

sec news digest

Issue 95-155

August 11, 1995

RULES AND RELATED MATTERS

ORDER GRANTING APPLICATION PURSUANT TO SECTION 12(h)

An order has been issued granting the application of Charles E. Smith Residential Realty, Inc. for an exemption from the provisions of Section 16 of the Securities Exchange Act with respect to its ownership of and transactions in units of limited partnership interest of Charles E. Smith Residential Realty, L.P. (Rel. 34-36080)

ENFORCEMENT PROCEEDINGS

CEASE AND DESIST ORDER ISSUED AGAINST TCF FINANCIAL CORPORATION

The Commission announced today an Order Instituting Proceedings, Making Findings and Imposing a Cease and Desist Order (Order) against TCF Financial Corporation (TCF). TCF consented to the entry of the Order without admitting or denying the Commission's findings. The Order found that TCF committed violations of the reporting provisions of the federal securities laws and ordered them to cease and desist from committing or causing any violation, and committing or causing any future violation of such provisions.

The Order makes findings that during 1989 and 1990, TCF was aware of definitive indications of decreasing value on certain real estate owned properties. However, TCF's relevant Forms 10-Q and Form 10-K filed with the Commission during this period, failed to adequately and timely provide for these known losses in accordance with Generally Accepted Accounting Principles. As a result, TCF materially overstated income in its filings with the Commission for the quarter ended September 30, 1989, the year ended December 31, 1989 and the quarter ended March 31, 1990. (Rel. 34-36085; AAER-694)

SUPERSEDING INDICTMENT RETURNED AGAINST JAMES MERRIAM, HAROLD HAYES AND WILLIAM SHEPPARD ON SECURITIES FRAUD CHARGES

The United States Attorney for the Northern District of California and the Commission announced that on July 26, the Grand Jury returned a superseding indictment against James A. Merriam, Harold B. Hayes and William R. Sheppard charging all defendants with one count of conspiracy to commit securities fraud; filing false records with the Commission and making false statements to the Commission; and wire fraud. The defendants were also charged with one substantive count of wire fraud. In addition, James A. Merriam was charged with seven counts of securities fraud involving insider trading and six counts of wire fraud, while Harold B. Hayes was charged with ten counts of securities fraud involving insider trading and nine counts of wire fraud.

The Indictment alleges that from March, 1990 through August 6, 1990, James A. Merriam and the stockbrokers, Harold B. Hayes and William R. Sheppard, manipulated the stock price of Vintage Group, Inc. The company, whose general purpose was to invest in new and developing companies offering long-term growth potential, issued financial statements that substantially overstated the fair value of Vintage's securities portfolio. These false and misleading financial statements were included in the reports on Forms 10-Q and Forms 10-K that Vintage filed with the Commission.

In addition, the Indictment alleges that Merriam and Hayes sold stock while in possession of material, non-public information. [U.S. v. James A. Merriam, et al., Criminal Action No. CR-95-0245, FMS, N.D. Cal.] (LR-14597)

COURT ENTERS TEMPORARY RESTRAINING ORDER TO HALT PRIME BANK SCHEME ON THE INTERNET

The Commission announced today that on August 8 the Honorable Reginald C. Lindsay of the U.S. District Court for the District of Massachusetts entered an order temporarily restraining Gene Block (Block), d/b/a Block Consulting Services, of Durham, North Carolina, from continuing his fraudulent offering of securities. The Court's order freezes Block's assets, requires Block to file an accounting, orders the repatriation of investor funds and grants other relief.

The Commission's complaint alleges that Block violated Section 17(a) of the Securities Act and Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder. The complaint alleges that since at least July 10, Block has been using the Internet to fraudulently induce members of the public to invest with him by promising to double investors' funds in as little as four months by buying and selling

"Prime Bank Instruments." As an inducement to potential investors, Block has falsely represented that their initial investment is guaranteed against loss because a "Prime Bank Guarantee" will be used as security for the transaction. However, there are no legitimate financial instruments known as "Prime Bank Guarantees." It is also alleged that Block failed to disclose the risk that the returns will not be achieved.

