

# sec news digest

Issue 94-101

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## ENFORCEMENT PROCEEDINGS

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### PROCEEDINGS INSTITUTED AGAINST MICHAEL GARTNER

The Commission announced the entry of an order instituting public administrative proceedings against Michael Gartner (Gartner), former chief executive officer of InterLink Data Network of Los Angeles, Inc. (InterLink), and promoter of InterLink's two limited partnerships, InterLink Fiber Optic Partners L.P. and InterLink Video Phone Partners L.P.

The order for proceedings alleges that on November 15, 1993, Gartner was permanently enjoined by the United States District Court for the Central District of California from further violations of Sections 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) and 15(a) of the Securities Exchange Act and Rule 10b-5 thereunder, and ordered to disgorge \$12,285,035 plus prejudgment interest. SEC v. InterLink Data Network of Los Angeles, Inc., InterLink Fiber Optic Partners L.P., InterLink Video Phone Partners L.P., and Michael Gartner, Civ. No. 93-3073 R (C.D. Calif.). The order further alleges that from March 19, 1990, through May 27, 1993, Gartner controlled branch offices of Portfolio Asset Management/USA Financial Group, Inc. through which unregistered InterLink securities were sold and, therefore, he acted as an unregistered broker or dealer in violation of Section 15(a) of the Exchange Act.

The proceedings will determine whether Gartner should be permanently barred from association with any broker, dealer, investment company, investment adviser or municipal securities dealer based on the final judgment entered against him in the Commission's lawsuit. (Rel. 34-34095)

### CHARLES SHOOK, C.P.A., BARRED FROM APPEARING AND PRACTICING BEFORE THE COMMISSION

The Commission has issued an order instituting proceedings and opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice against Charles G. Shook, a certified public accountant. Simultaneously with the institution of the proceeding, the Commission accepted Shook's Offer of Settlement, whereby Shook consented, without admitting or

denying the Commission's findings, to entry of an order permanently denying him the privilege of appearing or practicing before the Commission as an accountant.

The Commission's order finds that Shook engaged in unethical and improper professional conduct in connection with the audit of the 1989 financial statements of Care-Med Centers, Inc. The order finds that Shook did not perform the audit in accordance with requirements of GAAS by failing to communicate with the predecessor auditor, failing to obtain sufficient competent evidential matter, failing to confirm a note receivable and failing to exercise due professional care. The order also finds that Shook engaged in unethical conduct by misrepresenting that he was licensed as a C.P.A. in the State of Florida. (Rel. 34-34096)

#### **ALFRED GERRIETS, II BARRED**

The Commission announced that on May 23, it entered an Order pursuant to Sections 15(b) and 19(h) of the Securities Exchange Act of 1934 barring Alfred F. Gerriets, II of Delray Beach, Florida, from association with any broker, dealer, municipal securities dealer, investment adviser or investment company, with a right to reapply after eight years. The Commission simultaneously accepted Gerriets' Offer of Settlement in which, without admitting or denying the findings, he consented to the issuance of the Order. The Order finds that on May 2, 1994, Gerriets was enjoined by the U.S. District Court for the Southern District of New York in SEC v. Wexler, et al. (92-CIV-2902 (SWK)). In that action Gerriets was accused of violations of Sections 5(a) and 17(a) of the Securities Act of 1933 and Sections 10(b) and 15(c) of the Securities Exchange Act of 1934 and Rules 10b-5, 10b-6 and 15c1-2 thereunder in connection with the manipulation of trading in securities of Keller Industries Limited in 1989. (Rel. 34-34098, LR-14097)

#### **INJUNCTION ENTERED AGAINST ROBERT KING**

The Commission announced that Robert E. King (King) of Vero Beach, Florida was enjoined by consent, without admitting or denying the allegations of the complaint, from violating Section 17(a) of the Securities Act and Section 10(b) of the Securities Exchange Act and Rule 10b-5, thereunder in connection with the offer and sale of the common stock of U.S. Dairy Corp., located in Vero Beach, Florida.

