

Omni-Rx and the defendants Dickstein, Markovitz, Koch and Newell sold 200,000 shares of Omni-Rx common stock in a public offering on December 21, 1972. The Complaint alleged that Omni-Rx substantially overstated its income and assets in its 1972 fiscal year financial statements, contained in the registration statement for the public offering, through its failure to establish a provision for loss on its accounts receivable from the affiliated medical groups and improper capitalization of certain costs in connection with the offering. The Complaint further alleged that the registration statement contained false disclosures with respect to the independence of Omni-Rx's outside accounting firm, which certified the financial statements; a false estimate of accounting fees incurred in connection with the offering of the proceeds and false statements with respect to the intended uses of the proceeds of the public offering.

The Complaint alleged that defendants Dickstein, Markovitz and Koch, in order to obtain the necessary report of the outside auditors to the 1972 fiscal year financial statements in their registration statement, borrowed funds from the Farmers and Merchants Bank and at a second bank immediately before the offering used the funds to pay down the debt due Omni-Rx from its affiliated medical groups. The Complaint further alleged that, as part of a pre-offering scheme, about \$670,000 of the proceeds of the public offering were, immediately upon receipt in early January 1973, diverted to Imperial West Medical Group and then to the defendants Dickstein, Markovitz and Koch. The Complaint alleged that the three doctors then used the funds to pay off their pre-offering bank loans. Twenty days later the doctors issued a note to Omni-Rx for \$570,000.

According to the Complaint, after the diversion of the \$670,000, Omni-Rx filed a series of false and misleading reports with the Commission as part of an attempt to conceal the diversion of the proceeds had been used to purchase certificates of deposits. The Complaint alleged that, as part of the attempted concealment, Omni-Rx entered into sham transactions with the Farmers and Merchants Bank in late March and June 1973 involving the purchase of certificates of deposit with funds lent to Omni-Rx by that bank. The funds were loaned to Omni-Rx at a rate of interest substantially greater than that received on the certificates of deposits. The March certificate of deposit was held by the bank as collateral and was cancelled by prearrangement after 3 days.

The Complaint alleges that Omni-Rx's Annual Report to the Commission on Form 10-K for its 1973 fiscal year was false and misleading for, among other reasons, omissions and misleading disclosures concerning the diversion of the proceeds of the public offering and related matters, the failure to establish a provision for losses on the accounts receivable from affiliates and the treatment of costs in connection with the public offering. The Complaint further alleged that Omni-Rx, Dickstein, Markovitz, Koch and Newell during the fall of 1973 aided and abetted a manipulation of the market in Omni-Rx common stock conducted by a former salesman for a New York based brokerage firm.

The District Court enjoined Farmers & Merchants from violating the anti-fraud and reporting provisions of the Federal securities laws in connection with transactions in the securities of Omni-Rx Health Systems and ordered Farmers & Merchants to comply with its undertaking to formulate and maintain procedures to prevent certain violations of the Federal securities laws. The Judgment was entered by consent of the Defendant without admitting or denying the allegations in the Commission's Complaint.

The Court entered a Judgment of Permanent Injunction against Omni-Rx enjoining it from violating the antifraud and reporting provisions of the Securities Act and the Exchange Act.

The Court entered a Judgment of Permanent Injunction against the individual defendants and Imperial enjoining further violations of the antifraud, reporting provisions, and proxy provisions of the Exchange Act and the registration provisions. The individual defendants were also prohibited from serving as officers and directors of any publicly held company. Furthermore, Markovitz, Koch and Dickstein were to disgorge certain assets for distribution to past and present shareholders of Omni-Rx. The defendants consented to the entry of the judgment without admitting or denying the Commission's allegations.

SEC v. SaCom, et al., Civil Action No. 76-1624
(DDC, Sept. 1, 1976)

On September 1, 1976, the Commission filed a Complaint in the United States District Court for the District of Columbia seeking injunctive relief against SaCom and four of its former officers. Named as defendants were four former officers, John J. Guarrera

President and Director; Robert A. Moesch, Treasurer and Director; Robert C. Smith ("Smith"), Controller; and Stephen N. Besser ("Besser"), Vice President and General Counsel.

The Complaint alleged that SaCom filed a registration statement in connection with an October 1972 public offering of securities and an Annual Report on Form 10-K which contained false and misleading financial statements and disclosures concerning independence of SaCom's outside auditors and other matters. The Complaint further alleged that Guarrera and Besser aided and abetted a manipulation of the market in SaCom's common stock in 1971 and 1972 and that financial statements of SaCom for earlier years were false and misleading.

