

Corp. and its subsidiaries had made false and misleading statements in various filings with the Commission and had failed to file several required reports. Neuman failed to petition the Commission to lift the temporary suspension issued against him within the requisite 30 days and was therefore indefinitely barred from practice before the Commission.

In the Matter of C. Wayne Litchfield, Securities Exchange Act Release No. 34-13678A, ASR No. 221, June 24, 1977

The Commission entered an Order, pursuant to Rule 2(e)(3)(i) of its Rules of Practice, suspending C. Wayne Litchfield, an attorney and a certified public accountant, from practice before the Commission. The Order was entered after a permanent injunction had been ordered against Litchfield in an action entitled SEC v. Standard Life Corp., et al., (W.D. Okla., Civ. Action No. CN75-0052-E, July 21, 1975). In that action Litchfield was permanently enjoined from violating Sections 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act. The Commission alleged in that action that Litchfield, as president and Chairman of the Board of one of the defendant corporations participated in several violations of the federal securities laws. According to the Complaint, Standard Life Corp. and its subsidiaries had made false and misleading statements in various filings with the Commission and had failed to file several reports. Litchfield failed to petition the Commission to lift the temporary suspension issued against him within the requisite 30 days and was therefore indefinitely barred from practice before the Commission.

In the Matter of Wilbert S. Fox, ASR No. 217, May 16, 1977

The Commission accepted an Offer of Resignation from practice before the Commission as an accountant from Wilbert S. Fox ("Fox") in lieu of instituting an administrative proceeding pursuant to Rule 2(e) against him. The proposed proceeding was based on the fact that on January 12, 1977 Fox had consented to the entry of an order of permanent injunction from future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act in an action entitled SEC v. Bernard Sheill, et al. (N.D. Fla., TCA-76-204, filed

December 2, 1976). The Complaint in that action alleged that Fox had aided and abetted violations of the anti-fraud provisions of the federal securities laws in connection with the preparation of an annual audited financial statement for Commonwealth Corporation. Fox's offer to resign as an accountant was made with the understanding that after twelve months he could apply for reinstatement.

In the Matter of John W. Hosford, d/b/a John W. Hosford & Co., ASR No. 216, May 16, 1977

The Commission accepted an Offer of Resignation from practice before the Commission as an accountant from John W. Hosford, d/b/a John W. Hosford & Co. in lieu of instituting administrative proceedings pursuant to Rule 2(e) against him and the firm. The proposed proceeding was based on the fact that Respondents had on December 2, 1976 consented to the entry of permanent injunctions from future violations of the antifraud provisions of the federal securities laws in an action entitled SEC v. Bernard Shiell, et al. (N.D. Fla., TCA-76-204, filed December 2, 1976). The Complaint in that action alleged that Hosford had violated and aided and abetted violations of the anti-fraud provisions of the federal securities laws in connection with the preparation of the annual audited financial statements of the Commonwealth Corp.

In the Matter of Phillip J. Wolfson, Securities Exchange Act Release No. 34-13521, ASR No. 215, May 9, 1977

The Commission issued an Opinion and Order pursuant to Rule 2(e) of its Rules of Practice against Phillip J. Wolfson ("Wolfson"), an accountant, in connection with certain audits of SaCom. The investigation revealed, among other things, that: (1) Wolfson issued an accounting firm report on the 1970 fiscal year financial statements of SaCom which were misleading when he knew or should have known that SaCom's net loss was substantially understated and its assets overstated due to the removal from expense accounts and deferral of approximately \$170,000 of costs by the company; and (2) Wolfson participated in a scheme resulting in the false disclosure by SaCom of accounting fees due to his firm. In addition, the Commission

found that Wolfson was not independent from the client in that he had a direct financial interest in the company. The Commission accepted Wolfson's resignation from practice before it as an accountant.

In the Matter of Marvin F. Rosenbaum, Securities Exchange Act Release No. 34-13495, ASR No. 214, May 2, 1977

