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SEC NEWS DIGEST

Issue 2001-201

October 18, 2001

COMMISSION ANNOUNCEMENTS

SECURITIES AND EXCHANGE COMMISSION REQUEST RELATING TO INFORMATION PERTAINING TO THE TERRORIST ATTACKS

The Commission today asked all securities-related entities (whether or not registered with the SEC) to cooperate voluntarily with law enforcement authorities in their ongoing investigations in the wake of the recent terrorist attacks on this country. Over the last month, brokers, dealers, investment advisers, investment companies, transfer agents, exchanges and other self-regulatory organizations and industry groups have been asked to review their records and work with law enforcement officials to identify any transactions or relationships with certain individuals or entities that have been identified by the FBI and other law enforcement agencies. To facilitate these efforts, we, along with other financial regulators, have worked with law enforcement officials on a mechanism that will assure the expeditious distribution of a unified list of individuals and entities to a broad range of financial institutions. This list will be referred to as the Control List. Because the Control List contains confidential information, we ask that you disseminate the information within your institution only on a need-to-know basis. Under no circumstances should the Control List or the information contained in it be disseminated outside your institution.

Law enforcement officials will provide the Control List to the SEC. We will, in turn, send your institution a copy of the Control List through e-mail. We will also send electronic updates to the list on a regular basis. Identical Control Lists (and updates) will also be disseminated by the Federal Reserve Bank of New York to banking institutions and by the Commodities Futures Trading Commission to futures commission merchants. We need your immediate help in starting this system. We request that you designate a senior-level individual within your firm who appreciates the sensitive nature of the investigation and will exercise appropriate discretion to be the point person for all communications relating to the Control List. Please provide this person's name, title, telephone number and, most importantly, e-mail address by Friday, October 26, 2001. Please send this information to the following e-mail address: Enf-Search@sec.gov

Once this information is received, the Control List will be distributed, and your firm will be asked voluntarily to check its records to determine whether any of the individuals or

entities on the Control List have or have had any transactions or relationships with your firm in the United States or elsewhere.

If your firm identifies any transaction or relationship with any of the individuals or entities, you are requested to send an e-mail message promptly to Enf-Search@sec.gov indicating that you have a positive response and the nature of the information. Following that, the SEC will contact your firm's point person and arrange for receipt of relevant account, trading and other information from your firm.

Please note the following:

- Similar requests have been issued to banking institutions jointly by financial institution supervisors, and to futures commission merchants by the CFTC. To minimize the burden on those entities subject to regulation by both the SEC and the CFTC such an entity may provide responsive information for the entire entity to either the SEC or the CFTC, after notifying both agencies that it has a positive response. In the alternative, such an entity may choose instead to provide responsive information concerning a particular area of regulatory authority to the appropriate regulatory agency.
- Some securities-related entities are affiliated with banks or similar affiliates that are subject to suspicious activity reporting requirements of bank regulators. In accordance with the suspicious activity reporting rules, those affiliates are also reminded to report any suspicious activity related to any of the names on the Control List by filing a Suspicious Activity Report (SAR) with the Treasury Department's Financial Crimes Enforcement Network (FinCEN). If the information is time sensitive, it may also be reported through the FinCEN hotline at 1-866-556-3974 in addition to filing a written SAR.
- This request is separate from the request issued by the SEC on September 26, concerning compliance with President Bush's September 24 executive order freezing United States assets of and blocking transactions with identified individuals and organizations. The executive order can be viewed at www.treasury.gov/terrorism.html. Questions concerning the asset freeze should be directed to the Treasury Department's Office of Foreign Assets Control (OFAC) at 1-800-540-6322. Information concerning OFAC's Specially Designated Nationals List is available at www.ustreas.gov/ofac.

We thank you for all of your efforts in this most important endeavor. Any questions concerning this voluntary request should be directed to Enf-Search@sec.gov or (202) 942-4806. (Press Rel. 2001-115)

ENFORCEMENT PROCEEDINGS

COMMISSION SUSTAINS NASD DELISTING OF OUTSOURCE INTERNATIONAL, INC.