The SaCom registration statement, containing financial statements for the six months ended March 31, 1972, was filed in connection with an underwritten public offering of 200,000 shares of SaCom common stock at \$6 per share conducted on October 31, 1972. The SaCom Annual Report to the Commission on Form 10-K contained financial statements for SaCom's fiscal year ended September 30, 1972. The Complaint asserted that these financial statements substantially overstated net income and assets through the capitalization of various costs, which had previously been expensed, as research and development, test equipment and work in process inventory and through improper recognition of a claim in connection with a defense contract. According to the Complaint, SaCom also improperly included certain April 1972 shipments in sales for the six months ended March 31, 1972 and failed to disclose in its filings overbillings of progress payments to the U.S. Department of Defense in connection with defense contracts. The Complaint asserted that SaCom's outside auditors were not independent of SaCom in connection with the two audit engagements because, for among other reasons, two partners of the auditing firm were guarantors on an outstanding bank loan to SaCom, an employee of the auditing firm held an interest in SaCom securities and the partner assigned to the audit engagements was actively involved in attempting to secure financing for SaCom. The Complaint alleged that SaCom made a false disclosure in the re-registration statement of estimated accounting fees in connection with the public offering.

It was also alleged that the individual defendants participated in a scheme to recognize income in fiscal 1972 on the proceeds of a bank loan and that fictitious sales entries were made in SaCom's books as part of the scheme. The Complaint further alleged that Guarrera and Besser in 1971 and 1972 aided and abetted a manipulation of the market in SaCom common stock conducted by two other individuals.

The Court entered final orders permanently enjoining the defendants from future violations of the anti-fraud and reporting provisions of the Federal securities laws. Three of the defendants, Guarrera, Besser, and Smith, consented to the final orders without admitting or denying the Commission's allegations.

SEC v. Cenco Incorporated, et al., Civil Action No. 76-C-3258 (N.D. Ill., September 1, 1976)

The Commission filed a Complaint against Cenco Incorporated ("Cenco"); Ralph Clarence Read ("Read") former President, Chief Executive Officer and a director of Cenco; Bernard Magdovitz ("Magdovitz"), former treasurer, Financial Vice President and Executive Vice President; Howard Swiger ("Swiger") former Executive Vice President alleging violations of § 17(a) of the Securities Act of 1933 as well as § 10(b), 12(b), 13(a), 14(a) of the Exchange Act of 1934 and rules 10b-5, 12b-20, 13a-1, 13a-11, 13a-13 and 14a-9 thereunder. The Complaint also named Russle Rabjohns, Jr. ("Rabjohns"), Robert Smith ("Smith"), Elliot Kohn ("Kohn"), Harvey Orner ("Orner"), Erwin Berman ("Berman"), and Reuben Katz ("Katz") for violating the antifraud and reporting requirements of the Exchange Act of 1934; Jack Caulson ("Caulson"), Brendan Casey ("Casey"), Anthony Urso ("Urso"), Arthur Auman ("Auman"), Rose Packaging Corp., David Marose ("Marose"), Frederick Schmauss ("Schmauss") and Charles Didriksen ("Didriksen") for violating the antifraud provisions of the 1934 Act.

In its Complaint, the Commission alleges that a scheme was entered into to create the appearance of a physical destruction in March and April 1975, of inventory which in fact did not exist for the purpose of, among other things, concealing the massive prior inflation of the inventory of Cenco Medical Health/Supply Corp. ("CMH"), computed for year-end financial reporting purposes. It is alleged that as a part of this scheme,

false documents were created reflecting the physical counting, shipment, delivery and destruction of in excess of \$16 million of CMH inventory which in fact did not exist. Further, it is alleged that certain activity was performed as a charade to support the contention that inventory was counted, shipped and destroyed. It is also alleged that in connection with the scheme, Cenco issued a false press release and filed a false 8-K report with the Commission. The Complaint further alleges that Magdovitz and Rabjohns, former National Operations Manager of CMH, supervised the implementation of the scheme and that Read made statements to the public, to the Cenco Board of Directors, to Cenco's accountants, and to the Commission which he knew or should have known to be false. It is further alleged that Casey, Coulson, Urso, Auman, Didriksen and Schmauss, all formerly associated with Cenco, participated in various aspects of the scheme.

The Complaint additionally alleges that another scheme was entered into to inflate the 1975 inventory of CMH to be used for financial reporting purposes due to the fact that the purported "destruction" of in excess of \$16 million of CMH inventory was not a sufficient amount to reduce the inflated CMH general ledger inventory balances into comparable relation with the actual CMH physical inventory. It is alleged that this scheme involved the repackaging of CMH inventory into combinations of little or no utility or merchantability. The repackaged combinations were ascribed product numbers similar to those used by CMH and were combined in CMH packaging and boxed in cartons bearing the CMH label which reflected a greater quantity than was actually included in the carton. Documents were prepared to support the attributing in the CMH inventory of more than \$3 million to this essentially valueless inventory. The Commission's Complaint alleges that Rabjohns generally directed the implementation of this scheme and that Magdovitz authorized the payment of invoices necessary to the scheme and that Magdovitz and Read knew or should have known of the scheme.

