

SEC NEWS DIGEST

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COMMISSION ANNOUNCEMENTS

BETTY CHAVIS APPOINTED ACADEMIC ACCOUNTING FELLOW DIVISION OF CORPORATION FINANCE

The Commission's Division of Corporation Finance recently selected Professor Betty Chavis as the Academic Accounting Fellow for a one-year term beginning August 2001. Currently, Professor Chavis is chair of the accounting department at California State University, Fullerton. She is also the Co-director of the Center for the Study of Emerging Financial Markets at CSU Fullerton. Prior to joining the faculty at CSU Fullerton in 1996, Professor Chavis was an assistant professor at the University of Wyoming, an assistant professor at California State University Los Angeles and a lecturer at the University of Southern California. She also conducted summer seminars on International Financial Statement Analysis and International Business at Lingnan College in Guangzhou, China and Saratov University in Russia. She holds a Ph.D. from the University of Southern California, an MS in Accountancy from the University of Denver, and a BS from Kent State University. She has served as president of the Western Region of the American Accounting Association.

Professor Chavis's current research interests include quality of earnings issues involving revenue recognition concerns and the value relevance of the measurement of assets and liabilities. She also researches in the areas of international accounting and tax. Her research findings have been published in *The Journal of Accounting, Auditing and Finance*, *The Journal of International Taxation*, *The Journal of Financial Statement Analysis*, and a number of other journals.

At the Commission, the Academic Accounting Fellow serves as a research resource for the staff by interpreting and communicating research materials as they relate to various areas of interest to the SEC. In addition, the Academic Fellow has been assigned to ongoing projects in the Division of Corporation Finance office, including rulemaking, researching financial reporting issues in connection with Division policy or program initiatives, and consultation with registrants on accounting and reporting matters. Professor Chavis will replace the current academic accounting fellow, Professor Thornton who will return to Queen's School of Business in Canada. (Press Rel. 2001-44)

STEVEN HENNING APPOINTED ACADEMIC ACCOUNTING FELLOW OFFICE OF THE CHIEF ACCOUNTANT

The Commission's Office of the Chief Accountant recently selected Professor Steven L. Henning as the Academic Accounting Fellow for a one-year term beginning August 2001. Currently, Professor Henning is an assistant professor of accounting at Southern Methodist University and holds the CPA certification.

Prior to joining the Southern Methodist University faculty in 1997, Professor Henning was a faculty member at the University of Colorado at Boulder. Professor Henning holds a Ph.D. in Business with a minor in Economics from the University of Wisconsin-Madison, a B.B.A. in Accounting and Finance from the University of Wisconsin-Milwaukee, and an MBA from the University of Miami (Florida).

Professor Henning's research interests include various issues concerning financial reporting and analysis, but most consistently those matters involving measurement and recognition issues, the usefulness and quality of financial reports in specific contexts, and the economics of financial disclosures. His research findings have been published in the Journal of Accounting Research, The Journal of the American Taxation Association, Review of Quantitative Finance and Accounting, and other academic journals and business periodicals.

At the Commission, the Academic Accounting Fellow serves as a research resource for the staff by interpreting and communicating research materials as they relate to various areas of interest to the SEC. In addition, the Academic Fellow has been assigned to ongoing projects in the Chief Accountant's office, including rulemaking, liaison with the professional accounting standards-setting bodies and consultation with registrants on accounting and reporting matters. Professor Henning will replace the current academic accounting fellow, Professor Andrew D. Bailey, Jr., who will return to the University of Illinois at Urbana-Champaign. (Press Rel. 2001-45)

VIVEK MANDE APPOINTED ACADEMIC ACCOUNTING FELLOW OFFICE OF ECONOMIC ANALYSIS

The Commission's Office of Economic Analysis recently selected Professor Vivek Mande as the Academic Accounting Fellow for a one-year term beginning August 2001. Currently, Professor Mande is the William Hockett Professor of Accountancy at the University of Nebraska at Omaha where he teaches International and Financial Accounting. He serves on the University's Faculty Senate and Graduate Councils and is the Graduate Program Advisor for the Master of Accounting Program in the Department of Accounting.

