

SEC v. Swanton Corporation, et al., Civil Action
No. 82-0014 (DDC Jan. 5, 1982)

On January 5, 1982 the Commission filed a Complaint seeking injunctive and other equitable relief against Swanton Corporation, Norman F. Swanton, the Chairman of the Board and chief executive officer of Swanton Corporation, Eugene N. Scalercio, an executive vice president and formerly the treasurer and a director of Swanton Corporation and Gerald A. Murphy, a former business associate of Swanton Corporation. The Complaint alleges that the defendants variously committed violations of the antifraud, reporting, and beneficial ownership provisions of the Exchange Act and the antifraud provisions of the Securities Act. Swanton Corporation is a diversified, financial, investment, real estate and energy services company which has its principal executive offices in New York City.

The Commission alleges in its Complaint that during 1975 and 1976 Swanton Corporation, Norman Swanton, and Murphy engaged in a scheme to conceal the actual financial condition of Swanton Corporation by artificially and materially overstating the revenues and assets of Swanton Corporation in an amount in excess of \$180,000 and thereby overstating net income and net worth. The Complaint further alleges that the material overstatement of revenues, net income, assets and net worth of Swanton Corporation was disseminated to the public through false financial statements included in its 1975 and 1976 annual and periodic reports and in a prospectus.

Simultaneously with the filing of the Complaint, the defendants consented to the entry of final Judgments of Permanent Injunction against them without admitting or denying the allegations of the Complaint. In this regard, Swanton Corporation and Norman Swanton consented to the entry of a Final Judgment of Permanent Injunction and Other Equitable Relief, restraining and enjoining them from violations of the antifraud and certain of the reporting provisions of the Exchange Act. The Final Judgment also ordered Swanton Corporation to engage an independent third party to conduct an investigation to determine whether any funds advanced to Norman Swanton by Swanton Corporation or expended by him for which he was later reimbursed by Swanton Corporation were used for noncorporate or improper purposes

or for his own personal benefit. In addition, the Final Judgment ordered Norman Swanton to reimburse Swanton Corporation in the event that the independent third party should make such a determination.

Scalerio consented to the entry of a Final Judgment restraining and enjoining him from violations of the periodic and beneficial ownership reporting provisions of the Exchange Act. Murphy consented to the entry of a Final Judgment restraining and enjoining him from violations of the antifraud provisions of the Securities Act and Exchange Act and certain of the reporting provisions of the Exchange Act.

SEC v. William R. Bundy, et al., Civil Action No. IP81-1350C, (S.D. Ind. Dec. 18, 1981)

The Commission filed a Complaint seeking injunctive and other equitable relief against William R. Bundy, Ernesto Ancira, Consolidated American Industries, Inc., Marion Charles Buchanan and Cayman Independent Petroleum Company alleging violations of the Federal securities laws involving the sale of securities of Kokomo National Life Insurance Company. Kokomo is a stock life insurance company located in Kokomo, Indiana which was seized by the Indiana Commissioner of Insurance on July 10, 1980. The Commissioner's request for an order to liquidate Kokomo was granted on November 2, 1981 by the Marion County Circuit Court. Bundy, a resident of West Lafayette, Indiana, was chairman of Kokomo's board of directors and its president. Ancira, a resident of San Antonio, Texas, controls CAI, a corporation with headquarters in San Antonio, Texas. Buchanan, a resident of Kenner, Louisiana, controls CIPCO, purportedly a British West Indies Corporation with offices in New Orleans and San Francisco.

In its Complaint, the Commission alleged that from December 1, 1979, the defendants engaged in the offer and sale of securities consisting of instruments purporting to be single-premium, insurance annuities of Kokomo ("annuity instruments") without registering those securities with the Commission. It was alleged that Kokomo sold these "annuity instruments" to Ancira, CAI, Buchanan and CIPCO with the expectation that they would be sold, pledged or otherwise transferred to third parties for valuable consideration. The Complaint alleged that in connection with the offer and

sale of the "annuity instruments" which were described as "fully paid" when in fact virtually all of the "premiums" were paid by promissory notes of Ancira, CAI, Buchanan or CIPCO. The defendants were also charged with materially overstating the financial strength of Kokomo by distributing financial statements which showed Kokomo's net worth was no more than approximately \$3,300,000.

The Complaint further charged Bundy with responsibility for Kokomo's failure to file Annual Reports on Form 10-K for fiscal years ended December 31, 1977, December 31, 1978, and December 31, 1979. It was also alleged that Bundy caused Kokomo's failure to make and keep reasonably detailed and accurate books and records, and its failure to devise and maintain a system of internal accounting controls.