The Commission's complaint alleged that between April 1990 and March 1992 approximately 270,000 shares of common stock of U.S. Dairy Corp., were sold for about \$630,000 at prices ranging from \$.20 to \$5.00 per share. It was alleged that misrepresentations and omissions of material facts were made concerning, among other matters, projections of revenues, the existence of a \$1 million line of credit, the number of shares that had to be purchased and the approval by states of its labels for a milk product.

The Commission also announced that civil penalties of \$10,000 against Cecil L. Minges (Minges) of Vero Beach, Florida, and \$5,000 against Mathew H. Sage (Sage) of Indian River Shores, Florida were ordered to

be paid. The appropriateness of penalties against King was determined by the Court, but the Court ordered that no penalty need be paid based upon his financial condition. U.S. Dairy Corp., Minges and Sage were enjoined from violating the same provisions in September 1993. They also consented to the injunctions without admitting or denying the allegations of the complaint. [SEC v. U.S. Dairy Corp., Civil Action No. 13-C-14181-MOORE, S.D. Fla.] (LR-14105)

**WILLIAM COOPER, VESTCORP SECURITIES, INC., FIRST PENSION CORPORATION AND OTHERS ENJOINED**

The Commission announced that on May 13, it filed a complaint in the United States District Court for the Central District of California against William E. Cooper (Cooper), VestCorp Securities, Inc. (VestCorp), First Pension Corporation (First Pension), Robert E. Lindley (Lindley), Valerie Jensen (Jensen) and five other defendants for the purpose of relief only, alleging violations of the antifraud provisions of the federal securities laws, with up to \$124 million in investor and pension funds at risk. The Commission's complaint seeks preliminary and permanent injunctions, disgorgement of ill-gotten gains, the imposition of civil penalties and other relief. The Court entered a temporary restraining order freezing all defendants' assets, prohibiting the transfer of assets and ordering an accounting and other relief.

The Commission's Complaint alleges that from 1981 through April 1994, Cooper, Jensen and Lindley, operating through VestCorp, offered and sold securities in the form of real estate limited partnership units, raising approximately \$99 million from investors. The complaint also alleges that Cooper, Lindley and Jensen misappropriated \$25 million of First Pension funds from at least July 1992 through March 1994, and that Cooper, in April 1994, wrote 114 unauthorized checks, totalling over \$1 million, on First Pension's custodial bank account by forging the custodian's signature. The complaint further alleges that the defendants failed to disclose that the trust deeds securing the real estate limited partnerships did not exist, that the real estate limited partnerships never generated any income, and that the investors' returns were paid for by creation of an account called the "99 minifund" which was funded by diverting other First Pension client funds into the account. [SEC v. William E. Cooper, et al., Civil Action No. 94-3144 R, C.D. Cal.] (LR-14104)

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**INVESTMENT COMPANY ACT RELEASES**

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**PAYDEN & RYGEL INVESTMENT GROUP, ET AL.**

A notice has been issued giving interested persons until June 20 to request a hearing on an application filed by Payden & Rygel Investment Group, et al. for a conditional order under Section 6(c) of the Investment Company Act that would exempt applicants from the provisions of Sections 18(f), 18(g), and 18(i) of the Act. The requested relief would permit the existing and future portfolios of Payden & Rygel

Investment Group, an open-end management investment company, to create two classes of shares. (Rel. IC-20319 - May 26)

**THE FIRST TRUST SPECIAL SITUATIONS TRUST, OPPENHEIMER GLOBAL AND TREASURY SECURITIES TRUST, SERIES 1 AND SUBSEQUENT SERIES, ET AL.**