The Commission dismissed the appeal of Outsource International, Inc. from its delisting from the Nasdaq National Market. The NASD found that Outsource had failed to maintain the required \$4 million in net tangible assets and \$5 million in minimum market value of public float. Although Outsource subsequently refinanced its long-term debt and brought itself back into compliance with the net tangible asset requirement on a pro forma basis, the NASD concluded that Outsource had failed to demonstrate that it could sustain long-term compliance with both continued listing requirements.

The Commission rejected Outsource's argument that the NASD should have delayed its decision to delist Outsource until Outsource concluded its refinancing. The Commission found that the NASD's conclusions about Outsource's ability to maintain long-term compliance even with the refinancing were proper. (Rel. 34-44944; File No. 3-10403)

MAGAZINE PUBLISHER AND ITS PRESIDENT PERMANENTLY ENJOINED FROM COMMITTING SECURITIES FRAUD

On October 5, the U.S. District Court for South Carolina entered a judgment of permanent injunction against Millionaire.com (Millionaire), the publisher of OPULENCE Magazine with headquarters in Bluffton, South Carolina, and its president, Robert L. White. In the judgment, the court enjoined Millionaire and White from violating the antifraud, record keeping and internal controls provisions of the federal securities laws, and ordered White to pay a \$25,000 civil penalty.

The court entered the judgment after the U.S. Securities and Exchange Commission (SEC) filed a complaint charging that Millionaire and White violated Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 and Rules 10b-5, 12b-20 and 13a-13, thereunder. Millionaire and White consented, without admitting or denying the allegations in the complaint, to entry of the permanent injunction against them, and White consented to imposition of the \$25,000 civil penalty.

In its complaint, the SEC alleged that in a press release issued December 21, 1998, Millionaire falsely claimed that it had sold \$8 million of advertising space in its magazine. The SEC further alleged that in a press release issued December 24, 1998, Millionaire falsely claimed that it had entered into a definitive agreement to purchase an established regional auction house. In addition, the SEC alleged that on October 5, 2000, Millionaire filed with the Commission a quarterly report for the period ended June 30, 2000, that failed to disclose that Millionaire had lost its contractual right to exclusive use of the Millionaire and Billionaire trademarks. Finally, the SEC alleged that Millionaire failed to comply with the record keeping and internal controls provisions of the federal

securities laws. The complaint charged White with aiding and abetting Millionaire's violations. [SEC v. Millionaire.com and Robert L. White, Case No. 9-01-3897-23 (S.C., Beaufort Division)] (LR-17196; AAE Rel. 1468)

SEC CHARGES THREE WITH INSIDER TRADING USING SWISS ACCOUNTS

The Commission filed an insider trading case today against Rodolfo Luzardo, a former employee of J.P. Morgan Securities, Inc., Alain D. Kodsi, a co-owner of the venture capital firm M.G. Capital L.L.C., and Elias I. Kodsi, a retired jewelry distributor, alleging that the defendants engaged in illegal insider trading in advance of the July 30, 1998 announcement that BetzDearborn Inc. and Hercules Inc. had agreed to merge. The complaint, filed in the United States District Court for the Southern District of New York, alleges that Luzardo misappropriated confidential information regarding the pending merger from his then-employer, J.P. Morgan, which was the adviser to BetzDearborn. According to the complaint, Luzardo tipped his friend and new employer, Alain Kodsi, who in turn tipped his father, Elias Kodsi. The complaint further alleges that Elias Kodsi purchased 30,000 shares of BetzDearborn common stock through two numbered Swiss accounts the day before the merger was announced at a cost of over \$1 million, and that after the announcement on July 30, Elias Kodsi sold the shares for unlawful profits of \$963,750. The complaint seeks permanent injunctions against future violations of the securities laws, disgorgement of the illegal trading profits, prejudgment interest, and civil penalties. [SEC v. Rodolfo Luzardo, Elias I. Kodsi, and Alain D. Kodsi, 01 Civ. 9206, DC, USDC, SDNY] (LR-17197)

INVESTMENT COMPANY ACT RELEASES

ING PILGRIM INVESTMENTS, LLC, ET AL.

