

# SEC NEWS DIGEST

Issue 99-13

January 21, 1999

---

## COMMISSION ANNOUNCEMENTS

---

### CLOSED MEETING - THURSDAY, JANUARY 28, 1999 - 11:00 A.M.

The subject matter of the closed meeting scheduled for Thursday, January 28, 1999, at 11:00 a.m., will be: Institution and settlement of administrative proceedings of an enforcement nature; and Institution and settlement of injunctive actions.

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.

---

## ENFORCEMENT PROCEEDINGS

---

### **TONY FIORINO, FORMER LIVENT THEATER CONTROLLER, BARRED FROM APPEARING OR PRACTICING BEFORE THE COMMISSION AS AN ACCOUNTANT FOR THREE YEARS**

On January 21, the Commission instituted a settled administrative proceeding against Tony Fiorino, a former theater controller at Livent Inc., for engaging in willful violations of the federal securities laws and improper professional conduct as an accountant. Fiorino consented, without admitting or denying the Commission's findings, to the issuance of the Commission's Order which bars Fiorino from appearing or practicing before the Commission as an accountant, with the right to re-apply after three years.

The Commission's Order finds that Fiorino, a Chartered Accountant, the Canadian equivalent of a certified public accountant, participated in a multi-faceted and pervasive fraud at Livent, a Toronto company that produces live theatrical entertainment, such as Ragtime, Show Boat and Fosse. The Commission's Order finds that Garth Drabinsky, Livent's former chairman and chief executive officer, and Myron Gottlieb, the company's former president and a director, were the architects of a fraud which included: a multi-million dollar kick-back scheme designed to misappropriate funds for their own use; the improper shifting of preproduction costs, such as advertising for Ragtime, to fixed assets, such as the

construction of theaters in Chicago and New York; and the improper recording of revenue for transactions that contained side agreements purposefully concealed from Livent's independent auditors. The Order finds that Drabinsky and Gottlieb manipulated income and operating cash flows throughout the relevant period and, in so doing, enlisted the support and assistance of numerous Livent personnel, including Fiorino. While in possession of material nonpublic information concerning the fraudulent conduct at Livent, the Order finds, Fiorino also engaged in insider trading of Livent securities.

According to the Commission's findings, Livent's former senior officers directed that various improper adjustments be made to Livent's books, records, and accounts in order to manage income for each quarter to achieve a predetermined level. Senior management instructed the accounting staff to regularly process the adjustments to the books, records and accounts in such a way as to conceal their existence from the auditors and then prepared financial statements incorporating the adjustments. The Order finds that, as the theater controller, Fiorino took costs that were fraudulently transferred from shows to theater cost accounts and then allocated them to various dummy accounts within the company's fixed asset accounts. Fiorino created the dummy accounts, enabling Livent to conceal the transfers from Livent's auditors. Fiorino tracked the costs improperly transferred to theater construction accounts by creating a numerical range of accounts in the general ledger in which he recorded the transferred amounts so that he could measure the true costs of Livent's theater construction.

Further, the Order finds that Livent's former senior management asked vendors to purchase tickets for Livent's Los Angeles production of Ragtime for the purpose of reporting materially false information to industry press. According to the Order, Fiorino participated in the fraudulent ticket purchase scheme by arranging the ticket purchases through the vendors and by arranging for payments to the vendors.

Pursuant to Rule 102(e) of the Commission's Rules of Practice, the Order finds that Fiorino willfully violated and caused violations of Section 17(a) of the Securities Act of 1933, Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934, and Rules 10b-5, 13b2-1 and 13b2-2 thereunder, and engaged in improper professional conduct. Fiorino, a Chartered Accountant, consented, without admitting or denying the Commission's findings, to the Order, which bars Fiorino from appearing or practicing before the Commission as an accountant, with the right to re-apply after three years.

Simultaneous with the entry of the Order, Fiorino consented, without admitting or denying the allegations of the Commission's complaint in this matter, filed on January 13, 1999 in the United States District Court for the Southern District of New York, to the entry of a final judgment permanently enjoining him from his violative conduct. See SEC v. Garth H. Drabinsky, Myron I. Gottlieb, Robert Topol, Gordon C. Eckstein, Maria M. Messina, Diane J. Winkfein, D.

Grant Malcolm, and Tony Fiorino, 99 Civ. 0239 (TPG) (SDNY) (January 13, 1999). Fiorino was also ordered to pay \$2,720.90 in disgorgement and prejudgment interest, and an Insider Trading Sanctions Act penalty of \$2,507.70. The final judgment does not order Fiorino to pay a civil monetary penalty based on his demonstrated inability to pay.

