

# SEC NEWS DIGEST

Issue 98-237

December 10, 1998

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## COMMISSION ANNOUNCEMENTS

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CLOSED MEETING - THURSDAY, DECEMBER 17, 1998 - 11:00 A.M.

### COMMISSION MEETINGS

The subject matter of the closed meeting scheduled for Thursday, December 17, 1998, at 11:00 a.m., will be: Institution and settlement of injunctive actions; and Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

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## ENFORCEMENT PROCEEDINGS

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### SEC ALLEGES SEAL BEACH, CA INDEPENDENT CONTRACTORS DEFRAUDED CUSTOMERS

On December 9, the Commission issued an order instituting public administrative and cease and desist proceedings against Spectrum Administration, Inc. (Spectrum Administration), Ronald Kindschi (Kindschi), and Michael A. Flanagan, Sr. (Flanagan). An evidentiary hearing should be scheduled to begin within sixty (60) days.

According to that order, Spectrum Administration is a registered investment adviser headquartered in Seal Beach, California. Kindschi is an associated person of Spectrum Administration and operates, as an independent contractor, a branch office of a registered broker-dealer. Flanagan is a registered representative employed by Kindschi. In its order, the Commission alleges that between June 1, 1993, and December 31, 1995, Flanagan, Kindschi and Spectrum Administration repeatedly recommended to customers and clients that they invest \$100,000 or more in class B shares of mutual funds without disclosing to those customers and clients that the same investments in class A shares of mutual funds would have entitled the investor to discounts on sales charges known as breakpoints and that comparable discounts on sales charges were not available for large investments in class B shares. The Commission

also alleges that the respondents failed to inform their customers and clients that class A shares generally produce materially higher returns than class B shares of the same mutual fund for long-term investors making purchases large enough to take advantage of the breakpoints available for purchases of class A shares. According to the order, the respondents also failed to inform their customers and clients that the investments in class B shares as opposed to class A shares of the same mutual funds significantly increased the compensation paid to the registered broker-dealer, Flanagan, Kindschi, and Spectrum Administration. (Rels. 33-7614; 34-40764; IA-1776; File No. 3-9784)

#### **FSC SECURITIES CORPORATION SETTLES WITH SEC**

On December 9, the Commission issued an order instituting public administrative proceedings against FSC Securities Corporation, and simultaneously accepted the Atlanta-based registered broker-dealer's offer of settlement. FSC, without admitting or denying the factual findings, consented to the entry of an order, in which the Commission found that FSC had failed reasonably to supervise the principal of one of its branch offices. As a result of FSC's inadequate supervision, the principal of that branch office allegedly defrauded his customers by engaging in mutual fund switching, by recommending unsuitable securities, and by failing to inform his customers of material facts when selling them mutual funds. With respect to FSC's supervisory system, the Commission specifically found that although the principals of FSC's branch offices were responsible for supervising those who worked for them, FSC's system of supervising the sale of securities by those principals was inadequate. Another inadequacy in FSC's supervisory system, according to the Commission, was its failure to generate for its supervisory personnel an automated exception report that could reliably detect mutual fund switching. FSC, according to the Commission also failed to implement procedures sufficient to assure that its compliance auditors would examine a sufficient number of customer accounts for evidence of fraud during audits of branch offices. FSC, the Commission stated, also could not document that it had reviewed an adequate number of customer accounts for evidence of sales practice abuse during the audits of the registered representative it failed to supervise. FSC agreed to pay a \$50,000 fine, agreed to be censured, and agreed to retain an independent consultant to review specific aspects of its supervisory system. (Rel. 34-40765; File No. 3-9785)

#### **SEC ALLEGES PENNSYLVANIA INDEPENDENT CONTRACTOR DEFRAUDED CUSTOMERS**

On December 9, the Commission issued an order instituting public administrative and cease and desist proceedings against Richard Hoffman (Hoffman) and instituting public administrative proceedings against Kirk Montgomery (Montgomery). An evidentiary hearing should be scheduled to begin within sixty (60) days.

According to the order, Hoffman is the principal of a one-person branch office of an Atlanta-based broker-dealer. That branch office,

located in Hoffman's home in Palm, Pennsylvania, services approximately 2,000 accounts. The Commission alleges that between July 1, 1993, and December 31, 1994, Hoffman defrauded some of his customers by inducing them to incur the costs associated with liquidating shares of a mutual funds which they had owned for a relatively short period of time in order to purchase shares of another mutual fund. Hoffman, according to the Commission, did so in order to increase his compensation when the benefit to the customer did not justify those costs. The Commission's order also alleges that Hoffman failed to inform his customers of material facts such as the charges and fees they would incur when they liquidated shares of certain mutual funds, the charges and fees associated with purchasing shares of mutual funds, and the availability of less expensive alternatives for changing mutual funds. In its order, the Commission also alleges that Hoffman recommended that some customers, who wanted relatively safe investments, invest in speculative mutual funds that he should have known were unsuitable for those customers. The Commission also alleges that Hoffman sold shares of mutual funds to a customer in an amount close to the level at which that customer could have received a commission discount without informing his customer of the availability of that discount and making sure that his customer had adequate opportunity to study and understand his choices.

