

# SEC NEWS DIGEST

Issue 99-216

November 9, 1999

---

## ENFORCEMENT PROCEEDINGS

---

### SEC CHARGES FORMER MONEY MANAGER S. JAY GOLDINGER WITH DEFRAUDING PAIRGAIN TECHNOLOGIES, INC.

On November 8, the Commission filed three related enforcement actions: The first, filed in the Central District of California, charged S. Jay Goldinger, once a well-known Beverly Hills-based money manager, with stealing \$15.9 million from the Tustin, California-based public company PairGain Technologies, Inc. and transferring the money to other clients. The second, also filed in the Central District of California, charged two top executives of PairGain -- a manufacturer of telecommunication products -- with failing to properly account for and timely disclose what initially appeared to be investment losses from unauthorized trading, but in reality were thefts by Goldinger. The third was a settled administrative proceeding against the company.

The complaints alleged the following: Goldinger stole \$15.9 million from PairGain as part of a Ponzi-like scheme whereby he commingled the funds of PairGain and his other clients, then engaged in massive securities-futures trading misallocations. Through the scheme, which occurred during 1994 and 1995, Goldinger shifted tens of millions of dollars from some clients, including PairGain, to certain other clients while simultaneously generating enormous commissions and fees for himself. After learning of the losses, PairGain, its chairman and former chief executive officer, Charles S. Strauch, and its chief financial officer, Charles W. McBrayer, each failed to properly account for and timely disclose what initially appeared to be investment losses from unauthorized trading, but in reality were thefts by Goldinger.

Simultaneously with the filing of the complaint against him, without admitting or denying the complaint's allegations, Goldinger agreed to settle the charges against him by consenting to a final judgment. The final judgment will prohibit Goldinger from violating or aiding and abetting or causing violations of Section 17(a) of the Securities Act of 1933 and Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(5), and 15(c)(1)(A) of the Securities Exchange Act of 1934 and Rules 10b-5, 12b-20, 13a-13, and 13b2-1 thereunder. The judgment will also order Goldinger to pay back his ill-gotten gains plus

prejudgment interest thereon and civil money penalties in amounts to be determined later. Goldinger has also agreed to the entry of a Commission order barring him from associating with any securities broker or dealer.

Likewise, without admitting or denying the SEC's allegations, Strauch and McBrayer each agreed to settle the complaint's charges by consenting to a final judgment. Strauch's final judgment will prohibit him from violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and order him to pay \$25,000 in civil money penalties. McBrayer's final judgment will prohibit him from violating or aiding and abetting or causing violations of Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act and Rules 10b-5, 12b-20, 13a-13, and 13b2-1 thereunder. The judgment will also order McBrayer to pay civil money penalties totaling \$25,000.

On November 8, the Commission also instituted related administrative proceedings against PairGain. Without admitting or denying the Commission's findings, PairGain consented to an order finding that the company violated the antifraud provisions of the Exchange Act as well as the periodic reporting, books and records, and internal control provisions of the Exchange Act. The order directed PairGain to cease and desist from committing or causing any violations or future violations of the following provisions: Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, and 13a-13 thereunder. [SEC v. S. Jay Goldinger, Civil Action No. CV99-11539-LGB, CTx, C.D. Cal. and SEC v. Charles S. Strauch and Charles W. McBrayer, Civil Action No. CV99-1384-GLT, EEx, C.D. Cal] (In the Matter of PairGain Technologies, Inc., Rel. 34-42114, LR-16347, Press Rel. 99-148)

---

## INVESTMENT COMPANY ACT RELEASES

---

### PRUDENTIAL INVESTMENTS FUND MANAGEMENT LLC, ET AL.

A notice has been issued giving interested persons until November 30 to request a hearing on an application filed by Prudential Investments Fund Management LLC, et al. under Section 12(d)(1)(J) of the Investment Company Act for an exemption from Sections 12(d)(1)(A) and (B) of the Act, under Sections 6(c) and 17(b) of the Act for an exemption from Section 17(a) of the Act, and under Section 17(d) of the Act and Rule 17d-1 under the Act to permit certain joint transactions. The order would permit (a) certain registered investment companies ("lending funds") to lend their portfolio securities to affiliated broker-dealers, (b) an affiliated lending agent to receive a fee from the lending funds, (c) the lending funds and certain affiliated institutional accounts to deposit cash collateral and uninvested cash into affiliated money market and short-term bond funds, and (d) certain transactions between registered investment companies. (Rel. IC-24126 - November

---

**HOLDING COMPANY ACT RELEASES**

---

**NEW CENTURY ENERGIES, ET AL.**

A notice has been issued giving interested persons until November 30 to request a hearing on a proposal by New Century Energies, a registered holding company, and two of its wholly owned subsidiaries, Public Service Company (PSCo), an electric and gas utility company, and NC Enterprises, Inc. (Enterprises), a nonutility company. The applicants propose to engage in a series of related transactions that will separate the two business lines of Natural Fuels Corporation, a subsidiary of Enterprises, and transfer one business line to PSCo. (Rel. 35-27098)

