

# sec news digest

Issue 94-238

December 15, 1994

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## COMMISSION ANNOUNCEMENT

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### NEW FACSIMILE NUMBER FOR THE OFFICE OF THE CHIEF ACCOUNTANT

Effective December 21, 1994, the facsimile phone number for the Commission's Office of the Chief Accountant will be changed. The new number will be (202) 942-9656. Persons who use fax as a means of communicating with that office should note the change. Callers to the former number will not be redirected to the new number.

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## ENFORCEMENT PROCEEDINGS

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### FORMER J.T. MORAN PRESIDENT BARRED

The Commission announced that it simultaneously instituted and settled administrative proceedings against John T. Moran in which Moran, without admitting or denying the findings, except the entry of the injunction discussed below, which he admits, consented to the issuance of an order by the Commission which bars him from association with any broker, dealer, investment adviser, investment company, or municipal securities dealer.

On October 31, 1994, Moran was permanently enjoined from violating the registrations, antifraud and antimanipulation provisions of the federal securities laws, and ordered to disgorge \$2,913.74. Moran was Chairman and Chief Executive Officer of J.T. Moran Financial Corp. (MoranFin) and President of J.T. Moran & Co., Inc. (Moran & Co.), a boiler room broker-dealer which ceased operations in January 1990.

The Commission's complaint, filed on July 14, 1992, alleged that, in 1988, Moran and others engaged in unlawful securities trading which artificially inflated Moran & Co.'s net capital position. The complaint also alleged that Moran and others made material misrepresentations and omissions regarding an October 1988 offering of MoranFin units. (Rel. 34-35064)

NASD DISCIPLINARY ACTION AGAINST U.S. SECURITIES CLEARING CORPORATION AND ANTHONY MIRANTI SUSTAINED

The Commission has sustained NASD disciplinary action against U.S. Securities Clearing Corporation (USSCC), a registered broker-dealer and member of the NASD, and Anthony James Miranti, USSCC's president and compliance officer. The NASD found that Applicants violated Article III, Sections 1, 4, and 18 of the NASD's Rules of Fair Practice (the Rules) by charging excessive, and in some instances fraudulent, markups in approximately 300 principal retail transactions involving 13 American securities sold to individuals residing in Germany. The NASD also found that USSCC, through Miranti, violated Article III, Section 1 of the NASD's Rules by failing to report its price and volume information in four non-NASDAQ over-the-counter securities, as required by Section 2 of Schedule H to the NASD's By-Laws. The NASD censured and suspended USSCC from effecting any transactions for 90 calendar days, censured and suspended Miranti from associating with any NASD member for 90 days in any capacity, jointly and severally fined Applicants \$55,000, and required them to pay costs totaling \$2,387.49. The NASD also required USSCC and Miranti to provide restitution in the total amount of \$396,846 to the customers in whose accounts transactions were effected at prices in excess of 5 percent over the prevailing market price for the securities. (Rel. 34-35066)

SETTLEMENT OFFER OF JOHN DAY ACCEPTED

The Commission announced the entry of an Order Instituting Public Administrative Proceedings, Making Findings and Imposing Remedial Sanctions against John Albert DeCastro Day (Day), and the acceptance of Day's Offer of Settlement. The Order is based on a previous Order of Permanent Injunction which was entered by the United States District Court for the Northern District of Alabama on November 18, 1994, which permanently enjoins Day from future violations of the federal securities laws.

The Commission's complaint alleged that Day, while employed by PaineWebber, Inc., engaged in a loss dumping and gain skimming scheme in the accounts of two of his customers whereby Day purchased stock and index options through PaineWebber's block desk and delayed allocating the options until he determined whether the prices of the stock or index option rose or fell. The complaint also alleged that Day engaged in unsuitable and unauthorized trading, and made material false and misleading statements to his clients relating to the value of their accounts and the risks associated with Day's trading strategy.

The Commission's Order bars Day from associating with any regulated entity. (Rel. 34-35069)

SEC ENTERS INTO STIPULATION, AMENDS COMPLAINT AND WINS ORDER TO SHOW CAUSE AGAINST GERARD MURPHY

The Commission announced today that on December 13 it filed its First Amended Complaint for Injunctive and Other Relief in SEC v. Morris 94 Civ. 8518 (CBM) before the Honorable Constance Baker Motley, United States District Judge for the Southern District of New York. The Amended Complaint names Gerard Murphy (Murphy), of Liverpool, England, as a defendant. The amended complaint alleges, among other things, that Murphy is the individual who provided Morris with the "tip" regarding Hilton Hotels Corp. securities.

On November 23, an order was entered temporarily restraining defendant Jeffrey C. Morris (Morris) from further violations of antifraud provisions of the federal securities laws. On December 13, the parties entered into a stipulation continuing this order, in modified form, pending the resolution of this matter as to Morris.