In its order, the Commission also alleges that Montgomery, who was the Chief Compliance Officer of the broker-dealer with which Hoffman was associated, failed to supervise Hoffman reasonably. The Commission alleges that the broker-dealer's supervisory procedures delegated to Montgomery the responsibility for supervising the principals of certain branch offices such as Hoffman's. Montgomery, the Commission alleges, failed to ever conduct a review of all of Hoffman's accounts for evidence of sale practice abuses or to ensure that anyone else regularly conducted such a review. According to the Commission, Montgomery also failed to employ the automated mutual and switching exception report which he represented to the Commission was "operational" to monitor for mutual fund switching. Those failures on Montgomery's part contributed to the registered broker-dealer's failure to detect the switching in which Hoffman was engaging in 1993 and 1994. (Rel. 33-7615; 34-40766; File No. 3-9786)

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## INVESTMENT COMPANY ACT RELEASES

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### CABLEUROPA S.A.

A notice has been issued giving interested persons until January 4, 1999, to request a hearing on an application filed by Cableuropa S.A. (Cableuropa) for an order under Section 6(c) of the Investment Company Act exempting a special purpose vehicle (SPV) from all provisions of the Act. The order would permit SPV to sell certain debt securities and use the proceeds to finance the business activities of Cableuropa and companies directly or indirectly

controlled by Cableuropa. (Rel. IC-23592; International Series Rel. 1173 - December 8)

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## HOLDING COMPANY ACT RELEASES

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### C&T ENTERPRISES, INC.

A notice has been issued giving interested persons until December 29 to request a hearing on a proposal by C&T Enterprises, Inc. (C&T), Tri-County Rural Electric Cooperative, Inc. (Tri-County), and Claverack Rural Electric Cooperative, Inc. (Claverack): (1) approving the acquisition, under Sections 9(a)(2) and 10 of the Act, of the stock of Citizens' Electric Company; and (2) granting each of C&T, Tri-County, and Claverack, upon consummation of the proposed transaction, an exemption under Section 3(a)(1) of the Act from all of the provisions of the Act, except Section 9(a)(2). (Rel. 35-26950)

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## SELF-REGULATORY ORGANIZATIONS

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### ACCELERATED APPROVAL OF PROPOSED RULE CHANGE

The Commission granted accelerated approval to a proposed rule change submitted by the Philadelphia Stock Exchange (SR-Phlx-98-54) to institute a one-year pilot program to return the trading of Phlx Dell options to the Phlx options floor using American Stock Exchange technology. Publication of the proposal is expected in the Federal Register during the week of December 7. (Rel. 34-40750)

### APPROVAL OF PROPOSED RULE CHANGE

The Commission granted accelerated approval to a proposed rule change submitted by the American Stock Exchange (SR-Amex-98-25) to list and trade Stock Upside Note Securities on the Lehman Brothers European Stock Basket. Publication of the proposal is expected in the Federal Register during the week of December 14. (Rel. 34-40754)

### PROPOSED RULE CHANGES

The National Association of Securities Dealers filed a proposed rule change (SR-NASD-98-90) to allow the Office of Disciplinary Affairs of NASD Regulation to authorize all enforcement actions. Publication of the proposal is expected in the Federal Register during the week of December 14. (Rel. 34-40755)

The American Stock Exchange filed a proposed rule change (SR-Amex-98-39) to increase the current position and exercise limits for narrow-based index options. Publication of the proposal is expected

in the Federal Register during the week of December 14. (Rel. 34-40756)

The Chicago Stock Exchange filed a proposed rule change (SR-CHX-98-27) relating to crossing orders of 25,000 shares or more. Publication of the proposal is expected in the Federal Register during the week of December 14. (Rel. 34-40758)

The Depository Trust Company filed a proposed rule change (SR-DTC-98-20) to modify the Advice of Correction/Cancellation function in DTC's Institutional Delivery system. Publication of the proposal is expected in the Federal Register during the week of December 14. (Rel. 34-40762)

#### WITHDRAWAL SOUGHT

A notice has been issued giving interested persons until December 30, 1998, to comment on the application of Sport-Haley, Inc. to withdraw its Common Stock, No Par Value and its Warrants to Purchase Common Stock, from listing and registration on the Pacific Exchange. (Rel. 34-40759)

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#### SECURITIES ACT REGISTRATIONS