On January 13, 1999, Gordon Eckstein, Livent's former senior vice president of finance and administration, consented, without admitting or denying the allegations of the complaint, to the entry of a final judgment permanently enjoining him from his violative conduct, and permanently barring him from acting as an officer or director of a public company. Diane Winkfein, Livent's former senior corporate controller, and D. Grant Malcolm, Livent's former senior production controller, consented, without admitting or denying the allegations of the complaint, to the entry of final judgments permanently enjoining each of them from their violative conduct. Winkfein was also ordered to pay \$8,137 in disgorgement and prejudgment interest. See Litigation Release No. 16022.

Also on January 13, 1999, the Commission entered three administrative orders related to the conduct described in the complaint. Without admitting or denying the Commission's findings, Livent consented to an Order directing Livent to cease and desist from committing or causing any violation and any future violation of Section 17(a) of the Securities Act, Sections 10(b), 13(a) and 13(b) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-16 and 13b2-1 thereunder, and ordering Livent to cooperate with the Commission. See In the Matter of Livent Inc., Securities Act Release No. 7627, dated January 13, 1999. Eckstein, a Chartered Accountant, consented, without admitting or denying the Commission's findings, to an Order pursuant to Rule 102(e) of the Commission's Rules of Practice, finding that he engaged in improper professional conduct and willfully violated the federal securities laws. The Order bars Eckstein from appearing or practicing before the Commission as an accountant, with the right to re-apply after five years. See In the Matter of Gordon C. Eckstein, Chartered Accountant, Securities Act Release No. 7629, dated January 13, 1999.

Also on January 13, 1999, the Commission instituted a settled cease and desist and Rule 102(e) proceeding against Christopher Craib, Livent's former senior budgeting controller and a Chartered Accountant. In its Order, the Commission found that Craib maintained a document reflecting the company's true financial picture while, at the same time, illustrating certain fraudulent manipulations. Craib showed these to Livent's officers so that they could track adjustments to the books, records and accounts of the company. Craib consented, without admitting or denying the Commission's findings, to the entry of a Rule 102(e) Order directing Craib to cease and desist from committing or causing any violation and any future violation of Section 17(a) of the Securities Act, Sections 10(b) and 13(b) (5) of the Exchange Act, and Rules 10b-5 and 13b2-1 and 13b2-2 thereunder, and finding that Craib engaged in improper professional conduct and willfully violated the federal

securities laws. The Order bars Craib from appearing or practicing before the Commission as an accountant, with the right to re-apply after three years. See In the Matter of Christopher M. Craib, Chartered Accountant, Securities Act Release No. 7628, dated January 13, 1999.

The Commission is continuing its investigation in this matter. (Rel. 33-7631; 34-40958; AAE Rel. 1101; File No. 3-9814)

#### **RESTRAINING ORDER AND ASSET FREEZE ISSUED TO HALT SALES OF HIGH YIELD TRADING PROGRAMS INVOLVING HISTORICAL RAILROAD BONDS**

The Commission announced today that it obtained a federal court order prohibiting the fraudulent sale of interests in an investment program allegedly collateralized by historical bonds, including bonds issued in the 19th century by now defunct railroads and allegedly backed by gold. According to the Commission's complaint, the high yield investment program is fictitious and the bonds allegedly collateralizing investors' funds are worthless as investments, having value only as historical memorabilia. The emergency restraining order, issued January 14, by Judge Anthony W. Ishii, prohibits Michael A. Huxley (Huxley) of Fresno, California, and his offshore entity, Thorne Castle Ltd., from fraudulently offering these securities. Judge Ishii's order also freezes the assets of Huxley and Thorne Castle and requires them to provide an accounting of investor monies received, and to repatriate investor assets to the United States.

The Commission's complaint alleges that the defendants violated the antifraud provisions of the federal securities laws from at least January 1998 through April 1998 in offering and selling investments in a high yield trading program which, like prime bank programs, is fictitious. Huxley and Thorne Castle raised approximately \$7 million from more than 500 investors nationwide. According to the complaint, Zaccagnino and TTI sold interests in the trading program by falsely claiming that he would generate investment returns through the trading of mid-term notes between European Banks. The Commission also alleged that Huxley falsely told investors that the trading program used as collateral historical railroad bonds issued in the late 1800s and that investors' interests were guaranteed. Judge Ishii's order also freezes the assets of two relief defendants, Financial Planning Concepts, an entity controlled by Huxley, and 89 Caliber, Inc. which received a total of more than \$337,000 in investor proceeds from the fraud.