Further, Judge Motley issued an Order to Show Cause Why a preliminary Injunction Should Not Issue against Murphy enjoining him from further violations of the antifraud provisions of the federal securities laws should not be issued. [SEC v. Jeffrey Morris, Civil Action No. 94 Civ. 8518, CBM, USDC, SDNY] (LR-14354)

COMPLAINT FILED AGAINST STRATTON OAKMONT

The Commission announced the filing of a Complaint in the United States District Court for the District of Columbia against Stratton Oakmont, Inc., a registered broker-dealer, seeking a temporary restraining order, preliminary and permanent injunctions restraining and enjoining Stratton from violating an Order issued by the Commission on March 17, 1994, as well as the appointment of a Special Compliance Monitor to ensure Stratton's compliance with the Commission Order, and such other relief as the Court deems necessary or appropriate.

According to the Complaint, Stratton has deliberately refused to abide by the terms of the Commission Order to which it consented as part of its settlement of fraud charges with the Commission earlier this year. The Commission Order directed Stratton to comply with certain undertakings, including, among other things, that Stratton implement the policies, practices and procedures recommended by an independent outside consultant.

The Commission's Complaint alleges that Stratton has failed to adopt the independent consultant's recommendations. For example, Stratton has failed to implement a system for tape recording telephone calls to and from customers. In addition, Stratton has not hired a sufficient number of supervisors nor has it changed its system for responding to customer complaints.

(LR-14355)

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## INVESTMENT COMPANY ACT RELEASES

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### LEXINGTON EMERGING MARKETS FUND, INC.

An order has been issued by the Commission correcting a prior order granting Lexington Emerging Markets Fund, Inc. (Fund), Lexington Natural Resources Trust (Trust), and Lexington Management Corporation (collectively Applicants) exemptions under Section 6(c) of the Investment Company Act from provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rule 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder to the extent necessary to permit mixed and shared funding. (Rel. IC-20746A - December 13)

### CONNECTICUT MUTUAL INVESTMENT ACCOUNTS, INC.

An order has been issued on an application filed by Connecticut Mutual Investment Accounts, Inc. et al., under Section 6(c) of the Investment Company Act for an exemption from Sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act, and Rule 22c-1 thereunder. The order permits applicants to issue multiple classes of shares representing interests in the same portfolio of securities, assess a contingent deferred sales load (CDSL) on certain redemptions of shares, and waive the CDSL in certain instances. (Rel. IC-20767 - December 13)

### CASH ASSETS TRUST

An order has been issued on an application filed by Cash Assets Trust, et al., under Section 6(c) of the Investment Company Act for an exemption from Sections 18(f), 18(g), and 18(i) of the Act. The order permits the Trust to issue two classes of shares representing interests in the same investment portfolio. (Rel. IC-20768 - December 13)

### OSTRANDER FIXED INCOME TRUST

An order has been issued under Section 8(f) of the Investment Company Act declaring that Ostrander Fixed Income Trust has ceased to be an Investment Company. (Rel. IC-20769 - December 13)

### THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED

A conditional order under Section 6(c) of the Investment Company Act has been issued on an application filed by The Hongkong and Shanghai Banking Corporation Limited. The order grants an exemption from Section 17(f) of the Act to permit registered investment companies (other than investment companies registered under Section 7(d) of the Act) to maintain custody of their foreign securities and other assets with The British Bank of the Middle East and Hongkong Bank of Australia Limited. (Rel. IC-20770 - December 13)

## THE BAKER FUND

An order has been issued under Section 8(f) of the Investment Company Act declaring that the Baker Fund has ceased to be an investment company. (Rel. IC-20771 - December 14)

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## HOLDING COMPANY ACT RELEASE

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### THE SOUTHERN COMPANY

An order has been issued authorizing The Southern Company, a registered holding company, to acquire a public-utility company, Mobile Energy Services Company (Mobile Energy) which, in turn, will acquire the energy production and resource recovery facilities located at Scott Paper Company's Mobile, Alabama, pulp, paper and tissue mill. Certain financing and other transactions ancillary thereto were also authorized. Jurisdiction has been reserved with regard to the issuance of notes by Mobile Energy and certain guarantees by Southern. (Rel. 35-26185)

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## SELF-REGULATORY ORGANIZATIONS

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### NOTICE OF FILING AND ACCELERATED APPROVAL OF PROPOSED RULE CHANGE

The Commission has approved a proposed rule change filed under Section 19(b) of the Exchange Act by the Midwest Securities Trust Company (SR-MSTC-94-14) implementing a new automated book entry settlement feature for municipal bonds. (Rel. 34-35096)

### NOTICE OF FILING AND IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGE

The Midwest Securities Trust Company filed a proposed rule change (SR-MSTC-94-17) which was effective on filing to change the fee schedule applicable to MSTC's Legal Expert system and to clarify MSTC's policy regarding use of the system by MSTC participants. Publication of the proposal is expected in the Federal Register during the week of December 19. (Rel. 34-35098)

### NOTICE OF FILING OF PROPOSED RULE CHANGE AND AMENDMENTS

Pursuant to Rule 19b-4 under the Securities Exchange Act the New York Stock Exchange filed with the Commission on November 9 a proposed rule change (SR-NYSE-94-41) to establish uniform listing and trading standards for stock index and currency warrants. Publication of the order is expected in the Federal Register during the week of December 19. (Rel. 34-35085)