The Commission entered an Order, pursuant to Rule 2(e)(3)(i) of its Rules of Practice, suspending Marvin F. Rosenbaum ("Rosenbaum"), an accountant, from practicing before the Commission. The Order was entered after a permanent injunction had been ordered against him in an action entitled SEC v. Airways Enterprises, Inc., et al., (SDNY, Civ. Action No. 75-2635, filed June 5, 1975). In that action, Rosenbaum was permanently enjoined from violating Sections 10(b), 13(a) and 14(a) of the Exchange Act and certain rules thereunder. The Complaint in that action alleged that Rosenbaum, as vice-president, secretary, treasurer, and director of Airways Enterprises, Inc. was responsible for Airway's failure to disclose certain material facts in the proxy materials and filings with the Commission. Specifically, the Complaint alleged: (1) that the reports did not disclose certain dealings with companies in which Rosenbaum and another director had proprietary interests; (2) that the reports did not disclose the company's deteriorating financial condition; and (3) that the reports did not disclose a "kick-back" of a substantial portion of the audit fee to Rosenbaum. In addition, the Complaint alleged that the audit was based solely on workpapers prepared by Management. Rosenbaum's suspension became permanent since he failed to petition for relief. [See, In the Matter of Maurice Rosen, Securities Exchange Act Release No. 34-13490, ASR No. 213, May 2, 1977. Rosen submitted an offer of settlement to the Commission in lieu of being named in the injunctive action SEC v. Airways Enterprises, Inc. (SDNY, Civ. Action No. 75-2635). The staff's investigation had revealed that Rosen had relied on the work papers prepared by the client and had made no independent review of its books and records.]

In the Matter of Eugene Testa and W. A. Stebbins
ASR No. 212, April 18, 1977

The Commission instituted administrative proceedings under Rule 2(e) of its Rules of Practice in connection with certain audits of Photon, Inc. ("Photon") conducted by W. A. Stebbins ("Stebbins") and Eugene Testa ("Testa"). The staff's investigation revealed that Photon's financial statements for the years 1970 and 1971 were materially false and misleading and that respondents examination of the company's financial statements were not conducted in accordance with generally accepted auditing standards. Specifically, the staff found, among other things, that: (1) the auditors' alternative confirmation procedures were severely restricted; (2) the auditors had used an inadequate write-off of obsolete inventory and included an inventory account of consigned equipment, fixed assets and trade-in equipment for which no credits had been issued; (3) the auditors improperly recorded lease arrangements as sales; and (4) the auditors failed to coordinate inventory and sales work. Respondents submitted Offers of Settlement which the Commission accepted.

In the Matter of Reich, Weiner & Co., Securities
Exchange Act Release No. 34-13302, ASR No. 210, February
25, 1977

The Commission instituted an administrative proceeding pursuant to Rule 2(e) of its Rules of Practice against Reich, Weiner & Co., a public accounting firm, in connection with its audit of the Generics Corporation of America ("Generics") and one of its subsidiaries, the Wolins Pharmacal Corp. ("Wolins"). The Commission found that the consolidated financial statements of Generics were materially false and misleading for at least the years ending 1972, 1973, and 1977 by reason of the inclusion of substantial amounts of nonexistent Wolins inventory. The staff's investigation revealed that the fraudulent overstatement of inventory was accomplished by the addition of computer punch cards representing nonexistent inventory. According to the Commission, Reich Weiner & Co. failed to obtain sufficient assurance that the count medium was properly controlled and that only on-hand inventory was included in the count. In addition the Commission found that the auditors should have had written audit programs, and that, when serious shortcomings were found in their

audit results, they should have made inquiries to determine the nature of the problems. Reich, Weiner & Co. submitted an Offer of settlement which the Commission accepted. In connection with the Offer, the firm agreed to participate in the AICPA's voluntary quality control review program and to adopt certain procedures.

In the Matter of S.D. Leidesdorf & Co., Kenneth Larson, Joseph Grendi, Securities Exchange Act Release No. 34-13268, ASR No. 209, February 16, 1977

The Commission issued an Opinion and Order in an administrative proceeding instituted pursuant to Rule 2(e) against S.D. Leidesdorf & Co. ("Leidesdorf"), a national accounting firm, and Joseph Grendi ("Grendi") and Kenneth Larson ("Larson"), in connection with the firm's audit of the Tidal Marine International Corporation ("Tidal"). According to the Commission, although the firm was a victim of a scheme to defraud and had received false information by Tidal's principal officers it had nonetheless failed to conduct its audit in the manner required by the standards of the profession. An investigation conducted by an office of the U.S. Attorney had revealed that Tidal's revenues were totally fictitious and that its officers had looted the company and defrauded investors through a variety of collusive transactions. The Commission found that respondents had: (1) failed to obtain confirmation of demurrage receivables; (2) relied on a system of internal controls which was demonstrably inadequate; (3) used a questionable accounting treatment as charter-hire revenues; and (4) failed to examine vessel commitments made subsequent to the period being audited even though they had a direct impact on the financial statements in question. In addition, the Commission found that the auditors should have: (1) issued a report to insure that the work performed by correspondent auditors complied with generally accepted auditing standards; (2) refused to rely upon any representations made by the President of Tidal when confronted with evidence that he had diverted corporate funds to his family-owned company; (3) been alerted to the possibility of fraud by the substantial irregularities on Tidal's books and records; and, (4) closely examined the working papers of the predecessor auditors for evidence of substantive disagreements with management. All respondents submitted Offers of Settlement which the Commission accepted.