**COLUMBIA ENERGY GROUP, ET AL.**

An order has been issued authorizing Columbia Energy Group (CEG), a registered holding company, and its nonutility subsidiaries to reorganize CEG's nonutility interests from time to time, without the need to apply for or receive additional Commission approval. (Rel. 35-27099)

---

**SELF-REGULATORY ORGANIZATIONS**

---

**PARTIAL ACCELERATED APPROVAL OF PROPOSED RULE CHANGE**

The Philadelphia Stock Exchange has filed a proposed rule change (SR-Phlx-99-30) relating to the amendment of margin levels for non-customized cross-rate foreign currency options. The Commission granted accelerated approval to a portion of the proposed rule change to extend the existing four percent add-on margin for a three-month period. Publication of the proposal is expected in the Federal Register during the week of November 8. (Rel. 34-42093)

**ACCELERATED APPROVAL OF PROPOSED RULE CHANGE**

The Commission granted accelerated approval to a proposed rule change submitted under Rule 19b-4 by the American Stock Exchange (SR-AMEX-99-33) amending the AMEX's listing requirement for equity linked notes. Publication of the proposal is expected in the Federal Register during the week of November 8. (Rel. 34-42110)

---

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

- F-3 GENERAL GEOPHYSICS CO, 1 RUE LEON MIGAUX, 91341 MASSY FRANCE, IO 00000  
(331) 644-7300 - 800,000 (\$33,704,000) FOREIGN COMMON STOCK. (FILE  
333-11074 - OCT 29) (BR 4)
- F-6 SMITH & NEPHEW PLC /ADR/, ONE WALL STREET, 212-495-1727, NEW YORK, NY  
10286 - 10,000,000 (\$500,000) DEPOSITARY RECEIPTS FOR COMMON STOCK (FILE  
333-11076 - OCT 29) (BR 99 - NEW ISSUE)
- S-8 TITAN CORP, 3033 SCIENCE PARK RD, SAN DIEGO, CA 92121 (858) 552-9500 -  
600,000 (\$9,056,250) COMMON STOCK. (FILE 333-90133 - NOV. 02) (BR 3)
- S-3 CUBIST PHARMACEUTICALS INC, 24 EMILY ST, CAMBRIDGE, MA 02139  
(607) 576-1999 - 2,503,333 (\$20,887,810 52) COMMON STOCK. (FILE 333-90137  
- NOV. 02) (BR. 1)
- S-8 TITAN CORP, 3033 SCIENCE PARK RD, SAN DIEGO, CA 92121 (858) 552-9500 -  
600,000 (\$9,056,250) COMMON STOCK (FILE 333-90139 - NOV 02) (BR. 3)
- F-1 724 SOLUTIONS INC, 4101 YONGE STREET, SUITE 702, TORONTO, A6 00000  
(416) 226-2900 - \$100,000,000 COMMON STOCK (FILE 333-90143 - NOV 02)  
(BR 8 - NEW ISSUE)
- S-3 APACHE CORP, 2000 POST OAK BLVD, ONE POST OAK CENTER STE 100, HOUSTON,  
TX 77056 (713) 296-6000 (FILE 333-90147 - NOV. 02) (BR. 4)
- S-3 WACHOVIA CORP/ NC, 100 N MAIN ST, P O BOX 3099, WINSTON SALEM, NC 27150  
(336) 770-5000 - 3,000,000 (\$245,062,500) COMMON STOCK (FILE 333-90161 -  
NOV. 02) (BR. 7)
- S-8 INTERTRUST TECHNOLOGIES CORP, 4750 PATRICK HENRY BLVD , SANTA CLARA, CA  
94086 (408) -85-5-01 - 9,302,132 (\$167,438,376) COMMON STOCK (FILE  
333-90163 - NOV. 02) (BR. 3)
- S-1 XCARENET INC, 6400 SOUTH FIDLERS GREEN CIRCLE, STE 540, ENGLEWOOD, CO  
80111 (303) 488-9028 - \$60,000,000 COMMON STOCK. (FILE 333-90165 -  
NOV. 02) (BR. 8 - NEW ISSUE)
- S-8 ALLTEL CORP, ONE ALLIED DR, LITTLE ROCK, AR 72202 (501) 905-8000 -  
9,000,000 (\$675,000,000) COMMON STOCK. (FILE 333-90167 - NOV 02) (BR. 7)
- S-8 CARDIAC SCIENCE INC, 1176 MAIN STREET, SUITE C, IRVINE, CA 92614  
(714) 587-0357 - 600,000 (\$1,389,246) COMMON STOCK. (FILE 333-90169 -  
NOV 02) (BR 5)
- S-8 AEROFLEX INC, 35 S SERVICE RD, PLAINVIEW, NY 11803 (516) 694-6700 -  
273,000 (\$1,569,750) COMMON STOCK. (FILE 333-90173 - NOV 02) (BR. 5)
- S-3 STYLECLICK COM INC, 3861 SEPULVEDA BLVD, CULVER CITY, CA 90230  
(310) 312-9826 - 495,536 (\$4,936,623) COMMON STOCK. (FILE 333-90175 -  
NOV. 02) (BR 3)
- S-8 VIISAGE TECHNOLOGY INC, VIISAGE TECHNOLOGY INC, 30 PORTER ROAD,  
LITTLETON, MA 01460 (617) 952-2200 - 150,000 (\$286,063 31) COMMON STOCK  
(FILE 333-90177 - NOV. 02) (BR 3)