Simultaneously with the filing of the Complaint, the United States District Court for the Southern District of Indiana entered Final Judgments of Permanent Injunction against Bundy, Ancira, and CAI providing injunctive and other equitable relief for violations of the registration provisions of the Securities Act and the antifraud provisions of the Securities Act and the Exchange Act. Bundy was also enjoined from violating the recordkeeping and accounting control provisions and the filing provisions of the Exchange Act. The Court also ordered Bundy, Ancira, and CAI to refrain from making any claims on Kokomo's assets until all other claims are satisfied in full, and Ancira and CAI were ordered to make a rescission offer. These defendants consented to entry of the Judgments without admitting or denying any of the allegations of the Commission's Complaint.

On February 5, 1982, Final Judgments of Permanent Injunction were entered against Buchanan and CIPCO, enjoining each of them from further violations of the registration and antifraud provisions of the Securities Act and the antifraud provisions of the Exchange Act. Buchanan and CIPCO were also ordered to make an accounting of their purchases of the annuity instruments and to offer to rescind these transactions. Buchanan and CIPCO consented to the entry of the injunction without admitting or denying the allegations in the Complaint.

SEC v. Vornado, Inc., Civil Action No. 81-3068
(DDC December 18, 1981)

On December 18, 1981, the Commission filed a civil injunctive action in the United States District Court for the District of Columbia seeking to enjoin Vornado, Inc., a New Jersey corporation, from further violations of the anti-fraud provisions of the Securities Act and the Exchange Act as well as the periodic reporting requirements and proxy solicitation provisions of the Exchange Act.

The Commission's Complaint alleges that for the period 1971 through 1979, Vornado filed with the Commission periodic reports containing financial statements which were materially false and misleading and which failed to present fairly the results of operations and the financial condition of the company. Specifically, Vornado made arbitrary adjustments to certain reserve and accrual accounts, attributed expenses to periods other than to those to which they were properly attributable, understated losses, and improperly calculated and reported a gain on a sale of assets. In connection with a registration statement filed with the Commission in 1977, Vornado overstated its results of operations for a five month period by including certain advertising claims in income which were not subject to recognition until a subsequent period.

The Commission's Complaint also alleges that for at least the period from 1970 through 1976, Vornado maintained an undisclosed off-the-books cash fund which aggregated between at least \$30,000 and \$101,000. These funds were allegedly generated by way of certain transactions between Vornado and a third party which paid at least a portion of its obligations in cash. The Complaint further alleges that these funds were periodically delivered throughout this period of time by a Vornado officer to an attorney for the company who handled the company's labor relations.

Without admitting or denying the allegations contained in the Commission's Complaint, Vornado consented to the entry of a Final Judgment of Permanent Injunction against future violations of those provisions of the securities laws which the company was alleged to have violated. Vornado also agreed, pursuant to its Consent and Undertaking, to certain other equitable relief, including the future appointment of a person,

to whom the Commission does not object, to become a director of the company who will serve on Vornado's audit committee and who, for at least a one year period, will be the chairman of the committee. Vornado also appointed a senior accounting officer who will be responsible for reviewing Vornado's internal accounting procedures and controls involving reserves, accruals, the closing of the books and preparation of financial statements and cash funds.

No individuals were named as defendants in the Commission's Complaint but Frederick Zissu, Vornado's Chairman of the Board, filed an Undertaking with the Court acknowledging the applicability of the Final Judgment to him as an officer, director or agent of Vornado, and further undertaking that in connection with certain matters described in the Complaint, his contractual compensation will not be increased through August 31, 1984.

SEC v. Data Access Systems Inc., et al., Civil Action 81-3362 (D. N.J. Oct. 30, 1981)

The Commission filed an injunctive action seeking to enjoin Data Access Systems, Inc. ("DASI"), a New Jersey corporation; Mark Serv Co., a New Jersey partnership; Samay Industries, Inc., a New Jersey corporation; Gerald R. Cicconi, DASI's former chairman and chief executive officer; Peter V. DiGiulio, Cicconi's former partner; and Anthony Simei, the chief executive officer of Samay, variously from further violations of the antifraud, periodic reporting, accounting and proxy provisions of the Federal securities laws.

The Commission's Complaint alleged that, since at least August 1978, DASI and each of the other defendants engaged in a scheme to defraud, by, among other things, filing with the Commission and distributing to the public periodic reports and a registration statement on Form S-1 which contained false financial statements of DASI and which failed adequately to disclose certain transactions between DASI and entities controlled by Cicconi and DiGiulio.

The defendants consented to the entry of final judgments of permanent injunction without admitting or denying the allegations in the Commission's Complaint.