The complaint seeks permanent injunctive relief, disgorgement and civil monetary penalties. The Court has scheduled a hearing on the Commission's application for a preliminary injunction for August 22. [SEC v. Gene Block, Individually and d/b/a Block Consulting Services, Civil Action No. 95-11748RCL, D. Mass.] (LR-14598)

FORMER EXECUTIVE OF GEORGIA FIRM NAMED IN INJUNCTIVE ACTION FOR INSIDER TRADING

The Commission announced that on August 9 a complaint was filed in the United States District Court for the Northern District of Georgia seeking to enjoin Jozef A.C. van Stratum of The Netherlands from further violations of Section 10(b) of the Securities Exchange Act and Rule 10b-5 promulgated thereunder.

The Commission alleges that van Stratum, a former officer and director of Crown Andersen, Inc. (Crown), a public company registered with the Commission and whose stock is traded on the NASDAQ stock market, sold Crown stock while in the possession of material nonpublic information concerning the financial performance of Crown and acted with scienter. Crown is a Peachtree City-based maker of pollution control products.

Van Stratum was the managing director of Montair Andersen, b. v. (Montair), a wholly owned subsidiary of Crown. The Commission contends that at least by June 15, 1993 van Stratum had become aware that the revenues of the Montair subsidiary had decreased materially. Between June 28, 1993, and July 2, 1993, while in the possession of this information but before its public disclosure, van Stratum sold 25,000 shares of Crown stock. On July 22, 1993, Crown announced that it expected to report a loss for the quarter ended June 30, 1993, and that the loss was entirely attributable to a loss of approximately \$300,000 for that quarter experienced by the Montair subsidiary. On the day of the announcement, the price of Crown stock fell 16 per cent. By selling his stock before this announcement, van Stratum avoided a loss \$28,000.

The Commission seeks an injunction, disgorgement plus prejudgment interest, and a civil penalty pursuant to Section 21A of the Exchange Act. [SEC v. Jozef A.C. van Stratum, No. 1:95-CV-2007-RCF, U.S.D.C. N.D. GA] (LR-14599)

SETTLEMENT WITH MAL YERASI

On August 11 the Commission announced a settlement with Mal Yerasi. The complaint alleged that Yerasi violated Section 10(b) of the Securities Exchange Act and Rule 10b-5 thereunder. In its complaint, the Commission sought a permanent injunction and disgorgement plus prejudgement interest. Yerasi's alleged wrongful conduct stemmed from his submission of at least 43 fraudulent proofs of claim for monies from claims funds established in connection with settlements of private securities fraud class actions and three additional claims from disgorgement funds established in connection with Commission enforcement actions. Without admitting or denying the Commission's allegations, Yerasi consented to the entry of a judgment that enjoins him from violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and orders him to pay disgorgement in the amount of \$305,105.79 plus prejudgement interest in the amount of \$26,789.10 for a total of \$331,894.89. [SEC v. Mal Yerasi, Civil Action No. 95 Civ. 3893, JFK, S.D.N.Y. 1995] (LR-14600)

INVESTMENT COMPANY ACT RELEASES

FINANCIAL SQUARE TRUST

An order has been issued under Section 8(f) of the Investment Company Act declaring that Financial Square Trust has ceased to be an investment company. (Rel. IC-21277 - August 9)

SELF-REGULATORY ORGANIZATIONS

WITHDRAWAL GRANTED

An order has been issued granting the application of R.G. Barry Corporation to withdraw from listing and registration its Common Stock, \$1.00 Par Value, on the American Stock Exchange. (Rel. 34-36078)

