

sec news digest

Issue 94-187

September 30, 1994

RULES AND RELATED MATTERS

NOTICE OF PROPOSED RULEMAKING

The Commission has voted to issue a release proposing and soliciting comment on Rule 15c5-1. The rule would prohibit a market maker in a NASDAQ/NMS security from trading for its own account, directly or indirectly, at a price at which the market maker could execute a customer limit order that it is holding, without executing the customer limit order at such price or a price more favorable to the customer, under the specific terms and conditions by which the order is accepted by the market maker. There are certain itemized exceptions to the rule as well as specific provisions governing the type of orders and the class of persons eligible for protection under the rule. (Rel. 34-34753; File No. S7-28-94)

ENFORCEMENT PROCEEDINGS

N. EDWARD ROSS PERMANENTLY ENJOINED AND ORDERED TO DISGORGE AND PAY CIVIL PENALTY

The Commission announced that on September 21 Judge Susan C. Bucklew of the United States District Court for the Middle District of Florida entered a permanent injunction against defendant N. Edward Ross (Ross) of Brandon, Florida. Ross admitted to the entry of the permanent injunction, including an order that he pay disgorgement with prejudgment interest and a civil penalty, without admitting or denying the allegations of the Commission's complaint.

The Commission's complaint alleged that Ross violated the antifraud provisions of the federal securities laws in connection with the sale of over \$2 million of church bonds to investors by making material misrepresentations to investors concerning, among other things, the use of the proceeds and the risks associated with the investment. Ross was ordered to disgorge \$8,004.84 in ill-gotten gains with prejudgment interest and to pay a civil penalty of \$5,000. Ross' codefendants were permanently enjoined from violations of the antifraud provisions in a separate order of August 17, 1994. [SEC v. N. Edward Ross, et al., Civil Action No. 93-1073-CIV-T-99A, M.D. Fla.] (LR-14262)

CIVIL ACTION AGAINST JOHN SABATINO AND CONSUMER'S CHOICE, INC.

The Commission announced the filing of a complaint in the United States District Court for the Northern District of Ohio against John R. Sabatino (Sabatino) and his company, Consumer's Choice, Inc. (Consumer's Choice). The Commission's complaint alleges, among other things, that from March 1992 through July 1993, Sabatino and Consumer's Choice raised more than \$6.3 million from approximately 300 investors through Consumer's Choice's fraudulent sale of unregistered securities.

Sabatino and Consumer's Choice represented to investors that Consumer's Choice was authorized by The Coca-Cola Company to purchase, ship, and resell tractor-trailer load quantities of canned Coca-Cola and promised to use investment proceeds to finance this enterprise. The defendants guaranteed investors 10% interest on their investment, the return of the principal after one year, and \$400 per week as a dividend from the proceeds of the company's resale of Coca-Cola.

In fact, Consumer's Choice never had any agreements with The Coca-Cola Company for the purchase, shipment and/or resale of Coca-Cola products. Instead, the defendants misappropriated the investment proceeds and used the funds to compensate their sales staff, pay personal expenses, embark on various other business ventures, and to pay off earlier investors in a classic Ponzi-scheme.

The complaint seeks permanent injunctions against future violations by Sabatino and Consumer's Choice, disgorgement of ill-gotten gains, plus prejudgment interest on the amounts to be disgorged, and civil penalties against Sabatino. [SEC v. John Sabatino and Consumer's Choice, Inc., USDC, ND Ohio, 94 Civ. 2022, TDL] (LR-14264)

PERMANENT INJUNCTION ENTERED AGAINST HOWARD BAER

The Commission announced that on September 27 a Final Judgment of Permanent Injunction and Other Relief on Consent was entered by Judge Deborah Batts of the Southern District of New York against Howard R. Baer.

Baer consented, without admitting or denying the allegations in the complaint, to the entry of the Final Judgment, which enjoins him from future violations of the antifraud provisions of the federal securities laws and which requires that he disgorge \$3,210,013, pay prejudgment interest of \$152,041 thereon, and pay a civil penalty of \$100,000.