In addition to the injunctive relief, DASI, Mark Serv, Cicconi and DiGiulio agreed to certain other Court ordered relief including the appointment of a Special Agent to further investigate the matters set forth in the Complaint and to prepare a report setting forth his findings, conclusions and recommendations as to the matters and transactions described in the Complaint.

SEC v. Computer Communications, Inc., et al.,
Civil Action No. 81-2490 (DDC October 19, 1981)

On October 19, 1981, the Commission filed a civil injunctive action against Computer Communications, Inc. ("CCI"), a producer of data communications processing systems located in Torrance, California, and six of its executive officers. The individuals named in the action are Raymond E. High, CCI's president and board chairman, Carlton E. Vanderbeek, CCI's executive vice president; Ervin K. Dorff, CCI's senior vice president, Ronald Trepp, formerly CCI's vice president in charge of marketing, and Eugene M. Guffan, CCI's treasurer and secretary.

The Commission's Complaint alleges that, in connection with a public offering of CCI's common stock under which the company raised more than \$3.5 million in July 1978, the defendant officers falsified CCI's financial statements by prematurely recording revenue and income relating to transactions which were not yet consummated. By reason of the alleged improper accounting practices, the prospectus provided to investors in the public offering overstated CCI's revenue and income by material amounts. The Complaint alleges that the prospectus also misrepresented or failed to disclose material facts concerning CCI's business operations.

The Complaint further alleges that the defendant officers continued to employ improper accounting practices subsequent to the public offering, thereby inflating the revenue and income disclosed by CCI in annual and periodic reports to the Commission in 1978 and 1979. In connection with the preparation of such reports, the defendant officers are alleged to have falsified corporate records and misrepresented material facts to the independent accountants who examined CCI's financial statements.

Without admitting or denying the allegations of the Complaint, CCI and the defendant officers consented to the entry of a Final Judgment and Order under which they were permanently enjoined from violating antifraud, reporting and recordkeeping provisions of the federal securities laws. The defendant officers were further enjoined from violating Commission rules which prohibit the falsification of corporate records and the misrepresentation of material facts to the independent auditors who examine corporate financial statements. The Court also ordered CCI to establish an audit committee of its Board of Directors to monitor the corporation's accounting practices.

SEC v. Tiffany Industries, Inc., et al., Civil Action No. 81-1106-C(2) (E.D. Mo. Sept. 10, 1981)

The Commission filed a Complaint seeking injunctive and other equitable relief against Tiffany Industries, Inc. ("Tiffany"), a Missouri corporation engaged in the manufacture and sale of grain storage equipment for farm use, Farrell Kahn ("Kahn") former president and a director of Tiffany, Abraham A. Appel ("Appel") formerly a director and chief financial officer of Tiffany, and Joseph Simpkins ("Simpkins") Chairman of the Board of Tiffany, alleging violations of the anti-fraud, reporting and certain other provisions of the Federal securities laws.

The Complaint alleged that from 1976 through 1978 the defendants engaged in a scheme to materially overstate and misrepresent Tiffany's sales and earnings reported in various filings with the Commission and in various statements by the defendants to shareholders and the public. The Complaint alleged that as a part of the scheme, Tiffany, Kahn and Appel forged documents and created false documents which were placed among Tiffany's books and records and were provided to Tiffany's auditors during the course of their examinations of Tiffany's financial statements. It was further alleged that while the fraudulent scheme was in effect, Tiffany issued \$9 million of securities in a private sale using inflated and overstated financial statements and other materially false and misleading statements and omissions both before the sale, in solicitation materials, and after the sale in certifications of compliance with the terms of the sale. The Commission's Complaint alleged that Tiffany's Quarterly Reports on Form 10-Q

filed during 1976 and 1977 and its Annual Report on Form 10-K for the year ended December 31, 1976 and its proxy soliciting materials in connection with Tiffany's 1977 Annual Meeting of Shareholders was materially false and misleading and that Tiffany failed to file Annual Reports for the years ended December 31, 1977 and December 31, 1978 and Quarterly reports on Form 10-Q during 1978 and 1979:

Simultaneously with the filing of the Complaint, a Final Judgment of Permanent Injunction was entered by the District Court against Kahn, who consented without admitting or denying the allegations in the Complaint. Kahn was enjoined and restrained from violating Section 17(a) of the Securities Act and Sections 10(b) and 14(a) of the Exchange Act and Rules 10b-5, 14a-3 and 14a-9 thereunder and from aiding and abetting violations of Section 13(a) and 13(b)(2) of the Exchange Act.

