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U.S. SECURITIES AND  
EXCHANGE COMMISSION

October 17, 1986

## ADMINISTRATIVE PROCEEDINGS

### PROCEEDINGS INSTITUTED AGAINST JOHN G. RINALDO

The Commission instituted public administrative proceedings under Section 203(f) of the Investment Advisers Act of 1940 against John G. Rinaldo. Rinaldo founded and subsequently controlled Western State Pension Corporation (WSPC), a registered investment adviser which is presently being liquidated in bankruptcy.

The Order for Proceedings alleges that Rinaldo was convicted of mail fraud under 18 U.S.C. §1341 and that he violated the antifraud provisions of the Advisers Act, the Securities Act of 1933, and the Securities Exchange Act of 1934 in connection with the offer and sale of investment contracts in the form of fractionalized interests in first, second, third, and fourth trust deeds. Specifically, the Order alleges that Rinaldo, among other things, falsely represented to investors that WSPC was an independent investment adviser when, in fact, all funds obtained by WSPC were invested in American Home Mortgage Corporation, a company wholly-owned by Rinaldo; and that Rinaldo concealed from investors the fact that numerous property owners had defaulted on the notes secured by the deeds of trust.

A hearing will be scheduled to determine whether the allegations against Rinaldo are true and, if so, to determine what, if any, remedial action would be appropriate. (Rel. IA-1041)

### JOHN J. BOJO, JR. CITED

The Commission instituted public administrative proceedings against John J. Bojo, Jr., formerly a registered representative with a registered broker-dealer in its Akron, Ohio office.

The Order states that on April 30, Bojo was convicted of securities fraud, mail fraud, and transportation of stolen goods arising out of his conduct as a registered representative. He was placed on probation for five years provided that he make restitution. The information upon which his conviction was based alleged that Bojo engaged in a course of conduct involving misrepresentations to a client that the broker-dealer with whom he was employed was selling bonds and that he had authority to form an investment group to purchase these bonds. In fact, no such bonds were being sold and no such investment group was being formed. The information also alleged that Bojo induced his client to issue checks to him by representing to her that he would invest her funds in the bonds on her behalf. In fact, he misappropriated these funds for his own use.

A hearing will be scheduled to determine what, if any, further remedial actions would be appropriate. (Rel. 34-23659)

### THOMAS R. BRIMBERRY BARRED

The Commission ordered that Thomas R. Brimberry be permanently barred from association with any broker or dealer. Brimberry did not answer the order instituting administrative proceedings on August 29. The Secretary found, based on the order instituting proceedings; that Brimberry was associated with a registered broker-dealer from 1978 to November 1981; on May 25, 1983, was found guilty of obstructing justice in connection with grand jury proceedings; and, in April 1984, was found guilty of making false, material declarations to the federal grand jury and converting Stix & Co., Inc. assets to his personal benefit after the appointment of a SIPC trustee.

A SIPC trustee was appointed to take control of Stix, formerly a St. Louis broker-dealer, in 1981 after the \$16 million looting of Stix was uncovered by federal authorities. (Rel. 34-23682)

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## **CIVIL PROCEEDINGS**

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### **COMPLAINT NAMES MARVIN L. WARNER, OTHERS**

The Atlanta Regional and Miami Branch Offices filed a civil action on September 16 in the U.S. District Court for the Southern District of Florida related to the Commission's prior actions against E.S.M. Government Securities, Inc. and Jose Gomez.

The complaint names ten individuals and one financial institution alleging various violations of the antifraud and reporting provisions arising from the defendants' relationship to and transactions with E.S.M., and seeking injunctions against future violations. The defendants are Marvin L. Warner, sole shareholder of Home State Savings Bank of Cincinnati, Ohio and formerly the chairman, chief executive officer, and a substantial shareholder of American Savings and Loan Association of Florida; Ronnie R. Ewton, George G. Mead, Nicholas B. Wallace, Charles B. Streicher, Thomas F. Saunders, and Timothy R. Murphy, former E.S.M. employees; Burton M. Bongard, David J. Schiebel, and Robert J. Weeder, former Home State officers and directors; and American, a Miami, Florida-based S&L. The alleged fraudulent and illegal conduct concerns the defendants' association, dealings, and transactions with and/or participation in the business and operations of E.S.M. (SEC v. Marvin L. Warner, et al., Civil Action No. 86-6742-Civ-Paine, SDFL, filed September 16, 1986). (LR-11251)

### **COURT ORDERS BROKER-DEALER TO PAY ATTORNEY'S FEES**

The Boston Regional Office announced that on September 17 the U.S. District Court for the District of Connecticut ordered Russell K. Gallagher, Laura K. Gallagher, and Gallagher & Co. (the Gallaghers) to pay to the Commission \$750 representing needless attorney's fees incurred by the Commission in litigation with them. The Court found that the Gallaghers wilfully and in bad faith failed to comply with the Commission's discovery and filed a motion in bad faith and without a factual basis. The Court ordered the Gallaghers to make payment by September 26 which they have done.