The complaint alleges that Baer violated the antifraud provisions by engaging in a fraudulent scheme in which he placed trades through numerous broker-dealers to purchase the common stock of KFX, Inc. Among other things, the complaint alleges that Baer failed to tell broker-dealers that he lacked the ability and intent to pay for the securities purchased. As a result of Baer's fraudulent scheme, the broker-dealers suffered millions of dollars in losses. [SEC v. Howard R. Baer, USDC, SDNY, 93 Civ. 5159, DAB] (LR-14266)

BALI, PRIVATE BRANDS, AND JACOB SCHWARTZ, CPA SETTLE CIVIL INJUNCTIVE ACTION; SCHWARTZ BARRED IN ADMINISTRATIVE PROCEEDINGS

The Commission announced the entry of final judgments of permanent injunctive relief against Bali Jewelry, Ltd. (Bali) and Private Brands, Inc. (Private Brands), enjoining them from further violations of the antifraud and corporate reporting provisions of the federal securities laws and providing that Bali and Private Brands would institute policies and procedures to ensure that Bali and Private Brands' books and records and systems of internal controls are in compliance with the federal securities laws.

The Commission also instituted and simultaneously settled administrative proceedings against Bali Jewelry, Ltd.'s (Bali) independent auditor, Jack Schwartz (Schwartz) of Horowitz, Schwartz & Winkler. The Commission had charged Schwartz with, among other things, failing to conduct an audit in accordance with generally accepted auditing standards (GAAS) and then providing an opinion letter which was included in Bali's 1989 annual report, and which Schwartz knew or recklessly disregarded was false. The opinion letter falsely stated that Schwartz' audit conformed with GAAS and that Bali's financial statements were prepared in accordance with Generally Accepted Accounting Principles.

Schwartz consented to the entry of an Opinion and Order pursuant to Rule 2(e) of the Commission's Rules and Practice (Order) making findings and imposing remedial sanctions against Schwartz. The Order finds that a Final Judgment of Permanent Injunctive and Other Relief on consent was entered against Schwartz on December 14, 1993. Under the Order, Schwartz will be barred from appearing or practicing before the Commission. [SEC v. Bali Jewelry, Ltd., USDC, SD NY, 93 Civ. 8604, PKL, NY-5896] (LR-14267)

CIVIL ACTION FILED AGAINST DOUGLAS HANSEN

On September 28, the Commission filed a complaint in the United States District Court for the Central District of California against Douglas C. Hansen. The Commission's complaint alleges that Hansen, the former chief financial officer of Huntway Partners L.P. (Huntway), engaged in a scheme to overstate Huntway's inventory, thereby overstating Huntway's net income during the first quarter of 1992 and understating Huntway's

net losses during the second and third quarters of 1992. The Commission's complaint also alleges that Hansen engaged in a check-kiting scheme involving certain of Huntway's bank accounts during the third and fourth quarters of 1992. The Commission's complaint further alleges that Huntway, through Hansen, reported in its Management's Discussion and Analysis section contained in Huntway's Forms 10-Q filed during 1992 materially false and misleading statements regarding Huntway's cash flow and liquidity position.

On July 25, 1994, the Commission ordered Huntway to cease and desist from committing or causing any violation, or future violation, of the reporting, books and records and internal controls provisions of the federal securities laws.

The complaint against Hansen seeks a permanent injunction enjoining Hansen from violations of Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Rules 10b-5 and 13b2-1 thereunder, and a civil penalty pursuant to Section 21(d)(3) of the Exchange Act. [SEC v. Douglas C. Hansen, Civil Action No. 94-6548 HLH, SHX] (LR-14268; AAE Rel. 610)

INVESTMENT COMPANY ACT RELEASES

TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, ET AL.