An order has been issued on an application filed by ING Pilgrim Investments, LLC, et al. under Sections 6(c) and 23(c) of the Investment Company Act. The order would exempt a registered closed-end management investment company from certain provisions of Rule 23c-3 under the Act to permit it to make repurchase offers on a monthly basis. (Rel. IC-25212 – October 17)

SELF-REGULATORY ORGANIZATIONS

APPROVAL OF PROPOSED RULE CHANGE

The Commission approved a proposed rule change (SR-NYSE-99-38) filed by the New York Stock Exchange to amend its minor rule violation plan. Publication of the proposal is expected in the Federal Register during the week of October 22. (Rel. 34-44941)

WITHDRAWAL GRANTED

An order has been issued granting the application for withdrawal from listing and registration (Pharmaceutical Resources, Inc., Common Stock, \$.01 par value and Common Stock Purchase Rights) on the Pacific Exchange effective at the opening of business on October 17, 2001. (Rel. 34-44942)

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 ENTERPRISE OIL PLC, GRAND BLDGS, TRAFALGAR SQUARE, LONDON WC2N 5EJ ENGL,
X0 (540) 000-0000 - 12,250,000 (\$94,743,827.50) FOREIGN COMMON STOCK.
(FILE 333-13994 - OCT. 09) (BR. 4)
- S-8 ELAN CORP PLC, LINCOLN HOUSE LINCOLN PLACE, COUNTY WESTMEATH,
DUBLIN 2 IRELAND, L2 (353) 709-4000 - 16,500,000 (\$790,967,606.02)
FOREIGN COMMON STOCK. (FILE 333-13996 - OCT. 09) (BR. 1)
- S-B URUGUAY REPUBLIC OF, 2021 L STREET N W, SUITE 201, WASHINGTON, DC
20036
(000) 000-0000 - 700,000,000 (\$700,000,000) STRAIGHT BONDS. (FILE
333-13998 - OCT. 09) (BR. 99)
- F-10 GLAMIS GOLD LTD, 5190 NEIL ROAD, SUITE 310, RENO, NV 89502
(775) 827-4600 - \$41,460,000 FOREIGN COMMON STOCK. (FILE 333-14000 -
OCT. 10) (BR. 4)
- S-3 APARTMENT INVESTMENT & MANAGEMENT CO, COLORADO CENTER TOWER
TWO,
2000 S COLORADO BLVD STE 2-1000, DENVER, CO 80222 (303) 757-8101 - 620,945
(\$26,924,175) COMMON STOCK. (FILE 333-71452 - OCT. 12) (BR. 8)

- S-4 USX CORP, 600 GRANT ST, ROOM 1312, PITTSBURGH, PA 15219 (412) 433-1121
- 14,600,000 (\$353,513,355) STRAIGHT BONDS. (FILE 333-71454 - OCT. 12)
(BR. 4)
- S-8 GLOBAL AXCESS CORP, 2929 S MARYLAND PARKWAY, LAS VEGAS, NV 89109
(702) 320-3050 - 5,000,000 (\$550,000) COMMON STOCK. (FILE 333-71456 -
OCT. 12) (BR. 4)
- S-4 SBA COMMUNICATIONS CORP, ONE TOWN CENTER RD, THIRD FLOOR, BOCA
RATON, FL
33486 (561) 995-7670 - 3,500,000 (\$49,630,000) COMMON STOCK. (FILE
333-71460 - OCT. 12) (BR. 6)
- S-8 THERASENSE INC, 1360 S LOOP RD, SUITE 2000, SAN FRANCISCO, CA 94502
(510) 749-5400 - 1,000,000 (\$16,150,000) COMMON STOCK. (FILE 333-71462 -
OCT. 12) (BR. 5)
- S-8 THERASENSE INC, 1360 S LOOP RD, SUITE 2000, SAN FRANCISCO, CA 94502
(510) 749-5400 - 7,085,530 (\$134,625,070) COMMON STOCK. (FILE 333-71464 -
OCT. 12) (BR. 5)