

**Report Pursuant to Section 704 of the
Sarbanes-Oxley Act of 2002**

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Report Pursuant to Section 704 of the Sarbanes-Oxley Act of 2002

I. Executive Summary¹

The past year has been marked by a series of restatements of financial statements by prominent corporations resulting in billions of dollars lost by investors. To address concerns raised by these restatements, and to restore public trust in the U.S. financial markets, Congress passed the Sarbanes-Oxley Act of 2002 (“the Sarbanes-Oxley Act”), which the President signed into law on July 30, 2002.² The Sarbanes-Oxley Act, among other things, creates an independent accounting oversight board; provides more enforcement tools to the Securities and Exchange Commission (“Commission”); restricts non-audit services by accounting firms; holds corporate executives accountable for the accuracy of financial reports; increases criminal penalties for securities fraud; and provides for the separation of investment banking and investment analysis.

Section 704 of the Sarbanes-Oxley Act directs the Commission to study enforcement actions over the five years preceding its enactment in order to identify areas of issuer financial reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management (the “Study”). In addition, Section 704 directs the Commission to report its findings to Congress, including a discussion of recommended regulation or legislation (the “Report”). This Study involved the review of all of the Commission’s enforcement actions filed during the period July 31, 1997 through July 30, 2002 (the “Study period”) that were based on improper issuer financial reporting, fraud, audit failure, or auditor independence violations.

Over the Study period, the Commission filed 515 enforcement actions for financial reporting and disclosure violations arising out of 227 Division of Enforcement investigations³ (these investigations are referred to hereafter as “enforcement matters”).⁴ See Exhibit A for a listing of actions filed during this period.

The 515 actions included 869 named parties, consisting of 164 entities and 705 individuals.⁵ During the Study period, the number of enforcement actions involving issuer financial reporting violations or fraud increased from 91 in the first year of the

¹ References to accounting standards are for informational purposes only, and should not be construed as recitations of generally accepted accounting principles (“GAAP”) or interpretations by the Commission.

² Corporate and Auditing and Accountability, Responsibility, and Transparency Act of 2002, Pub.L. No. 107-204.

³ Some of the actions brought during the Study period involved conduct that occurred before the Study period.

⁴ During the same time period, the Commission filed a total of 2508 enforcement actions, arising out of 1390 investigations.

⁵ More than one action may result from a particular investigation. Although most of the enforcement matters related to one issuer, there were matters involving multiple issuers.

Study to 149 in the last year of the Study.⁶ Of these 515 actions, 186 were federal civil actions and 329 were administrative proceedings.⁷ Of the 869 named parties, the Commission charged 593 with fraud in connection with the reporting violations: 511 individuals, and 82 entities.

Study Year	Number of Actions Involving Issuer Financial Reporting Violations
Year One	91
Year Two	60
Year Three	110
Year Four	105
Year Five	149

The Study found that the Commission brought the greatest number of actions in the area of improper revenue recognition: 126 of the 227 enforcement matters involved such conduct, including the fraudulent reporting of fictitious sales, improper timing of revenue recognition, and improper valuation of revenue.⁸ One hundred one enforcement matters involved improper expense recognition, including improper capitalization or deferral of expenses, improper use of reserves, and other understatement of expenses. Additionally, 23 enforcement matters involved improper accounting for business combinations. One hundred thirty-seven enforcement matters involved other accounting and reporting issues, such as inadequate Management’s Discussion and Analysis (“MD&A”) disclosure and improper use of off-balance sheet arrangements. In approximately 10% of the enforcement matters, the accounting or disclosure issue was reflected in financial statements that were included in an issuer’s registration statement filed with the Commission in connection with an Initial Public Offering (“IPO”).

It should be noted that the numbers discussed in this Report reflect historical data on actions filed in the last five years, and may not necessarily reflect their relative importance in the Enforcement program in the future. For example, off-balance sheet arrangements and non-GAAP financial measures are relatively new areas of enforcement. The numbers do not necessarily reflect the magnitude and impact that these areas of conduct may have on investors in the future.

The Study revealed that the majority of the persons held responsible for the accounting violations were members of issuer senior management. The Study found that 157 of the 227 enforcement matters involved charges against at least one senior manager. In these enforcement matters, charges were brought against 75 Chairmen of the Board, 111 Chief Executive Officers (“CEOs”), 111 Presidents, 105 Chief Financial Officers

⁶ For purposes of the Study, Year One is July 31, 1997-July 30, 1998; Year Two is July 31, 1998-July 30, 1999; Year Three is July 31, 1999-July 30, 2000; Year Four is July 31, 2000-July 30, 2001; and Year Five is July 31, 2001-July 30, 2002.

⁷ Included in the 329 administrative proceedings is one Report of Investigation pursuant to Section 21(a) of the Securities Exchange Act of 1934 (“21(a) Report of Investigation”).

⁸ Most of the 227 enforcement matters involved more than one type of improper conduct. Because of this overlap, it would not be meaningful to aggregate these numbers.

(“CFOs”), 21 Chief Operating Officers (“COOs”), 16 Chief Accounting Officers (“CAOs”), and 27 Vice Presidents (“VPs”) of Finance.⁹ In addition, the Study determined that the Commission brought charges against 18 auditing firms and 89 individual auditors. The Study found that violations by auditors were not limited to any particular size of firm, and resulted largely from auditors failing to gain sufficient evidence to support the issuer’s accounting, failing to exercise the appropriate level of skepticism in responding to red flags, and failing to maintain independence.

The Study concluded that 135 issuers in the 227 enforcement matters filed restatements that were related to conduct investigated in the enforcement matters.¹⁰ Of these restatements, the majority involved either revenue or expense recognition.

Section 704 directs the Commission to include in this Report a discussion of recommended steps to address concerns identified by this Study. The Sarbanes-Oxley Act provides numerous provisions, including the creation of the Public Company Accounting Oversight Board, that were designed to address many of the concerns addressed in this Report. This Report contains a few recommendations for additional reforms primarily designed to aid the Commission in enforcing the federal securities laws in the financial reporting and issuer disclosure area. Specifically, the Commission recommends addressing two areas of issuer disclosure: the uniform reporting of restatements of financial statements, and improved MD&A disclosure. In addition, based on this Report, the Commission recommends the enactment of legislation to: (1) allow companies to produce internal reports and other documents pertaining to investigations without waiving any privileges; (2) provide access by Commission staff to grand jury materials; and (3) provide for nationwide service of process for testimony in Commission litigation.

II. The Statutory Language

Section 704 of the Sarbanes-Oxley Act is entitled, “Study of Enforcement Actions” and states as follows:

(a) Study Required. – The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the 5-year period preceding the date of enactment of the Act, to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

⁹ Please note that the same individual can have multiple titles (e.g. President and CEO).

¹⁰ Among the reasons that issuers did not restate their financial statements were: (1) the issuer filed for bankruptcy or otherwise became defunct; (2) the issuer was not a public company that filed with the Commission (e.g., limited partnerships); (3) the enforcement action did not involve conduct by the issuer, such as in some auditor independence cases; (4) the misrepresentations were contained in press releases or websites, and not in public filings; and (5) the improper financial statements were filed more than three years before the Commission’s action against the issuer.

(b) Report Required. – The Commission shall report its findings to the Committee on Financial Services of the House of Representative and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 180 days after the date of the enactment of this Act, and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the Study.

III. Objectives, Scope and Methodology

For purposes of this Study, Commission staff (“staff”) reviewed and analyzed the actions filed by the Commission during the Study period that were identified in the Commission’s annual reports as “Issuer Financial Disclosure” cases. These cases typically involve violations of generally accepted accounting principles (“GAAP”) in an issuer’s financial statements or inadequate disclosures in the MD&A or elsewhere in the issuer’s filing. They also include actions brought against issuers’ auditors for faulty auditing or independence violations.

The Sarbanes-Oxley Act calls for the study of “enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements.” The United States General Accounting Office (“GAO”) issued a report in October 2002 studying restatements. In this report, the GAO discussed the inherent difficulty in identifying restatements, the foremost reason being the lack of a comprehensive, authoritative database of restatements.¹¹ Because of the inherent limitations in identifying all relevant restatements, the staff determined that it would study *all* enforcement matters related to issuer financial reporting during the Study period, regardless of whether the matter resulted from or was related to an issuer restatement. The staff identified 135 issuers that filed restatements relating to the accounting and reporting issues identified in the enforcement matters.

The Sarbanes-Oxley Act directs the Commission to “identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings

¹¹ The staff used a number of methods to determine whether a restatement relating to one of the identified enforcement matters occurred. The staff initially reviewed Commission internal documents to attempt to determine whether there had been a restatement. The staff then reviewed the Commission’s online Electronic Data Gathering, Analysis and Retrieval System (“EDGAR”) to determine whether the issuer made any amended filings during or after the period of the identified accounting or reporting issue. The Commission’s EDGAR database, however, only dates back to filings made in 1993 and after. Therefore restatements relating to accounting issues that preceded 1993 could not be identified using EDGAR. In addition, not all documents filed with the Commission by public companies were available on EDGAR. Companies were phased in to EDGAR filing over a three-year period, ended May 6, 1996. As of that date, all public domestic companies were required to make their filings on EDGAR, except for filings made on paper because of a hardship exemption. Also, issuers do not always file amended Forms 10-K and 10-Q when there is a restatement. Depending upon the timing of the restatement, an issuer may include the restated financial statements for earlier periods in a current periodic filing or in a Form 8-K. Next, the staff performed keyword searches on the LexisNexis Research System. The staff then analyzed these amendments and LexisNexis hits to determine if they related to a restatement for the particular accounting or reporting issue identified in the enforcement matter.

management. . . .” To this end, the staff summarized the accounting and reporting issues identified in each enforcement matter and classified them into four major categories: (1) revenue recognition; (2) expense or cost recognition; (3) acquisition or merger related; and (4) “other” conduct, including related party transactions, and improper accounting for foreign payments in violation of the Foreign Corrupt Practices Act (“FCPA”). The staff further divided each of these categories into subcategories for purposes of this analysis.¹² The staff also reviewed and classified enforcement matters involving auditor misconduct.

Most enforcement matters identified multiple accounting or reporting issues. In these cases, the staff included the investigation in each applicable category. Therefore, the same enforcement matter may be counted in multiple discussions of accounting and reporting issues.

The remaining sections of this Report contain case highlights illustrating examples of the accounting issues being discussed. Each of these highlights indicates whether or not the issuer restated its financial statements or made other amendments to its filings pertaining to the enforcement matter being discussed.¹³

IV. Results of Study - Areas of Reporting Most Susceptible to Fraud

The Study identified several areas of reporting in the 227 enforcement matters reviewed that have been susceptible to fraud and other improper conduct: (1) improper revenue recognition; (2) improper expense recognition; (3) improper accounting in connection with business combinations; and (4) “other” conduct, including inadequate disclosures in Management Discussion and Analysis (“MD&A”) and elsewhere in issuer filings; failure to disclose related party transactions; inappropriate accounting for non-monetary and roundtrip transactions; improper accounting for foreign payments in violation of the Foreign Corrupt Practices Act (“FCPA”); improper use of off-balance sheet arrangements; and improper use of non-GAAP financial measures. The following chart summarizes the number of enforcement matters that included conduct in each of these categories.¹⁴

¹² For example, revenue recognition was further divided into the following subcategories: (1) fictitious sales or transactions; (2) improper timing of revenue recognition; and (3) valuation issues such as sales returns.

¹³ As previously mentioned, most enforcement matters included in the Study identified multiple accounting or reporting issues. The issuer may have restated for one or more, but not all, of the identified issues. A statement in the case highlights indicating that the issuer restated its financial statements means that the issuer restated for at least one of the issues identified in the Study; however, it may not necessarily mean that the issuer restated for the accounting or reporting issue being discussed in that particular highlight.

¹⁴ Most of the 227 enforcement matters involved more than one type of improper conduct. Because of this overlap, it would not be meaningful to aggregate these numbers.

Improper Accounting Practice	Number of Enforcement Matters Involving Each Practice
Improper Revenue Recognition	126
Improper Expense Recognition	101
Improper Accounting in Connection with Business Combinations	23
Other Accounting and Reporting Issues:	130
Inadequate Disclosures in MD&A and Elsewhere	43
Failure to Disclose Related Party Transactions	23
Inappropriate Accounting for Non-monetary and Roundtrip Transactions	19
Improper Accounting for Foreign Payments in Violation of the FCPA	6
Improper Use of Off-balance Sheet Arrangements	3
Improper use of Non-GAAP Financial Measures	2

A. Improper Revenue Recognition

1. Overview of Findings

Under GAAP, revenue should not be recognized until it is realized or realizable and earned. Issues concerning revenue recognition have dominated financial fraud cases. A March 1999 report sponsored by the Committee of Sponsoring Organizations (“COSO”) of the Treadway Commission, *Fraudulent Financial Reporting: 1987-1997 An Analysis of U. S. Public Companies*, indicated that over half of financial reporting frauds in that study involved overstating revenue. When it enacted Section 704 of the Sarbanes-Oxley Act, Congress specifically required the Commission to study the role of revenue recognition in enforcement matters during the Study period.

The Commission’s accounting enforcement matters reflect the prevalence of revenue recognition as a tool for fraud. Of the 227 enforcement matters studied, 126 involved improper revenue recognition. An analysis of these enforcement matters revealed that 106 involved fraud charges (Section 17(a) of the Securities Act of 1933 (“Securities Act”)¹⁵ and/or Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”)¹⁶), with the balance covering reporting, books and records and/or internal controls violations (Sections 13(a), 13(b)(2)(A) and (B), and/or 13(b)(5) of the

¹⁵ 15 U.S.C. § 77a et seq. (1933).

¹⁶ 15 U.S.C. § 78a et seq. (1934).

Exchange Act, respectively). Of the 126 enforcement matters involving improper revenue recognition, 94 issuers restated their financial statements.

The chart below summarizes the major improper revenue recognition practices used by public companies in Commission enforcement matters during the Study period.

Improper Revenue Recognition Practices	Number of Enforcement Matters Involving Each Practice¹⁷
Improperly Timed Revenue Recognition	81
Fictitious Revenue	80
Improper Valuation	21

The Study found that senior management was implicated in 104 of the 126 enforcement matters involving revenue recognition. Specifically, the Study found that 55 Chairmen of the Board, 75 CEOs, 77 Presidents, 81 CFOs, 20 COOs, 10 CAOs, and 22 VPs of Finance were charged in such enforcement matters. In addition, the Commission charged 40 Controllers for their involvement in these enforcement matters.¹⁸

2. Discussion of Representative Cases and Description of Issues

As explained more fully below, the Study identified three major problem areas for improper revenue recognition including: (1) improper timing of revenue recognition (including the existence of contingencies which would preclude revenue recognition until the contingency is resolved); (2) fictitious revenue; and (3) improper valuation for purposes of revenue recognition.

a. Improper Timing of Revenue Recognition

The Study found that 81 enforcement matters involved improper timing of revenue recognition. Accounting principles require that revenue should only be recognized once it has been both earned and realized. These revenue recognition cases commonly involved an issuer accelerating revenue from future periods to the current period. These enforcement matters included the following types of improper conduct: (1) holding books open after the close of a reporting period; (2) improper recognition of the following transactions involving third parties: “bill and hold” sales, consignment sales, side letter agreements, and other contingency sales; and (3) improper recognition of revenue from multiple element or bundled contracts.

¹⁷ In total, the Commission brought 126 enforcement matters involving improper revenue recognition. Many enforcement matters involved a company using multiple improper revenue recognition schemes. Therefore, the total number of these improper revenue recognition practices exceeds the number of enforcement matters with revenue recognition issues.

¹⁸ Some of these individuals have multiple titles.

i. **Holding Books Open After Close of a Reporting Period**

The Study identified 25 enforcement matters involving the failure of issuers to close their books properly at the close of a reporting period. Generally, a company's books for any reporting period should only include revenues realized and earned in that period.

Case Highlights

- ***Sirena Apparel Group, Inc.*** – The Commission alleged that the company's CEO and CFO materially overstated Sirena's revenue by \$3.6 million (or 13%) and earnings by \$1.3 million (or 30%). The complaint alleged that the CEO and CFO instructed Sirena personnel to hold open the March 1999 fiscal quarter until Sirena had reached its sales target for that period, by resetting the date on Sirena's computer clock to March 30 or March 31. This manipulation allowed the April shipments to be recorded as March revenue. The CEO and CFO also ordered Sirena personnel to create false shipping records to conceal their scheme.¹⁹ On June 25, 1999, Sirena filed for bankruptcy. On August 16, 2000, the company filed a Form 15 with the Commission suspending its duty to file reports under the Securities Exchange Act of 1934. The company did not restate its financial statements relating to this matter.
- ***Sensormatic Electronics Corporation*** – The Commission charged the company and three senior officers with several different accounting frauds including recording revenue in one quarter from products shipped in the next quarter. At the end of each quarter, Sensormatic turned back its computer clock that recorded and dated shipments so that out-of-period shipments, and consequently revenue, would be recorded in the prior quarter.²⁰ On or about October 11, 1995, the company filed amended financial statements for the fiscal quarter ended March 31, 1995.

¹⁹ Accounting and Auditing Enforcement Release ("A.A.E.R.") No. 1325 (September 27, 2000).

²⁰ A.A.E.R. No. 1017 (March 25, 1998).

ii. Bill-and-Hold, Consignment Sales, and Other Contingency Sales

There were 49 enforcement matters involving premature recognition of revenue during the Study period, including bill-and-hold sales,²¹ consignment sales,²² side letter agreements²³ and other contingency sales. The accounting for these transactions generally failed to meet the criteria under GAAP for recognizing revenue because the seller had not actually assumed the risks and rewards of ownership, the terms of the sale were modified or the revenue was otherwise not realized (or realizable) and earned.

Case Highlights

- ***Sunbeam Corporation*** – This action involved, among other things, allegations that Sunbeam engaged in accounting fraud by improperly recognizing bill-and-hold and contingency sale transactions. The Commission alleged that Sunbeam gave financial incentives to its customers to write purchase orders before they needed the goods, and offered to hold the product until delivery was requested and typically covered related costs. The Commission alleged that Sunbeam improperly recorded contingent sales as revenue. Just before the close of a quarter, Sunbeam allegedly booked revenue and income from purported sales to wholesalers, who incurred no expenses, accepted no ownership risks, and had the right to return unsold products.²⁴ On or about November 12, 1998, the company filed amended financial statements covering the period October 1, 1996 through March 31, 1998.
- ***McKesson HBOC Inc.*** – The Commission brought fraud charges against senior management for engaging in a massive fraud to inflate revenue and net income by hiding contingencies – such as rights to cancel or, in some cases, continuing negotiations of relevant terms – related to software sales

²¹ Improper accounting for bill-and-hold transactions usually involves the recording of revenue from a sale, even though the customer has not taken title of the product and assumed the risks and rewards of ownership of the products specified in the customer's purchase order or sales agreement. In a typical bill-and-hold transaction, the seller does not ship the product or ships it to a delivery site other than the customer's site. These transactions may be recognized legitimately under GAAP when special criteria are met, including being done pursuant to the buyer's request. The Study identified 14 enforcement matters involving the improper financial reporting of bill-and-hold transactions.

²² In a consignment sale, the product is shipped to a dealer who pays only for what is sold and who may return what is unsold. Generally, revenue should not be recognized when a product is shipped from one party to another on a consignment basis. The consignor should recognize revenue from consignment transactions when the consignee sells the product. The Study identified 14 enforcement matters involving consignment sales.

