

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	From: Fred Tarter To: The Honorable Shirley Wohl Kram; RE: Edward Down, Jr. (partial) (2 pages)	08/25/1993	P6/b(6)

COLLECTION:

Clinton Presidential Records
Counsel's Office
Meredith Cabe
OA/Box Number: 24947

FOLDER TITLE:

Edward Downe [3]

2009-0736-F
db1452

RESTRICTION CODES**Presidential Records Act - [44 U.S.C. 2204(a)]**

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

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Fred B. Tarter

August 25, 1993

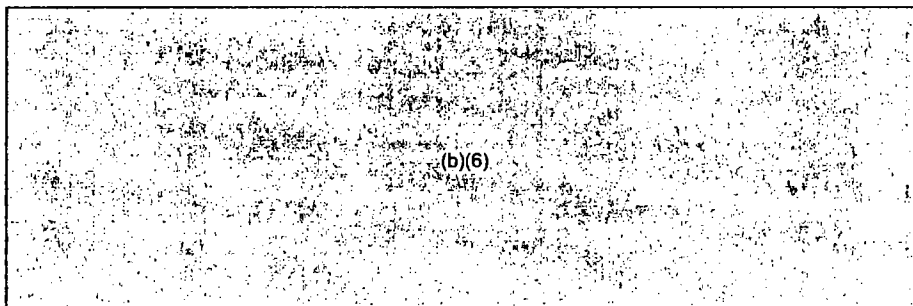
The Honorable Shirley Wohl Kram
United States Courthouse
Room 2601
Foley Square
New York, New York 10007

Your Honor:

I am writing to you in regard to Edward Downe who has been a close friend and associate of mine for many years.

I first met Ed Downe over 25 years ago. At that time, I had a very small advertising agency with one client, The Longines Watch Company. When I called Downe Communications, the then publisher of "The Family Weekly" Sunday supplement, I talked my way up the ladder and actually got Mr. Downe himself on the phone. I explained to him that our company was a start-up operation in the mail order agency business with a big client that I had to service. Ed took the time to understand what we needed and, for some unknown reason, extended both credit and an understanding treatment to this young upstart.

Ed has always been there to lend a helping hand. He made me look like a hero with my client and enabled me to build upon that early success. By allowing me to deliver to my client a preferential position in "Family Weekly," I was able to demonstrate that although we were a small company, we had the ability to perform like a major. I don't know of many other people who would have so generously made this kind of effort to help someone they barely knew get a leg up in their career. Today from a building I own on East 39th Street, I conduct a number of businesses in the entertainment, finance and publishing fields but the person who gave me the needed initial leg up was Ed.



(b)(6)

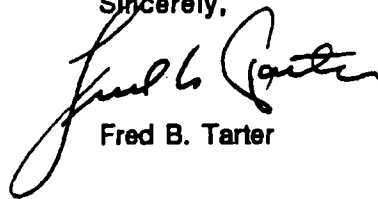
[001]

How do you thank a friend for giving your son a break like that? But Ed Downe doesn't look for thanks. He is one of those rare people who doesn't keep score; he simply is your friend 100% of the way. Furthermore, that generosity of spirit extends beyond just friends and family. In my experience, Ed's first instinct has always been to reach out and help. He is, in the best sense of the word, a kind man.

I am sure that you receive dozens of letters like this on behalf of those people who appear before you, and after a while I am sure they all sound the same. But Ed Downe is different. I ask that you see in him all the goodness of a lifetime of giving, a lifetime of caring. He deserves the compassion of the court.

Thank you very much.

Sincerely,



Fred B. Tarter

583 Broadway
New York, NY 10012-3261
212-219-1222
Fax 212-431-5328

August 18, 1993

The Honorable Shirley Wohl Kram
United States Court House
Room 2601
Foley Square
New York, New York 10007

Dear Judge Kram:

I am writing on behalf of Edward Downe, who is due to appear before you shortly. I have known Mr. Downe since the mid 1970s, when he first began to collect contemporary art and to visit The New Museum, of which I am the Director.

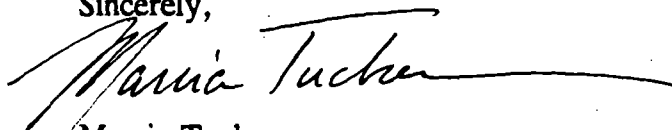
I know Ed Downe to be a man of unmitigated kindness, sensitivity, and generosity. He has done more to support the arts in New York city than virtually anyone I know. He has emotionally and financially helped dozens, perhaps hundreds, of talented and hardworking artists, young and old, who have found themselves at some time unable to pay the rent, feed their families, buy paint or art supplies, or to see a doctor when needed. He has become friend and family to artists whose work has been unfairly neglected or forgotten, and over many years has worked to bring it out of isolation into public view.

Mr. Downe has consistently supported the city's museums and art institutions, especially those that show unfamiliar or difficult work and engage with complex ideas and unknown artists; he has unstintingly provided guidance, encouragement and support to those arts organizations which are struggling to stay alive in difficult economic times.

The arts are the field I know best. But I also know Mr. Downe to support a wide range of causes, both institutionally and individually. One of his greatest pleasures over the years has been his work with the learning disabled; and the last time I saw him, he was rushing off to take a homeless man to his own dentist for treatment.

While I know that the charges against him are serious ones, I hope that in making your judgement, you will also take into consideration the myriad ways in which Ed Downe has changed so many people's lives for the better.

Sincerely,



Marcia Tucker
Director

MAIL-IT REQUESTED: JANUARY 11, 2001

1036TB

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DISPLAY FORMAT: FULL

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GENERAL COUNSEL STAFF
ROOM 308
OLD EXECUTIVE OFFICE BUILDING
WASHINGTON DISTRICT OF COLUMBIA 20502

*****05535*****

June 21, 2000, Wednesday, Final Edition

SECTION: PART A; NATION: Pg. A10

LENGTH: 4254 words

HEADLINE: White House holds dinner fit for a king

BYLINE: Ann Geracimos; THE WASHINGTON TIMES

BODY:

The White House last night hosted the largest formal dinner of the Clinton administration, with more than 420 guests helping welcome the 37-year-old Moroccan monarch, King Mohammed VI, on his first visit here as his country's head of state.

In his toast, President Clinton praised Morocco and its leader enthusiastically, saying "no foreign guest is more deserving of a warm welcome here" and recalled how Morocco had been the first country to recognize the United States when the original 13 states declared themselves a nation.

A treaty of friendship between America and Morocco "is the oldest American treaty of its kind enforced today," he reminded the crowd. He also announced the creation of a scholarship program in memory of the late King Hassan II for Moroccan students to come to America "to study subjects close to the king's heart."

King Mohammed VI, who spoke in English but began and ended his toast with some brief words in Arabic, echoed Mr. Clinton's message by praising his own country's cultural identity and place in the world. Both men pledged efforts to work toward Middle East peace. "My heart is set on this ideal," he noted.

"He's a superstar," Joseph Verner Reed, a former U.S. ambassador to Morocco in 1981 to 1985, said of the king. "He has been trained from the cradle to be king and leader of 28 million people as well as being spiritual commander of the faithful."

The king, a Muslim, toasted in water; Mr. Clinton had wine. The king was accompanied by his sister, Princess Lalla Meryem. Chelsea Clinton was present but did not appear in the receiving line.

Dinner took place under an ethereal champagne-colored tent on the South Lawn. The tent with its glowing chandeliers and rose-filled damask-covered tables may have been a far cry from those associated with the vastness of interior North Africa.

Not so the king's gift to the president: a gold, diamond and emerald dagger. Mr. Clinton played it safer with his traditional signature gift of a Tiffany sterling silver cache pot featuring designs from the White House interior.

First lady Hillary Rodham Clinton got special attention this time. The king brought her a choice of five Moroccan-made gowns to wear for the occasion. She chose a flattering gold-and-cream lace model known as a takchita.

The king's tastes were more than satisfied by a Mediterranean-themed menu that had reminders of his homeland in every course and challenged a kitchen staff by having to be served 200 yards from the White House kitchen.

An African peppercorn called "grains of paradise" was used to spice salmon presented with a golden tomato gazpacho - "a cool first course," Mr. Scheib said at an afternoon preview.

Next came lamb flavored with the zest of salt-cured lemons. Salad was accompanied by a warm goat cheese tart and mission fig dressing. The dessert spectacular, called "A Moroccan Oasis" and dreamed up by pastry chef Roland Messnier, featured a replica in chocolate of a king's palace.

The youthful king's request to hear the famed musical group Earth, Wind and Fire brought Maurice White, one of its founders, out of retirement just for the night. He flew in from Los Angeles to join 16 others in the band who performed some of their hit songs.

An official dinner last year for Prime Minister Ehud Barak of Israel had 520 on the guest list but was not a full-blown state dinner, which implies more formal protocol - and more elaborate gifts.

****BOX

LAST NIGHT'S WHITE HOUSE GUESTS

President Bill Clinton and Hillary Rodham Clinton; His Majesty Mohammed VI, king of Morocco, HRH Princess Lalla Meryem; Lalla Soukaina, daughter of Princess Lalla Meryem; Moulay Driss, son of Princess Lalla Meryem; Moulay Abdellah Alaoui, cousin of his majesty the King; Mrs. Moulay Abdellah Alaoui, spouse of Moulay Abdellah Alaoui; Moulay Driss Alaoui, cousin of his majesty the king; Mohammed Benaiss, minister of foreign affairs and cooperation; Mr. Andre Azoulay, adviser to his majesty the king; Mohammed Kabbaj, adviser to his majesty the king; Zoulikha Nasri, adviser to his majesty the king; Fathallah Oualalou, minister of economy and finance; Alami Tazi, minister of industry, trade and handicrafts; Abderrahman Sbai, minister delegate to the prime minister in charge of the Administration of National Defense; Taib Fassi Fihi, secretary of state for foreign affairs; Nouzha Chkrouni, secretary of state in charge of disabled persons; Mohammed Rochdi Chraïbi, director of his majesty's Cabinet; Hassan Aourid, official spokesman of the royal palace; Abdallah Maaoufi, ambassador the Kingdom of Morocco to the United States, and Kathleen Maaroufi; Ahmed Snoussi, Ambassador of the Kingdom of Morocco and permanent representative to the United Nations; Abdelouahab Benmansour, historiographer of the Kingdom of Morocco; General Abdelaziz Bennani, commander of the Southern Region; Maj. Gen. Abdelhaq Kadiri, director general of studies and documentation; Brig. Gen. Bouchaïb Arroub, head of the third bureau at the general staff of the Royal Armed Forces; Col.-Maj. Hamidou Laanigri, director general of the DST (Direction de la Surveillance du Territoire); Abdeslam Jaidi, ambassador of His Majesty the King, and Maria Luisa Jaidi; Abdelhak Merini, director of royal protocol and chancery; Aïcha Benhima, lady in waiting of HRH Princess Lalla Meryem; Paula Abdul, singer, dancer, choreographer and Actress, and Constance Schwartz, director of programming, National Football League; S. Daniel Abraham, chairman, Center for Middle East Peace and Economic Cooperation, and Ewa Abraham; Jill Abramson, Washington Editor, The New York Times, and Henry L. Griggs III, consultant; Secretary of State Madeleine K. Albright and Gregory Bowes; Henry Alpert, president, Spartan Petroleum Corp., and Gerry Alpert, psychotherapist; Carol Alt, actress, and Melanie A. Bonvicino, president, Metro Management Groupe Inc.; Aida Alvarez, administrator, Small Business Administration, and John V. Connorton Jr., partner, Hawkins, Delafield and Wood; J. Brady Anderson, administrator, Agency for International Development, and his daughter, Helen Brauner; Michael P. Andrews, vice president and director of international business affairs, Citigroup Inc., and Julie Chrisco, bureau chief, ESPN; Rep. Robert E. Andrews, New Jersey Democrat, and Camille Andrews, associate dean of enrollment and projects, Rutgers Law School; Kenneth S. Apfel, commissioner, Social Security Administration, and Caroline Hadley; Col.-Maj. Mekki Asraoui, aide-de-camp to his majesty the king; Felice Axelrod, director of special events, Mount Sinai NYU Health, and her son, Zachary Axelrod; Bruce Babbitt, secretary of the interior and Harriet Babbitt, deputy administrator, U.S. Agency for International Development; William Bader, assistant secretary of state, Bureau of Education and Cultural Affairs, and Gretta Bader, sculptor; David Beier, chief domestic policy advisor to the vice president, and Elizabeth Wright; Jalil Belabbes Taarji, president, Marrakech Association of Hotel Investors; Seddik Belyamani, executive vice president of sales and marketing, The Boeing Company, and Prudence Belyamani; Richard Ben-Veniste, partner, Weil, Gotshal and Manges, and Donna Marie Grell; Naftali Bendavid, national correspondent, Chicago Tribune, and Dara Bendavid, Department of Health and Human Services; Othman Benjelloun, chairman, United States Morocco Council, and Laila Benjelloun; Abdelhak Bennani, president of WAFABANK; Fathia Bennis, managing director of the Casablanca Stock Exchange; Samuel Berger, assistant to the president for national security affairs, and Susan Berger; Meyer Berman, sole proprietor, M. A. Berman Co., and Katia Christine; HRH Prince Bandar bin Sultan, ambassador of Saudi Arabia to the United States; Patti Cadby Birch, trustee, the Metropolitan Museum of Art, and Avna P. Cassinelli; Richard Blumenthal, attorney general, State of Connecticut, and Cynthia M. Blumenthal; Deborah Branson, attorney, law offices of Frank L. Branson, and Lane Michael Luskey, national finance director, Martin Frost Campaign Committee; Alma Brown, senior

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Polskin; Steven Protulis, executive director, National Council of Senior Citizens, and Dorinda Fox, director of employment and community programs, NSCERC; Bobby Rahal, Motorsports, and Debi Rahal; Joseph Verner Reed, under-secretary-general of the United Nations and former U.S. ambassador to Morocco, and Harmon E. Kirby; Ray Reggie, president, Media Direct, and Mary Michelle Reggie; Steven Ricchetti, assistant to the president and deputy chief of staff, and Amy Blanchard; Max I. Richtman, executive vice president, National Committee to Preserve Social Security and Medicare, and Monique Maniet, president, Veterinary Holistic Care; Bruce Riedel, special assistant to the president and senior director for Near East and South Asian affairs, National Security Council, and Elizabeth McCullen; Richard W. Riley, secretary of education, and Tunky Riley; Rachel Robinson, founder, the Jackie Robinson Foundation, and her daughter, Sharon Robinson, director of educational programming.

Major League Baseball; Stuart W. Rockwell, former U.S. ambassador to Morocco, and Rosalind Rockwell; Rep. Harold Rogers, Kentucky Republican, and Cynthia Rogers; Richard Rominger, deputy secretary, department of agriculture, and Isi Siddiqui, senior trade adviser to the secretary of agriculture; Robert Rosen, deputy assistant to the president and director of the office of advance, and Jessica Gibson; Jack Rosen, president, American Jewish Congress and chairman and CEO, Infu-Tech Inc., and Phyllis Rosen; Dennis Ross, special Middle East coordinator, and Deborah Ross; Dr. Kenneth Rothaus, private practice plastic surgeon, New York Presbyterian Hospital-Cornell Weill Center, and Dr. Paula Rothaus, nuclear physician, New York Presbyterian Hospital; Alan Rothenberg, Los Angeles, Calif., and Georgina Rothenberg; Dr. Alfred Rotondaro, executive director, National Italian American Foundation, and Kathleen Rotondaro, president, Quadel Consulting Corp.; Rep. Bobby L. Rush, Illinois Democrat, and Carolyn Rush; Moureddine Sail, managing director, 2M Channel; Rabbi David Saperstein, director, Religious Action Center of Reform Judaism, and Ellen Weiss, executive producer, "All Things Considered," National Public Radio; Dr. Lloyd M. Sara, dentist, and Lisa Sara; Cristophe Schatteman, Cristophe Hair Salon, and Deborah P. Herbst; Robert Scheer, columnist and contributing editor, Los Angeles Times, and Narda Catharine Zacchino, Los Angeles Times; Dr. Eric Schmidt, chairman and CEO, Novell, Inc., and Wendy Schmidt; Mrs. George A. Smathers, Miami, Fla., and Louis Long Jr.; Daniel Snyder, chairman and owner, the Washington Redskins, and chairman and CEO, Snyder Communications, Inc., and Tanya Snyder; Rep. Vic Snyder, Arkansas Democrat; Juliet Sorensen and Benjamin Jones, Ph.D. Candidate in Economics, Massachusetts Institute of Technology; Ted Sorensen, senior counsel, Paul, Weiss, Rifkind, Wharton and Garrison, and Gillian Martin Sorensen, U.N. assistant secretary general; Mary Steenburgen, actor, and Ted Danson, actor; Phil Stefani, CEO, Phil Stefani Restaurants, and Karen Stefani, owner, Avanti Boutique; James Steinberg, deputy assistant to the president for national security affairs, and Sherburne Abbott, executive director, the National Academies Board on Sustainable Development; David Steiner, chairman, Steiner Equities Group, and Sylvia Steiner; Lawrence H. Summers, secretary of the treasury, and Victoria Perry Summers; John Sykes, president, VH1, and Laurie Sykes; Rep. John Tanner, Tennessee Democrat, and Betty Ann Tanner; Helen Thomas, former reporter, United Press International, and her nephew, Tim Jenkins, attorney; Rep. Ed Towns, New York Democrat, and Gwen Towns; Stephen Trachtenberg, president, George Washington University, and Francine Trachtenberg, vice president, Educational Outreach, WETA; Susan Trees, Washington, D.C. and Roger Cossack, co-anchor, "Burden of Proof," CNN; Ann Walker Marchant, executive vice president, Shandwick International, and her father, George H. Walker III, president and CEO, Opportunity Systems Inc.; Edward S. Walker Jr., assistant secretary of state for Near Eastern affairs, and Wendy Walker; Mark Walsh, CEO, VerticalNet Inc., and Polly Vail; Vernon Walters, former U.S. ambassador to the United Nations and Germany, and his nephew, Ariston Adams; Raul Walters, president and CEO, Raul Walters Properties, and Vicki Walters; Mark S. Weiner, president, Financial Innovations Inc., and Susan Weiner; Togo D. West Jr., secretary of veterans affairs, and Gail Berry West, Armstrong World Industries Inc.; Dr. Ruth Westheimer, New York, N.Y., and Werner Gundersheimer, director, Folger Shakespeare Library; Margaret Whillock, deputy director of the White House visitors office, and Carl S. Whillock, special assistant to the president for agricultural trade; Sean Wilentz, Dayton-Stockton professor of history, Princeton University, and Christine Stansell, professor of history, Princeton University; Anthony A. Williams, mayor of the District of Columbia, and Diane Simmons Williams, first lady of the District of Columbia; Maggie Williams, former chief of staff to the first lady, and William Barrett, senior adviser to the undersecretary of state for public diplomacy and public affairs; Karen E. Williamson, AmeriChoice Health Services, and Peter Woolfolk, department of education; Frank G. Wisner, former U.S. ambassador to India, Egypt and the Philippines, and Christine Wisner; Dr. I. William Zartman, professor, John Hopkins University and president, Tangier American Ligation Museum Society, and Marie-Daniele Zartman; James J. Zogby, president, Arab American Institute, and Eileen P. Zogby