APPROVAL OF PROPOSED RULE CHANGES

The Commission has approved proposed rule changes (SR-MCC-95-01; SR-MSTC-95-04) of the Midwest Clearing Corporation and Midwest Securities Trust Company. The rule changes amend MCC's and MSTC's mandatory indemnification requirements by requiring MCC and MSTC to indemnify members of their committees. (Rel. 34-36066)

The Commission has approved a proposed rule change (SR-Amex-94-55) filed by the American Stock Exchange, and a proposed rule change (SR-CBOE-95-01) filed by the Chicago Board Options Exchange, each proposal relating to the listing and trading of warrants on the Deutscher Aktienindex (DAX Index). Publication of the approval order is expected in the Federal Register during the week of August 14. (Rel. 34-36070; IS-837)

The Commission has approved the proposed rule change (SR-NASD-95-12) filed by the National Association of Securities Dealers that amends Article III, Section 35 of the NASD Rules of Fair Practice, and Section 8 of the Government Securities Rules relating to advertising and sales literature filing and review requirements. (Rel. 34-36076)

The Commission approved a proposed rule change filed by the National Association of Securities Dealers (SR-NASD-95-28) to add a new Interpretation under Article III, Section 1 of the NASD Rules of Fair Practice regarding a prohibition against purposeful trading that affects a member firm's inventory position in a given security prior to the firm's issuance of a research report in that same security. (Rel. 34-36077)

ACCELERATED APPROVAL OF PROPOSED RULE CHANGES

The Commission approved on an accelerated basis a proposed rule change filed by the Participants Trust Company (SR-PTC-95-05) establishing a new category for participant eligibility. Publication of the proposal is expected in the Federal Register during the week of August 14. (Rel. 34-36075)

The Commission granted accelerated approval to a proposed rule change submitted by the Philadelphia Stock Exchange (SR-PHLX-95-63) relating to an extension of the effectiveness of its pilot program and accompanying rules that provide for the trading of Nasdaq/National Market System securities through February 12, 1996. (Rel. 34-36087)

IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGE

A proposed rule change filed by the American Stock Exchange to waive Amex transaction charges for proprietary equity trades effected on the Floor by Registered Equity Market Makers (SR-Amex-95-30) has become effective. Publication of the proposal is expected in the Federal Register during the week of August 14. (Rel. 34-36081)

PROPOSED RULE CHANGE

The Commission received a proposed rule change filing (SR-CBOE-95-16) by the Chicago Board Options Exchange on June 1 proposing to codify the duties of CBOE members when executing a stock-option order, the execution of which involves transactions in CBOE's options market and in another market (multi-market order). The Exchange also proposes to specify when members that are parties to the transaction may cancel the options trade that is a component of a multi-market order. Publication of the notice is expected in the Federal Register during the week of August 14. (Rel. 34-36082)