Prior to joining the University of Nebraska at Omaha faculty in 1992, Professor Mande was an Assistant Professor in the Department of Accounting at The City University of

New York-Baruch. He also held a visiting faculty appointment at the University of Arizona. Professor Mande holds a Ph.D. in Accounting from the Anderson Graduate School of Management, UCLA and a M.S. in Accounting from Washington State University. He is an Associate Member of Institute of Chartered Accountants, India.

Professor Mande's research interests include various issues concerning U.S. and international capital markets and accounting. He has examined how U.S. and international financial analysts use financial data to make predictions and has studied the reaction of stock markets to analysts' predictions and other information releases. His research findings have been published in Contemporary Accounting Research, Journal of Accounting and Public Policy, International Journal of Accounting, Abacus, Accounting and Business Research and a number of other journals.

At the Commission, the Academic Accounting Fellow serves as a research resource for the staff by interpreting and communicating research materials as they relate to various areas of interest to the SEC. In addition, the Academic Fellow has been assigned to ongoing projects in the Office of Economic Analysis, including designing and conducting studies of the economic impact of existing and proposed rules, providing analytical support and advice to the Chief Economist and senior Commission staff on regulatory policy, enforcement policy, and financial economics as it relates to financial reporting and auditing. (Press Rel. 2001-46)

RULES AND RELATED MATTERS

COMMISSION ISSUES RULE PROPOSALS RELATING TO THE REGISTRATION OF NATIONAL SECURITIES EXCHANGES PURSUANT TO SECTION 6(G) OF THE SECURITIES EXCHANGE ACT OF 1934 AND PROPOSED RULE CHANGES OF NATIONAL SECURITIES EXCHANGES AND LIMITED PURPOSE NATIONAL SECURITIES ASSOCIATIONS

To implement the Commodity Futures Modernization Act of 2000, the Commission has issued a release proposing new Rule 6a-4 under the Securities Exchange Act of 1934 (Exchange Act) and new registration Form 1-N prescribing the requirements for designated contract markets and derivative transaction execution facilities to register as national securities exchanges pursuant to Section 6(g)(1) of the Exchange Act to trade security futures. The Commission also is proposing conforming amendments to Rules 6a-2 and 6a-3 under the Exchange Act and Rule 202.3 of the Commission's procedural rules. In addition, the Commission is proposing new Rule 19b-7, new Form 19b-7, and amendments to Rule 19b-4 and Form 19b-4 to accommodate proposed rule changes submitted by security futures product exchanges registered pursuant to Section 6(g) of the Exchange Act and limited purpose national securities associations registered pursuant to Section 15A(k) of the Exchange Act. This will establish the registration and rule filing procedures for those entities that are interested in registering with the Commission for the

purpose of trading security futures. FOR FURTHER INFORMATION CONTACT: Kelly M. Riley, Office of Market Supervision, Division of Market Regulation, at (202) 942-0752. (Rel. 34-44279; File No. S7-10-01)

ENFORCEMENT PROCEEDINGS

COMMISSION SANCTIONS DOUGLAS MALLACH BASED UPON INJUNCTION FOR PARTICIPATION IN MARKET MANIPULATION SCHEME

The Commission announced today that it has barred Douglas E. Mallach (Mallach) from association with any broker or dealer based after he was enjoined from violating the federal securities laws based upon his participation in a market manipulation scheme involving the stock of a former microcap company, Technigen Corporation (Technigen) of Vancouver, British Columbia. Mallach consented to the issuance of the Order without admitting or denying the Commission's findings therein.