S-4 PRIMUS TELECOMMUNICATIONS GROUP INC, 1700 OLD MEADOW ROAD, STE 300,  
MCLEAN, VA 22102 (703) 902-2800 - 250,000,000 (\$250,000,000)  
STRAIGHT BONDS. (FILE 333-90179 - NOV 02) (BR. 7)

S-3 WAVO CORP, 3131 E CAMELBACK RD., SUITE 320, PHOENIX, AZ 85016  
(602) 952-5500 - 7,026,826 (\$27,116,521.53) COMMON STOCK. (FILE 333-90181  
- NOV. 02) (BR. 3)

SB-2 SOFTLINK INC, 2041 MISSION COLLEGE BLVD, SUITE 259, SANTA CLARA, CA  
95054 (408) 496-6668 - 4,020,000 (\$4,443,614) COMMON STOCK. (FILE  
333-90185 - NOV. 02) (BR. 9 - NEW ISSUE)

SB-2 AQUASEARCH INC, 73-4460 QUEEN KA AHUMANU HWY, STE 110, KAILUA KONA, HI  
96740 (619) 458-0011 - 19,549,622 (\$6,863,741) COMMON STOCK. (FILE  
333-90187 - NOV. 02) (BR. 1)

N-2 MERRILL LYNCH SENIOR FLOATING RATE FUND II INC,  
MERRILL LYNCH ASSET MANAGEMENT, PO BOX 9011, PRINCETON, NJ 08543 -  
75,000,000 (\$750,750,000) COMMON STOCK. (FILE 333-90189 - NOV 02)  
(BR. 17)

S-8 ZOOM TELEPHONICS INC, 207 SOUTH ST, BOSTON, MA 02111 (617) 423-1072 -  
300,000 (\$1,415,625) COMMON STOCK. (FILE 333-90191 - NOV. 02) (BR. 7)

S-8 MASON OIL CO INC, 6337 RAVENWOOD DR, STE 205, SARASOTA, FL 34243  
(941) 351-3102 - 4,600,000 (\$1,270,750) COMMON STOCK (FILE 333-90193 -  
NOV. 02) (BR. 9)

S-3 TII INDUSTRIES INC, 1385 AKRON ST, COPIAGUE, NY 11726 (516) 789-5000 -  
2,500,000 (\$2,890,625) COMMON STOCK. (FILE 333-90197 - NOV. 03) (BR 5)

S-4 SUPERVALU INC, 11840 VALLEY VIEW RD, NULL, EDEN PRAIRIE, MN 55344  
(612) 828-4000 - 600,000,000 (\$600,000,000) STRAIGHT BONDS. (FILE  
333-90199 - NOV. 03) (BR. 4)

S-1 NETJEWELS COM INC, 1001 PETROLIA RD, NORTH YORK ONTARIO, CANADA M3J 2X7,  
(416) 665-8844 - 2,200,000 (\$26,400,000) COMMON STOCK. 220,000 (\$22)  
WARRANTS, OPTIONS OR RIGHTS. 550,000 (\$7,128,000) COMMON STOCK (FILE  
333-90201 - NOV 03) (NEW ISSUE)

S-3 GLOBIX CORP, 295 LAFAYETTE STREET, 3RD FL, NEW YORK, NY 10012  
(212) 594-5300 - 664,573 (\$23,924,628) COMMON STOCK (FILE 333-90203 -  
NOV. 03) (BR 3)

S-8 UNITED NATIONAL FILM CORP, 6363 CHRISTIE AVE UNITE 601, EMERYVILLE, CA  
94608 (510) 653-7020 - 645,000 (\$112,875) COMMON STOCK. (FILE 333-90205 -  
NOV 03) (BR 9)

S-3 NRG ENERGY INC, 1221 NICOLLET MALL, SUITE 700, MINNEAPOLIS, MN 55403  
(612) 373-5300 - 40,000,000 (\$40,000,000) STRAIGHT BONDS (FILE 333-90207  
- NOV. 03) (BR. 2)