SEC NEWS DIGEST

Issue 97-52 March 18, 1997

COMMISSION ANNOUNCEMENTS

CHAIRMAN LEVITT TO TESTIFY

The Chairman will testify before the Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies of the Senate Committee on Appropriations concerning appropriations for fiscal year 1998 at the U.S. Capitol Building, Room S-146, at 2:00 p.m. on Thursday, March 19, 1997.

RULES AND RELATED MATTERS

EXTENSION OF COMMENT PERIOD FOR PROPOSED AMENDMENTS TO "SMALL BUSINESS" DEFINITIONS

The Commission is extending from February 27 to April 30, 1997, the comment period for proposed amendments to certain of the Commission's definitions of "small business" or "small organization" for purposes of the Regulatory Flexibility Act. The proposed amendments were published in the Federal Register on January 28, 1997 (62 FR 4106). (Rel. Nos. 33-7404; 34-38401; IC-22566 and IA-1619; File No. S7-4-97)

ENFORCEMENT PROCEEDINGS

VIGIL ASSET MANAGEMENT GROUP, INC. AND THOMAS BATTERMAN SANCTIONED

The Commission announced the entry of an Order making findings and imposing remedial sanctions pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (Order) against Vigil Asset Management Group, Inc. (Vigil), a registered investment adviser located in Wausau, Wisconsin, and its President, Thomas Batterman (Batterman). Vigil and Batterman consented to the entry of the Order without admitting or denying the Commission's findings. The Order finds that Vigil and Batterman willfully violated Section 207 of the Advisers Act and that Vigil willfully violated, and Batterman caused and willfully aided and abetted violations of,

Sections 204, 206(1), 206(2), and 206(4) of the Advisers Act and Rules 204-1(b)(2), 204-2(a)(3), 204-2(a)(12), 206(4)-2(a)(2)(i), 206(4)-2(a)(2)(ii), 206(4)-2(a)(3), 206(4)-2(a)(4), and 206(4)-2(a)(5) promulgated thereunder.

Specifically, the Order finds that from May 1993 through November 1994, Vigil maintained custody and possession of client assets. Despite maintaining such custody and possession, however, Vigil, through Batterman, failed to enact the requisite procedural safeguards pursuant to Section 206(4) of the Advisers Act and Rules 206(4)-2. Moreover, Vigil and Batterman violated Section 204 of the Advisers Act and Rule 204-1(b)(2) thereunder by failing to file audited balance sheets with the Commission required for investment advisers who maintain custody and possession of client assets. During that same period, Batterman, on behalf of Vigil, filed with the Commission a Form ADV and a Form ADV-S which, in violation of Section 207 of the Advisers Act, incorrectly represented that Vigil did not have custody and possession of client assets. In addition, in violation of Sections 206(1) and 206(2) of the Advisers Act, Vigil, through Batterman, made misrepresentations and omissions of material facts in Vigil's brochure to clients regarding the commissions charged for executing securities transactions. Finally, during this period, Vigil violated Section 204 of the Advisers Act and Rules 204-2(a)(3) and 204-2(a)(12) thereunder by failing to adequately make and keep certain books and records.

Based on the above, the Commission censured both Vigil and Batterman; required Vigil and Batterman to cease and desist from committing or causing any violation, and committing or causing any future violation of the above Advisers Act provisions; imposed a $15,000 civil penalty against Vigil; imposed a $10,000 civil penalty against Batterman; and required certain remedial undertakings. As part of their undertakings, Vigil and Batterman must review, adopt, implement and maintain new written policies and procedures and/or revisions to existing policies and procedures designed to reasonably prevent and detect violations of the federal securities laws, provide training to employees designed reasonably to effect understanding of, and compliance with, the implemented policies and procedures and to provide to the Commission's staff, within 90 days from the issuance of the Order, an affidavit detailing the policies and procedures adopted, confirming that such policies and procedures have been implemented and that the relevant staff have been trained with respect thereto. (IA-1621)