On April 23, 1983, a Final Judgment was entered against Tiffany and Final Orders were entered against Simpkins and Apel. Each of the defendants consented to the entry of the judgment or orders without admitting or denying the allegations in the Commission's Complaint. Tiffany was permanently enjoined from violating the antifraud, reporting, recordkeeping and proxy provisions of the federal securities laws. Appel was ordered not to violate the same provisions. Simpkins was ordered not to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act and Sections 13(a), 13(b)(2) and 14(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-13, 14a-3 and 14a-9 thereunder.

SEC v. Sam P. Wallace Company, Inc. et al., Civil Action No. 81-1915 (DDC August 13, 1981)

On August 13, 1981, the Commission filed a civil injunctive action seeking to enjoin the Sam P. Wallace Company, Inc. ("Wallace"), a Dallas-based mechanical contracting company, Robert D. Buckner, Chairman and Chief Executive Officer of Wallace and Alfonso A. Rodriguez, Executive Vice President and a Director of Wallace, from further violations of Sections 10(b) (antifraud), 13(a) (reporting), 14(a) (proxy) and 30A ("unlawful foreign payments) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1 and 14a-9 thereunder. Without admitting or denying the allegations contained in

the Commission's Complaint, Wallace, Buckner, and Rodriguez simultaneously with the filing of this action, consented to the entry of judgments of permanent injunction.

The Complaint alleges that during the period from about April 1980, Wallace, Buckner, Rodriguez and others engaged in a course of conduct by making, or causing to be made, payments from Wallace bank accounts totalling at least \$1.391 million to a certain foreign official to aid Wallace in procuring and maintaining contracts and billings with a certain foreign government.

Furthermore, the Complaint alleges that, as part of this course of conduct, Wallace, Buckner, Rodriguez and others, directly or indirectly, disguised and concealed said payments on Wallace's books and records by utilizing, or causing to be utilized certain false accounting entries which did not reflect the true nature and purpose of and false described the expenditures used in the making of these payments to a certain foreign official and filed and disseminated Wallace's Annual Report of the year ended October 31, 1980 and proxy solicitation materials which failed to disclose the matters relating to these payments.

The settlement of these matters requires, among other things, that a Special Committee composed of three independent Wallace directors investigate and report to the full Board of Directors on matters alleged in the Complaint and on all other relevant matters. At the conclusion of this investigation, Wallace has agreed to file a report of its investigation with the Commission and the Court.

SEC v. McLouth Steel Corporation, Civil Action
No. 81-1373 (DDC June 17, 1981)

The United States District Court entered a Final Judgment of Permanent Injunction and Other Equitable Relief restraining and enjoining the McLouth Steel Corporation of Detroit, Michigan from further violations of Section 17(a)(2) and (3) of the Securities Act and Section 13(a) of the Exchange Act. McLouth consented to the entry of the Final Judgment without admitting or denying the allegations in the Commission's Complaint.

The Commission's Complaint alleged that McLouth filed with the Commission certain Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q which contained false and misleading statements of material facts regarding its financial condition and omitted information required by Commission rules and regulations to be contained in such reports. The Commission's Complaint alleged that McLouth violated Section 13(a) of the Exchange Act by improperly using the equity method of accounting to account for its investment in the Jewell Coal and Coke Company, of which McLouth owned 19.87% of the outstanding Jewell common stock and by failing to disclose, as required by Commission rules and regulations, significant litigation with Jewell over the terms of a long-term coke supply contract. In addition, the Commission's Complaint alleged that McLouth violated Section 17(a)(2) and (3) of the Securities Act and Section 13(a) of the Exchange Act by improperly recognizing profits resulting from certain inventory transactions and valuations. As a result of certain of the violations, the Commission's Complaint alleged that McLouth overstated its earnings or understated its losses in the years in question.

SEC v. Consumers Solar Electric Power Corporation, et al., Civil Action No. 81-1098 (DDC May 11, 1981)

On May 11, 1981, Final Judgments of Permanent Injunction were entered against Consumers Solar Electric Power Corporation ("CSEP") and Gerald M. Schflander ("Schflander"), permanently enjoining them from further violating Sections 5 and 17(a) of the Securities Act and Sections 10(b), 12(g) and 13(a) of the Exchange Act. In addition, the court ordered Stephen Wright ("Wright") in an Undertaking, to refrain from violating Section 5 of the Securities Act and Sections 12(g) and 13(a) of the Exchange Act. The defendants consented to the entry of the Judgment without admitting or denying any of the allegations in the Commission's Complaint.