In the Matter of Bernard C. Zipern, ASR No. 208,
February 10, 1977

The Commission accepted an Offer of Resignation from Practice Before the Commission (as an accountant) from Bernard C. Zipern ("Zipern") in lieu of instituting an administrative proceeding pursuant to Rule 2(e) against him. Zipern's offer to resign was made with the understanding that after 24 months, he would be allowed to apply for reinstatement to practice before the Commission. The staff alleged that Zipern while acting on behalf of San Juan Dairy, Inc. had failed, in the filing process, to exercise appropriate diligence in reviewing the issuer's offering circular. As a result, the offering circular allegedly included inaccurate financial information.

In the Matter of Joseph Scansaroli, Securities Act Release No. 33-5800 ASR No. 207, January 31, 1977

The Commission entered an Order, pursuant to Rule 2(e) of its Rules of Practice, permanently barring Joseph Scansaroli ("Scansaroli") from practicing before it as an accountant. This Order was based on Scansaroli's consent to the entry of a judgment of permanent injunction from future violations of Sections 10(B), 13(a) and 14(a) of the Exchange Act and certain rules thereunder, and of Section 17(a) of the Securities Act. Scansaroli had been indicted of possible criminal violations in connection with certain events alleged in the Commission's civil injunctive action against National Student Marketing Corporation ("NSMC"). The civil injunctive complaint alleged, among other things, various antifraud, reporting and proxy violations by Scansaroli in connection with the issuance of financial statements of NSMC in 1968 and 1969. [See In the Matter of Peat, Marwick, Mitchell & Co., ASR No. 173 July 2, 1975].

In the Matter of E. Veon Scott, Securities Exchange Act Release No. 34-13142, ASR No. 204, January 7, 1977

The Commission entered an order, pursuant to Rule 2(e)(3)(i) of its Rules of Practice suspending E. Veon Scott ("Scott"), an accountant, from appearing or practicing before the Commission. The order was entered after a permanent injunction had been ordered against

Scott in a civil action brought by the Commission. The Court in that action enjoined Scott from further violations of Sections 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act. The Complaint in that case alleged that Scott had prepared audited financials for Occured Funds, Inc. and Challenge Homes, Inc. ("Challenge") which were false and misleading in that they overstated the value of certain investments and receivables. In addition, the Complaint alleged that Scott was not independent with regard to Challenge. Scott failed to petition the Commission to lift the suspension within 30 days and was therefore indefinitely banned from practice before it as an accountant.

In the Matter of Phillip Shelby Merkatz, Securities Exchange Act Release No. 34-13005, ASR No. 202, November 24, 1976

The Commission entered an order, pursuant to Rule 2(e)(3)(i) of its Rules of Practice, suspending Phillip Shelby Merkatz, a C.P.A., from practicing before the Commission. The order was entered after a permanent injunction had been ordered against him in an action entitled SEC v. Tex-a-Chief, Inc., (N.D. Tex. Civ. Action No. 3-74-1478D, February 17, 1976). The Complaint in that action alleged that Merkatz, president of a commodities trading firm, offered and sold unregistered investment contracts issued by Tex-a-Chief by means of false and misleading statements. Merkatz failed to petition the Commission to lift the suspension within 30 days and was therefore indefinitely banned from practice before it as an accountant.

In the Matter of Paul D. Klinger, ASR No. 201, November 23, 1976

The Commission's staff conducted a non-public investigative proceeding to determine if Paul D. Klinger, a C.P.A., wilfully violated and/or aided and abetted violations of Section 17(a) of the Exchange Act in connection with an audit report and financial statements prepared by Klinger for a broker-dealer company. The staff concluded that the report was deficient in that Klinger had failed to properly review and report on significant internal control weaknesses and failed to obtain cut-off bank statements. In light

of the foregoing the staff determined that Klinger had not followed generally accepted auditing standards. Klinger submitted his resignation from practicing before the Commission. The Commission determined that no further action was necessary and accepted his resignation.

In the Matter of Richard Sommer, ASR No. 200,
December 9, 1976

The Commission instituted an administrative proceeding pursuant to Rule 2(e) of its Rules of Practice against Richard Sommer ("Sommer") in connection with certain audit engagements in which he participated. The Commission found that Sommer had compromised the independence of the accounting firm he worked for by having held direct and indirect nominal interests in securities of certain audit clients. In addition, the investigation revealed that Sommer, on what he understood to be instructions from one of his superiors, had improperly removed from the workpapers an audit document relating to the existence of guarantees, by two partners of his firm, of a bank loan to a client whose financials were the subject of an engagement. The Commission accepted Klinger's resignation from practice before it as an accountant.