GRAPHIC: Photo, King Mohammed VI of Morocco, President Clinton, Princess Lalla Meryem and first lady Hillary Rodham Clinton prepare to receive guests., By James R. Brantley/The Washington Times ; Box, Last night's White House guests

LOAD-DATE: June 21, 2000

December 14, 1999, Tuesday

SECTION: FINANCIAL NEWS

DISTRIBUTION: TO BUSINESS EDITOR

LENGTH: 804 words

HEADLINE: E-Commerce Breeds Another Success: The Female Athlete Raises \$4.8 Million in Private Placement

DATELINE: NEW YORK, Dec. 14

BODY:

Founded in 1996 by soccer moms Mary P. Tenety and Lori Tesla-Schmid, The Female Athlete (TFA) -- accessible through www.femaleathlete.com and a related print catalog -- offers hard-to-find athletic wear, gear and accessories to Generation Y girls and women, ages 8 through 23. Rapid growth to date led to a recent private offering that raised over \$4.8 million and was beyond the maximum that the company anticipated. As both direct marketer and E-commerce retailer, The Female Athlete's goal is to become the leading brand of specialized products to the target market, as well as to parents and coaches of this group.

At the completion of the offering, **Edward R. Downe, Jr.** became chairman of the TFA board of directors, which includes ABC and ESPN's Dick Schaap, sports marketer Susan Rodin of Stars and Strategies, Crunch Gyms' Doug Levine, along with founder and president Tenety. Olympic gold medalist Julie Foudy, a member of the U.S. Women's National Soccer Team, is on the Advisory Board and serves as company spokesperson.

Mr. **Downe** has been active in the direct mail business for 30 years. He founded and built **Downe Communications, Inc.** into the world's largest magazine publishing firm at the time, while also owning the major direct mail businesses of Greenland Studios and The Hamilton Mint, among other companies. He has been an adviser to TFA for two years. "The success of the initial private placement is the result of the quality of what TFA is doing," **Downe** stated.

"The company provides apparel, gear and accessories to young female athletes through their favored channel of communications: the Internet."

"Distribution of the catalog further publicizes the Web site," explained president Tenety, "while Team TFA provides an online community where thousands of girls and teens will eventually be able to exchange ideas and to discuss sports preferences and favorite professional female athletes. Besides products, fitness and nutritional information is currently provided at www.femaleathlete.com, and an upgraded coaches' corner along with further information about well known women athletes will be added soon."

The "Gen Y" market is made especially attractive by the steady increase in women's participation in sports, influenced by the Title IX legislation that opened doors to the present phenomenon. Among girls age 6 through 11, sports participation increased 86% between 1987 and 1997*, while comparable participation by boys grew 57%. The percentage of female high school athletes rose to more than 40% for the first time during the 1996-1997 academic year. The Soccer Industry Council of America estimates that 7.2 million females participated in soccer alone in 1996.* Factor in the statistic that the 56 million girls and boys in the target market have a disposable annual income of \$120 billion, and it becomes obvious that The Female Athlete has set up an attractive conduit to supply very specific demands.

"We initially conceived TFA out of necessity," admitted Tenety. "My partner Lori and I have daughters who are female athletes, and we found it difficult to locate such items as batting helmets with room for a pony tail, softball gloves for smaller hands, shorts for narrower waists and wider hips -- even basketball jerseys that were not cut too low for the feminine physique." Both women noted that while young male athletes are identified as a market niche nearly from birth, female counterparts have been largely ignored. Lori Tesla-Schmid pointed out, "There are thousands of girls today who would rather spend weekends on a playing field than in a shopping mall. We cater to them and also make The Female Athlete a one-stop-shopping process for parents. Sales from the Fall catalog and the Internet have exceeded projections and are expected to grow tenfold in the coming year."

"If we do our job well," Tenety said, "as we expand the line of products and meet the needs of female athletes, TFA will build relationships with this group that will last a lifetime." The interaction between the Web site and the catalog is further enhanced by informal focus groups with girls and young women, who provide truly interactive insight and choices as to what products are developed.

The Female Athlete provides exclusive and hard-to-find apparel, gear and accessories to girls, teens and young women via the Internet and a catalog. Company offices are located in Babylon, New York.

* The latest year for which figures are available.

SOURCE The Female Athlete

CONTACT: Camille Hardy, chardy@auletta.com, or Kimberlee Auletta, ka@auletta.com, both of R.C. Auletta and Company, 212-355-0400, for The Female Athlete

URL: <http://www.prnewswire.com>

LOAD-DATE: December 15, 1999

October 29, 1998, Thursday, HOWARD EDITION

SECTION: LOCAL (NEWS),

Pg. 9C

LENGTH: 644 words

HEADLINE: 'Fantastique' to open season; Concert: The Columbia Orchestra will present works by Brahms and Berlioz Saturday in its first program of the 1998-1999 season.

BYLINE: Phil Greenfield. SPECIAL TO THE SUN

BODY:

Anyone who thinks drug-induced musical dreams are exclusive to 1960s rock-'n'-rollers doesn't know classical music very well.

For sitting at the core of the symphonic repertoire is Hector Berlioz's immensely colorful "Symphonie Fantastique," the five-movement tale of a fixated lover and his opium-inspired dream gone bad.

With its hair-raising "March to the Scaffold" and a phantasmagoric "Witches Sabbath" punctuated by the sounds of demons, sorcerers and shrieking witches, "Symphonie Fantastique" is an inspired choice for an All Hallows Eve musical program, which explains why the Columbia Orchestra has made Berlioz's masterwork the centerpiece of the opening concert of the ensemble's 1998-1999 season.

The concert will be held at the James Rouse Theatre in Columbia at 8 p.m. Saturday. Conductor Catherine L. Ferguson and her community orchestra of 84 players, augmented by a harpist and extra percussion for Berlioz's more raucous passages, will also perform two works of Brahms, his rollicking "Academic Festival Overture" and the Concerto for Violin and Cello.

Both soloists for the Brahms concerto have close ties to Columbia and are founding members of the Gemini Piano Trio, an up-and-coming chamber ensemble.

Violinist Sheng-Tsung Wang, a graduate of Centennial High School and a former winner of the Columbia Young Artist Competition, is completing a master's degree at Baltimore's Peabody Conservatory, where he is concertmaster of the Peabody Symphony Orchestra.

Cellist Benjamin C. Myers of Columbia has been principal cellist of the Aspen Concert Orchestra in Colorado, the Concert Artists of Baltimore and the Baltimore Chamber Orchestra. He earned the first doctoral degree in cello performance from Boston's prestigious New England Conservatory and is a veteran of master classes given by Yo-Yo Ma.

The players and their conductor have aimed high in their season opener. The sustained phrases of Brahms are always a test of the overall expressiveness of an orchestra, and the virtuosity and emotionalism demanded by "Symphonie Fantastique" make it one of the great tests of the symphonic repertoire.

"Few musicians have the imagination and passion to transport themselves and their audience into the fantastic world of Berlioz's dreams," the British conductor and commentator **Edward Downes** has said.

But the local orchestra is undaunted by the task.

"We're here to see that music stays a part of everyone's lives," says flutist Elaine Newhall, president of the orchestra, which will play Saturday at the Rouse Theatre for the second time.

"We aren't the Baltimore Symphony, but we have very talented players who've been together a long time," she says. "Many music teachers from the county play with us, so students will get the chance to see their teachers perform."

Columbia Orchestra's 1998-1999 season

Saturday, 8 p.m. at the James Rouse Theatre: Sheng-Tsung Wang, violin; Benjamin Myers, cello; Brahms' "Academic Festival Overture"; Brahms' Double Concerto for Violin and Cello; Berlioz' "Symphonie Fantastique."

Nov. 21: 1 p.m. and 2:30 p.m., Family Concert, Wilde Lake Interfaith Center: Prokofiev's "Peter and the Wolf"; Bizet's "Jeux d'enfants" (Children's Games).

Jan. 30, 8 p.m.: Smith Theatre, Howard Community College: Nancy Stagnitta, flute; Michael Adcock, piano; Mozart's Overture to Don Giovanni, Flute Concerto No. 1 and Piano Concerto No. 12, K.313; Mendelssohn's Symphony No. 5 in D minor, "Reformation."

Feb. 27, 8 p.m., Smith Theatre: Young Artist Competition winners; Alfvén's Swedish Rhapsody No. 1; Competition winners, repertoire to be announced.

May 22, 8 p.m., Smith Theatre: Elizabeth Knauer, soprano; Beethoven's Leonore Overture No. 3; Mahler's Kindertotenlieder; Sibelius' Symphony No. 5.

Call 410-381-2004 for subscription information.

Pub Date: 10/29/98

TYPE: REVIEW

LOAD-DATE: October 30, 1998

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Corporate Officers and Directors Liability Litigation
Reporter

August 10, 1998

SECTION: Vol. 13: No. 20; Pg. 13

LENGTH: 763 words

CASE: Insider Trading:SEC v. Warde

HEADLINE: 'Tipper' Benefits Need Not Be Tangible, Says 2nd Cir.

BODY:

The Second Circuit has affirmed the judgment against Thomas Warde, who was found guilty of insider trading, and clarified that violation of Sec. 10(b) of the federal securities laws need not be based on a "tipper" receiving tangible benefits from leaking the material, non-public information. Securities and Exchange Commission v. Warde, No. 97-6190 (2nd Cir., July 8, 1998).

Warde asserted there was insufficient evidence to support the judgment against him ordering him to disgorge \$872,000 and to pay a civil penalty in the same amount and \$1.26 million in pre-judgment interest.

Background

Warde was a good friend of **Edward Downe**, who served on the board of directors of Kidde Inc. during the period when the company was being pursued for a hostile takeover by two companies.

According to the opinion, **Downe** and Warde frequently discussed information relating to the board's reaction to the possible takeover by Hanson Trust PLC or Kohlberg Kravis Roberts and both bought stock and warrants based on that information. The board was also considering the possibility of a leveraged buyout by management.

Eventually, the board agreed to accept the Hanson offer, which was announced on Aug. 5, 1987. As a result, Kidde stock rose from \$34 per share at the beginning of June to about \$66. In addition, warrants priced at \$1 in June increased to \$26.50 by the day of the announcement.

Over a period of three months, **Downe** invested approximately \$4 million in stock and warrants and attempted to conceal his purchases by making them through off-shore accounts. Warde also invested approximately \$1 million during the same period.

In 1992, the Securities and Exchange Commission filed a complaint against Warde and Downe, alleging insider trading and violations of Secs. 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder. **Downe** settled with the commission and agreed to pay \$11.1 million. The case against Warde proceeded to trial in 1997.

The Arguments

Warde asserted he did not possess any non-public information and that his purchases were based on market savvy, rumor and public information alone. He denied receiving any confidential information from **Downe** and asserted the evidence against him was purely circumstantial and insufficient to support the jury verdict.

Citing *Dirks v. SEC* (U.S., 1983), the court stated that to affirm Warde's liability as a tippee it had to conclude **Downe** possessed material, non-public information which he disclosed to Warde, and which Warde used as a basis of his trading knowing that **Downe** had violated a relationship of trust by relaying it to him. In addition, **Downe** had to benefit from the disclosure to Warde.

The court concluded that the SEC had provided sufficient circumstantial evidence to support a pattern of purchases which inferred **Downe** had communicated inside information to Warde.

Regarding the actual benefit to **Downe**, the court stated that "the SEC need not show that the tipper expected or received a specific or tangible benefit in exchange for the tip." Rather, the "benefit" element of a Sec. 10(b) violation is satisfied when the tipper intends to benefit the recipient or makes a gift of confidential information to a trading relative or friend, according to the opinion.

Warde also attempted to assert that third parties, rather than himself, benefited from the trading. However, the court was not persuaded by this argument, noting that the shares were purchased in the name of Ann Brockhurst, Warde's wife, and the Warde Trust, of which Warde is the sole present beneficiary.

Warde also objected to the court's award of \$1.2 million in pre-judgment interest, stating the SEC was "ultimately responsible for the nine-year delay in bring the action against him. Citing *SEC v. First Jersey Securities* (2nd Cir., 1996), the court stated, even if the litigation was protracted through some fault of the SEC, the award of pre-judgment interest for the entire period is proper because the defendant had use of the unlawful profits for the entire period.

Accordingly, the judgment of the Southern District of New York was affirmed.

Thomas Warde was represented by Thomas P. Puccio of New York, NY, and by Paul F. Corcoran, Jennifer Tafet Klausner and Andrew D. Herz of Davis & Gilbert in New York, NY.

The SEC was represented by Katharine B. Gresham, Richard H. Walker, Jacob H. Stillman, Catherine A. Broderick, Rada L. Potts and Paul Gonson of its Washington, DC, office.

(Call 800-345-1101 the 13-page opinion.)

LOAD-DATE: October 13, 1998

July 27, 1998, Monday

SECTION: SECOND CIRCUIT SUMMARIES; Pg. 4

LENGTH: 839 words

HEADLINE: Selected New Decisions by the U.S. Court of Appeals

BYLINE: COMPILED BY ANTOINETTE D. COLE

BODY:

NLRB v. Local 46

Labor Law

Union's Use of Priority System to Refer Jobs Held Defense to Discrimination Charge

A ruling by the National Labor Relations Board that a local committed unfair labor practices by refusing to refer a member for a job was denied enforcement on June 26.

Circuit Judge Thomas J. Meskill in *National Labor Relations Board v. Local 46, Metallic Lathers Union and Reinforcing Iron Workers of New York, 97-4021*, found the Board's finding of unfair labor practices unsupported by substantial evidence. The union used a priority system. Fred James, a black member, claimed the union reneged on a promise to refer him to a job because he had filed a complaint alleging racial discrimination. The union contends that it could not refer Mr. James under the hiring hall rules. A majority of the panel held that the union could assert the hiring hall rules as a valid defense to the discrimination charge since there was no evidence of inconsistency in the policy's enforcement.

Markowitz and Richman represented the local. John D. Burgoyne, Associate General Counsel, of the NLRB, in Washington, D.C., represented the Board.

* * * *

United States v. Miller

Constitutional Law

Challenge to Search Rejected

A judgment convicting Vernon Miller of interstate transportation of minors for prostitution was affirmed on July 10.

Circuit Judge Wilfred Feinberg, in *United States v. Vernon Miller, 97-1525*, held that it need not decide whether Mr. Miller had standing to challenge a search. Mr. Miller set up a business using two teenage girls to provide sexual services to clients. After Mr. Miller's arrest, the police, armed with a warrant for a camera with nude photos of the girls, searched a hotel room containing the trio's belongings. The district court found that Mr. Miller lacked standing to challenge the search because the hotel had stored his property in another room after he left without paying the bill. The panel held it did not need to determine whether Mr. Miller had standing to challenge the search because the items he sought to suppress -- business cards, a cellular phone, beepers and hotel directories -- only established that he operated a massage business, a fact already proven by "overwhelming evidence."

Davis, Polk & Wardwell represented Mr. Miller. William E. Craco and Alexandra A. E. Shapiro, Assistant U.S. Attorneys for the Southern District of N.Y., represented the government.

* * * *

Amica Mutual Insurance v. Franklin

Insurance Law
Insurer Not Liable Under 'Regular Use' Exclusion in Policy

A declaratory judgment that Amica Mutual Insurance Company was not liable for coverage was affirmed on July 7.

Circuit Judge Fred I. Parker in *Amica Mutual Ins. Co. v. Franklin*, 97-7119, held that the "regular use" provision of Amica's policies excluded coverage. Jong Franklin, a 16-year old, was involved in a car accident that killed his two passengers and injured the driver of another car. The car belonged to Mr. Franklin's adoptive father, Reverend Robert Franklin, who died shortly before the accident. Louis and Cecilia Forgione, who were named as Mr. Franklin's guardians, were sued. Amica, who insured the Forgiones, denied coverage. The panel ruled that Mr. Franklin was excluded from coverage under the "regular use" provision of the excess liability policies, which provided coverage only for the occasional or incidental use of other cars. In reaching this conclusion, the panel noted that Mr. Franklin had his own set of keys to the car, used the car daily and did not ask permission when he used the car.

Koskoff, Koskoff & Bieder P. C., in Bridgeport, Conn., and Silver Golub & Teitell LLP., in Stamford, Conn., represented the passengers' estates. Halloran & Sage LLP in Hartford, Conn., represented Amica.