The Commission charged in its Complaint that CSEP, Schflander and Wright, since April 14, 1974, engaged in the offer and sale of unregistered securities, consisting of promissory notes and over 11,000,000 shares of CSEP stock, options and other rights, without the use of prospectuses which met the requirements of the Securities Act and otherwise failed to comply with the registration provisions of the Securities Act. It

was further charged that the defendants filed or caused the filing of inaccurate quarterly reports on Form 10-Q with the Commission and that CSEP and Schflander violated the anti-fraud provisions of the Federal securities laws by making misleading statements and omitting to state material facts, concerning CSEP's products, assets, liabilities, securities and business operations, in reports filed with the Commission and in other communications sent to CSEP stockholders and the public.

In the Judgment against CSEP, the Court ordered CSEP to retain an attorney familiar with and experienced in federal securities laws to review and approve all offers and sales of CSEP securities and all CSEP's communications to its shareholders. Schflander was ordered not to make or disseminate any statement or communication to the public or CSEP stockholders concerning CSEP without review by CSEP's securities counsel.

SEC v. Litton Industries, Inc., Civil Action No. 81-0589 (D.C. March 12, 1981)

On March 12, 1981, the Commission filed a civil injunctive action against Litton Industries Inc. alleging violations of the periodic reporting provisions of the Exchange Act in connection with Litton's accounting for costs in excess of contract values on commercial and military shipbuilding contracts.

The Commission's Complaint alleges that Litton did not have adequate grounds for deferring \$128 million of excess costs incurred in connection with a commercial building contract awarded in 1968 for financial reporting purposes in light of the nature of the excess costs, the lack of accounting records sufficient to support a segregation of start-up costs from contract operating costs, and the lack of assured revenues against which to absorb the costs. The Complaint further alleges that Litton in failing to disclose costs incurred in connection with a Navy contract which grew from \$75 million in 1973 to approximately \$500 million by 1978, relied upon inadequate grounds.

On March 12, the United States District Court for the District of Columbia entered a Final Order requiring Litton to file all annual and quarterly reports,

when required to be filed, and requiring that such reports are complete and accurate and otherwise in accordance with the reporting provisions of the Exchange Act.

The Final Order also directed Litton to comply with certain additional undertakings made by the company. The first undertaking provides that Litton shall, for a period of three years, submit cost deferral and revenue recognition determinations relating to certain military procurement contracts where substantial overruns and disputes are involved to a review by its audit committee. With respect to such determinations, Litton shall either implement the recommendations of the audit committee or disclose the relevant facts in a filing with the Commission.

The second undertaking provides that Litton shall retain an Independent Consultant to examine the procedures in place by which the company estimates and accounts for costs in excess of contract values with respect to military procurement contracts of its shipbuilding division. The Independent Consultant shall prepare and submit to Litton's Board of Directors a report setting forth the results of its examination and its recommendations, which shall be implemented by Litton, with respect to the procedures under review.

SEC v. El Dorado International, Inc., et al.,
Civil Action No. 81-0532 (DDC March 5, 1981)

On March 5, 1981 the Commission filed a civil injunctive action against El Dorado International, Inc., Deil O. Gustafson, Roger F. Newstrum, InnTernational, Inc., Hotel Conquistador, Inc., d/b/a/ Tropicana Hotel and Country Club, Consolidated Financiaal Corporation and Jay H. Brown.

The Commission alleged in its Complaint that from September 1978 to June 1979, the defendants engaged in a scheme pursuant to which InnTernational attempted to merge with El Dorado through an exchange of InnTernational stock for El Dorado stock resulting in the control of El Dorado passing to Gustafson; that Gustafson diverted \$1,960,000 of El Dorado's funds by causing the advance of such funds to Gustafson, CFC, InnTernational and Conquistador for the benefit of Gustafson and his related corporations; that advances of certain funds from El Dorado to InnTernational and Conquistador and

certain actions taken toward effecting the attempted merger of InnTernational and El Dorado occurred without prior approval from Nevada gaming authorities and in violation of Nevada gaming laws; and that the defendants made or facilitated the making of numerous false and misleading representations and disclosures in filings with the Commission, to El Dorado's board of directors and shareholders, to the public and others in furtherance of such scheme.

The Commission also alleged that Brown and his firm represented InnTernational and Conquistador during the attempted merger and that certain activities of Brown and certain other members of his firm facilitated the conduct by Gustafson alleged in the Complaint. This conduct allegedly involved certain representations made to El Dorado concerning Nevada law and the status of the entities involved.

