

# SEC NEWS DIGEST

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## ENFORCEMENT PROCEEDINGS

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### **CEASE AND DESIST PROCEEDING INSTITUTED AGAINST MARKETING DIRECT CONCEPTS, INC. AND MICHAEL CALDERONE FOR FAILING TO DISCLOSE COMPENSATION RECEIVED FOR SECURITIES ADVERTISEMENTS**

On February 14, the Commission instituted and simultaneously settled administrative proceedings against Marketing Direct Concepts, Inc (MDC), and its president and sole shareholder Michael A. Calderone (Calderone), relating to MDC's failure to disclose the compensation it received and contracted to receive for publishing various securities advertisements. According to the Commission's Order, in 1996 and 1997, MDC was retained to perform certain promotional services by Texas American Group, Inc (TAG), Diversifax, Inc., Chadmoore Wireless Group, Inc , and Total World Telecommunications, Inc. An example of these services is an "advertorial" that appeared in in-flight magazines for the major U.S. airlines, which touted TAG, and described its stock as "extremely undervalued," and contained a "buy recommendation." While MDC contracted with these companies to receive compensation for its promotional services, the disclosures accompanying the in-flight magazine advertisements ultimately produced by MDC failed to disclose the specific fact of and the amount of compensation received for their preparation and publication. As a result, MDC and Calderone violated Section 17(b) of the Securities Act of 1933 (Securities Act)

Without admitting or denying the Commission's findings, MDC and Calderone consented to the entry of the Commission's order which orders them to cease and desist from committing or causing any violation and any future violation of Section 17(b) of the Securities Act. (Rel. 33-7952, File No. 3-10419)

### **COMMISSION INSTITUTES AND SETTLES PROCEEDING AGAINST HOWARD BRENNER FOR FAILURE TO SUPERVISE**

On February 14, the Commission instituted and simultaneously settled a public administrative proceeding against Howard M. Brenner (Brenner), former CEO and president of Brenner Securities Corp. (BSC), a now defunct broker-dealer that was located in New York, New York. The Commission found that Brenner failed reasonably to supervise his chief operations officers who approved improper soft dollar

expenses submitted to BSC by Alan Brian Bond (Bond), president of Bond, Procope Capital Management, Inc., a former investment adviser. On December 16, 1999, the Commission filed a complaint in federal court in the Southern District of New York charging Bond with antifraud violations for receiving over \$6.9 million in commission kickbacks. The Commission found that Brenner failed to develop and implement procedures reasonably designed to prevent and detect his operations officers from aiding and abetting Bond's fraudulent scheme by approving the payment of improper soft dollar expenses. Brenner, without admitting or denying the Commission's findings, consented to an order that suspended him from association in a supervisory capacity with any broker or dealer for a period of six months and ordered him to pay a \$15,000 civil money penalty. (Rel. 34-43960; File No. 3-10421)

### **COMMISSION INSTITUTES AND SETTLES PROCEEDING AGAINST GEORGE LINTZ FOR FAILURE TO SUPERVISE**

On February 14, the Commission instituted and simultaneously settled a public administrative proceeding against George M. Lintz (Lintz), former CEO and president of Lintz Glover White & Co. (LGW), a now defunct broker-dealer that was located in Sherman Oaks, California. The Commission found that Lintz failed reasonably to supervise Robert I. Spruill (Spruill), who was a registered representative with LGW from July 1996 to January 1998. The Commission found that Spruill aided and abetted a kickback scheme by Alan Brian Bond (Bond), president of Bond, Procope Capital Management, Inc., a former investment adviser. On December 16, 1999, the Commission filed a complaint in federal court in the Southern District of New York charging Bond with antifraud violations for receiving over \$6.9 million in commission kickbacks and charging Spruill with aiding and abetting some of Bond's violations. The Commission found that Lintz failed to respond to red flags or suggestions of irregularity raised by Spruill's relationship with Bond. Lintz, without admitting or denying the Commission's findings, consented to an order that barred him from association in a supervisory capacity with any broker or dealer and ordered him to pay a \$30,000 civil money penalty. (Rel. 34-43961; File No. 3-10422)

### **MICHAEL FORD, CPA REINSTATED TO PRACTICE AS AN ACCOUNTANT RESPONSIBLE FOR THE PREPARATION OR REVIEW OF FINANCIAL STATEMENTS REQUIRED TO BE FILED WITH THE COMMISSION**