COMMISSION FILES COMPLAINT AGAINST STEVEN KOINIS SEEKING INJUNCTION AND PENALTY

On March 14, the Commission filed a complaint in the United States District Court for the District of Columbia against Steven W. Koinis, formerly the President and Chief Operating Officer of Octagon, Inc. and a member of the company's board of directors. In its complaint, the Commission alleges that Koinis violated Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Exchange Act Rules 10b-5 and 13b2-2 by making materially false and

misleading public disclosures on behalf of Octagon. More specifically, the complaint alleges that Koinis failed to make timely and accurate disclosures about material related-party transactions between Octagon and PRK Group, Inc., a company of which Koinis's wife was a one-third owner, and that he made materially false and misleading disclosures about a major contract between Octagon and James Mackenzie International Trading PLC. [SEC v. Steven W. Koinis, Case No. 1:97CV00521, GK, D.D.C.] (LR-15296)

COMPLAINT FILED AGAINST TRUSTCAP FINANCIAL GROUP, INC., MATRIX INVESTMENT ADVISORS, INC., SECURITY FINANCIAL, INC., AND MATRIX CAPITAL MANAGEMENT, INC.

The Commission announced the filing of a complaint in federal district court in Washington, D.C. against two registered investment advisers, Matrix Investment Advisors, Inc. (Matrix) and Security Financial, Inc. (SFI), their holding company, Trustcap Financial Group, Inc. (Trustcap), and its recordkeeping subsidiary, Matrix Capital Management, Inc. (MCM), alleging violations of the books and records provisions of the Investment Advisers Act of 1940, and seeking permanent injunctions against each of the defendants from future violations of the books and records provisions. Simultaneously with the filing of the complaint, the Commission and all defendants asked the court to enter an order appointing a special agent to review the records, determine the value of client accounts, monitor business expenditures of the defendants, monitor and approve the process by which the remaining client funds are to be converted to money market instruments (as appropriate) pending distribution to clients, and establish and implement a plan to return available funds to Matrix's and SFI's clients. Following a hearing, the Honorable Thomas A. Flannery, Senior United States District Judge, issued an order appointing Charles G. Myers as special agent.

The complaint alleges as follows: Matrix and SFI, aided by Trustcap, managed the accounts of approximately 250 clients, totalling over $15 million. MCM was responsible for providing investment advisory accounting services to the other defendants. In October 1996, the president of Trustcap was hospitalized and became unable to manage client accounts. Because of inaccuracies in the books and uncertainties regarding the allocation of trades to individual clients, the defendants could not correctly determine the value of client accounts. The Commission's investigation of other potential violations of the federal securities laws, by the defendants and other persons and entities, in connection with this matter is continuing. [SEC v. Trustcap Financial Group, Inc., Matrix Investment Advisors, Inc., Security Financial, Inc., and Matrix Capital Management, Inc., Civil Action No. 1:97CV00513, D.D.C.] (LR-15297)

PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF ORDERED AGAINST TERRY PLACK

The Commission announced the entry of a final judgment against Terry Plack on February 25, 1997. The Commission's complaint, which was

filed on May 3, 1995, alleged that Plack, in conjunction with other defendants, procured investors for Kenton Capital, Ltd.'s fraudulent "bank instrument" trading programs.

Without admitting or denying the Commission's allegations, Plack consented to the entry of a final judgment permanently enjoining him from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Section 203(a) of the Investment Advisers Act of 1940, and ordering him to disgorge, jointly and severally with all other defendants, $3,300, plus prejudgment interest of $260.30, for a total disgorgement sum of $3,560.30, within six months. The judgment further orders Plack to pay a civil penalty of $3,300. Based upon Plack's demonstrated financial condition, the civil penalty will be waived if full disgorgement is paid within six months.

The Court previously issued a temporary restraining order and an asset freeze on May 3, 1995, and a preliminary injunction on June 23, 1995. On July 18, 1996, the Court entered final judgments against Joseph Silvestri, Charles Smith and Atlantic Pacific Guarantee Corporation. On October 17, 1996, the Court entered a final judgment against Harry Watson, Tracy French and Deltaur Partners. For further information, see LR-14490 (May 4, 1995); LR-14544 (June 26, 1995); LR-14999 (August 5, 1996); and LR-15135 (October 24, 1996). [SEC v. Kenton Capital, Ltd., et al., Civ. Act. No. 95-0829, GK, D.D.C.] (LR-15299)

INVESTMENT COMPANY ACT RELEASES

ACM MANAGED MULTI-MARKET TRUST, INC.

A notice has been issued giving interested persons until April 8 to request a hearing on an application filed by ACM Managed Multi-Market Trust, Inc. for an order under Section 8(f) of the Investment Company Act declaring that applicant has ceased to be an investment company. (Rel. IC-22564 - March 14)

THE GLOBAL PRIVATIZATION FUND, INC.