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

- S-B PEOPLES REPUBLIC OF CHINA, 2300 CONNECTICUT AVE, STE 2250, WASHINGTON, DC 20008 - 1,000,000,000 (\$1,000,000,000)  
FOREIGN GOVERNMENT AND AGENCY DEBT. (FILE 333-9664 - NOV. 24) (BR. 99)
- F-1 INTERNATIONAL UTILITY STRUCTURES INC, 777 8TH AVE SW, SUITE 1800, CALGARY ALBERTA T2P, A0 00000 (403) 269-2350 - 600,000 (\$774,000)  
FOREIGN COMMON STOCK. (FILE 333-9680 - NOV. 30) (BR. 6)
- F-8 LOBLAW COMPANIES LTD, 22 ST CLAIR AVE EAST, TORONTO, ONTARIO CANADA, A6 - 27,938 (\$506,795.30) FOREIGN COMMON STOCK. (FILE 333-9682 - NOV. 30) (BR. 2)
- S-B URUGUAY REPUBLIC OF, 2021 L STREET N W, SUITE 201, WASHINGTON, DC 20036 (000) 000-0000 - 50,000,000 (\$50,000,000) STRAIGHT BONDS. (FILE 333-9684 - NOV. 30) (BR. 99)
- S-8 ALL AMERICAN FOOD GROUP INC, 104 NEW ERA DR, S PLAINFIELD, NJ 07080 (908) 757-3022 - 2,200,000 (\$33,000) COMMON STOCK. (FILE 333-68281 - DEC. 03) (BR. 9)

S-8 GAP INC, ONE HARRISON, SAN FRANCISCO, CA 94105 (415) 952-4400 -  
60,000,000 (\$60,000,000) OTHER SECURITIES INCLUDING VOTING TRUST. (FILE  
333-68285 - DEC. 03) (BR. 2)

S-8 ENESCO GROUP INC, 333 WESTERN AVE, WESTFIELD, MA 01085 (413) 562-3631 -  
14,000 (\$361,375) COMMON STOCK. (FILE 333-68289 - DEC. 03) (BR. 2)

S-3 AMB PROPERTY CORP, 505 MONTGOMERY STREET, SAN FRANCISCO, CA 94111 -  
2,542,163 (\$54,732,769) COMMON STOCK. (FILE 333-68291 - DEC. 03) (BR. 8)

SB-1 HORIZON BANCORPORATION INC, SUITE C 3005 26TH STREET WEST, BRADENTON, FL  
34205 (941) 753-2265 - 7,500,000 (\$7,500,000) COMMON STOCK. (FILE  
333-68293 - DEC. 03) (BR. 9 - NEW ISSUE)

S-8 BANCTEC INC, 4851 LBJ FREEWAY, 12TH FL, DALLAS, TX 75244 (972) 341-4000  
- 500,000 (\$6,547,000) COMMON STOCK. (FILE 333-68295 - DEC. 03) (BR. 3)

S-8 FIRST INDIANA CORP, 135 N PENNSYLVANIA ST, 2800 FIRST INDIANA PL,  
INDIANAPOLIS, IN 46204 (317) 269-1200 - 100,000 (\$1,943,750) COMMON STOCK.  
(FILE 333-68297 - DEC. 03) (BR. 7)

S-3 AMERICAN STATES WATER CO, 630 E FOOTHILL BLVD, SAN DIMAS, CA 91773  
(909) 394-3600 (FILE 333-68299 - DEC. 03) (BR. 4)

S-8 MEDIA ARTS GROUP INC, 521 CHARCOT AVENUE, SAN JOSE, CA 95113  
(408) 324-2020 - 1,474,781 (\$20,263,491) COMMON STOCK. (FILE 333-68301 -  
DEC. 03) (BR. 5)

S-8 AMERICAN ANNUITY GROUP INC, 250 EAST FIFTH STREET, 10TH FL, CINCINNATI,  
OH 45202 (513) 333-5300 - 500,000 (\$11,565,000) COMMON STOCK. (FILE  
333-68303 - DEC. 03) (BR. 1)

S-8 METRO GLOBAL MEDIA INC, 1060 PARK AVE, CRANSTON, RI 02910 (401) 942-7876  
- 500,000 (\$1,375,000) COMMON STOCK. (FILE 333-68305 - DEC. 03) (BR. 5)

SB-2 COMMUNITY CAPITAL BANCSHARES INC, 430 TIFT AVENUE, ALBANY, GA 31701  
(912) 446-2265 - 1,150,000 (\$11,500,000) COMMON STOCK. (FILE 333-68307 -  
DEC. 03) (BR. 9 - NEW ISSUE)