In the Matter of George E. Weaver, ASR No. 199,
November 17, 1976

The Commission entered an order, pursuant to Rule 2(e)(3)(i) of its Rules of Practice suspending George E. Weaver ("Weaver"), a C.P.A., from practicing before the Commission. The order was entered after Weaver had consented to the entry of a permanent injunction from further violations of certain of the Federal securities laws in an action entitled SEC v. Sports International, Inc., et al., (N.D. Tex. Civ. Action No. 3-75-0371-C, June 30, 1975). The Complaint in that action alleged that Weaver had prepared audited financial statements of a company which contained false and misleading information.

In the Matter of Leigh A. Verley, ASR No. 198,
October 8, 1976

The Commission accepted an Offer of Resignation from Practice before the Commission (as an accountant) from Leigh A. Verley in lieu of instituting an administrative proceeding pursuant to Rule 2(e) against him. The Commission determined that Verley had permitted financial information about the Polaris Mining Co. to be transcribed on his letterhead stationery without conducting any independent verification procedures. Verley's resignation was submitted with the understanding that if he attended certain professional education courses he would be permitted to apply for reinstatement after three years from the date of the Order.

In the Matter of Seidman & Seidman, Securities Exchange Act Release No. 34-12752, ASR No. 196,
September 1, 1976

The Commission instituted an administrative proceeding pursuant to Rule 2(e) of its Rules of Practice against Seidman & Seidman, a national accounting firm, and certain of its partners and employees in connection with its combination of practice with an office of Wolfson, Weiner, Ratoff & Lapin ("Wolfson/Weiner") and in connection with certain audits of the financial statements of Equity Funding Corp. of America ("Equity"), Omni-Rx Health Systems ("Omni-RX") SaCom and Cenco, Inc. ("Cenco").

As to the merger of the accounting firms the Commission found that Seidman & Seidman had failed to undertake a reasonable investigation and had failed to properly review the practices and professional qualifications of the staff of Wolfson/Weiner or to inquire as to their independence from clients. In addition, the Commission stated that Seidman & Seidman failed to ensure the maintenance of professional audit review practices in connection with former Wolfson/Weiner clients, after the combination was final.

Equity. In an investigation, which ultimately led to criminal convictions of certain former Wolfson/Weiner personnel, the Commission found a massive financial fraud which had lasted approximately ten years. According to the Commission about one month after the Seidman & Seidman-Wolfson/Weiner merger, Seidman & Seidman

issued an unqualified opinion of Equity's financials although no Seidman & Seidman personnel had reviewed or worked on the audit. Among other things, the Commission found: (1) investment in non-existent commercial paper was recorded by the company; (2) no indication of any work performed by the auditors in regard to the source of item, the details behind it, or any examination of supporting documents; (3) no attempt to confirm contractual receivables with the individual plan investors; and (4) that the auditors did not request any supporting documentation for agent receivables.

Omni-Rx. The Commission found Seidman & Seidman's report and audit deficient in that it failed to reflect necessary provisions for losses on accounts receivable due from certain affiliates and failed to disclose the deteriorating financial conditions of Omni-Rx's affiliates. In addition, the Commission found serious deficiencies in the audit, performance, review, supervision and independence of the auditors in relation to its examination of Omni-Rx.

SaCom. The investigation revealed that the auditors failed to make appropriate use of information they had gained from a post audit review and failed to withdraw their audit report upon the discovery of certain facts. In addition, the Commission found that the firm had accepted management decisions to capitalize material amounts of costs and to record, without necessary loss allowances, the full amounts of certain government contracts without substantial evidential support.

Cenco. The Commission found the audit was inadequate in that, among other things: (1) the auditors unduly relied on management explanations for increases in inventory schedule and did not take appropriate steps to verify the reasonableness of the increases; (2) the inventory internal controls were not sufficient; and, (3) the auditors' investigation did not reveal that the company's inventory was overstated by the creation of inventory tags for nonexistent inventory.

Seidman & Seidman submitted an Offer of Settlement which the Commission accepted whereby the firm agreed to an examination of its audit practices and other remedial steps.

In the Matter of Archie S. Barnhill, Securities Exchange Act Release No. 34-12629, ASR No. 192, July 14, 1976

The Commission entered an order pursuant to Rule 2(e)(3)(i) of its Rules of Practice against Archie S. Barnhill, a C.P.A., suspending him from practice before the Commission. The order was based on the fact that Barnhill was permanently enjoined from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act in an action entitled SEC V. Tex-A-Chief, Inc., (N.D. Tex., Civil Action No. 3-74-1478D, January 16, 1976). The Complaint in that action alleged that Barnhill's audit had consisted mainly of discussions with management and that it did not include independent verification of TexA-Chief's assets and liabilities. Barnhill failed to petition the Commission to lift the temporary suspension and was therefore indefinitely banned from practice before it as an accountant.