A notice has been issued giving interested persons until April 8 to request a hearing on an application filed by The Global Privatization Fund, Inc. for an order under Section 8(f) of the Investment Company Act declaring that applicant has ceased to be an investment company. (Rel. IC-22565 - March 14)

CITICORP LIFE INSURANCE COMPANY, ET AL.

A notice has been issued giving interested persons until April 8 to request a hearing on an application filed by Citicorp Life Insurance Company, First Citicorp Life Insurance Company, Citicorp Life

Variable Annuity Separate Account and First Citicorp Life Variable Annuity Separate Account seeking an order pursuant to Section 26(b) of the Investment Company Act to permit the substitution of shares of certain portfolios of the Fidelity Variable Insurance Products Fund and the AIM Variable Insurance Funds, Inc. for shares of the Landmark VIP Funds. (Rel. IC-22567 - March 14)

HOLDING COMPANY ACT RELEASES

SOUTHERN CALIFORNIA WATER COMPANY

A notice has been issued giving interested persons until April 7 to request a hearing on a proposal by Southern California Water Company (SCWC), an electric utility company. SCWC seeks an exemptive order under Section 3(a)(1) of the Act for a holding company (Newco) that will result from a planned reorganization of SCWC's operations. (Rel. 35-26686)

CENTRAL AND SOUTH WEST CORPORATION, ET AL.

An order has been issued authorizing four wholly-owned utility subsidiaries (Subsidiaries) of Central and South West Corporation (CSW), a registered holding company, to solicit proxies to amend the Subsidiaries' respective Articles of Incorporation to eliminate a provision limiting the issuance of debt securities. Jurisdiction has been reserved over CSW's acquisition of shares of preferred stock of the Subsidiaries pursuant to a cash tender offer, the issuance and sale of junior subordinated debentures and tax deductible preferred securities through December 31, 2001, and related transactions, pending completion of the record. (Rel. 35-26687)

SELF-REGULATORY ORGANIZATIONS

IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGES

A proposed rule change filed by the National Association of Securities Dealers (SR-NASD-97-19) relating to small order execution system tier size classifications 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 March 17. (Rel. 34-38402)

A proposed rule change filed by the Pacific Exchange (SR-PSE-97-08) relating to changing the corporate name from Pacific Exchange to Pacific Exchange, Inc. 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 March 17. (Rel. 34-38403)

The Stock Clearing Corporation of Philadelphia filed a proposed rule change (SR-SCCP-97-01) under Section 19(b)(3)(A) of the Exchange Act. The proposed rule change, which became effective upon filing, relates to over-the-counter trade corrections. Publication of the proposal is expected in the Federal Register during the week of March 17. (Rel. 34-38405)

WITHDRAWALS SOUGHT

A notice has been issued giving interested persons until April 4 to comment on the application of Natural Alternatives International, Inc. to withdraw from listing and registration on the American Stock Exchange, Common Stock, $.01 Par Value. (Rel. 34-38407)

A notice has been issued giving interested persons until April 4 to comment on the application of Hungarian Teleconstruct Corp. to withdraw from listing and registration on the Boston Stock Exchange, Common Stock, $.001 Par Value. (Rel. 34-38408)

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 UCAR INTERNATIONAL INC, 39 OLD RIDGEBURY ROAD, J-4, DANBURY, CT 06817 (203) 207-7740 - 7,491,496 ($326,816,513) COMMON STOCK. (FILE 333-23073 - MAR. 11) (BR. 4)

S-4 KLA INSTRUMENTS CORP, 160 RIO ROBLES, SAN JOSE, CA 95134 (408) 434-4200 - 31,946,903 ($1,281,869,483) COMMON STOCK. (FILE 333-23075 - MAR. 11) (BR. 1)

S-1 UNITREND INC, 4730 W BANCROFT STREET, SUITE 15, TOLEDO, OH 43615 (419) 536-2090 - 3,000,000 ($3,000,000) COMMON STOCK. (FILE 333-23077 - MAR. 11) (BR. 3 - NEW ISSUE)

S-3 NBI INC, 1880 INDUSTRIAL CIRCLE, SUITE F, LONGMONT, CO 80501 (303) 684-2700 - 1,500,000 ($1,312,500) COMMON STOCK. (FILE 333-23079 - MAR. 10) (BR. 3)

