

sec news digest

Issue 94-230

December 5, 1994

ENFORCEMENT PROCEEDINGS

MARVIN BASSON IS PERMANENTLY ENJOINED BY CONSENT

The Commission has asked United States District Judge Whitman Knapp to enter a final judgment of permanent injunction against Marvin E. Basson (Basson), the outside auditor of Towers Financial Corporation (Towers). Without admitting or denying the allegations in the complaint, Basson has consented to the entry of the order, which permanently enjoins him from violating Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The issue of economic remedy (disgorgement, pre-judgment interest thereon and penalties) remains open for judicial determination.

Basson, a solo practitioner based in Upper Brookville, New York, repeatedly certified the accuracy of false financial statements that were distributed to purchasers of promissory notes issued by Towers. The Commission charged that Basson committed fraud in connection with his audits and audit reports on Towers' financial statements for its fiscal years 1988 through 1991. Towers, formerly a large collection agency and factoring firm, was sued by the Commission on February 8, 1993 (see Litigation Release No. 13514, dated February 8, 1993, and Litigation Release 13550, dated March 4, 1993), and has since filed for protection from creditors under Chapter 11. A felony information was filed against Basson on September 22, 1994, in connection with his Towers audits. [SEC v. Marvin E. Basson, 94 Civ. 6866, WK, SDNY] (LR-14340; AAE Rel. 630)

MARK HAMEL CHARGED IN FIFTEEN-COUNT INFORMATION

On November 28, the United States Attorney for the District of Massachusetts filed a criminal information against Mark J. Hamel (Hamel), charging him with fifteen counts of conspiracy and securities fraud arising out of Hamel's sales of the stock of Fairmont Resources Inc. (Fairmont) to his retail brokerage customers.

On August 31, 1994, the Commission filed an action in the U.S. District Court for the District of Massachusetts against Hamel and eight other defendants for violations of Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 thereunder, and Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, seeking a permanent injunction, disgorgement, prejudgment interest and civil monetary penalties. The complaint alleges that certain of the defendants acquired a controlling interest in Fairmont and that they paid kickbacks to Hamel and other U.S. brokers to induce them to recommend and sell Fairmont stock to their retail brokerage customers. According to the complaint, Hamel and the other brokers failed to disclose the kickback scheme to their customers who purchased Fairmont. The complaint further alleges that the price of and market for Fairmont stock were artificially enhanced by this kickback scheme. For more information see Litigation Release No. 14213. [SEC v. Robert L. Shull, et al., Civ. Action No. 94-11759-REK, D. Mass.] (LR-14342)

INVESTMENT COMPANY ACT RELEASES

THE TRAVELERS LIFE AND ANNUITY COMPANY, ET AL.

An order has been issued under Section 6(c) of the Investment Company Act exempting The Travelers Life and Annuity Company (Travelers), The Travelers Fund VA For Variable Annuities (Fund VA) and certain Other Separate Accounts (Other Separate Accounts) established by Travelers in the future, and Travelers Equities Sales, Inc. (collectively, Applicants) from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act. Applicants have been granted exemptive relief to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of Fund VA in connection with the offering of certain individual and group flexible premium deferred variable annuity contracts and certificates (Current Contracts), and from the assets of Fund VA and Other Separate Accounts in connection with the offering of other individual or group flexible premium deferred variable annuity contracts and certificates that are substantially identical in all material respects to the Current Contracts. (Rel. IC-20735 - November 28)

AUSA LIFE INSURANCE COMPANY, ET AL.

A notice has been issued giving interested persons until December 27 to request a hearing on an application filed by AUSA Life Insurance Company, Inc., AUSA Endeavor Variable Annuity Account (Variable Account), and Certain Principal Underwriters, including AEGON USA Securities, Inc. (collectively, Applicants). Applicants seek an order

under Section 6(c) of the Investment Company Act exempting them from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Variable Account in connection with the issuance and sale of certain flexible premium variable annuity contracts. (Rel. IC-20738 - November 28)

THE EVERGREEN FUND, ET AL.

A notice has been issued giving interested persons until December 23 to request a hearing on an application filed by The Evergreen Fund, et al. for an order under Section 6(c) of the Investment Company Act that would exempt applicants from Sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and Rule 22c-1 thereunder. The order would permit certain investment companies to issue multiple classes of shares representing interests in the same portfolio of securities and assess, and under certain circumstances waive, a contingent deferred sales charge on certain redemptions of shares. (Rel. IC-20750 - December 1)

HOLDING COMPANY ACT RELEASES

ENERGY INITIATIVES, INC., ET AL.

A supplemental order has been issued on a proposal by Energy Initiatives, Inc. (EII), a nonutility subsidiary of General Public Utilities Corporation (GPU), and GPU, a registered holding company. EII and GPU now request the authority to enter into a loan agreement and letter of credit facility, allowing borrowing by EII in an amount not to exceed \$30 million. (Rel. 35-26179)

SELF-REGULATORY ORGANIZATIONS

DELISTING GRANTED

An order has been issued granting the application of International Testing Services, Inc. to strike from listing and registration its Colon Stock, \$.01 Par Value, on the American Stock Exchange. (Rel. 34-35042)

TEMPORARY APPROVAL OF PROPOSED RULE CHANGES

The Commission temporarily approved through May 1, 1995, proposed rule changes filed by The Depository Trust Company (SR-DTC-94-08 and SR-DTC-94-09) seeking to establish procedures to recall certain securities deliveries that have created short positions. (Rel. 34-35034)

PROPOSED RULE CHANGE

The Chicago Board Options Exchange filed with the Commission a proposed rule change (SR-CBOE-94-39) which, among other things, amends CBOE Rule 15.9, "Regulatory Cooperation," to delineate the obligation of CBOE members and persons associated with CBOE members to furnish information in connection with inquiries arising from regulator agreements that the CBOE has entered into with other regulatory and market institutions even in cases where the CBOE has not otherwise initiated an investigation. Publication of the notice is expected in the Federal Register during the week of December 5. (Rel. 34-35035)

TEMPORARY APPROVAL OF PROPOSED RULE CHANGE

The Commission temporarily approved a proposed rule change filed by Delta Government Options Corp. (SR-DGOC-94-03) establishing a pilot program relating to the investment of federal funds deposited by participants as margin collateral. Publication of the approval order is expected in the Federal Register during the week of December 5. (Rel. 34-35037)

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-3 SHANNUT NATIONAL CORP, 777 MAIN ST, HARTFORD, CT 06115 (203) 728-2000 -
1,329,115 (\$29,386,732.65) COMMON STOCK. (FILE 33-56621 - NOV. 28)
(BR. 1)

S-8 CINTAS CORP, 6800 CINTAS BLVD, P O BOX 625737, CINCINNATI, OH 45262
(513) 459-1200 - 300,000 (\$10,425,000) COMMON STOCK. (FILE 33-56623 -
NOV. 28) (BR. 7)