The Commission's Complaint also alleges that the CMH inventory computed for financial reporting purposes was falsely inflated at April 30, 1970 and continued to be inflated by progressively increasing amounts as of the end of each fiscal year until and including April 30, 1974. The Complaint alleges that the inflation was affected by altering quantities on the counting

media used by CMH to record the physical inventory count, by altering quantities on preliminary computer listings prepared to reelected the resultss of the physical inventory and by preparation of bogus inventory tags which were inserted into the physical reporting system. The Complaint alleges that the year-end financial statements of Cenco were materially false and misleading as a result of the inflation of the CMH inventory and that Read, Magdovitz, Spiegel, Swiger and Rabjohns knew or should have known of the falsification. The 1971 and 1972 financial statements were included in registration statements pursuant to which Cenco distributed in excess of \$50 million of convertible subordinated debentures and pursuant to which certain selling shareholders, including Read, distributed their Cenco stock to the public. The Complaint also alleges that in or about July 1974, Magdovitz, Swiger, Coulson and Rabjohns engaged in a scheme to conceal the inflation of the inventory reported to be contained in the CMH warehouse in Miami, Florida. It is alleged that this scheme involved, among other things, the preparation of inventory from another CMH warehouse to Maimi and the removal and destruction of Miami inventory control records.

The Commission's Complaint additionally alleges that certain interim reports filed by Cenco were materially false and misleading and reflected figures which were not taken from the books and records of Cenco. It is alleged that Read, Magdovitz, Spiegel and Swiger knew or should have known that the interim reports were macerially false and misleading and contained figures which were not reflected in the books and records. It is also alleged that the 1973 financial statements were materially false and misleading as the result of a duplicate recording of more than \$2 million of CMH sales.

The Complaint further alleges the manipulation and alteration of the accounting records and systems of S.P. Drug Co., Inc., a former Cenco subsidiary, for the purpose of overstating sales and understating liabilities. As a result of this, the Complaint alleges that the Cenco financial statements were materially false and misleading. It is further alleged that Magdovitz and Smith knew or should have known of this activity.

The Commission's Complaint also alleges that Kahn, Orner and Berman, formerly associated with Cenco through its former subsidiary, Todd Equipment Leasing Corporation, and Katz, an attorney not associated with Cenco, engaged in a scheme to obtain funds which were used by Kahn, Orner and Berman as a down payment for their purchase of Todd Equipment Leasing Corporation from Cenco. It is alleged that this scheme involved the creation of false documents which were used to collateralize a loan for them. It is further alleged that Kahn and Orner created and caused to be created and recorded and caused to be recorded documents reflecting fictitious transactions of purchase and leaseback for the purpose, among other things, of concealing, disguising and otherwise facilitating the misappropriation by Kahn of Todd funds. The Complaint alleges that this activity took place at a time when Todd was a subsidiary, division or affiliate of Cenco and resulted in the filing of false reports by Cenco.

On March 28, 1980, Final Judgments and Orders of Permanent Injunction were entered against Read, Swiger, Rabjohns, Coulson, Marose and Rose Packaging Corporation. The defendants consented to the entry of the injunction without admitting or denying the allegations contained in the Commission's Complaint. The orders enjoin each of the defendants from further violations of the antifraud provisions of the federal securities laws. In addition, Read and Swiger were enjoined from violating the reporting and proxy provisions and Rabjohns was enjoined from further violations of the reporting provisions. On May 23, and July 1, 1980, Casey and Magdovitz, without admitting or denying the allegations in the Commission's Complaint, consented to the entry of a Final Judgment of Permanent Injunction enjoining them from further violations of the antifraud provisions of the federal securities laws.

SEC v. American Financial Corp., et al., Civil
Action No. 76-3865 (SDNY, September 1, 1976)

The Complaint alleges that American Financial Corp. ("AFC") and Carl Lindner ("Lindner"), its Chairman of the Board and President violated the anti-manipulation, antifraud and reporting provisions of the Exchange Act in connection with the purchase of stock of Warner Communications, Inc. ("Warner").

The Complaint alleged violations of the anti-manipulation, anti-fraud and reporting provisions of the Securities Exchange Act of 1934. The Commission alleged that on March 21, 1975, the defendants purchased 42,000 shares of Warner Communications, Inc. ("Warner") common stock for the purpose, and having the effect of manipulating the price of Warner from \$12 7/8 to a high of \$14 3/4, in order to increase the price at which AFC was selling a block of 690,000 shares of Warner stock. The block was sold by AFC to Warner the same day at \$14 1/2.