* * * *

SEC v. Warde

Securities Law
Jury's Finding of Insider Trading Is Upheld

A judgment finding that Thomas Warde traded on insider information was affirmed on July 8.

Circuit Judge Pierre N. Leval, in *Securities and Exchange Commission v. Warde*, 97-6190, held that the evidence supported a jury finding that Thomas Warde traded on insider information. Mr. Warde was a friend of **Edward Downe**, who was a close friend of Fred Sullivan, the chairman of Kidde Inc. Right before the merger of Kidder with another company, Messrs. Warde and **Downe** made substantial profits by investing in Kidde stock. Mr. Warde claimed, however, that his purchases were based solely on public information. The panel held that the SEC presented sufficient evidence -- including the fact that Mr. **Downe** spoke to Mr. Warde shortly after meetings at Kidde, engaged in risky parallel trading and made their purchases through off-shore accounts -- to support the finding of insider trading.

Katherine B. Gresham, Catherine A. Broderick and Rada L. Potts, Assistant General Counsels of the SEC in Washington, D.C., represented the Commission. Davis & Gilbert represented Mr. Warde.

LOAD-DATE: August 4, 1998

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Securities & Commodities Litigation Reporter

July 22, 1998

SECTION: Pg. 8

LENGTH: 762 words

CASE: Insider Trading: SEC v. Warde

HEADLINE: 'Tipper' Benefits Need Not Be Tangible, Says 2nd Cir.

BODY:

The Second Circuit has affirmed the judgment against Thomas Warde, who was found guilty of insider trading, and clarified that violation of Sec. 10(b) of the federal securities laws need not be based on a "tipper" receiving tangible benefits from leaking the material, non-public information. *Securities and Exchange Commission v. Warde*, No. 97-6190 (2nd Cir., July 8, 1998).

Warde asserted there was insufficient evidence to support the judgment against him ordering him to disgorge \$872,000 and to pay a civil penalty in the same amount and \$1.26 million in pre-judgment interest.

Background

Warde was a good friend of **Edward Downe**, who served on the board of directors of Kidde Inc. during the period when the company was being pursued for a hostile takeover by two companies.

According to the opinion, **Downe** and Warde frequently discussed information relating to the board's reaction to the possible takeover by Hanson Trust PLC or Kohlberg Kravis Roberts and both bought stock and warrants based on that information. The board was also considering the possibility of a leveraged buyout by management.

Eventually, the board agreed to accept the Hanson offer, which was announced on Aug. 5, 1987. As a result, Kidde stock rose from \$34 per share at the beginning of June to about \$66. In addition, warrants priced at \$1 in June increased to \$26.50 by the day of the announcement.

Over a period of three months, **Downe** invested approximately \$4 million in stock and warrants and attempted to conceal his purchases by making them through off-shore accounts. Warde also invested approximately \$1 million during the same period.

In 1992, the Securities and Exchange Commission filed a complaint against Warde and Downe, alleging insider trading and violations of Secs. 10(b) and 14(e) of the Exchange Act and Rules 10b-5 and 14e-3 thereunder. **Downe** settled with the commission and agreed to pay \$11.1 million. The case against Warde proceeded to trial in 1997.

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Warde asserted he did not possess any non-public information and that his purchases were based on market savvy, rumor and public information alone. He denied receiving any confidential information from **Downe** and asserted the evidence against him was purely circumstantial and insufficient to support the jury verdict.

Citing *Dirks v. SEC* (U.S., 1983), the court stated that to affirm Warde's liability as a tippee it had to conclude **Downe** possessed material, non-public information which he disclosed to Warde, and which Warde used as a basis of his trading knowing that **Downe** had violated a relationship of trust by relaying it to him. In addition, **Downe** had to benefit from the disclosure to Warde.

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Warde also attempted to assert that third parties, rather than himself, benefited from the trading. However, the court was not persuaded by this argument, noting that the shares were purchased in the name of Ann Brockhurst, Warde's wife, and the Warde Trust, of which Warde is the sole present beneficiary.

Warde also objected to the court's award of \$1.2 million in pre-judgment interest, stating the SEC was "ultimately responsible for the nine-year delay in bring the action against him. Citing *SEC v. First Jersey Securities* (2nd Cir., 1996), the court stated, even if the litigation was protracted through some fault of the SEC, the award of prejudgment interest for the entire period is proper because the defendant had use of the unlawful profits for the entire period.

Accordingly, the judgment of the Southern District of New York was affirmed.

Thomas Warde was represented by Thomas P. Puccio of New York, NY, and by Paul F. Corcoran, Jennifer Tafet Klausner and Andrew D. Herz of Davis & Gilbert in New York, NY.

The SEC was represented by Katharine B. Gresham, Richard H. Walker, Jacob H. Stillman, Catherine A. Broderick, Rada L. Potts and Paul Gonson of its Washington, DC, office.

(See Document Section C for the opinion.)

LOAD-DATE: September 3, 1998

February 7, 1997, Friday, Late Edition - Final

SECTION: Section D; Page 4; Column 3; Business/Financial Desk

LENGTH: 369 words

HEADLINE: Real Estate Investor Convicted of Insider Trading

BYLINE: By Bloomberg News

DATELINE: WASHINGTON, Feb. 6

BODY:

A real estate investor has been convicted of illegal insider trading and could face a fine of up to \$2.85 million for his role in a 1987 incident that involved a former top broker with Oppenheimer & Company, the Securities and Exchange Commission said today.

The S.E.C. said that a jury in Federal District Court in Manhattan reached the decision on the civil action against Thomas Warde after a four-day trial that ended on Jan. 27.

The S.E.C. accused Mr. Warde of making \$950,000 in illicit profits after trading Kidde Inc. warrants on several occasions in June and July 1987 before two significant announcements by the company. Mr. Warde received nonpublic insider information from a Kidde company director, **Edward Downe Jr.**, and used the tips to buy the warrants from June 29, 1987, through July 20, 1987, the S.E.C. said.

The two company announcements at issue included a possible tender offer for or buyout of Kidde and the eventual acquisition of Kidde by Hanson Trust P.L.C., according to the S.E.C..

Milton Weinger, a former top broker at Oppenheimer, was sentenced to 10 months in prison and ordered to pay a \$6,650 fine and forfeit \$316,497 in trading profits for his role in the transaction.

The S.E.C. said Mr. Weinger was the broker for Mr. **Downe Jr.**, a former member of the board of Bear Stearns, who was at the center of the trading. Mr. **Downe**, the only other person to face criminal charges in the case, pleaded guilty and was sentenced to probation and community service.

While the court has yet to decide the penalties against Mr. Warde, the S.E.C. has recommended that he pay back illicit trading profits of \$950,000 plus interest and pay a penalty up to three times the amount of the ill-gotten gains.

Mr. Warde, a resident of Sun Valley, Idaho, and Los Angeles, is the last defendant to be held liable in the case, which was filed in 1992.

Six people, Mr. Warde, Mr. **Downe**, Mr. Weinger, Steven Greenberg, Martin Revson and Fred Sullivan, have paid millions of dollars in fines to settle with the S.E.C. in the case. Another defendant, David Salamone, who defaulted on the charges, was last seen in London and is now considered a fugitive, the S.E.C. said.

LOAD-DATE: February 7, 1997

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Information Bank Abstracts
WALL STREET JOURNAL

February 7, 1997, Friday

SECTION: Section B; Page 2A, Column 2

LENGTH: 47 words

HEADLINE: ALLEGED RING MEMBER FOUND LIABLE BY JURY FOR INSIDER TRADING

JOURNAL-CODE: WSJ

ABSTRACT:

Federal jury finds Thomas Warde of Sun Valley (Idaho) liable for insider trading as part of a high-society insider-trading ring; finds that Warde received inside information about a possible 1987 offer for Kidde Inc from **Edward R Downe Jr.**, a former Bear Stearns board member (S)

LOAD-DATE: February 7, 1997

May 13, 1996, Monday, FINAL EDITION

SECTION: MONEY:

Page: 4B

LENGTH: 1074 words

HEADLINE: SEC enforcer: Low key, high impact Aggressively whistles violators but refuses to toot own horn

BYLINE: Tom Lowry

CITELINE: NEW YORK

BODY:

NEW YORK -- Carmen Lawrence got her new high-profile job as the Northeast's top securities cop by being one tough enforcer.

Just ask bitter adversary Steven Hoffenberg.

Hoffenberg was once a highflying financier who now spends his days as inmate 35601-054 in Manhattan's famed "Tombs" jail.

His downward spiral began when Lawrence, as head of enforcement for the Securities and Exchange Commission in New York, launched a probe in 1991 into Hoffenberg's firm, Towers Financial.

That probe led to the SEC filing a civil lawsuit in 1993 against Hoffenberg, accusing him of orchestrating what regulators called the largest Ponzi scheme in U.S. history.

A Ponzi scheme is an investment swindle in which high profits are promised from bogus sources and early investors are paid off with funds raised from new investors.

Investors buying unregistered securities from Towers in 40 states were cheated out of \$450 million, the SEC charged.

"Carmen Lawrence is unreasonable," Hoffenberg said recently from jail, where he has landed for violating new bail terms on criminal fraud charges that stemmed from the SEC lawsuit.

"She is a woman chasing scandals and headlines," Hoffenberg added.

Lawrence chuckles at the critique, agreeing she is most definitely a woman chasing scandals, but headlines? Hardly, she says.

In her 15-year SEC career, marked by some of the commission's largest insider-trading cases, Lawrence has advanced as a tenacious investigator and litigator, but never a flashy self-promoter, colleagues say.

Some suggest that Lawrence's quiet insider persona might prove to be a liability in the big-ego world of securities law.

Colleagues say Lawrence needs to aggressively promote her mission as some of her more public predecessors in the Northeast did.

Still, nobody questions Lawrence's enforcement record, which led to her promotion early this year to director of the SEC's Northeast regional office with a staff of 450.

Lawrence, 39, is only the second woman to oversee the region, which stretches from Philadelphia north and includes Boston's mutual fund industry and New York's financial markets.

She replaced Richard Walker, who was promoted to SEC general counsel at the headquarters in Washington.

"I want this office to continue to make an impact in investor protection," Lawrence says. "I get a really good feeling knowing what we do here makes a difference in people's lives."

Among her priorities: investigating municipal bond and derivatives cases, probing unsavory sales practices by securities firms and cracking down on insider trading.

"Carmen faces some big challenges. It's probably the most difficult time ever for the commission," says Ira Sorkin, director of the SEC's Northeast office from 1984 to 1986 and now chief legal officer at Nomura Securities.

"The industry is changing so rapidly, particularly with trans-global transactions and derivatives," Sorkin says. "But Carmen will do great because she brings an institutional knowledge of the SEC to this job. She's bright and fair."

Long Island, N.Y., native Lawrence started at the SEC in Washington in 1981, fresh out of the University of Michigan Law School.

Impatient to begin litigating, she opted not to go into private practice on the advice of a professor -- a decision she says she's never regretted.

Among her top cases:

-- The Paul Thayer insider-trading case. The former deputy Defense Secretary was accused of passing on inside information about future deals in 1980 and 1981 to friends and a Dallas stockbroker. Thayer was chairman of steel company LTV and on the board at beer giant Anheuser-Busch at the time. The SEC accused him of making \$1.9 million in illegal profits for his friends. Thayer was eventually sentenced to four years in prison.

-- Motel 6. Twenty-nine people were accused of insider trading in the 1990 takeover of Dallas-based motel chain Motel 6.

The SEC accused the insiders of making millions of dollars from trading stocks and stock options using illegal inside information.

The SEC accused Motel 6 vice president Hugh Thrasher of passing on information about a pending takeover offer by Accor. The cases are still pending.

-- The "Southampton Seven" insider-trading case in which socialites were accused of swapping stock tips illegally at their Long Island summer homes in the 1980s.

Revlon founder Martin Revson and former Bear Stearns director **Edward Downe Jr.** settled with the SEC in the case.

"Carmen's as good a litigator as she is understated," says the SEC's Director of Enforcement William McLucas. "She's earned an immense amount of respect inside the commission and among outside counsel. She'll be a superstar."

And one lawyer who has squared off against her doesn't believe her understated ways are a liability.

Bob Romano, a partner at Morgan Lewis & Bockius and a friend of Lawrence's, says:

"She doesn't need a public platform to be effective. Because she doesn't have that persona, it's often hard for outside counsel to figure out what she's thinking. It's to her advantage."

While Lawrence says her administrative duties have increased greatly with the new job, she still tries to find time to get directly involved in investigations.

"Sometimes you think you've seen it all, but there's always somebody

out there coming up with a new twist to defraud investors," Lawrence says. "That's why I plan to keep my skills sharp. This work gets in your blood."

About Lawrence

Title: Regional Director of the SEC's Northeast Regional Office

Age: 39

Hometown: Islip, N.Y.

Education: Cornell University, bachelor of arts, 1978; University of Michigan, law degree, 1981

Career: Started in the enforcement division at the SEC in Washington in 1981; became head of enforcement division in New York in 1988.

Personal: Husband, Deryck Palmer, 39, is a partner at the New York law firm Weil, Gotshal & Manges. They have a 5-year-old son, Grant, and live in Maplewood, N.J. Lawrence says one of her favorite times of the day is the "peaceful" commute on the ferry to lower Manhattan. Her most rewarding case? "Probably Towers Financial. It was a very complicated investigation. We overcame a lot of obstacles: perjury; obstruction of justice; fictitious documents. I am very proud of our work."

GRAPHIC: PHOTO, B/W, Janet Durrans, AP; PHOTO, B/W, Danny Johnston, AP; Lawrence: Investigator is shown outside her SEC office in the World Trade Center. Her 15-year career is marked by large insider-trading cases. Hoffenberg: Financier spends his time i New York jail, thanks to Lawrence.

LOAD-DATE: May 13, 1996

March 18, 1996

SECTION: News; Pg. 25

LENGTH: 760 words

HEADLINE: PROFILE: NEW EXECUTIVE: CARMEN J. LAWRENCE 'DIRTY HARRIET' OF THE SEC: SECURITIES COP NAILED HOFFENBERG; NOW SHE'S AIMING AT DERIVATIVES CASES

BYLINE: Gerri Willis

BODY:

Carmen J. Lawrence, the Securities and Exchange Commission's new top cop in New York, recalls her toughest case, cracking the complex Ponzi scheme operated by Steven Hoffenberg to hustle small businesses. Called on to plow through reams of accounting documents, her six-member team took a marathon two years to bring their case.

The lesson she learned-act quickly-should be noted by others planning to violate the securities laws.

"While we were double-checking and triple-checking the facts, there were more people injured," she says. "That won't happen again."

The no-nonsense Ms. Lawrence, 39, is the second woman to hold the position of director of the Commission's Northeast region, overseeing 450 SEC employees from Boston to Philadelphia, and concentrating in the all-important New York region.

An unusual selection

She is a somewhat unusual choice because she has spent nearly all her career in securities enforcement. While other New York chiefs have spent time in private practice, Ms. Lawrence has focused on investigation and enforcement, starting as an SEC law clerk in 1981 in Washington and ultimately heading enforcement in New York.

Her resume includes some of the 1980s' most high-profile insider-trading cases, including the "Southampton Seven" case which spotlighted wealthy New York and suburban socialites, including Revlon founder Martin E. Revson. Ultimately, former Bear Stearns Director **Edward R. Downe Jr.** agreed to pay \$11 million to settle charges that he used insider information to hide millions in offshore bank accounts.

Kenneth J. Vianale, the former acting chief of the securities unit at the U.S. Attorney's office for the Southern District of New York, describes that enforcement background as a plus.

"She will be aggressive, but fair," he says.

Ms. Lawrence says she has a particular interest in abusive sales practice cases, but will make municipal bond and derivatives cases a priority as well.

"What I like the best is stopping people from stealing others' life savings," she says. "It sounds hokey but that's where the real victims are."

SEC outsiders say one testing ground for the new chief will be to bring a successful derivatives case.

Ms. Lawrence says such investigations are already in the fact-finding stage, and that civil actions could be filed as early as this fall. She declined to detail those cases.

Dealing with disclosures

"Derivatives are important because people don't understand what they're dealing with. As a consequence, disclosures aren't accurate," she says.

Ms. Lawrence decided to move into securities enforcement as a law school student at the University of Michigan. Witnessing her impatience at moving into litigation, a professor there suggested that she interview with the SEC.

"I was in a hurry to do everything back then," she says.

She became convinced that a move to the Commission was for her after interviewing with several people in Washington.

"You could tell by the way people discussed their work that they were committed," she says. "They were like religious zealots."

Those who know her suggest that the new New York chief will be very helpful in dealing with one of the SEC's most vexing problems: low morale. Congressional budget-cutting pressures led to an agency-wide hiring freeze and travel cut backs. While the Commission's budget wasn't reduced, the spending freeze will mean lower priority cases will suffer.

"She is well-liked by the people who work with her," says Mr. Vianale.

GRAPHIC: MAKING HER DAY: Carmen J. Lawrence, SEC's new top cop in New York, is interested in abusive sales practice cases but also plans to make municipal bond cases a priority.

LOAD-DATE: March 21, 1996

December 7, 1995, Thursday

SECTION: CORPORATE UPDATE; Pg. 5

LENGTH: 1521 words

HEADLINE: Changing of the Guard;
Two Enforcement Veterans Fill Top SEC Posts

BYLINE: DOMINIC BENCIVENGA

BODY:

THE LAST TIME the job of Northeast Regional Director for the Securities and Exchange Commission became available, it set off a 10-month scramble with more than a half-dozen applicants for the job.