Various law enforcement agencies worked closely with the Commission in obtaining emergency relief in this matter. The Commission wishes to thank, among others, the Bureau of the Public Debt of Department of Treasury, and the Division of Banking Supervision and Regulation of the Board of Governors of the Federal Reserve System for their assistance in this matter. [SEC v. Michael A. Huxley, et al., No. Civ. F-99-5045, USDC E.D. Calif./Fresno Division] (LR-16028)

## TEN YEAR PRISON TERM IN INTERNET FRAUD CASE

On October 30, 1998, Matthew Peter Bowin (Bowin) was sentenced to a ten-year prison term by the Superior Court for the County of Santa Cruz, California. Bowin will be eligible for parole after five years. The Court has also ordered that restitution be made to certain of Bowin's victims. The sentence follows Bowin's conviction on 54 felony counts, including fraudulently obtaining money in connection with the sale of securities, in a trial prosecuted by the Santa Cruz County District Attorney.

The Commission previously filed a civil complaint against Bowin and his company, Interactive Products and Services (IPS). The Commission's complaint alleges that Bowin conducted a fraudulent initial public offering over the Internet between November 1996 and July 1997. The Commission's action is currently pending in the United States District Court for the Northern District of California, Case No. C-98-20313 (PVT). [California v. Matthew Peter Bowin, Santa Cruz County Superior Court, No. S8-08719] (LR-16029)

## CHARLES BORATGIS, PAUL LAND AND BLS CONSULTING ENJOINED IN 900 NUMBER FRAUD SCHEME

The Commission today announced that the U.S. District Court for the Northern District of California has permanently enjoined Charles Boratgis, Paul Land and their partnership, BLS Consulting (BLS), from committing securities fraud. The case arose out of the defendants' involvement in the sale of approximately \$ 1, 180,000 of general partnership units in Telefund Partners, a 900 telephone line venture. With these judgments, and the entry of a judgment ordering disgorgement by relief defendant Jeffrey Stern, all ten defendants have now settled with the Commission in this matter. For additional information, see LR-14791 and LR-15434.

Boratgis, Land, Stern and BLS consented to the judgments' entry without admitting or denying the allegations against them. Boratgis, Land and BLS were permanently enjoined from violations of Sections 5 and 17(a) of the Securities Act of 1933 and Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and from participating in any offering of securities in any 900 line venture unless first registered with the Commission. The judgments require Boratgis, Land and Stern to pay \$20,000, \$10,000 and \$5,000 respectively in disgorgement, plus post judgment interest. The judgments waive further disgorgement by BLS, Boratgis, Land, and Stern, based on their demonstrated inability to pay. [SEC v. Michael Snowwhite, BLS Consulting, Charles Boratgis, Paul Land, Jeffrey Stern, Shelley Olander, Morrey Wasserman, 900 Financial Services, L.L.C., David Kane, and Sam Sarcinelli D/B/A/ S&S Consulting, Civil Action No. C-97-2888, MHP, N.D. Cal.] (LR-16030)

## CIVIL ACTION AGAINST UNIGLOBE TRADING COMPANY, INC., ET AL.

The Commission announced that the U.S. District Court for the Southern District of New York, White Plains Division, issued orders

of permanent injunction and other relief against ten defendants in a pending action involving the offer to sell forged and fictitious treasury bonds purportedly issued by an Argentinean bank and the government of Japan. Judge Charles Brieant issued orders on January 5, 1999 against Uniglobe Trading Company Inc. (Uniglobe), a Yonkers, New York entity which claimed to assist clients in the transfer of financial instruments and commodities, two of its officers, Clint Holland (Holland) and Margaret Laughrin (Laughrin); Moorgreen Holdings Limited (Moorgreen), a Gibraltar company with offices in Spain; a Moorgreen representative, Raymond Nakachian (Nakachian), Northeast Investment Institution, Inc. (Northeast), a Fayetteville, North Carolina entity, and four representatives of Northeast including Thomas Patrick McGlon (president and a director), Daniel Watlington (secretary-treasurer and a director), William Muwwakkil (vice-president and a director) and Tyrone P. Jones, III (a special consultant).

The Commission's complaint, filed November 21, 1997, alleged that, during 1997, Uniglobe, Holland, Laughrin Nakachian and Moorgreen participated in offers to sell fraudulent certificates of deposit (CDs) purportedly issued by Banco de la Nacion Argentina with stated principal amounts exceeding [U.S.] \$100 million each. The complaint further alleged that Uniglobe, Holland, Laughrin, Northeast and its representatives during the same period offered for sale forged treasury bonds purportedly issued by the Japanese government totaling 12 billion yen (approximately [U.S.] \$120 million). In November and December 1997, the Commission sought, and the Court entered, temporary restraining orders halting the attempts to sell the fictitious instruments, and no sales of either type of fictitious instrument were consummated.