The Complaint further alleged that the defendants failed to disclose to Warner their manipulative activities and failed to disclose to AFC shareholders that the profits, which were material to AFC's earnings, were derived from the manipulative activities. The Complaint also alleged that AFC's quarterly report for the quarter ending March 31, 1975 and annual report for the year ended December 31, 1975 were false and misleading and omitted to state that material profits resulted from illegal manipulation activities.

The Court entered an Order of Permanent Injunction against the defendants enjoining future violations of the anti-manipulation, anti-fraud, and reporting provisions of the Federal securities laws. The defendants consented to the order without admitting or denying the Commission's allegations and, furthermore, agreed to establish a fund of monies to cover any judgment in a legal proceeding brought by Warner. AFC also had to amend past Commission filings and established procedures to prevent similar future occurrences.

SEC v. General Financial Services, Inc., et al.,
Civil Action No. 76-562-A (E.D. Va., July 22, 1976)

The Commission's Complaint alleges that General Financial Services ("GFS"), Realty Equities Corp. ("Realty"), Novemco Inc. ("Novemco"), Timothy F. Pegler and Co., Ltd. ("TFP"), Preferred Investment Corp. ("PIC"), Harry Ruddy ("Ruddy"), Hans Richard Banziger ("H. Banziger"), Walter Banziger ("W. Banziger"), David Woody ("D. Woody"), Edward Woody ("E. Woody"), Timothy Pegler ("Pegler"), violated the registration and antifraud provisions of the securities laws in

the offer and sale of interests in general and limited partnerships as well as in the sale of stock and debentures of GFS and Washington Laboratories, a defunct GFS subsidiary.

The Complaint alleges that over 325 partnership investors and 26 stock and debenture investors were defrauded when the defendants failed to disclose that: partnership properties had been marked up from 4 - 23%, partnership income was commingled, partnership income was overstated, financial statements were false, partnership interests were sold when the defendants failed to own the underlying property, and that returns on investments were made to selected investors. The Complaint further alleges that certain brochures and oral representations contained false and misleading statements of material fact concerning the profitability of certain partnerships, the experience in real property partnerships of GFS and PIC.

Final Judgments of Permanent Injunction were entered against GFS, Realty, Novemco, TFP, PIC, H. Banzigir, W. Banzigir, D. Woody, E. Woody and Ruddy enjoining them from future violations in connection with the offer and sale of partnership interests and stocks and bonds. An accountant was also appointed to trace the disposition and use of all investor funds and to render accurate financial statements for the defendant corporations and subsidiaries. The defendants consented to the final judgment without admitting or denying the allegations.

SEC v. Chicago Milwaukee Corp., et al., Civil
Action No. 76-1204 (DDC, June 29, 1976)

The Commission's Complaint alleges that Chicago Milwaukee Corporation ("CMC"); Chicago, Milwaukee, St. Paul and Pacific Railroad Company ("Milwaukee Road"); William J. Quinn ("Quinn"), Chairman of the Board and President of CMC, Chairman of Board and Chief Executive Officer of Milwaukee Road; Worthington Smith ("Smith"), director of CMC, President and director of Milwaukee Road; Curtis Crippen ("Crippen"), former President and director of Milwaukee Road; and Richard Kratachwill ("Kratachwill"), Treasurer of CMC and Vice President for Finance and Accounting of Milwaukee Road violated § 10(b) and 13(a) of the Exchange Act and rules 10b-5 and 13a-1 promulgated thereunder in connection with the operation of the Milwaukee Land Company ("Land Company"), a wholly owned subsidiary of Milwaukee Road.

The Commission's Complaint alleged various violations of Section 10(b) and 13(a) of the Exchange Act and Rules 10b-5 and 13a-1 promulgated thereunder in connection with the operation of Land Company a wholly owned subsidiary of the Milwaukee Road. The Complaint alleges that CMC and the Milwaukee Road made false and misleading statements and omitted to state material facts in registration statements and annual reports filed with the Commission and disseminated to CMC and Milwaukee Road Stockholders between 1968 and 1974 in that, beginning in 1968, Milwaukee Road officials caused the Land Company to significantly alter its business operations and commence substantial sales of its timberlands for the purpose of upstreaming cash to the Milwaukee Road which otherwise would not have remained solvent. No disclosure was ever made of the purposes or effects of these timberland sales.

Further, the Commission's Complaint alleges that in February 1972, the Milwaukee Road caused the Land Company to rescind a \$4,000,000 dividend to it in order to conserve cash and thereby avoid an obligation of the Milwaukee Road to pay slightly less than that sum as interest to certain of its bondholders who would have been entitled to the money. Pursuant to this rescission, accounting books and records and official documents of the Milwaukee Road and of the Land Company were falsified.