This time, all it took was a telephone call last Wednesday night from SEC Chairman Arthur Levitt Jr. to Carmen J. Lawrence, senior associate regional director in New York. The call marked the end of a triumphant day for the New York office. The job Ms. Lawrence had agreed to take was being vacated by her boss, Richard H. Walker, who will replace Simon M. Lorne as the SEC's general counsel in January.

As a result of the promotions, the Northeast region's ranking enforcement team will fill two of the SEC's most visible posts. Mr. Walker, who was a litigator prior to joining the SEC, will have as his primary focus such issues as rule making, legislation, appellate litigation and advising the commissioners as they create policy at a time when the commission is a target of Congressional reformers and budget cuts.

Ms. Lawrence, who has a strong background in enforcement, will administer and represent the commission's largest, most important regional office, whose jurisdiction stretches from Virginia to Maine. The enforcement program will not change, however, as the office will continue to investigate insider trading, sales practices, financial fraud, municipal securities and derivatives, and violations of the Investors Advisers Act of 1940, which regulates investment advisers.

"It's not like I'm coming in from the outside and will be re-evaluating the program," Ms. Lawrence said. She has worked closely with Mr. Walker, and said the enforcement program "[reflects] my philosophy and my personality."

Creating a Regional Office

In Mr. Walker's 11th floor corner office in the World Trade Center, surrounded by 19th century newspaper front pages and framed photos and autographs of Presidents Washington, Madison, Van Buren and Polk, he and Ms. Lawrence reflected last week on the past four years.

When Mr. Walker, 44, a former partner at Cadwalader, Wickersham & Taft, took over the office in October 1991, it employed about 232 professionals covering New York and New Jersey. A 1993 plan to consolidate the Boston and Philadelphia offices with New York created the Northeast regional office. There are about 430 lawyers, examiners, staff accountants and investigators throughout the region, with 297 of those professionals in the New York headquarters.

The office has expanded the scope of its examination of compliance programs, which has resulted in an increasing number of enforcement referrals against investment advisers, Mr. Walker said.

Under Mr. Walker and Ms. Lawrence, the regional office successfully prosecuted a wide range of securities cases, including the first large municipal securities market case, SEC v. Rudi, in which a former aide to New Jersey Governor Jim Florio and three others were involved in a kickback scheme with executives in a Newark bank.

The case helped to quiet critics who challenged the office to prove there was a problem in the municipal market. "There was a very sophisticated, complicated web of kickbacks and payments," Mr. Walker said. "That proved substantial abuses existed."

The office successfully prosecuted multi-million dollar civil actions against Towers Financial Corp. and its chairman, Steven Hoffenberg, to settle charges that Mr. Hoffenberg used money from initial investors to pay interest to later investors. The case was especially satisfying to the SEC staff who fought a formidable team of "professionals who kept telling us we were wrong," said Ms. Lawrence. "We showed everyone we were correct, that it was a big Ponzi scheme with no substance."

The office obtained a \$2.5 million settlement from the Stratton Oakmont brokerage firm in 1994, and then brought the company back to court later that year alleging it "continued to flout the federal securities law." The division also prosecuted insider trading cases that included SEC v. **Edward R. Downe Jr.**, which involved seven corporate executive who were accused of improperly making \$13 million by trading stock in companies including Kidde Inc., a consumer products company.

Enforcement Insider

Ms. Lawrence, 38, will be the second woman to run the New York office. Kathleen Warwick headed the office in 1987. Ms. Lawrence joined the SEC in 1981 as an enforcement division staff attorney in Washington. She spent six months in 1984 as an associate at Solinger, Grosz & Goldwasser before returning to the agency. Since then, she rose steadily through the ranks, working as a staff attorney, special counsel, branch chief, assistant regional director, associate and senior associate regional director of the enforcement division in New York. In 1990, she received the Irving M. Pollack Award for career enforcement officials and was one of the first recipients of the Stanley S. Sporkin award in 1993. Ms. Lawrence is a 1981 graduate of the University of Michigan Law School and a 1978 graduate of Cornell University.

Ira Lee Sorkin, who supervised Ms. Lawrence when he ran the New York office from 1983 through 1986 and has opposed her as a defense attorney, said she will be "a superb administrator. She's bright, she's fair, she's personable and has an institutional knowledge of the SEC and the Northeast regional office."

Kenneth J. Vianale, an associate at Milberg Weiss Bershad Hynes & Lerach who dealt with Ms. Lawrence when he served as acting chief of the securities unit at the U.S. Attorney's office for the Southern District from 1993 to 1995, predicted that the office under her leadership will continue to be "quite aggressive" and that she will be "constantly expanding the writ" of the office.

But expanding that writ, or even maintaining the momentum of enforcement or examinations in the nation's financial center may prove arduous if proposed budget cuts, with ranges up to 10 percent, are adopted, Ms. Lawrence said. "We're going to have to be far more selective in the kinds of cases we pursue and leave a lot of violations unaddressed," she said.

By appointing Mr. Walker from inside the agency, Mr. Levitt avoided a search in the final year of President Clinton's first term, one attorney said. The SEC chairman is appointed by the President, and the general counsel and regional directors are appointed by the chairman.

Although the general counsel's office does not initiate enforcement, it does review recommendations from the enforcement division, and Mr. Walker, a close friend of Enforcement Director William R. McLucas, said his background may mean enforcement actions will move more quickly. "I have an understanding of the dynamics of an investigation and I know how enforcement recommendations are put together," said Mr. Walker.

Securities attorneys expect Mr. Walker's background to help the commissioners understand the implications of commission policy or legislation on enforcement actions, attorneys said.

"St. Lorne brought a corporate lawyer's approach to that job, and I would think Dick Walker brings a different discipline" said John F.X. Peloso, a partner at Morgan, Lewis & Bockius and a former chief trial counsel in the New York office.

at a time when Congress is trying to reduce private securities litigation. Mr. Walker should be able to demonstrate "the role of private litigation in determining fraud" and how it works with the SEC's enforcement efforts, said Jill E. Fisch, a professor at Fordham University School of Law. "Sometimes there is a risk that the SEC policy positions don't take into account current enforcement problems."

In addition, the enforcement background will "give him a better perspective on appellate issues that general counsels face all the time," said Mr. Sorkin, who is chief legal officer at Nomura Holding America Inc. and Nomura Securities International Inc.

But Roberta S. Karmel, of counsel at Kelley Drye & Warren and a former SEC commissioner, said even though Mr. Walker is a qualified attorney she had concerns about naming a general counsel from inside the agency, particularly one involved in enforcement.

The general counsel's office often has served as an "internal check" with respect to the enforcement division, Ms. Karmel said. For most of the last decade, "the general counsel was from outside, was familiar with the concerns of private practice and had broker background. . . . That would seem to be particularly important in this administration, since the chairman is not a lawyer."

Mr. Lorne, who was a partner at Munger, Tolles & Olson, before taking the SEC general counsel post in 1993 said he has not yet determined his future plans.

As general counsel, Mr. Lorne supported securities litigation reform and played an active role in shaping the Private Securities Litigation Reform Act of 1995 and assisted the Derivatives Policy Group. He also successfully defended the Municipal Securities Rulemaking Board's Rule G-37, which prohibits underwriters from donating to campaigns to obtain municipal bond business.

GRAPHIC: Picture, Carmen J. Lawrence and Richard H. Walker will fill two of the Sec's most visible posts. Ms. Lawrence will administer and represent the commission's largest, most important regional office, whose jurisdiction stretches from Virginia to Maine. Mr. Walker, the new general counsel, will focus on rule making, legislation, appellate litigation and advising the commissioners as they create policy., FAYE ELLMAN

LOAD-DATE: December 20, 1995

November 13, 1995

SECTION: PODIUM; Civil Liberties; Pg. A23

LENGTH: 1290 words

HEADLINE: American Family Values

BYLINE: By Harvey A. Silverglate: Mr. Silverglate is a bimonthly NLJ columnist and a partner at the Boston firm of Silverglate & Good.

BODY:

I HAVE SCANT childhood memories, but I recall clearly my fifth-grade teacher seeking to explain the essential difference between us redblooded Americans and the "Red Chinese." In China, she explained, children are recruited by the government to spy on their parents and report to the local party leader on the nature of political discussions held over family dinner. In America, on the other hand, the institution of the family is sacrosanct.

No wonder, then, that I raised an eyebrow when I recently read that Prof. Michael E. Tigar, lead counsel for Terry L. Nichols in the Oklahoma city bombing case, had charged that the case against his client was in some measure the product of unfair pressure tactics used against the defendant's family. Mr. Tigar accused the FBI of secretly recording conversations Mr. Nichols had, after his arrest, with his wife and mother. Mr. Tigar charged that the FBI held Mr. Nichols' wife incommunicado for 34 days and told her "that the only way out for her husband is if she calls him up and reads to him a script written by FBI agents."

But regardless of how coarse the FBI's tactics were, some of them seem to have worked, since Jennifer McVeigh -- the sister of another defendant, Timothy McVeigh -- while still proclaiming loyalty to her brother was reported to have cut a deal to testify before the grand jury.

Much water has passed over the dam since I was in fifth grade, and these tactics have become quite commonplace. We have experienced an increasing tendency on the part of prosecutors, particularly in the federal system, to tread on the institution of the family in the name of effective prosecution, by enlisting the target's relatives as informants and witnesses.

More remarkable is the fact that these encroachments come from administration after administration that pronounce themselves supportive of "family values," and they are largely affirmed by a Congress that does not enact remedial legislation and by courts that give short shrift to familial privacy and loyalty.

In 1986, for example, an interdepartmental panel established by the Reagan administration to protect the family reported that "two liberal decades" had seriously undermined family life in this country; the panel urged that governmental policies be made more consonant with the institution of the family. At the same time, however, the Department of Justice started a campaign to narrow the scope of privileges and exclusionary rules that supposedly hamper the search for "truth in the courtroom" and continued, without apparent qualm, to subpoena relatives.

No National Philosophy

Some jurisdictions have enacted statutes and rules to control or limit the extent to which family members can be forced to testify against one another. Nonetheless, except for the husband/wife testimonial privilege, there is little uniformity among the states, and familial testimonial privileges remain the exception.

This is surprising, in view of the fact that, as reported by the Harvard Law Review in a 1987 note, a parent-child testimonial privilege is found in Roman law, Jewish law, Catholic canon law and the civil law of Western European countries. Surprisingly, however, no such privilege has been generally recognized in Anglo-American law.

I am both young and old enough to remember the first reported case to consider the question of whether such a privilege exists. In 1970, three years after I entered the bar, the well-known civil liberties lawyer and law professor Arthur Kinoy was subpoenaed to testify before a grand jury as to the location of his daughter, who was a political radical then being sought in connection with an investigation of underground leftist groups. Judge Marvin Frankel, of the Southern District of New York, who was known for his civilized approach to law and litigants, concluded that there was no privilege to shield Mr. Kinoy.

Sometimes the results of such testimony have been discomforting, and sometimes the government backs down -- more because of public relations than because of judicial pressure. In a 1986 federal grand jury investigation in Massachusetts, prosecutors subpoenaed an elderly Italian mother to testify against her son, a patrolman being investigated in a police-exam cheating scandal. I wrote at the time in the weekly Boston Phoenix newspaper, "[U. S. Attorney A. John Pappalardo] will have to demonstrate why this particular investigation . . . is of such monumental social importance that centuries of law, custom, and tradition common to nearly every society on earth should be cast aside. Pappalardo may ultimately convince the court, but he certainly will not convince many American citizens that it is worth tearing at the fabric of our society just so a mother will be forced to say whether she knows if her son cheated."

The court predictably refused to quash the subpoena. The mother refused to testify, however. The government blinked and did not seek to jail her -- obviously realizing that maternal instinct, combined with Old World traditions, rendered this mother impervious to coercion. Mr. Pappalardo obviously realized that his tactics, once picked up by the press, would not sit well with the public.

Pressure Tactics

Another recent trend is the tactic of using family members as hostages to ensnare spouses or blood relatives. In a 1981 New York Times report of a fatherson case, U.S. District Judge George Pratt said he was reducing the term of Francis DeLillo because Mr. DeLillo's father had become a government witness whose cooperation was expected to produce indictments.

Similarly, in the prosecution of financier Michael R. Milken in the 1980s, the government offered to dismiss the indictment against Mr. Milken's younger brother Lowell, on the condition that Michael plead guilty to six felonies. He did indeed plead, and his brother was dropped from the case. Commentators ever since have been asking whether Michael Milken pleaded because he was in fact guilty, or just to protect his brother. (Disclosure: I participated in the postverdict defense of Michael Milken.)

More recently, in 1992, the Wall Street Journal reported on the investigation of **Edward R. Downe Jr.**, a member of what was described as "an insider-trading ring of prominent East Coast socialites." Mr. **Downe** eventually pleaded guilty when federal prosecutors "began interviewing his daughter and wife, and then raised the specter of indicting his son."

These cases raise the disturbing question of whether innocent family members are being threatened not because of anything they did, but because they are convenient hostages to induce the real target to plead or cooperate.

In one federal case of mine a number of years ago, prosecutors in the Eastern District of New York who were seeking the cooperation of my client, a defendant in a tax case, threatened to indict the client's sister, 87-year-old father and 25-year-old son, who had just graduated from law school. Their crime? Since the defendant was charged with willful refusal to pay his taxes by hiding his assets from the Internal Revenue Service, his family members' acceptance of support from the head of the family was part of a conspiracy to assist in the non-payment of taxes. (In other words, every time the family ate dinner, the IRS was deprived of a meal's worth of tax money!)

To the extent that an occasional prosecution cannot be brought without enlisting familial testimony, law enforcement will simply have to yield to deeply held societal values. If a case proves to be so thin that it depends on a mother's or sibling's testimony, it should not be brought. As my fifth-grade teacher would have asked: "Is this America or china?"

LOAD-DATE: December 04, 1995

September 26, 1994

SECTION, NEWSLINE: Pg. B2

LENGTH: 77 words

HEADLINE: Socialite's SEC Accord Allows Trustee Scrutiny

BYLINE: Compiled from NLJ staff and Associated Press reports.

DATELINE: NEW YORK

BODY:

Under the Securities and Exchange Commission's Sept. 14 \$11.1 million settlement with **Edward R. Downe Jr.**, known as the leader of an insider-trading ring dubbed the "Southampton Seven," a court-appointed trustee will examine the socialite's expenses -- including legal fees -- incurred since Feb. 1, 1992, when he was charged by the SEC. The trustee is former federal prosecutor Bart M. Schwartz, of the New York consulting firm Decision Strategies Inc.

LOAD-DATE: October 05, 1994

The Associated Press

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September 15, 1994, Thursday, PM cycle

SECTION: Business News

LENGTH: 731 words

DATELINE: WASHINGTON

BODY:

Retail sales rose a strong 0.8 percent in August while a survey of business activity shows the economy continuing to expand at a healthy pace with only mild inflationary pressures, the government said.

The Commerce Department said Wednesday retail sales surged in August after remaining unchanged the previous month.

NEW YORK (AP) - Walt Disney Co. is talking with General Electric Co. about the possibility of buying its NBC television division, a source familiar with the discussions said.

The disclosure increases speculation about potential buyouts, mergers or other alliances involving NBC, which has slipped to third place from first in the primetime ratings since GE acquired it in 1986.

DETROIT (AP) - Nissan will become the first Japanese automaker to build cars in Mexico for export to the United States when it starts making 1995 Sentras at Aguascalientes next year, a top company executive said.

Earl Hesterberg, vice president and general manager of the Nissan division of Nissan Motor Corp. U.S.A., said about 20,000 of the 140,000 Sentra compact sedans the company expects to sell here next year will come from Mexico.

ALBUQUERQUE (AP) - A judge reduced a \$2.7 million punitive damage award against McDonald's to \$480,000 for a woman who was scalded by hot coffee, but said she deserved the new sum for the fast food chain's "callous" behavior.

State District Judge Robert Scott denied motions by attorneys for McDonald's Corp. asking for a new trial or a reversal of the jury's punitive damage award.

COLUMBUS, Ohio (AP) - A Rhode Island investment firm may be preparing a rival bid for Borden Inc., a published report said.

The Columbus Dispatch reported Wednesday that Paul Kazarian, chief of Japonica Partners, may be gauging what support might come from Borden's institutional investors if he attempts to take over the food and packaging company.

Kohlberg Kravis Roberts & Co., which took RJR Nabisco private in the biggest corporate buyout of all time, this week announced plans to buy Columbus-based Borden in a \$2 billion stock-swap deal.

WASHINGTON (AP) - Small brokerage firms will be the target of a coordinated sweep by the Securities and Exchange Commission and other regulators aimed at ridding the industry of so-called rogue brokers, said SEC Chairman Arthur Levitt Jr.

The SEC's announcement Wednesday, following a survey earlier this year of broker wrongdoing in large securities firms, came at a House subcommittee hearing on the prevalence of unethical securities brokers.

NEW YORK (AP) - A judge approved an \$11 million settlement between **Edward R. Downe Jr.** and the federal government, leaving the once prominent publisher and socialite with little more than an apartment and a car.

Downe, 65, who was formerly married to Charlotte Ford, the socialite daughter of auto scion Henry Ford II, was the central figure in what was reportedly the biggest insider trading scandal since one that felled Ivan Boesky and Michael Milken in the 1980s.

DES MOINES, Iowa (AP) - An Iowa court has barred strikers from interfering with replacement workers and management trying to enter or leave a Bridgestone-Firestone tire factory.

The temporary court order issued late Tuesday followed mass picketing that blocked entrances at the tire plant in Des Moines. Some 1,300 workers have been on strike for two months in a contract dispute.

WASHINGTON (AP) - U.S. and other foreign computer chip manufacturers captured a record 21.9 percent of the Japanese market during the April-June quarter, a development hailed by the Clinton administration as it continued to push for progress on trade disputes with Japan.