Pursuant to Rule 102(e)(5) of the Commission's Rules of Practice, Michael R. Ford, CPA has applied for and has been granted reinstatement of his privilege to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission. Mr. Ford, who was suspended from Commission practice on June 17, 1991, pursuant to a settled proceeding, has represented that he has complied and will continue to comply with the terms of the order that suspended him from appearing or practicing before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission. Mr. Ford's reinstatement is effective immediately. (Rel. 34-43962; AAE Rel. 1371; File No. 3-7497)

## **COMMISSION BARS MARC GEMAN**

On February 14, the Commission found that Marc N. Geman of Englewood, Colorado, the former chairman and chief executive officer of Portfolio Management Consultants, Inc. (PMC), a registered broker-dealer and investment adviser, violated the antifraud provisions of the securities laws. The Commission barred Geman from association with any broker, dealer, investment adviser, member of a national securities exchange and member of a registered securities association, with a right to reapply after three years, ordered him permanently to cease and desist from committing or causing any violation and committing or causing any future violation of the provisions he violated; and ordered him to pay a civil money penalty of \$200,000. Commissioner Unger dissented as to the sanctions

The case concerned the trading practices and related disclosure of PMC, the sponsor of a retail "wrap fee" program, between 1992 and 1994. During this period, the firm selectively executed as principal certain of its wrap fee program customers' market orders at the so-called "national best bid or offer" (NBBO). It then contemporaneously covered its resulting long or short position by entering limit orders at better prices, thereby generating profits to the firm of over \$460,000. The Commission found that PMC intentionally misled its customers regarding this trading practice, in violation of antifraud provisions, and that Geman aided and abetted and caused these violations. In setting sanctions, the Commission observed that by furthering PMC's best interests at the expense of its customers, the firm, at Geman's direction, abused its customers' trust.

While the Commission stated that routine execution of customer orders at the NBBO when better prices are reasonably available can be a violation of a firm's duty to obtain "best execution," the record did not establish that PMC had breached that duty here. The Commission, while declining to find a best execution violation, nevertheless was deeply troubled by PMC's trading practices, particularly its failure to utilize on behalf of its customers a price improvement service offered by one of the firms with which it dealt. The Commission noted, in this connection, that broker-dealers have a duty periodically to examine their practices in light of market and technology changes and to modify those practices if necessary to enable their clients to obtain the best reasonably available prices (Rels. 34-43963; IA-1924, File No. 3-9032)

## **TWO FOREIGN NATIONALS SETTLE INSIDER TRADING ACTION**

Without admitting or denying that they committed any violations, Serge Haddad and Marc Bitan, of Paris, France, consented to the entry of final judgments in SEC v. Certain Unknown Purchasers of Common Stock of Financial Security Assurance Holdings, Ltd., No. 00-Civ-2029 (S.D.N.Y.). The Complaint, filed on March 16, 2000, alleges that certain "unknown purchasers" made of \$1 million in illegal insider trading profits on purchases of over 50,000 shares of FSA through certain foreign banks days prior to the announcement that Dexia, a municipal lending entity in Brussels, would acquire FSA in a friendly merger. Proceeds of the suspicious trading were frozen by the Court. Haddad and Bitan, owners of a Jewelry store in Paris, are two of the "unknown purchasers".

Haddad purchased 8,300 shares after agreeing to pay 30,000 francs for a tip to purchase the stock. Bitan purchased 3,000 shares after Haddad recommended the stock to him.

The final judgments enjoin Haddad and Bitan from violating Section 10(b) of the Securities Exchange Act of 1934 and Exchange Act Rule 10b-5. In addition, Haddad was ordered to disgorge his profits of \$177,433 plus prejudgment interest, and pay a civil penalty of \$50,000. Bitan was ordered to disgorge his profits of \$63,922 plus prejudgment interest. No penalty was imposed on Bitan.

Haddad and Bitan cooperated in the Commission's continuing investigation. The Commission acknowledges the assistance of the Commission des Operations de Bourse (the French securities authority) and of the Israeli Securities Authority. [SEC v. Certain Unknown Purchasers of Common Stock of Financial Security Assurance Holdings, Ltd., No. 00-Civ-2029, USDC, SDNY] (LR-16900)

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## SELF-REGULATORY ORGANIZATIONS

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### PROPOSED RULE CHANGES

The American Stock Exchange filed a proposed rule change (SR-Amex-01-02) to amend Amex Rule 126(g), Commentary .02 regarding agency cross transactions. Publication of the notice in the Federal Register is expected during the week of February 19. (Rel. 34-43950)

The American Stock Exchange filed a proposed rule change (SR-Amex-01-01) to amend Amex Rule 126(g) regarding precedence based on size. Publication of the notice in the Federal Register is expected during the week of February 19. (Rel. 34-43954)