The Commission's Complaint also alleges that the defendants failed to disclose substantial amounts of deferred maintenance of roadway being experienced by the Milwaukee Road and the reasons and effects for such deferrals. In addition, the Complaint alleges that there was a failure to disclose the incursion of a material contingent liability by the Milwaukee Road and the falsification of certain of its books and financial statements in connection with the sale by it of a parcel of land. Further the Complaint alleges that there was no disclosure made in regard to a political contributions fund of the Milwaukee Road whereby certain of its officers were reimbursed by the Milwaukee Road for contributions to the fund which contributed to candidates for federal and state political office.

The Court entered a permanent injunction against the above named defendants prohibiting future violations of the securities laws. The Court also ordered CMC and

Milwaukee Road to correct all previous filings with the SEC and set up an independent Special Committee of the board of directors to conduct an investigation into the past wrongdoing. The defendants consented to the entry of the Court's judgments and orders without admitting or denying the Commission's allegations.

SEC v. Stirling Homex Corporation et al, Civil
Action No. 75-1065 (DDC, July 2, 1975)

The Commission filed a civil injunctive action against Stirling Homex Corporation ("Stirling Homex"), David Stirling, Jr. ("David Stirling"), former Chairman of the Board of Directors of Stirling Homex, William G. Stirling ("William Stirling"), former President of Stirling Homex, Harold M. Yanowitch ("Yanowitch"), former Director, General Counsel and Executive Vice President of Stirling Homex, Edwin J. Schulz ("Schulz"), former Controller and Vice President of Stirling Homex, Charles W. Marshall ("Marshall"), former Director of Stirling Homex and President of U.S. Shelter Corporation, a Stirling Homex subsidiary, Frank Csapo ("Csapo"), former Vice President of Stirling Homex and Merrill Lynch, Pierce Fenner & Smith Incorporated ("Merrill Lynch"), a New York broker-dealer and Stirling Homex's former investment banker.

The Commission's Complaint alleged that Stirling Homex, David Stirling, William Stirling, Yanowitch, Schulz, Csapo and Marshall, directly and indirectly, violated and aided and abetted violations of the anti-fraud provisions of the federal securities laws. The Commission's Complaint also alleged that Stirling Homex, David Stirling, William Stirling, Yanowitch, Schulz and Marshall violated and aided and abetted violations of the periodic reporting provisions of the federal securities laws.

In particular, the Complaint alleges that from 1970 through 1972, the financial statements of Stirling Homex were materially falsified by the fraudulent recording and reporting of fabricated or fictitious sales and the application of inappropriate accounting principles. For example, all module sales of approximately \$12,500,000 included in the February 28, 1971 financial statements contained in the 1971 Registration Statement of Stirling Homex, were either fictitious or improperly recorded including approximately \$8,000,000 of sales from a proposed \$15 million project

in Mississippi with the Greater Gulf Coast Housing Corporation. As part of this fraudulent course of conduct designed to deceive the public, materially false and misleading registration statements in 1970 and 1971 were filed with the Commission and disseminated to the public by Stirling Homex. Materially false and misleading press releases and letters to the shareholders were issued and materially false and misleading annual and periodic reports were filed with the Commission.

Simultaneously with the filing of the Complaint, David Stirling, William Stirling, Yanowitch, Schulz, Marshall and Csapo, without admitting or denying the allegations in the Complaint, consented to the entry of Judgments of Permanent Injunction enjoining them from violations of the reporting and anti-fraud provisions of the federal securities laws with respect to the securities of Stirling Homex or any other issuer. In addition to the injunction, the Court ordered David Stirling, William Stirling, and Yanowitch not to be associated with any corporation whose securities are publicly held without prior Commission approval and to forebear from receiving any assets, properties or monies of Stirling Homex in any distribution which they would be entitled to participate in as a security holder or creditor of Stirling Homex. Further, the Court ordered Schulz not to be associated with any corporation whose securities are publicly owned as a chief financial officer for two years without prior Commission approval. Additionally, Yanowitch as part of his consent, undertook not to practice before the Commission as defined by Rule 2(e) of the Commission's Rules of Practice without prior approval of the Commission.

The Commission's Complaint with respect to Merrill Lynch alleges it was involved directly and indirectly in the filing with the Commission and the dissemination to the public of the 1971 registration statement of Stirling Homex referred to above and in this regard, it is alleged that Merrill Lynch knew or should have known of material facts which were not disclosed in the registration statement and that the inquiry made by Merrill Lynch with respect to the registration statement under the circumstances was inadequate. The Commission's Complaint also contains allegations with respect to violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5

thereunder in the dissemination by Merrill Lynch to its customers of inaccurate or misleading research reports, wire flashes and opinions, earnings and price predictions and statements concerning Stirling Homex and its securities.