In the Matter of Rudolph, Palitz & Co. and Harvey B. Spiegel, ASR No. 191, March 30, 1976

The Commission instituted administrative proceedings pursuant to Rule 2(e) of its Rules of Practice against Rudolph, Palitz & Co., an accounting firm and Harvey B. Spiegel, a former partner of the firm in connection with certain audits of Capital Corporation of America ("CCA"). The Commission found that respondents should have clarified by financial statement notes or other acceptable methods, the items, "cash" and "notes payable" on the year-end balance sheets in order to reflect the effect on those items of certain borrowings and their repayment. The Commission determined that the respondents failed to employ generally accepted accounting principles and auditing standards. The Commission accepted respondents's Offers of Settlement. The firm was censured and Spiegel was temporarily suspended from practice before the Commission.

In the Matter of Robert L. Ingis, Securities Exchange Act Release No. 34-11906, ASR No. 186, December 5, 1975

The Commission instituted proceedings pursuant to Rule 2(e) of its Rules of Practice against Robert L. Ingis, a C.P.A. in connection with his behavior as the executive vice-president and chief operational officer of Kalvex, Inc. ("Kalvex"). The District Court for the

Southern District of New York had previously found Ingis had violated and aided and abetted violations of Section 14(a) of the Exchange Act and Rules 14a-3 and 14a-9 thereunder in an action entitled SEC v. Kalvex, Inc., (SDNY, Civ. Action No. 74-5643, 1975). Specifically, the Commission alleged that Ingis had caused the making of false entries into the company's books and records which permitted him to receive improper reimbursements by submitting false expense vouchers and that Ingis had received certain sums as "kickbacks" without any disclosure. The Commission accepted Ingis's Offer of Settlement.

In the Matter of Charles H. Southerland, Securities Exchange Act Release No. 34-11821, ASR No. 182, November 12, 1975

The Commission entered an order permanently barring Charles H. Southerland, a C.P.A., from practice before the Commission. This order was based on the entry of a permanent injunction against him in an action entitled SEC v. Sports International, Inc. et al., (N.D. Tex., Civ. Action No. 3-75-0371-C, April 23, 1975). The Complaint in that action alleged that Southerland had prepared a certified financial statement for Sports International, Inc. which contained false and misleading information.

In the Matter of Thomas R. Mathews, Securities Act Release No. 33-5628A, ASR 179A, October 15, 1975

The Commission instituted a proceeding pursuant to Rule 2(3)(ii) of its Rules of Practice to determine if a temporary suspension order against Thomas R. Mathews ("Mathews"), a C.P.A., should be lifted. The suspension order had been entered after Mathews had consented to a permanent injunction from future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act in an action entitled SEC v. Harold L. Fisher, et al., (S.D. Ohio., Civ. Action No. 8876, October 31, 1974). The Complaint in that action alleged that Mathews had made false entries on a company's books in order to conceal a fraudulent scheme devised to obtain control of the company. The Complaint also alleged that the entries concealed the fact that as of October 1971, the company was insolvent. The Complaint alleged that Respondent was responsible

for (1) falsely recording appraisal surplus; (2) recording treasury stock as an asset; (3) recording interest on bonds under accrued interest receivables when the bonds had been in default for two years; and, (4) making entries on the books which concealed looting. The Commission accepted Mathews' Offer of Settlement which required, among other things, that he enroll in continuing professional education courses.

In the Matter of Hertz, Herson & Co., Securities Exchange Act Release No. 34-11543, ASR No. 176, July 22, 1975

The Commission instituted proceedings pursuant to Rule 2(e) of its Rules of Practice against Hertz, Herson & Co. ("Hertz"), an accounting firm, in connection with certain audits of the Drew National Corporation ("DN") and of its subsidiary, the Drew National Leasing Corp. ("DNL"). The Commission found that the firm did not perform its audits in accordance with generally accepted auditing standards. The investigation revealed that the firm had used an inadequate allowance and improper provisions had been established for doubtful lease receivables. The firm was found to have unduly relied on the representations of DNL's management as to the collectibility of, and the status of collection efforts with respect to, the lease receivables. Respondent submitted an Offer of Settlement in which he consented to the entry of an order containing certain findings and to certain remedial sanctions.