In a civil injunctive action filed in the United States District Court for the District of Colorado on April 27, 1997, the Commission alleged that from January 1992 through May 1993, Mallach published fraudulent promotional materials which misrepresented Technigen's business operations, and which failed to disclose Mallach's receipt of compensation for the preparation and dissemination of the materials. The Commission also alleged that Mallach, directly and indirectly, engaged in a distribution of Technigen securities and bid for or purchased, and induced others to purchase, Technigen securities while his participation in the distribution was ongoing. The Commission's complaint in the action also alleged that Mallach offered and sold Technigen shares in violation of the registration provisions. Finally, the Commission's complaint alleged that during various periods, Mallach, after acquiring the beneficial ownership of more than 5 percent of Technigen's outstanding stock, failed to File a Schedule 13D, or any amendments thereto, with the Commission. On July 24, 2000, Mallach was enjoined from further violations of Sections 5(a), 5(c) and 17(b) of the Securities Act of 1933 and Sections 10(b), 13(d) and 13(g) of the of the Securities Exchange Act of 1934 and Rules 10b-5, 10b-6, 13d-1 and 13d-2 thereunder (SEC v. Technigen Corporation et al., Civ. No. 98-S-933, D. Colo.).

Based upon the entry of the injunction, the Commission entered an Order barring Mallach from association with any broker or dealer. (Rel. 34-44284; File No. 3-10480)

SEC CHARGES OF OPERATOR OF STOCK-PICKING WEBSITE WITH SECURITIES FRAUD

The Commission today announced the filing and settlement of civil fraud charges against Arcangelo Capozzolo (Capozzolo), the operator of an Internet website that provides stock

recommendations, and Capozzolo's company, Market Traders LLC (Market Traders). The Commission alleges that Capozzolo, a resident of Williamsville, New York, and Market Traders violated Section 10(b) of the Securities Exchange Act and Rule 10b-5 thereunder by making false and misleading statements on Market Traders' website and in bulk email messages to potential subscribers. Capozzolo and Market Traders have agreed, without admitting or denying the Commission's allegations, to the entry of a permanent injunction and to the imposition of a civil penalty of \$25,000 against Market Traders.

The Commission's complaint alleges that from October 1999 to at least May 2000, Market Traders and Capozzolo claimed that Market Traders' proprietary trading system had, over a ten year period, compiled a 90% accuracy rate in predicting a rise in a stock's price and had made millions of dollars. According to the complaint, however, Market Traders' system has not been in existence for ten years and has not made millions of dollars. Moreover, Market Traders' claim of 90% accuracy in predicting the rise in a stock's price was based on hypothetical "paper trades." The complaint also alleges that Market Traders falsely claimed that it purchased the stocks it recommended, and its system could track institutional investors' stock purchases when, in fact, it never made any actual trades and could not track institutional investors' stock purchases.

In addition, the complaint further alleges that Capozzolo and Market Traders falsely claimed that Market Traders' head trader, John C. Kuja (Kuja), was up 832% with no losses. According to the complaint, these purported results were based on miscalculated, hypothetical trades, and only included a portion of Kuja's stock picks. [SEC v. Market Traders LLC, et. al., Civil Action No. 01-CV-10788, DPW] (LR-16993)

SEC v. CHARLES HOMA, MICHAEL GAUSE, ET AL.

The Commission announced that on May 4 the Hon. Ronald A. Guzman, United States District Judge for the Northern District of Illinois, authorized the issuance of a writ of attachment against Terry A. Lurie of Naples, Florida. Lurie, who is not a defendant in the Commission's enforcement action, had been found by Judge Guzman on March 22, 2001, to be in civil contempt of court and had been ordered to pay \$13,449 to the court-appointed Receiver. As of May 4, 2001, Lurie had failed to pay, and the writ of attachment directs the United States Marshals Service to detain Lurie and transport him to Chicago to appear before Judge Guzman. Lurie is an attorney who assisted one of the defendants in the Commission's case, John M. Carlson, in violating the Court's asset freeze order. Previously, on November 7, 2000, Judge Guzman found that Carlson had acted in civil contempt and ordered him to pay \$20,352 to the Receiver.

