

SEC NEWS DIGEST

Issue 2000-58

March 28, 2000

COMMISSION ANNOUNCEMENTS

HEARING SCHEDULED -- THURSDAY, MARCH 30, 2000 -- 2:00 P.M.

Chairman Levitt will testify before the House Committee on Appropriations regarding appropriations for fiscal year 2001. The hearing is scheduled for Thursday, March 30 at 2:00 p.m. in Room H309 in the Capitol.

ENFORCEMENT PROCEEDINGS

INITIAL DECISION ISSUED REGARDING MONETTA FINANCIAL SERVICES, INC.

Chief Administrative Law Judge Brenda P. Murray has issued an initial decision which finds that undisclosed allocations of initial public offerings (IPOs) by Monetta Financial Services, Inc., a registered investment adviser controlled by Robert S. Bacarella, to Paul W. Henry and Richard D. Russo, who served as directors of the Monetta Fund and the Monetta Trust, clients of the adviser, violated the antifraud provisions of the securities statutes. The initial decision also finds that Mr. Henry violated Section 17(j) of the Investment Company Act and Rule 17j-1 by not including the IPOs he received on the quarterly report he submitted for the relevant period.

Based on her findings and conclusions, Judge Murray ordered these Respondents to cease and desist from violating or causing any present or future violations of specific provisions of the securities statutes; censured Monetta Financial Services; suspended Mr. Bacarella from association with any investment adviser and any registered investment company for ninety days, and suspended Mr. Henry and Mr. Russo from association with any registered investment company for thirty days; ordered Mr. Henry and Mr. Russo to disgorge \$10,187.50 and \$28,823.00, respectively; and ordered Monetta Financial Services to pay a civil penalty of \$200,000, Mr. Bacarella to pay a civil penalty of \$100,00 and Mr. Russo and Mr. Henry to pay civil penalties of \$25,000 and \$10,000, respectively. The parties have twenty-one days to file for Commission review of the initial decision. (Initial Decision Rel. 162; AP File No. 3-9546)

COMMISSION OBTAINS JUDGMENTS AGAINST FIVE REMAINING DEFENDANTS IN FRAUD CASE

On March 20, 2000, the Honorable Napoleon A. Jones, Jr., United States District Judge for the Southern District of California, granted the Commission's motion for summary judgment against Susan and Charles Browne (the Brownes) of San Diego, California and Ruidoso, New Mexico. The Brownes formerly owned and operated Alliance Leasing Corporation (Alliance). The Court determined that the Brownes raised over \$46,000,000 from more than 1,500 investors throughout the United States through the fraudulent sale of unregistered equipment leasing investments in Alliance. The Court ruled that the Brownes defrauded investors by failing to tell them key facts about the investment, including:

- 30% of investor funds would be paid in sales commissions;
- the Brownes had violated the securities laws in earlier investment offerings;
- Charles Browne had previously filed for bankruptcy; and
- the Brownes owned or controlled many of the companies to which Alliance supposedly leased equipment.

The Court also determined that the Brownes illegally sold the Alliance investment in violation of the registration provisions of the federal securities laws. Finally, the Court ordered the Brownes to disgorge \$477,467 (plus interest) of their ill-gotten gains to investors and pay a matching civil money penalty of \$477,467 each.

The Court also entered judgment against Prime Atlantic, Inc. (Prime), and its owners, David Halsey and Braccus Giavanno of Jacksonville, Florida (collectively, the Prime Defendants). The Court ruled that the Prime Defendants established and operated the sales organization that sold the Alliance investment to individuals in return for 30% of the offering's proceeds. The Court determined that the Prime Defendants engaged in fraud by failing to disclose the excessive commissions that they received from Alliance. The Court also entered judgment against the Prime Defendants for selling the unregistered Alliance securities and for illegally acting as an unregistered broker-dealer. The Court ordered the Prime Defendants to pay disgorgement (plus interest) as follows: Prime – \$12,182,820; Halsey – \$1,615,999; and Giavanno – \$1,691,011. The Court also ordered Prime to pay a civil money penalty of \$500,000 and Halsey and Giavanno to pay a penalty of \$100,000 each. The Court ordered all of the defendants in this action to pay these judgments to the Commission within thirty days.