Without admitting or denying the allegations of the complaint, the ten defendants named in the action consented to the issuance of an order permanently enjoining them from violating the antifraud provisions, Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities and Exchange Act of 1934 and Rule 10b-5 thereunder. Based upon their demonstrated financial inability to pay, the Commission waived imposition of civil penalties as to the defendants. For further information see LR-15568; LR-15592; and 15621. [SEC v. Uniglobe Trading Company Inc., et al., 97 Civ. 08659, USDC SDNY] (LR-16031)

#### **COMMISSION OBTAINS ORDER OF PERMANENT INJUNCTION AGAINST RONALD REECE**

The Commission announced today that Judge Patrick Michael Duffy of the United States District Court for the District of South Carolina entered an Order of Permanent Injunction and Other Relief against Ronald V. Reece (Reece) restraining and enjoining him from further violations of Section 17(b) of the Securities Act of 1933 (Securities Act). Reece consented to the entry of the permanent injunction without admitting or denying the allegations of the Commission's complaint. The Order also directed that Reece pay a \$10,000 civil penalty within 30 days following the entry of the Order.

The Commission's complaint, filed on July 1, 1998, alleges that Green Oasis Environmental, Inc. (Green Oasis) and Carraway published a series of false and misleading press releases prepared by the public relations firm the company retained, owned and controlled by Raymond C. O'Brien (O'Brien). Carraway paid O'Brien and others to publish purportedly objective descriptions about the company and to encourage positive discussion about the company in Internet news groups. Carraway and O'Brien used these false press releases to increase investor interest in the company. Carraway and O'Brien encouraged Ronald V. Reece (Reece) to publish positive information about the company in numerous Internet news group messages he wrote and in an electronic newsletter he published about the company. In his publications, Reece claimed to be merely an interested investor and denied receiving any consideration from the company. In fact, the company gave Reece a valuable discount on his purchase of the company's securities and paid his travel expenses, all of which he failed to disclose in his publications.

The complaint seeks a permanent injunction against the defendants Green Oasis and Carraway to prevent their 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 (Exchange Act) and Rule 10b-5 thereunder; a permanent injunction against defendant O'Brien to prevent his future violations of Sections 5(a), 5(c), 17(a) and 17(b) of the Securities Act, and Sections 10(b) and 15(a)(1) of the Exchange Act and Rule 10b-5 thereunder; and a permanent injunction against defendant Reece to prevent his future violation of Section 17(b) of the Securities Act. The complaint also seeks an accounting, disgorgement, prejudgment interest and civil penalties from defendants Carraway and O'Brien and civil penalties from defendant Reece. The commission's complaint also seeks disgorgement from Mary Ann Carraway of the gains from her sales of Green Oasis securities. Judge Duffy previously entered an Order of Permanent Injunction against Green Oasis in August 1998. [SEC v. Green Oasis Environmental, Inc., William D. Carraway, Raymond C. O'Brien and Ronald V. Reece, Defendants, and Mary Ann Carraway, Relief Defendant, Civil Action No. 2:98-1913-23, D.S.C.] (LR-16032)

#### **TONY FIORINO, FORMER LIVENT THEATER CONTROLLER, ENJOINED**

On January 21, the Commission filed a proposed final judgment of permanent injunction against Tony Fiorino, the former theater controller for Livent Inc. Fiorino consented, without admitting or denying the allegations of the Commission's complaint, filed on January 13, 1999, to the entry of the final judgment, which permanently enjoins Fiorino from his violative conduct and orders him to pay disgorgement and a penalty based on his insider trading in the securities of Livent while in possession of material nonpublic information.

The Commission's complaint in this matter alleges that Fiorino, a Chartered Accountant, the Canadian equivalent of a certified public accountant, participated in a multi-faceted and pervasive fraud at Livent, a Toronto company that produces live theatrical

entertainment, such as Ragtime, Show Boat and Fosse.

Fiorino consented, without admitting or denying the allegations of the complaint, to the entry of a final judgment permanently enjoining him from his violative conduct. Fiorino was also ordered to pay \$2,720.90 in disgorgement and prejudgment interest, and an Insider Trading Sanctions Act penalty of \$2,507.70. The final judgment does not order Fiorino to pay a civil monetary penalty based on his demonstrated inability to pay.