The National Association of Securities Dealers, through its subsidiary, the Nasdaq Stock Market, Inc (Nasdaq), filed a proposed rule change (SR-NASD-01-03) relating to the elimination of the interval delay between executions for initial public offerings and secondary offerings in the Nasdaq National Market Execution System. Publication of the proposal is expected in the Federal Register during the week of February 19. (Rel. 34-43958)

### APPROVAL OF PROPOSED RULE CHANGE

The Commission approved a proposed rule change submitted by the Philadelphia Stock Exchange (SR-Phlx-00-13) relating to timing guidelines for application in disciplinary hearings. Publication of the proposal is expected in the Federal Register during the week of February 19. (Rel. 34-43952)

## IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGE

The Emerging Markets Clearing Corporation filed a proposed rule change (SR-EMCC-00-9), which became effective immediately, to allow EMCC to change its fee schedule. Publication of the proposal is expected in the Federal Register during the week of February 19. (Rel 34-43956)

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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-1 STELMAR SHIPPING LTD, STATUS CENTER 2A AREOS STREET,  
VOULIAGMENI GR 16671 ATHENS GREECE, ATHENS GREECE, J3 00000 (011) 301-  
9670  
- 8,050,000 (\$112,700,000) FOREIGN COMMON STOCK. (FILE 333-13128 -  
FEB. 05) (BR. 5 - NEW ISSUE)
- F-2 CRYSTALLEX INTERNATIONAL CORP, 700 W PENDER ST, STE 902,  
VANCOUVER BRITISH COLUMBIA, A1 (604) 683-0672 - 6,926,306  
(\$6,268,306.93)  
FOREIGN COMMON STOCK. (FILE 333-13134 - FEB. 06) (BR. 4)
- F-6 VODATEL NETWORKS HOLDINGS LTD /ADR/, ONE WALL STREET, NEW YORK, NY  
10286  
(212) 495-1784 - 10,000,000 (\$500,000)  
DEPOSITARY RECEIPTS FOR COMMON STOCK. (FILE 333-13138 - FEB. 06) (BR.  
99  
- NEW ISSUE)
- F-10 QUEBECOR WORLD INC, 612 ST JACQUES ST, MONTREAL QUEBEC CANA, E6  
(514) 954-0101 - 30,000,000 (\$731,400,000) WARRANTS, OPTIONS OR RIGHTS.  
(FILE 333-13142 - FEB. 07) (BR. 5)
- S-8 COMPUGEN LTD, 72 PINCHAS ROSEN ST, 011-972-3-765-8585,  
TEL AVIV 69512 ISRAEL, L3 00000 - 5,765,127 (\$40,903,576.07)  
FOREIGN COMMON STOCK. (FILE 333-13144 - FEB. 07) (BR. 1)

S-1 CANDESCENT TECHNOLOGIES CORP, 6320 SAN IGNACIO ROAD, SAN JOSE, CA  
95119  
(408) 229-6150 - \$150,000,000 COMMON STOCK. (FILE 333-55188 - FEB. 08)  
(BR. 36)

S-1 INSTINET GROUP LLC, 875 THIRD AVENUE, NEW YORK, NY 10022 (212) 310-  
9500  
- \$450,000,000 COMMON STOCK. (FILE 333-55190 - FEB. 08) (BR. 7  
- NEW ISSUE)

S-1 STAR TELECOMMUNICATIONS INC, 223 EAST DE LA GUERRA STREET, STE 202,  
SANTA BARBARA, CA 93101 (805) 899-1962 - 33,089,336 (\$14,993,605.38)  
COMMON STOCK. (FILE 333-55192 - FEB. 08) (BR. 7)

S-3 EMPIRE DISTRICT ELECTRIC CO, 602 JOPLIN ST, JOPLIN, MO 64801  
(417) 625-5100 (FILE 333-55210 - FEB. 08) (BR. 2)

S-8 CHEQUEMATE INTERNATIONAL INC, 330 WASHINGTON BLVD, MARINA DEL REY,  
CA  
90292 (310) 306-6666 - 50,000 (\$25,000) COMMON STOCK. (FILE 333-55212  
-  
FEB. 08) (BR. 9)

S-2 VYREX CORP, 2159 AVENIDA DE LA PLAYA, LA JOLLA, CA 92037 (619) 454-  
4462  
- 1,949,167 (\$974,584) COMMON STOCK. (FILE 333-55214 - FEB. 08) (BR.  
9)

S-8 VICINITY CORP, 1135 A SAN ANTONIO ROAD, 415-237-0300, PALO ALTO, CA  
94303 - 90,513 (\$590,145) COMMON STOCK. (FILE 333-55216 - FEB. 08)  
(BR. 6)