S-6 NUVEEN TAX FREE UNIT TRUST SERIES 929, 333 W WACKER, CHICAGO, IL 60606 (312) 917-7786 - INDEFINITE SHARES. (FILE 333-23081 - MAR. 11) (NEW ISSUE)

S-8 SCIENTIFIC ATLANTA INC, ONE TECHNOLOGY PKWY S, NORCROSS, GA 30092 (770) 903-5000 - 125,000 ($1,984,375) COMMON STOCK. (FILE 333-23083 - MAR. 11) (BR. 3)

S-3 CYPROS PHARMACEUTICAL CORP, O, 2714 LOKER AVE WEST, CARLSBAD, CA 92008 (619) 929-9500 - 1,328,969 ($7,189,722) COMMON STOCK. (FILE 333-23085 - MAR. 11) (BR. 1)

S-3 EXSORBET INDUSTRIES INC, 4294 LAKELAND SUITE 200, FORT SMITH, MS 39208 (501) 649-8401 - 5,590,410 ($9,433,817) COMMON STOCK. (FILE 333-23087 - MAR. 11) (BR. 4)

S-8 MCI COMMUNICATIONS CORP, 1801 PENNSYLVANIA AVE N W, WASHINGTON, DC 20006 (202) 872-1600 - 14,000,000 ($493,500,000) COMMON STOCK. (FILE 333-23089 - MAR. 11) (BR. 3)

S-8 DREXLER TECHNOLOGY CORP, 1077 INDEPENDENCE AVE, MOUNTAIN VIEW, CA 94043 (415) 969-7277 - 250,000 ($2,937,500) COMMON STOCK. (FILE 333-23091 - MAR. 11) (BR. 3)

S-11 INTERVEST CORPORATION OF NEW YORK, 10 ROCKEFELLER PLZ STE 1015, NEW YORK, NY 10020 (212) 757-7300 - 8,500,000 ($8,500,000) FLOATING RATE NOTES. (FILE 333-23093 - MAR. 11) (BR. 8)

S-8 KOMAG INC /DE/, 1704 AUTOMATION PWY, SAN JOSE, CA 95131 (408) 946-2300 - 3,000,000 ($3,000,000) COMMON STOCK. (FILE 333-23095 - MAR. 11) (BR. 2)

S-3 THERMOGENESIS CORP, 3146 GOLD CAMP DRIVE, RANCHO CORDOVA, CA 95670 (916) 858-5100 - 2,901,589 ($11,425,006) COMMON STOCK. 1,478,001 ($5,742,033.80) WARRANTS, OPTIONS OR RIGHTS. (FILE 333-23097 - MAR. 11) (BR. 5)

S-8 CADMUS COMMUNICATIONS CORP/NEW, 6620 W BROAD ST, STE 500, RICHMOND, VA 23230 (804) 287-5680 - 360,000 ($5,782,500) COMMON STOCK. (FILE 333-23099 - MAR. 11) (BR. 5)

S-8 UNO RESTAURANT CORP, 100 CHARLES PARK RD, WEST ROXBURY, MA 02132 (617) 323-9200 - 1,000,000 ($6,875,000) COMMON STOCK. (FILE 333-23101 - MAR. 11) (BR. 2)

S-8 UNO RESTAURANT CORP, 100 CHARLES PARK RD, WEST ROXBURY, MA 02132 (617) 323-9200 - 25,000 ($171,873) COMMON STOCK. (FILE 333-23103 - MAR. 11) (BR. 2)

S-6 EQUITY INCOME FUND SEL TEN PORT 1997 INTL SR B HK PORT DEF, C/O DAVIS POLK & WARDWELL, 450 LEXINGTON AVE, NEW YORK, NY 10017 (212) 450-4540 - INDEFINITE SHARES. (FILE 333-23105 - MAR. 11) (NEW ISSUE)

S-8 VISIGENIC SOFTWARE INC, 951 MARINERS ISLAND BLVD, SUITE 120, SAN MATEO, CA 94404 (415) 286-1900 - 346,785 ($110,866.68) COMMON STOCK. (FILE 333-23107 - MAR. 11) (BR. 3)

S-8 DAKA INTERNATIONAL INC, ONE CORPORATE PL, 55 FERNCROFT RD, DANVERS, MA 01923 (508) 774-9115 - 400,000 ($2,944,000) COMMON STOCK. (FILE 333-23109 - MAR. 11) (BR. 2)