Simultaneous with the filing of the final judgment, the Commission entered an administrative order related to Fiorino's conduct described in the complaint. Fiorino consented, without admitting or denying the Commission's findings, to an Order pursuant to Rule 102(e) of the Commission's Rules of Practice, finding that he engaged in improper professional conduct and willfully violated the federal securities laws. The Order bars Fiorino from appearing or practicing before the Commission as an accountant, with the right to re-apply after three years. [SEC v. Garth H. Drabinsky, Myron I. Gottlieb, Robert Topol, Gordon C. Eckstein, Maria M. Messina, Diane J. Winkfein, D. Grant Malcolm and Tony Fiorino, 99 Civ. 0239, TPG, SDNY] (LR-16033; AAE Rel. 1102)

#### **SEC FILES CIVIL INJUNCTIVE ACTION IN PRIME BANK FRAUD**

The Commission announced today that it filed a complaint in the United States District Court for the District of Columbia against Donald Wallace, The Investment Group, Linda Schroeder, John McNulty, Berach International, Ltd. and Gary Tedford for the fraudulent offer and sale of non-existent, prime bank securities. The complaint alleges that the defendants made false statements concerning the return and level of risk associated with an individual's \$100,000 investment.

The complaint alleges that by their conduct, the defendants violated Section 17(a) of the Securities Act of 1933 (Securities Act), Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 10b-5 thereunder. The complaint also alleges that Wallace failed to register as an investment adviser and thereby violated Section 203(a) of the Investment Advisers Act. Without admitting or denying the Commission's allegations, The Investment Group, Schroeder and McNulty consented to the entry of a final judgment permanently enjoining them from future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. The final judgment will require McNulty to pay disgorgement of \$8,000, plus prejudgment interest of \$2,245, and a civil monetary penalty of \$9,755. With respect to Schroeder and The Investment Group, the Commission waived the payment of disgorgement and did not seek the imposition of civil monetary penalties against them based on their demonstrated financial inability to pay. [SEC v. Donald Wallace, et al., Case No. 1:99CV00120, RWR, D.D.C.] (LR-16034)



**NEW JERSEY SECURITIES LAWYER WILLIAM LEVY ORDERED TO PAY \$1.2 MILLION INTO COURT'S REGISTRY IN ELECTRO OPTICAL SYSTEMS CORP. CASE**

On January 7, United States District Court Judge Denise Cote issued an order requiring New Jersey securities lawyer William N. Levy to pay \$1,292,000 into the Court's registry pending trial on the merits of the Commission's action, SEC v. Cavanagh et al ., 98 Civ. 1818 (S.D.N.Y.) (DLC). Levy consented to the order after the Commission discovered that Levy, whom the Commission has alleged participated in a scheme to manipulate the stock price of Electro Optical Systems Corp. (EOSC), had failed to disclose in his court-ordered accounting that he had profited by over \$560,000 by selling EOSC shares during the manipulation. Levy previously was enjoined in 1976 for violating the antifraud and registration provisions of the federal securities laws in SEC v. Management Dynamics, Inc., 73 Civ. 2642 (S.D.N.Y.), Lit. Release 7445 (June 16, 1976), a similar case involving the unregistered sale of securities and stock manipulation.

The \$1,292,000 will bring the total deposited in the registry of the Court to nearly \$2 million. In addition, approximately \$6,000,000 is frozen in bank accounts in Spain and Switzerland pending disposition of the Commission's case. Other funds traced to the defendants remain frozen in U.S. banks and brokerage accounts.

On March 13, 1998, the Commission filed its complaint and obtained a temporary restraining order against Levy, Thomas Cavanagh, Frank Nicolais and 10 other defendants and 19 relief defendants by alleging violations of the antifraud and registration provisions of the federal securities laws in connection with the defendants scheme to manipulate EOSC's stock price. The complaint alleges that the defendants controlled the supply of EOSC stock, inflated EOSC's share price from \$.50 to over \$5.00 in one day, and distributed false information about the company in press releases and Internet newsletters. As a result, the defendants reaped over \$12,000,000 in profits by selling EOSC shares on the Internet, to primarily small, on-line investors.

On April 20, 1998, Judge Cote entered a preliminary injunction against the primary defendants pending trial on the merits. The 122-page District Court opinion stated that defendants Levy and Cavanagh "set in motion a plan . . . designed to line their pockets." In July 1998, the Commission amended its complaint, adding four defendants and seven relief defendants. On September 2, 1998, the U. S. Court of Appeals for the Second Circuit upheld the District Court's decision granting the preliminary injunction (155 F.3d 129, 1998). In October 1998, the Commission's case was partially stayed by the District Court at the request of the defendants in view of a criminal investigation by the United States Attorney's Office for the Southern District of New York.