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 MERRILL LYNCH & CO INC, 250 VESEY ST, WORLD FINANCIAL CTR N TOWER, NEW YORK, NY 10281 (212) 449-1000 - 4,000,000,000 (\$4,000,000,000) STRAIGHT BONDS. (FILE 33-61559 - AUG. 04) (BR. 12)
- S-8 THERMO ELECTRON CORP, 81 WYMAN ST, P O BOX 9046, WALTHAM, MA 02254 (617) 622-1000 - 300,000 (\$12,693,750) COMMON STOCK. (FILE 33-61561 - AUG. 04) (BR. 8)
- S-3 KROGER CO, 1014 VINE ST, CINCINNATI, OH 45202 (513) 762-4000 - 10,706,638 (\$341,943,251) COMMON STOCK. (FILE 33-61563 - AUG. 04) (BR. 2)
- S-8 H&R BLOCK INC, 4410 MAIN ST, KANSAS CITY, MO 64111 (816) 753-6900 - 2,147,257 (\$88,037,537) COMMON STOCK. (FILE 33-61565 - AUG. 04) (BR. 5)
- S-6 NUVEEN TAX EXEMPT UNIT TRUST SERIES 819, JOHN NUVEEN & CO INC, 333 WEST WACKER DRIVE, CHICAGO, IL 60606 (312) 917-7786 - INDEFINITE SHARES. (FILE 33-61567 - AUG. 04) (NEW ISSUE)
- S-8 CARE GROUP INC, ONE HOLLOW LANE, LAKE SUCCESS, NY 11042 (516) 869-8383 - 273,500 (\$1,318,645) COMMON STOCK. (FILE 33-61569 - AUG. 04) (BR. 5)
- S-3 BALLY ENTERTAINMENT CORP, 8700 W BRYN MAWR AVE, CHICAGO, IL 60631 (312) 399-1300 - \$115,000,000 PREFERRED STOCK. (FILE 33-61571 - AUG. 04) (BR. 12)
- S-3 AGOURON PHARMACEUTICALS INC, 10350 NORTH TORREY PINES ROAD, SUITE 100, LA JOLLA, CA 92037 (619) 622-3000 - 2,300,000 (\$65,693,750) COMMON STOCK. (FILE 33-61573 - AUG. 04) (BR. 4)
- S-4 FIRST COMMERCE CORP /LA/, P O BOX 60279, 210 BARONNE STREET, NEW ORLEANS, LA 70112 (504) 561-1371 - 1,009,705 (\$15,583,183) COMMON STOCK. (FILE 33-61575 - AUG. 04) (BR. 1)
- S-8 COMPUTRAC INC, 222 MUNICIPAL DR, RICHARDSON, TX 75080 (214) 234-4241 - 500,000 (\$610,000) COMMON STOCK. (FILE 33-61577 - AUG. 04) (BR. 9)
- S-3 TIME WARNER INC, TIME & LIFE BLDG ROCKFELLER CENTER, 75 ROCKEFELLER PLAZA, NEW YORK, NY 10019 (212) 484-8000 - 8,349,732 (\$367,388,208) COMMON STOCK. (FILE 33-61579 - AUG. 04) (BR. 11)
- S-8 EVEREST & JENNINGS INTERNATIONAL LTD, 1100 CORPORATE SQ DR, ST LOUIS, MO 63132 (314) 995-7000 - 350,000 (\$185,500) COMMON STOCK. (FILE 33-61581 - AUG. 04) (BR. 8)
- S-3 LEAR SEATING CORP, 21557 TELEGRAPH RD, SOUTHFIELD, MI 48034 (313) 746-1500 - 17,250,000 (\$463,593,750) COMMON STOCK. (FILE 33-61583 - AUG. 04) (BR. 6)

REGISTRATIONS CONT.