In the Matter of Harris, Kerr, Forster & Co., Securities Exchange Act Release No. 34-11514, ASR No. 174, July 2, 1975

The Commission issued an Opinion and Order in an administrative proceeding instituted pursuant to Rule 2(e)(1) of its Rules of Practice against Harris, Kerr, Forster & Co., ("HKF") an accounting firm, in connection with its audit engagement and report on the financial condition of Stirling Homex Corporation for the fiscal year ended July 1970. The Commission noted that it appeared HKF was a victim of a scheme to defraud devised by certain management of Stirling Homex, nonetheless it found that the firm had failed to perform its audit in accordance with GAAS. Specifically, the Commission found that the audit and reports were deficient in that: (1) the auditors failed to inquire

regarding the existence of HUD funding; (2) the auditors did not seek any expert advice; (3) certain footnotes contained inaccurate and misleading statements; and, (4) the auditors used an improper method for recognition of revenue and realization of profit with respect to the manufacture and installation of modular dwelling units. The firm waived the institution of formal proceedings and consented to the entry of an order containing certain findings and remedial sanctions.

In the Matter of Peat, Marwick, Mitchell & Co., Securities Exchange Act Release No. 34-11517, ASR No. 173, July 2, 1975

The Commission instituted an administrative proceeding pursuant to Rule 2(e) against Peat, Marwick, Mitchell & Co. ("PMM") a national accounting firm, in connection with its audits of five separate companies. In addition to the 2(e) proceeding, the Commission filed injunctive complaints against four of the five companies which relate to certain of the following allegations. */ 1) The Commission noted that all five audit failures emphasize that an independent accountant must be satisfied in his professional judgment that the accounting principles selected are those which appropriately describe the business reality within the general framework of the accounting approach to economic measurement, and he must refuse to simply follow the principles selected by management.

National Student Marketing Corp. ("NSMC"). The Commission found various deviations from the standards of the profession evidenced in the audit by PMM of NSMC. Among other things, the Commission found: (1) inadequate communication between the predecessor auditor and PMM; (2) too great a reliance by the auditors on the opinions of counsel and the representations of management with respect to the audit of extraordinary gains from the sale of two subsidiaries; (3) an improper netting of extraordinary and ordinary items of income; (4) an inappropriate application of the percentage of completion accounting method; (5) that the

*/ See, SEC v. National Student Marketing Corp. et al., (DDC, Civ. Action No. 225-72); SEC v. Talley Industries, Inc., et al., (SDNY Civ. Action 73-7603); SEC v. Republic National Life Insurance Co., et al., (SDNY, 74 Civ. 1097), SEC v. Penn Central Co., et al. (E.D. Pa., 74 Civ. 1125).

auditors improperly attempted to estimate liability for certain guarantees that could not be accurately estimated; (6) that the auditors did not insist on proper audit controls for certain oral confirmations; (7) that the auditors took no steps to re-examine or otherwise take a fresh look at the prior audit upon the subsequent discovery of certain facts; (8) that the auditors did not fulfill their duty to notify the Commission of material adverse changes in unaudited financial statements; and, (9) that the auditors failed to insist that revised financial statements be sent to the shareholders.

Talley Industries, Inc. ("Talley"). Among other things, the Commission found: (1) PMM should have made several additional disclosures in the comfort letter they signed; (2) an improper use by the auditors of the program cost method of accounting for costs of sales which resulted in an overstatement of inventory; and, (3) that PMM's working papers for Talley failed to include documentation on either discussions with management or the scope of the review of sales projections.

Republic National Life Insurance Co. ("Republic"). The Commission found that PMM's unqualified audit reports of Republic for the years 1970, 1971, and 1972 were materially false and misleading in that they misrepresented the company's income and failed to disclose the extent of related party transactions. Accordingly, the Commission found that PMM had failed to apply appropriate auditing standards and procedures. The Commission found that: (1) PMM had failed to insist on receiving appraisals based upon current value for certain property; (2) PMM's establishment of certain reserves was not an adequate substitute for disclosure; (3) the auditors workpapers contained insufficient information as to the basis of calculations to support the adequacy of the reserve for possible losses on mortgage loans; and (4) PMM's method of recognizing income where payment would not have been made absent advances by the investor company was questionable. In addition, the Commission noted that the auditors should have been especially alert to the possibility of a related party transaction since an ongoing relationship existed.

Penn Central Company ("Penn Central"). The Commission found: (1) that the auditors should have resolved certain questions of the propriety of charging ordinary maintenance costs off against a liability reserve for rehabilitation costs; (2) that the audit program should have been expanded to test inter-company transactions in greater depth; (3) an insufficient conversion of interest in the property of the buyer or seller to justify the treatment of a certain transaction as a sale; and (4) that certain recording of income was unwarranted because the exchange which was represented was really the substitution of an investment in one form for essentially the same investment in another form. In addition, the Commission found that PMM had substantially understated the magnitude of the decline in the economic fortunes of Penn Central.