In addition to the funds frozen in the U.S. and abroad, to date, the Commission has recovered \$2.3 million in disgorgement, interest and penalties from settling defendants, relief defendants and potential relief defendants. Two of the primary defendants, George Chachas

and Maier Lehmann, have consented to the entry of injunctions alleging violations of the antifraud and registration provisions of the federal securities laws. Chachas paid \$493,000 and Lehmann paid \$630,000 in disgorgement and penalties. For further information see LR-15669 and LR-15715. [SEC v. Cavanagh, et al. 98 Civ. 1818, SDNY, DLC] (LR-16035)

#### **COMPLAINT FILED AGAINST WILLIAM LUM AND MICHAEL SALTZSTEIN**

The Commission announced today that it filed a complaint in the U.S. District Court for the District of Columbia charging William B. Lum (Lum) and Michael Saltzstein (Saltzstein) with insider trading in the securities of Regency Health Services, Inc. (Regency) prior to the July 27, 1997 announcement that Sun Healthcare Group, Inc. (Sun) would commence a tender offer for Regency's common stock.

According to the Commission's complaint Lum, a Hawaiian Airlines, Inc. director, was present at a dinner for directors and executive officers of Hawaiian Airlines where Regency's CEO, who was also a Hawaiian Airlines director, described Regency's negotiations with Sun in an animated way to another individual who was a director of both Regency and Hawaiian Airlines. The complaint alleges that Lum knew, or was reckless in not knowing, that the information Matros disclosed was material and nonpublic. It also alleges that Lum owed Hawaiian Airlines a duty of trust and confidence concerning that information arising from a long-standing confidential relationship with Matros; Hawaiian Airlines' written policy against insider trading; and a warning, consistent with that policy, delivered the next day by Hawaiian Airlines' chairman to members of its board not to trade on information concerning Regency. Immediately after the board meeting, in breach of that duty, Lum began buying Regency stock and between July 15 and 22 purchased a total of 30,000 Regency shares. According to the complaint, Saltzstein learned of the tender offer discussions in his work as a risk manager at Regency, and thereafter purchased 400 Regency shares.

Simultaneously with the filing of the complaint, the defendants, without admitting or denying the allegations of the complaint, consented to the entry of Final Judgments enjoining them from future violations of Exchange Act Sections 10(b) and 14(e), and Rules 10b-5 and 14e-3 thereunder; and requiring Lum and Saltzstein to disgorge their illegal trading profits which, together with prejudgment interest, total \$236,265.35 and \$3,074, respectively, and to pay civil penalties of \$214,043.75 and \$2,850, respectively. [SEC v. William B. Lum and Michael Saltzstein, Civil Action No. 1-99-CV-00170, HHK, D.D.C.] (LR-16036)

---

#### **INVESTMENT COMPANY ACT RELEASES**

---

## **PRINCIPAL MANAGEMENT CORPORATION, ET AL.**

An order has been issued on an application filed by Principal Management Corporation, et al. for an exemption from Section 15(a) of the Investment Company Act and Rule 18f-2 under the Act. The order permits applicants to enter into and materially amend investment subadvisory agreements without obtaining shareholder approval. (Rel. IC-23655 - January 19)

## **MITCHELL HUTCHINS INSTITUTIONAL SERIES, ET AL.**

An order has been issued on an application filed by Mitchell Hutchins Institutional Series, et al. for an exemption from Section 15(a) of the Investment Company Act. The order permits applicants to enter into and materially amend investment sub-advisory agreements without shareholder approval. (Rel. IC-23656 - January 19)

---

## **HOLDING COMPANY ACT RELEASES**

---

### **INTERSTATE ENERGY CORPORATION**

An order has been issued authorizing Interstate Energy Corporation, a registered holding company, to implement a stockholder rights plan. (Rel. 35-26965)

### **PENNSYLVANIA ELECTRIC COMPANY**

An order has been issued authorizing Pennsylvania Electric Company (Penelec), a public utility subsidiary company of General Public Utilities (GPU), a registered holding company, to engage in financing. Penelec proposes to organize a special purpose business trust (Penelec Capital Trust) which will issue and sell from time to time in one or more series through December 31, 2000, up to \$125 million aggregate liquidation value of preferred beneficial interest, in the form of trust securities, and a special purpose investment corporation (Investment Sub). Penelec also proposes to use the proceeds from the sale of trust securities to purchase preferred securities and acquire the common stock of Investment Sub and capitalize Investment Sub with a capital contribution in the amount not to exceed \$5 million and a demand promissory note in the principle amount of \$13 million. (Rel. 35-26966)