On March 8, 2001, Judge Guzman also found Defendant Charles E. Dickerson in civil contempt for violating the asset freeze order entered against him. Dickerson has been ordered to pay \$25,720 to the court-appointed Receiver as a result of his contemptuous

conduct. [SEC v. Charles R. Homa, Michael Gause, et al., Civil Action No. 99 CV 6895, N.D.Ill.] (LR-16994)

SEC v. CAPITAL CONSULTANTS, LLC, JEFFREY GRAYSON, AND BARCLAY GRAYSON

The Commission announced that on April 30, 2001, the U.S. District Court in Oregon entered permanent injunctions against Capital Consultants, LLC, a registered investment adviser located in Portland, Oregon, and its principals, Jeffrey L. Grayson and Barclay L. Grayson. Capital Consultants managed over \$1 billion for approximately 340 clients, principally union pension trust funds and individuals. The Commission filed its complaint on September 21, 2000 and obtained a temporary restraining order and asset freeze against Capital Consultants, Jeffrey L. Grayson and his son Barclay L. Grayson. The Commission's complaint alleged that the defendants were operating an undisclosed Ponzi-like scheme in which they used client funds to make interest payments to other clients who were invested in a \$160 million loan that Capital Consultants made to Wilshire Credit Corp. Capital Consultants is currently in receivership.

Without admitting or denying the allegations contained in the complaint, Jeffrey and Barclay Grayson consented to permanent injunctions against future violations of the antifraud provisions of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and aiding and abetting violations of the advisory antifraud provisions of Sections 206(1) and (2) of the Investment Advisers Act. Capital Consultants consented to a permanent injunction against future violations of the antifraud provisions of 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, and the advisory antifraud provisions of Sections 206(1) and (2) of the Investment Advisers Act. [SEC v. Capital Consultants, LLC, Jeffrey L. Grayson and Barclay L. Grayson, Civil Action No. CV-00-1290, KI, D. Ore.] (LR-16995)

INVESTMENT COMPANY ACT RELEASES

STI CLASSIC FUNDS AND SUNTRUST BANKS, INC.

An order has been issued on an application filed by STI Classic Funds and SunTrust Banks, Inc. exempting applicants from Section 17(a) of the Investment Company Act. The order permits a series of STI Classic Funds to acquire all of the assets and stated liabilities of another series of STI Classic Funds. Because of certain affiliations, applicants may not rely on Rule 17a-8 under the Act. (Rel. IC-24976 – May 9)

SELF-REGULATORY ORGANIZATIONS

IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGES

A proposed rule change (SR-CBOE-01-20) filed by the Chicago Board Options Exchange prohibiting members from functioning as market makers has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the notice in the Federal Register is expected during the week of May 14. (Rel. 34-44258)

A proposed rule change (SR-Amex-2001-20) filed by the American Stock Exchange establishing an interim linkage plan, on a pilot basis, has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the notice in the Federal Register is expected during the week of May 14. (Rel. 34-44271)

APPROVAL OF PROPOSED RULE CHANGES

The Commission approved a proposed rule change submitted by the National Association of Securities Dealers (SR-NASD-00-69) to establish a new Registration Category: Limited Representative – Private Securities Offerings (Series 82). (Rel. 34-44281)

The Commission approved a proposed rule change, as amended, and granted accelerated approval to Amendments No. 3 and No. 4 to a proposed rule change submitted by the National Association of Securities Dealers (SR-NASD-2001-06) amending the NASD By-Laws. Publication of the order in the Federal Register is expected during the week of May 14. (Rel. 34-44280)

ACCELERATED APPROVAL OF PROPOSED RULE CHANGES

The Commission granted accelerated approval to a proposed rule change and Amendment No. 1 thereto, filed by the New York Stock Exchange (SR-NYSE-2001-07), on a one-year pilot basis, to provide for an Allocation Policy for Exchange-Traded Funds trading on an Unlisted Trading Privileges Basis. Publication of the order is expected in the Federal Register during the week of May 14. (Rel. 34-44272)