The 21.9 percent market share for foreign-made semiconductors in Japan was an increase from a 20.7 percent foreign share recorded in both the first quarter of 1994 and the fourth quarter of last year, officials said Wednesday.

By The Associated Press

Stocks got a boost from falling interest rates on Wednesday as the market digested some mixed data on the economy and inflation. The Dow Jones industrial average rose 15.47 points to 3,895.33.

The dollar ended mixed, gold fell and bond prices rose.

In commodity markets, crude oil futures tumbled, while grain and soybean futures retreated in a market cut short by a 3 hour computer failure. Coffee also plunged sharply.

LOAD-DATE: September 15, 1994

September 15, 1994, Thursday, Late Edition - Final

SECTION: Section D; Page 6; Column 4; Financial Desk

LENGTH: 554 words

HEADLINE: S.E.C. Reaches Settlement With Socialite

BYLINE: By RONALD SULLIVAN

BODY:

The Securities and Exchange Commission said yesterday that it had reached a final settlement of an insider trading case with the Southampton socialite **Edward R. Downe Jr.** that could total more than \$11 million and leave him with nothing more than a few personal belongings.

And in a rare display of social commentary, the S.E.C. declared Mr. **Downe** a financial and social has-been, portraying him in a press release as a "once prominent New York businessman and socialite."

The case involved some of the most visible members of New York and Long Island society.

Mr. **Downe**, a former director of Bear, Stearns & Company and the former husband of Charlotte Ford, the automobile heiress, was sentenced to 3,000 hours of community service in September 1993, after pleading guilty to wire fraud and tax violations.

The S.E.C. said yesterday that he had exploited insider trading information and set up offshore bank accounts to hide millions of dollars of illegal profits for himself and members of his wealthy social circle.

As part of the civil settlement approved yesterday by Judge Peter K. Leisure in the Federal District Court in Manhattan, the S.E.C. said Mr. **Downe** was ordered to pay \$5,764,909 to compensate for his illegal trading profits and an additional \$5,414,109 in interest.

The commission said it would waive any civil penalty on the basis of Mr. **Downe's** claim that millions of dollars in legal fees had left him virtually bankrupt.

As a result, lawyers familiar with the details of the case said, there is very little chance that the S.E.C. will collect anything close to \$11 million from Mr. **Downe**.

Still, the commission said a court-appointed lawyer, Bart M. Schwartz, would liquidate most of Mr. **Downe's** assets, including a summer mansion in Southampton, a condominium in Florida and an art collection, and recover any money that Mr. **Downe** might have set aside, "either intentionally or recklessly," to "hinder, delay or defraud the commission."

The commission said Mr. **Downe** could keep the apartment he owns in Manhattan for the rest of his life, but it will go to the Federal Government on his death. He can also keep a car, clothing, some furniture and personal effects that the commission said had modest value, but nothing else.

The civil settlement also bars Mr. **Downe** permanently from the working in securities industry.

Mr. **Downe**, who is 65, could not be reached for comment. His lawyer, Thomas P. Puccio, issued a statement confirming the settlement without giving the amount.

The statement said, "Mr. **Downe** neither admitted nor denied any violations of the securities laws" and had "finally settled with the S.E.C. after incurring extensive legal costs for several years in order to devote his full attention to business pursuits."

The S.E.C. charged in 1992 that during the mid- to late 1980's, Mr. **Downe** and a number of his friends and business associates had exchanged inside information to reap millions of dollars of profits through stock transactions carried out by Milton Weigner, a former senior broker at Oppenheimer & Company who pleaded guilty to perjury in the case.

Some of the accounts included those of Mrs. Ford, who recently divorced Mr. **Downe**, Leonard Lauder, president and chief executive of the Estee Lauder Companies, and Peter Duchin, the band leader.

LOAD-DATE: September 15, 1994

September 15, 1994, Thursday, NASSAU AND SUFFOLK EDITION

SECTION: BUSINESS; Pg. 43

LENGTH: 424 words

HEADLINE: Socialite Settles SEC Insider Suit;
Southampton's **Edward Downe** Jr. stripped of assets

BYLINE: By Peg Tyre. STAFF WRITER

BODY:

Socialite **Edward Downe** Jr., who ran one of the biggest insider stock-trading rings in history, has settled civil charges brought by the Securities and Exchange Commission by agreeing to sell his art collection and other assets.

According to the terms of the agreement, in which he did not admit or deny guilt, **Downe** will be allowed to keep hisutton Place townhouse, furnishings, personal effects and his car.

The SEC, which once hoped to recoup \$26 million in illegal profits and penalties from the so-called Society Seven - a group of wealthy Southampton socialites and financiers who traded on insider information throughout the late 1980s - agreed to waive **Downe's** \$11 million fine because he is broke. Whatever he makes on the assets sales goes to the SEC.

One year ago, **Downe** pleaded guilty to criminal charges of tax and securities fraud and was sentenced to three years probation. His co-defendants, Revlon co-founder Martin Revson and flamboyant financier Steven Greenberg, settled civil charges brought against them by the SEC by agreeing to pay \$1.6 million and \$1.5 million, respectively, representing penalties and profits from the illegal trades.

Only one person connected to the scandal was sent to jail. Milton Weinger, a top broker at Oppenheimer & Co., who handled the illegal trades, served a 10-month term in prison.

Once considered a gale force in the whirlwind Long Island social scene, **Downe** built a media empire that included Ladies Home Journal, but he sold the company in 1975 to become an investor. He was the husband of automobile heiress and etiquette arbiter Charlotte Ford. The couple was renown for lavish luncheon parties at their neighboring his and hers mansions in Southampton.

It was around the enormous pool at his Southampton estate, SEC officials said, that **Downe** gave 53 friends and relatives insider information gleaned from meetings he attended as director of Bear, Stearns & Co. **Downe** established a Bermuda-based investment company to trade on illegal stock tips, the SEC said.

The SEC said that between 1987 and 1989, **Downe** and the others racked up \$13 million in illegal profits by trading on insider information.

Shortly after he pleaded guilty to insider trading and agreed to testify before a grand jury, Charlotte Ford filed for divorce, and **Downe** sold his mansion for \$3.2 million. Now, according to **Downe's** lawyer, Thomas Puccio, a trustee will be appointed to oversee the sale of the rest of **Downe's** assets - primarily his collection of modern art.

PD:

GRAPHIC: Newsday File Photo- **Edward Downe Jr.** in a 1988 photo.

LOAD-DATE: September 16, 1994

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The Washington Times

September 15, 1994, Thursday, Final Edition

SECTION Part B; BUSINESS ROUNDUP; Pg. B8

LENGTH: 57 words

HEADLINE: **Downe** deal leaves him with little

BYLINE: FROM WIRE DISPATCHES AND STAFF REPORTS

DATELINE: NEW YORK

BODY:

A judge yesterday approved an \$11 million settlement between **Edward R. Downe Jr.** and the U.S. government, leaving the once prominent publisher and socialite with little more than an apartment and a car. Mr. **Downe**, 65, who was once married to socialite Charlotte Ford, was a central figure in an enormous insider-trading scandal.

LOAD-DATE: September 15, 1994

The Associated Press

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September 14, 1994, Wednesday, AM cycle

SECTION: Business News

LENGTH: 445 words

HEADLINE: Insider Trading Leads to Selling of Nearly All Assets For **Edward R. Downe**

BYLINE: By LARRY NEUMEISTER, Associated Press Writer

DATELINE: NEW YORK

BODY:

A judge approved an \$11 million settlement between **Edward R. Downe Jr.** and the federal government Wednesday, leaving the once prominent publisher and socialite with little more than an apartment and a car.

Downe, 65, who was formerly married to Charlotte Ford, the socialite daughter of auto scion Henry Ford II, was the central figure in what was reportedly the biggest insider trading scandal since one that felled Ivan Boesky and Michael Milken in the 1980s.

Downe and six corporate executives and high society figures were charged in 1992.

In a statement, **Downe** said he settled with the Securities and Exchange Commission to "devote his full attention to business pursuits." It said he neither admitted nor denied that he broke any securities laws.

SEC Regional Director Richard H. Walker said he hopes the case serves as a deterrent.

"Mr. **Downe** basically is being required to surrender his assets," Walker said.

Downe, a former director of Bear Stearns Companies Inc., was sentenced to three years probation after he pleaded guilty to trading inside information about five companies with friends and relatives.

The friends included Martin E. Revson, whose late brother, Charles, co-founded the Revlon cosmetics company more than 60 years ago. Revson, 84, already agreed to pay \$1.6 million to settle his insider trading charges.

The agreement approved Wednesday by U.S. District Judge Peter K. Leisure in Manhattan bars **Downe** from breaking securities laws in the future and from serving as an officer or director of any publicly held company. It also requires him to pay the government \$11.17 million, including \$5.7 million in profits and \$5.4 million in interest.

The judgment will be partly satisfied through the sale of nearly all of **Downe's** assets, according to an SEC release.

It will permit him to keep his apartment for life as well as a car, clothing, furniture, household furnishings and other personal effects "of modest value" to be chosen by a court-appointed trustee, the release said.

The SEC said that between 1987 and 1989, **Downe** and the others made \$13 million illegally by trading in the stocks of five companies, including Bear Stearns.

The agency said **Downe** tipped off his broker, friends, family and acquaintances about secret developments in the companies so all could enrich their personal accounts.

Downe, who in 1975 sold **Downe** Communications Inc., which owned magazines including Ladies' Home Journal and True Confessions, allegedly exchanged insider tips with others while relaxing on a yacht in the Caribbean.

Other insider trading allegedly occurred in exclusive Southampton, N.Y., where **Downe** had a house.

LOAD-DATE: September 14, 1994

July 21, 1994, Sunday

SECTION: THE OBSERVER BUSINESS PAGE: Pg. 2

LENGTH: 800 words

HEADLINE: US HUNTS BRITON OVER INSIDER DEALS

BYLINE: Michael Gillard

BODY:

WALL Street's watchdog, the Securities and Exchange Commission, is hunting an elusive British businessman alleged to have made pounds 2.5 million in one of its biggest ever insider dealing cases.

Two years ago, the SEC sued David Salamone in New York claiming he traded on inside information in US shares via two American brokers in London.

But the SEC was never able to find Salamone, described as a London vintage car dealer, to serve him with the complaint and he never responded to the action.

So last week the SEC took the highly unusual step of serving him by way of a British newspaper advertisement, announcing its intention to seek judgment by default unless Salamone responds. It also sought information on his current whereabouts.

'We are very keen to speak to him,' SEC lawyer Robert Blackburn told The Observer on Friday. 'We have tried to find him but we have not been able to track him down. He has disappeared.'

The SEC is claiming \$3.8 million plus interest and penalties of up to three times this amount from Salamone and Bermudan company Broadsword through which he bought the shares. Its total claim could reach pounds 10 million.

The SEC alleges Broadsword was set up by Salamone and American former publisher and art collector **Edward R Downe** -the central figure in the insider ring which the SEC claims made at least \$23 million between 1987 and 1989. Downe and his friends swapped inside information at Long Island mansions, on yachts in the Caribbean or while playing poker. Recently divorced by automobile heiress Charlotte Ford, **Downe** has pleaded guilty to criminal charges over his role. Salamone was not indicted.

Downe, 65, was put on probation for three years and given 3,000 hours community service. The SEC is claiming \$8 million from him.

Downe's neighbour Martin Revson, whose brother founded the Revlon cosmetics group, last year settled with the SEC by paying \$1.6 million without admitting or denying liability. Last month another **Downe** contact, flamboyant New York PR man Steven Greenberg, similarly settled for \$1.5 million. **Downe's** broker Milton Weinger was jailed for 10 months for perjury.

The silent Salamone would no longer seem to be contactable at the block of flats in Swiss Cottage still given as his address. He may have left Britain.

On Friday, Salamone's New York lawyer Thomas Engel refused to say whether he was still in contact with his client or when he last heard from him. 'It's none of your business,' he declared. 'Was he ever in London?' he added enigmatically.

If their advertising campaign does not flush out Salamone within 30 days, the SEC will ask a New York Federal judge to give judgment against him and then start a hunt for assets to meet the award.

FOAD-DATE: August 22, 1994

July 14, 1994, Thursday, Late Edition - Final

SECTION: Section D; Page 2; Column 5: Financial Desk

LENGTH: 218 words

HEADLINE: A Settlement With S.E.C.

BYLINE: By Reuters

BODY:

The Securities and Exchange Commission has reached a \$1.5 million settlement with a public relations executive accused of helping a group of socially well-placed friends trade on inside tips.

The executive, Steven Greenberg, whose firm, Anametrics Inc., represented publicly traded companies, agreed to repay \$1 million representing illegal profits and a civil penalty of \$508,000. Under the settlement, announced on Tuesday, he did not admit or deny guilt.

Mr. Greenberg was known as a flashy investor who helped finance the Palladium, the popular Manhattan dance club, and was the founder of the magazine Fame, now defunct.

The 1992 civil suit, one of the biggest insider-trading cases ever brought by the S.E.C., accused seven businessmen of making millions of dollars from nonpublic information in the 1987-89 period.

The case generated widespread attention, involving celebrities like Martin Revson of the Revlon founding family and Edward **Downe** Jr., a former director of the Bear Stearns Companies and Kidde Inc.

Mr. Revson previously settled the S.E.C. charges, but the case against Mr. **Downe** is still pending. He pleaded guilty to related criminal charges.

Mr. **Downe** passed lucrative tips to friends as they socialized at his Southampton, L.I., estate, the S.E.C. contended.

LOAD-DATE: July 14, 1994

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Mail on Sunday (London)

May 8, 1994

SECTION: Pg. 47

LENGTH: 440 words

HEADLINE: Car heiress is driven to divorce

BYLINE: Nigel Dempster

BODY:

AFTER 17 years together - and married for seven of them - car heiress Charlotte Ford has quietly divorced her third husband, **Ed Downe**.

But he continues to occupy part of her four-floor New York apartment.

Charlotte, 52, has told friends that the parting has nothing to do with his legal problems - she stuck by him when, as I revealed two years ago, he was implicated in insider dealing.

He was sentenced to 3,000 hours community service and repaid \$8 million (£5 million).

Charlotte, elder daughter of the late Henry Ford II, was devastated to discover that Ed, 64, a former publisher who owned Ladies Home Journal, had been having an affair with a one-time friend of hers, Mary Conley Baker.

Mary is the ex-wife of renowned New York plastic surgeon Dr Daniel Baker, and her involvement with Ed was the last straw. He had been carrying on with other women.

Downe has a son, Cubby, 37, and a daughter, Hilary, by a previous marriage and was charged along with Martin Revson, 83, who founded the Revlon cosmetics empire with his brother Charles. When Ed was indicted Charlotte said loyally: 'Just because he's got a problem, I'm not about to leave him.' She would have continued to support him - he still has problems to resolve with the Securities and Exchange Commission. But after his latest liaison she said: 'Enough is enough.'

Her previous marriages were to Greek billionaire Stavros Niarchos and Wall Street financier Tony Forstmann.

GRAPHIC: SPLIT: **Ed Downe** and Charlotte

LOAD-DATE: May 9, 1994

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United Press International

May 6, 1994, Friday, BC cycle

SECTION: Domestic News

LENGTH: 1031 words

HEADLINE: People

BODY:

United Press International

DUNAWAY AS DESMOND?: Faye Dunaway will take over the role of Norma Desmond in the Los Angeles production of Andrew Lloyd Webber's Broadway-bound musical "Sunset Boulevard," a spokesman for the actress confirmed Friday. Dunaway will replace Glenn Close at the end of June, when Close and other cast members head to New York to start rehearsing for the musical's opening on Broadway in November. Dunaway appears to have won the role out of a tough field of contenders, including Diahann Carroll, Diana Ross, Rita Moreno and Raquel Welch. Not known as a singer, Dunaway reportedly went through extensive preparations prior to her audition for Lloyd Webber earlier this week. "This will be her debut as a singer, and she's ready," Dunaway's business manager Bob Palmer told the Los Angeles Times.

FRESH PRINCE: Pop star Prince will make a rare television appearance on Saturday's episode of "Soul Train," where he'll perform three brand new songs. The camera-shy singer, who recently changed his name to an unpronounceable symbol, also brought along another surprise guest, Nona Gaye, the daughter of legendary Motown star Marvin Gaye. Gaye is the lead vocalist on one of the new tracks. "Soul Train" host Don Cornelius said getting Prince to appear on the show took months of pleading, but it was worth it. "Everybody here simply loves the guy. His appearance is one of the most exciting things to happen in 24 years of 'Soul Train.'"

RIVERS REVIEWED: Joan Rivers' new play on Broadway, "Sally Marr... And Her Escorts," got very mixed reviews that probably won't sell many tickets. CBS's Dennis Cunningham even predicted that the show, which opened at the Helen Hayes Theater Thursday, would last for only days. That's nothing for Rivers. The last Broadway play she authored, 1971's "Fun City," ran only a week. In "Sally Marr," Rivers plays the mother of comedy pioneer Lenny Bruce. When the biographical one-woman show (there are three other characters but they don't talk) opened, the 86-year-old Marr, a longtime friend of Rivers, was in the audience. The New York Times critic, David Richards, praised Rivers for being "exuberant, fearless and inexhaustible" in portraying a gutsy vaudeville entertainer whose life had more downs than ups. Clive Barnes of the New York Post noted Rivers' "glinty-eyed, bruised gallantry -- if you like that sort of game," which he obviously didn't, since he likened the star to "Jackie Mason in drag." Linda Winer of Newsday found the play a "brave and engaging and admirable piece of work," and Howard Kissel of the Daily New noted "conceptual weaknesses" but said the evening was "a tribute to the reentless drive of two amazing women, the actress and her subject."