### **METROPOLITAN EDISON COMPANY**

An order has been issued authorizing a proposal by Metropolitan Edison Company (Met-Ed), a public utility subsidiary company of General Public Utilities (GPU), a registered holding company, to engage in financing. Met-Ed proposes to organize a special purpose business trust (Met-Ed Capital Trust) which will issue and sell from time to time in one or more series through December 31, 2000, up to \$125 million aggregate liquidation value of preferred beneficial

interest, in the form of trust securities, and a special purpose investment corporation (Investment Sub). Met-Ed also proposes to use the proceeds from the sale of trust securities to purchase preferred securities and acquire the common stock of Investment Sub and capitalize Investment Sub with a capital contribution in the amount not to exceed \$5 million and a demand promissory note in the principle amount of \$13 million. (Rel. 35-26967)

---

## SELF-REGULATORY ORGANIZATIONS

---

### IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGES

A proposed rule change filed by the Philadelphia Stock Exchange to modify existing rules relating to trading of the new European currency, the Euro (SR-Phlx-99-01) 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 January 18. (Rel. 34-40953)

The Commission noticed a proposed rule change (SR-NASD-98-91) submitted by the National Association of Securities Dealers relating to the time period for filing information requests in arbitration. Publication of the proposal is expected in the Federal Register during the week of January 25. (Rel. 34-40954)

A proposed rule change (SR-Amex-98-47) filed by the American Stock Exchange which allows the Amex to list and trade options on the Internet Commerce Index has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the notice is expected in the Federal Register during the week of January 25. (Rel. 34-40955)

---

## 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.

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: <public info @ sec>. In most cases, this information is also available on the Commission's website: <www.sec.gov>.

S-1 HEALTHEON CORP, 4600 PATRICK HENY DRIVE, SANTA CLARA, CA 95054  
(408) 876-5000 - \$35,000,000 COMMON STOCK (FILE 333-70553 - JAN 14)  
(BR 3)

S-8 BIOZHEM COSMECEUTICALS INC, 32240 PASEO ADELANTO, SUITE A,  
SAN JUAN CAPISTRANO, CA 92675 (714) 488-2183 - 400,000 (\$188,000)  
COMMON STOCK (FILE 333-70555 - JAN. 14) (BR. 2)

S-8 PAYLESS CASHWAYS INC, TWO PERSHING SQ 2300 MAIN ST, P O BOX 419466,  
KANSAS CITY, MO 64141 (816) 234-6000 - 2,400,000 (\$5,790,075) COMMON STOCK  
(FILE 333-70557 - JAN 14) (BR 6)

N-2 MUNIHOLDINGS NEW JERSEY INSURED FUND III INC,  
MERRILL LYNCH ASSET MANAGEMENT, P O BOX 9011, PRINCETON, NJ 08543 -  
\$1,000,000 COMMON STOCK (FILE 333-70559 - JAN 14) (BR 17)

S-8 PARLEX CORP, 145 MILK ST, METHUEN, MA 01844 (508) 685-4341 - 300,000  
(\$3,581,250) COMMON STOCK (FILE 333-70561 - JAN 14) (BR 5)

S-3 TOROTEL INC, 13402 S 71 HWY, GRANDVIEW, MO 64030 (816) 761-6314 -  
100,000 (\$131,250) COMMON STOCK (FILE 333-70563 - JAN. 14) (BR 5)

S-8 TRACKER CORP OF AMERICA, 180 DUNDAS ST W, STE 1502,  
TORONTO ONTARIO CANA, A6 (416) 593-2604 - 2,000,000 (\$243,000)  
COMMON STOCK (FILE 333-70565 - JAN 14) (BR 4)

S-8 MAGELLAN PETROLEUM CORP /DE/, 149 DURHAM RD, OAKPARK UNIT 31, MADISON,  
CT 06443 (203) 245-7664 - 1,000,000 (\$1,437,500) COMMON STOCK (FILE  
333-70567 - JAN 14) (BR 4)

S-3 ROTONICS MANUFACTURING INC/DE, 17022 S FIGUEROA ST, GARDENA, CA 90248  
(310) 538-4932 - 2,072,539 (\$2,137,306) COMMON STOCK (FILE 333-70569 -  
JAN 14) (BR 6)