The entry of these judgments ends a major enforcement case that the Commission's Pacific Regional Office filed in October 1998. The Commission originally obtained a temporary restraining order against Alliance and Prime to stop the sale of the unregistered Alliance investments. In addition, Judge Jones ordered that more than \$22 million in Alliance and Prime bank and brokerage accounts be frozen. David T. Cleary, the Chapter 11 Trustee appointed for Alliance, recently distributed most of this money to investors pursuant to a reorganization plan approved by the federal bankruptcy court. The plan also calls for the

Trustee to make additional distributions to investors based on the Trustee's ability to recover investor funds through continued litigation. [SEC v. Alliance Leasing Corporation and Prime Atlantic, Inc., Case No. 98 CV 1810J CGA, S.D. Cal.] (LR-16488)

INVESTMENT COMPANY ACT RELEASES

ASA LIMITED

An order has been issued on an application filed by ASA Limited (ASA), to permit ASA, a South African closed-end management investment company registered under Section 7(d) of the Investment Company Act, to maintain its assets with a central securities depository in South Africa. (Rel. IC-24367 – March 27; Rel. IS-1219)

SUN CAPITAL ADVISERS TRUST AND SUN CAPITAL ADVISERS, INC.

A notice has been issued giving interested persons until April 21, 2000, to request a hearing on an application filed by Sun Capital Advisers Trust and Sun Capital Advisers, Inc., for an order exempting applicants from Section 15(a) of the Investment Company Act and Rule 18f-2 under the Act. The order would permit applicants to enter into and materially amend investment subadvisory agreements without shareholder approval. (Rel. IC-24368 - March 27)

SELF-REGULATORY ORGANIZATIONS

FILING OF PROPOSED RULE CHANGES

The New York Stock Exchange filed a proposed rule change under Rule 19b-4 (SR-NYSE-00-09) to Amend Exchange Rule 123B, Relating to Commission-free Executions for Orders Received through SuperDOT, and Clarification of Cancelled and Replaced Orders. Publication of the notice in the Federal Register is expected during the week of March 27. (Rel. 34-42572)

The Options Clearing Corporation filed a proposed rule change (SR-OCC-00-01) under Section 19(b)(1) of the Exchange Act. The proposed rule change would allow OCC to conform the method used to establish settlement values for expiring stock index options with the method used to value futures on the underlying index when the primary market(s) for one or more component securities of an index is closed on the last trading day before expiration. Publication of the proposal is expected in the Federal Register during the week of March 27. (Rel. 34-42575)

APPROVAL OF PROPOSED RULE CHANGE

The Commission approved a proposed rule change and Amendment Nos. 1 and 2 to a proposed rule change submitted under Rule 19b-4 by the New York Stock Exchange (SR-NYSE-99-14) relating to amendments to the Listed Company Manual. (Rel. 34-42574)

ACCELERATED APPROVAL OF PROPOSED RULE CHANGE

The Commission granted accelerated approval to a proposed rule change submitted by the Pacific Exchange (SR-PCX-00-02) under Rule 19b-4 of the Securities Exchange Act relating to communications with customers and members of the public. (Rel. 34-42577)

IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGE

A proposed rule change filed by the Cincinnati Stock Exchange extending limit order protection to GTX orders (SR-CSE-99-06) has become effective under Section 19(b)(3)(A) of the Securities Exchange Act. Publication of the proposal is expected in the Federal Register during the week of March 27. (Rel. 34-42576)

DELISTINGS

An order has been issued granting the application of the Boston Stock Exchange to strike from listing and registration MISONIX, INC., Common Stock, \$.01 par value. (Rel. 34-42580)

An order has been issued granting the application of the American Stock Exchange to strike from listing and registration Global Ocean Carriers Ltd., Common Stock, \$.01 par value. (Rel. 34-42581)

CORRECTION

In yesterday's Digest article concerning SEC v. Caputo, the filing date for the complaint was in error. The complaint was filed on March 27, 2000.

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.