On March 5, 1981, the United States District Court for the District of Columbia entered Final Judgments of Permanent Injunction against El Dorado International, Inc., Deil O. Gustafson, Roger F. Newstrum, InnTernational, Inc., Hotel Conquistador, Inc., d/b/a the Tropicana Hotel and Country Club and Consolidated Financial Corporation permanently enjoining them from further violations of anti-fraud provisions of the Securities Act and the Exchange Act. In addition, El Dorado, Gustafson and Newstrum were enjoined from further violations of the reporting provisions of the Exchange Act. El Dorado and Gustafson also were enjoined from further violations of the recordkeeping provision of the Foreign Corrupt Practices Act. The above named defendants consented to the entry of the Final Judgments without admitting or denying the allegations in the Commission's Complaint.

In addition to the entry of the Final Judgments permanently enjoining the defendants from violating the Federal securities laws, the Court also ordered that Gustafson, for a period of four years, and Newstrum for a period of two years, not serve as an officer or a director, or be a controlling shareholder, of El Dorado or any other issuer whose securities are traded through the facilities of a national securities exchange or in the over-the-counter market. Gustafson was also ordered not to acquire additional securities of El Dorado or to exercise control over the business affairs of El Dorado for a period of four years or to

vote any security of El Dorado in any manner inconsistent with the terms of the Judgment to which he consented. The Court further ordered Conquistador, or Gustafson if Conquistador is unable, to pay to El Dorado the sum of \$83,781.00 for reimbursement of expenses incurred by El Dorado in connection with matters alleged in the Commission's Complaint.

On February 16, 1983, the United States District Court for the District of Columbia entered an Order, whereby Goodman, Oshins, Brown & Singer, Chartered, a Las Vegas, Nevada law firm was ordered not to violate Sections 17(a)(2) and (3) of the Securities Act. The Order was entered pursuant to the stipulation of Goodman Oshins, Jay H. Brown, Esq., a member of the Goodman Oshins law firm, and the Commission whereby Goodman Oshins was substituted as a party for Brown. Goodman Oshins also agreed to maintain procedures, for a period of not less than two years, designed to prevent certain conduct alleged in the Complaint. Goodman, Oshins stipulated and agreed to the Order without admitting or denying the allegations in the Commission's Complaint. Brown withdrew his Answer and Amended Answer to the Complaint. The action was simultaneously dismissed against Brown.

SEC v. Charles W. Petersen, et al., Civil Action
No. 80-2819 (DDC Nov. 4, 1980)

The Commission's Complaint alleged that Charles W. Petersen ("Petersen"), formerly Executive Vice President of J.B. Lippincott Company ("Lippincott"), and Joseph F.X. Gillin ("Gillin"), formerly the Treasurer and Comptroller of Lippincott, filed or caused to be filed annual and other periodic reports, including Lippincott's Annual Report on Form 10-K for 1977 and Quarterly Reports for interim periods in 1977, which contained omissions and untrue statements of material facts. On March 31, 1978 following an announcement of a tentative agreement for the merger of Lippincott and Harper & Row Publishers, Inc., Lippincott filed its Annual Report on Form 10-K for 1977 reporting net income of \$32,277. In August 1978, following a review by accountants on behalf of Lippincott, Lippincott filed an amendment to its Annual Report for 1977 reflecting substantial adjustments and reporting a net loss for 1977 of \$1,876,000. The Commission alleged in its Complaint that net income, retained earnings

and certain assets, including accounts receivable, of Lippincott were materially overstated in financial statements in Lippincott's Annual Reports as originally filed. It alleged that net income and accounts receivable were overstated due to, among other reasons, Lippincott's failure to adjust its accounts to reflect forgiveness of indebtedness, erroneous balances, unreconciled differences between control and detail accounts and uncollectable amounts. Lippincott was merged into Harper & Row in September 1978 following an unsuccessful offer for Lippincott's common stock under terms less favorable than originally announced.

Simultaneously with the filing of the Complaint, Petersen and Gillin consented to the entry of Final Judgments of Permanent Injunction without admitting or denying the allegations in the Commission's Complaint.

SEC v. Citizens and Southern National Bank, Civil Action 80-1821A (N.D. Ga., October 21, 1980)

On October 21, 1980, the Commission filed a civil injunctive action against the Citizens and Southern National Bank ("C&S"), in the United States District Court for the Northern district of Georgia. In its Complaint, the Commission alleged that C&S had violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by failing to make adequate disclosure of: (a) C&S' practice of establishing and acquiring control of certain correspondent banks in Georgia; (b) C&S' practice of lending money to its officers at preferential interest rates without required periodic reductions in principal to finance stock purchases by those officers of banks which C&S wished to control; (c) C&S' officers practice of negotiating on behalf of C&S to acquire banks in which they themselves were shareholders, and which acquisitions resulted in large profits for the acquired banks, including the C&S officers, directors and friends of the persons who were shareholders; (d) C&S' failure to establish an adequate reserve for loan losses as of year-end 1976; (e) the assumptions underlying C&S' valuation of its portfolio of real estate collateral and other real estate owned; and, (f) the management by C&S as investment adviser of the affairs of Citizens and Southern Realty Investors, and contingent liabilities of C&S arising from that management.