S-8 AUTOIMMUNE INC, 128 SPRING ST, LEXINGTON, MA 02173 (617) 860-0710 -  
1,300,000 (\$2,457,000) COMMON STOCK. (FILE 333-68309 - DEC. 03) (BR. 1)

S-8 NUGGET EXPLORATION INC, 815 SOUTH DURBIN ST, CASPER, WY 82601  
(307) 234-9151 - 600,000 (\$3,300,000) COMMON STOCK. (FILE 333-68311 -  
DEC. 03) (BR. 4)

S-8 JAKKS PACIFIC INC, 24955 PACIFIC COAST HWY, #B202, MALIBU, CA 90265  
(310) 456-7799 - 500,000 (\$4,687,500) COMMON STOCK. (FILE 333-68313 -  
DEC. 03) (BR. 5)

S-8 SUIZA FOODS CORP, 3811 TURTLE CREEK BLVD, STE 1300, DALLAS, TX 75219  
(214) 528-9922 - 1,000,000 (\$46,062,500) COMMON STOCK. (FILE 333-68319 -  
DEC. 03) (BR. 4)

S-8 PORTA SYSTEMS CORP, 575 UNDERHILL BLVD, SYOSSET, NY 11791 (516) 364-9300  
- 900,000 (\$2,210,936.65) COMMON STOCK. (FILE 333-68321 - DEC. 03)  
(BR. 7)

S-8 META GROUP INC, 208 HARBOR DR, STAMFORD, CT 06912 (203) 973-6700 -  
1,859,500 (\$44,679,692) COMMON STOCK. (FILE 333-68323 - DEC. 03) (BR. 6)

S-8 SAXTON INC, 5440 W SAHARA AVE THIRD FLOOR, LAS VEGAS, NV 89102  
(702) 221-1111 - 550,000 (\$4,266,267) COMMON STOCK. (FILE 333-68325 -  
DEC. 03) (BR. 8)

S-3 AMERICAN TECHNOLOGIES GROUP INC, 1017 S MOUNTAIN AVE, MONROVIA, CA 91016  
(818) 357-5000 - 1,353,539 (\$889,550.35) COMMON STOCK. (FILE 333-68327 -  
DEC. 03) (BR. 5)

S-3 STAR GAS PARTNERS LP, 2187 ATLANTIC ST, STAMFORD, CT 06902  
(203) 328-7300 - 7,820,000 (\$151,512,500) COMMON STOCK. (FILE 333-68329 -  
DEC. 03) (BR. 2)

- S-3 COYOTE NETWORK SYSTEMS INC, 4360 PARK TERRACE DRIVE, WESTLAKE VILLAGE,  
CA 91361 (818) 735-7600 - 5,414,789 (\$86,636,624) COMMON STOCK. (FILE  
333-68333 - DEC. 03) (BR. 4)
- S-8 CISCO SYSTEMS INC, 170 WEST TASMAN DRIVE, SAN JOSE, CA 95134  
(408) 526-4000 - 229,388 (\$8,895,956.16) COMMON STOCK. (FILE 333-68335 -  
DEC. 03) (BR. 3)
- S-3 ZYMETX INC, 800 RESEARCH PARKWAY, STE 100, OKLAHOMA CITY, OK 73104  
(405) 271-1314 - 2,384,431 (\$9,251,592.28) COMMON STOCK. (FILE 333-68337 -  
DEC. 03) (BR. 9)
- S-3 ARCHER DANIELS MIDLAND CO, 4666 FARRIES PKWY, DECATUR, IL 62526  
(217) 424-5200 - 179,865 (\$3,237,570) COMMON STOCK. (FILE 333-68339 -  
DEC. 03) (BR. 4)
- S-3 SHAW INDUSTRIES INC, 616 E WALNUT AVE, P O DRAWER 2128, DALTON, GA 30722  
(706) 278-3812 - 19,444,444 (\$388,888,880) COMMON STOCK. (FILE 333-68341 -  
DEC. 03) (BR. 2)
- S-8 SCB COMPUTER TECHNOLOGY INC, 1365 WEST BRIERBROOK RD, MEMPHIS, TN 38138  
(901) 754-6577 - 1,800,000 (\$14,962,500) COMMON STOCK. (FILE 333-68343 -  
DEC. 03) (BR. 8)
- S-1 VIGNETTE CORP, 3401 FAR WEST BLVD, SUITE 300, AUSTIN, TX 78731  
(512) 502-0223 - \$30,000,000 COMMON STOCK. (FILE 333-68345 - DEC. 03)  
(BR. 3)
- S-8 SOCKET COMMUNICATIONS INC, 37400 CENTRAL COURT, NEWARK, CA 94560  
(510) 744-2700 - 1,300,000 (\$835,900) COMMON STOCK. (FILE 333-68347 -  
DEC. 03) (BR. 3)