The Commission granted accelerated approval of a proposed rule change (SR-NSCC-2001-05) filed by the National Securities Clearing Corporation. The proposal will extend Addendum O in its current form through December 31, 2002. Publication of the proposal is expected in the Federal Register during the week of May 7. (Rel. 34-44277)

PROPOSED RULE CHANGE

The National Securities Clearing Corporation filed a proposed rule change (SR-NSCC-2001-04) to allow NSCC to modify and consolidate its clearing fund rules. Publication of the proposal is expected in the Federal Register during the week of May 14. (Rel. 34-44276)

The Philadelphia Stock Exchange filed a proposed rule change (SR-Phlx-2001-02) codifying formal procedures for members to submit proposals to list option classes on the

Exchange. Publication of the proposal is expected in the Federal Register during the week of May 14. (Rel. 34-44285)

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.

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.gov>. In most cases, this information is also available on the Commission's website: <www.sec.gov>.

- S-8 ADMIRALTY BANCORP INC, 4400 PGA BLVD, STE 200, PALM BEACH GARDENS, FL 33410 (561) 624-4100 - 365,000 (\$5,110,000) COMMON STOCK. (FILE 333-60090 - MAY. 03) (BR. 7)
- S-8 RICHARDSON ELECTRONICS LTD/DE, 40W267 KESLINGER RD, LAFOX, IL 60147 (708) 208-2200 - 100,000 (\$1,276,000) COMMON STOCK. (FILE 333-60092 - MAY. 03) (BR. 5)
- S-8 CATHAYONLINE INC, 570 LEXINGTON AVE, 18TH FLOOR, NEW YORK CITY, NY 10017 (212) 490-1873 - 10,000,000 (\$600,000) COMMON STOCK. (FILE 333-60094 - MAY. 03) (BR. 9)
- S-8 NATIONAL PENN BANCSHARES INC, PHILADELPHIA AND READING AVE, PO 547, BOYERTOWN, PA 19512 (215) 367-6001 - 1,000,000 (\$22,325,000) COMMON STOCK. (FILE 333-60096 - MAY. 03) (BR. 7)
- S-8 RPM INC/OH/, 2628 PEARL RD, P O BOX 777, MEDINA, OH 44258 (330) 273-5090 - 4,500,000 (\$39,037,500) COMMON STOCK. (FILE 333-60104 - MAY. 03) (BR. 2)
- S-8 SUNOCO INC, TEN PENN CENTER, 1801 MARKET ST, PHILADELPHIA, PA 19103 (215) 977-3000 - 4,000,000 (\$144,080,000) COMMON STOCK. (FILE 333-60110 - MAY. 03) (BR. 4)

S-8 SONOSITE INC, 21919 30TH DRIVE S E, 22100 BOTHEL EVERETT HGWY,
 BOTHELL,
 WA 98021 (425) 951-1200 - 500,000 (\$7,104,667.96) COMMON STOCK. (FILE
 333-60112 - MAY. 03) (BR. 5)

S-8 SHOE CARNIVAL INC, 8233 BAUMGART ROAD, EVANSVILLE, IN 47725
 (812) 867-4039 - 1,000,000 (\$10,190,000) COMMON STOCK. (FILE 333-60114
 -
 MAY. 03) (BR. 2)

S-8 SOUTHBANC SHARES INC, 907 N MAIN STREET, ANDERSON, SC 29621
 (864) 225-0241 - 225,000 (\$4,444,000) COMMON STOCK. (FILE 333-60116 -
 MAY. 03) (BR. 7)

S-8 LENNOX INTERNATIONAL INC, 2140 LAKE PARK BLVD, RICHARDSON, TX 78703
 (972) 497-5440 - 1,750,000 (\$18,532,500) COMMON STOCK. (FILE 333-60122
 -
 MAY. 03) (BR. 6)

S-8 RELIANT RESOURCES INC, RELIANT ENERGY INC, 1111 LOUISIANA STREET,
 HOUSTON, TX 77002 (713) 207-3000 - 3,000,000 (\$100,200,000) COMMON
 STOCK.
 (FILE 333-60124 - MAY. 03) (BR. 2)