C&S, without admitting or denying the allegations of the Complaint, consented to the entry of a Final Judgment of Permanent Injunction. As part of the Final Judgment, C&S agreed to establish certain committees of its Board of Directors and to engage independent consultants to establish procedures, and to monitor compliance with those procedures, to prevent a reoccurrence of the matters alleged in the Commission's Complaint.

SEC v. Ian T. Allison, et al., C.A. No. 81-0019-RPA
(N.D. Cal., September 29, 1980) (Allison I)

On September 29, 1980, the Commission filed a complaint against Ian T. Allison ("Allison") and a number of other entities and individuals for violations of the antifraud, anti-manipulative and registration provisions of the Securities Act and the Exchange Act and the periodic reporting and stock ownership reporting provisions of the Exchange Act. The Commission's Complaint alleged that Allison and others, participated in a scheme to defraud in connection with promotions of two corporations, Olympic Gas & Oil Inc. ("Olympic") and SNG & Oil Energy Co. ("SNG") which had no substantial operations, by, among other things, filing false and misleading statements in registration statements concerning contribution of assets by new majority owners of the companies and shareholder ownership; manipulating the markets in the two securities at the time of the opening of over-the-counter trading; making false and misleading statements during television interviews and in press releases and research reports; and making false and misleading financial statements in filings with the Commission.

Several of the defendants consented to the entry of permanent injunctions against violations of the antifraud, registration and reporting provisions of the Exchange Act. In addition, the Court ordered one of the corporations to make corrective filings and appoint two independent directors satisfactory to the Commission. As to the remaining defendants, the Commission is seeking both preliminary and final injunctions and orders freezing assets and requiring disgorgement of profits.

The U.S. District Court for the Northern District of California issued an Opinion and Order granting the Commission's motion for partial summary judgment against 15 defendants. The Court also entered a Final

Judgment permanently enjoining the 15 defendants from violating Section 5 of the Securities Act of 1933. The Court found that Ian T. Allison and Fred K. Austin of Santa Rosa, California and 13 corporations violated Section 5 of the Securities Act through their participation in unregistered distributions of securities of Olympic Gas & Oil, Inc. and SNG & Oil Energy Company in 1979 and 1980. The Court found that a broad injunction was necessary to protect the public but deferred action on the Commission's request for disgorgement of profits until trial of related securities fraud charges pending in the case against the defendants.

In February 1980, the court entered an Order directing Gas Y Petrole Olympico S.A. to pay \$600,000 to persons who purchased securities of Olympic and SNG during 1979 and 1980. Gas Y Petroleo consented to the entry of the order without admitting or denying the allegations contained in the Commission's Complaint.

SEC v. Sheldon L. Hart, et al., Civil Action
No.78-0065 (DC, May 9, 1980)

On January 16, 1978, the Commission filed a civil injunctive action against certain former officers of National Telephone Co., Inc. ("National") and Price Waterhouse & Co. ("PW"), National's former independent auditors. The Commission's Complaint charged that Sheldon L. Hart ("Hart"), Chairman, President and Treasurer of National, three other corporate officers, and PW had violated federal securities laws in connection with the filing of false and misleading financial statements between 1973 and 1975. The Complaint charged that Hart and the other officers made false and misleading disclosure as to the company's deteriorating financial condition in 1974 and 1975, and the provisions of a credit agreement the company entered into in late 1974 which severely restricted the company's operations. Simultaneously with the filing of the Complaint, each of the defendants, except Hart, entered into settlement of the case.

On May 9, 1980, after extensive pre-trial discovery, Hart consented to the entry of a final judgment of permanent injunction and other relief enjoining Hart from violating the antifraud and reporting provisions of the federal securities laws and from making misrepresentations to accountants in connection with the

preparation of filings with the Commission. The judgment also barred Hart from being a director or, under such company had and maintained an audit committee composed of unaffiliated directors, with certain defined responsibilities with regard to SEC filings, disclosure and accounting matters.

SEC v. Coleco Industries, Inc., Civil Action No. 80-0591 (DDC, March 5, 1980)

On March 5, 1980, the Commission filed a civil injunctive action against Coleco Industries Inc. ("Coleco") based upon the filing of false and misleading interim reports by Coleco. The Complaint alleged that the company misstated its interim results of operations by failing to both adequately reserve for returns of defective products and to timely accrue for write-downs of defective inventory. In addition, the company failed to disclose a change in management policy with respect to the return of defective merchandise and the different methods used to compute cost of sales for interim as opposed to year-end periods.