Stirling Homex Corp. ("Stirling Homex"). Among other things the Commission found: (1) that the auditors failed to disclose material subsequently acquired information which existed at the date of the auditor's report; (2) that the decision by the auditors to allocate a certain contract price as between module manufacture and installation was arbitrary; and, (3) the auditors failed to confirm the existence of certain financing commitments. In substance the Commission found that nearly all of Stirling Homex' sales and resulting accounts receivables were either improperly recorded or fictitious, and that the auditors had unduly relied on management representations without any independent verification. The Commission accepted PMM's Offer of Settlement.

In the Matter of Tubber T. Okuda, Securities Act
Release No. 33-5562, ASR No. 171, January 27, 1975

The Commission instituted proceedings to determine if an order temporarily suspending Tubber T. Okuda, an accountant from practicing before the Commission should be made permanent. The temporary order was entered after Okuda was permanently enjoined in an injunctive action entitled SEC v. Northwest Pacific Enterprises, Inc., (N.D. Wash., Civ. No. 518-72C2, April 27, 1973). The Commission alleged in that action that Okuda knew or should have known that certain financial statements he prepared for Northwest Pacific were false in that they failed to disclose that the company's principal assets were grossly overvalued, and that Okuda failed to review sufficient evidentiary material to afford a reasonable basis for his opinion. The Commission accepted Okuda's offer of settlement.

In the Matter of Benjamin Botwinick & Co. and Alvin I. Mindis, Securities Exchange Act Release No. 34-11176, ASR No. 168, January 13, 1975

The Commission instituted proceedings pursuant to Rule 2(e) against the accounting firm of Benjamin Botwinick & Co. ("BB") and against a partner of the firm Alvin I. Mindis. The proceedings were instituted after BB and Mindis had consented to the entry of permanent injunctions from future violations of Sections 10(b) and 13(a) of the Exchange Act in an action entitled SEC v. Allegheny Beverage Corp., et al., (DDC Civ. 93273, Jan. 1975). The Complaint, in that action, alleged, inter alia, that the company's earnings were materially overstated by the improper capitalization of purported start-up costs, and that its consolidated balance sheets materially overstated assets and earnings as a result of the improper accounting of sales of vending machines of its wholly-owned subsidiary Valu-Vend, Inc. The Commission accepted respondent's offer of settlement in which Mindis agreed to complete a program of continuing professional education.

In the Matter of Westheimer, Fine, Berger & Co., Securities Exchange Act Release No. 34-11153, ASR No. 166, December 24, 1974

The Commission instituted proceedings pursuant to Rule 2(e) of its Rules of Practice against Westheimer, Fine Berger & Co., an accounting firm. The proceeding was instituted after the firm had consented to the entry of an order of permanent injunction for its role in an action entitled SEC v. Republic National Life Insurance Co., et al., (SDNY, 74 Civ. 1097, Ordered, Nov. 14, 1974). The Complaint in that action alleged that the auditors should not have permitted its audit report of Realty Equities Corp. to accompany the company's financial statements when the statements did not disclose certain related-party transactions.

In the Matter of Loux, Gose & Co. and Galen Lloyd Gose, ASR No. 160, August 27, 1974

The Commission instituted administrative proceedings against Loux, Gose & Co., an accounting firm, and Galen Lloyd Gose, a partner of the firm in connection

with the audit of a broker-dealer's financial statements. The Commission found that respondents failed to comply with generally accepted auditing standards. According to the Commission: (1) the audit was not adequately planned; (2) the accountant conducting it lacked adequate training and was not supervised properly; and, (3) respondents failed to evaluate the broker-dealer's internal controls and to inquire into material post-statement events. Respondents consented to a quality review of their procedures.

In the Matter of Adolph F. Spear, Securities Act
Release No. 33-5514, ASR No. 158, July 19, 1974

The Commission accepted an Offer of Resignation from Practice Before the Commission (as an accountant) from Adolph F. Spear, A C.P.A. Spear submitted his resignation after consenting to the entry of an order for permanent injunction from future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act in an action entitled SEC v. World Acceptance Corp., et al., (SDNY Civ. Action 74-794, March 18, 1974). The Commission accepted Spear's Offer of Resignation.