S-8 W HOLDING CO INC, 19 WEST MCKINLEY STREET, MAYAGUEZ, PR 00681
 (787) 834-8617 - 4,200,000 (\$50,967,000) COMMON STOCK. (FILE 333-60126
 -
 MAY. 03) (BR. 7)

S-8 PHARSIGHT CORP, 800 WEST EL CAMINO REAL, STE 200, PALO ALTO, CA
 94040
 (650) 314-3800 - 913,642 (\$2,827,729) COMMON STOCK. (FILE 333-60136 -
 MAY. 03) (BR. 3)

S-8 PHARSIGHT CORP, 800 WEST EL CAMINO REAL, STE 200, PALO ALTO, CA
 94040
 (650) 314-3800 - 330,000 (\$1,021,350) COMMON STOCK. (FILE 333-60138 -
 MAY. 03) (BR. 3)

S-8 ADVANCEPCS, 5215 N O'CONNOR, STE 1600, IRVING, TX 75039 (214) 830-
 6199
 - 3,000,000 (\$180,330,000) COMMON STOCK. (FILE 333-60148 - MAY. 03)
 (BR. 1)

S-8 UTSTARCOM INC, 1275 HARBOR BAY PARKWAY, STE 100, ALAMEDA, CA 94502
 (510) 864-8800 - 5,724,983 (\$124,849,138.09) COMMON STOCK. (FILE
 333-60150 - MAY. 03) (BR. 6)

S-8 CUBIST PHARMACEUTICALS INC, 24 EMILY ST, CAMBRIDGE, MA 02139
 (607) 576-1999 - 1,080,359 (\$30,671,392.01) COMMON STOCK. (FILE 333-
 60152
 - MAY. 03) (BR. 1)

S-8 I MANY INC, 537 CONGRESS STREET, 5TH FLOOR, PORTLAND, ME 04101
 (207) 774-3244 - 1,000,000 (\$12,185,000) COMMON STOCK. (FILE 333-60162
 -
 MAY. 03) (BR. 5)

S-8 CUBIST PHARMACEUTICALS INC, 24 EMILY ST, CAMBRIDGE, MA 02139
 (607) 576-1999 - 1,500,000 (\$42,585,000) COMMON STOCK. (FILE 333-60168
 -
 MAY. 03) (BR. 1)

SB-2 THIRD WAVE MEDIA LTD, 5225 WILSHIRE BOULEVARD, SUITE 700, LOS
 ANGELES,
 CA 90036 (323) 731-1746 - 5,000,000 (\$500,000) COMMON STOCK. (FILE
 333-60172 - MAY. 03) (NEW ISSUE)

S-8 SOUTHWEST BANCORP OF TEXAS INC, 4400 POST OAK PARKWAY, HOUSTON, TX
 77027
 (713) 235-8800 - 325,000 (\$10,715,250) COMMON STOCK. (FILE 333-60190 -
 MAY. 04) (BR. 7)

S-3 CLAIMSNET COM INC, 12801 N CENTRAL EXPRESSWAY, SUITE 1515, DALLAS,
 TX
 75243 (972) 458-1701 - 3,076,229 (\$5,198,827) COMMON STOCK. (FILE
 333-60192 - MAY. 04) (BR. 3)

S-2 FONIX CORP, 1225 EAGLE GATE TOWER, 60 EAST SOUTH TEMPLE STREET,
 SALT LAKE CITY, UT 84111 (801) 328-8700 - 60,400,000 (\$20,983,000)
 COMMON STOCK. (FILE 333-60194 - MAY. 04) (BR. 7)

S-8 NETCURRENTS INC/, 9270 WILSHIRE BLVD, STE 700, LOS ANGELES, CA 90212
 (310) 860-0200 - 2,000,000 (\$160,000) COMMON STOCK. (FILE 333-60198 -
 MAY. 04) (BR. 3)