²³ A typical side letter accounting fraud case involves a seller changing the terms and conditions, either orally or in writing, of a facially valid sale to a customer. The side agreements typically result in improper revenue recognition. The Study identified 25 enforcement matters involving side letters.

²⁴ A.A.E.R. No. 1393 (May 15, 2001).

contracts in side letters.²⁵ On or about July 14, 1999, McKesson filed amended financial statements covering the period April 1, 1996 through March 31, 1999.

iii. Multiple Element Contracts or Bundled Contracts

Some enforcement matters involving revenue recognition present more complex issues, including improper accounting for multiple element or bundled contracts. The Study identified three enforcement matters involving multiple element or bundled contracts.

Case Highlights

- ***Xerox Corporation*** – The Commission alleged that Xerox used a variety of accounting schemes involving its lease arrangements. Under these arrangements, the revenue stream from Xerox's customer leases typically had three components: the value of the equipment; the value of Xerox's obligation to service the equipment over the life of the lease; and financing revenue that Xerox received on deferred payments. Under GAAP, Xerox could recognize revenue from the equipment at the beginning of the lease if certain requirements were met, but was required to recognize revenue from servicing and financing over the course of the entire lease, or as those services were performed and that revenue earned. According to the complaint, Xerox relied on accounting actions to improperly shift finance and service lease revenues to the equipment, so that a greater portion of lease revenues could be recognized immediately.²⁶ On or about July 11, 2002, Xerox filed amended financial statements covering the period January 1, 1997 through December 31, 2000.
- ***MicroStrategy, Inc.***²⁷ – The Commission alleged that MicroStrategy engaged in the premature recognition of revenue in connection with multiple element deals in which significant services or future products to be provided by MicroStrategy were not separable from the upfront sale of a license to its existing software products. MicroStrategy allegedly negotiated a \$4.5 million transaction to provide software licenses, consulting and development services, and a stock purchase warrant to a buyer. The services were, in part, to develop software applications for the MicroStrategy software. The overwhelming majority of the software licenses purchased by the buyer were for use with software applications that were not yet developed. Although the product and the service elements were interdependent, MicroStrategy accounted for the software product element as though it were separate from the service and warrant

²⁵ A.A.E.R. No. 1467 (October 15, 2001).

²⁶ A.A.E.R. No. 1542 (April 11, 2002).

²⁷ A.A.E.R. No. 1350 (December 14, 2000); A.A.E.R. No. 1352 (December 14, 2000).

obligations. MicroStrategy recognized the entire \$4.5 million received in the transaction as software product license revenue, allocating no revenue to the extensive service obligations or the warrant.²⁸ On or about April 13, 2000, the company filed amended financial statements covering the period January 1, 1997 through December 31, 1999.

b. Fictitious Revenue

The Study found that 80 enforcement matters involved fictitious revenue. The manipulation of revenue was accomplished through, among other means, the falsification of sales documents, side agreements with customers that were not recorded, and top-side adjustments²⁹ by senior management.

Case Highlights

- ***Cendant Corporation***³⁰ – The Commission alleged that for more than twelve years CUC senior management made top-side adjustments which artificially inflated operating income at the company by directing changes to CUC's quarterly results. Defendants allegedly reviewed and managed schedules listing fraudulent adjustments to be made to CUC's quarterly and annual financial statements. As a result of these inappropriate top-side adjustments and other fraud, pre-tax operating income reported to the public by CUC was inflated by an aggregate amount of over \$500 million for the period 1995 through 1997 alone.³¹ On or about September 29, 1998, the company filed amended financial statements covering the period January 1, 1995 through June 30, 1998.
- ***Regal Communications Corporation*** – The Commission alleged that Regal's upper management falsified the company's filings. Allegedly, the CFO caused the accounting staff to record fictitious business revenues and receivables into the company's general ledger. To further the scheme, the CEO allegedly supported the fictitious entries with false or misleading sales documents and bank records. The CFO and CEO then paid many of the false receivables with the company's money, which had been funneled

²⁸ "Generally for accounting purposes, product revenue is recognized immediately, while revenue from services is recognized as the services are provided. Consistent with SOP 97-2, in a transaction with software and service elements, revenue is recognized on the software only if the software sale is separable from the sale of services and only after revenue attributable to the service element is deducted." A.A.E.R. 1350 (December 14, 2000).

²⁹ Top-side adjustments are accounting entries that are not recorded in a company's normal system of accounting books and records, but are included in the financial statements before publication, typically by senior corporate executives. These entries may be appropriately used to make last minute corrections to the financial statements (in which case the accounting books and records are updated for them also), but are sometimes inappropriately used to make fraudulent adjustments that are hidden from those with access to the accounting books and records.

³⁰ Cendant Corporation is the company that resulted from a December 1997 merger between CUC International, Inc. and HFS Incorporated. As alleged by the Commission, the fraud arose at CUC.

³¹ A.A.E.R. No. 1372 (Feb. 28, 2001).

through their own private companies in order to give the appearance of legitimate transactions. The alleged fraud inflated Regal's revenues and receivables, and consequently caused Regal's recorded income and assets to be materially overstated in Commission filings.³² The company declared bankruptcy in September 1994 and did not file a restatement.

c. Improper Valuation of Revenue

In addition to improper timing of revenue recognition and fictitious revenue, the Study found that another problem area involved the improper valuation of revenue. Unlike the contingent sales situations discussed above, a sale does occur, but there may be terms, such as rights of return, that affect the appropriate value of revenue recognized from the sale. Improper accounting practices in this area involve the failure to take these terms into account in accordance with GAAP. There were 21 enforcement matters relating to improper valuation of revenue.

Case Highlights

- ***Insignia Solutions PLC*** – The Commission found that, because Insignia generally permitted rights of return, it recognized allowances for estimated future returns and exchanges. In order to implement this policy, Insignia endeavored to keep track of inventory held by its principal distributors and resellers. The Commission found that the fraudulent revenue recognition scheme involved the circumvention of this system for monitoring inventory in the hands of Insignia's distributors and resellers. The sales manager, at the direction of the sales vice president, signed side letter agreements with a distributor and the reseller which allowed liberal return rights for certain shipments. The supervisors instructed a subordinate to report only 10% of the inventory held by the reseller. This practice had the effect of decreasing Insignia's allowance for product returns, thereby increasing reported revenue.³³ On or about February 28, 1997, the company filed amended financial statements covering the period January 1, 1996 through June 30, 1996.

3. Analysis and Conclusions

The Study found that revenue recognition is an area that is highly susceptible to financial reporting violations. Of the 227 enforcement matters during the Study period, 126 involved some form of improper revenue recognition. The majority of these enforcement matters involved improper timing (81 of 126 enforcement matters) and fictitious revenue (80 of 126 enforcement matters). These violations were accomplished primarily through the falsification of documents, such as sales invoices or side letters, and/or top-side adjustments. At least one representative of senior management was charged in 104 of the 126 enforcement matters. This conduct was undertaken for a

³² A.A.E.R. No. 1033 (May 4, 1999).

³³ A.A.E.R. No. 1133 (May 17, 1999).

variety of reasons, including attempting to meet analysts' expectations or creating the illusion of a financially healthy company.

B. Improper Expense Recognition

1. Overview of Findings

The Study identified 101 enforcement matters involving improper expense recognition.³⁴ Improper expense recognition encompasses a wide variety of accounting practices usually intended to understate or defer expenses, and therefore overstate net income. One such practice, which is intended to enable an issuer to meet earnings expectations, involves setting up “cookie-jar” reserves in one quarter (and initially overstating expenses) and improperly netting those excess reserves against expenses in future periods, with the effect of increasing income in these periods.

The chart below summarizes the major improper expense recognition practices used by issuers involved in Commission enforcement actions during the Study period.

Improper Expense Recognition Practice	Number of Enforcement Matters Involving Each Practice³⁵
Failure to Record Expenses or Losses via Improper Capitalization/Deferral or Lack of Accrual	49
Overstating Ending Inventory Values to Reduce Cost of Goods Sold	25
Understating Bad Debts or Loan Losses	19
Improper Use of Restructuring and Other Reserves	17
Failure to Record Asset Impairments	5

An analysis of the 101 improper expense recognition enforcement matters revealed that approximately 78 involved fraud charges (Section 17(a) of the Securities Act and/or Section 10(b) of the Exchange Act), with the balance covering non-fraud reporting, books and records and/or internal controls violations (Sections 13(a), 13(b)(2)(A) and (B), and/or 13(b)(5) of the Exchange Act, respectively). In these 78 enforcement matters, the Commission charged 290 parties with committing fraud in connection with the reporting violations.

The Study found that senior management was implicated in 70 of the 101 enforcement matters involving expense recognition. Specifically, the Commission

³⁴ Expenses are outflows of a company's assets resulting from the delivery of products or services to customers or the incurrence of certain liabilities. Examples of major categories of expenses shown on public companies' income statements are: (1) cost of goods sold; (2) selling and marketing; (3) general and administrative; (4) research and development costs; (5) interest; and (6) income taxes.

³⁵ In total, the Commission brought 101 enforcement matters involving expense recognition. Many enforcement actions involved a company using multiple improper expense recognition schemes.

charged 32 Chairmen of the Board, 47 CEOs, 46 Presidents, 54 CFOs, 16 COOs, 8 CAOs and 18 VPs of Finance. The Commission also charged 30 Controllers for violations based on improper expense recognition.

Of the 101 enforcement matters involving improper expense recognition, 70 issuers restated their financial statements.

2. Discussion of Representative Cases & Description of Issues

Generally, under the accrual method of accounting, an expense should be recorded during the accounting period in which it was “incurred” even if the issuer pre-pays the expense or does not pay for the expense in cash until a later accounting period.³⁶

Companies typically have accounting and bookkeeping systems designed to generate financial statements in conformity with accrual accounting. However, as discussed below, in order to achieve the desired accounting result, companies have used practices in contravention of GAAP to manipulate their reported expenses and net income. These practices include: (1) improper capitalization or deferral of expenses or failure to record expenses or losses; (2) overstating ending inventory values; (3) improper use of restructuring and other liability reserves; (4) understating bad debts and loan loss liabilities; and (5) failure to record asset impairments.

a. Improper Capitalization/Deferral – Failure to Record Expenses or Losses

When recording expenditures on their books, companies should classify the costs as assets or expenses. Improper capitalization and deferral occurs when companies capitalize current costs that do not benefit future periods.³⁷ Improperly capitalizing or deferring expenses generally causes a company to understate reported expenses and overstate net income in the period of capitalization or deferral.

During the Study period, 49 enforcement matters involved the failure to properly record expenses. Fifteen of these cases involved the company’s outright failure to accrue an appropriate expense or loss.

Case Highlights

- ***WorldCom, Inc.*** – The most prominent example of a company improperly capitalizing expenditures involved WorldCom. In its amended complaint against WorldCom, the Commission alleged that WorldCom overstated the income reported in its financial statements by approximately \$9

³⁶ For example, a company incurs “Cost of Goods Sold” when it delivers merchandise to customers (as opposed to when it actually manufactured the inventory or bought it from a supplier).

³⁷ Capitalization refers to the recording of expenditures as assets rather than expenses. Capitalized costs become future expenses and are automatically “deferred” (*i.e.*, shifted) to future accounting periods and are not recorded as expenses in the current accounting period.

billion. One way that WorldCom allegedly accomplished this overstatement was to reduce improperly its operating expenses by recharacterizing certain expenses as capital assets. Specifically, senior officials at the company directed accounting managers to transfer certain “line costs” (which should have been reported as current operating expenses) to its capital asset accounts. This transfer caused the company to materially understate expenses and overstate net income, which allowed the company to report earnings that were in line with analysts’ estimates.³⁸ Although the company has announced its intention to restate its financial statements, no such restatement has been filed with the Commission as of the date of this Report. On July 21, 2002, the company and certain of its subsidiaries filed for bankruptcy.

- ***Waste Management, Inc.*** – The Commission alleged that Waste Management, a hazardous waste services company, improperly inflated its operating income and other measures of performance by deferring the recognition of current period operating expenses into the future and by netting one-time gains against current and prior period misstatements and current period operating expenses. Senior management increased reported operating income by understating operating expenses – making repeated fourth quarter adjustments to improperly reduce depreciation expense on its equipment cumulatively from the beginning of the year, using a non-GAAP method of capitalizing interest on landfill development costs, failing to accrue properly for its tax and self-insurance expenses, improperly using purchase accounting to increase its environmental remediation reserves (liabilities), improperly charging operating expenses to the environmental remediation reserves, and failing to write-off permitting and/or project costs on impaired or abandoned landfills.³⁹ On or about March 31, 1998, the company filed amended financial statements covering the period January 1, 1992 through September 30, 1997.
- ***Livent, Inc.*** – The Commission charged Livent, a theatrical entertainment company, with fraudulently capitalizing pre-production costs by transferring them to fixed asset (rather than expense) accounts. The Commission alleged that Livent also deferred expenses by transferring expenses from current productions to shows that had not yet opened or that had longer amortization periods. In addition, Livent allegedly removed certain expenses from its general ledger (literally erasing them from the books) and re-entered them in subsequent quarters.⁴⁰ On or about November 18, 1998, the company filed amended financial statements covering the period January 1, 1996 through March 31, 1998.

³⁸ A.A.E.R. No. 1585 (June 27, 2002).

³⁹ A.A.E.R. No. 1532 (March 26, 2002); A.A.E.R. 1410 (June 19, 2001).

⁴⁰ A.A.E.R. No. 1095 (January 13, 1999).

b. Overstating Ending Inventory Values

During the course of any accounting period, issuers that sell products have a certain amount of merchandise available for sale to customers. At the end of an accounting period, issuers may either count their physical inventory or rely on their books and records to determine how much of this merchandise cost should be allocated as “inventory” (an asset) and how much should be allocated as “cost of goods sold” (an expense). Companies have improperly increased their net profits by allocating more costs to inventory than cost of goods sold, thus artificially increasing their ending inventory values and decreasing their current expense for inventory.

In 25 enforcement matters that involved overstatements of ending inventory, several common themes were present. Specifically, companies: (1) improperly increased physical ending inventory counts; (2) recorded bogus inventory “in-transit” to warehouses, often overseas; or (3) failed to write-down obsolete inventory or inventory whose market value had declined.

Case Highlights

- ***Rite Aid Corporation*** – The Commission alleged that Rite Aid overstated its net income by managing the value of its inventory. Specifically, senior management allegedly failed to record \$8.8 million in shrinkage of its physical inventory due to loss or theft. The CFO also made adjusting journal entries to lower the reported cost of goods sold.⁴¹ On three separate occasions during 1999 and 2000, Rite Aid filed amended financial statements relating to this matter.
- ***MiniScribe Corporation*** – The Commission alleged that MiniScribe increased the value of its inventory by recording fictitious transfers of non-existent inventory from its headquarters in Colorado to overseas locations. MiniScribe also allegedly repackaged scrap and obsolete inventory parts (that should have been written-off) and improperly included the costs in its ending inventory. The company also allegedly counted in inventory the costs of certain merchandise it purchased without recording the corresponding amounts owed as liabilities.⁴² On or about January 2, 1990, the company filed amended financial statements covering 1986 and 1987.

c. Improper Use of Restructuring and Other Liability Reserves

Recording a reserve on a company’s books generally involves recognizing an expense and a related liability or contra-asset. Reserves are properly set up for a wide

⁴¹ A.A.E.R. No. 1579 (June 21, 2002).

⁴² A.A.E.R. No. 1150 (August 11, 1999).

variety of estimated future expenditures; major categories of reserve liabilities relate to restructuring charges, environmental clean-up costs or expected litigation costs. In establishing reserves, issuers should comply with GAAP by recording reserves only where a liability exists. Once a reserve is established, payments made by the issuer properly related to the reserve are offset against the reserve and not reported as an expense in the current period.

Reserves may be improperly used by issuers to manage earnings. These companies typically create excess reserves (by initially over-accruing a liability) in one accounting period and then reduce the excess reserves in later accounting periods. The reversal of the reserve creates net income that can be used to meet earnings shortfalls. Of the 101 enforcement matters involving improper expense recognition, 17 involved improper use of reserves.

Case Highlights

- ***Xerox Corporation*** – Xerox allegedly manipulated its reserves in order to meet market earnings expectations. Specifically, the Commission alleged that Xerox maintained \$396 million in cookie-jar reserves, which it periodically released into earnings to artificially improve its operating results. Xerox also improperly set up a \$100 million reserve in connection with an acquisition and then used the reserve to cover expenses unrelated to the acquisition.⁴³ On or about July 11, 2002, Xerox filed amended financial statements covering the period January 1, 1997 through December 31, 2000.
- ***Sunbeam Corporation*** – The Commission alleged that Sunbeam created cookie-jar reserves in 1996 to increase Sunbeam's reported loss, and reversed these excess reserves into income during 1997 to artificially inflate earnings.⁴⁴ On or about November 12, 1998, the company filed amended financial statements covering the period October 1, 1996 through March 31, 1998.
- ***W.R. Grace & Co.*** – The Commission alleged that W.R. Grace, a packaging, specialty chemical and healthcare services company, recorded liabilities, through the deferral of income, in order to build cookie-jar reserves. W.R. Grace later used these reserves to meet earnings estimates.⁴⁵ W.R. Grace did not restate its consolidated financial statements relating to this matter.

⁴³ A.A.E.R. No. 1542 (April 11, 2002).

⁴⁴ A.A.E.R. No. 1395 (May 15, 2001).

⁴⁵ A.A.E.R. No. 1140 (June 30, 1999).

d. Understating Reserves for Bad Debts and Loan Losses

All public companies sell products or services, and these sales often are made on a credit basis. For these credit sales, companies record revenue and corresponding accounts receivable for the money owed by customers. If, at a later date, certain receivables are determined to be uncollectable, companies must record an expense for the estimated bad debts.⁴⁶ If a company fails to make a reasonable estimate of its uncollectable receivables, it will understate its accrual for bad debt and will overstate net income. Nineteen enforcement matters in the Study involved the understatement of bad debt expense or loan losses.

Case Highlights

- ***Allegheny Health Education and Research Foundation (“AHERF”) –*** The Commission alleged that AHERF, a healthcare provider in Pennsylvania, masked its severely deteriorating financial condition by failing to increase its bad debt reserves to account for uncollectable accounts receivable of approximately \$100 million.⁴⁷ AHERF did not file amended financial statements with the Commission relating to this matter.

e. Failure to Record Asset Impairments

Most non-financial assets are typically carried on the books at historical cost, less accumulated depreciation. Asset-values should be written down, and a corresponding expense or loss recorded, if the asset is impaired. GAAP includes different impairment standards for different types of assets. If the permanently impaired asset-values are not written down, the company’s expenses or losses will be understated and net income overstated. Five enforcement matters involved the failure to record asset impairments.

Case Highlights

- ***New Jersey Resources Corporation (“NJR”) –*** The Commission alleged that NJR, an energy company, failed to recognize an impairment of the carrying value of its oil and gas properties resulting in an overstatement of the company’s net income by \$6.3 million.⁴⁸ On or about April 28, 1994, the company filed amended financial statements covering the period October 1, 1992 through September 30, 1993.

3. Analysis and Conclusions

The Study found that expense recognition is very susceptible to manipulation of the issuer’s financial statements. Of the 227 enforcement matters during the Study

⁴⁶ Banks or other financial institutions that loan money to borrowers must record bad debt expenses to reflect probable losses from borrowers.