A notice has been issued giving interested persons until June 20 to request a hearing on an application filed by The First Trust Special Situations Trust, Oppenheimer Global and Treasury Securities Trust, Series 1 and Subsequent Series, et al. for an order permitting series of the Trust to invest in shares of one of certain mutual funds and zero coupon obligations. The order would also exempt the sponsor from having to take for its own account or place with others \$100,000 worth of units in the Trust and permit the Trust to distribute capital gains resulting from redemptions of fund shares within a reasonable time after receipt. Finally, the order would permit the waiver of any contingent deferred sales charge otherwise applicable of fund shares that the Trust has purchased, permit certain offers of exchange involving the Trust, and permit certain affiliated transactions involving the Trust. (Rel. IC-20320 - May 26)

**TEMPLETON TAX FREE TRUST**

A notice has been issued giving interested persons until June 22 to request a hearing on an application filed by Templeton Tax Free Trust for an order under Section 8(f) of the Investment Company Act declaring that applicant has ceased to be an investment company. (Rel. IC-20321 - May 27)

**KEMPER TECHNOLOGY FUND, ET AL.**

An order has been issued on an application filed by Kemper Technology Fund, 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 to assess and, under certain circumstances, waive a contingent deferred sales charge on certain redemptions of shares. (Rel. IC-20322 - May 27)

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**HOLDING COMPANY ACT RELEASES**

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**THE SOUTHERN COMPANY, ET AL.**

A notice has been issued giving interested persons until June 20 to request a hearing on a proposal by The Southern Company (Southern), a registered holding company, and its wholly owned subsidiary companies

Southern Electric International, Inc. (SEI), Southern Company Services, Inc., Southern Nuclear Operating Company, Alabama Power Company, Mississippi Power Company, Georgia Power Company, Gulf Power Company, and Savannah Electric and Power Company. SEI proposes to acquire, develop and operate independent power production facilities and provide various services and goods to associate and nonassociate companies. Southern proposes to finance SEI's activities with up to \$250 million, and to guarantee SEI's performance of its obligations up to \$800 million. SEI proposes to issue up to \$250 million of notes to Southern, and to lenders other than Southern which notes may be guaranteed by Southern. (Rel. 35-26058)

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## SELF-REGULATORY ORGANIZATIONS

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### UNLISTED TRADING PRIVILEGES

An order has been issued granting the application of the Boston Stock Exchange for unlisted trading privileges in the common stock of 21 issues which are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system. (Rel. 34-34118)

An order has been issued granting the application of the Philadelphia Stock Exchange for unlisted trading privileges in the common stock of 19 issues which are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system. (Rel. 34-34119)

An order has been issued granting the application of the Chicago Stock Exchange for unlisted trading privileges in the common stock of 7 issues which are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system. (Rel. 34-34120)

An order has been issued granting the application of the Philadelphia Stock Exchange for unlisted trading privileges in the common stock of one issue which is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system. (Rel. 34-34121)

An order has been issued granting the application of the Pacific Stock Exchange for unlisted trading privileges in the common stock of one issue which is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system. (Rel. 34-34122)

An order has been issued granting the application of the Cincinnati Stock Exchange for unlisted trading privileges in 29 issues which are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system. (Rel. 34-34123)

WITHDRAWAL OF APPLICATION FOR REGISTRATION ~~of a public utility~~

The Commission is publishing notice of a request filed by the Intermarket Clearing Corporation (SR-ICC-500-21) to withdraw its application for permanent registration as a clearing agency and to terminate its temporary registration as a clearing agency. (Rel. 34-34110)

ORDER APPROVING PROPOSED RULE CHANGE

The Commission has approved a proposed rule change (SR-CBOE-94-01) submitted by the Chicago Board Options Exchange pursuant to Rule 19b-4 under the Securities Exchange Act to amend CBOE Rule 6.51, "Reporting Duties," to allow CBOE members to submit options transaction data to the CBOE through electronic media approved by the CBOE. Publication of the order is expected in the Federal Register during the week of May 27. (Rel. 34-34127)