S-6 MUNICIPAL INVT TR FD INSURED SERIES 305 DEFINED ASSET FUNDS, 450 LEXINGTON AVENUE, C/O DAVIS POLK & WARDWELL, NEW YORK, NY 10017 (NUL) L - - INDEFINITE SHARES. (FILE 333-23111 - MAR. 11) (BR. 22 - NEW ISSUE)

S-6 EQUITY INCOME FUND SEL TEN PORT 1997 SER G DEF ASSET FUNDS, C/O DAVIS POLK & WARDWELL, 450 LEXINGTON AVENUE, NEW YORK, NY 10017 (212) 450-4540 - INDEFINITE SHARES. (FILE 333-23113 - MAR. 11) (NEW ISSUE)

S-6 MUNICIPAL INVEST TR FD MONTHLY PMT SER 579 DEF ASSET FDS, C/O DAVIS POLK & WARDELL, 450 LEXINGTON AVENUE, NEW YORK, NY 10017 (212) 450-4540 - INDEFINITE SHARES. (FILE 333-23115 - MAR. 11) (BR. 22 - NEW ISSUE)

SB-2 KLS ENVIRO RESOURCES INC, 3220 NORTH FREEWAY, SUITE 105, FORT WORTH, TX 76111 (817) 624-4844 - 5,318,841 ($22,937,501.81) COMMON STOCK. (FILE 333-23117 - MAR. 11) (BR. 4)

S-1 PIERCE LEAHY CORP, 631 PARK AVE, KING OF PRUSSIA, PA 19406 (610) 992-8200 - 100,000,000 ($100,000,000) STRAIGHT BONDS. (FILE 333-23119 - MAR. 11) (BR. 5)

S-1 PIERCE LEAHY CORP, 631 PARK AVE, KING OF PRUSSIA, PA 19406 (610) 992-8200 - 110,000,000 ($110,000,000) COMMON STOCK. (FILE 333-23121 - MAR. 11) (BR. 5)

S-8 MULTIMEDIA GAMES INC, 7335 S LEWIS AVE, STE 204, TULSA, OK 74136 (918) 494-0576 - 739,895 ($4,901,804.30) COMMON STOCK. (FILE 333-23123 - MAR. 11) (BR. 9)

S-8 WORLD FUEL SERVICES CORP, 700 S ROYAL POINCIANA BLVD, STE 800, MIAMI SPRINGS, FL 33166 (305) 884-2001 - 66,250 ($632,025) COMMON STOCK. (FILE 333-23125 - MAR. 11) (BR. 4)

S-4 KINDERCARE LEARNING CENTERS INC /DE, 2400 PRESIDENTS DR, MONTGOMERY, AL 36116 (334) 277-5090 - 300,000,000 ($300,000,000) STRAIGHT BONDS. (FILE 333-23127 - MAR. 11) (BR. 1)

S-8 TRIANGLE BANCORP INC, 4300 GLENWOOD AVENUE, RALEIGH, NC 27621 (919) 881-0455 - 75,000 ($1,509,375) COMMON STOCK. (FILE 333-23131 - MAR. 11) (BR. 7)

S-1 FLORIDA PANTHERS HOLDINGS INC, 100 NORTHEAST THIRD AVE, 10TH FL, FT LAUDERDALE, FL 33301 (954) 768-1900 - 6,000,000 ($153,000,000) COMMON STOCK. (FILE 333-23133 - MAR. 11) (BR. 5)

S-1 FLORIDA PANTHERS HOLDINGS INC, 100 NORTHEAST THIRD AVE, 10TH FL, FT LAUDERDALE, FL 33301 (954) 768-1900 - 12,648,766 ($322,543,533) COMMON STOCK. (FILE 333-23135 - MAR. 11) (BR. 5)

SB-2 HEALTHCARE CAPITAL CORP, 111 S W FIFTH AVENUE SUITE 2390, 604-685-4854, PORTLAND, OR 97204 (503) 225-9152 - 25,312,814 ($43,284,912) COMMON STOCK. (FILE 333-23137 - MAR. 12)

S-4 PETROLEUM HEAT & POWER CO INC, 2187 ATLANTIC ST, 5TH FLOOR, STAMFORD, CT 06902 (203) 325-5400 - 30,000,000 ($30,000,000) EQUIPMENT TRUST CERTIFICATES. (FILE 333-23139 - MAR. 12) (BR. 2)