⁴⁷ A.A.E.R. No. 1283 (June 30, 2000).

⁴⁸ A.A.E.R. No. 1002 (December 31, 1997).

period, 101 included improper expense recognition practices. Unlike the area of improper revenue recognition, the conduct found in improper expense recognition often involves a more subtle manipulation of expenses and reserves to increase overall income and meet analyst expectations. Of the 101 improper expense recognition enforcement matters, 49 involved the improper capitalization or non-recognition of expenses, resulting in the understatement of expenses and the overstatement of income. In addition, 25 of the 101 enforcement matters involved the overstatement of inventory, and 19 involved the understatement of bad debts or loan losses. At least one member of senior management was charged in 70 of the 101 enforcement matters.

C. Improper Accounting in Connection with Business Combinations

1. Overview of Findings

Besides improper recognition of expenses and revenue enforcement matters, the Study identified 23 enforcement matters in which companies used improper accounting in connection with business combinations.⁴⁹ The Study found that these types of violations involved improper valuation of assets, improper use of merger reserves, and premature merger recognition. Additionally, some companies failed to disclose the liabilities associated with a business combination. An analysis of the 23 enforcement matters revealed that about 17 involved fraud charges (Section 17(a) of the Securities Act and/or Section 10(b) of the Exchange Act), with the balance covering reporting, books and records and/or internal controls violations (Sections 13(a), 13(b)(2)(A) and (B), and/or 13(b)(5) of the Exchange Act, respectively). In these 23 enforcement matters, 17 issuers restated their financial statements.

The following chart summarizes the main improper business combination practices engaged in by companies involved in Commission enforcement matters during the Study period.

Improper Business Combination Accounting Practices	Number of Enforcement Matters Involving Each Practice
Improper Asset Valuation	8
Improper Use of Merger Reserves	8
Inappropriate Application of Purchase/Pooling Methods	4

The Study found that senior management was implicated in 14 of the 23 enforcement matters involving improper accounting for business combinations. Specifically, the Study found that 7 Chairmen of the Board, 8 CEOs, 9 Presidents, 1 COO, 8 CFOs, and 1 VP of Finance were charged in such enforcement matters. In addition, the Commission charged 2 Controllers for their involvement in these enforcement matters.

⁴⁹ “A business combination occurs when an entity acquires net assets that constitute a business or acquires equity interests of one or more other entities and obtains control over that entity or entities.” FASB Statement No. 141, paragraph 9.

2. Discussion of Representative Cases and Description of Issues

a. Improper Asset Valuation

When valuing assets in the merger and acquisition context, amounts should be assigned to assets based on their fair values. Enforcement matters involving improper asset valuation include: overstating asset values, improperly valuing consideration given for the asset, or rolling over the historical value without requiring proper independent evidence to substantiate the value assigned to the asset.

Case Highlights

- ***Chester Holdings Ltd.*** – The Commission alleged that officers and directors of the issuer overstated the value of consideration paid for five acquisitions of assets and businesses and overstated the value of the assets acquired in the issuer's financial statements. For example, the officers claimed that the issuer acquired a knitting company for \$14 million in stock when the fair value of the assets was worth no more than \$4.9 million.⁵⁰ On or about October 16, 1992, the company filed amended financial statements covering the period July 1, 1991 through June 30, 1992.

b. Improper Use of Merger Reserves

In connection with an acquisition, a company usually incurs costs to integrate (and/or exit) business activities. Such expected costs are shown as a liability accrued at the time of the acquisition.⁵¹ In later accounting periods, if the remaining liability reserve is determined to be too high, the company should generally reduce it in that accounting period. If accounted for improperly, the initial accrual and/or later reserve reductions can be used to manage or smooth earnings. Reserve reductions can also be improperly netted against current operating expenses (thus understating such expenses).

Case Highlights

- ***Cendant Corporation*** – The Commission alleged that senior management intentionally overstated their merger reserves and then instructed that amounts in the merger reserves be reversed in later periods. These reversals were offset by corresponding increases in revenues or decreases in operating expenses. As a result of the improper reserve reversals and other fraud, the company overstated its pre-tax operating income by more than \$500 million over a three-year period.⁵² On or about September 29, 1998, the company filed amended financial statements covering the period January 1, 1995 through June 30, 1998.

⁵⁰ A.A.E.R. 0901 (April 2, 1997); Lit. Rel. No. 16084 (Mar. 11, 1999).

⁵¹ See Issue No. 95-3 of the FASB Emerging Issues Task Force.

⁵² A.A.E.R. No. 1274 (June 14, 2000).

- ***Kimberly-Clark Corporation*** – The Commission alleged that Kimberly-Clark improperly accounted for merger-related restructuring reserves. The company took a \$1.44 billion charge in relation to an acquisition. Periodic reevaluations of its reserve balance determined that the original estimate for certain of its merger-related reserves was too high. Instead of reducing the reserve as required by GAAP, the company reallocated excess amounts to other merger-related programs or to new programs. The company also allegedly released into earnings certain amounts of its merger-related reserves without adequate support.⁵³ On or about December 31, 1999, the company filed amended financial statements covering the period January 1, 1996 through December 31, 1998.

c. **Inappropriate Application of Purchase/Pooling Methods**

Another common issue surrounding business combinations is the inappropriate application of purchase accounting or the pooling-of-interest method of accounting. These issues include using the wrong method to account for the business combination (e.g., using the pooling-of-interests method instead of the purchase method) or prematurely accounting for a business combination before the transaction has been consummated.

Case Highlights

- ***Vista 2000, Inc.*** – The Commission alleged that the company consolidated revenues and assets from two separate acquisitions before the mergers were consummated. In one acquisition, Vista 2000 improperly recorded revenues and assets of over \$4.3 million earlier than allowed by GAAP. In another acquisition, the company prematurely included \$12 million in revenue in its financial statements a quarter earlier than the consolidation was allowable under GAAP.⁵⁴ On or about June 6, 1996, the company filed amended financial statements covering the period October 1, 1993 through September 30, 1995.
- ***Teltran International Group, Ltd.*** – The Commission alleged that the company, a telecommunications company, incorrectly recognized revenue by recording the acquisition of another company on its books before it had effective control.⁵⁵ As the company did not actually acquire the target until two months later, the early inclusion of the target company's revenue failed to conform to GAAP and Teltran materially overstated its revenues

⁵³ A.A.E.R. No. 1533 (Mar. 27, 2002).

⁵⁴ A.A.E.R. No. 1412 (June 21, 2001).

⁵⁵ Under FASB Statement (FAS) No. 141 and the prior literature, Accounting Principles Board Opinion No. 16, a company may book an acquisition earlier than the closing date only if the buyer had effective control of the target by the earlier date.

by over \$1.3 million as a result of the premature merger recognition.⁵⁶ On or about February 22, 2001, the company filed amended financial statements covering the period June 1, 1999 through September 30, 1999.

3. Analysis and Conclusions

The Study determined that accounting for business combinations has provided opportunities for issuers to manipulate their financial statements. Of the 227 enforcement matters during the Study period, 23 involved improper accounting for business combinations. The two most prevalent methods of improper accounting in this area were improper asset valuation (8 of 23) and improper use of merger reserves (8 of 23). At least one member of senior management was charged in 14 of the 23 enforcement matters.

D. Other Areas of Improper Accounting

1. Overview of Findings

The Study found that other improper accounting practices included inadequate disclosure in the company's Management Discussion and Analysis ("MD&A") or elsewhere in the issuer's filings,⁵⁷ failure to disclose related party transactions, improper accounting for non-monetary and roundtrip transactions, improper accounting for foreign payments in violation of the FCPA, the improper use of off-balance sheet arrangements to conceal debt, and the improper use of non-GAAP financial measures. Of the 227 enforcement matters studied, 137 included one or more of these types of violations. An analysis of these 137 enforcement matters revealed that 104 involved fraud charges (Section 17(a) of the Securities Act and/or Section 10(b) of the Exchange Act), with the balance covering reporting, books and records and/or internal controls violations (Sections 13(a), 13(b)(2)(A) and (B), and/or 13(b)(5) of the Exchange Act, respectively).

⁵⁶ A.A.E.R. No. 1543 (April 22, 2002).

⁵⁷ For purposes of this Report, this category excludes the failure to disclose related party transactions, which is counted separately.

The following chart summarizes the principal other improper accounting practices used by issuers involved in Commission enforcement matters during the Study period.

Improper Accounting Practice	Number of Enforcement Matters Involving Each Practice
Inadequate Disclosures in MD&A and Elsewhere	43
Failure to Disclose Related Party Transactions	23
Improper Accounting for Non-monetary and Roundtrip Transactions	19
Improper Accounting for Foreign Payments in Violation of the FCPA	6
Improper Use of Off-Balance Sheet Arrangements	3 ⁵⁸
Improper Use of Non-GAAP Financial Measures	2

2. Discussion of Representative Cases and Description of Issues

a. Inadequate Disclosures in Management Discussion and Analysis (“MD&A”) and Elsewhere in Issuer Filings

The securities laws require issuers to include an MD&A section in their filings. The MD&A section discusses the issuer’s financial condition and results of operations to enhance investor understanding of financial statements.⁵⁹ Inadequate disclosure matters may involve situations where the issuer’s financial statements are in conformity with GAAP, but fail in some material way to present an accurate picture of the issuer’s financial condition. The Study found that 43 enforcement matters involved inadequate financial disclosure in the MD&A. Of these, 20 issuers restated their financial statements or elsewhere in the issuer’s filings.

Case Highlights

- ***Edison Schools Inc.*** – The Commission alleged that a private manager of elementary and secondary public schools failed to disclose significant information regarding its business operations. The Commission alleged that Edison failed to disclose that a substantial portion of its reported revenues consisted of payments that never reached Edison. These funds

⁵⁸ While the number of cases may appear to be insignificant, the improper use of off-balance sheet arrangements has been present in some of the recent very large restatements. For example, the Dynegy Inc. and Enron Corporation matters did not fall within the Study period, but involved these issues. These enforcement matters are discussed *infra*, but are not counted in the Study.

⁵⁹ Item 7 of Form 10-K of the Exchange Act requires reporting issuers to include the items required in Item 303, Management’s Discussion and Analysis of Financial Condition and Results of Operations, of Regulation S-K.

were instead expended by school districts (Edison's clients) to pay teacher salaries and other costs of operating schools that were managed by Edison. The Commission did not find that Edison's revenue recognition practices contravened GAAP or that earnings were misstated. However, the Commission nonetheless found that Edison committed violations by failing to provide accurate disclosure, thus showing that technical compliance with GAAP in the financial statements will not insulate an issuer from enforcement action.⁶⁰

b. Failure to Disclose Related Party Transactions

Under the securities laws and GAAP, companies must disclose related party transactions. Additionally, transactions with board members, certain officers, relatives, or beneficial owners holding 5% or more of a company's voting securities that exceed \$60,000 must be disclosed in the management section of the annual report.⁶¹

Failure to disclose related party transactions hides material information from shareholders and may be an indicator of weaknesses in internal control and corporate governance procedures. The Study found 23 enforcement matters included the failure to disclose such transactions. Of these, 12 issuers restated their financial statements.

Case Highlights

- ***Adelphia Communications Corporation ("Adelphia")*** – The Commission alleged that Adelphia engaged in numerous undisclosed related party transactions with board members, executive officers and entities they controlled. These transactions resulted in the channeling of company funds and stock into entities controlled by senior management, the payment for timber rights that reverted to senior management, the construction of a golf course on land owned or controlled by senior management, and the payment of personal loans. The Commission alleged that Adelphia failed to disclose the existence of these transactions or misrepresented their terms in its financial statements. Over \$300 million of company funds were diverted to senior management without adequate disclosure to investors.⁶² As of the date of this Report, Adelphia has not filed a restatement relating to this matter. On June 25, 2002, the company and certain of its subsidiaries filed for bankruptcy.

⁶⁰ A.A.E.R. No. 1555 (May 14, 2002).

⁶¹ Item 404 of Regulation S-K, Rule 4-08(k) of Regulation S-X, and GAAP, including FAS 57, require issuers to disclose to their investors related party transactions, including a description of the nature of the relationship, a description of the transaction for each of the relevant periods, the dollar amount of the transaction for each period, and the amount due to/from a related party as of the date of each balance sheet. FAS 57 recognizes that "[t]ransactions involving related parties cannot be presumed to be carried out on an arm's length basis, as the requisite conditions of competitive, free-market dealings may not exist."

⁶² A.A.E.R. No. 1599 (July 24, 2002).

- ***Rite Aid Corporation*** – The Commission alleged, among other things, that the CEO sought to enrich himself at the expense of shareholders by failing to disclose both his personal interest in leased property for Rite Aid store locations and several transactions where he funneled \$2.6 million from Rite Aid to a partnership that he and a relative controlled.⁶³ On three separate occasions during 1999 and 2000, Rite Aid filed amended financial statements relating to this matter.

c. Inappropriate Accounting for Non-monetary and Roundtrip Transactions

Most business transactions involve exchanges of cash or other monetary assets or incurrence of liabilities for goods or services. The amount of monetary assets exchanged or liabilities incurred generally provides an objective basis for measuring the cost of non-monetary assets or services received by an enterprise as well as for measuring gain or loss on non-monetary assets transferred from an enterprise. Exchanges that involve little or no monetary assets or liabilities are referred to as non-monetary transactions. In general, under GAAP, accounting for non-monetary transactions should be based on the fair values of the assets (or services) involved, which is the same basis as that used in monetary transactions.

Additionally, the Commission has brought enforcement actions recently against issuers who engaged in improper accounting through the use of “roundtrip transactions.” These transactions involve simultaneous pre-arranged sales transactions often of the same product in order to create a false impression of business activity and revenue. The Study found 19 enforcement matters involving the improper accounting for non-monetary and/or roundtrip transactions.

Case Highlights

- ***Critical Path, Inc.*** – The Commission found that Critical Path improperly reported as revenue several transactions, the largest of which was a barter transaction. In this transaction, a software company agreed to buy out a periodic royalty obligation for \$2.8 million and buy another \$240,000 of software, in exchange for Critical Path's agreement to buy approximately \$4 million of software and services from the software company. The Commission alleged that Critical Path recorded a \$3.09 million sale to the software company improperly as revenue for the third quarter. The company failed to establish the fair value of either the software it received from, or the software it sent to, the software company. Furthermore, the Commission found that Critical Path did not ensure that the value ascribed to the software Critical Path was receiving reasonably reflected its expected use of the software, as required under GAAP.⁶⁴ On April 5,

⁶³ A.A.E.R. No. 1579 (June 21, 2002).

⁶⁴ A.A.E.R. No. 1503 (February 5, 2002).

2001, Critical Path restated its financial results for the third quarter of 2000.

- ***Unify Corporation*** – The Commission alleged that Unify fraudulently recognized revenue on transactions that it knew involved barter transactions. Under GAAP, it was improper for Unify to recognize revenue on barter transactions because Unify’s revenue was contingent on Unify’s performance of its obligation to the customer. The Commission alleged that, in several instances, Unify’s CEO and CFO engaged in “roundtripping,” by causing Unify to provide funds its customers needed to buy Unify products, with no reasonable expectation that the customers would ever repay the funds. In some instances, Unify allegedly made an investment in another company, which then used most or all of the invested funds to purchase Unify products. In others, Unify contracted for services from other companies through so called Funded Development Agreements. However, the companies provided no such services, and simply used funds from Unify to buy Unify products. As a result of this conduct, Unify overstated its revenue over four fiscal quarters in amounts ranging from 61% to 150% per quarter.⁶⁵ Unify filed various amendments during December 2000 and the first half of 2001 to restate its financial statements relating to this matter.
- ***Quintus Corporation*** – The Commission alleged that the CEO of Quintus, among other things, caused Quintus to improperly recognize \$3 million in revenue on a barter transaction, which was contingent on Quintus’ agreement to purchase \$4 million of products from its customer.⁶⁶ Quintus announced that it would restate its financial statements for the fiscal year ended March 31, 2000 and for the three-month periods ended December 31, 1999 and June 30, 2000. However, the Company has not yet filed any amendments with the Commission. On February 21, 2001, Quintus and certain of its subsidiaries filed for bankruptcy.
- ***Homestore.com Inc. (“Homestore”)*** – The Commission charged three former executives of Homestore with arranging fraudulent roundtrip transactions for the sole purpose of artificially inflating Homestore’s revenues in order to exceed Wall Street analysts’ expectations. The essence of these transactions was a circular flow of money by which Homestore recognized its own cash as revenue. Specifically, the Commission alleged that Homestore paid inflated sums to various vendors for services or products; in turn, the vendors used these funds to buy advertising from two media companies. The media companies then bought advertising from Homestore either on their own behalf or as agents for other advertisers. Homestore recorded the funds it received from the media companies as revenue in its financial statements, in violation of

⁶⁵ Lit. Rel. No. 17522 (May 20, 2002).

⁶⁶ A.A.E.R. 1560 (May 20, 2002).

applicable accounting principles.⁶⁷ In March 2002, Homestore filed amended financial statements for the fiscal year ended December 31, 2000 and for the three quarters ended September 30, 2001.

d. **Improper Accounting for Foreign Payments in Violation of the FCPA**

The FCPA was passed in 1977 to combat corrupt business practices such as bribery. The Commission includes FCPA enforcement matters as issuer reporting cases because they frequently involve the improper accounting by issuers for payments to foreign government officials. Of the six enforcement matters involving improper accounting for foreign payments, one issuer restated its financial statements.

Case Highlights

- ***BellSouth Corporation*** – The Commission alleged that BellSouth violated the FCPA by authorizing payments to local officials through their subsidiaries in Venezuela and Nicaragua. Senior management at BellSouth’s Venezuelan subsidiary allegedly authorized over \$10 million in payments to six offshore companies, which were improperly recorded as bona fide services. In addition, the Commission alleged that management at the Nicaraguan subsidiary authorized payments, recorded as “consulting services,” to a wife of a Nicaraguan legislator, who presided over a hearing that allowed BellSouth to increase its ownership interest in its Nicaraguan subsidiary.⁶⁸ BellSouth did not file amended financial statements relating to this issue.
- ***International Business Machines Corporation (“IBM”)*** – The Commission alleged that IBM had a \$250 million contract to integrate and modernize the computer system of a commercial bank owned by the Argentine government. IBM-Argentina allegedly entered into a subcontract with an Argentine corporation for \$22 million, which funneled approximately \$4.5 million of these funds to several directors of the government owned commercial bank. IBM recorded the expenses as third-party subcontractor expenses. IBM-Argentina’s former senior management overrode IBM’s procurement and contracting procedures and hid the details from financial personnel. Management provided the procurement department with fabricated documentation and stated inaccurate and incomplete reasons for hiring the Argentine corporation.⁶⁹ IBM did not file amended financial statements relating to this issue.

⁶⁷ A.A.E.R. 1636 (September 25, 2002). This case was not included in the statistics contained in this Report.

⁶⁸ A.A.E.R. No. 1494 (Jan. 15, 2002).

⁶⁹ A.A.E.R. No. 1355 (Dec. 21, 2000).

e. **Improper Use of Non-GAAP Financial Measures**

When improperly used, non-GAAP financial measures that include or exclude unusual expenses or gains may provide a misleading financial picture. The Commission has recently issued a cautionary release on non-GAAP financial measures, has brought two antifraud enforcement actions in this area, and has proposed rule-making pursuant to the Sarbanes-Oxley Act.⁷⁰ Of the two enforcement matters involving improper use of non-GAAP financial measures, one issuer restated its financial statements or disclosures.

