STOCK. (FILE  
 333-55672 - FEB. 15) (BR. 9)

S-8 COMPUTERIZED THERMAL IMAGING INC, 476 HERITAGE PARK BLVD SUITE 210,  
 LAYTON, UT 84041 (801) 776-4700 - 4,750,000 (\$12,587,500) COMMON STOCK.  
 (FILE 333-55674 - FEB. 15) (BR. 9)

S-8 SGI INTERNATIONAL, 1200 PROSPECT ST STE 325, LA JOLLA, CA 92037  
 (619) 551-1090 - 7,117,057 (\$1,921,605) COMMON STOCK. (FILE 333-55678  
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 FEB. 15) (BR. 6)

S-8 CORGENIX MEDICAL CORP/CO, 12061 TEJON STREET, 303-751-4831,  
 WESTMINSTER,  
 CO 80234 (303) 457-4345 - 1,250,000 (\$218,750) COMMON STOCK. (FILE  
 333-55682 - FEB. 15) (BR. 9)

S-8 BARD C R INC /NJ/, 730 CENTRAL AVE, MURRAY HILL, NJ 07974 (908) 277-  
 8000  
 - 500,000 (\$22,425,000) COMMON STOCK. (FILE 333-55684 - FEB. 15) (BR.  
 5)

S-8 RATIONAL SOFTWARE CORP, 18880 HOMESTEAD RD, CUPERTINO, CA 95014  
 (408) 863-9900 - 1,015,338 (\$21,362,712) COMMON STOCK. (FILE 333-55688  
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 FEB. 15) (BR. 3)

S-8 POWERGEN PLC, 53 NEW BROAD ST, LONDON EC2M 1JJ ENGL, X0 - 20,000,000  
 (\$205,600,000) FOREIGN COMMON STOCK. (FILE 333-55690 - FEB. 15) (BR.  
 2)

S-4 LEVI STRAUSS & CO, 1155 BATTERY ST, SAN FRANCISCO, CA 94111  
 (415) 544-6000 - 495,050,000 (\$495,050,000) STRAIGHT BONDS. (FILE  
 333-55694 - FEB. 15) (BR. 2)

S-8 PROVIDENT FINANCIAL GROUP INC, ONE E FOURTH ST, CINCINNATI, OH 45202  
 (513) 579-2000 - 100,000 (\$3,034,000) COMMON STOCK. (FILE 333-55698 -  
 FEB. 15) (BR. 7)

S-8 MOLEX INC, 2222 WELLINGTON CT, LISLE, IL 60532 (630) 527-4253 -  
 3,000,000 (\$88,312,500) COMMON STOCK. (FILE 333-55700 - FEB. 15) (BR.  
 5)

S-8 ICT GROUP INC, 800 TOWN CENTER DR, LANGHORNE, PA 19047 (215) 757-  
 0200 -  
 520,000 (\$4,387,500) COMMON STOCK. (FILE 333-55702 - FEB. 15) (BR. 8)

S-8 NETZERO INC, 2555 TOWNSLATE RD, WESTLAKE VILLAGE, CA 91361  
 (805) 418-2000 - 5,636,344 (\$5,548,135.22) COMMON STOCK. (FILE 333-  
 55704 -  
 FEB. 15) (BR. 3)

SB-2 SUMMIT LIFE CORP, 3021 EPPERLYN DR, PO BOX 15808, OKLAHOMA CITY, OK  
 73155 (405) 677-0781 - 1,000,000 (\$1,000,000) COMMON STOCK. (FILE  
 333-55722 - FEB. 15) (BR. 9)

S-3 STERLING BANCSHARES INC, 15000 NORTHWEST FRWY STE 308, HOUSTON, TX  
77040  
(713) 466-8300 (FILE 333-55724 - FEB. 15) (BR. 7)

S-3 TRIUMPH GROUP INC /, FOUR GLENHARDIE CORPORATE CENTER,  
1255 DRUMMERS LANE SUITE 200, WAYNE, PA 19087 (610) 975-0420 -  
4,100,000  
(\$159,654,000) COMMON STOCK. (FILE 333-55726 - FEB. 15) (BR. 5)

S-8 SOUTHERN MINERAL CORP, 1201 LOUISIANA ST, STE 3350, HOUSTON, TX  
77002  
(713) 658-9444 - 800,000 (\$3,360,000) COMMON STOCK. (FILE 333-55728 -  
FEB. 15) (BR. 4)

S-1 EMBARCADERO TECHNOLOGIES INC, 425 MARKET ST., SUITE 425, SAN  
FRANCISCO,  
CA 94105 (415) 834-3131 - 4,600,000 (\$204,976,000) COMMON STOCK. (FILE  
333-55730 - FEB. 15) (BR. 3)

S-8 RIVIERA HOLDINGS CORP, 2901 LAS VEGAS BLVD SOUTH, LAS VEGAS, NV  
89109  
(702) 734-5110 - 200,000 (\$1,410,000) COMMON STOCK. 10,000,000  
(\$10,000,000) OTHER SECURITIES INCLUDING VOTING TRUST. (FILE 333-55732  
-  
FEB. 15) (BR. 8)