S-3 EQUIVANTAGE ACCEPTANCE CORP, 13111 NORTHWEST FREEWAY, STE 300, HOUSTON, TX 77040 (713) 895-1900 - 15,000,000 ($15,000,000) EQUIPMENT TRUST CERTIFICATES. (FILE 333-23141 - MAR. 12) (BR. 8)

"VALUES ADD VALUE"

REMARKS BY

ARTHUR LEVITT, CHAIRMAN
U.S. SECURITIES AND EXCHANGE COMMISSION

TRINITY CHURCH TERCENTENARY
NEW YORK, NEW YORK

MARCH 18, 1997

U.S. SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, D.C. 20549

Check against delivery

REMARKS BY CHAIRMAN ARTHUR LEVITT
UNITED STATES SECURITIES AND EXCHANGE COMMISSION
TRINITY CHURCH TERCENTENARY
NEW YORK, NEW YORK
MARCH 18, 1997

To say I'm pleased to be here today is to make a huge understatement. I was raised across the East River, in Crown Heights, and I'm always delighted to be in my home town.

For some New Yorkers, however, there will always be only one Arthur Levitt. No matter what I may achieve in my own life, no matter what esteem I may earn, it will never approach the esteem with which my late father is still remembered in this town -- long after his 24 years as New York State Comptroller. For me, that's been a healthy reality check.

Speaking of reality checks: I seem to be asking for one by giving this speech about moral values in the markets. As Samuel Johnson advised, "Be not too hasty to trust or admire the teachers of morality: they discourse like angels but they live like men." For me to get up before my former colleagues on Wall Street and pontificate about my personal ethical values in my professional life would be a bit much -- I came here from Washington, not Mount Olympus.

I grew up in the household of a mother who taught in the public schools of Brooklyn for 38 years, and a father who as Comptroller treated the funds of state retirees as protectively as his own. They were people of deep faith, active in their religious community. They left me with an appreciation of values that has served me well throughout my life.

What I want to do today, however, is talk not so much about my own values, which are probably not very different from yours, but about the role of values in the securities industry and in securities regulation. Wall Street is so focused on "value" that there's not always time to talk about it in the plural. I'm therefore especially grateful to Trinity Church for creating this forum, which is devoted to raising such questions.

There are two ways to approach this: the way choices are made in Washington, and the way Washington tries to influence the choices made on Wall Street. I'll offer a few examples of each in turn, not as a definitive statement on the subject, but as a basis for questions from Jim Hartz and all of you after I speak.

First, Washington. My present life makes me think about values, ethics, and morality more intensely than ever before. Wall Street may be competitive, but Washington can be positively adversarial. Consider the constituencies involved: the White House; Capitol Hill; the Republican party; the Democrats; the public; the business community; my fellow Commissioners; and the

SEC staff.

To no one's surprise, these groups can and do have strongly differing opinions on occasion. At the same time, they are honorable people, so in almost all cases, the choice is not between good guys and bad guys -- usually, it is between good and good.

I've found that you get very little done in the District of Columbia unless you set priorities. You cannot deal in absolutes, and very few issues present a choice between absolute right and absolute wrong -- usually it's a choice between two or more ideas that are, to some degree, "right."

At the same time, moral relativism is a dead end; right and wrong do exist, in the financial markets as everywhere else. But they achieve their clearest definition in matters of law enforcement. Most of the other issues the SEC faces after 64 years of existence involve far more subtle distinctions. We tend to look for the best way to solve a problem, not the only way.

Let me offer an example: The securities industry has traditionally been regulated at both the state and federal levels. This has worked fairly well, because even though the SEC can act against wrongdoing in any state, state regulators are closer to the scene and can uncover problems that are hard for us to see all the way from Washington.

This duplication of regulation was not without its costs to business, however, and the last Congress proposed legislation to pre-empt state securities laws. A contest was created between two worthy goals -- the extra comfort for investors in knowing that state regulators were working with the SEC to protect them, versus the benefits to legitimate businesses in eliminating redundant regulation. The process worked, and a compromise was reached: federal pre-emption would be applied mainly to securities of large, nationally-traded companies and to mutual funds, which are also sold nationally and comprehensively regulated by the SEC. Investors lost a second layer of protection in an area where they least needed it, and businesses lost a second layer of regulation that they did not need.