Case Highlights

- ***Trump Hotels and Casino Resorts, Inc.*** – The Commission alleged that Trump Hotels issued a press release announcing positive results for its third quarter earnings using a pro-forma net income figure that differed from net income calculated in conformity with GAAP. Although the release expressly stated the results excluded a one-time charge, it failed to disclose the inclusion of a one-time gain of \$17.2 million. The release created a misleading impression that the company had exceeded earnings expectations when actual net earnings were lower than the same quarter for the previous year and the company had in fact failed to meet analysts' expectations.⁷¹ On November 4, 1999, Trump Hotels filed its quarterly report on Form 10-Q, which disclosed the existence and amount of the one-time gain in a footnote to the financial statements.
- ***Ashford.com, Inc. ("Ashford")*** – The Commission alleged that Ashford misstated its pro-forma results by improperly deferring \$1.5 million in expenses under a contract with Amazon.com. The Commission also alleged that Ashford.com incorrectly classified certain marketing expenses as depreciation and amortization expenses which materially understated the company's true marketing expenses. Moreover, because Ashford allegedly excluded depreciation and amortization from its non-GAAP financial results, Ashford's expense misclassification improved its non-GAAP financial results.⁷² In its Form 10-K for the fiscal year ended March 30, 2001, Ashford re-classified the expenses in question.

f. **Improper Use of Off-Balance Sheet Arrangements**

Off-balance sheet arrangements often are used to provide financing, liquidity, market or credit risk support or to engage in leasing, hedging or research and development services. A common use of off-balance sheet arrangements is to allocate risks among third parties. Off-balance sheet arrangements may involve the use of

⁷⁰ See Cautionary Advice Regarding Use of Pro Forma Financial Information in Earnings Releases, Rel. Nos. 33-8039, 34-45124 (Dec. 4, 2001); Proposed Rule: Conditions for Use of Non-GAAP Financial Measures, Rel. Nos. 33-8145; 34-46768 (Nov. 5, 2002).

⁷¹ A.A.E.R. No. 1499 (Jan. 16, 2002).

⁷² A.A.E.R. No. 1573 (June 10, 2002).

complex structures, including structured finance or special purpose entities (“SPEs”), to facilitate a company's transfer of, or access to, assets. In many cases, the transferor of assets has some contingent liability or continuing involvement with the transferred assets. Depending on the nature of the obligations and the related accounting treatment under GAAP, the company's financial statements may not fully reflect the company's obligations with respect to the SPE or its arrangements. Transactions with SPEs commonly are structured so that the company that establishes or sponsors the SPE and engages in transactions with it is not required to consolidate the SPE into its financial statements under GAAP.⁷³

Of the three enforcement matters involving improper use of off-balance sheet arrangements during the Study period, one issuer restated its financial statements.⁷⁴

Case Highlights

- ***The PNC Financial Services Group, Inc.*** – This case was the Commission's first enforcement action resulting from a company's accounting for and disclosure of off-balance sheet arrangements involving SPEs in its Commission filings and press releases. The Commission found that, in violation of GAAP, PNC transferred from its financial statements approximately \$762 million of volatile, troubled or under-performing loans and venture capital assets to three SPEs created by a third-party financial institution in the second, third, and fourth quarters of 2001, which resulted in material overstatements of PNC's earnings, among other things. The Order stated that PNC should have consolidated these SPEs into its financial statements because it retained the risks and rewards of ownership. Significantly, the Order stated that even if the transactions complied with GAAP, the issuer is required to evaluate the material accuracy and completeness of the presentation made by the financial statements.⁷⁵ On or about March 29, 2002, the company filed amended financial statements covering the period April 1, 2001 through September 30, 2001.
- ***Adelphia Communications Corporation (“Adelphia”)*** – The Commission alleged that Adelphia failed to record over \$2.3 billion in bank debt by deliberately shifting those liabilities onto the books of Adelphia's off-balance sheet, unconsolidated affiliates. Adelphia's senior management disguised the liabilities by creating sham transactions backed by fictitious documents that gave the false appearance that Adelphia had actually repaid debts.⁷⁶ As of the date of this Report, Adelphia has not filed a

⁷³ See Proposed Rule: Disclosure in Management's Discussion and Analysis About Off-Balance Sheet Arrangements, Contractual Obligations and Contingent Liabilities and Commitments, RELEASE NOS. 33-8144; 34-46767 (Nov. 4, 2002). (This Rule is scheduled to be adopted on January 22, 2003).

⁷⁴ The Enron and Dynegy matters, discussed below, fell outside the Study period but are worth highlighting. These cases, however, are not included in the statistics contained in this Report.

⁷⁵ A.A.E.R. No. 1597 (July 18, 2002).

⁷⁶ A.A.E.R. No. 1599 (July 24, 2002).

restatement relating to this matter. On June 25, 2002, the company and certain of its subsidiaries filed for bankruptcy.

- ***Enron Corporation*** – The Commission has charged two former senior-ranking Enron officials with fraud arising from their improper use of SPEs in off-balance sheet arrangements. The Commission alleged that the company's former CFO and another high-ranking Enron official engaged in a complex scheme to create an appearance that certain entities that they funded and controlled were independent of the company, allowing the company to incorrectly move its interest in these companies off its balance sheet. The Commission alleged that these entities were designed to improve the company's financial results, and to misappropriate millions of dollars representing undisclosed fees and other illegal profits.⁷⁷ In its November 8, 2001 Form 8-K filing, Enron announced its intention to restate previously issued financial statements dating back to 1997. On December 2, 2001, Enron filed for Chapter 11 bankruptcy protection. To date, Enron has not filed restated financial statements.
- ***Dynegy Inc.*** – The Commission alleged that Dynegy, an energy production, distribution and trading company, mislead investors by improperly accounting for a \$300 million financing involving an SPE. Dynegy created the SPE in order to minimize the gap between its reported net income and operating cash flow, and to receive a tax benefit. Instead of accounting for the transaction as a loan, the company reported it as operating cash flow on its 2001 financial statements, which resulted in the overstatement of operating cash flow and understatement of cash flow from financing activity.⁷⁸ On April 25, 2002, Dynegy announced that it would restate its 2001 statement of cash flows. On November 15, 2002, the company filed unaudited financial statements to correct certain items in its 1999, 2000, and 2001 financial statements concerning the above transaction. The company has not filed audited restatements as of the date of this Report.

3. Analysis and Conclusions

The conduct described in this area includes newer and more complex schemes to manipulate issuer financial statements. Some of the most publicized recent enforcement actions, such as Enron and WorldCom, involved the use of these practices. Congress's concern about this more recent conduct is evidenced by the Sarbanes-Oxley Act's specific focus on it. The Commission is already engaging in rulemaking in some of these areas, such as off-balance sheet arrangements and non-GAAP financial measures.

⁷⁷ A.A.E.R. No. 1640 (Oct. 2, 2002). This case was not included in the statistics contained in this Report.

⁷⁸ A.A.E.R. No. 1632 (Sept. 25, 2002). This case was not included in the statistics contained in this Report.

V. Results of the Study – Persons Involved in Financial Reporting Violations

A. Overview of Findings

This portion of the Study focuses on the individuals involved in the financial reporting violations at the issuers. Of the 227 enforcement matters during the period of the Study, the Commission brought a total of 515 actions involving 705 individuals. The Study found that 157 of the 227 enforcement matters involved charges against at least one senior manager. The majority of these senior managers were charged with violating the antifraud provisions of the federal securities laws. The remainder of the charges against senior management were based on aiding and abetting or causing violations of the reporting, books and records and internal control provisions of the federal securities laws.

Position of Individuals Charged	Number of Individuals Charged	Number of Individuals Charged with Fraud
Chairmen	75	63
CEOs	111	99
Presidents	111	96
CFOs	105	79
COOs	21	19
CAOs	16	14
VP's of Finance	27	19
General Counsel	11	8
Controllers	47	28

In order to address the improper conduct by senior management, the Commission has invoked its authority to seek officer-and-director bars pursuant to Section 21(d)(2) of the Exchange Act. Over the course of the last five fiscal years, the Commission's invocation of this authority has steadily increased. The Commission sought 36 officer-and-director bars in 1998, 44 in 1999, 38 in 2000, 51 in 2001, and 126 in 2002, totaling 295.⁷⁹

Fiscal Year	Number of Officer-and-Director Bars Sought
1998	36
1999	44
2000	38
2001	51
2002	126

⁷⁹ These numbers are broken down by the Commission's fiscal year, which begins on October 1 and ends on September 30.

B. The Individuals Charged

Although the vast majority of cases the Commission has brought stemmed from conduct by top-level executives, the financial reporting violations have involved numerous individuals at all levels both inside and outside of the issuer. Some of the violative conduct involved customers and shareholders of issuers and some involved the outside auditors, which will be discussed in the next section. The individuals associated with issuers were charged with accounting violations relating to a variety of conduct ranging from the most egregious misappropriation of corporate assets/funds to financial misstatements arising from poor management and loose controls.

This section outlines a few key cases that highlight the roles played by individuals in various levels of authority, both inside and outside of issuers, who were involved in accounting schemes.

1. Senior Management

Many cases involved schemes by senior management to create the appearance that the company would meet analysts' expectations or to artificially increase the value of the company's stock.

Case highlights

- ***Enron Corporation*** – The Commission has charged two former senior ranking Enron officials with fraud in one of the largest accounting scandals in history. The Commission alleged that the company's former CFO and another high-ranking Enron official engaged in a complex scheme to create an appearance that certain entities that they funded and controlled were independent of the company, allowing the company to incorrectly move its interest in these companies off its balance sheet. The Commission alleged that these transactions were designed to improve the company's financial results, and to misappropriate millions of dollars representing undisclosed fees and other illegal profits.⁸⁰ In its November 8, 2001 Form 8-K filing, Enron announced its intention to restate previously issued financial statements dating back to 1997. On December 2, 2001, Enron filed for Chapter 11 bankruptcy protection. To date, Enron has not filed restated financial statements.
- ***Sunbeam Corporation*** – The Commission filed actions against five former officers (the CEO and Chairman, principal financial officer, Controller, and two vice-presidents) of the company alleging that they engaged in a scheme to fraudulently misrepresent the company's results of operations in connection with a purported "turnaround" of the company. The Commission alleged that the company's Principal Accounting Officer and Controller created inappropriate accounting reserves, known as

⁸⁰ A.A.E.R. No. 1640 (Oct. 2, 2002). This case was not included in the statistics contained in this Report.

“cookie-jar” reserves, to increase the company’s reported loss for 1996 and inflate income in 1997, thus contributing to the false picture of a rapid turnaround. In 1998, the officers took increasingly desperate measures to conceal the company’s mounting financial problems by, among other things, deleting certain corporate records to conceal pending returns of merchandise.⁸¹ On or about November 12, 1998, the company filed amended financial statements covering the period October 1, 1996 through March 31, 1998.

- ***Waste Management, Inc.*** – The Commission alleged that the company’s top officers, including the former Chairman and CEO, President and COO, Executive Vice President and CFO, Vice President, Corporate Controller and CAO, Senior Vice President, General Counsel and Secretary, and VP of Finance, fraudulently manipulated the company’s financial results to meet predetermined earnings targets. The Commission’s complaint alleged that because the company’s revenues and profits were not growing quickly enough to meet targets, these senior officers improperly resorted to eliminating or deferring current period expenses to inflate earnings, using a multitude of improper accounting practices to achieve their objectives.⁸² On or about March 31, 1998, the company filed amended financial statements covering the period January 1, 1992 through September 30, 1997.

Several cases against senior management involved accounting fraud (often accompanied by failure to disclose related party transactions) stemming from the siphoning off of company funds for the executives’ own personal use.

Case highlights

- ***Adelphia Communications Corporation (“Adelphia”)*** – The Commission sued the company’s former CEO and Chairman and his sons alleging, among other things, that they made fraudulent statements and omissions in order to cover up the family’s secret and extensive personal use of Adelphia funds to purchase luxury homes in Colorado, Mexico and New York City, build a golf course, purchase timber rights to land in Pennsylvania, buy stock and pay off margin calls.⁸³ As of the date of this Report, Adelphia has not filed a restatement relating to this matter. On June 25, 2002, the company and certain of its subsidiaries filed for bankruptcy.
- ***Tyco International Ltd.*** – The Commission alleged that three top executives – the CEO, CFO, and Chief Legal Officer – failed to disclose to shareholders the multi-million dollar loans from the company that they

⁸¹ A.A.E.R. No. 1395 (May 15, 2001).

⁸² A.A.E.R. No. 1532 (March 26, 2002); A.A.E.R. No. 1410 (June 19, 2001).

⁸³ A.A.E.R. No. 1599 (July 24, 2002).

used for personal business ventures and investments, and to purchase yachts, fine art, estate jewelry, luxury apartments and vacation estates. These senior officials also allegedly failed to disclose benefits such as a rent-free \$31 million Fifth Avenue apartment, the personal use of corporate jets, and making charitable contributions in their personal capacity.⁸⁴ On December 31, 2002, Tyco filed amended financial statements and disclosures covering the period October 1, 2000 through June 30, 2002. On December 31, 2002, Tyco filed amended financial statements and disclosures covering the period October 1, 2000 through June 30, 2002.

- ***Rite Aid Corporation*** – The Commission alleged that the former CEO, CFO and Vice Chairman engaged in a scheme to overstate income by massive amounts. In addition, the Commission alleged that the CEO sought to enrich himself at the expense of failing to disclose both his personal interest in leased property for Rite Aid store locations and several transactions where he funneled \$2.6 million from Rite Aid to a partnership that he and a relative controlled. The Commission's complaint also charged that he fabricated minutes for a Finance Committee meeting that never occurred in connection with a corporate loan transaction.⁸⁵ On three separate occasions during 1999 and 2000, Rite Aid filed amended financial statements relating to this matter.

2. Mid-Level Management

The Study found that the Commission brought actions against 83 mid-level management employees, such as corporate controllers and division and subsidiary level officers and controllers. Many of these employees participated in fraudulent schemes at the direction of senior management. Occasionally, the Commission has sued employees for independent conduct that has resulted in the misstatement of issuer financial statements.

Case highlights

- ***WorldCom, Inc.*** – The Commission alleged that two accountants who worked in the company's General Accounting Department, along with their supervisors, participated in a fraudulent scheme directed and approved by WorldCom's senior management. The Commission alleged that these individuals made or caused to be made entries in WorldCom's books, which improperly decreased certain reserves to reduce line costs, causing the overstatement of pre-tax earnings by \$828 million and at least \$407 million in two consecutive quarters. The Commission also alleged that these individuals made and caused to be made entries in WorldCom's

⁸⁴ A.A.E.R. No. 1627 (Sept. 12, 2002). This case was not included in the statistics contained in this Report.

⁸⁵ A.A.E.R. No. 1579 (June 21, 2002).

books, which improperly capitalized certain line costs for five quarters, resulting in an overstatement of WorldCom's pretax earnings by approximately \$3.8 billion.⁸⁶ While the company has announced its intention to restate its financial statements, no such restatement has been filed with the Commission as of the date of this Report.

- ***Aurora Foods Inc.*** – The Commission alleged that principal financial officers of two divisions of the company, at the direction of its senior management, engaged in a scheme to under-report trade marketing expense. These individuals moved large portions of trade promotion expenses to accounts receivable, thus concealing them from the auditors.⁸⁷ On or about April 14, 2000, the company filed amended financial statements covering the period April 1, 1998 through June 30, 1999.
- ***Seaboard Corporation*** – The Commission found that the Controller of a division of the company booked improper entries in that division's books and records over several years that overstated the deferred farming cost asset and understated farming expense. After discovering that the entries were improper, she deliberately undertook to conceal the errors through other improper entries and adjustments.⁸⁸ On or about August 28, 2000, the company filed amended financial statements covering the period January 1, 1997 through March 31, 2000.

3. Counsel

The Commission has charged 14 attorneys (11 General Counsel and three outside counsel) for participating in financial reporting violations.

Case highlights

- ***FLIR Systems, Inc.*** – The Commission brought a settled action suspending an attorney from practicing before the Commission based on willful violations of the securities law. The Commission found that, in connection with FLIR's scheme to overstate earnings, the General Counsel signed two management representation letters to the company's outside auditors. Among other things, these letters failed to disclose the conditional nature of the transactions and of his personal involvement in the negotiations. The General Counsel had been involved in the negotiations in the transactions and knew that the buyer had no obligation to purchase the product.⁸⁹ FLIR restated its 1998 and 1999 financial statements three times in 2000 and 2001 to correct these misstatements.

⁸⁶ A.A.E.R. No. 1585 (June 27, 2002); A.A.E.R. No. 1658 (November 5, 2002).

⁸⁷ A.A.E.R. No. 1362 (Jan. 24, 2001).

⁸⁸ A.A.E.R. No. 1471 (Oct. 23, 2001).

⁸⁹ A.A.E.R. No. 1670 (November 21, 2002). This matter fell outside the Study period but is worth highlighting. This case, however, is not included in the statistics contained in this Report.

- ***Livent Inc.*** – The Commission alleged that Livent’s General Counsel, along with its senior management, orchestrated and implemented a fraudulent scheme to, among other things, inflate revenues reported by the company in financial statements filed with the Commission. In furtherance of this scheme, the counsel drafted and finalized a number of agreements, and actively dealt with the legal representatives of the counter parties in the negotiation and finalization of these agreements. The Commission also alleged that counsel and company officers concealed the agreements from the company's auditors in order to improperly record revenue from the transactions and inflate the company's revenues.⁹⁰ On or about November 18, 1998, the company filed amended financial statements covering the period January 1, 1996 through March 31, 1998.
- ***Sunbeam Corporation*** – The Commission filed a settled administrative action against the former General Counsel of Sunbeam, based on his participation in drafting of certain press releases in connection with the company’s fraudulent misrepresentations of its purported “turnaround.”⁹¹ On or about November 12, 1998, the company filed amended financial statements covering the period October 1, 1996 through March 31, 1998.
- ***Latin American Resources, Inc.*** – The Commission filed an action alleging that the company’s outside counsel falsified documents and caused others to omit or state material facts to the company’s accountant in connection with the company’s financial statements which allegedly made false claims that the company owned Brazilian agricultural plantations comprising 95% of its company’s assets.⁹² Latin American Resources did not file amended financial statements relating to this issue.

4. Customers

The Commission has charged eleven individuals employed or otherwise related to customers of issuers and two customers (entities) for participating in fraudulent accounting schemes. The Study found that these customers were most frequently involved in fictitious sales transactions or side letters designed to falsify revenue.

Case highlights

- ***Manhattan Bagel, Inc.*** – In addition to charging the President and Chairman of the company’s subsidiary, the Commission sued three employees of customers of the company’s subsidiary. The Commission alleged that the customers’ employees aided and abetted a fraudulent scheme designed to inflate the company’s net income by falsely

⁹⁰ A.A.E.R. No. 1153 (Aug. 12, 1999).

⁹¹ A.A.E.R. No. 1394 (May 15, 2001).

⁹² Lit. Rel. No. 15802 (July 8, 1998).

confirming to the company's auditors that their employers had made significant purchases, when, in fact, the purchases had never been made.⁹³ On or about September 30, 1996, the company filed amended financial statements covering the period January 1, 1996 through March 31, 1996.