Pursuant to Rule 19b-4 under the Securities Exchange Act the Commission has approved a proposed rule change (SR-AMEX-91-31) filed by the American Stock Exchange, which allows the AMEX to introduce near-the-money series in Major Market Index options at 2-1/2-point strike (exercise) price intervals. Publication of the order is expected in the Federal Register during the week of May 27. (Rel. 34-34129)

NOTICE OF FILING PROPOSED RULE CHANGE

On April 1, the Chicago Board Options Exchange filed with the Commission, pursuant to Rule 19b-4 under the Securities Exchange Act, a proposed rule change (SR-CBOE-94-12) which amends the eligibility standards under which individuals, member organizations and joint accounts may participate in the CBOE's Retail Automatic Execution System (RAES) for Standard & Poor's 100 Index (OEX) options. Among other things, the proposal amends CBOE Rule 24.17, "RAES Eligibility in OEX" to replace the current \$500.00 fee for failing to comply with CBOE Rule 24.17's logon on log-off requirements with the following fee schedule: a fee of \$100.00 for one to three failures within one calendar year, a fee of \$250.00 for four to six failures within one calendar year, and a fee of \$500.00 for seven or more failures within one calendar year. Publication of the notice is expected in the Federal Register during the week of May 27. (Rel. 34-34128)

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ACQUISITIONS OF SECURITIES

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Companies and individuals must report to the Commission within ten days on Schedule 13D if after the acquisition of equity securities of a public company their beneficial interest therein exceeds five percent. Persons eligible to use the short form (Schedule 13G) may in lieu of filing a

Schedule 13D file a Schedule 13G within 45 days after the end of the calendar year in which the person became subject to Section 13(d)(1). Companies and individuals making a tender offer must have on file at the time the tender offer commences a Schedule 14D-1.

Below is a list of recent filings of Schedules 13D and 14D, which includes the following information: Column 1 - the company purchased (top), and the name of the purchaser; Column 2 - the type of security purchased; Column 3 - the type of form filed; Column 4 - the date the transaction occurred; Column 5 - the current number of shares (in 000's) owned (top) and the current percent owned; Column 6 - the CUSIP number (top) and the percent owned; and Column 7 - the status of the filing, i.e., new, update or revision.

NAME AND CLASS OF STOCK/OWNER	FORM	EVENT DATE	SHRS(000)/ %OWNED	CUSIP/ PRIOR%	FILING STATUS
ACTION PERFORMANCE COS INC LAIFER LANCE ET AL	COM 13D	5/23/94	1,080 28.4	00493310 26.2	UPDATE
ALFA LEISURE INC CREAN JOHNWIE ROBERT	COM 14D-1	5/27/94	2,381 74.4	01539410 70.1	UPDATE
ALLIED CLINICAL LABS INC NATIONAL HEALTH LABS INC ET AL	COM 13D	5/27/94	2,769 33.0	01907610 33.0	UPDATE
ALLIED CLINICAL LABS INC NATIONAL HEALTH LABS INC ET AL	COM 13D	5/27/94	2,769 33.0	01907610 33.0	RVISION
ATLANTA TECH GRP INC ACQUISITION ADVISORS INC	COM 13D	2/12/94	569 20.4	04813710 0.0	NEW
ATLANTA TECH GRP INC TOTAL SOFTWARE INC	COM 13D	2/12/94	645 23.2	04813710 0.0	NEW
BEAUTICONTROL COSMETICS INC GHS MGMT INC ET AL	COM 13D	5/18/94	300 4.5	07465510 0.0	NEW
CNB FINL CORP NEW YORK CENTRAL MUT FIRE INS	COM 13D	5/17/94	89 6.7	12592110 0.0	NEW
CADIZ LD INC BRACKPOOL KEITH	COM 13D	5/17/94	1,273 34.7	12754910 38.6	UPDATE
CADIZ LD INC DUTTON THEODORE W	COM 13D	5/17/94	425 11.6	12754910 0.0	NEW
CADIZ LD INC FIDELITY INTL LTD	COM 13D	5/25/94	1,474 40.2	12754910 15.8	UPDATE
CADIZ LD INC FMR CORP	COM 13D	5/24/94	1,474 40.2	12754910 15.8	UPDATE
CADIZ LD INC HAMMOND J F R	COM 13D	5/17/94	393 10.7	12754910 0.0	NEW
CADIZ LD INC MAKINS DWIGHT W	COM 13D	5/17/94	375 10.2	12754910 0.0	NEW
CADIZ LD INC WEINRESS STEPHEN D	COM 13D	5/17/94	165 4.5	12754910 0.0	NEW