Every day at the SEC is filled with similar choices between contending interests. Consider the question of shareholder proposals, which we're now studying at the request of Congress and will subsequently be asked to address. On one side is management, which feels it needs a free hand and should not be second-guessed on ordinary business matters. On the other side are many shareholders who would like to impose their values on such matters. I'm sympathetic to both positions, and I honestly can't tell you where we'll end up. But in the end, this decision, too, will have moral and ethical dimensions.

In my experience, attempts to apply simplistic measurements like, "This choice is ethical, this choice is not," only defy reality, which typically requires mid-course adjustments. Especially in Washington, it makes little sense to defend every proposal as if it came from Mt. Sinai. Sometimes compromise on a lesser point means that a larger proposal will survive.

This is not orthodoxy -- it's democracy, which Winston Churchill described as "the worst form of government except all those other forms that have been tried from time to time."

Here's another example: litigation reform. The SEC has traditionally supported the right of shareholders to sue a company in which they've invested, on the theory that the SEC can't be everywhere, and plaintiffs' lawyers help keep companies on their toes. But it got to the point where the system was out of balance -- where, in some instances, plaintiffs were suing because they knew a company would pay, regardless of the merits, just to make them go away and save the costs of litigation.

Three years ago, I mentioned in a speech that there were limits to how far the SEC would fight to protect private rights of action. The White House was flooded with calls, some demanding my resignation, others demanding my canonization. Again, two "goods" were put into play -- the right of investors to protect themselves by filing lawsuits, and the right of companies to be protected from frivolous lawsuits.

Legislation was introduced that took a drastic approach to the problem. The constituencies divided into two camps -- on one side were many on Capitol Hill and in corporate America, especially Silicon Valley; on the other side were investor advocacy groups and the plaintiffs' bar. The deep divisions carried right into SEC headquarters on Fifth Street in Washington. The Commission felt the original bill was too severe, and suggested changes; in the course of that contentious year, enough of those changes were made that, while we could not support the bill in its entirety, neither could we oppose it. The modified bill passed, only to be vetoed by the President, whose veto was then overriden.

Did we do the right thing? I hope and believe we did, but the only thing I can say with certainty is that we did not accept either extreme position, we stayed at the center of the debate, and tried to work constructively to improve the bill. That process involved compromising, and weighing competing values. Again, this is not orthodoxy, but it is democracy.

Enough of Washington -- a story you probably know much about. Let me now turn to a lesser-known subject: the ways the SEC tries to influence the morality and values of Wall Street.

It's been said that the genius of our Constitution is that it recognizes that the nation will be made up of competing self-interests. Rather than try to quash that powerful instinct, it sets up a system of traffic lights so that competition takes place in a fair and orderly way, without too many head-on collisions.

The primacy of wealth in American culture makes the stakes extraordinarily high in the securities industry, for regulator and regulated. The urge to make money is so powerful that our markets require strong ethical standards, and strong sanctions for those who violate those standards.

Regulation must strike a balance between nurturing the mechanisms that facilitate the flow of capital in our nation, and protecting the interests of the investors who provide that capital. That's my philosophy. Full disclosure and a marketplace where competition is both fierce and fair are the best way to provide that balance.

My predecessors left the Commission an honorable heritage, and it is our mandate to uphold the standards and the independence that will enable our successors to continue that tradition. My fellow Commissioners share the conviction that there is a dollars-and-cents value to a market that is accepted as being fair and open and, conversely, a fearsome cost to markets judged to be rigged or favoring the interests of a special few. The tragedy in Albania is the most extreme example of a market gone mad by accepting the laws of the jungle instead of the ethics of fair and free commerce.

Securities regulation <u>begins</u> with the black-and-white view of traditional law enforcement -- you can't lie, cheat, or steal in our markets, and if you do, you'll be punished. But it takes things one step further: It recognizes that, between the black and white there lies a grey area of conduct that is "beyond the periphery of the law," as William O. Douglas once put it, and "in the realm of ethics and morality."

What kinds of things lie in this grey area? Important values and principles -- moral and ethical imperatives such as the idea that a broker should always hold his client's interests above his own. The principle that an organization that operates in the public interest, such as an exchange or standard-setting body, should have significant public representation on its board. The notion that underwriting and brokerage business should go to the firm that provides the best deal for investors, not the best payback for issuers or fund managers.