Coleco consented to the entry of a permanent injunction against violations of the reporting provisions of the Exchange Act and a court-ordered undertaking requiring the company to strengthen internal controls, increase the authority and responsibility of the audit committee, and report annually to the board of directors on the company's internal controls and accounting procedures.

SEC v. Gulf + Western Ind., Inc., et al., Civil Action No. 79-3201 (DDC Nov. 26, 1979)

The Commission's Complaint alleged that during the period from 1968 to date, G+W, Charles Bluhdorn and Donald Gaston, directly and indirectly, engaged in courses of conduct with respect to material transactions, activities and events of the Company. As part of these courses of conduct, the defendants engaged in improper financial reporting and made false and misleading disclosures and omitted to disclose material information concerning G+W's business operations, financial condition and management activities in filings with the Commission and documents disseminated to shareholders.

The Commission's Complaint requests the Court to enjoin G+W, Bluhdorn, and Gaston from violating the antifraud, reporting and proxy provisions of the Federal securities laws. The Complaint further requests the Court to grant additional equitable relief, including the appointment of a review person to further investigate certain matters, appropriate accountings and orders of restitution or disgorgement, the amendment or correction of prior filings with the Commission, and the establishment of appropriate accounting and auditing procedures and procedures for monitoring the company's operations on a continuing basis.

In October 1981, the District Court entered an order settling this matter. It was stipulated and agreed that G+W, its subsidiaries, its officers and directors and certain others shall not violate Section 17(a) of the Securities Act and Sections 10(b) and 13(a) of the Exchange Act and Rules 10b-5, 13a-1 and 13a-13 thereunder. G+W also stipulated and agreed to maintain certain policies, practices and procedures relating to the designation of unaffiliated directors on its Board of Directors and the maintenance of an Audit Committee with a majority of unaffiliated directors for specified periods. It was also stipulated and agreed that under G+W's By-Laws, which may not in this regard be amended or revoked for five years, the Audit Committee will have certain additional responsibilities, functions and powers, which are incorporated in the agreement.

G+W also stipulated and agreed that it would designate the Audit Committee as investment committee for certain of its employee pension funds, would retain independent investment advisers and that its Audit Committee would establish procedures to insure the independence of the investment adviser. G+W further stipulated and agreed that it, its officers, directors and certain other related persons would not effect any securities transactions with G+W's pension funds and would not effect such transactions or contribute securities to the G+W Foundation or any other charitable organization controlled by G+W, within certain limits and with certain exceptions. The Commission agreed to terminate with prejudice its action against all defendants and the Answers of all defendants were withdrawn and these actions were embodied in the Order of the Court.

SEC v. American Financial Corp., et al., Civil
Action No. 79-1701 (DDC July 2, 1979)

The Commission's Complaint alleges that American Financial Corp. ("AFC"); Carl Lindner ("Lindner"), President, Chairman of the Board, and controlling shareholder of AFC; Charles Keating, Jr. ("Keating"), former Executive Vice President and director; and Donald Klekamp ("Klekamp"), former director of an AFC subsidiary violated the antifraud, reporting and proxy provisions of the Federal securities laws.

According to the Commission's Complaint, Lindner and Keating caused, authorized or permitted a bank subsidiary of AFC to extend substantial loans on preferential terms to officers and directors of AFC and to other persons associated with AFC, its subsidiaries, Lindner and Keating. The Complaint further alleged that as the financial condition of the borrowers deteriorated from 1973 through 1976, demands on the prior loans were not made and new loans were exented enabling the borrowers to pay interest on the prior loans and service loans from others.

The Complaint also alleged that Lindner and Keating caused a subsidiary of AFC to advance funds to Klekamp for the purchase of AFC stock on the open market. The subsidiary failed to disclose these loans in a registration statement filed with the Commsision. While the subsidiary did disclose the extension of such loans in its annual report filed with the Commission, it failed to disclose relevant facts and circumstances concerning the loans. AFC and its subsidiary also made false reporting in filings with the Commission concerning loans to Klekamp. The Complaint alleged numerous other violations concerning the extension of loans by AFC subsidiaries.

The defendants consented to the entry of Final Judgments of Permanent Injunction enjoining them from further violations of the antifraud, reporting and proxy violations. Additionally, the order consented to by the defendants required AFC to establish and maintain an audit committee of its board of directors consisting of at least two directors not having any previous business affiliations with AFC or its subsidiaries and to amend and correct its prior filings with the Commission with respect to matters alleged in the Complaint.