The Gallaghers, located in West Palm Beach, Florida, were the underwriter and underwriter's principals in a best efforts offering of the Electronics Warehouse, Inc. In a complaint filed on March 14, the Commission alleged, among other things, that the Gallaghers and others violated the antifraud provisions of the securities laws by making it appear that the minimum portion of Warehouse's "part or none" securities offering was sold such that the offering could close. (SEC v. The Electronics Warehouse, Inc., et al., DCT, 1986, Civil Action No. H-86-282, PCD). (LR-11255)

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## **CRIMINAL PROCEEDINGS**

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### **A. LEONARD VARAH, OTHERS INDICTED**

The U.S. Attorney for the District of Wyoming and the Atlanta Regional Office announced that on September 19 a federal grand jury in Cheyenne, Wyoming returned a 13-count indictment against A. Leonard Varah of New York, New York, Michael W. Strand of Bountiful, Utah, Galen J. Ross of Salt Lake City, Utah, and Rex M. Peterson of Lincoln, Nebraska. The indictment charges them with one count of conspiracy to commit mail fraud (18 U.S.C. Section 371), ten counts of mail fraud and aiding and abetting (18 U.S.C. Sections 1341 and 2) and two counts of securities fraud and aiding and abetting (15 U.S.C. Sections 77q & 77x and 18 U.S.C. Section 2).

The indictment alleges, among other things, that the defendants, individually, through others, and through various corporations, fraudulently induced investors to purchase more than seven million dollars in securities, namely the common stock of Classic Mining Corporation and Living Industries, Inc. as well as limited partnership interests in oil and gas wells, by the use of material misrepresentations and omissions of fact concerning multi-million dollar mining contracts and oil production in numerous press releases and shareholder communications. (U.S. v. A. Leonard Varah, et al., CR 86-0063-J, USDC WY). (LR-11249)

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## INVESTMENT COMPANY ACT RELEASES

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### THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES

A notice has been issued giving interested persons until November 4 to request a hearing on an application filed by The Equitable Life Assurance Society of the United States, Separate Account Nos. 301-304 of Equitable (300 Series), Integrity Life Insurance Company, Separate Account INA of Integrity (SA-INA), National Integrity Life Insurance Company, Separate Account NIA of National Integrity (SA-NIA), and Harmony Investment Trust (the Trust) (collectively, Applicants). The application requests an order: (1) exempting Applicants from the provisions of Section 17(a) of the Investment Company Act; (2) approving certain transactions to permit the combination of the 300 Series into Separate Account No. 301 (SA-301) and to permit the reconstruction of SA-301, a management investment company, into a unit investment trust issuing variable annuity contracts funded by the Trust; and (3) exempting Integrity and SA-INA, and National Integrity and SA-NIA, from the provisions of Sections 26(a)(2) and 27(c)(2) of the Act to permit the deduction of a mortality and expense risk charge by Integrity and National Integrity from their respective separate account. (Rel. IC-15355 - Oct. 10)

### DEAN WITTER REYNOLDS INC.

An order has been issued permitting the Sears Tax-Exempt Investment Trust to sell portfolio securities consisting of municipal bonds through independent broker-dealers to purchasers which may include its sponsor, Dean Witter Reynolds Inc. (Rel. IC-15356 - Oct. 10)

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## LISTING, DELISTING AND UNLISTED TRADING ACTIONS

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### DELISTING GRANTED

An order has been issued granting the application of the American Stock Exchange to strike the Class A common shares of beneficial interest, par value \$.10, and Class B common shares of beneficial interest, par value \$.10, of WINN ENTERPRISES from listing and registration thereon. (Rel. 34-23708)

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## SELF-REGULATORY ORGANIZATIONS

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### NOTICE OF PROPOSED RULE CHANGE

The American Stock Exchange filed a proposed rule change under Rule 19b-4 (SR-Amex-86-24) to adopt a Limited Trading Permit Plan that would effectively increase the number of traders of non-equity options on the Amex floor. Publication of the proposal is expected to be made in the Federal Register during the week of October 20. (Rel. 34-23702)

### IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGE

The Pacific Clearing Corporation filed a proposed rule change which became effective on filing under Section 19(b)(3)(A). The proposed rule change (SR-PCC-86-6) establishes uniform procedures regarding reclaimed draft securities for its various offices around the country. (Rel. 34-23707)

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\* Public Reference (272-7450) - Requests for information on whether or not a document \*  
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\* Freedom of Information Branch (272-7420) - Requests concerning FOIA, Privacy Act, \*  
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