- S-4 OLD NATIONAL BANCORP, 420 MAIN ST, EVANSVILLE, IN 47708 (812) 464-1434 - 140,271 (\$2,029,000) COMMON STOCK. (FILE 33-61593 - AUG. 04) (BR. 1)
- SB-2 SALIVA DIAGNOSTIC SYSTEMS INC, 11719 NE 95TH ST STE G, VANCOUVER, WA 98682 (206) 696-4800 - 1,540,000 (\$5,677,980) COMMON STOCK. (FILE 33-95172 - JUL. 31) (BR. 8)
- S-8 FIRST INDUSTRIAL REALTY TRUST INC, 150 N WACKER DR, STE 150, CHICAGO, IL 60606 (312) 704-9000 - 1,200,000 (\$26,212,625) COMMON STOCK. (FILE 33-95188 - JUL. 31) (BR. 6)
- S-3 FIRST INDUSTRIAL REALTY TRUST INC, 150 N WACKER DR, STE 150, CHICAGO, IL 60606 (312) 704-9000 - 5,043,832 (\$103,809,983.50) COMMON STOCK. (FILE 33-95190 - JUL. 31) (BR. 6)
- S-1 A PLUS COMMUNICATIONS INC /TN/, 2416 HILLSBORO RD, NASHVILLE, TN 37212 (615) 385-4500 - 75,000,000 (\$75,000,000) STRAIGHT BONDS. UNDERWRITER: PRUDENTIAL SECURITIES INC. (FILE 33-95208 - JUL. 31) (BR. 7)
- S-1 AUTOCRAFT INDUSTRIES INC, 123 SOUTH HUDON, OKLAHOMA CITY, OK 73102 (405) 232-2400 - \$68,425,000 COMMON STOCK. (FILE 33-95234 - AUG. 02) (BR. 4 - NEW ISSUE)
- S-8 OPTI INC, 2525 WALSH AVE, SANTA CLARA, CA 95051 (408) 980-8178 - 1,000,000 (\$24,625,000) COMMON STOCK. (FILE 33-95236 - AUG. 02) (BR. 3)
- S-1 GS TECHNOLOGIES OPERATING CO INC, 7000 ROBERTS ST, KANSAS CITY, MO 64125 (816) 242-5100 - 125,000,000 (\$125,000,000) STRAIGHT BONDS. (FILE 33-95278 - AUG. 01) (BR. 6)
- SB-2 WESTMARK GROUP HOLDINGS INC, 355 N E FIFTH AVE, STE 4, DELRAY BEACH, FL 33483 (407) 243-8010 - 9,200,000 (\$9,200,000) STRAIGHT BONDS. 66,666 (\$400,096) COMMON STOCK. 436,050 (\$436,050) STRAIGHT BONDS. 133,333 COMMON STOCK. (FILE 33-95294 - AUG. 01) (BR. 5)
- S-1 GALAXY TELECOM LP, 1220 N MAIN ST, SIKESTON, MO 63801 (314) 471-5022 - 120,000,000 (\$120,000,000) STRAIGHT BONDS. UNDERWRITER: BT SECURITIES CORP, MERRILL LYNCH & CO. (FILE 33-95298 - AUG. 01) (BR. 7 - NEW ISSUE)
- F-1 SIMWARE INC, 2 GURDWARE RD, OTTAWA, ONTARIO CANADA, A6 (613) 727-1779 - \$27,600,000 FOREIGN COMMON STOCK. (FILE 33-95300 - AUG. 01) (BR. 10 - NEW ISSUE)
- S-8 TARGET TECHNOLOGIES INC, 6714 NETHERLANDS DRIVE, WILMINGTON, NC 28405 (303) 697-0467 - 500,000 (\$3,562,500) COMMON STOCK. (FILE 33-95306 - AUG. 01) (BR. 8)
- S-8 OPAL INC, 2903 BUNKER HILL LANE, STE 103, SANTA CLARA, CA 95054 (408) 727-6060 - 350,000 (\$6,868,750) COMMON STOCK. (FILE 33-95310 - AUG. 01) (BR. 8)
- S-8 OPAL INC, 2903 BUNKER HILL LANE, STE 103, SANTA CLARA, CA 95054 (408) 727-6060 - 920,158 (\$8,543,235.30) COMMON STOCK. (FILE 33-95312 - AUG. 01) (BR. 8)
- S-8 TELTREND INC, 620 STETSON AVE, ST CHARLES, IL 60174 (708) 377-1700 - 120,548 (\$19,806.04) COMMON STOCK. (FILE 33-95314 - AUG. 01) (BR. 7)
- S-8 TELTREND INC, 620 STETSON AVE, ST CHARLES, IL 60174 (708) 377-1700 - 440,000 (\$7,440,400) COMMON STOCK. (FILE 33-95316 - AUG. 01) (BR. 7)
- F-3 GST TELECOMMUNICATIONS INC, 1220 MAIN ST STE 400, 00000000, VANCOUVER, WA 98660 (360) 737-7900 - 288,666 (\$1,749,315.96) FOREIGN COMMON STOCK. (FILE 33-95324 - AUG. 01) (BR. 8)

REGISTRATIONS CONT.