- ***Aura Systems, Inc.*** – In addition to charging the issuer, a wholly owned subsidiary and several former officers, the Commission issued a settled cease-and-desist order against individuals from one of the company's customers for making circular wire transfers that allowed the company to record "payments" from fictitious sales.⁹⁴ Aura did not restate its financial statements relating to this issue.

VI. Results of the Study - The Role of the Auditors

A. Overview of Findings

In reviewing and analyzing enforcement actions involving violations of reporting requirements imposed under the federal securities laws, the Study examined the role of the independent auditor. During the Study period, auditors were charged in administrative or federal injunctive actions in 57 of the 227 enforcement matters. A total of 89 individuals were charged in those 57 enforcement matters; in 18 of the 57 enforcement matters, the auditing firm was charged.

B. The Charges in Cases against Auditors

The Study found that 24 individual auditors were charged with fraud pursuant to Section 10(b) of the Exchange Act for participating in the reporting violations of their clients. However, in only one instance was a firm charged with fraud under Section 10(b) of the Exchange Act.

Case highlight

- ***Waste Management, Inc./Arthur Andersen*** – The Commission charged Andersen with fraud when it failed to pursue diligently evidence suggesting irregularities in Waste Management's financial statements, ignored numerous red flags, failed to exercise due professional care and failed to conduct appropriate audit procedures. Waste Management had capped Andersen's corporate audit fees, but allowed the firm to earn additional fees for other services.⁹⁵ On or about March 31, 1998, the company filed amended financial statements covering the period January 1, 1992 through September 30, 1997.

⁹³ A.A.E.R. No. 1396 (May 15, 2001).

⁹⁴ A.A.E.R. No. 1571 (June 7, 2002); A.A.E.R. No. 1575 (June 11, 2002).

⁹⁵ A.A.E.R. No. 1405 (June 19, 2001); A.A.E.R. No. 1410 (June 19, 2001).

When audit firms were charged, they were more frequently charged with improper professional conduct in an administrative proceeding under Rule 102(e) of the Commission's Rules of Practice and/or with aiding and abetting violations of the periodic reporting requirements of Section 13(a) of the Exchange Act. Likewise, in several instances, individual auditors were also charged with aiding and abetting violations of Section 13(a).

Charges Brought Against Individual Auditors and Auditing Firms

Charges	Individuals	Firms
Fraud (Section 10(b) of the Exchange Act)	24	1
Violation of periodic reporting requirements (Section 13(a) of the Exchange Act)	22	6
Improper professional conduct (Rule 102(e))	71	16

C. The Audit Failures

These cases against auditors arose principally where the auditors failed to: (1) exercise professional skepticism on unusual, last minute, or related party transactions; or (2) obtain sufficient, competent evidential matter to support their opinion on the financial statements. The following chart represents the frequency with which specific audit failures arose in cases against auditors.

Frequency of Audit Issues in Enforcement Matters Against Auditors

Audit Failure	Number of Enforcement Matters
Failure to obtain sufficient, competent evidential matter to support audit opinion	37
Failure to exercise professional skepticism on unusual, last minute, or related party transactions	30
Failure to maintain independence	19
Failure to respond adequately to red flags	16
Failure to communicate adequately with predecessor auditor	6
Failure to supervise assistants	4
Failure to respond adequately to internal controls deficiencies	3
Failure to perform appropriate inventory observations	2
Failure to confirm account receivables sufficiently	2

D. Size of Audit Firms Where Audit Failures Occurred

The enforcement matters involving actions against auditors were not limited to the smaller firms. Of the 57 enforcement matters involving actions against auditors, 16 involved one of the five largest public accounting firms (the "Big Five")⁹⁶ or an individual associated with a Big Five firm and 41 involved smaller firms. Moreover, reporting violations by issuers were at least as likely to occur when the issuer was audited by a Big Five firm as when it was audited by a smaller firm. In 140 of the 227 enforcement matters studied, the issuer was audited by a Big Five firm.

E. Discussion of Representative Cases

- ***Sunbeam Corporation/Arthur Andersen*** – The Commission charged an Andersen engagement partner with aiding and abetting the issuer's fraud, among other violations, because he issued an audit report containing an unqualified opinion despite being aware of many of the company's accounting improprieties and disclosure failures.⁹⁷ On or about November 12, 1998, the company filed amended financial statements covering the period October 1, 1996 through March 31, 1998.
- ***Ponder Industries, Inc.*** – The Commission charged an engagement partner from a small auditing firm with improper professional conduct for failing to exercise due professional care when he failed to obtain sufficient competent evidential matter to support management representations related to the terms of the issuer's contracts.⁹⁸ Ponder Industries did not file amended financial statements relating to this matter.
- ***Dynamic American Corporation*** – The Commission charged an engagement partner from a small auditing firm with improper professional conduct for failing to obtain appropriate knowledge about the issuer's business, failing to respond to information suggesting that the issuer's assets were overvalued, and failing to verify management's representations.⁹⁹ Dynamic American did not file amended financial statements relating to this matter.
- ***California Software Corporation*** – The Commission charged an engagement partner from a small auditing firm with fraud for failing to obtain written representation letters from management, failing to obtain

⁹⁶ The Big Five firms in existence during the Study period included Arthur Andersen LLP, Deloitte & Touche LLP, Ernst & Young LLP, KPMG LLP, and PricewaterhouseCoopers LLP. PricewaterhouseCoopers LLP was formed through the merger of Price Waterhouse LLP and Coopers & Lybrand LLP, and, therefore, for purposes of this Study, issuers audited by the two predecessor firms are considered to have been audited by a Big Five firm. Arthur Andersen LLP disbanded after the Study period.

⁹⁷ A.A.E.R. No. 1395 (May 15, 2001).

⁹⁸ A.A.E.R. No. 955 (Sept. 10, 1997).

⁹⁹ A.A.E.R. No. 1149 (Aug. 2, 1999).

sufficient competent evidential matter to support accounting entries, and failing to prepare audit programs or conduct audit risk assessments.¹⁰⁰ On or about October 1, 2000, the company filed amended financial statements covering the period January 1, 1999 through March 31, 2000.

The following cases are examples of some of the most egregious auditor independence cases, which involved an auditor having a direct financial interest in the performance of the issuer.

- ***Vista 2000, Inc.*** – The Commission charged an engagement partner that owned stock in the issuer with fraud for relying upon oral representations of management and otherwise conducting insufficient audit procedures.¹⁰¹ On or about June 6, 1996, the company filed amended financial statements for the period October 1, 1993 through September 30, 1995.
- ***Visual Cybernetics Corp.*** – The Commission charged engagement partners who were soliciting and selling shares of the issuer’s stock to their own clients with aiding and abetting violations of the issuer’s periodic reporting requirements.¹⁰² Visual Cybernetics filed for bankruptcy on November 13, 1995. The company did not restate its financial statements relating to this issue.

F. Analysis and Conclusions

The Study found that the audit failures most often arose from auditors accepting management representations without verification, truncating analytical and substantive procedures, and failing to gain sufficient evidence to support the numbers in the financial statements. Of the 57 enforcement matters involving audit failure, 37 involved the failure to obtain sufficient, competent evidential matter to support the audit opinion and 30 involved the failure to exercise professional skepticism. Only four of the 57 enforcement matters involved inadequate supervision.

G. Provisions of the Sarbanes-Oxley Act Applying to Auditors

The Sarbanes-Oxley Act provides additional enforcement tools that will substantially help the Commission in regulating auditors. Section 101 establishes the Public Company Accounting Oversight Board (the “Board”) to oversee the audits of public companies that are subject to the securities laws. Section 102 mandates registration with the Board by any public accounting firm that performs or participates in any audit report with respect to any issuer. Section 103 specifies certain standards that must be included in the auditing standards that the Board adopts, including standards on document retention, concurring or second partner review, and testing of internal controls. Section 104 requires the Board to conduct a continuing program of inspections of

¹⁰⁰ A.A.E.R. No. 1488 (Jan. 7, 2002).

¹⁰¹ Lit. Rel. No. 17044 (June 21, 2001).

¹⁰² A.A.E.R. No. 1072 (Sept. 9, 1998); A.A.E.R. No. 1073 (Sept. 9, 1998).

registered public accounting firms, for compliance with the Sarbanes-Oxley Act, the rules of the Board, the rules of the Commission, and professional standards.

Section 106 provides that foreign public accounting firms that prepare or furnish an audit report with respect to any issuer are subject to the Sarbanes-Oxley Act and the Commission's and Board's rules under the Sarbanes-Oxley Act, unless the Commission or Board exempts them, by rule or order, from coverage. The section also contains procedures for the Commission and the Board to obtain foreign audit work papers.

Section 201 specifies eight categories of services that an auditor may not provide to an issuer that is its audit client, contemporaneously with the audit: (1) bookkeeping or other services related to the accounting records or financial statements of the issuer; (2) financial information systems design and implementation; (3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (4) actuarial services; (5) internal audit outsourcing services; (6) management functions or human resources; (7) broker, dealer, investment adviser, or investment banking services; and (8) legal services and expert services unrelated to the audit.

Section 203 mandates lead and coordinating audit partner rotation on a five-year basis. Section 204 requires auditor reports to the issuer's audit committee on, among other things, critical accounting policies and practices to be used. Section 206 prohibits a registered public accounting firm from performing required audit services for an issuer if the issuer's senior management officials had been employed by such a firm and participated in the audit of that issuer during the one-year period preceding the audit.

Section 802 requires auditors to maintain, for a five-year period, all audit or review work papers, and directs the Commission to promulgate rules and regulations regarding the retention of audit and review records.

VII. Proposals Based on the Study

The Sarbanes-Oxley Act included several new provisions to add to the Commission's already broad array of enforcement tools to combat issuer reporting violations. This Report provides a few proposals for additional provisions to enhance the Commission's effectiveness in regulating issuer reporting.

A. Pre-Sarbanes-Oxley Enforcement Tools

The Commission's current regulatory scheme already contains many weapons to combat financial fraud and requires accurate and meaningful financial reporting. Regulations S-X, S-K, S-B and other Commission regulations provide numerous rules for financial statement presentation and disclosure. Moreover, in enforcement actions against wrongdoers, the Commission can seek substantial remedies, including permanent injunctions, cease-and-desist orders, monetary penalties, officer-and-director bars, and suspensions from practicing before the Commission. Finally, the Commission can refer appropriate matters to criminal authorities for prosecution.

B. Provisions of the Sarbanes-Oxley Act

In addition to creating the Board and developing tougher standards for auditors to follow, the Sarbanes-Oxley Act includes a number of provisions that enhance the Commission's power and ability to enforce more effectively the federal securities laws.

Section 302 requires the Commission to write rules providing that CEOs and CFOs of issuers certify in each annual or quarterly report that they have reviewed the report and that, based on their knowledge, "the report does not contain any untrue statement of a material fact" or omit any necessary material facts and the financial statements and information "fairly present in all material respects the financial condition and results of operations" of the company.¹⁰³

Section 303 makes it unlawful for an officer or director of an issuer to fraudulently influence, coerce, manipulate or mislead accountants in the performance of any audit for the purpose of making the issuer's financial statements materially misleading.¹⁰⁴

Section 304 provides that, in the case of an accounting restatement that results from material non-compliance with financial reporting requirements under the securities laws, as a result of misconduct, the CEO and CFO must reimburse the issuer for any bonuses and other incentive-based compensation and profits on stock sales within the past 12 months, unless the Commission authorizes an exemption.

The Sarbanes-Oxley Act expands the scope of the officer-and-director bar by changing the standard and by making it an available remedy in administrative proceedings. Section 305 of the Sarbanes-Oxley Act expands the scope of the officer-and-director bar by changing the standard from "substantial unfitness" to "unfitness." Section 1105 of the Sarbanes-Oxley Act grants the Commission authority to seek officer-and-director bars in cease-and-desist proceedings against individuals who have violated Section 10(b) of the Exchange Act or Section 17(a)(1) of the Securities Act.

Finally, Section 1103 provides that the Commission may, during an investigation of a public company or its officers, directors, or others, seek a temporary order from a federal district court to escrow "extraordinary payments" if it appears likely that the company will make such "extraordinary payments" to an individual. Section 305(b) also allows, in any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission to seek, and a federal court to grant, any equitable relief that may be appropriate or necessary for the benefit of investors.¹⁰⁵

¹⁰³ See Final Rule: Certification of Disclosure in Companies' Quarterly and Annual Reports, Rel. No. 34-8124 (August 29, 2002).

¹⁰⁴ See Proposed Rule: Improper Influence on Conduct of Audits, Rel. No. 34-46685 (Oct. 18, 2002).

¹⁰⁵ The Sarbanes-Oxley Act also provides for increased criminal sanctions for violations of the federal securities laws. Section 802 amends federal criminal law to require auditors to maintain all audit or review work papers for a period of five years, and prohibits knowingly altering, destroying, concealing, or falsifying records with the intent to impede, obstruct or influence certain investigations. Section 906 amends federal criminal law to require issuers' CEOs and CFOs to certify in writing, in each periodic report

C. Proposals

The results of the Study raise issues in three areas: the auditing process; the underlying accounting principles and standards; and the Commission's ability to take effective enforcement actions in cases of fraud. The Sarbanes-Oxley Act has created a mechanism to address any necessary reform of the auditing process through the establishment of the Board. At this point, the Commission is not recommending additional reforms to the accounting and auditing process, choosing instead to focus on the implementation of the provisions of the Sarbanes-Oxley Act, and to support the efforts of the Board to meet its statutory mandate.¹⁰⁶

In preparing this Report, the Commission has determined that there are two areas of issuer disclosure that should be addressed: the uniform reporting of restatements of financial statements, and improved MD&A disclosure. In addition, the Commission's investigation of these financial reporting matters would be greatly enhanced by the enactment of legislation to: (1) allow companies to produce internal reports and other documents pertaining to investigations without waiving any privileges; (2) provide access by Commission staff to grand jury materials; and (3) provide for nationwide service of process for testimony in Commission litigation. These proposals attempt to "fine tune" the existing regulatory framework by strengthening the Commission's power to enforce the federal securities laws.

1. Uniform Reporting of Restatements

At present, there is no single mechanism for an issuer to file its restated financial statements with the Commission. Some restated financial statements are included in amended filings, identified with an "A" at the end (i.e. 10-Q/A). Other issuers simply include restated financial statements in their regular filings, without any other notification that the issuer has restated. The Commission found that many issuers announce their

containing financial statements, that the report fully complies with Section 13(a) and 15(d) of the Exchange Act and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operation of the issuer. The section further provides that any person who certifies any statement required under this provision *knowing* that the periodic report accompanying the statement does not comport with the requirements of this section is subject to fines of up to \$1 million and imprisonment of up to ten years, and that any person who *willfully* certifies any statement required under this provision knowing that the periodic report accompanying the statement does not comport with the requirements of this section is subject to fines of up to \$5 million and imprisonment of up to twenty years.

¹⁰⁶ The Commission notes that the FASB has undertaken many projects, several of which have already been completed, to address some of the accounting standards issues that have been highlighted in the restatements and enforcement actions over the past several years. The Commission staff has encouraged the FASB to initiate many of these efforts, and monitors the projects as they progress. Specifically, the following FASB pronouncements, interpretations, or projects address issues identified in this Report: FASB Statement of Financial Accounting Standards (FAS) 141 – Business Combinations; FAS 142 – Goodwill and Other Intangible Assets; FAS 144 – Accounting for the Impairment or Disposal of Long-Lived Assets; FAS 146 – Accounting for Costs Associated with Exit or Disposal Activities; FASB Interpretation 45 – Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others; FASB Interpretation 46 – Consolidation of Certain Special Purpose Entities; FASB Agenda Project on Revenue Recognition; FASB Agenda Project on Principles-Based Standards; and FASB Agenda Project on Financial Performance Reporting of Business Entities.

intention to restate, either through Forms 8-K or in press releases, but never follow through with the actual filings. As a result of this lack of uniformity, it is difficult for investors to determine whether, and when, the issuer has actually restated its financial statements.

The Commission plans to address this situation through the rulemaking process, proposing two amendments to its forms that would essentially make uniform issuers' public notification of restatement filings. First, the Commission proposes adding a line-item to Form 8-K. The proposed line-item would require the issuer to disclose what was restated and why, and it should include a link to the Form 10-K or 10-Q that contains the restated financial statements. Second, the Commission proposes adding a box to the Form 10-K or 10-Q, which the issuer would check if the filing contains restated financial statements.

2. Issuing an Interpretive Release, or Adopting Revisions to Commission Rules, on Management's Discussion and Analysis of Financial Condition and Results of Operations

Under existing Commission rules, registrants are required to discuss financial condition, changes in financial condition and results of operations, which should include explanations and analysis of the financial statements. However, MD&A enforcement cases have illustrated situations where the accounting used may be technically correct, but it fails in some material way to present fairly financial condition, changes in financial condition and/or results of operations for investors. In other instances, enforcement cases were based on deficiencies in financial statement disclosure, for example, in the area of off-balance sheet items, where MD&A also lacked a discussion of known demands, commitments, events or uncertainties related to those off-balance sheet items. In these situations, disclosure in MD&A is necessary to avoid material omissions and to achieve overall fair presentations.

The information provided to investors could be greatly enhanced by adding a focus in MD&A on key quality financial reporting issues, while eliminating discussions of immaterial detail. On January 22, 2003, the Commission adopted amendments to its rules, as required by the Sarbanes-Oxley Act, to require that registrants provide disclosures that explain their off-balance sheet arrangements in a separately-captioned section of MD&A. In addition, the Commission will continue to consider future rules or guidance to improve overall MD&A disclosure. For example, the Commission currently is evaluating comments received in response to its proposals regarding the application of critical accounting policies. In addition, the Commission is considering rule proposals or interpretive releases regarding improvements in MD&A such as providing an overview about a company's financial situation and information about the trends that a company's management follows and evaluates in making decisions about how to guide the company's business.

3. Production of Internal Reports Without Waiver of Privilege

The Commission recommends amending the Exchange Act to allow parties who choose to produce privileged or protected material to do so without fear that their production to the Commission will be deemed to waive privilege or protection as to anyone else. This amendment would enhance the Commission's access to significant, otherwise unobtainable, information.

The Commission's investigative efforts could be greatly enhanced, and in some cases made much more efficient, if the Commission could obtain from private parties information that is protected by the attorney-client privilege, other privileges, or the attorney work product doctrine. In many cases, private parties would be willing to share privileged information with the Commission if they could otherwise maintain the privileged and confidential nature of the document. For example, a company that retains outside counsel to conduct an internal investigation concerning possible violations may be willing to share the investigative report with the Commission. That report, while no substitute for the Commission's investigation, may supply the Commission with very useful information. Under current law, however, a party who produces privileged or protected material to the Commission runs a risk that a third party, such as an adversary in private litigation, could obtain that information by successfully arguing that production to the Commission waived the privilege or protection. This presents a substantial disincentive for anyone who might otherwise consider providing privileged or protected information to the Commission.

4. Access to Grand Jury Materials

The Commission recommends the enactment of legislation authorizing the Department of Justice, subject to judicial approval in each case, to share grand jury information with the Commission in more circumstances and at an earlier stage than is currently permissible.