DOWNE AND OUT: Millionaire investor **Ed Downe**, who once owned Ladies Home Journal magazine, flew to the Dominican Republic last weekend and got a 24-hour, no-contest divorce from automotive heiress Charlotte Ford, daughter of the late Henry Ford II. The couple married eight years ago but maintained their own residences, in the same apartment building in New York and in separate houses in Southampton, the Long Island summer resort. "Charlotte is a lovely girl, but sadly, our marriage ran its course," explained **Downe**, who ran afoul of the Securities and Exchange Commission last year in its prosecution of an insider trading conspiracy. Ford stuck by **Downe** during that ordeal, for which he still could go to prison, but in recent months they communicated via notes delivered by servants, friends said.

GRACE REMEMBERED: Count Oleg Loewski-Cassini, better known as fashion designer Oleg Cassini, turned up on TV's "Inside Edition" to reminisce about his romance with the late actress Grace Kelly before she became Princess Grace of Monaco. The designer said the two were on the French Riviera when Kelly told him, "Unless you are serious, I think you should leave." Cassini, now 70-something, said he assured her his intentions were serious and suggested, "Let's get engaged." He said she accepted and they went to the Monte Carlo casino to celebrate with champagne. But

Cassini was Russian Orthodox and divorced and the very Roman Catholic Kelly family objected to the engagement. They parted and she later became engaged to Prince Rainier. "I loved you as much as I can love anybody...and I will learn how to love him," Cassini said Grace told him when she broke the news.

ON THE DEFENSIVE: Cindy Crawford and her husband, Richard Gere, took out a \$30,000 ad in Friday's Times of London to refute gossip that they are gay and divorcing. "We got married because we love each other and decided to make a life together," said the ad signed by the 28-year-old model and 44-year-old actor. "We are heterosexual and monogamous and take our commitment to each other very seriously. There is not and never has been a prenuptial agreement of any kind." They denied that they were planning to divorce and said they are looking forward to having a family. The Geres say the incessant rumors about them have been traced to an article more than a year ago in the French magazine, *Voici*, which the couple branded as "very crude, ignorant and libelous."

JODIE FOSTER SPEAKS OUT: Actress Jodie Foster, currently kicking up her heels with Mel Gibson in their new movie, "Maverick," tells *US* magazine in its June issue that her pet peeve is directors. She mentions Dennis Hopper specifically and recalls her experiences when he directed her in the 1990 bomb "Backtrack." "He has a typical AA-NA 12-step personality, which is 'I'm so busy being me, I don't notice everyone's having a rotten time,'" she is quoted as saying. Foster, who made her own directorial debut with "Little Man Tate," said there is a tradition that directors become what they are "so they can abuse beautiful women and make them cry....Then, as they watch this crawling creature who has absolutely no confidence, they can say, 'Come, let me give you confidence.'" But she has good words for Jonathan Demme, who directed her in "The Silence of the Lambs." "Jonathan was really sweet to me," she said.

LOAD-DATE: May 7, 1994

Copyright 1994 Newsday, Inc.
Newsday

February 4, 1994, Friday, CITY EDITION

SECTION: NEWS: Pg. 11
Other Edition: Nassau and Suffolk Pg. 13

LENGTH: 870 words

HEADLINE: A New Beatty Baby

BYLINE: Liz Smith

BODY:

"THE TROUBLE with children is that they are not returnable," says that divine cynic, Quentin Crisp.

ANNETTE BENING - Mrs. Warren Beatty - is pregnant with the couple's second child. Her actor-director-producer-papa hubby is ecstatic, "beyond happy," reported out of his mind with joy because he LOVES being a daddy. No details yet as to when the Beattys, who are filming "Love Affair" together, will present their first child, Kathlyn, age 2, with a baby brother or sister.

BETTY BUCKLEY, Broadway Tony Award-winner and NYC cabaret star, will be the one to replace Patti LuPone in the London production of "Sunset Boulevard." (LuPone's contract was up, so don't get hysterical - she didn't jump, nor was she pushed from the role of Norma Desmond.) Miss Buckley has starred in "Cats," "Pippin," "The Mystery of Edwin Drood" and the famous musical flop "Carrie."

Buckley joins the cast April 17. Before she steps on the Adelphi Theater stage, the show will close for three weeks, during which time the West End production will incorporate changes made for the L.A. version.

If you want to get an idea of how Betty handles the Andrew Lloyd Webber score, check her out at the Russian Tea Room this Sunday and next. She'll perform the show's two great ballads, "With One Look" and "As If We Never Said Goodbye."

ABOUT A year ago, I wrote that **Ed Downe** and Charlotte Ford - the famous heiress, daughter of Anne Johnson and the late Henry Ford II - were divorcing after much Sturm und Drang (including her standing by him despite his troubles with the SEC). In fact, I don't believe it is in dispute by even the dimmest Southampton socialite that Charlotte acted above and beyond the call of duty in this troubled marriage.

Well, true-blue Charlotte continued to stick by Ed, despite my prediction. But now, they will divorce! Charlotte has signed the papers after a fitful year in which many people wondered at her inner resources and firm resolve.

Downe pleaded guilty to insider trading and was given 3,000 hours of public service. But he has always maintained privately that he is not guilty of anything. The SEC still has a case pending against him, but doesn't seem to have the final facts for that, either.

So where this will end, knows God, as Time magazine used to write. But at least it is all ending now for the popular Charlotte, who will happily resume her maiden name, which she never wanted to give up in the first place.

IN HIS recent contretemps with The New Yorker, Court TV creator Steve Brill won when he insisted that he had been misquoted by their Talk of the Town reporter. Brill gained the first retraction-correction in the venerable magazine's history.

But you ain't heard nothing yet! Because the original Court TV story received a coverline blurb, Brill asked Tina Brown to run the correction on the cover insert, as well. He said, "This was a serious request. We give full and total corrections, even cover corrections, in American Lawyer and on Court TV itself. There was a principle at stake!"

The New Yorker is still reeling from the shock of being asked to correct itself at all, let alone on the cover. Tina refused to go for that!

Brill's Court TV for Time-Warner now has some of the best word of mouth in television, and maybe it's partly because the boss has nerves of steel and clanks when he walks.

THE MAGNETIC Ann-Margret, actress, eternal sex kitten, and really sweet girl/woman next door, will be in New York soon to promote her coming autobiography - a story it took her a year-and-a-half to write. She says she really didn't want to do it, but an unauthorized version of her life is on the way and A-M decided she'd beat the fiction writers to the punch!

Ann-Margret is just back from London, where she did a cameo part in the miniseries "Scarlett." She plays Belle Watling even though the famous Atlanta "madam" of Margaret Mitchell's "Gone With the Wind" doesn't appear in Alexandra Ripley's sequel.

But the producers just loved the character of Belle Watling, and they thought if they could get Ann-Margret to play her, it would be well worthwhile to bring back Rhett Butler's good friend, Belle (who is also the mother of his son, don't forget!). So A-M did it, and she's glad.

P.S. Ann-Margret called to thank me for running a positive review of her book. We chatted, she told me about her Belle Watling role, and rang off. Less than a minute later, she was back on the line, and said "Liz, I forgot the most important thing!" Then this legend of show-biz sang "Happy Birthday." Getting older can be fun!

"ENTERTAINMENT TONIGHT'S" public relations guy deluxe, Scott Seomin, called and asked if I wanted my birthday listed in that famous section at the end of their show. Then he added, "And how old would you like to be?"

I replied, "Well, I'd like to be 21, but I guess I'll have to settle for whatever is on the record."

WHEN WE reported earlier this week that Michelle Pfeiffer was pregnant, we were correct. And when we reported that the actress has an adopted daughter, 1-year-old Claudia Rose, we were correct. But we should have said the actress is expecting a second child. Claudia Rose is, unquestionably, Michelle's first child.

GRAPHIC: Jim Smeal / Ron Galella Ltd. Photo - Warren Beatty. Loves being a daddy

LOAD-DATE: February 05, 1994

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Financial Times (London)

November 4, 1993, Thursday

SECTION: International Company News; Pg. 29

LENGTH: 164 words

HEADLINE: Revson to pay Dollars 1.6m to settle SEC case

BYLINE: By PATRICK HARVERSON

DATELINE: NEW YORK

BODY:

MR Martin Revson, former chairman of US drugs and cosmetics group Del Laboratories and a former director of Revlon, agreed yesterday to pay Dollars 1.6m in fines and restitution to settle insider trading claims filed by the Securities and Exchange Commission.

The SEC said Mr Revson, without admitting or denying liability, would pay Dollars 1.25m in disgorgement and prejudgment interest, and just over Dollars 343,000 as a civil penalty under insider trading legislation.

Both amounts related to the profits the SEC says the 84-year-old Mr Revson derived from his purchase of shares in the industrial conglomerate Kidde during the summer of 1987.

The SEC's original complaint alleged that Mr Revson was part of a large insider trading ring led by Mr **Edward Downe**, a former director of New York broking house Bear Stearns, and that Mr Revson bought Kidde shares for himself and his daughter in June and July of 1987 after being given inside information by Mr **Downe**.

LOAD-DATE: November 4, 1993

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The New York Times

November 4, 1993, Thursday, Late Edition - Final

SECTION: Section D: Page 11; Column 5; Financial Desk

LENGTH: 201 words

LEADLINE: S.E.C. Settles Insider Suit

BYLINE: By Bloomberg Business News

BODY:

Martin Revson, co-founder of the cosmetics company Revlon Inc., has agreed to pay \$1.6 million to settle a Securities and Exchange Commission insider-trading lawsuit, the S.E.C. said today.

Mr. Revson, a former director of Revlon, was among seven wealthy executives whom the agency accused in June 1992 of making illegal trades in various companies.

The S.E.C. accused Mr. Revson of making illegal trades in Kidde Inc., a security-systems company, in June and July 1987 after receiving tips from **Edward Downe, Jr.**, who was then a Kidde director.

Mr. Revson's agreement to pay \$1.6 million payment was part of an order signed Oct. 26 by United States District Judge Peter Leisure, in Federal court in Manhattan. Mr. Revson, who settled the S.E.C. civil suit without admitting or denying the allegations, did not face criminal charges.

In a related criminal case that brought two convictions, Mr. **Downe**, the husband of the automobile heiress Charlotte Ford, was sentenced in September to three years' probation for illegal trades. In February, Milton Weinger, a former Oppenheimer & Company stockbroker, was sentenced to 10 months in prison for handling trades for Mr. **Downe** and his friends.

LEAD-DATE: November 4, 1993

The Associated Press

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November 3, 1993, Wednesday, AM cycle

SECTION: Business News

LENGTH: 500 words

HEADLINE: Brother of Revlon Founder Pays \$1.6 Million to Settle Insider Trading Case

BYLINE: By ROB WELLS, AP Business Writer

DATELINE: NEW YORK

BODY:

A retired executive agreed Wednesday to pay \$1.6 million to settle insider trading charges that included prominent executives swapping stock tips aboard yachts and at their country estates.

Martin E. Revson is the fourth person to settle civil or criminal allegations in what has been called the biggest insider trading case since the 1980s scandals.

As part of his settlement with the Securities and Exchange Commission, Revson, brother of the Revlon Inc. founder, neither admitted nor denied guilt.

The SEC charged seven corporate executives and high society figures made \$13 million in profits by the illegal exchange of inside information about a range of companies. The tips were exchanged from 1987 to 1989, authorities said.

Revson, 83, agreed in U.S. District Court in Manhattan to surrender \$1.25 million in trading profits and interest the SEC says came from illegal activities. He also agreed to pay a \$343,000 civil penalty.

Revson gained the profits in 1987 from securities trading based on "material, nonpublic information" about Kidde Inc., a Saddlebrook, N.J., consumer products company. Kidde was taken over in 1987 by Hanson PLC of Britain.

The SEC's original complaint charged Revson made more than \$1.7 million from trading in tips from a key figure in the scheme, **Edward R. Downe Jr.**, a former director of Bear Stearns Cos.

Revson, through his attorney, denied any wrongdoing.

"Mr. Revson acknowledges no impropriety. He wanted to avoid a very costly and stressful legal battle, and therefore settled the case," said Revson's attorney, Frederick Hafetz.

Revson is former chairman of the board of Del Laboratories Inc. and a former director of Revlon. His late brother, Charles, co-founded the cosmetics company 60 years ago.

Downe, husband of socialite and auto heiress Charlotte Ford, was one of the principal sources of the inside information, the SEC said. **Downe** pleaded guilty in June 1992 to criminal charges of trading on inside information about five companies named in the scheme. He was sentenced to three years probation, the SEC said.

Downe was chairman of **Downe** Communications Inc., which owned several magazines, including Ladies' Home Journal.

Another criminal conviction arose from the case. Milton Weinger, of Manhattan, who served as **Downe's** main broker at Oppenheimer & Co., was convicted on a charge of perjury in connection with the SEC investigation, said Daniel R. Schnipper, the SEC's senior trial counsel. Weinger is serving a 10-month prison sentence, Schnipper said.

The only other person to settle SEC civil charges was Fred Sullivan, who headed Kidde, who paid a \$58,000 fine in June 1992, without admitting or denying liability.

Richard Walker, SEC regional director in New York, said the insider trading scheme was the largest since the mid-1980s scandals when measured by the size of trading profits, number of individuals and securities involved.

Walker declined to discuss the status of other pending civil cases.

LOAD-DATE: November 3, 1993

September 20, 1993

SECTION: LEGAL AFFAIRS; Number 3337; Pg. 107

LENGTH: 925 words

HEADLINE: BOESKY MAY BE GONE, BUT NOT HIS GAME

BYLINE: Linda Himmelstein in New York

HIGHLIGHT: Stock cheaters are still busy, often taking advantage of bad news

BODY:

Ivan Boesky, Dennis Levine, and Michael Milken are names synonymous with the insider-trading scandals of the 1980s. All three paid for their crimes as the government set out to make examples of them. In the wake of such grandstand prosecutions, you might think the days of insider trading would have died down. After all, mergers and acquisitions have slowed to a trickle, providing few opportunities to make a fast buck. In fact, insider trading is thriving.

The number of insider-trading cases brought by the Securities & Exchange Commission has remained surprisingly constant, with the SEC filing more cases in 1992 than it did in 1986, the year Boesky was bagged. And SEC officials, prosecutors, and defense lawyers say a flurry of new insider-trading probes has recently emerged. "The large sums of capital invested in the markets today, together with the high number of new issues, provide a great incentive for financial crimes," says Kenneth J. Vianale, acting chief of the securities-fraud unit of the U.S. Attorney's Office in the Southern District of New York.

But these days, the SEC's typical target is not a professional investor. It is more often a corporate insider engaged in a once-in-a-lifetime trade. And instead of basing stock purchases on positive corporate data, such as mergers, today's cheats are more likely to trade on adverse business news. "As the M&A boom wound down, the recession wound in," says Thomas C. Newkirk, the SEC's associate director of enforcement. Newkirk estimates that about a third of insider-trading investigations now involve bad-news trades.

FAKE NUMBERS. A spate of these cases has been brought in the past year. In July, the SEC charged Ratilal Patel, a former officer of Par Pharmaceutical Inc., with selling stock to avoid \$450,000 in losses. The SEC claims that Patel, who has denied wrongdoing, knew the company inflated its financial health. A month before, the SEC accused four former officers of Financial News Network with exaggerating the network's revenues and pretax income. One of the defendants was also charged with insider trading because he allegedly sold stock based on knowledge of the falsified financial reports. And last December, a manager at Applied Biosystems Inc. settled SEC charges that he sold company stock prior to an announcement of poor earnings.

While bad-news cases proliferate, so-called good-news cases still pop up. Perhaps the highest-profile of these is the government's current inquiry into a high-society insider-trading ring headed by **Edward R. Downe Jr.**, the husband of automobile heiress Charlotte Ford. Prosecutors allege that **Downe**, who pleaded guilty to two criminal counts, swapped nonpublic information about various companies with wealthy friends, many of whom had positions on corporate boards. Among the other six alleged members of the so-called South-ampton insider-trading ring are Martin Revson, brother of Revlon Inc.'s co-founder, and Fred Sullivan, former chief executive of Kidde Inc. Revson has denied the allegations. Sullivan settled with the SEC for \$58,000.

Part of the reason the SEC is so busy with insider-trading claims is increased vigilance in the private sector. Exchanges and brokerage houses have upgraded their computer systems to detect suspicious transactions more accurately. The New York Stock Exchange boasts that 80% of its investigations yield some type of securities violation.

At the National Association of Securities Dealers, the number of insider-trading cases referred to the SEC has jumped from 28 in 1992 to 41 for the first eight months of 1993.

Improvements at the exchanges are mirrored by progress elsewhere. Egged on by laws that reward them for taking preventative measures, investment banks, brokerage houses, and law firms have steadily built up internal safeguards. "The whole lesson of deterrence in the white-collar context is to create incentives for firms to police themselves," says John Carroll, the lead prosecutor in the Milken case.

At New York-based Skadden, Arps, Slate, Meagher & Flom, a law firm that has been rocked by insider-trading problems, code names are used to protect particularly sensitive transactions. New hires must view a videotape about insider trading before starting work. And yearly, they must sign a statement affirming Skadden Arps's rules about proprietary information. At Dean Witter Reynolds Inc., the chairman last year ordered the company's policy on insider trading to be reiterated to all employees, recalls Richard Sheehan, a Dean Witter assistant general counsel. "Regulators come down very hard on you" for failing to comply, notes Theodore Levine, general counsel for PaineWebber Group Inc.

SEXY STUFF. Aside from added vigilance, there may be a more basic reason behind the ongoing prominence of insider-trading cases: They're sexy. "These cases are the stuff of novels and movies," says defense lawyer Harvey Pitt. That, say Pitt and other critics, sometimes tempts prosecutors to bring cases of questionable merit, such as ones against individuals far removed from the source of nonpublic information. Prosecutors dispute this charge. "We pursue cases where there is the greatest public interest, not because something is juicy," says Carmen J. Lawrence, senior associate regional director in the SEC's New York office. While Lawrence and other prosecutors brag about their successes, they admit that more needs to be done. Even with better surveillance, they continually wonder about the Boeskys and Milkens that got away.