Pursuant to Rule 19b-4 under the Securities Exchange Act the American Stock Exchange filed with the Commission September 12, a proposed rule change (SR-AMEX-94-38) to establish uniform listing and trading standards relating to stock index and currency warrants. Publication of the notice is expected in the Federal Register during the week of December 19. (Rel. 34-35086)

Pursuant to Rule 19b-4 under the Securities Exchange Act the Chicago Stock Exchange filed with the Commission on November 3 a proposed rule change (SR-CHX-94-21) to establish uniform listing and trading standards relating to stock index and currency warrants. Publication of the notice is expected in the Federal Register during the week of December 19. (Rel. 34-35087)

Pursuant to Rule 19b-4 under the Securities Exchange Act the Pacific Stock Exchange filed with the Commission on September 22 a proposed rule change (SR-PSE-94-28) to establish uniform listing and trading standards for stock index and currency warrants. Publication of the order is expected in the Federal Register during the week of December 19. (Rel. 34-35088)

Pursuant to Rule 19b-4 under the Securities Exchange Act the Philadelphia Stock Exchange filed with the Commission on November 30 a proposed rule change (SR-Phlx-94-49) to establish uniform listing and trading standards relating to stock index and currency warrants. Publication of the notice is expected in the Federal Register during the week of December 19. (Rel. 34-35090)

#### LISTING AND DELISTING OF TRADING PRIVILEGES

A notice has been issued giving interested persons until January 5, 1995, to comment on the application of Advanced Environmental Recycling Technologies, Inc., to withdraw its Class A Common Stock, \$.01 Par Value, from listing and registration on the Boston Stock Exchange, Inc. (Rel. 34-35099)

#### ORDER GRANTING ACCELERATED APPROVAL OF PROPOSED RULE CHANGE

The Commission granted accelerated approval to a proposed rule change (SR-PHLX-94-54) filed by the Philadelphia Stock Exchange which amends PHLX Rule 1000, Applicability, Definitions, and References, to provide that the expiration date for cash/spot foreign currency options (3D options) that expire on a holiday or an Exchange designated bank holiday will be the business day following the holiday or the Exchange designated bank holiday. Publication of the order is expected in the Federal Register during the week of December 19. (Rel. 34-35097)

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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.

S-8 ONSITE ENERGY CORP, 701 PALOMAR AIRPORT RD, STE 200, CARLSBAD, CA 92009  
(619) 931-2400 - 250,000 (\$140,625) COMMON STOCK. (FILE 33-87104 -  
DEC. 07) (BR. 10)

S-8 DELTA PETROLEUM CORP/CO, 555 17TH ST STE 3310, DENVER, CO 80202  
(303) 293-9133 - 630,000 (\$1,510,000) COMMON STOCK. (FILE 33-87106 -  
DEC. 07) (BR. 3)

## SEC PUBLIC INFORMATION NUMBERS

The following information is furnished to assist in calling appropriate offices directly:

CONSUMER AFFAIRS - Voice: (202) 942-7040; TTY: (202) 942-7065

Investor inquiries and complaints.

FREEDOM OF INFORMATION ACT OPERATIONS - (202) 942-4320

Requests concerning FOIA, Privacy Act, Sunshine Act, confidential treatment matters, etc.

PUBLIC AFFAIRS - (202) 942-0020; TTY: (202) 942-0023

Information about matters in the SEC News Digest, the Commission's operations, and calls from the press not directed to particular individuals, and other related matters.

PUBLIC REFERENCE - Voice: (202) 942-8090; TTY: (202) 942-8092

Requests for information on whether or not a document has been filed, obtain Investment Advisers Packets, etc.

**PUBLICATIONS UNIT - (202) 942-4040**

Requests for forms, studies, directories, etc.

**OFFICE OF THE SECRETARY - (202) 942-7070**

Requests for information on the Commission calendar.

**PERSONNEL HOTLINE - Voice: (202) 942-4150; TTY: (202) 942-4095**

Provides access to information on employee telephone numbers, SEC job vacancies, employment programs, and employee benefits -- 24 hours a day, 7 days a week. Callers may leave recorded requests for application materials, benefit forms, or employment verifications.

**SEC INFORMATION LINE - (202) 942-8088**

General information about SEC operations and activities through a series of recorded messages.

**SEC TOLL FREE INFORMATION SERVICE**

1-800-SEC-0330

To order investor protection brochures, Commission publications, information about the Commission's enforcement program and procedures for filing complaints. How to obtain official company filings or find out if securities firm or employee has been the subject of disciplinary action.

**ELECTRONIC SEC INFORMATION**

Fedworld, a public electronic bulletin board operated by the Department of Commerce, carries current issues of the SEC News Digest and the texts of various informational brochures, investor columns and bulletins, speeches, testimony and selected releases concerning rulemaking. Anyone with a modem and communications software can connect directly with Fedworld by dialing (703) 321-8020 or via the Internet.