A notice has been issued giving interested persons until October 24 to request a hearing on an application filed by Teachers Insurance and Annuity Association of America, TIAA Separate Account VA-1 (Separate Account), and Teachers Personal Investors Services, Inc. for an order pursuant to Section 6(c) of the Investment Company Act. The order would grant exemptions from the provisions of Sections 12(b), 26(a)(2)(C) and 27(c)(2) of the Act, and Rule 12b-1 thereunder, to the extent necessary to permit the deduction from the assets of the Separate Account of a mortality and expense risk charge under certain variable annuity contracts. (Rel. IC-20592 - September 28)

SELF-REGULATORY ORGANIZATIONS

DELISTING GRANTED

An order has been issued granting the application of F.A. Tucker Group, Inc. to strike from listing and registration its Common Stock, \$0.01 Par Value, on the American Stock Exchange. (Rel. 34-34731)

UNLISTED TRADING PRIVILEGES SOUGHT

Notices have been issued giving interested persons until October 19 to comment on the applications of three exchanges for unlisted trading privileges in issues which are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system. The exchanges and number of issues are: Philadelphia Stock Exchange - 3 issues (Rel. 34-34732); Chicago Stock Exchange - 3 issues (Rel. 34-34733); and Cincinnati Stock Exchange - 24 issues (Rel. 34-34734).

PROPOSED RULE CHANGES

The American Stock Exchange filed a proposed rule change (SR-Amex-94-39) relating to the listing and trading of Indexed Term Notes based on a portfolio of banking industry securities. Publication of the notice is expected in the Federal Register during the week of October 3. (Rel. 34-34723)

The National Securities Clearing Corporation filed a proposed rule change (SR-NSCC-94-16) to modify NSCC's rules and procedures relating to comparison procedures for corporate bond and unit investment trust transactions and modifies the fee schedule corrections fees. Publication of the proposed rule change is expected in the Federal Register during the week of October 3. (Rel. 34-34729)

The National Association of Securities Dealers filed a proposed rule change (SR-NASD-94-48) relating to the amendment of certain current terms and the adoption of new terms that apply to the NASDAQ System. Where applicable, the proposal would result in the insertion of the new and amended terms throughout the NASD Manual. (Rel. 34-34743)

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 HUBBELL INC, 584 DERBY MILFORD RD, ORANGE, CT 06477 (203) 799-4100 - 1,200,000 (\$66,675,000) COMMON STOCK. (FILE 33-55589 - SEP. 23) (BR. 3)

S-3 CARNIVAL CRUISE LINES INC, 3655 N W 87TH AVE, PO BOX 1347, MIAMI, FL 33178 (305) 599-2600 - 3,400,000 (\$148,750,000) COMMON STOCK. (FILE 33-55591 - SEP. 23) (BR. 4)

REGISTRATIONS CONT.