Simultaneously with the filing of the Commission's Complaint, Merrill Lynch without admitting or denying the allegations in the Complaint, consented to the entry of a Judgment of Permanent Injunction enjoining Merrill Lynch from violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in connection with transactions in the securities of Stirling Homex. Further, Merrill Lynch has been ordered to adopt within 60 days, implement and maintain policies and procedures relating to its underwriting, research and retailing activities which are reasonably calculated to prevent the recurrence of the matters alleged in the Commission's Complaint.

SEC v. Kalvex, Inc. et al, Civil Action No. 74-5643 (SDNY Dec. 23, 1974)

The Commission's complaint alleges that Kalvex, Inc. ("Kalvex"); Emanuel Wolf ("Wolf"), president and Chairman of the Board; and Robert Ingis ("Ingis"), director and former vice president, all violated the reporting and proxy provisions of the federal securities laws. More specifically, the Complaint alleged Kalvex failed to disclose a scheme to kick-back \$8,500 to Ingis from a Kalvex supplier; the receipt by Ingis of approximately \$6,000 of corporate funds as a result of Ingis' submission of "expense" vouchers to Kalvex for expenses unrelated to any corporate purpose; and Wolf's submission of expense vouchers to both Kalvex and to Allied Artists Pictures Corporation, a publicly held corporation controlled by Kalvex, in order to receive reimbursement for the same expenses from both companies.

Kalvex consented to an injunction in which it agreed to establish a financial controls and audit committee to adopt procedures to prevent a recurrence of acts similar to those charges in the complaint; and retain a special auditor to ascertain whether any officers, directors and employees of Kalvex received expense reimbursements that were not for a valid business purpose. Wolf consented to return \$80,000 to

Kalvex and Ingis consented to an order of the Commission prohibiting him from appearing or practicing as an accountant before the Commission for a 22 month period.

SEC v. Mattel Inc., Civil Action No. 74-2958-FW
(DDC, August 5, 1974)

The Commission's complaint alleges that Mattel, Inc. ("Mattel") violated the antifraud and reporting provisions of the Exchange Act by filing false and misleading quarterly reports and issuing false and misleading press releases. More specifically, the Complaint alleged that Mattel's filings overstated profits; understated costs by failing to make interim and year-end adjustments for inventory, accounts receivable, tooling, returns and insurance claim receivables; and failed to disclose the use of the practice called annualization. The Complaint further alleged that Mattel's press releases were false in that they stated that Mattel had a profitable first three quarters in 1973 and that satisfactory earnings were expected for 1973.

The court granted a permanent injunction prohibiting Mattel from future violations of the federal securities laws and also ordered Mattel to appoint two unaffiliated directors, establish a Financial Controls and Audit Committee, and establish a Litigation and Claims Committee. Mattel consented to the entry of the court's judgment without admitting or denying the Commission's allegations.

An amended judgment was entered against Mattel on October 2, 1974 as a result of further information made available to the Commission concerning the 1971-1972 financial statements. Mattel was required to appoint a majority of unaffiliated persons to the Board of Directors, maintain this majority on its executive committee, amend the 1971-72 financial statements, and appoint a special counsel to investigate the new matters.

SEC v. Solitron Devices, Inc., Civil Action No. 75-0388
(DDC March 20, 1975)

On March 20, 1975, the Commission alleged that Solitron Devices Inc. ("Solitron") of Tappan, New York, violated the antifraud provisions of the Exchange Act. The Complaint alleged that Solitron's 1967 through 1970

annual reports on Form 10-K, are materially false and misleading, in that the audited financial statements contained therein materially overstate pre-tax and net income by reason of, among other things, the overstatement of the value of Solitron's inventory, sales and accounts receivable.

The Complaint further alleges that Solitron's 1971 annual report on Form 10-K and audited financial statements were additionally violative of the anti-fraud and reporting provisions of the Exchange Act in that they omit to state the material fact that a substantial part of the write-down of Solitron's inventory described therein was due to, among other things, Solitron's falsification of its prior financial statements.

Additionally, the Complaint alleges that Solitron's annual reports on Form 10-K and audited financial statements, and quarterly reports on Form 10-Q for the period 1971 to the present, omit to state the material fact that Solitron has a substantial contingent liability arising out of the falsification of financial statements and reports and the course of conduct described in the Complaint.

Finally, the Complaint alleges that Solitron's current report on Form 8-K for the month of January 1975 violated the anti-fraud and reporting provisions and a January 27, 1975 press release violated the anti-fraud provisions of the Exchange Act by reason of misstatements of material fact and omissions of material fact relating to the matters described therein.