Together, these values are a cultural touchstone for the industry. They are largely self-imposed, with the SEC keeping an eye from a distance. They <u>add</u> value, bringing customers in the

door again and again by winning their trust. They are admirable, noble, worthy principles for an admirable, noble, and worthy business. But they don't always lend themselves to analysis in black and white.

Should a broker sell a client an in-house product that earns him a higher commission, or another firm's product that may pay less? Are the public members of a board truly independent of management and, if so, what percentage of seats constitutes "significant public representation"? When a fund manager receives a credit for sending orders to a broker to be executed, where does it cease being a rebate and turn into a kickback?

I would go so far as to say that most of the pressing issues in the industry today are not criminal, but cultural. I can say this because I come out of that culture, and I think I have a pretty good idea of its strengths and weaknesses.

It is almost impossible to regulate culture, values, ethics, or morality. It <u>is</u> possible, however, to influence those things in other ways -- and that is something the SEC has tried very hard to do over the years, above and beyond enforcing the laws. I'll close with two examples of how we've tried to do so.

The first is an area that is somewhat beyond our usual beat, and in which we've met with only limited success. People familiar with Wall Street are often struck by how little it resembles Main Street. There's widespread agreement that there are too few women and minorities among the securities industry <u>and</u> its regulators -- but there is little agreement on how to change that.

The SEC neither possesses nor desires regulatory power over such matters. But fostering diversity is an important value to many of us, who feel it's the right thing to do. So we're trying to raise the subject whenever we can and to encourage people to do what they can to have a securities industry that looks like America.

The response has been one of good will, good ideas, and good faith efforts to make things better. In fact, I just heard of an ambitious plan at Smith Barney to tie 10 percent of every manager's bonus to their efforts to promote diversity. It's a bold experiment, one we'll all be watching. The truth is, we work in diverse markets, domestically and internationally. It makes sense for the securities industry to reflect the population it interacts with every day.

One other factor will surely help this along: the mass migration of investors away from bank accounts, CDs, and other insured products, and into our stock markets during the 1990s. One out of three American families now invests in mutual funds.

This is an extraordinary change. A nation of savers is becoming a nation of investors. And among the many new investors in the securities markets are growing numbers of women and minorities. I have little doubt that this will foster their increasing involvement in the industry as well. We'll continue to do everything we can to encourage that.

My final example of an attempt to influence the culture of Wall Street comes from the municipal bond market. Several weeks before I came to Washington, three young securities professionals came to talk to me about their career plans -- I always try to accommodate young people in that position. They worked in the municipal bond department of two major firms. One of them commented that the only way he was able to survive in the municipal bond business was by buying tables at political fundraising dinners, or by making contributions to officeholders in a position to award lucrative underwriting contracts. The others agreed this was common behavior. This practice is known as "pay to play."

How terrible, that even the newest entrants into this very vital part of the securities business were being assimilated into this culture of pay-to-play. Little wonder that confidence in government is at such a low ebb today. This experience convinced me to try to change the practice, before it could be ingrained in the minds of a generation that will soon be the leaders of the industry.

The issue is not as black-and-white as it may seem, however. It was impossible for any single firm to end the practice -- to cease making contributions would have been suicide for the firm's municipal desk. The SEC could have ordered firms to stop making contributions, but that would have interefered with their First Amendment right to make donations that had nothing to do with underwriting work. There was no perfect answer.

When I came to Washington in 1993, I had a long talk about pay-to-play with Frank Zarb, one of the wise men of Wall Street. Frank suggested a voluntary ban on political donations by firms seeking underwriting business, and was able to persuade key people in the industry to sign on. This was the catalyst for a cultural shift that took place almost overnight and has since been reinforced with a formal rule. And now the Association of the Bar of the City of New York has proposed its own rule forbidding pay-to-play among its members. What a positive statement it would be if the lawyers were to raise themselves to the same standard of ethical conduct as the bond dealers!

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I've talked about some of the ways values and ethics intersect with our markets, on Wall Street and in Washington.

I hope I haven't shattered any illusions. But my goal was not to create any.

The pure and simple truth, as Oscar Wilde liked to say, is rarely pure, and never simple.

But it is certainly worth defining, deliberating, discussing, and debating. I hope you'll agree, and I hope I've contributed to that debate today. Thank you.

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