Under existing law, Federal Rule of Criminal Procedure 6(e) prohibits disclosure of "matters occurring before the grand jury," unless that disclosure falls within one of the Rule's limited exceptions. Under those exceptions, the Commission may obtain grand jury information only in the rare case in which it can demonstrate that it has a "particularized need" for the information and that the information is sought "preliminarily to or in connection with a judicial proceeding." As a practical matter, the "particularized need" standard and the required nexus with an ongoing or imminent judicial proceeding severely limit the situations in which the Department of Justice can share with the Commission even the most critical information relevant to parallel investigations. In most cases, the Commission must conduct a separate, duplicative investigation to obtain the same information. This both entails an inefficient use of government resources and frequently burdens private parties and financial institutions with the need to provide essentially the same documents and testimony in multiple investigations. The need for the Commission to conduct a separate investigation also can result in substantial delays.

A narrow modification of the “grand jury secrecy rule” would aid the Commission in its investigations and would greatly enhance the efficient use of the law enforcement resources devoted to those investigations. This same modification was part of a bill passed by the Senate in 1990,¹⁰⁷ and is modeled on Section 964 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 providing banking and thrift regulators with access to grand jury information. The Senate bill proposed an amendment to the Criminal Code allowing a court to direct disclosure of grand jury matters during an investigation of conduct that may constitute a violation of any provision of the securities laws.¹⁰⁸

5. Nationwide Service of Process for Testimony in Commission Litigation

The Commission currently has authority for nationwide service in administrative proceedings.¹⁰⁹ The Commission recommends legislation to make nationwide service available in civil actions filed in federal courts. Nationwide service of subpoenas would provide substantial advantages including a significant savings in terms of travel costs and staff time through the elimination of duplicative depositions, and the benefits of having live witnesses and party testimony before the trial court. Such a proposal would also greatly decrease the costs of creating videotapes of deposition testimony, and of editing and presenting such videotaped testimony at trial.¹¹⁰

¹⁰⁷ The Senate passed the proposal as part of the Securities Enforcement Remedies and Penny Stock Reform Act of 1990. However, the House version of the bill omitted this provision as a result of a jurisdictional dispute, and a compromise amendment omitting the provision was passed by both Houses instead. See Cong. Rec. S14059-01, S14069 (Sept. 27, 1990) (Sen. Garn) (“The absence of this authority in the amended bill is not because it lacks substantial merit. Rather, its absence is solely the result of a jurisdictional dispute in the House.”).

¹⁰⁸ The bill proposed to add the following section to the criminal code:

§3323 Disclosure of certain matters occurring before grand jury for use in enforcing securities laws

(a)(1) Upon motion of an attorney for the government, a court may direct disclosure of matters occurring before a grand jury during an investigation of conduct that may constitute a violation of any provision of the securities laws as defined in section 3(a)(47) of the Securities Exchange Act of 1934 to identified personnel of the Securities and Exchange Commission for use in relation to any matter within the jurisdiction of the Securities and Exchange Commission. (2) A court may issue an order under paragraph (1) only upon a finding of a substantial need in the public interest. (b) A person to whom a matter has been disclosed under this section shall not use such matter other than for the purpose for which such disclosure was authorized. . . .

S. 647, 101st Cong., 2d Sess. (1990).

¹⁰⁹ See, e.g., Section 21(b) of the Exchange Act.

¹¹⁰ The Clayton Act provides for nationwide service of process in civil as well as criminal antitrust actions brought by the United States. See 15 U.S.C. § 23. Furthermore, although the Department of Justice has nationwide service of process in criminal securities cases, the Commission does not have it in civil securities cases.

VIII. Conclusion

The Study demonstrates that there are many areas of issuer financial reporting that are susceptible to fraud, inappropriate manipulation or inappropriate earnings management. Of the 227 enforcement matters studied, 126 involved improper revenue recognition and 101 involved improper expense recognition.¹¹¹ The majority of the 227 enforcement matters involved improper conduct by senior management of the relevant issuers. Of the 227 enforcement matters during the Study period, 157 resulted in charges against at least one senior manager. During the Study period, 135 of 227 issuers restated their financials that related to the conduct in the enforcement matters.

In addition to improper revenue and expense recognition, the Study also found that the Commission's enforcement matters covered a wide variety of other improper issuer financial reporting. Furthermore, the Study found that 57 enforcement matters resulted in charges for auditing violations, often arising from auditors accepting management representations without verification, truncating analytical and substantive procedures, and failing to gain sufficient evidence regarding representations in issuer financial statements.

The numbers discussed in this Report do not necessarily reflect their relative importance in the Commission's current and future Enforcement program. The Commission has recently brought several actions based on several new areas of improper issuer financial reporting.

In conclusion, the Commission recommends addressing two areas of issuer disclosure: the uniform reporting of restatements of financial statements, and improved MD&A disclosure. In addition, based on this Report, the Commission recommends the enactment of legislation to: (1) allow companies to produce internal reports and other documents pertaining to investigations without waiving any privileges; (2) provide access by Commission staff to grand jury materials; and (3) provide for nationwide service of process for testimony in Commission litigation. The Sarbanes-Oxley Act's many provisions, including the creation of the Board, coupled with the proposals included in this Study, will enhance the Commission's effectiveness in combating violations involving issuer financial reporting.

¹¹¹ As previously noted, most of the 227 enforcement matters involved more than one type of improper conduct. Because of this overlap, it would not be meaningful to aggregate these numbers.

Listing of Actions

Exhibit A

<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
<u>Year 1</u>				
In the Matter of Robert L. Gresham, CPA	08/05/1997	AAER-0943	34-38902	AP
In the Matter of James P. Brown	08/05/1997	AAER-0944	34-38903	AP
SEC v. Timothy Ross, et al.	08/27/1997	AAER-0945	LR-15460	CIVINJ
In the Matter of Ngai King Tak, et al.	08/28/1997	AAER-0946	34-38988	AP
SEC v. Irving M. Mangel, et al.	08/28/1997	AAER-0947	LR-15465	CIVINJ
SEC v. Mark K. Curry, et al.	09/04/1997	AAER-0950	LR-15470	CIVINJ
SEC v. Wyatt Gene Ross, et al.	09/04/1997	AAER-0951	LR-15474	CIVINJ
SEC v. Maury H. Joseph, et al.	09/08/1997	AAER-0959	LR-15487	CIVINJ
In the Matter of Mickie E. Higgins-Hallke, CPA	09/10/1997	AAER-0952	34-39039	AP
In the Matter of Wyatt Gene Ross	09/10/1997	AAER-0953	34-39040	AP
In the Matter of Lynn K. Ross	09/10/1997	AAER-0954	34-39041	AP
In the Matter of William B. Sanders, CPA	09/10/1997	AAER-0955	34-39045	AP
SEC v. Scientific Software-Intercomp, Inc.	09/11/1997	AAER-0956	LR-15485	CIVINJ
In the Matter of Timothy A. Ross, CPA	09/11/1997	AAER-0957	34-39051	AP
In the Matter of Douglas R. Coates, CPA	09/11/1997	AAER-0958	34-39052	AP
In the Matter of James R. Bryan, CPA	09/15/1997	AAER-0960	34-39077	AP
SEC v. Guido Volante, et al.	09/16/1997			CIVINJ
In the Matter of Century Technologies, Inc.	09/16/1997	AAER-0961	34-39081	AP
In the Matter of David Hersh, CPA	09/18/1997	AAER-0962	34-39089	AP
In the Matter of Elliot Stumacher	09/24/1997	AAER-0963	34-39124	AP
In the Matter of Kedar Gupta, et al.	09/25/1997	AAER-0965	34-39128	AP
SEC v. Ferrofluidics Corporation, et al.	09/25/1997	AAER-0966	LR-15508	CIVINJ
In the Matter of Curtis L. Dally	09/29/1997	AAER-0967	34-39144	AP
In the Matter of Philip McInnes	09/30/1997	AAER-0968	34-39147	AP
In the Matter of Mary Brennan	09/30/1997	AAER-0969	34-39148	AP
In the Matter of Laser Photonics Inc.	09/30/1997	AAER-0971	34-39166	AP
In the Matter of John R. Alfson	09/30/1997	AAER-0972	34-39167	AP
SEC v. Mark T. Fukuhara, et al.	09/30/1997	AAER-0973	LR-15518	CIVINJ
SEC v. Jeffrey P. Sudikoff, et al.	09/30/1997	AAER-0974	LR-15522	CIVINJ
SEC v. Francis X. Wazeter, III, et al.	09/30/1997	AAER-0976	LR-15521	CIVINJ

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<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
In the Matter of Pinnacle Micro, Inc., et al.	10/03/1997	AAER-0975	34-39194	AP
SEC v. James G. Hanley	10/06/1997	AAER-0977	LR-15527	CIVINJ
In the Matter of James Bogner, CPA	10/10/1997	AAER-0978	34-39228	AP
SEC v. Bond D. Fletcher, et al.	10/30/1997	AAER-0981	LR-15548	CIVINJ
In the Matter of Kenneth O'Neal, CPA, et al.	11/07/1997	AAER-0983	34-39314	AP
In the Matter of Bausch & Lomb, Incorporated, et al.	11/17/1997	AAER-0987	34-39329	AP
SEC v. John Logan	11/17/1997	AAER-0988	LR-15562	CIVINJ
SEC v. HealthTech International, Inc.	11/25/1997	AAER-0990	LR-15572	CIVINJ
In the Matter of Stephen P. Morin, CPA	12/01/1997	AAER-0991	34-39376	AP
In the Matter of Robert Gossett, et al.	12/01/1997	AAER-0992	34-39377	AP
SEC v. Peter T. Caserta, et al.	12/04/1997	AAER-0993	LR-15578	CIVINJ
In the Matter of KPMG Peat Marwick LLP	12/04/1997	AAER-0994	34-39400	AP
SEC v. Sanjeev "Tony" Sachdeva, et al.	12/18/1997	AAER-0996	LR-15596	CIVINJ
In the Matter of Presstek, Inc.	12/22/1997	AAER-0997	34-39472	AP
SEC v. Robert Howard, et al.	12/22/1997	AAER-1001	LR-15599	CIVINJ
In the Matter of James A. Terrano, et al.	12/23/1997	AAER-0999	34-39485	AP
In the Matter of New Jersey Resources Corp., et al.	12/31/1997	AAER-1002	34-39506	AP
In the Matter of Oliver G. Richard III, et al.	12/31/1997	AAER-1003	34-39507	AP
SEC v. Russell C. Faust	01/20/1998	AAER-1006	LR-15624	CIVINJ
SEC v. Donald Ferrarini, et al.	01/29/1998	AAER-1008	LR-15629	CIVINJ
In the Matter of Paul G. Mount, CPA	01/30/1998	AAER-1010	34-39601	AP
SEC v. James Patrick Kittler	01/30/1998	AAER-1011	LR-15633	CIVINJ
SEC v. Sol Greenbaum, et al.	03/03/1998	AAER-1013	LR-15657	CIVINJ
SEC v. Robert B. Peltz	03/03/1998	AAER-1013	LR-15657	CIVINJ
In the Matter of Jerry Stone	03/10/1998	AAER-1015	34-39737	AP
SEC v. Raymond F. Simmons	03/19/1998	AAER-1016	LR-15677	CIVINJ
In the Matter of Sensormatic Electronics Corporation	03/25/1998	AAER-1017	34-39791	AP
In the Matter of Joy Lynn Schneider Green, CPA	03/25/1998	AAER-1018	34-39792	AP
In the Matter of Thomas H. Pike	03/25/1998	AAER-1019	34-39793	AP
SEC v. Ronald G. Assaf, et al.	03/25/1998	AAER-1020	LR-15680	CIVINJ
In the Matter of Peter F. Kuebler, CPA	03/25/1998	AAER-1021	34-39801	AP

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<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
In the Matter of Lee Pharmaceuticals, et al.	04/09/1998	AAER-1023	34-39843	AP
In the Matter of Lawrence J. Simmons, CPA	04/20/1998	AAER-1024	34-39888	AP
In the Matter of Michael W. Crow, CPA	04/22/1998	AAER-1025	34-39902	AP
In the Matter of Albert Glenn Yesner, CPA	04/27/1998	AAER-1027	34-39916	AP
In the Matter of Joseph Sanfello	04/27/1998	AAER-1028	34-39919	AP
In the Matter of Leslie Danish, CPA	04/30/1998	AAER-1030	34-39931	AP
In the Matter of William D. Tetsworth, Jr., CPA	05/04/1998	AAER-1031	34-39950	AP
SEC v. Arthur L. Toll, et al.	05/04/1998	AAER-1033	LR-15731	CIVINJ
In the Matter of Pepsi-Cola Puerto Rico Bottling	05/12/1998	AAER-1034	34-39984	AP
SEC v. Paul R. Safronchik, et al.	05/13/1998	AAER-1035	LR-15738	CIVINJ
In the Matter of Richard Valade, CPA	05/19/1998	AAER-1037	34-40002	AP
In the Matter of Jeffrey M. Steinberg, et al.	05/22/1998	AAER-1038	34-40025	AP
In the Matter of Warren J. Christensen, CPA, et al.	05/27/1998	AAER-1039	34-40029	AP
SEC v. Eugene McCloskey, et al.	06/04/1998	AAER-1040	LR-15767	CIVINJ
SEC v. Global Timber Corporation, et al.	06/08/1998	AAER-1043	LR-15774	CIVINJ
In the Matter of Thomas D. Leaper, CPA, et al.	06/17/1998	AAER-1044	34-40098	AP
SEC v. Guy Marcel De Vreese	06/17/1998	AAER-1045	LR-15784	CIVINJ
SEC v. William P. Trainor, et al.	06/18/1998	AAER-1046	LR-15786	CIVINJ
In the Matter of Paul R. Safronchik, CPA	06/22/1998	AAER-1047	34-40106	AP
SEC v. Charles T. Young, et al.	06/29/1998	AAER-1048	LR-15794	CIVINJ
In the Matter of Venator Group, Inc., et al.	06/29/1998	AAER-1049	34-40142	AP
In the Matter of Erick A. Gray	07/06/1998		34-40169	AP
In the Matter of Gaston E. Oxman	07/06/1998		34-40171	AP
In the Matter of Frank J. Cooney	07/06/1998	AAER-1050	34-40170	AP
SEC v. Latin American Resources, Inc., et al.	07/08/1998		LR-15802	CIVINJ
In the Matter of Charles T. Young, CPA	07/08/1998	AAER-1052	34-40181	AP
SEC v. Paul C. Jain, et al.	07/09/1998	AAER-1053	LR-15803	CIVINJ
In the Matter of Ivor R. Ellul, et al.	07/30/1998	AAER-1056	34-40279	AP
In the Matter of Barbara J. Cavallo	07/30/1998	AAER-1057	34-40280	AP
SEC v. Ronald J. Hottovy, et al.	07/30/1998	AAER-1058	LR-15824	CIVINJ

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<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
<u>Year 2</u>				
In the Matter of Maria Mei Wenner, CPA	07/31/1998	AAER-1059	34-40290	AP
In the Matter of Sony Corporation, et al.	08/05/1998	AAER-1061	34-40305	AP
SEC v. Sony Corporation	08/05/1998	AAER-1062	LR-15832	CIVO
In the Matter of Paul E. Nietzel, CPA	08/12/1998	AAER-1064	34-40320	AP
In the Matter of Frank Palumbo, CPA	08/19/1998	AAER-1067	34-40336	AP
SEC v. Jui-Teng Lin, et al.	09/03/1998	AAER-1071	LR-15870	CIVINJ
In the Matter of Steven M. Scarano, CPA	09/09/1998	AAER-1072	34-40413	AP
In the Matter of Charles N. Lipton, CPA	09/09/1998	AAER-1073	34-40414	AP
SEC v. Joseph DiMauro, et al.	09/09/1998	AAER-1075	LR-15874	CIVINJ
In the Matter of Audre Recognition Systems, Inc., et al.	09/17/1998	AAER-1076	34-40446	AP
SEC v. Thomas F. Casey	09/17/1998	AAER-1077	LR-15884	CIVINJ
In the Matter of Corpro Companies, Inc., et al.	09/24/1998	AAER-1080	34-40476	AP
In the Matter of Donna Laubscher, CPA, et al.	09/29/1998	AAER-1082	34-40495	AP
SEC v. Steven J. Henke, et al.	09/30/1998	AAER-1083	LR-15919	CIVINJ
SEC v. John F. "Pete" Oliver, et al.	12/16/1998	AAER-1089	LR-16003	CIVINJ
In the Matter of Jean-Paul Bolduc, et al.	12/22/1998	AAER-1090	34-40819	AP
In the Matter of Steven M. Gross, CPA	12/29/1998	AAER-1093	34-40859	AP
In the Matter of Michael W. Roberts, CPA	12/29/1998	AAER-1094	34-40860	AP
SEC v. Garth H. Drabinsky, et al.	01/13/1999		LR-16022	CIVINJ
In the Matter of Livent, Inc.	01/13/1999	AAER-1095	34-40937	AP
In the Matter of Chistopher M. Craib, CA	01/13/1999	AAER-1096	34-40938	AP
In the Matter of Gordon C. Eckstein, CA	01/13/1999	AAER-1097	34-40939	AP
In the Matter of PricewaterhouseCoopers, LLP	01/14/1999	AAER-1098	34-40945	AP
In the Matter of Tony Fiorino, CA	01/21/1999	AAER-1101	34-40958	AP
In the Matter of Donnkenney, Inc.	02/02/1999	AAER-1104	34-41012	AP
SEC v. Richard F. Rubin, et al.	02/02/1999	AAER-1105	LR-16051	CIVINJ
In the Matter of Madison Group Associates, Inc.	02/10/1999		34-41039	AP
In the Matter of Anthony J. Gentile	02/10/1999	AAER-1106	34-41037	AP
In the Matter of Miguel A. Cabrera, Jr., CPA, et al.	02/10/1999	AAER-1107	34-41038	AP
SEC v. William T. Craig, et al.	02/10/1999	AAER-1108	LR-16056	CIVINJ

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<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
In the Matter of Micro Component Technology Inc., et al.	02/11/1999	AAER-1109	34-41043	AP
SEC v. Robert S. Barton	02/23/1999	AAER-1112	LR-16068	CIVINJ
In the Matter of Sunrise Medical, Inc.	02/24/1999	AAER-1110	34-41096	AP
In the Matter of Sharon Longview, et al.	02/24/1999	AAER-1111	34-41097	AP
SEC v. Lynne K. Mercer	03/02/1999	AAER-1113	LR-16075	CIVINJ
In the Matter of Andrew L. O'Connell, CPA	03/05/1999	AAER-1114	34-41144	AP
In the Matter of Robert S. Barton, CPA	03/18/1999	AAER-1118	34-41181	AP
In the Matter of Charles E. Wessman	04/01/1999	AAER-1120	34-41239	AP
In the Matter of Carroll A. Wallace, CPA	04/01/1999	AAER-1121	34-41240	AP
In the Matter of Barry C. Scuttillo, CPA, et al.	04/01/1999	AAER-1122	34-41241	AP
In the Matter of Frederick R. Grant, CPA	04/05/1999	AAER-1123	34-41255	AP
In the Matter of Kevin E. Orton, CPA, et al.	04/14/1999	AAER-1124	34-41283	AP
In the Matter of Michael, Adest & Blumenkrantz, PC, et al.	04/14/1999	AAER-1125	34-41284	AP
In the Matter of Terex Corporation, et al.	04/20/1999	AAER-1126	34-41312	AP
In the Matter of Larry L. Skaff, et al.	04/20/1999	AAER-1127	34-41313	AP
In the Matter of Jeff Bergman	04/21/1999	AAER-1128	34-41316	AP
SEC v. Mark A. DeSimone, et al.	04/21/1999	AAER-1129	LR-16115	CIVINJ
SEC v. David Gibbs, et al.	05/17/1999			CIVINJ
In the Matter of Insignia Solutions PLC	05/17/1999	AAER-1133	34-41409	AP
In the Matter of Charles E. Falk, CPA	05/19/1999	AAER-1134	34-41424	AP
In the Matter of Moore Stephens, P.C., et al.	05/19/1999	AAER-1135	34-41425	AP
In the Matter of Dennis M. Gaito, CPA	05/19/1999	AAER-1136	34-41426	AP
SEC v. Joseph Sutton, et al.	05/27/1999		LR-16164	CIVO
In the Matter of Medisys Technologies, Inc.	06/24/1999	AAER-1139	34-41554	AP
In the Matter of of W.R. Grace & Co.	06/30/1999	AAER-1140	34-41578	AP
In the Matter of Eugene F. Gaughan, CPA	06/30/1999	AAER-1141	34-41580	AP
In the Matter of Thomas J. Scanlon, CPA	06/30/1999	AAER-1142	34-41581	AP
SEC v. Bruce J. Kingdon, et al.	07/19/1999	AAER-1143	LR-16214	CIVINJ
In the Matter of Micro Warehouse, Inc.	07/28/1999	AAER-1144	34-41665	AP
In the Matter of Richard I. Brewer, CPA	07/30/1999	AAER-1145	34-41676	AP