URL: <http://www.businessweek.com/index.html>

GRAPHIC: Graph. INSIDER TRADING IS ALIVE AND WELL ALBERTO MENA/BW

LOAD-DATE: September 17, 1993

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The New York Times

September 14, 1993, Tuesday, Late Edition - Final

SECTION: Section D; Page 6; Column 4; Financial Desk

LENGTH: 189 words

HEADLINE: Probation Set In Insider Case

BYLINE: By Bloomberg Business News

BODY:

Edward R. Downe Jr., a member of a Long Island social circle that shared confidential stock tips, was sentenced yesterday to three years' probation for insider trading.

Federal District Judge Shirley Wohl Kram in Manhattan also ordered Mr. **Downe** to serve 3,000 hours of community service.

Mr. **Downe**, the husband of the automobile heiress Charlotte Ford, had pleaded guilty to violating securities and tax laws by setting up offshore accounts to hide trades he made for himself and several wealthy friends in the 1980's.

Federal prosecutors accused Mr. **Downe** of making illegal trades in the investment firm Bear Stearns Companies and the security-systems company Kidde Inc. Mr. **Downe** had used confidential information he obtained as a director of both companies, prosecutors said.

Mr. **Downe** agreed to sell his primary assets to satisfy a separate Securities and Exchange Commission civil suit against him and six other people. Among the properties he will sell are a house on Long Island, a condominium in Florida and his art collection. Mr. **Downe's** lawyer said he could not estimate how much money the assets would bring.

LOAD-DATE: September 14, 1993

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United Press International

September 14, 1993, Tuesday, BC cycle

SECTION: Domestic News

LENGTH: 1468 words

BODY:

(editors: for more people see bc-jackson)

People

VALERIE KUKLENSKI United Press International

EMMYS COUNTDOWN: Dozens of Emmy Award hopefuls gathered poolside Monday night at the Westwood Marquis Hotel in Los Angeles to receive their nomination certificates. Beau Bridges, who won last year for his portrayal of former White House Press Secretary James Brady, is nominated this year for his supporting role in "The Positively True Adventures of the Alleged Texas Cheerleader-Murdering Mom," an HBO movie. He said he doesn't know whether he'll be able to make it two in a row, but said, "The good thing about winning is if you do get up you get to acknowledge the people who were on the team. It's such a collaborative effort." Marion Ross, nominated for the canceled but critically praised series "Brooklyn Bridge," said, "It's such a verification of all the beautiful work to be nominated for a show that's not even on the air." Tim Allen, a first-time nominee for the comedy series "Home Improvement," says he believes Garry Shandling of "The Larry Sanders Show" may win in his category. "Jerry (Seinfeld) and I are just doing our characters, but Garry Shandling is out there on the cutting edge. John Goodman (of "Roseanne") acts better than anybody on the planet," Allen said. "But for myself, if I don't win I know it's fixed."

NOT-SO HARMONIC CONVERGENCE: Dave Crosby and Graham Nash's concert at New York's Carnegie Hall brought out some of the entertainment industry's glitterati. A bashful Art Garfunkel in a baseball cap seemed wary of making waves when he was not recognized. His beautiful blond wife showed no such timidity. "We are the Garfunkels," she announced to security guards and was promptly let backstage. A grunged-out Rosanna Arquette had a tougher time getting behind the scenes. When publicity people finally found her VIP passes, she nearly threw a fit. "These aren't right. We are supposed to have backstage passes, all access," she said angrily. She was finally assured her tags would get her backstage and toddled off to her seat.

SUNSET FOR PATTI?: Has showbiz star Patti LuPone come to the end of Sunset Boulevard? That's the question posed by New York magazine, which reports that Andrew Lloyd Webber may have offered LuPone \$1 million to give up the role of Norma Desmond in his musical based on the film "Sunset Boulevard." When LuPone opened in the London production in July critics claimed she was too young and lacked the elegance to play Norma, a role made famous by Gloria Swanson, a genuine faded film star. Lloyd Webber is reported to want someone else in the role before it comes to Broadway next year. LuPone says it isn't so. "It would take a helluva lot more than a million bucks to buy out my contract for this show....I've heard everything from I've been fired for having tonsillitis to I'm too tall. I'm five-two. Who do they want -- Linda Hunt?"

more

DOWNE BUT NOT OUT: Automotive heiress Charlotte Ford's husband, former financier **Edward Downe**, will not have to go to prison for passing insider information to rich friends in his Southampton, New York, set. **Downe**, 64, pleaded guilty to two criminal counts of using secret information about 1980s takeovers he obtained as a director of two Wall Street brokerage firms. He was sentenced Monday in federal court to three years probation and 3,000 hours of unspecified community service. He could have been sent to prison for 10 years. **Downe** and Ford were married in 1986 but maintained separate homes in Southampton and apartments in New York City while appearing together at social events. Friends say they really are separated now, and have been since the scandal broke a year ago. Ford's money was not involved in the case, but **Downe** is expected to have to pay at least \$8 million in ill-gotten profits back to the government.

SPECIALTY SPOOKS: Kathy Najimy of "Hocus Pocus" and Kane Hodder of "Jason Goes to Hell: The Final Friday" will be haunting the Knott's Berry Farm theme park in Southern California Wednesday night. They'll offer tips to aspiring monsters and ghouls on screaming, howling and all-around terrifying. The park is holding auditions for its annual 11-day Halloween Haunt, which it bills as "the world's largest, scariest and most famous Halloween party."

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Business Dateline:
The Business Journal-Jacksonville

September 3, 1993

SECTION: Vol 8; No 46; Sec 1; pg 6

LENGTH: 424 words

HEADLINE: Judge takes legal ax to law firm's fees in American Body bankruptcy

BYLINE: Jane Bennett

DATELINE: Jacksonville; FL; US; South Atlantic

BODY:

Bankruptcy Judge George Proctor chopped 15 percent off legal fees filed by American Body Armor & Equipment Inc. lawyers before confirming the company's Chapter 11 reorganization plan on Monday.

Kent, Ridge & Crawford's \$300,000 fee was cut by almost \$45,000, and Foley & Lardner's \$141,000 bill dropped by about \$21,000, according to documents filed in U.S. Bankruptcy Court.

"I don't feel bad about it. I think he (Proctor) felt the entire case was too expensive. We did what we had to do to bring the case to a conclusion. I'm glad that it was confirmed," said George Ridge of Kent, Ridge & Crawford.

Proctor declined to comment. Foley & Lardner partner Gardner Davis, attorney for the creditors' committee, also declined a comment.

American Body, a Fernandina Beach manufacturer of bullet-resistant vests, filed for bankruptcy May 29, 1992, after an uncollectible receivable of \$1.5 million left the company strapped for cash and indebted to suppliers.

Days before the Aug. 30 confirmation hearing, a group of American Body shareholders and directors led by **Edward Downe** filed an objection to the amount billed by both law firms, according to the documents. The group called the combined \$440,000 Kent, Ridge and Foley Lardner fees "an excessive figure in a case where unsecured creditors are projected to receive an insignificant distribution and equity holders are proposed to be gravely diluted."

Downe, a New York investor, last year pleaded guilty to charges of insider trading brought by the Securities and Exchange Commission.

According to American Body's reorganization plan, the company's unsecured creditors will hold all of the company's preferred (voting) stock and approximately 70 percent of the common stock. A reverse, 1-for-3 stock split will give the **Downe** group 30 percent of the new common stock.

The **Downe** group, which includes **Edward Downe's** son Hugh, former American Body chairman and chief executive, has also refused to pay a \$180,000 bill from Smith, Hulsey & Busey. Smith, Hulsey, who represented the group, last month filed a lien against them in Bankruptcy Court.

Complications from the **Downe** group added to the time spent on the reorganization, said Ridge. "These were factors beyond our control."

Ridge's firm billed a total of \$297,767 for 2,222 hours of work by partners, associates and a paralegal of the law firm. An additional \$3,118.41 in expenses was added to the bill, according to the court documents.

Foley & Lardner charged \$141,395 in fees and \$825.93 in expenses.

GRAPHIC: Chart

UMI-ACC-NO: 9383702

LOAD-DATE: July 20, 1994

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September 3, 1993

SECTION: Vol 8; No 46; Sec 1; pg 6

LENGTH: 424 words

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GRAPHIC: Chart

UMI-ACC-NO: 9383702

LOAD-DATE: October 24, 1995

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Business Dateline:
Florida Times Union

May 13, 1993

SECTION: Sec Business;

LENGTH: 461 words

HEADLINE: American Body Armor forges compromise reorganization plan

BYLINE: Mark Basch

DATELINE: Jacksonville; FL; US

BODY:

American Body Armor & Equipment Inc. yesterday filed a compromise bankruptcy reorganization plan that should allow the company to merge from Chapter 11 bankruptcy later this year.

The new plan, agreed on in negotiations with creditors and shareholders, will give creditors 70 percent of American Body Armor's common stock and give existing shareholders 30 percent.

A previous plan filed in November gave creditors 82 percent and existing stockholders only 15 percent, a plan opposed by a group of stockholders led by New York businessman **Edward R. Downe Jr.**

But all sides negotiate the compromise plan to allow the Fernandian Beach-based company to get out of bankruptcy and move on. Representatives of the company, the creditors and the shareholders all said they are happy with the agreement.

"It's fantastic for us," said American Body Armor President Jonathan Spiller. "This puts this thing to bed."

American Body Armor, which manufactures bullet-resistant vest and bomb disposal equipment, has already turned itself around since filing for Chapter 11 bankruptcy protection in May 1992. The company has turned in four consecutive quarterly profits, including a \$184,339 profit in the first quarter this year.

But everyone involved with the company was concerned that a long, drawn-out fight over a reorganization plan would hurt the company. So they compromised.

"The shareholders and the creditors both gave something to make the plan work and save the company," said Gardner Davis, an attorney representing the creditors committee.

Under the new plan, existing shareholders will get one share of common stock for every three shares they now own. American Body Armor will issue new stock to creditors with about 70 percent of the stock. The company will also issue \$1.7 million in preferred stock to the creditors.

James Post, an attorney representing the shareholders, said they are pleased.

"Obviously, we didn't get everything we asked for but we got more than we were originally offered," he said.

The original plan would have given American Body Armor's 85 employees 3 percent of the stock. The new plan does not give stock to the employees, but Spiller said after the company emerges from Chapter 11; he expects the company's board of directors to come up with a proposal to give employees stock.

The company's board of directors will consist of Spiller, three appointees by the creditors committee and one director representing shareholders. Former directors and officers and their familiar are prohibited from serving on the new board so **Downe's** group will not be represented.

Spiller, the creditors and the shareholders are hopeful U.S. Bankruptcy Judge George L. Procter will confirm the reorganization plan sometime this summer.

UMI-ACC-NO: 9352429

LOAD-DATE: October 22, 1995

February 25, 1993, Thursday, (

SECTION: SPORTS/BUSINESS

pg.7

LENGTH: 424 words

BYLINE: APPLESON GAIL

BODY:

Trader sentenced in high-society case

New York, N.Y. -- A former top trader at Oppenheimer & Co. was sentenced to 10 months in prison Wednesday for his role in a huge insider trading case involving a group of big-name socialites, including auto heiress Charlotte Ford's husband.

Milton Weinger, 62, of New York City was sentenced for lying to the Securities and Exchange Commission during its probe of **Edward Downe Jr.**, who founded **Downe** Communications Inc. and who is married to Ford.

Last June the SEC filed one of the biggest insider trading cases in its history, with a list of defendants from among New York's rich and famous that included Weinger, **Downe**, Martin Revson, a member of the Revlon founding family, and Steven Greenberg, a flashy public relations man who financed the now-defunct Fame Magazine.

The SEC alleged that the scheme netted more than \$13 million in illegal profits.

Both **Downe** and Weinger were also named in criminal charges and pleaded guilty. **Downe** is awaiting sentencing, and the SEC case against both men is pending.

The case made headlines not only because of the celebrities involved, but because they allegedly launched their scheme less than a year after the government brought its much-touted actions against powerful stock speculator Ivan Boesky and other prominent Wall Street figures in 1986.

About eight months after Boesky rocked the financial community by agreeing to cooperate with prosecutors, **Downe** was allegedly passing lucrative tips to friends as they socialized at his lush Southampton, Long Island, estate or on his yacht in the Caribbean, the SEC alleged.

The agency also alleged that **Downe**, who was also a former director of the investment bank Bear Stearns Cos., and the others traded on tips about leveraged buyouts, mergers and tender offers culled from their contacts at the highest echelons of corporate

America.

Not only did the defendants allegedly trade for their own benefit, but they tried to pass on riches to their families and friends.

For example, the SEC accused Weinger of collaborating with **Downe** to use inside tips to make trades in 53 Oppenheimer accounts belonging to **Downe**, his relatives and associates. The SEC alleged that these accounts made up about 25 percent of Weinger's business.

In the criminal case, Weinger pleaded guilty to lying to the SEC about the way decisions were made for accounts belonging to **Downe's** son.

Copyright Des Moines Register

LOAD-DATE: April 9, 1996

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Information Bank Abstracts

WALL STREET JOURNAL

January 27, 1993, Wednesday

SECTION: Section B; Page 2, Column 6

LENGTH: 58 words

LEADLINE: GRAND JURY HEARS TESTIMONY IN CASE OF INSIDER TRADING

BYLINE: BY JONATHAN M MOSES

JOURNAL-CODE: WSJ

ABSTRACT:

Little is known about exactly what **Edward R Downe Jr.**, a former publisher who last year admitted to being at the center of a high society insider trading ring, is testifying before a federal grand jury considering whether to bring criminal charges against others who allegedly worked with him (M)

January, 1993

SECTION: SECURITIES ENFORCEMENT; Vol. 7, No. 1; Pg. 4

LENGTH: 9747 words

HEADLINE: 1991-1992 Securities Enforcement Review: Part I

BYLINE: By Arthur F. Mathews, Gerard S. Citera and Leon B. Greenfield;

Arthur F. Mathews is a partner, Gerard S. Citera is special counsel, and Leon B. Greenfield is an associate at Wilmer, Cutler & Pickering in Washington, D.C. Melinda Hardy, an associate at Wilmer, Cutler & Pickering has made substantial contributions to this article. The authors and other attorneys at Wilmer, Cutler & Pickering have been involved in some of the cases discussed in this article.

HIGHLIGHT: The SEC enforcement program in 1991-1992 witnessed continued high profile activity, including actions in the area of government securities and savings and loan fraud. In a two-part article, the authors survey these developments and speculate on the 1993 enforcement year. Part I surveys significant enforcement developments during the past two years in the areas of SEC investigation, the Remedies Act, and civil injunctive actions. Part II, to be published in the February issue of INSIGHTS, surveys developments in administrative proceedings and criminal prosecutions.

BODY:

A number of significant developments in the Securities and Exchange Commission (SEC) enforcement program have occurred during the past two years. n1 The SEC has made broad use of its new powers under the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 (Remedies Act) in both civil actions and administrative proceedings. The SEC's highly publicized investigation into trading in the government securities market culminated in consent injunctive and administrative sanctions against Salomon Brothers and certain former high level officials. In addition, 98 regulated entities, including broker-dealers, government securities dealers and banks, consented to findings of violations and varying fines in a joint administrative settlement alleging abuses in the market for the sale of governmental or quasi-governmental agency securities. And, the SEC's investigations in the savings and loan area have led to highly visible injunctive actions against a number of thrifts and their officers and employees.

n1. Pub. L. No. 101-429, 104 Stat. 931 (relevant provisions codified at 15 U.S.C. § 78u(d)(3)).

SEC Investigations

Courts have issued a number of important decisions in the past two years addressing the assertion of privilege in SEC investigations. The Third Circuit in *Westinghouse v. Republic of the Philippines*, n2 defined the scope of the attorney-client privilege and work product doctrine with respect to documents produced in an SEC investigation. The court rejected the selective waiver theory fashioned by the Eighth Circuit, n3 i.e., that disclosure of attorney-client privileged material as part of the SEC's voluntary disclosure program constituted only a selective waiver of the privilege. Instead, the court adopted the D.C. Circuit's position that disclosure of privileged materials to a government agency waives the attorney-client privilege as to private litigation. The court also found that *Westinghouse's* disclosures to the SEC and DOJ waived the work product doctrine. n4

n2. 951 F.2d 1414 (3d Cir. 1991).

n3. *Diversified Industries, Inc. v. Meredith*, 572 F.2d 596 (8th Cir. 1978) (en banc).

n4. See also *Spectrum Systems International Corp. v. Chemical Bank*, 575 N.Y.S.2d 809 (N.Y. 1991).

In a civil action brought by investors against Salomon Brothers, Inc.,ⁿ⁵ a federal court held that internal reports prepared by Salomon Brothers, including a compliance manual and an audit report prepared by an accounting firm, must be produced to the plaintiffs. The court held that the developing theory of "self critical analysis privilege" did not apply to the internal reports.ⁿ⁶ The court found that the release of the documents would not have a "chilling effect" on the preparation of such reports by other companies. The court observed that "the economic efficiencies, the accuracy of financial reporting and the improvement of business standards achieved by internal auditing programs and management control studies are so integral to the success of a business that the free flow of information is not likely to be stemmed by the possibility of future disclosure."ⁿ⁷ (Editor's note: look for an article on the "self-evaluative privilege" in a forthcoming issue of INSIGHTS.)

ⁿ⁵. See Wall Street Journal, Nov. 17, 1992, at p. B16.