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- S-3 COMMONWEALTH ENERGY SYSTEM, ONE MAIN ST, CAMBRIDGE, MA 02142
(617) 225-4000 - 1,000,000 (\$37,940,000)
COMMON SHARES OF BENEFICIAL INTEREST. (FILE 33-55593 - SEP. 23) (BR. 7)
- S-8 GENERAL INSTRUMENT CORP /DE/, NEW JERSEY CORPORATE OFFICE,
ARBOR CIRCLE SOUTH- 8 CAMPUS DR., PARSIPPANY, NJ 07054 (212) 207-6200 -
1,356,336 (\$3,729,924) COMMON STOCK. (FILE 33-55595 - SEP. 23) (BR. 7)
- S-6 FIRST TRUST COMBINED SERIES 231, C/O NIKE SECURITIES L P,
1001 WARRENVILLE ROAD, LISLE, IL 60532 (708) 241-4141 - INDEFINITE SHARES.
(FILE 33-55597 - SEP. 23) (NEW ISSUE)
- S-6 FIRST TRUST COMBINED SERIES 232, C/O NIKE SECURITIES L P,
1001 WARRENVILLE ROAD, LISLE, IL 60532 (708) 241-4141 - INDEFINITE SHARES.
(FILE 33-55599 - SEP. 23) (NEW ISSUE)
- S-6 FIRST TRUST COMBINED SERIES 233, C/O NIKE SECURITIES L P,
1001 WARRENVILLE ROAD, LISLE, IL 60532 (708) 241-4141 - INDEFINITE SHARES.
(FILE 33-55601 - SEP. 23) (NEW ISSUE)
- S-6 FIRST TRUST COMBINED SERIES 234, C/O NIKE SECURITIES L P,
1001 WARRENVILLE ROAD, LISLE, IL 60532 (708) 241-4141 - INDEFINITE SHARES.
(FILE 33-55603 - SEP. 23) (NEW ISSUE)
- S-6 FIRST TRUST COMBINED SERIES 235, C/O NIKE SECURITIES L P,
1001 WARRENVILLE ROAD, LISLE, IL 60532 (708) 241-4141 - INDEFINITE SHARES.
(FILE 33-55605 - SEP. 23) (NEW ISSUE)
- S-3 SNAP ON INC, 2801 80TH ST, P O BOX 1410, KENOSHA, WI 53141
(414) 656-5200 (FILE 33-55607 - SEP. 23) (BR. 10)
- S-3 REXENE CORP, 5005 LBJ FRWY, OXY TOWER, 5TH FLOOR, DALLAS, TX 75244
(214) 450-9000 - 175,000,000 (\$175,000,000) STRAIGHT BONDS. (FILE
33-55609 - SEP. 23) (BR. 2)
- S-8 CHASE MANHATTAN CORP, 1 CHASE MANHATTAN PLZ, NEW YORK, NY 10081
(212) 552-2222 - 8,000,000 (\$280,500,000) COMMON STOCK. (FILE 33-55611 -
SEP. 23) (BR. 1)
- S-8 MILLIPORE CORP, 80 ASHBY RD, BEDFORD, MA 01730 (617) 275-9200 -
1,000,000 (\$34,875,000) COMMON STOCK. (FILE 33-55613 - SEP. 23) (BR. 8)
- S-8 STATE STREET BOSTON CORP, 225 FRANKLIN ST, BOSTON, MA 02110
(617) 786-3000 - 100,000 (\$3,775,000) COMMON STOCK. (FILE 33-55615 -
SEP. 23) (BR. 2)
- S-8 FULL HOUSE RESORTS INC, DEADWOOD GULCH RESORT HWY 85S, PO BOX 643,
DEADWOOD, SD 57732 (605) 578-1294 - 50,000 (\$150,000) COMMON STOCK. (FILE
33-84226 - SEP. 21) (BR. 11)
- S-3 COLORADO MEDTECH INC, 6175 LONGBOW DR, BOULDER, CO 80301 (303) 530-2660
- 375,000 (\$703,125) COMMON STOCK. (FILE 33-84228 - SEP. 22) (BR. 8)

REGISTRATIONS CONT.