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

- F-1 WHEREVER NET HOLDING CORP, NATWEST TOWER 1 MATHESON STREET,
SUITE 4701 CAUSEWAY BAY HONG KONG SAR, PEOPLES REPUBLIC OF CHINA, F5 00000
- \$86,250,000 FOREIGN COMMON STOCK. (FILE 333-11676 - MAR. 17) (BR. 7
- NEW ISSUE)
- S-B DEVELOPMENT BANK OF JAPAN, 9-1 OTEMACHI 1-CHOME, CHIYODA-KU,
TOKYO 100-0004 JAPAN, M0 00000 - 612,000,000 (\$612,000,000) STRAIGHT
BONDS.
(FILE 333-11678 - MAR. 20) (BR. 7 - NEW ISSUE)
- S-B JAPAN BANK FOR INTERNATIONAL COOPERATION, 4-1 OTEMACHI 1-CHOME,
CHIYODA-KU, TOKYO 100-8144 JAPAN, M0 00000 - 1,150,000,000
(\$1,150,000,000) STRAIGHT BONDS. (FILE 333-11680 - MAR. 20) (BR. 7
- NEW ISSUE)
- F-3 GILAT COMMUNICATIONS LTD, 21/D YAGIA KAPAIM ST, P O BOX 3675,
PETACH TLKVA, L3 00000 - 1,320,754 (\$40,530,638.37) FOREIGN COMMON STOCK.
(FILE 333-11684 - MAR. 20) (BR. 7)
- F-1 TRADER COM NV, PARNASSUSTOREN LOCATELLIKADE 1, 011-31-20-575-5600,
1076 AZ AMSTERDAM NETHERLANDS, P8 00000 (212) 474-1000 - \$448,500,000
FOREIGN COMMON STOCK. (FILE 333-11686 - MAR. 21) (BR. 5 - NEW ISSUE)
- SB-2 EXPRESS INVESTMENTS ASSOCIATES INC, 104-1456 ST PAUL STREET KELOWNA,
KELLOWNA BRITISH COLUMBIA V1Y 1P5, BRITISH COLUMBIA CN V1Y 2E6, A1
(250) 868-8177 - 200,000 (\$200,000) COMMON STOCK. (FILE 333-32866 -
MAR. 21) (BR. 9)
- S-8 QUIXOTE CORP, ONE E WACKER DR, STE 3000, CHICAGO, IL 60601
(312) 467-6755 - 385,000 (\$4,860,625) COMMON STOCK. (FILE 333-32872 -
MAR. 21) (BR. 2)
- S-8 ORA ELECTRONICS INC, 9410 OWENSMOUTH AVE, CHATSWORTH, CA 91311
(818) 772-2700 - 2,000,000 (\$6,000,000) COMMON STOCK. (FILE 333-32880 -
MAR. 21) (BR. 3)
- S-8 JUNIPER GROUP INC, 111 GREAT NECK RD STE 604, GREAT NECK, NY 11021
(516) 829-4670 - 1,600,000 (\$3,600,000) COMMON STOCK. (FILE 333-32882 -
MAR. 21) (BR. 1)
- S-3 IMPAC SECURED ASSETS CORP, 1401 DOVE STREET, STE 200, NEWPORT BEACH, CA
92660 (949) 475-3600 - 1,000,000,000 (\$1,000,000,000) COMMON STOCK. (FILE
333-32884 - MAR. 21) (BR. 8)
- S-8 NESS ENERGY INTERNATIONAL INC /NV/, 4201 EAST INTERSTATE 20,
WILLOW PARK, TX 76087 (254) 442-3968 - 100,000 (\$129,687.50) COMMON STOCK.
(FILE 333-32888 - MAR. 21) (BR. 4)
- S-8 DATA CRITICAL CORP, 19820 NORTH CREEK PARKWAY, SUITE 100, BOTHEKK, WA
98011 (425) 482-7000 - 2,380,281 (\$32,644,441) COMMON STOCK. (FILE
333-32894 - MAR. 21) (BR. 5)

S-8 SBE INC, 4550 NORRIS CANYON ROAD, SAN RAMON, CA 94583 (510) 355-2000 - 100,000 (\$1,643,750) COMMON STOCK. (FILE 333-32896 - MAR. 21) (BR. 3)