S-8 EA ENGINEERING SCIENCE & TECHNOLOGY INC, 11019 MCCORMICK RD,  
HUNT VALLEY, MD 21031 (410) 584-7000 - 200,000 (\$275,000) COMMON STOCK  
(FILE 333-70573 - JAN 14) (BR 6)

S-8 EA ENGINEERING SCIENCE & TECHNOLOGY INC, 11019 MCCORMICK RD,  
HUNT VALLEY, MD 21031 (410) 584-7000 - 50,000 (\$68,750) COMMON STOCK  
(FILE 333-70575 - JAN 14) (BR 6)

S-8 EA ENGINEERING SCIENCE & TECHNOLOGY INC, 11019 MCCORMICK RD,  
HUNT VALLEY, MD 21031 (410) 584-7000 - 250,000 (\$343,750) COMMON STOCK  
(FILE 333-70577 - JAN 14) (BR 6)

S-3 CREE RESEARCH INC /NC/, 4600 SILICON DR, DURHAM, NC 27703 (919) 361-5709  
- 1,495,000 (\$62,700,300) COMMON STOCK (FILE 333-70579 - JAN 14)  
(BR 1)

SB-2 NEW COMMERCE BANCORP, P.O DRAWER 129, MAULDIN, SC 29662 (864) 239-0616  
- 800,000 (\$8,000,000) COMMON STOCK (FILE 333-70589 - JAN 14)  
(NEW ISSUE)

S-8 CHECKFREE HOLDINGS CORP \GA\, 4411 EAST JONES BRIDGE RD, NORCROSS, GA  
33092 (770) 441-3387 - 3,000,000 (\$65,062,500) COMMON STOCK (FILE  
333-70599 - JAN 14) (BR 8)

S-8 MARATHON BANCORP, 11150 W OLYMPIC BL, STE 900, LOS ANGELES, CA 90064  
(310) 996-9100 - 700,000 (\$1,995,000) COMMON STOCK. (FILE 333-70601 -  
JAN 14) (BR. 7)

S-4 VISIONEER INC, 34800 COMPUS DRIVE, FREMONT, CA 94555 (415) 812-6400 -  
\$17,604,370 COMMON STOCK (FILE 333-70603 - JAN 14) (BR 3)

S-8 THERMOLASE CORP, 2055 C LUNA ROAD, CARROLLTON, TX 75006 (617) 622-1000  
- 1,871,560 (\$8,422,020) COMMON STOCK (FILE 333-70605 - JAN 14) (BR 2)

S-3 DEVELOPERS DIVERSIFIED REALTY CORP, 34555 CHAGRIN BLVD, MORELAND HILLS,  
OH 44022 (216) 247-4700 - 4,636,994 (\$89,320,806) COMMON STOCK (FILE  
333-70607 - JAN. 14) (BR 8)

- S-8 BERKSHIRE HATHAWAY INC, 1440 KIEWIT PLZ, OMAHA, NE 68131 (402) 346-1400  
- 187,494 (\$392,331,195) COMMON STOCK. (FILE 333-70609 - JAN 14) (BR 1)
- S-3 SMITH CHARLES E RESIDENTIAL REALTY INC, 2345 CRYSTAL DR,  
CRYSTAL CITY ARLINGT, VA 22202 (703) 920-8500 - 254,189 (\$7,775,641.51)  
COMMON STOCK (FILE 333-70611 - JAN 14) (BR. 8)
- S-3 ROCKY MOUNTAIN INTERNET INC, 1099 18TH STREET, STE 3000, DENVER, CO  
80202 (303) 672-0700 - 2,209,193 (\$35,070,938 88) COMMON STOCK. (FILE  
333-70613 - JAN 14) (BR 3)
- S-8 TRACKER CORP OF AMERICA, 180 DUNDAS ST W, STE 1502,  
TORONTO ONTARIO CANA, A6 (416) 593-2604 - 13,175,996 (\$1,600,883.50)  
COMMON STOCK (FILE 333-70615 - JAN. 14) (BR 4)
- S-8 LEVIATHAN GAS PIPELINE PARTNERS L P, 600 TRAVIS STE 7200, HOUSTON, TX  
77002 (713) 224-7400 - 3,100,000 (\$69,556,250) COMMON STOCK. (FILE  
333-70617 - JAN 14) (BR 4)
- S-1 POMEROY SELECT INTEGRATION SOLUTIONS INC, 1020 PETERSBURG ROAD, HEBRON,  
KY 41048 (606) 586-0600 - \$57,500,000 COMMON STOCK (FILE 333-70619 -  
JAN 15) (NEW ISSUE)