- S-8 STANDARD BRANDS PAINT CO, 4300 W 190TH ST, TORRANCE, CA 90504
(310) 214-2411 - 1,500,000 (\$1,968,750) COMMON STOCK. (FILE 33-84230 -
SEP. 22) (BR. 10)
- S-3 RENTECH INC /CO/, 1624 MARKET ST STE 300A, DENVER, CO 80202
(303) 571-4158 - 1,032,000 (\$2,383,920) COMMON STOCK. (FILE 33-84232 -
SEP. 22) (BR. 5)
- S-1 WESTERN TRANSMEDIA CO INC, 475 SANSOME ST, C/O JOHN DE ELORZA,
SAN FRANCISCO, CA 94111 (415) 397-3001 - 800,000 (\$2,400,000) COMMON STOCK.
(FILE 33-84234 - SEP. 22) (BR. 6)
- S-8 CASINO DATA SYSTEMS, 3265 W TOMPKINS AVE, LAS VEGAS, NV 89103
(702) 891-8925 - 150,000 (\$3,628,125) COMMON STOCK. (FILE 33-84236 -
SEP. 22) (BR. 9)
- S-3 LIFETIME HOAN CORP, 820 THIRD AVE, BROOKLYN, NY 11232 (718) 499-9500 -
272,250 (\$3,403,125) COMMON STOCK. (FILE 33-84238 - SEP. 22) (BR. 9)
- S-2 COLONIAL DATA TECHNOLOGIES CORP, 80 PICKETT DISTRICT RD, NEW MILFORD, CT
06776 (203) 355-3178 - 3,680,000 (\$16,560,000) COMMON STOCK. (FILE
33-84274 - SEP. 21) (BR. 7)
- S-8 BROTHERS GOURMET COFFEES INC, 2255 GLADES RD STE 100 E, BOCA RATON, FL
33431 (407) 995-2600 - 645,000 (\$9,513,750) COMMON STOCK. (FILE 33-84276 -
SEP. 21) (BR. 3)
- S-8 BROTHERS GOURMET COFFEES INC, 2255 GLADES RD STE 100 E, BOCA RATON, FL
33431 (407) 995-2600 - 114,844 (\$1,579,105) COMMON STOCK. (FILE 33-84278 -
SEP. 21) (BR. 3)
- S-8 BROTHERS GOURMET COFFEES INC, 2255 GLADES RD STE 100 E, BOCA RATON, FL
33431 (407) 995-2600 - 150,000 (\$2,593,500) COMMON STOCK. (FILE 33-84280 -
SEP. 21) (BR. 3)
- S-8 COMSTOCK RESOURCES INC, 5005 LBJ FRWY STE 1000, DALLAS, TX 75244
(214) 701-2000 - 135,000 (\$438,750) COMMON STOCK. (FILE 33-84282 -
SEP. 22) (BR. 4)
- S-8 THERATX INC /CA/, 400 NORTHRIDGE RD, STE 400, ATLANTA, GA 30350
(404) 518-9449 - 850,425 (\$13,683,338.25) COMMON STOCK. (FILE 33-84284 -
SEP. 22) (BR. 6)
- S-8 BROTHERS GOURMET COFFEES INC, 2255 GLADES RD STE 100 E, BOCA RATON, FL
33431 (407) 995-2600 - 1,000,000 (\$13,472,904) COMMON STOCK. (FILE
33-84286 - SEP. 21) (BR. 3)
- S-8 BROTHERS GOURMET COFFEES INC, 2255 GLADES RD STE 100 E, BOCA RATON, FL
33431 (407) 995-2600 - 365,250 (\$484,687) COMMON STOCK. (FILE 33-84288 -
SEP. 21) (BR. 3)
- N-2 UST PRIVATE EQUITY INVESTORS FUND INC, 114 WEST 47TH ST, NEW YORK, NY
10036 (212) 852-1000 - 50,000 (\$50,000,000) COMMON STOCK. (FILE 33-84290 -
SEP. 22) (BR. 17 - NEW ISSUE)
- S-8 STAR CASINOS INTERNATIONAL INC, 5210 E WILLIAMS CIRCLE STE 730, TUCSON,
AZ 85711 (602) 745-0403 - 310,000 (\$616,300) COMMON STOCK. (FILE 33-84292
- SEP. 22) (BR. 12)

REGISTRATIONS CONT.

- S-8 ORBITAL SCIENCES CORP /DE/, 21700 ATLANTIC BOULEVARD, DULLES, VA 20166
(703) 406-5000 - 700,000 (\$12,512,500) COMMON STOCK. (FILE 33-84296 -
SEP. 22) (BR. 12)
- S-1 AER ENERGY RESOURCES INC /GA, 1500 WILSON WAY, SMYRNA, GA 30082
(404) 433-2127 - 2,875,000 (\$20,728,750) COMMON STOCK. (FILE 33-84300 -
SEP. 23) (BR. 3)
- S-1 AMERICAN SKANDIA LIFE ASSURANCE CORP/CT, ONE CORPORATE DR, SHELTON, CT
06484 (203) 926-1888 - \$50,000,000 VARIABLE ANNUITY ISSUES. (FILE
33-84306 - SEP. 23) (BR. 20)
- SB-2 COLUMBIA BANCORP, 10480 LITTLE PATUXENT PKWY, PARK VIEW BUILDING,
COLUMBIA, MD 21044 (301) 730-5000 - 805,000 (\$13,685,000) COMMON STOCK.
(FILE 33-84310 - SEP. 23) (BR. 2)
- F-3 PHILIPPINE LONG DISTANCE TELEPHONE CO, RAMON CONJUANGCO BLDG,
MAKATI AVE, MAKATI METRO MANILA PHILIPPINE, R6 (000) 000-0000 - 10,000,000
(\$500,000,000) PREFERRED STOCK. (FILE 33-84314 - SEP. 23) (BR. 7)
- S-8 FIRST MERCHANTS ACCEPTANCE CORP, 570 LAKE COOK RD, STE 126, DEERFIELD,
IL 60015 (708) 948-9300 - 100,000 (\$1,600,000) COMMON STOCK. (FILE
33-84316 - SEP. 23) (BR. 11)