In the Matter of Arthur Andersen & Co., Securities Act
Release No. 33-5512, ASR No. 157, July 8, 1974

The Commission instituted an administrative proceeding pursuant to Rule 2(e) against Arthur Anderson & Co., a national accounting firm in connection with its audit of the inventory of Crown Aluminum Corp. ("Crown") a subsidiary of the Whittaker Corp. The Commission noted that the firm was the victim of a deliberate scheme to defraud perpetrated by certain management but nevertheless the Commission held the firm accountable for not following generally accepted auditing standards in the audit. The Commission found that the auditors did not adequately control inventory count tags which allowed Crown personnel to alter and create certain tags. The firm was censured.

In the Matter of Touche Ross & Co., Securities Act
Release No. 33-5459, ASR No. 153, February 25, 1974

The Commission accepted an Offer of Settlement from Touche Ross & Co., an accounting firm, in lieu of instituting administrative proceedings against it

pursuant to Rule 2(e). The proposed proceedings were to determine if the firm's conduct, in connection with its audit of U.S. Financial, Inc. ("USF") for certain years, had failed to comply with the requirements set for the profession. The investigation revealed, inter alia, that: (1) the firm had allowed USF to record profits for fraudulent real estate transactions when it had available certain evidence which indicated that in fact no profits had been earned; and, (2) the firm did not adequately communicate with the predecessor auditors and failed to obtain access to and carefully review the results of predecessor auditors' work; and, (3) the firm unduly relied upon the representations of management. In addition, the Commission found that Touche Ross & Co. failed to realize the significance of the evidence before it and failed to extend its auditing procedures accordingly, even though the situation demanded extended examination. The Commission noted that in light of the fictitious earnings on these transactions, USF improperly recognized millions of dollars of revenues and profits in 1970 and 1971. The firm waived formal proceedings and consented to the entry of an order containing the above-described findings and remedial sanctions, including periodic review.

In the Matter of Laventhol, Krekstein, Horwath & Horwath, Securities Exchange Act Release No. 34-10172, ASR No. 144, May 23, 1973

The Commission instituted an administrative proceeding pursuant to Rule 2(e) of its Rules of Practice against Laventhol, Krekstein, Horwath & Horwath ("LKH&H"), an accounting firm. The proceeding was based on the fact that the firm had consented to the entry of a permanent injunction from future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Sections 206(1) and (2) of the Investment Advisors Act in an action entitled SEC v. Everest Management Corp., et al., (SDNY, 71 Civil 4932, Nov. 11, 1971). The Complaint in that action alleged that the firm had been involved in the dissemination of false and misleading statements of a partnership engaged in investment activities. In addition, the Complaint alleged that LKH&H was not independent and that certain of its partners had received payments from the client in the guise of profits from participation in certain "hot issues" during the engagement. The Commission accepted the firm's Offer of Settlement.

In the Matter of Robert Lynn Burroughs, ASR No. 143, March 20, 1973

The Commission instituted a proceeding pursuant to Rule 2(e) against Robert Lynn Burroughs, an employee of an accounting firm, in connection with the audit of a broker-dealer. The Commission found that: (1) the auditor failed to evaluate the effectiveness of the broker-dealer's internal controls to determine whether he should extend the scope of the audit; (2) the auditor failed to inquire into material post-statement events; and, (3) failed to obtain sufficient evidence for this opinion. Respondent submitted an Offer of Settlement whereby he consented to the entry of an order censuring him.

In the Matter of Ralph Duckworth, ASR No. 139, January 17, 1973

The Commission accepted an Offer of Resignation from practice before it (as an accountant) from Ralph Duckworth in lieu of instituting an administrative proceeding against him. Duckworth's offer to resign was based on an injunction entered against him in an action entitled SEC v. American Agronomics Corp., et al., (N.D. Ohio, Civil Action No. C72-331, August 8, 1972). The Complaint, in that action, alleged that the accountant recommended to clients and others the purchases of certain investment contracts without disclosing that he was to be paid a substantial fee for each sale consummated by him. [The Commission also accepted Offers of Resignation from Robert Trivison and Barry L. Kessler for their participation in the activities alleged in the above-named injunctive action. See, In the Matter of Robert Trivison, (ASR No. 131, Oct. 19, 1972); and In the Matter of Barry L. Kessler, (ASR No. 129, Sept. 26, 1972).]

In the Matter of Meyer Weiner, ASR No. 110, January 18, 1968

The Commission accepted an Offer of Resignation from practice before it (as an accountant) from Meyer Weiner, a C.P.A., in lieu of instituting a formal administrative proceeding against him. The staff's investigation revealed that Weiner's audit of a broker-dealer was deficient in that: (1) he did not use adequate confirmation procedures; and, (2) he was not independent. In light of the foregoing, the staff alleged that Weiner had willfully aided and abetted violations of § 17(a) of the Securities Act when he certified without qualification the financial condition of the broker-dealer.