

•sec news digest

Issue 94-235

December 12, 1994

COMMISSION ANNOUNCEMENTS

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.

ENFORCEMENT PROCEEDINGS

CEASE AND DESIST ORDER ENTERED AGAINST ALLAN MCCORKLE, ROBERT THOMAS III, R. LEE SMITH AND PAUL GLENN

The Commission announced the issuance of an Order pursuant to Section 21C of the Securities Exchange Act of 1934 (Exchange Act) against Allan J. McCorkle, Robert Thomas III, R. Lee Smith and Paul M. Glenn (Respondents). The Order requires McCorkle to permanently cease and desist from committing or causing any violation of, or any future violation of, Sections 13(g) and 16(a) of the Exchange Act and Rules 13d-1, 13d-2, 16a-2 and 16a-3 promulgated thereunder, and requires Thomas, Smith and Glenn to permanently cease and desist from committing or causing any violation of, or any future violation of, Sections 13(d) and 16(a) of the Exchange Act and Rules 13d-1, 13d-2, 16a-2 and 16a-3 thereunder. The Respondents, without admitting or denying the allegations in the Commission's Order, consented to its entry. McCorkle is the Chairman of the Board, Chief Executive Officer and a more than ten percent beneficial owner of the shares, of Mobile America Corporation, a Jacksonville, Florida insurance company. Thomas and Smith are directors of Mobile America. Glenn is a Bankruptcy Judge for the U.S. Bankruptcy Court for the Middle District of Florida at Tampa and is a former director and President of Mobile America.

The Order finds that McCorkle failed for more than fifteen years to file a Schedule 13G, filed late eleven amendments thereto, failed for more than twenty-one years to file a Form 3, and was late in filing twenty-two Forms 4 and one Form 5 for up to approximately six years. The Order finds that Thomas failed for more than sixteen years to file a Schedule 13D, filed late eight amendments thereto, and was late in filing thirty-four Forms 4 and one Form 5 for up to approximately two years. The Order finds Smith failed for more than thirteen years to file a Schedule 13D, filed late five amendments thereto, failed for more than fifteen years to file a Form 3 and was late in filing nineteen Forms 4 and one Form 5 for up to approximately thirteen years. The Order finds that Glenn failed for more than eleven years to file a Schedule 13D, filed late an amendment thereto, failed for more than seventeen years to file a Form 3, and was late in filing seventeen Forms 4 and one Form 5 for up to approximately seventeen years. (Rel. 34-35075)

ADMINISTRATIVE PROCEEDINGS AGAINST FERDINAND RUSSO, RUSSO SECURITIES, INC., LAWRENCE MASCERA AND MASCERA & COMPANY, INC.

The Commission announced the institution of administrative proceedings pursuant to Sections 15(b), 19(h) and 21C of the Securities Exchange Act of 1934 (Exchange Act) against Ferdinand Russo (Russo), Russo Securities, Inc. (Russo Securities), Lawrence A. Mascera (Mascera) and Mascera & Company, Inc. (Mascera & Co.) (collectively, Respondents). The proceedings were instituted to determine whether the Respondents willfully aided and abetted and/or caused violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

The Order instituting the proceedings alleges that the Respondent provided sham opinion letters that The Cooper Companies, Inc. and Gary Alan Singer, its former co-chairman, utilized as part of a scheme to manipulate the price of Cooper's debentures thereby avoiding an interest rate reset obligation contained in the indenture. The Order also alleges that the Respondents provided misdated and/or otherwise fraudulent documents to the staff during the investigation.

A public hearing for the purpose of taking evidence will be held at a time and place to be fixed before an Administrative Law Judge. (Rel. 34-35081)

COMMISSION SETTLES CIVIL ACTION AGAINST THE COOPER COMPANIES INC. AND ISSUES REPORT OF INVESTIGATION CONCERNING CONDUCT OF COOPER'S BOARD OF DIRECTORS

The Commission announced the settlement of a previously filed civil action against The Cooper Companies, Inc. (Cooper) and the issuance of a Report of Investigation concerning the conduct of Cooper's Board of Directors (Report) pursuant to Section 21(a) of the Securities Exchange Act of 1934 (Exchange Act).

Cooper, without admitting or denying the allegations of the complaint, has consented to the entry of a final judgment that permanently enjoins the company from violating Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B) and 14(a) of the Securities Exchange Act of 1934 and Rules 10b-5, 13a-1, 12b-20, 14a-3 and 14a-9 thereunder and aiding and abetting violations of Section 204 of the Investment Advisers Act of 1940. The final judgment also permanently enjoins Cooper from further employing or otherwise engaging the services of Gary Singer and/or Steven Singer and/or any person related to either of them. In addition, Cooper is ordered to disgorge \$1,360,830 plus prejudgment interest thereon of \$260,644 and to pay as a civil penalty the sum of \$1,150,000 pursuant to Section 21(d)(3) of the Exchange Act. The final judgment permits Cooper to offset the amount of any criminal fine and restitution ordered and paid by Cooper in the related criminal case against the amount of the civil penalty and disgorgement, respectively.

