

SEC NEWS DIGEST

Issue 2001-239

December 13, 2001

ENFORCEMENT PROCEEDINGS

SEC SANCTIONS BRENTWOOD, TENNESSEE INVESTMENT ADVISER FOR FALSE AND MISLEADING PERFORMANCE ADVERTISING

On December 12, the Commission announced today that it issued an Order Instituting Public Proceedings, Making Findings, And Imposing Remedial Sanctions And Cease-And-Desist Order ("Order") against Cambridge Equity Advisors, Inc., a registered investment adviser based in Brentwood, Tennessee, and its President, Michael E. Goldston.

The Commission accepted the settlement offers of Cambridge and Goldston, in which they consented to the entry of the Order without admitting or denying the Commission's findings except those pertaining to jurisdiction. The Order finds that Cambridge violated the antifraud provisions of the Investment Advisers Act of 1940 ("Advisers Act") (Sections 206(1), 206(2), and 206(4) and Rules 206(4)-1(a)(2) and 206(4)-1(a)(5)) by distributing advertising materials that: (1) stated that Cambridge managed over \$300 million when it actually managed approximately \$100 million; (2) overstated the amount to which an investment would have grown had it been invested in Cambridge's Capital Appreciation Accounts portfolio; (3) failed to disclose that several of Cambridge's model portfolios were designed with the benefit of hindsight and retroactively applied; (4) compared the performance of one of Cambridge's Capital Appreciation Accounts portfolio to the S&P 500 Index without disclosing that Cambridge's portfolio did not perform as well as that index for several years between 1990 and 1997; and (5) made references to specific recommendations that Cambridge had made in the past. The Order also finds that Goldston aided and abetted Cambridge in these violations of the Advisers Act. The Order censures Cambridge and Goldston, orders them to pay civil penalties of \$40,000 and \$20,000, respectively, plus post-judgment interest, and orders them to cease and desist from committing or causing any violation and any future violations of the Advisers Act. In addition, Cambridge is ordered to comply with its undertakings to, inter alia, (a) retain an independent consultant to review (i) Cambridge's advertisements for a period of two years, and (ii) Cambridge's policies and procedures regarding its advertisements, whose recommendations Cambridge will adopt, and (b) send a copy of the Commission's Order to clients and, for a period of one year from the date of the Order, to prospective clients. (Rel. IA-2001; File No. 3-10651)

JUDGE ORDERS PERMANENT INJUNCTION AGAINST FRAUDULENT INTERNET TECHNOLOGY COMPANY SUED BY SEC

The Commission announced that on December 10 the Honorable Ronald M. Whyte, United States District Judge for the Northern District of California, ordered that PacketSwitch.Com, Inc., a San Jose, California company that is alleged to have raised more than \$3.7 million

by fraudulently claiming that the company had a proprietary technology for broadcasting movies wirelessly over the Internet, be permanently enjoined from violations of the registration and anti-fraud provisions of the securities laws. The company consented to the entry of the injunction without admitting or denying the allegations of the Commission's complaint.

The Commission's complaint, filed on July 9, 2001, alleges that from at least February 1999 through September 2000, PacketSwitch.Com and its founder and former CEO, Steven A. Ristau, fraudulently raised funds from at least 700 investors. According to the complaint, Ristau knew many of the investors through his relationships with large churches in the San Jose area. Among other things, the defendants told investors that PacketSwitch.Com:

- * had a new, proprietary technology that allowed it to broadcast movies wirelessly over the Internet
- * either had or was in the process of obtaining patents for its purported Internet technology;
- * had substantial operations in Africa and Asia, including a billion dollar contract with the Republic of Korea; and
- * had strategic partnerships and alliances with various large, publicly traded telecommunications companies.

According to the complaint, each of these claims was false. In particular, the complaint alleges, PacketSwitch.Com was a start-up company with no revenue and no real product and its purported technology was simply an off-the-shelf commercial product that did not have the capability of broadcasting movies wirelessly over the Internet.

The complaint further alleges that the defendants failed to disclose that a significant portion of the funds raised went to finance Ristau's lavish lifestyle. This includes more than \$550,000 that went towards the purchase of a \$1.8 million home in San Jose, as well as funds used to pay for Ristau's family vacation to Hawaii, his delinquent child support, his personal bodyguards, Lexus automobile, and other personal items

PacketSwitch.Com consented to entry of the Court's injunction from future violations of the registration and antifraud provisions of the federal securities laws, Sections 5 and 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 10b-5 thereunder. [SEC v. PacketSwitch.Com, Inc., and Steven A. Ristau, USDC, NDCA, Civil Action No. 01-20626, RMW] (LR-17268)

TWO CALIFORNIA MEN ENJOINED IN STOCK REPURCHASE SCHEME

The Commission announced that a federal district court in San Francisco entered judgments against James B. Dean of San Diego and Conrado B. Topacio of San Francisco. The judgments were entered in a case alleging fraudulent sales of interests in the stocks of start-up companies.

Dean was formerly associated with Global Strategies Group, Inc., a now defunct small brokerage firm headquartered in San Francisco. On June 26, 2001, the court entered a judgment requiring Dean to disgorge \$168,833.28 in commissions and pay a \$50,000 civil penalty and refrain from future violations of the antifraud provisions of the federal securities laws.

