

based on Greenwald's demonstrated inability to pay, all but \$75,000 of the disgorgement and prejudgment interest is waived, and a civil penalty was not imposed.

Greenwald also consented to an administrative order to be entered barring him from association with any broker, dealer, investment company, investment adviser or municipal securities dealer. [SEC v. Michael Borlinghaus, Joseph Latona, Leonard Bellezza, Jeffrey F. Green, Joseph P. Greenwald, and Heinz Grien, 95 Civ. 1520, SDNY, JFK] (LR-15507)

CIVIL ACTION AGAINST FERROFLUIDICS CORPORATION, ET AL.

On September 25, the Commission filed a civil action in the United States District Court for the Southern District of New York against Ferrofluidics Corporation (Ferrofluidics), Ronald Moskowitz, Jan R. Kirk, Stephen P. Morin, Jerome Allen, Bruce S. Moody, and The 1991 RPM Irrevocable Trust (RPM Trust). The Commission's complaint alleges that from as early as July 1991 through April 1993, Ferrofluidics, a NASDAQ-listed company, materially inflated its revenues and earnings in financial statements filed with the Commission and in other disclosures made to the investing public. The complaint alleges that Ronald Moskowitz, Ferrofluidics' former chief executive officer, chairman of the board of directors and largest shareholder, was the architect of the fraudulent scheme, and that Jan Kirk, Stephen Morin and Jerome Allen participated in the scheme and concealed the fraud from Ferrofluidics' auditors. The complaint also alleges that defendant Bruce Moody, the trustee of defendant RPM Trust, helped Moskowitz conceal his beneficial interest in the Ferrofluidics shares held by the RPM Trust, and facilitated Moskowitz's sale of Ferrofluidics stock valued at approximately \$13 million during the time of the fraudulent conduct.

The complaint alleges that defendants prepared and disseminated a series of materially false and misleading statements concerning, among other things, a 1992 sham private placement of stock by the company, sales of the company's products, and equity investments made by the company. Defendants also allegedly disseminated favorable projections concerning Ferrofluidics' future business prospects and profitability, without having any reasonable basis for such projections. The complaint alleges that, as a result of defendants' activities, potential and actual investors in Ferrofluidics were led to believe that Ferrofluidics was a prosperous company with marketable and attractive products, and tremendous opportunities for rapid growth and earnings. In fact, Ferrofluidics was then experiencing significant losses and encountering problems developing and manufacturing its products.

The complaint alleges that during the relevant period Moskowitz (directly and through trusts that he controlled) and Allen sold Ferrofluidics stock worth millions of dollars, in a series of private placements and open market transactions, while in the possession of material, nonpublic information about the company.

The complaint alleges that the defendants (except Moody) violated the antifraud provisions of the federal securities laws. Ferrofluidics, Moskowitz, Kirk and Morin also violated certain reporting, internal controls and record-keeping provisions of the federal securities laws. The complaint also alleges that Allen violated Section 17(b) of the Securities Act of 1933 by publishing and circulating The International Investor, a newsletter that ran numerous articles recommending the securities of Ferrofluidics, without disclosing that he had been compensated by the company. The complaint also alleges that Moskowitz and the RPM Trust violated Section 13(d) of the Securities Exchange Act of 1934 and Rule 13d-2 thereunder by failing to make the disclosures and filings required of persons who directly or indirectly acquire a beneficial interest of 5% or more of any class of a registered equity security. For the same reasons, Kirk and Morin allegedly violated Section 13(d) of the Exchange Act and Rule 13d-1 thereunder.

The complaint alleges that Moody aided and abetted Moskowitz's and the RPM Trust's violations of the antifraud provisions by helping Moskowitz conceal his beneficial interest in the Ferrofluidics shares held by the Trust, and by permitting Moskowitz's sales of Ferrofluidics shares while Moskowitz possessed material nonpublic information about the company. Moody allegedly aided and abetted the RPM Trust's violation of Section 13(d) of the Exchange Act and Rule 13d-2 thereunder by failing to make the required disclosure concerning the Ferrofluidics shares beneficially owned by Moskowitz in the Trust's Schedules 13D filed with the Commission.