On April 17, 1975, the Court entered a Final Order pursuant to a Stipulation and Undertaking executed by Solitron. Solitron was ordered to file its annual and periodic reports with the Commission, when they are required to be filed, which reports shall be complete and accurate and contain all statements of material fact necessary to present fully, fairly and accurately statements contained and required to be contained therein. By virtue of the Final Order, Solitron has been further ordered to make only such public statements as are complete and accurate in all material respects. Moreover, the Court's order directs the company to restate and correct these filings with the Commission which were the subject of the Commission's Complaint where necessary to present fully,

fairly and accurately all material facts concerning the financial condition of Solitron. Finally, the Court in the Final Order directed Solitron to retain special counsel, satisfactory to the Commission, to accomplish the matters referred to in a Stipulation and Undertaking executed by Solitron and annexed to the Final Order and to fully comply with the stipulations and undertakings contained therein.

Solitron in its Stipulation and Undertaking among other things, represented that it would conduct a thorough inquiry for the purposes of determining the nature and extent of any deficiencies in its past filings and correct all filings made with the Commission so that they fully comply with the reporting provisions of the Exchange Act. In conjunction with these efforts, Solitron represented that it would employ a Special Counsel, in accordance with the Final Order of the Court, such Special Counsel having the authority to require Solitron to take such actions as he may deem appropriate to implement the company's undertakings. It is further provided that no corrected filings may be made by Solitron that do not meet the satisfaction of the Special Counsel and that such Special Counsel cannot be dismissed or discharged without prior approval of the Commission. Similarly, any replacement of the Special Counsel must be acceptable to the Commission.

The Court in its Final Order retained jurisdiction and power to enforce its Order and to enter such further Orders as may be required in connection therewith.

SEC v. Penn Central Company, et al., Civil Action No. 74-1125 (E.D. Pa, May 2, 1974)

On May 2, 1974, the Commission filed a civil injunctive action against Penn Central Company ("Penn Central"); Penn Central Transportation Company ("Transportation Company"); Pennsylvania Company ("Pennco"), Great Southwest Corporation ("Great Southwest"), Stuart Saunders ("Saunders"), former Chief Executive Officer of Penn Central, Transportation Co. and Pennco; David Bevan ("Bevan"), formerly Chief Financial Officer of Penn Central and Transportation Co.; Robert Baker ("Baker"), formerly President of Great Southwest; Peat, Marwick, Mitchell and Co. ("Peat Marwick"), formerly independent auditors for Penn Central, Transportation

Co., and Great Southwest; Edward J. Hanley; Franklin Lunding ("Lunding"), R. Steward Rauch ("Rauch"), who were formerly directors of Penn Central and Transportation Co.; Angus G. Wynne, Jr., William Ray and H.L. Caldwell, formerly officers of Great Southwest. Also named were Fidel Goetz, Joseph Rosenbaum and Francis Rosenbaum who were involved in matters relating to Executive Aviation, a former subsidiary of Transportation Co.

The Complaint filed in the Eastern District of Pennsylvania seeks to enjoin the above named defendants from further violative conduct and seeks, as to certain defendants, ancillary relief. The Complaint alleges that Penn Central Co., Transportation Co., Saunders and Bevan violated and aided and abetted the violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, in that the financial statements of Penn Central and Transportation Co. for the fiscal years 1968 and 1969 and the financial results for interim periods were false and misleading in that among other things, the earnings of the companies were improperly inflated. Peat Marwick is alleged to have violated and aided and abetted violations of securities laws by having rendered false and misleading reports with respect to the financial statements of Penn Central and Transportation Co. for the fiscal years 1968 and 1969. Penn Central, Saunders, Bevan and Peat Marwick are also alleged to have violated and aided and abetted violations of Section 13(a) of the Exchange Act in connection with filing false and misleading financial statements of Penn Central for the 1969 fiscal year with the Commission.

The complaint alleges that Penn Central, Transportation Co., Pennco, Saunders, Bevan, Great Southwest and Baker violated and aided and abetted violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in that they misrepresented the operations, earnings, finances and performance of Penn Central, Transportation Co., Pennco and Great Southwest between the time of the merger of the Pennsylvania Railroad and the New York Central Railroad on February 1, 1968 to the time of the filing of a petition for reorganization in June 1970.

The Complaint alleges that Hanley, Lunding and Rauch violated and aided and abetted violations of Sections 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in that

they knew or had reason to know as directors of Transportation Co., among other things, that the financial and operational conditions of the company were being misrepresented to the investing public.

Bevan is alleged to have aided and abetted violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in that he sold Transportation Co. stock owned by him in the public market while possessing material adverse information concerning Transportation Co. which was not public. Bevan sold about 15,000 shares of Transportation Co. stock from January 1969 through June 1969. The Complaint also seeks a disgorgement of the profits improperly obtained through these sales.