S-3 FIRST ECOM COM INC, 902 HENLEY BLDG, 5 QUEENS ROAD CENTRAL,  
HONG KONG SAR, (011) 852-2801 - 10,303,370 (\$15,455,055) COMMON STOCK.  
(FILE 333-55218 - FEB. 08) (BR. 8)

S-8 MEDAREX INC, 707 STATE ROAD 206, PRINCETON, NJ 08540 (908) 713-6001  
-  
300,000 (\$8,268,000) COMMON STOCK. (FILE 333-55222 - FEB. 08) (BR. 1)

S-8 MEDAREX INC, 707 STATE ROAD 206, PRINCETON, NJ 08540 (908) 713-6001  
-  
500,000 (\$13,780,000) COMMON STOCK. (FILE 333-55224 - FEB. 08) (BR. 1)

N-2 GEN NET LEASE INCOME FUND CORPORATE & GOVERNMENT SERIES,  
ONE OAKLAND TOWNE SQUARE 14TH FLOOR, SOUTHFIELD, MI 48076 (800) 546-  
2630 -  
3,000 (\$15,000,000) COMMON STOCK. (FILE 333-55226 - FEB. 08) (BR. 17)

S-4 NEW UNITEDGLOBALCOM INC, 4643 SOUTH ULSTER STREET SUITE 1300,  
DENVER, CO  
80237 (303) 770-4001 - 82,977,872 (\$1,508,512,820) COMMON STOCK.  
14,363,983 (\$590,307,859) PREFERRED STOCK. (FILE 333-55228 - FEB. 08)  
(BR. 8 - NEW ISSUE)

S-8 SECURITY CAPITAL CORP/DE/, 1111 N LOOP WEST STE 400, HOUSTON, TX  
77008  
(713) 880-7100 - 966,346 (\$5,918,869.25) COMMON STOCK. (FILE 333-55234  
-  
FEB. 08) (BR. 1)

S-11 CRUSADE MANAGEMENT LTD, LEVEL 11, 55 MARKET STREET,  
SIDNEY NSW 2217 AUSTRALIA, - 1,000,000 (\$1,000,000) FLOATING RATE  
NOTES.  
(FILE 333-55236 - FEB. 08) (BR. 38)

S-3 SCHOLASTIC CORP, 555 BROADWAY, NEW YORK, NY 10012 (212) 343-6100  
(FILE  
333-55238 - FEB. 08) (BR. 5)

S-1 PHL VARIABLE INSURANCE CO /CT/,  
C/O PHOENIX HOME LIFE MUTUAL INSURANCE C, ONE AMERICAN ROW, HARTFORD,  
CT  
06116 (860) 403-5788 - \$200,000,000 VARIABLE ANNUITY ISSUES. (FILE  
333-55240 - FEB. 08) (BR. 20)

S-8 GRIC COMMUNICATIONS INC, 1421 MCCARTHY BLVD, MILPITAS, CA 95035  
(408) 955-1920 - 1,725,375 (\$3,744,063.75) COMMON STOCK. (FILE 333-  
55244 -  
FEB. 08) (BR. 8)

S-8 IMANAGE INC, 2121 SOUTH EL CAMINO REAL 4TH FLOOR, SAN MATEO, CA  
94403  
(650) 356-1166 - 3,081,548 (\$12,616,119.83) COMMON STOCK. (FILE 333-  
55246  
- FEB. 08) (BR. 3)

S-4 BOSTONFED BANCORP INC, 17 NEW ENGLAND EXECUTIVE OFFICE PARK,  
BURLINGTON,  
MA 01803 (617) 273-0300 - 22,000,000 (\$22,000,000) COMMON STOCK. (FILE  
333-55250 - FEB. 08) (BR. 7)

S-3 LOWES COMPANIES INC, 1605 CURTIS BRIDGE RD, WILKESBORO, NC 28697  
(336) 658-4000 (FILE 333-55252 - FEB. 08) (BR. 6)

S-4 GALLAGHER ARTHUR J & CO, TWO PIERCE PL, ITASCA, IL 60143 (708) 773-  
3800  
- 5,866,136 (\$158,502,995) COMMON STOCK. (FILE 333-55254 - FEB. 09)  
(BR. 1)

S-8 SIMPLE TECHNOLOGY INC, 3001 DAIMLER ST, SANTA ANA, CA 92705  
(800) 367-7330 - 1,878,632 (\$8,835,394.16) COMMON STOCK. (FILE 333-  
55256 -  
FEB. 09) (BR. 3)