The Commission is seeking injunctive relief, disgorgement of defendants' ill-gotten gains, prejudgment interest, the imposition of civil penalties against Moskowitz, Kirk, Allen, Morin and the RPM Trust, and officer and director bars against Moskowitz, Kirk and Morin. Simultaneously with the filing of the complaint, and without admitting or denying the Commission's allegations, Ferrofluidics and Morin agreed to the entry of permanent injunctions. Morin also consented to pay a \$25,000 civil penalty, and to the entry of an order barring him for five years from serving as an officer or director of a public company. Morin has also offered to consent to a five-year bar from practicing as an accountant before the Commission pursuant to Commission Rule of Practice 102(e). [SEC v. Ferrofluidics Corporation, Ronald Moskowitz, Jan R. Kirk, Stephen P. Morin, Jerome Allen, Bruce S. Moody, and The 1991 RPM Irrevocable Trust, Civ. No. 97-Civ-7174, SDNY] (LR-15508; AAE Rel. 966)

CEASE AND DESIST PROCEEDING AGAINST KEDAR GUPTA, ALVAN CHORNEY AND HERBERT MOSKOWITZ

On September 25, the Commission instituted a cease and desist proceeding against Kedar Gupta, Alvan Chorney, and Herbert Moskowitz. In the Order, the Division of Enforcement alleges that Ferrofluidics Corporation, a NASDAQ-listed corporation headquartered in New Hampshire, improperly recognized revenue totalling \$4,683,454 on six units of custom-ordered equipment during the third and fourth quarters of its fiscal year ended June 30, 1992. The Division alleges that Gupta obtained from a customer a letter, which he knew

of Investors Trust. (Rel. IC-22830 - September 24)

MONARCH LIFE INSURANCE COMPANY, ET AL.

An order has been issued under Section 26(b) of the investment Company Act approving the substitution, by Monarch Life Insurance Company and Monarch Separate Account VA (Account), of shares of certain funds of Merrill Lynch Variable Series Funds, Inc. for shares of certain series of Variable investors Series Trust held by the Account. (Rel. IC-22831 - September 24)

SELF-REGULATORY ORGANIZATIONS

ACCELERATED APPROVAL OF PROPOSED RULE CHANGE

The Commission granted accelerated approval to a proposed rule change filed by the Pacific Exchange (SR-PCX-97-32) to extend the Lead Market Maker Book Pilot Program for one year. Publication of the proposal is expected in the Federal Register during the week of September 29. (Rel. 34-39106)

The Commission has granted accelerated approval to a proposed rule change filed by the National Association of Securities Dealers (SR-NASD-97-70) that extends the effectiveness of the NASD's excess spread rule until October 13, 1997. (Rel. 34-39120)

SECURITIES ACT REGISTRATIONS

The following registration statements have been filed with the SEC under the Securities Act of 1933. The reported information appears as follows: Form, Name, Address and Phone Number (if available) of the issuer of the security; Title and the number and/or face amount of the securities being offered; Name of the managing underwriter or depositor (if applicable); File number and date filed; Assigned Branch; and a designation if the statement is a New Issue.

Registration statements may be obtained in person or by writing to the Commission's Public Reference Branch at 450 Fifth Street, N.W., Washington, D.C. 20549 or at the following e-mail box address: <public info @ sec>. In most cases, this information is also available on the Commission's website: <www.sec.gov>.

F-6 FUJI PHOTO FILM CO LTD/ADR/, 1 CHASE MANHATTAN PLAZA,
CHASE MANHATTAN BANK, NEW YORK, NY 10081 (212) 552-1305 - 100,000,000
(\$5,000,000) DEPOSITARY RECEIPTS FOR COMMON STOCK. (FILE 333-7586 -
SEP. 11) (BR. 99)

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C/O ITIBANK NA, NEW YORK, NY 10043 (212) 657-7691 - 50,000,000
(\$2,500,000) DEPOSITARY RECEIPTS FOR COMMON STOCK. (FILE 333-7610 -
SEP. 15) (BR. 99 - NEW ISSUE)