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Exhibit A

<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
<u>Year 3</u>				
In the Matter of American Telephone + Data, Inc.	08/02/1999		34-41681	AP
In the Matter of Gerald R. Hinshaw, CPA	08/02/1999	AAER-1147	34-41680	AP
SEC v. American Telephone + Data, Inc., et al.	08/02/1999	AAER-1148	LR-16232	CIVINJ
In the Matter of Jethro J. Barlow, CPA, et al.	08/02/1999	AAER-1149	34-41689	AP
In the Matter of Michael J. Marrie, CPA, et al.	08/10/1999	AAER-1151	34-41720	AP
In the Matter of Owen D. Taranta, CPA	08/11/1999	AAER-1150	34-41729	AP
SEC v. Jerald M. Banks	08/12/1999	AAER-1153	LR-16251	CIVINJ
In the Matter of Inamed Corporation	08/17/1999	AAER-1154	34-41751	AP
In the Matter of Jerald M. Banks	08/30/1999	AAER-1156	34-41806	AP
In the Matter of Herbert Woll, CPA	09/22/1999	AAER-1159	34-418974	AP
SEC v. Jose Carlos Villares, et al.	09/22/1999	AAER-1171	LR-16301	CIVINJ
SEC v. Mitchell C. Kahn, et al.	09/27/1999	AAER-1167	LR-16297	CIVINJ
SEC v. Jerry M. Walker, et al.	09/27/1999	AAER-1170	LR-16300	CIVINJ
SEC v. Itex Corporation, et al.	09/27/1999	AAER-1175	LR-16305	CIVINJ
SEC v. David E. Stevenson, et al.	09/27/1999	AAER-1185	LR-16308	CIVINJ
SEC v. Harold M. Ickovics, et al.	09/28/1999		LR-16309	CIVINJ
SEC v. Robert M. Cankes	09/28/1999		LR-16309	CIVINJ
In the Matter of Ricky D. Barkley	09/28/1999	AAER-1160	34-41923	AP
In the Matter of Steven R. Zemaitis, et al.	09/28/1999	AAER-1161	34-41924	AP
In the Matter of Raintree HealthCare Corporation, et al.	09/28/1999	AAER-1162	34-41925	AP
In the Matter of Joseph A. Mathes	09/28/1999	AAER-1163	34-41927	AP
In the Matter of Laura M. Drews	09/28/1999	AAER-1164	34-41928	AP
In the Matter of Stephen J. Pace	09/28/1999	AAER-1165	34-41929	AP
SEC v. Lawrence Borowiak	09/28/1999	AAER-1166	LR-16296	CIVINJ
SEC v. Mar-Jeanne Tendler, et al.	09/28/1999	AAER-1168	LR-16298	CIVINJ
SEC v. C.E.C. Industries Corporation, et al.	09/28/1999	AAER-1169	LR-16299	CIVINJ
SEC v. Bradley J. Buchanan	09/28/1999	AAER-1172	LR-16302	CIVINJ
SEC v. Noah Steinberg, et al.	09/28/1999	AAER-1173	LR-16303	CIVINJ
SEC v. Robert H. Sutton	09/28/1999	AAER-1174	LR-16304	CIVINJ
In the Matter of Material Sciences Corporation	09/28/1999	AAER-1176	34-41930	AP

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In the Matter of Robert S. Chamberlain	09/28/1999	AAER-1177	34-41926	AP
SEC v. Computone Corporation, et.al.	09/28/1999	AAER-1178	LR-16307	CIVINJ
SEC v. Francis A. Tarkenton, et al.	09/28/1999	AAER-1179	LR-16306	CIVINJ
In the Matter of James D. Montgomery, II, et al.	09/28/1999	AAER-1180	34-41931	AP
In the Matter of Model Imperial, Inc.	09/28/1999	AAER-1181	34-41932	AP
In the Matter of Kenneth Schwartz, et al.	09/28/1999	AAER-1182	34-41933	AP
In the Matter of Paul Thomas Fink, CPA	09/28/1999	AAER-1183	34-41934	AP
In the Matter of Peter Madsen, et al.	09/28/1999	AAER-1184	34-41935	AP
SEC v. Peter Madsen, et al.	09/28/1999	AAER-1187	LR-16310	CIVO
SEC v. Fastcomm Communications Corporation	09/28/1999	AAER-1187	LR-16310	CIVINJ
SEC v. Charles L. DesLaurier	09/28/1999	AAER-1187	LR-16310	CIVINJ
In the Matter of Charles D. Ledford	09/29/1999		34-41941	AP
In the Matter of Michael Goldberg, CPA	09/30/1999	AAER-1189	34-41952	AP
In the Matter of Thor Industries, Inc.	10/18/1999	AAER-1190	34-42021	AP
In the Matter of Jerry M. Walker, CPA	10/18/1999	AAER-1191	34-42022	AP
In the Matter of David E. Stevenson	10/19/1999	AAER-1192	34-42031	AP
In the Matter of Lee R. Fontaine, CPA	10/21/1999	AAER-1194	34-42045	AP
In the Matter of Rick W. Gossett, CPA	10/21/1999	AAER-1195	34-42046	AP
In the Matter of Stephen J. Kesh, CPA	10/21/1999	AAER-1196	34-42047	AP
SEC v. ABS Industries, Inc., et al.	10/27/1999	AAER-1197	LR-16344	CIVINJ
In the Matter of PairGain Technologies, Inc.	11/08/1999	AAER-1204	34-42114	AP
In the Matter of Jimmy L. Duckworth	11/10/1999	AAER-1205	34-42124	AP
In the Matter of Joseph Salamon	11/10/1999	AAER-1207	34-42125	AP
In the Matter of The Cronos Group	11/15/1999	AAER-1208	34-42139	AP
SEC v. Accelr8 Technology Corporation, et al.	11/16/1999	AAER-1209	LR-16354	CIVINJ
In the Matter of Michael J. Hooper, CPA	11/19/1999	AAER-1210	34-42157	AP
SEC v. Solucorp Industries, Ltd., et al.	12/13/1999	AAER-1213	LR-16388	CIVINJ
In the Matter of Jose E. Rivera, CPA	12/14/1999	AAER-1212	34-42229	AP
In the Matter of Informix Corporation	01/11/2000	AAER-1215	34-42326	AP
In the Matter of Edward Welch	01/24/2000	AAER-1217	34-42355	AP
In the Matter of William L. Clancy	02/07/2000	AAER-1220	34-42392	AP

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In the Matter of Robert L. Norton	02/07/2000	AAER-1222	34-42399	AP
In the Matter of Joseph M. Morris	02/10/2000	AAER-1223	34-42410	AP
In the Matter of Joseph E. Williams	02/10/2000	AAER-1225	34-42412	AP
SEC v. Robert B. Anacone	02/29/2000	AAER-1233	LR-16457	CIVINJ
SEC v. Donald K. McGhan	03/08/2000	AAER-1234	LR-16466	CIVINJ
In the Matter of H. DeWorth Williams	03/20/2000	AAER-1235	34-42547	AP
In the Matter of Jeremy G. Dunne	03/20/2000	AAER-1236	34-42548	AP
In the Matter of Laser Technology, Inc.	03/20/2000	AAER-1237	34-42549	AP
SEC v. David W. Williams, et al.	03/20/2000	AAER-1238	LR-16476	CIVINJ
SEC v. Eric A. Furman, et al.	03/22/2000	AAER-1239	LR-16480	CIVINJ
In the Matter of Jill Pitts, et al.	03/23/2000	AAER-1240	34-42569	AP
SEC v. Digital Lightwave, Inc., et al.	03/29/2000		LR-16491A	CIVINJ
In the Matter of Nanette Miller, CPA	03/29/2000	AAER-1241	34-42586	AP
In the Matter of Beth A. Morris, et al.	03/29/2000	AAER-1243	34-42587	AP
In the Matter of Seth P. Joseph	03/29/2000	AAER-1244	34-42588	AP
SEC v. Allen K. Deary, et al.	04/13/2000	AAER-1246	LR-16516	CIVINJ
In the Matter of Peritus Software Services, Inc.	04/13/2000	AAER-1247	34-42673	AP
In the Matter of Stephen H. Spargo, CPA	05/02/2000	AAER-1252	34-42742	AP
In the Matter of Albert Adamczak, CPA	05/02/2000	AAER-1253	34-42743	AP
SEC v. David W. McConnell, et al.	05/02/2000	AAER-1254	LR-16534	CIVINJ
In the Matter of Cynthia Pfaltzgraff	05/03/2000	AAER-1255	34-42753	AP
In the Matter of America Online, Inc.	05/15/2000	AAER-1257	34-42781	AP
SEC v. America Online, Inc.	05/15/2000	AAER-1258	LR-16552	CIVINJ
In the Matter of Intile Designs, Inc.	05/23/2000	AAER-1259	34-42813	AP
SEC v. C. William Cox	05/23/2000	AAER-1262	LR-16562	CIVINJ
In the Matter of R. Gordon Jones, et al.	05/25/2000	AAER-1261	34-42828	AP
In the Matter of Samuel L. White, CPA	06/01/2000	AAER-1263	34-42879	AP
In the Matter of Eric P. Furman, CPA	06/06/2000	AAER-1267	34-42901	AP
In the Matter of Firstmark Corp.	06/08/2000	AAER-1270	34-42909	AP
In the Matter of Scott E. Edwards, CPA	06/08/2000	AAER-1271	34-42910	AP
In the Matter of Cendant Corporation	06/14/2000	AAER-1272	34-42933	AP

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<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
In the Matter of Paul Hiznay	06/14/2000	AAER-1273	34-42934	AP
In the Matter of Steven Speaks, CPA	06/14/2000	AAER-1274	34-42935	AP
In the Matter of Mary Sattler Polverari, CPA	06/14/2000	AAER-1275	34-42936	AP
SEC v. Cosmo Corigliano, et al.	06/14/2000	AAER-1276	LR-16587	CIVINJ
SEC v. Mary Sattler Polverari, CPA	06/14/2000	AAER-1276	LR-16587	CIVINJ
SEC v. Steven Speaks	06/14/2000	AAER-1276	LR-16587	CIVINJ
In the Matter of Waste Management, Inc.	06/21/2000	AAER-1277	34-42968	AP
In the Matter of Schnitzer & Kondub, PC, et al.	06/23/2000	AAER-1278	34-42979	AP
SEC v. DCI Telecommunications, Inc., et al.	06/23/2000	AAER-1279	LR-16609	CIVINJ
In the Matter of Gregory A. Alba, CPA	06/26/2000	AAER-1280	34-42981	AP
In the Matter of Ronald G. Davies	06/28/2000	AAER-1281	34-42987	AP
SEC v. Hybrid Networks, Inc., et al.	06/29/2000	AAER-1282	LR-16614	CIVINJ
In the Matter of Allegheny Health, Education and Research Foundation	06/30/2000	AAER-1283	34-42992	AP
SEC v. Michael A. Puhr	07/06/2000	AAER-1286	LR-16625	CIVINJ
In the Matter of Kevin T. Kearney, CPA	07/13/2000	AAER-1284	34-43034	AP
SEC v. System Software Associates, Inc., et al.	07/13/2000	AAER-1285	LR-16627	CIVINJ
In the Matter of Guilford Mills, Inc.	07/24/2000	AAER-1287	34-43068	AP
SEC v. Timothy J. Gaffney	07/24/2000	AAER-1288	LR-16634	CIVINJ
<u>Year 4</u>				
In the Matter of Steven Wolis	08/04/2000	AAER-1290	34-43123	AP
In the Matter of Axel E. Friedberg, et al.	08/08/2000	AAER-1291	34-43129	AP
SEC v. Stefan M. Palatin	08/08/2000	AAER-1292	LR-16645	CIVINJ
In the Matter of Herbert M. Campbell, II., Esq.	08/10/2000		34-43136	AP
In the Matter of William J. McClintock, CA	08/16/2000	AAER-1293	34-43160	AP
In the Matter of Boston Scientific Corporation	08/21/2000	AAER-1295	34-43183	AP
In the Matter of Theodore Ursu III, CPA	09/06/2000	AAER-1298	34-43249	AP
In the Matter of Pier 1 Imports, Inc.	09/19/2000	AAER-1303	34-43301	AP
SEC v. Ronald R. Charnock, et al.	09/19/2000	AAER-1304	LR-16709	CIVINJ
SEC v. Robert G. Herndon	09/19/2000	AAER-1305	LR-16710	CIVINJ
SEC v. Clifford E. Hotte, et al.	09/21/2000	AAER-1308	LR-16722	CIVINJ

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<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
In the Matter of Rudy Wann	09/22/2000	AAER-1306	34-43326	AP
In the Matter of Edward Cheramy	09/22/2000	AAER-1307	34-43327	AP
In the Matter of Acclaim Entertainment, Inc., et al.	09/26/2000	AAER-1309	34-43340	AP
SEC v. James Murphy, et al.	09/26/2000	AAER-1310	LR-16725	CIVINJ
In the Matter of Centennial Technologies, Inc.	09/26/2000	AAER-1311	34-43345	AP
SEC v. Countryland Wellness Resorts, Inc., et al.	09/26/2000	AAER-1327	LR-16732	CIVINJ
SEC v. John Daws, et al.	09/27/2000	AAER-1312	LR-16728	CIVINJ
In the Matter of Cylink Corporation	09/27/2000	AAER-1313	34-43357	AP
In the Matter of Premier Laser Systems, Inc.	09/27/2000	AAER-1314	34-43358	AP
In the Matter of YourBankOnline.com, et al.	09/27/2000	AAER-1315	34-43359	AP
In the Matter of Countryland Wellness Resorts, Inc.	09/27/2000	AAER-1316	34-43360	AP
In the Matter of Bonnie K. Metz	09/27/2000	AAER-1317	34-43361	AP
In the Matter of Craig Consumer Electronics, Inc.	09/27/2000	AAER-1318	34-43362	AP
In the Matter of Isaac Hager	09/27/2000	AAER-1319	34-43366	AP
SEC v. Michael L. Hiebert	09/27/2000	AAER-1324	LR-16729	CIVINJ
SEC v. Maurice B. Newman, et al.	09/27/2000	AAER-1325	LR-16730	CIVINJ
SEC v. Richard I. Berger, et al.	09/27/2000	AAER-1326	LR-16731	CIVINJ
SEC v. Matthew R. Welch, et al.	09/27/2000	AAER-1328	LR-16734	CIVINJ
SEC v. Jay Gilbertson, et al.	09/28/2000	AAER-1329	LR-16743	CIVINJ
In the Matter of Drew Bergman, CPA	09/29/2000	AAER-1321	34-43388	AP
In the Matter of Luis E. Gomez, CPA	09/29/2000	AAER-1322	34-43389	AP
In the Matter of Donald C. Yount, CPA	09/29/2000	AAER-1323	34-43391	AP
SEC v. Walter Konigseder	10/05/2000	AAER-1330	LR-16757	CIVINJ
In the Matter of Engineering Animation, Inc., et al.	10/05/2000	AAER-1332	34-43416	AP
SEC v. Michael J. Jablo	10/05/2000	AAER-1333	LR-16753	CIVO
In the Matter of Victor Douenias	10/16/2000	AAER-1334	34-43445	AP
In the Matter of Robert G. Herndon	10/16/2000	AAER-1336	34-43446	AP
In the Matter of Pat A. Rossetti, et al.	10/31/2000	AAER-1338	34-43497	AP
In the Matter of Horton & Company, et al.	10/31/2000	AAER-1339	34-43498	AP
SEC v. Aviation Distributors Inc., et al.	11/07/2000	AAER-1340	LR-16792	CIVINJ
In the Matter of Louis R. Hidalgo, Jr., CPA	11/08/2000	AAER-1341	34-43531	AP

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In the Matter of Donald E. Studer	11/08/2000	AAER-1342	34-43532	AP
In the Matter of Per-Se Technologies, Inc. formerly known as Medaphis Corporation	11/16/2000	AAER-1343	34-43570	AP
In the Matter of Glen Donald Lang	11/16/2000	AAER-1344	34-43571	AP
In the Matter of James Steele Douglass	11/16/2000	AAER-1345	34-43572	AP
In the Matter of Barry H. Peterson-Ross	11/22/2000	AAER-1346	34-43609	AP
In the Matter of Detour Magazine, Inc.	11/22/2000	AAER-1347	34-43610	AP
In the Matter of Monarch Investment Properties, Inc., et al.	12/06/2000	AAER-1349	34-43682	AP
In the Matter of MicroStrategy, Inc.	12/14/2000	AAER-1350	34-43724	AP
In the Matter of Antoinette A. Parsons, et al.	12/14/2000	AAER-1351	34-43725	AP
SEC v. Michael Jerry Saylor, et al.	12/14/2000	AAER-1352	LR-16829	CIVINJ
In the Matter of Saf T Lok, Inc.	12/20/2000		34-43753	AP
SEC v. Franklin W. Brooks, et al.	12/20/2000	AAER-1354	LR-16835	CIVINJ
In the Matter of International Business Machines Corporation	12/21/2000	AAER-1355	34-43761	AP
SEC v. International Business Machines Corporation	12/21/2000	AAER-1356	LR-16839	CIVO
In the Matter of Transcript International, Inc.	01/04/2001	AAER-1358	34-43809	AP
In the Matter of Mark Steven Lynch, CPA	01/17/2001	AAER-1359	34-43850	AP
SEC v. Aurora Foods Inc., et al.	01/23/2001	AAER-1361	LR-16866	CIVINJ
In the Matter of Linda Mueller	01/24/2001	AAER-1362	34-43877	AP
In the Matter of Swart, Baumruk & Co., LLP, et al.	01/25/2001	AAER-1363	34-43883	AP
In the Matter of Charles P. Morrison, CPA	01/31/2001	AAER-1364	34-43910	AP
SEC v. Jeffrey L. Fuller, et al.	02/05/2001	AAER-1367	LR-16887	CIVINJ
In the Matter of Computron Software, Inc.	02/14/2001	AAER-1370	34-43959	AP
SEC v. Walter A. Forbes, et al.	02/28/2001	AAER-1372	LR-16910	CIVINJ
SEC v. Amazon Natural Treasures, et al.	03/02/2001	AAER-1375	LR-16924	CIVINJ
In the Matter of Kevin E. Orton, CPA	03/12/2001	AAER-1376	34-44064	AP
In the Matter of National Steel Corporation	03/29/2001	AAER-1378	34-44130	AP
In the Matter of Carl M. Apel	03/30/2001	AAER-1379	34-44136	AP
SEC v. John N. Brincat, et al.	04/16/2001	AAER-1381	LR-16962	CIVINJ
In the Matter of Bruce J. Kingdon, et al.	04/18/2001	AAER-1383	34-44193	AP