## ACQUISITIONS CONT.

NAME AND CLASS OF STOCK/OWNER	FORM	EVENT DATE	SHRS(000)/ XOMMED	CUSIP/ PRIOR%	FILING STATUS
CEPHALON INC TAP PHARMACEUTICALS	COM	13D 5/17/94	1,226 8.1	15670810 0.0	NEW
CONSOLIDATED TECHN GROUP LTD INTL THOROUGHbred BREEDERS INC	COM	13D 5/19/94	349 3.0	21016210 6.4	NEW
CONSOLIDATED TECHN GROUP LTD INTL THOROUGHbred BREEDERS INC	COM	13D 5/19/94	349 3.0	21016210 6.4	UPDATE
CREATIVE COMPUTER APPL INC WALL STREET GROUP INC	COM NEW	13D 5/ 5/94	260 11.4	22490130 0.0	NEW
D I INDS INC NOREX AMERICA INC ET AL	COM	13D 5/17/94	20,690 53.9	23290910 0.0	NEW
ESQUIRE RADIO & ELECTRS INC LIEBERMAN GERTRUDE	COM	13D 5/25/94	170 35.2	29667710 17.2	UPDATE
ESQUIRE RADIO & ELECTRS INC STEEL PARTNERS II L P	COM	13D 5/25/94	0 0.0	29667710 7.6	UPDATE
GENERAL MTRS CORP HUGHES HOWARD MEDICAL INST	CL H	13D 5/19/94	21,038 22.3	37044250 23.6	UPDATE
GOLDEN TRIANGLE ROYLTY & OIL KAMON KENNETH RUDY	COM NEW	13D 5/23/94	681 19.4	38121420 6.9	UPDATE
INTERPHARM LABS LTD ARES SERNOS S A	ORD	14D-1 5/26/94	4,762 76.6	46059010 76.6	UPDATE
LASMO PLC ENTERPRISE OIL PLC	ORDINARY SHARES	14D-1 5/26/94	0 0.0	50173010 N/A	UPDATE
LASMO PLC ENTERPRISE OIL PLC	SPONSORED ADR	14D-1 5/26/94	0 0.0	50173020 0.0	UPDATE
MAGELLAN TECH INC WINWOOD RICHARD I	COM	13D 5/21/94	5,500 6.8	55909210 0.0	NEW
MORGAN FINL CORP HALIS JEFFREY S	COM	13D 5/20/94	30 7.1	61733910 0.0	NEW
NVF CO HEYMAN GEORGE H JR	COM	13D 5/24/94	33,267 36.0	62944910 25.1	UPDATE
NOVEN PHARMACEUTICALS INC CIBA GEIGY CORP	COM	13D 5/19/94	1,010 6.3	67000910 6.0	UPDATE
OMNI FILMS INTL INC IWERKS ENTERTAINMENT INC	COM	13D 5/18/94	0 0.0	68192510 65.0	UPDATE
OVERSEAS SHIPHOLDING GROUP I OSG HOLDINGS	COM	13D 4/10/94	2,986 8.4	69036810 8.4	UPDATE
PLM INTL INC OFFICIAL UNSECURED BNDHLDRS	COM	13D 5/17/94	0 0.0	69399510 32.1	UPDATE
PARTNERS OIL CO MAGIC CIRCLE ENERGY	CL A	13D 5/16/94	846 36.1	70212520 36.1	UPDATE