S-8 EMC CORP, 35 PARKWOOD DRIVE, HOPKINTON, MA 01748 (508) 435-1000 - 196,802 (\$10,974,944.12) COMMON STOCK. (FILE 333-32906 - MAR. 21) (BR. 3)

S-8 COLUMBIA BANCORP, 10480 LITTLE PATUXENT PKWY, PARK VIEW BUILDING, COLUMBIA, MD 21044 (301) 730-5000 - 108,312 (\$948,272) COMMON STOCK. (FILE 333-32912 - MAR. 21) (BR. 7)

S-8 CLINTRIALS RESEARCH INC, 11000 WESTON PARKWAY, CARY, NC 27513 (919) 462-2556 - 200,000 (\$862,000) COMMON STOCK. (FILE 333-32918 - MAR. 21) (BR. 1)

S-3 8X8 INC, 2445 MISSION COLLEGE BLVD, SANTA CLARA, CA 95054 (408) 727-1885 - 1,378,119 (\$32,123,953) COMMON STOCK. (FILE 333-32928 - MAR. 21) (BR. 5)

S-1 WORKSCAPE INC, 11911 FREEDOM DR, STE 220, RESTON, VA 21190 (703) 736-8280 - \$115,000,000 COMMON STOCK. (FILE 333-32936 - MAR. 21) (NEW ISSUE)

S-8 COMPUTER ASSOCIATES INTERNATIONAL INC, ONE COMPUTER ASSOCIATES PLAZA, ISLANDIA, NY 11788 (516) 342-5224 - 7,000,000 (\$448,000,000) COMMON STOCK. (FILE 333-32942 - MAR. 21) (BR. 3)

S-8 SNOWBALL COM INC, 250 EXECUTIVE PARK BLVD, SUITE 4000, SAN FRANCISCO, CA 94134 (415) 508-2000 - 10,009,717 (\$91,588,304) COMMON STOCK. (FILE 333-32950 - MAR. 21) (BR. 6)

S-8 NETOBJECTS INC, 301 GALVESTON DRIVE, STE 250, REDWOOD CITY, CA 94063 (650) 482-3200 - 4,500,000 (\$115,375,000) COMMON STOCK. (FILE 333-32954 - MAR. 22) (BR. 3)

S-8 OXIGENE INC, ONE COPLEY PLACE, SUITE 602, BOSTON, MA 02116 (212) 431-0001 - 239,581 (\$2,244,583) COMMON STOCK. (FILE 333-32958 - MAR. 21) (BR. 1)

S-8 SOFTNET SYSTEMS INC, 650 TOWNSEND STREET, SUITE 225, SAN FRANCISCO, CA 94103 (650) 965-3700 - 2,325,000 (\$68,215,500) COMMON STOCK. (FILE 333-32962 - MAR. 22) (BR. 7)

S-3 CIRRUS LOGIC INC, 3100 W WARREN AVE, FREMONT, CA 94538 (510) 623-8300 - 3,562,364 (\$32,000,000) COMMON STOCK. (FILE 333-32964 - MAR. 22) (BR. 5)

S-3 GSI LUMONICS INC, 105 SCHNEIDER RD KANATA, ONTARIO CANADA, K2K 1Y3, - 4,600,000 (\$77,648,000) COMMON STOCK. (FILE 333-32966 - MAR. 22) (BR. 5)

S-3 SYNTROLEUM CORP, 1350 SOUTH BOULDER, SUITE 1100, TULSA, OK 74119 (918) 592-7900 - \$120,000,000 COMMON STOCK. (FILE 333-32968 - MAR. 22) (BR. 4)

S-1 LINK2GOV CORP, 1 BURTON HILLS BOULEVARD, SUITE 150, NASHVILLE, TN 37215 (615) 297-2770 - \$57,500,000 COMMON STOCK. (FILE 333-32970 - MAR. 22)

S-3 FUELCELL ENERGY INC, 3 GREAT PASTURE RD, DANBURY, CT 06813
(203) 825-6000 - 1,495,000 (\$97,875,856) COMMON STOCK. (FILE 333-32972 -
MAR. 22) (BR. 5)