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SEC v. Nunzio P. DeSantis	05/01/2001		LR-16985	CIVINJ
In the Matter of Craig R. Clark, CPA	05/07/2001	AAER-1391	34-44270	AP
In the Matter of Sunbeam Corporation	05/15/2001	AAER-1393	34-44305	AP
In the Matter of David C. Fannin	05/15/2001	AAER-1394	33-7977	AP
SEC v. Albert J. Dunlap, et al.	05/15/2001	AAER-1395	LR-17001	CIVINJ
SEC v. Allan Boren, et al.	05/15/2001	AAER-1396	LR-17002	CIVINJ
In the Matter of Microtest, Inc.	05/16/2001	AAER-1397	34-44308	AP
SEC v. Richard P. Smyth, et al.	05/25/2001	AAER-1414	LR-17044	CIVINJ
In the Matter of Am-Pac International, Inc.	06/05/2001	AAER-1401	34-44389	AP
SEC v. Am-Pac International, Inc., et al.	06/05/2001	AAER-1403	LR-17024	CIVINJ
In the Matter of James Thomas McCurdy, CPA	06/14/2001	AAER-1404	34-44425	AP
SEC v. Ron Messenger, et al.	06/18/2001	AAER-1411	LR-17042	CIVINJ
In the Matter of Arthur Andersen LLP	06/19/2001	AAER-1405	34-44444	AP
In the Matter of Robert E. Allgyer, CPA	06/19/2001	AAER-1406	34-44445	AP
In the Matter of Edward G. Maier, CPA	06/19/2001	AAER-1407	34-44446	AP
In the Matter of Walter Cercavski, CPA	06/19/2001	AAER-1408	34-44447	AP
In the Matter of Robert G. Kutsenda, CPA	06/19/2001	AAER-1409	34-44448	AP
SEC v. Arthur Andersen LLP, et al.	06/19/2001	AAER-1410	LR-17039	CIVINJ
In the Matter of Michael J. Becker	06/21/2001	AAER-1412	34-44460	AP
In the Matter of J. Allen Seymour, CPA	06/21/2001	AAER-1413	34-44461	AP
In the Matter of American Classic Voyages Co.	06/25/2001	AAER-1416	34-44473	AP
In the Matter of Scott K. Barton, CPA	07/02/2001	AAER-1417	34-44500	AP
In the Matter of James T. Rush	07/02/2001	AAER-1418	34-44501	AP
In the Matter of American Bank Note Holographics, Inc.	07/18/2001	AAER-1422	34-44563	AP
In the Matter of John Lerlo	07/18/2001	AAER-1423	34-44564	AP
In the Matter of Mark Goldberg, CPA	07/18/2001	AAER-1424	34-44565	AP
SEC v. American Banknote Corporation	07/18/2001	AAER-1425	LR-17068	CIVINJ
SEC v. Antonio Accornero, et al.	07/18/2001	AAER-1425	LR-17068	CIVINJ
SEC v. American Bank Note Holographics, Inc.	07/18/2001	AAER-1425	LR-17068	CIVINJ
SEC v. Morris Weissman, et al.	07/18/2001	AAER-1425	LR-17068	CIVINJ
SEC v. Richard Macchiarulo	07/18/2001	AAER-1425	LR-17068	CIVINJ

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<u>Action</u>	<u>Date Filed</u>	<u>AAER #</u>	<u>Release #</u>	<u>Type</u>
In the Matter of Richard P. Macchiarulo, CPA	07/20/2001	AAER-1426	34-44581	AP
SEC v. Edward J. Kiley, et al.	07/23/2001	AAER-1427	LR-17074	CIVINJ
In the Matter of BankAmerica Corp. (n/k/a Bank of America Corp.)	07/30/2001	AAER-1429	34-44613	AP
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In the Matter of MAX Internet Communications, Inc.	08/01/2001	AAER-1430	34-44633	AP
SEC v. William F. Buettner, et al.	08/01/2001	AAER-1431	LR-17083	CIVINJ
SEC v. Larry Biggs, Jr., et al.	08/01/2001	AAER-1432	LR-17084	CIVINJ
In the Matter of Leslie D. Crone, CPA	08/16/2001	AAER-1434	34-44711	AP
In the Matter of Salvatore T. Marino	09/04/2001	AAER-1435	34-44761	AP
In the Matter of Indus International, Inc.	09/05/2001	AAER-1437	34-44764	AP
In the Matter of Carl Albano	09/05/2001	AAER-1438	34-44765	AP
SEC v. William Grabske, et al.	09/05/2001	AAER-1439	LR-17116	CIVINJ
In the Matter of Walter T. Reeder	09/10/2001	AAER-1441	34-44779	AP
In the Matter of George Kelly Moore	09/10/2001	AAER-1442	34-44781	AP
SEC v. Patrick L. Swisher, et al.	09/10/2001	AAER-1443	LR-17123	CIVINJ
SEC v. Eric L. Mattson, et al.	09/11/2001	AAER-1445	LR-17126	CIVINJ
USA and SEC v. KPMG Siddharta Siddharta & Harsono, et al.	09/11/2001	AAER-1446	LR-17127	CIVINJ
In the Matter of Baker Hughes Incorporated	09/12/2001	AAER-1444	34-44784	AP
In the Matter of Robert M. Fuller	09/17/2001	AAER-1447	34-44806	AP
In the Matter of Madera International, Inc.	09/19/2001	AAER-1449	34-44814	AP
In the Matter of Regina Fernandez	09/19/2001	AAER-1450	34-44815	AP
In the Matter of Ralph Sanchez, CPA	09/19/2001	AAER-1451	34-44816	AP
In the Matter of Harlan & Boettger, LLP, et al.	09/19/2001	AAER-1452	34-44817	AP
SEC v. Regina Fernandez	09/19/2001	AAER-1453	LR-17140	CIVINJ
SEC v. Madera International, Inc., et al.	09/19/2001	AAER-1453	LR-17140	CIVINJ
In the Matter of Gunther International, Ltd.	09/25/2001	AAER-1454	34-44842	AP
SEC v. TELnetgo2000, Inc., et al.	09/26/2001		LR-17160	CIVINJ
In the Matter of Charles K. Springer, CPA, et al.	09/27/2001	AAER-1456	34-44858	AP
In the Matter of Joseph H. Kiser	09/27/2001	AAER-1457	34-44859	AP
SEC v. Stephen L. Holden, et al.	09/27/2001	AAER-1458	LR-17156	CIVINJ

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In the Matter of Paul S. Jurewicz	09/27/2001	AAER-1459	34-44860	AP
SEC v. Vari-L Company, Inc., et al.	09/27/2001	AAER-1460	LR-17155	CIVINJ
SEC v. Jay Lapine	09/27/2001	AAER-1467	LR-17189	CIVINJ
SEC v. Michael G. Smeraski, et al.	09/27/2001	AAER-1467	LR-17189	CIVINJ
SEC v. Trans Energy, Inc., et al.	09/28/2001		LR-17159	CIVINJ
In the Matter of Chiquita Brands International, Inc.	10/03/2001	AAER-1463	34-44902	AP
SEC v. Chiquita Brands International, Inc.	10/03/2001	AAER-1464	LR-17169	CIVINJ
SEC v. AremisSoft Corporation, et al.	10/04/2001	AAER-1465	LR-17172	CIVINJ
In the Matter of NexPub, Inc. (f/k/a PrintontheNet.com, Inc.)	10/18/2001	AAER-1469	34-44951	AP
In the Matter of Seaboard Corporation	10/23/2001	AAER-1470	34-44969	AP21AR
In the Matter of Gisela de Leon-Meredith	10/23/2001	AAER-1471	34-44970	AP
In the Matter of a Registration Statement of Toks, Inc.	11/13/2001		33-8032	AP
In the Matter of Pinnacle Holdings, Inc.	12/06/2001	AAER-1476	34-45135	AP
In the Matter of Corrine Davies	12/14/2001	AAER-1478	34-45158	AP
In the Matter of Timothy Tuttle	12/14/2001	AAER-1479	34-45159	AP
SEC v. R. Bruce Acacio	12/18/2001	AAER-1484	LR-17292	CIVINJ
SEC v. Nelson Barber	12/27/2001	AAER-1480	LR-17291	CIVINJ
In the Matter of Rachel Eckhaus, CPA	12/27/2001	AAER-1481	34-45195	AP
In the Matter of Jeffrey Bacsik, CPA	12/27/2001	AAER-1482	34-45196	AP
In the Matter of Barbara Horvath	12/27/2001	AAER-1483	34-45197	AP
In the Matter of California Software Corporation	01/07/2002	AAER-1486	34-45242	AP
In the Matter of Carol Conway DeWees	01/07/2002	AAER-1487	34-45243	AP
In the Matter of James E. Slayton	01/07/2002	AAER-1488	34-42545	AP
SEC v. David C. Guenther, et al.	01/08/2002	AAER-1489	LR-17297	CIVINJ
In the Matter of KPMG LLP	01/14/2002	AAER-1491	34-45272	AP
SEC v. Michael A. Porter	01/14/2002	AAER-1493	LR-17309	CIVINJ
In the Matter of BellSouth Corporation	01/15/2002	AAER-1494	34-45279	AP
SEC v. BellSouth Corporation	01/15/2002	AAER-1495	LR-17310	CIVINJ
In the Matter of Nelson Barber, CPA	01/15/2002	AAER-1496	34-45280	AP
In the Matter of Trump Hotels & Casino Resorts, Inc.	01/16/2002	AAER-1499	34-45287	AP

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SEC v. Thomas W. Lambach	01/16/2002	AAER-1500	LR-17319	CIVINJ
In the Matter of CyberGuard Corporation, et al.	01/30/2002	AAER-1501	34-45362	AP
SEC v. Patrick O. Wheeler, et al.	01/30/2002	AAER-1502	LR-17346	CIVINJ
In the Matter of Critical Path, Inc.	02/05/2002	AAER-1503	34-45393	AP
SEC v. David A. Thatcher, et al.	02/05/2002	AAER-1504	LR-17353	CIVINJ
In the Matter of William Warner, et al.	02/13/2002	AAER-1501	34-45441	AP
SEC v. International Thoroughbred Breeders, Inc., et al.	02/13/2002	AAER-1506	LR-17361	CIVINJ
In the Matter of JDN Realty Corporation	02/20/2002	AAER-1507	34-45458	AP
SEC v. J. Donald Nichols, et al.	02/20/2002	AAER-1508	LR-17366	CIVINJ
SEC v. Eagle Building Technologies, Inc., et al.	03/01/2002		LR-17389	CIVINJ
In the Matter of Kevin R. Andersen	03/05/2002	AAER-1510	34-45502	AP
In the Matter of Telxon Corporation, et al.	03/05/2002	AAER-1511	34-45507	AP
SEC v. Kenneth W. Haver	03/05/2002	AAER-1512	LR-17394	CIVINJ
In the Matter of James E. Slayton, CPA	03/06/2002	AAER-1513	34-45509	AP
SEC v. Raece Richardson, et al.	03/06/2002	AAER-1514	LR-17397	CIVINJ
SEC v. Paul Skulsky, et al.	03/12/2002	AAER-1516	LR-17407	CIVINJ
In the Matter of Frederick W. Kolling III, CPA	03/12/2002	AAER-1517	34-45550	AP
In the Matter of William A. Dickson, et al.	03/12/2002	AAER-1518	34-45551	AP
In the Matter of Donald J. MacPhee	03/12/2002	AAER-1519	34-45552	AP
In the Matter of IGI, Inc.	03/12/2002	AAER-1520	34-45553	AP
SEC v. John P. Gallo	03/13/2002	AAER-1521	LR-17410	CIVINJ
SEC v. Lawrence N. Zitto	03/13/2002	AAER-1521	LR-17410	CIVINJ
SEC v. Donald J. MacPhee	03/13/2002	AAER-1521	LR-17410	CIVO
In the Matter of Timothy S. Heyerdahl, CPA	03/18/2002	AAER-1522	34-45586	AP
In the Matter of David Held, CPA	03/18/2002	AAER-1523	34-45587	AP
In the Matter of Elaine A. Decker, CPA	03/18/2002	AAER-1524	34-45588	AP
SEC v. First Florida Communications, Inc., et al.	03/21/2002		LR-17437	CIVINJ
In the Matter of Keith Spero	03/21/2002	AAER-1526	34-45611	AP
In the Matter of Frank Valdez	03/21/2002	AAER-1527	34-45612	AP
In the Matter of Harlan Schier	03/21/2002	AAER-1528	34-45613	AP
In the Matter of Daniel Parker	03/21/2002	AAER-1529	34-45614	AP

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In the Matter of Uri Evan, et al.	03/21/2002	AAER-1530	34-45615	AP
SEC v. Harold J. Macsata	03/21/2002	AAER-1531	LR-17426	CIVINJ
In the Matter of Douglas E. Costa	03/25/2002		34-45636	AP
SEC v. Dean L. Buntrock, et al.	03/26/2002	AAER-1532	LR-17435	CIVINJ
SEC v. Dale Peterson, et al	03/26/2002	AAER-1535	LR-17439	CIVINJ
In the Matter of Kimberly-Clark Corporation, et al.	03/27/2002	AAER-1533	34-45653	AP
In the Matter of Signal Technology Corporation	03/27/2002	AAER-1534	34-45655	AP
SEC v. Leonard J. Guida	03/28/2002		LR-17448	CIVINJ
SEC v. Les B. Strauss	03/28/2002		LR-17448	CIVO
In the Matter of PictureTel Corp., et al.	03/28/2002	AAER-1536	34-45665	AP
In the Matter of David T. Dodge	03/28/2002	AAER-1537	34-45666	AP
In the Matter of David A. Thatcher	04/02/2002	AAER-1539	34-45683	AP
SEC v. Michael Paloma, et al.	04/08/2002		LR-17462	CIVINJ
SEC v. Xerox Corporation	04/11/2002	AAER-1542	LR-17465	CIVINJ
SEC v. Byron Robert Lerner	04/22/2002		LR-17481	CIVINJ
In the Matter of Teltran International Group, Ltd.	04/22/2002	AAER-1543	34-45796	AP
In the Matter of Michael R. Drogin, CPA	04/22/2002	AAER-1545	34-45797	AP
SEC v. Patrick Quinlan, et al.	04/23/2002	AAER-1546	LR-17484	CIVINJ
In the Matter of Kenneth W. Haver, CPA	04/24/2002	AAER-1547	34-45814	AP
SEC v. G. Matthias Heinzelmann, III	04/25/2002	AAER-1549	LR-17491	CIVINJ
In the Matter of Surety Capital Corporation	04/25/2002	AAER-1550	34-45826	AP
In the Matter of Serologicals Corporation, Inc.	05/01/2002	AAER-1551	34-45852	AP
In the Matter of Michael A. Kolberg, et al.	05/01/2002	AAER-1552	34-45853	AP
SEC v. Carl E. Putnam, et al.	05/06/2002	AAER-1554	LR-17504	CIVINJ
In the Matter of Edison Schools, Inc.	05/14/2002	AAER-1555	34-45925	AP
SEC v. Reza Mikaili, et al.	05/20/2002		LR-17522	CIVINJ
In the Matter of Legato Systems, Inc., et al.	05/20/2002	AAER-1557	34-45962	AP
In the Matter of Ernst & Young LLP	05/20/2002	AAER-1558	34-45964	AP
SEC v. Alan K. Anderson	05/20/2002	AAER-1560	LR-17521	CIVINJ
SEC v. David Malmstedt, et al.	05/20/2002	AAER-1561	LR-17524	CIVINJ
In the Matter of Microsoft Corporation	06/03/2002	AAER-1563	34-46017	AP

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In the Matter of Advanced Technical Products, Inc., et al.	06/05/2002	AAER-1564	34-46030	AP
In the Matter of Katrina Krug, CPA	06/05/2002	AAER-1565	34-46031	AP
In the Matter of John K. Bradley	06/05/2002	AAER-1568	34-46035	AP
SEC v. John F. Mortell, et al.	06/05/2002	AAER-1569	LR-17542	CIVINJ
In the Matter of Korea Data Systems USA, Inc., et al.	06/07/2002	AAER-1571	34-46047	AP
In the Matter of Gerald S. Papazian	06/07/2002	AAER-1572	34-46048	AP
In the Matter of Ashford.com, Inc., et al.	06/10/2002	AAER-1573	34-46052	AP
SEC v. Kenneth E. Kurtzman, et al.	06/10/2002	AAER-1574	LR-17550	CIVO
SEC v. Aura Systems, Inc., et al.	06/11/2002	AAER-1575	LR-17557	CIVINJ
SEC v. Gerald S. Papazian	06/11/2002	AAER-1575	LR-17557	CIVINJ
In the Matter of Rite Aid Corporation	06/21/2002	AAER-1579	34-46099	AP
In the Matter of Timothy J. Noonan	06/21/2002	AAER-1580	34-46100	AP
SEC v. Frank M. Bergonzi, et al.	06/21/2002	AAER-1581	LR-17577	CIVINJ
SEC v. Richard P. Vatcher	06/21/2002	AAER-1582	LR-17578	CIVINJ
SEC v. Bruce Hill, et al.	06/21/2002	AAER-1582	LR-17578	CIVINJ
SEC v. WorldCom, Inc.	06/26/2002	AAER-1585	LR-17588	CIVINJ
In the Matter of Moret Ernst & Young Accountants (n/k/a Ernst & Young Accountants)	06/27/2002	AAER-1584	34-46130	AP
In the Matter of Peter D. Stewart, C.A., et al.	07/02/2002	AAER-1587	34-46157	AP
In the Matter of Thomas F. Wraback, CPA	07/09/2002	AAER-1588	34-46172	AP
In the Matter of Gregory D. Norton, CPA	07/09/2002	AAER-1589	34-46174	AP
In the Matter of Glen P. Duffy, CPA	07/09/2002	AAER-1590	34-46175	AP
In the Matter of Steven C. Veen	07/10/2002	AAER-1591	34-46177	AP
SEC v. Intelliquis International, Inc., et al.	07/12/2002	AAER-1592	LR-17611	CIVINJ
In the Matter of Avon Products, Inc.	07/17/2002	AAER-1595	34-46215	AP
In the Matter of PricewaterhouseCoopers LLP, et al.	07/17/2002	AAER-1596	34-46216	AP
In the Matter of The PNC Financial Services Group, Inc.	07/18/2002	AAER-1597	34-46225	AP
SEC v. Adelphia Communications Corporation, et al.	07/24/2002	AAER-1599	LR-17627	CIVINJ
In the Matter of Oxford Health Plans, Inc., et al.	07/25/2002	AAER-1600	34-46254	AP
SEC v. Oxford Health Plans, Inc.	07/25/2002	AAER-1601	LR-17631	CIVO
In the Matter of Eric C. Brown	07/29/2002	AAER-1602	34-46273	AP

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