The Commission issued a Report of Investigation in this matter to emphasize that corporate directors have a significant responsibility and play a critical role in safeguarding the integrity of a company's public statements and the interests of investors when evidence of fraudulent conduct by corporate management comes to their attention. The Report notes that in this case Cooper's Board of Director's did not fulfill its obligations under the federal securities laws when confronted with evidence of serious wrongdoing by persons it continued to entrust with the day-to-day management of the company and the making of public statements on the company's behalf. As described in the Report, the Board's inaction culminated in Steven Singer causing Cooper's public relations officer to issue a press statement falsely denying Cooper's knowledge of "any wrongdoing on the part of its officers or employees", at a time when the Board knew that Gary Singer, while an officer and director of Cooper, had engaged in a series of high yield bond trades between Cooper and accounts of his family members that he had concealed from the company. The misleading nature of the press statement was compounded by the non-disclosed facts that Gary Singer and Steven Singer had asserted their Fifth Amendment privilege in refusing to testify in the Commission's investigation and had similarly refused to be interviewed in the company's own internal investigation. Cooper consented to the issuance of the Report without admitting or denying any of the statements set forth therein. [SEC v. The Cooper Companies, Inc, et al., Civ. Act. No. 92-8166, JFK, SDNY, Nov. 10, 1992] (LR-14351); (Rel. 34-35082)

INVESTMENT COMPANY ACT RELEASES

EQUITABLE VARIABLE LIFE INSURANCE COMPANY, ET AL.

A notice has been issued giving interested persons until January 4 to request a hearing on an application filed by Equitable Variable Life

Insurance Company, Separate Account FP of Equitable Variable Life Insurance Company and Equico Securities, Inc. (Applicants) for an order under Section 6(c) of the Investment Company Act granting exemption from the provisions of Section 27(a)(3) of the Act and Rule 6e-3(T)(b)(13)(ii), 6e-3(T)(d)(1)(ii)(A) and 6e-3(T)(d)(2)(i) thereunder. The order would provide exemptions to the extent necessary to permit Applicants to issue flexible premium variable life insurance contracts that provide for a higher contingent deferred sales charge percentage to be deducted following certain face amount increases. (Rel. IC-20762 - December 9)

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 CARLISLE COMPANIES INC, 250 S CLINTON ST, STE 201, SYRACUSE, NY 13202
(315) 474-2500 - 300,000 (\$10,032,000) COMMON STOCK. (FILE 33-56735 - DEC. 05) (BR. 5)
- S-8 CARLISLE COMPANIES INC, 250 S CLINTON ST, STE 201, SYRACUSE, NY 13202
(315) 474-2500 - 600,000 (\$20,064,000) COMMON STOCK. (FILE 33-56737 - DEC. 05) (BR. 5)
- S-3 MONTANA POWER CO /MT/, 40 E BROADWAY, BUTTE, MT 59701 (406) 723-5421 -
85,000 (\$1,992,187.50) COMMON STOCK. (FILE 33-56739 - DEC. 05) (BR. 8)
- S-6 FIRST TRUST COMBINED SERIES 236, C/O NIKE SECURITIES LP,
1001 WARRENVILLE ROAD, LISLE, IL 60532 (708) 241-4141 - INDEFINITE SHARES.
(FILE 33-56741 - DEC. 05) (NEW ISSUE)
- S-8 NORTH FORK BANCORPORATION INC, 9025 MAIN ROAD, MATTITUCK, NY 11952
(516) 298-5000 - 739,041 (\$2,612,791.65) COMMON STOCK. (FILE 33-56743 - DEC. 05) (BR. 1)
- S-8 KEYCORP/NEW, 127 PUBLIC SQ, CLEVELAND, OH 44114 (216) 689-3000 -
4,800,000 (\$116,400,000) COMMON STOCK. (FILE 33-56745 - DEC. 05) (BR. 2)
- S-1 SPSS INC, 444 NORTH MICHIGAN AVE, CHICAGO, IL 60611 (312) 329-2400 -
2,925,408 (\$39,493,008) COMMON STOCK. (FILE 33-86858 - DEC. 05) (BR. 10)
- S-3 CYTEL CORP/DE, 3525 JOHN HOPKINS COURT, SAN DIEGO, CA 92121
(619) 552-3000 - 3,003,200 (\$8,258,800) COMMON STOCK. (FILE 33-86860 - DEC. 05) (BR. 4)