- S-8 HEALTH MANAGEMENT SYSTEMS INC, 401 PARK AVE S, NEW YORK, NY 10016
(212) 685-4545 - 75,000 (\$2,221,875) COMMON STOCK. (FILE 33-95326 -
JUL. 31) (BR. 10)
- S-8 BOSTON RESTAURANT ASSOCIATES INC, 205 PORTLAND ST, BOSTON, MA 02114
(617) 720-5684 - 155,000 (\$207,700) COMMON STOCK. (FILE 33-95328 -
AUG. 01) (BR. 12)
- SB-2 ATLAS ENERGY FOR THE NINETIES PUBLIC NO 4 LTD, 311 ROUSER RD,
MOON TOWNSHIP, PA 15108 (412) 262-2830 - 7,000,000 (\$7,000,000)
LIMITED PARTNERSHIP CERTIFICATE. (FILE 33-95330 - AUG. 01) (BR. 3
- NEW ISSUE)
- S-8 ANDOVER BANCORP INC, 61 MAIN ST, ANDOVER, MA 01810 (508) 749-2000 -
206,400 (\$4,179,600) COMMON STOCK. (FILE 33-95336 - AUG. 02) (BR. 1)
- S-4 EFFECTIVE MANAGEMENT SYSTEMS INC, 12000 WEST PARK PL, MILWAUKEE, WI
53224 (414) 359-9800 - 550,000 (\$2,065,480.43) COMMON STOCK. (FILE
33-95338 - AUG. 02) (BR. 10)
- S-4 INNOVIR LABORATORIES INC, 510 E 73RD ST, NEW YORK, NY 10021
(212) 249-4703 - 1,816,416 (\$14,190,750) WARRANTS, OPTIONS OR RIGHTS.
1,816,416 (\$21,456,414) COMMON STOCK. (FILE 33-95340 - AUG. 02) (BR. 4)
- S-8 SPACELABS MEDICAL INC, 15220 NE 40TH ST, REDMOND, WA 98052
(206) 882-3700 - 920,000 (\$22,942,500) COMMON STOCK. (FILE 33-95342 -
AUG. 02) (BR. 8)
- S-8 PARAGON TRADE BRANDS INC, 33325 8TH AVENUE SOUTH, FEDERAL WAY, WA 98003
(206) 815-7000 - 450,000 (\$6,975,000) COMMON STOCK. (FILE 33-95344 -
JUL. 31) (BR. 8)
- S-8 PETCO ANIMAL SUPPLIES INC, 9151 REHCO RD, SAN DIEGO, CA 92121
(619) 453-7845 - 200,000 (\$4,425,000) COMMON STOCK. (FILE 33-95352 -
AUG. 01) (BR. 2)
- S-6 KANSAS CITY LIFE VARIABLE LIFE SEPARATE ACCOUNT, 3520 BROADWAY,
KANSAS CITY, MO 64141 - INDEFINITE SHARES. (FILE 33-95354 - AUG. 02)
(BR. 20 - NEW ISSUE)
- S-4 ALLIANCE ENTERTAINMENT CORP, 115 E 57TH ST, NEW YORK, NY 10022
(212) 750-2303 - 125,000,000 (\$125,000,000) STRAIGHT BONDS. (FILE
33-95386 - AUG. 03) (BR. 7)
- S-3 COMPLINK LTD, 175 COMMUNITY DR, GREAT NECK, NY 11021 (516) 829-1883 -
725,918 (\$2,798,353.38) COMMON STOCK. (FILE 33-95390 - AUG. 03) (BR. 9)
- N-2 SIRROM CAPITAL CORP, 511 UNION ST, STE 2310, NASHVILLE, TN 37219
(615) 256-0701 - \$43,843,750 COMMON STOCK. (FILE 33-95394 - AUG. 03)
(BR. 18)