Wynne, Baker, Ray and Caldwell are alleged to have violated and aided and abetted violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in that Baker, Wynne, Ray and Caldwell improperly received payments under employment contracts and pursuant to renegotiations of employment contracts. The payments are alleged to have been based on the improperly inflated income of Great Southwest and to have been made in connection with efforts to avoid disclosure of inflated income of Great Southwest. Disgorgement of improper payments is also sought.

Bevan, Goetz, J. Rosenbaum and F. Rosenbaum are alleged to have violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in connection with the diversion of approximately \$4 million belonging to Transportation Co. and intended for rail use, to accounts located in Liechtenstein. The Complaint seeks an accounting for and disgorgement of the funds involved.

Final Judgments of Permanent Injunction were entered against Saunders and Bevan, enjoining each of them from further violations of the antifraud and periodic reporting provisions of the federal securities laws. Final Judgments of Permanent Injunction were entered against F. Rosenbaum and J. Rosenbaum. The Judgments enjoin both of them from violating the antifraud provisions of the federal securities laws. Final Judgments of Permanent Injunction were also entered against Pennco, Great Southwest and Transportation Co.

enjoining them from further violations of the anti-fraud provisions of the federal securities laws. Each of the defendants consented to the entry of the Final Judgments without admitting or denying the allegations contained in the Commission's Complaint.

On April 12, 1978, Stipulations were entered with respect to defendants Wynne and Caldwell and Ray. The ordered stipulations were entered without admission or denial by the defendants of the allegations in the Commission's Complaint. The ordered stipulation as to Wynne provides that he will not become an officer, director, employee, consultant or otherwise associated with the companies in the Penn Central complex of companies, and that upon hereafter becoming an officer or director of any public company, subject to the federal securities laws, will set forth in writing the manner and method by which he will discharge his responsibilities as a director under the federal securities laws of his position and submit such document to the General Counsel of the company. The request for injunctive relief as to Wynne previously had been dismissed from this action on a finding of his not being currently involved with public companies and of his having certain health problems.

The ordered stipulation as to Caldwell provides that he will not become a director, officer, or consultant or otherwise associated with the companies in the Penn Central complex of companies, and that upon hereafter becoming a director of any public company subject to the federal securities laws, will set forth in writing the manner and method by which he will discharge his responsibilities under the federal securities laws of his position and submit such document to the General Counsel of the company.

Defendant Ray is ordered not to engage in fraudulent conduct in connection with the securities of Penn Central or related issuers and Ray stipulated that he will not become a director, officer, employee, consultant or otherwise associated with the companies in the Penn Central complex of companies, and that upon hereafter becoming a director of any public company subject to the federal securities laws, will set forth in writing the manner and method by which he will discharge his responsibilities under the federal securities laws of his position and submit such document to the General Counsel of the company.

On January 13, 1978, the court dismissed the Commission's action as to Penn Central and the holding company of Penn Central, Transportation Co. Penn Central is under the jurisdiction of the federal court pursuant to bankruptcy and its only substantial asset is common stock of the Transportation Co. Under plans for reorganization of Penn Central and the Transportation Co., the company will cease to exist at the conclusion of the bankruptcy proceedings. The Transportation Co. previously consented to an injunction in this action.

On February 16, 1979, a Stipulation and Order with respect to Baker was entered by consent and without Baker having admitted or denied any of the allegations in the Commission's Complaint. The Stipulation and Order provides that Baker shall not become an officer, director, employee, consultant or otherwise become associated with Penn Central, Great Southwest or other companies within the Penn Central complex. In addition, Baker is required to submit, in writing, to the General Counsel of any company subject to the federal securities laws of which he becomes a member of the board of directors, a statement setting forth the manner and method by which he will discharge his responsibilities as a director under the federal securities laws.

SEC v. Republic National Life Insurance Company, et al., Civil Action No. 74-1097 (SDNY March 8, 1974)

The Commission filed a civil injunctive action against Republic National Life Insurance Company ("Republic"); Realty Equity Corporation of New York ("Realty"); Peat, Marwick, Mitchell and Co. ("Peat Marwick"); Westheimer, Fine Burger and Co. ("Westheimer"); and eleven employees of Republic or Realty alleging violation of the antifraud and reporting provisions of the federal securities laws.

More specifically, the Complaint alleges that Republic, in trying to conceal its failing investment in Realty, engaged in a scheme to:

- 1) Invest further substantial sums in Realty in an attempt to protect and conceal the fact of Republic's failing investment in Realty;

- 2) Conceal such further investment in Realty by converting Republic's investment in Realty initially to companies serving as conduits for channelling Republic