ⁿ⁶. For a discussion of the development of the so-called "self-evaluative" privilege, see e.g., Leonard, Codifying a Privilege For Self Critical Analysis, 25 Harv. J. Legis. 113 (1988); Crisman & Mathews, Limited Waiver of Attorney-Client Privilege and Work Product Doctrine in Internal Corporate Investigations: An Emerging Corporate "Self-Evaluative" Privilege, 21 Am. Crim. L. Rev. 123 (1983); Note, The Privilege of Self-Critical Analysis, 96 Harv. L. Rev. 1083 (1983).

ⁿ⁷. *Id.* But see, Spectrum Systems International Corp. v. Chemical Bank, 575 N.Y.S. 2d 809 (N.Y. 1991).

The district court held in SEC v. O'Brien,ⁿ⁸ that discussions at a litigation review meeting involving a number of executives of an accounting firm as well as company attorneys were subject to the attorney-client privilege. The court found that during the meeting, the firm employees were conferring with attorneys preparing to confront two actual potential hostile inquiries to the firm regarding audit work, and that the attorneys needed factual information that could be provided only by the employees. The court held that the discussions were thus privileged and not subject to discovery by the SEC.ⁿ⁹

ⁿ⁸. [Current] Fed. Sec. L. Rep. (CCH) ¶ 97,039 (D.D.C. Feb. 14, 1992).

ⁿ⁹. See SEC v. O'Brien, [Current] Fed. Sec. L. Rep. (CCH) ¶ 97,404 (D.D.C. Aug. 26, 1992) (affirming earlier holding regarding attorney client privilege).

Fifth Amendment Cases

A number of courts have dealt with the scope of the Fifth Amendment privilege in SEC enforcement actions. In SEC v. Willis,ⁿ¹⁰ the SEC alleged that one defendant, a psychiatrist who had misappropriated confidential information from a client, tipped another defendant, his stockbroker, who was aware that the information had been misappropriated and traded based on that nonpublic information. When the SEC sought to take the broker's deposition in its enforcement action, he invoked his Fifth Amendment privilege not to answer the SEC's questions. The SEC sought and obtained an order from the court under 18 U.S.C. Sections 6002-03 granting the broker immunity from criminal prosecution based on direct or indirect use of his deposition testimony. The broker still refused to testify, arguing that this grant of use immunity was constitutionally insufficient and if he testified he would be in a worse position than if he could simply plead the Fifth Amendment. The court rejected the broker's argument and ordered him to testify.ⁿ¹¹

ⁿ¹⁰. 142 F.R.D. 100 (S.D.N.Y. 1992).

ⁿ¹¹. The Supreme Court held in *United States v. Halper*, 490 U.S. 435 (1989), that for the purposes of the double jeopardy clause, a penalty may be quasi-criminal in nature even if it is denominated by Congress as "civil," especially if it does not bear a reasonable relation to the amount of the loss or the costs of prosecution.

The U.S. District Court for the Southern District of New York refused, based on Fifth Amendment considerations, to enter an order compelling the depositions of two defendants in an SEC civil enforcement proceeding. The defendants in SEC v. Militanoⁿ¹² attempted to take the depositions of Militano and Sonneberg, former co-defendants who had settled a civil injunctive action with the SEC and pled guilty to related criminal charges. The defendants argued that Militano and Sonneberg could not invoke the Fifth Amendment's protections because their SEC settlements and plea agreements with the U.S. Attorney shielded them from any realistic threat of further prosecution.

n12. 1991 WL 270116 (S.D.N.Y., Dec. 9, 1991).

The court found that the two witnesses had demonstrated a "realistic possibility that they [would] be further prosecuted criminally" in the event their depositions were taken by defendants in an SEC civil enforcement proceeding. The court noted that the witnesses' plea agreements only bound the U.S. Attorney for the Southern District of New York. Even with respect to the Southern District of New York, the court observed that the plea agreements contained two significant exclusions from their grants of immunity, which made further prosecution by the U.S. Attorney possible: (1) criminal tax violations; and (2) conduct occurring before or after the witnesses' employment. Nor, stated the court, was further prosecution on the state level constrained, either by plea agreement or otherwise.

Denied the opportunity to depose Sonneberg and Militano, the defendants then moved to compel the SEC to produce its notes and records of its interviews with those witnesses. Noting that neither witness would testify in the case, the court found that the defendants were unable to obtain the requested information by other means. n13 The court also found that the defendants had demonstrated substantial need for the information, as they "must know the facts underlying the claims against [them]." Recognizing the protections of the work product doctrine, however, the court provided the SEC the opportunity to have certain portions excised before producing its notes to the defendants. n14

n13. SEC v. Militano, 1991 WL 270449 (S.D.N.Y., Dec. 12, 1991).

n14. See SEC v. Morelli, [Current] Fed. Sec. L. Rep. (CCH) ¶ 96,913 (S.D.N.Y. July 30, 1992) (upholding SEC's claim of work product doctrine with respect to a requested deposition by defendant).

The Remedies Act

The SEC has vigorously pursued the new remedies provided to it by the Remedies Act, including cease and desist power, monetary penalties and the right to bar persons from serving as officers or directors of public companies. The SEC has brought over 65 cease and desist actions, over 45 cases involving civil penalties, and at least 21 cases seeking bars against officers and directors.

The SEC issued the first two cease and desist orders under the Remedies Act in *In re Baker* n15 and *In re Dominick & Dominick Inc.* n16 Since these orders, the SEC has used the cease and desist authority on a number of occasions. n17 While many of these cases would probably have been brought as injunctive actions or administrative disciplinary proceedings, a number of these cases may not have been brought without this new authority.

n15. Release No. 34-29107, 48 SEC Docket 1167 (Apr. 19, 1991).

n16. Release No. 34-29243, 48 SEC Docket 1544 (May 29, 1991).

n17. See, e.g., *In re Kass*, Release No. 34-31046, 52 SEC Docket 990 (Aug. 17, 1992); *In re De Clara*, Release No. 34-30666; *In re Cook*, Release No. 34-30715, 51 SEC Docket 744 (May 19, 1992); *In re Replin*, Release No. 34-30747, 51 SEC Docket 826 (May 28, 1992); *In re Gaitner*, Release No. 34-30786, 51 SEC Docket 1000 (June 8, 1992).

The SEC has sought and obtained civil penalties in numerous settled cases, n18 and, in four contested cases, the court has ordered civil penalties. n19 Notably, a large percentage of the SEC's cases seeking penalties have not settled; in several cases the SEC has settled all but the penalty portion of the case, with the parties agreeing to allow the judge to determine the appropriate penalty.

n18. See, e.g., *SEC v. Scherer*, SEC Lit.Rel.No. 13340, 52 SEC Docket 1055 (Aug. 20, 1992) (\$15,000 penalty); *SEC v. Culatti*, SEC Lit.Rel. No. 13320, 51 SEC Docket 2109 (July 23, 1992) (\$1.9 million penalty); *SEC v. BFMF Corp.*, SEC Lit.Rel.No. 13301, 51 SEC Docket 1488 (July 6, 1992) (\$3 million penalty); *SEC v. Salomon Inc.*, SEC Lit.Rel.No. 13246, 51 SEC Docket 817 (May 22, 1992) (\$122 million penalty).

n19. In *SEC v. Recile*, SEC Lit.Rel.No. 13328, 52 SEC Docket 863 (Aug. 4, 1992), the court ordered a civil penalty after granting summary judgment to the SEC. In three other cases, the final judgments were ordered by the court after the defendants defaulted. *SEC v. Delta Rental Systems, Inc.*, SEC Lit. Rel.No. 13242, 51 SEC Docket 814 (May 18,

1992); SEC v. First Ohio Securities, Inc., SEC Lit.Rel.No. 13115, 50 SEC Docket 605 (Dec. 10, 1991); SEC v. Stems, SEC Lit.Rel.No. 12946, 49 SEC Docket 875 (Aug. 15, 1991). Moreover, in five cases, the counts have refused to impose the penalty sought by the SEC due to the respondents' inability to pay. SEC v. Kookcapital, SEC Lit.Rel.No. 13360, 52 SEC Docket 1329 (Aug. 31, 1992); SEC v. Deep Sands, Inc., SEC Lit.Rel.No. 13255, 57 SEC Docket 878 (May 28, 1992); SEC v. Campbell, SEC Lit.Rel.No. 13038, 49 SEC Docket 1573 (Oct. 9, 1991); SEC v. Gemini Energy Corp., SEC Lit.Rel.No. 13161, 50 SEC Docket 1275 (Feb. 6, 1992); In re Liskiewicz, Sec.Ex.Act Rel. No. 30831, 51 SEC Docket 1208 (June 19, 1992).

In nearly every case the SEC has sought civil penalties, the alleged misconduct involved fraud or egregious misconduct. However, in SEC v. Barette and Strauss, n20 the SEC obtained civil money penalties in a settlement solely involving false books and records. n21 And, in SEC v. Programming and Systems, Inc., n22 the SEC alleged that the respondent materially understand net income through unsupported adjustments to the financial statements. These cases suggest that the SEC views "cooked books" cases, along with cases alleging misappropriation of customer funds, n23 illegal distributions, n24 and manipulation, n25 as circumstances where the SEC will seek a civil penalty.

n20. SEC Lit.Rel.No. 13271, 51 SEC Docket 1162 (June 17, 1992).

n21. In two prior cases, the SEC had obtained civil money penalties under the Remedies Act in cases involving fraudulent accounting practices, but in both cases, the defendants allegedly either traded in the company's securities with knowledge of the fraudulent results, received bonuses based on the fraudulent results, or both. See SEC v. Qmax Technology Group, Inc., SEC Lit.Rel.No. 13186A, 51 SEC Docket 58 (Mar. 19, 1992); SEC v. Wiles (Miniscribe), SEC Lit.Rel.No. 12942, 49 SEC Docket 871 (Aug. 14, 1991). The SEC also has sought civil money penalties against an unregistered broker-dealer in a case involving books and records violations in SEC v. First Ohio Equities, Inc., SEC Lit.Rel.No. 13115, 50 SEC Docket 605 (May 1, 1991).

n22. SEC Lit. Rel. No. 13294, 51 SEC Docket 1399 (July 1, 1992).

n23. See, e.g., SEC v. Karczewski, SEC Lit. Rel. No. 13034, 49 SEC Docket 1571 (Oct. 9, 1991); SEC v. McLaughlin, SEC Lit. Rel. No. 13626, 51 SEC Docket 996 (June 1, 1992); SEC v. Treasury First, Inc., SEC Lit. Rel. No. 13094, 50 SEC Docket 381 (Nov. 15, 1991); SEC v. Pilgrim Planning Assocs., Inc., SEC Lit. Rel. No. 13117, 50 SEC Docket 606 (May 22, 1991).

n24. See, e.g., SEC v. Oxford Capital Securities, Inc., SEC Lit. Rel. No. 13160, 50 SEC Docket 1274 (Feb. 6, 1992); SEC v. Metro Display Advertising, Inc., SEC Lit. Rel. No. 13154, 50 SEC Docket 1175 (Jan. 27, 1992); SEC v. Great Southwest Energy, Inc., SEC Lit. Rel. No. 13158, 50 SEC Docket 1274 (Dec. 19, 1991).

n25. See, e.g., SEC v. Stratton Oakmonth, Inc., SEC Lit.Rel.No. 13195, 51 SEC Docket 132 (Mar. 20, 1992); SEC v. Grandolino, SEC Lit.Rel.No. 13250, 51 SEC Docket 875 (May 26, 1992).

The SEC also has used its new power to bar corporate officers and directors. The SEC has sought and obtained bars for fraudulent activity, including false and misleading disclosures, n26 manipulation, n27 and insider trading. n28

n26. See, e.g., SEC v. NRG Int'l, Inc., SEC Lit.Rel.No. 13341, 52 SEC Docket 1056 (Aug. 20, 1992); SEC v. Southeast First Capital Corp., SEC Lit. Rel. No. 13333, 52 SEC Docket 865 (Aug. 6, 1992); SEC v. Pharmaceutical Resources, Inc., SEC Lit. Rel. No. 13191, 51 SEC Docket 61 (Mar. 18, 1992); SEC v. Egan, SEC Lit. Rel. No. 13252, 51 SEC Docket 662 (May 27, 1992).

n27. See SEC v. Lorin & Ashlanian, SEC Lit. Rel. No. 13050, 49 SEC Docket 1642 (Oct. 13, 1991).

n28. SEC v. Thrasher, SEC Lit.Rel.No. 13381, 52 SEC Docket 1647 (Sept. 24, 1992); SEC v. Downe, SEC Lit.Rel.No. 13260, 51 SEC Docket 995 (June 4, 1992).

Injunctive Actions

Regulated Entities

The SEC continues to actively pursue civil injunctive actions against broker dealers, investment advisers and other regulated entities involved in fraud or other serious misconduct. The D.C. Circuit issued an important decision regarding the scope of the SEC's injunctive power in *SEC v. Steadman*.ⁿ²⁹ The SEC brought an injunctive action alleging that the Steadman Funds, a group of mutual funds, failed for 17 years to register under state blue sky laws. While this failure was not itself a violation of federal securities laws, the SEC claimed that the appellants were obliged to disclose to investors that the funds failure to register was illegal and to book substantial penalties that might accrue as a result of such failure to register. The district court found violations of the antifraud provision as well as violations based on negligence and entered a permanent injunction against the appellants.

n29. 967 F.2d 1636 (D.C. Cir. 1992).

The D.C. Circuit reversed the district court decision findings of antifraud violations and vacated the injunction. The D.C. Circuit found that the appellants had not acted with requisite scienter to establish fraud. The appellants had relied on an opinion of outside counsel, later proven to be incorrect, that state registration was not necessary. The court found that the appellants did not know and were not reckless in failing to discover that the legal opinion was erroneous. Neither the SEC, nor any state, took disciplinary action or raised any question for 17 years about the failure to register. Further, the appellants took prompt action to correct the violations and to properly reserve against loss when they learned of the mistake. The court found that, at most, the appellants acted negligently in failing to include a general footnote in their financial statements disclosing the contingent liabilities.

In vacating the injunction, the court found that "injunctive relief is reserved for willful lawbreakers or those whose operations are so persistently sloppy as to pose a continuing danger to the investing public." n30 The court found that in this case the negligence based violations were not flagrant or deliberate and that the appellants had acted in good faith in reliance on advice of counsel. Thus, the court found no basis for injunctive relief.

n30. *Id.*

On May 20, 1992, the SEC concluded its lengthy and highly publicized investigation and settled an important injunctive action against Salomon Incorporated and Salomon Brothers Incorporated alleging violations of the anti-fraud provisions of the Securities Act of 1933 (Securities Act) and the anti-fraud and recordkeeping provisions of the Exchange Act. n31 The SEC complaint alleged, among other things, that Salomon Brothers submitted nine false bids and caused the submission of one nominee bid totalling \$15.5 million and resulting in the illegal acquisition by Salomon Brothers of \$9.548 million in U.S. Treasury Securities. The SEC also alleged that Salomon Brothers created numerous false books and records to conceal the false bids and the handling of securities obtained pursuant to those bids.

n31. *SEC v. Salomon Inc. and Salomon Brothers Inc.*, SEC Lit. Rel. No. 13246, 51 SEC Docket 817 (May 20, 1992).

The final judgement required Salomon Brothers to pay \$290 million, representing a payment of \$190 million to the United States and a payment of \$100 million to the registry of the court. The amount paid to the United States constitutes \$122 million as payment of civil penalties under the Remedies Act and \$68 million as forfeiture and payment to the United States. The amount paid to the court represents a fund for civil claims against Salomon Brothers. The SEC noted that in reaching settlement with Salomon Brothers, it took into account change in management that occurred at Salomon Brothers in August 1991, new policies and procedures adopted by the firm at the time, the improved ethical climate mandated by the new management, and Salomon Brother's cooperation with the SEC's investigation.

In a related administrative proceeding, n32 the SEC alleged that certain members of senior management of Salomon Brothers learned in late April of 1991 that a managing director of the firm had submitted a false bid on February 21, 1991 in the amount of \$3.15 billion in an auction of U.S. Treasury Securities. The Commission alleged that over the next several months management took no action to discipline or limit the conduct of the managing director. During that period, the managing director allegedly committed additional violations of the securities laws by submitting false bids in auctions for U.S. Treasury securities. The SEC therefore determined that Salomon Brothers failed adequately to supervise the managing director and imposed disciplinary sanctions.

n32. *In Re Salomon Brothers, Inc.*, Sec. Ex. Act Rel. No. 30721, 51 SEC Docket 749 (May 20, 1992).

On December 2, 1992, the SEC filed a complaint against Paul W. Mozer and Thomas F. Murphy, two former managing directors of Salomon Brothers. n33 The complaint alleged violations of the antifraud and record-keeping provisions in connection with the submission of false bids in auctions for U.S. Treasury securities. On the next day, John Gutfreund, former chairman, Thomas Strauss, former president, and John Meriwether, former vice chairman, of Salomon consented, without admitting liability, to disciplinary sanctions in an SEC administrative proceeding alleging failures to reasonably supervise. n34

n33. SEC v. Paul W. Mozer and Thomas F. Murphy, SEC Lit. Rel. No. 13453, 52 SEC Docket (Dec. 2, 1992).

n34. In re John H. Gutfreund, et al., Sec. Ex. Act Rel. No. 31554, 52 SEC Docket (Dec. 3, 1992).

In another important case arising from the investigation of the government securities market, the SEC, along with the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, administratively sanctioned 98 registered broker-dealers, government securities brokers, and banks in connection with their participation in the primary distribution of unsecured debt securities issued by certain government sponsored enterprises (GSE). n35 The SEC alleged that the respondents maintained books and records that did not reflect accurately customer orders for the GSEs' securities and/or offers, purchases, or sales by the respondents of the GSEs' securities. The respondents allegedly made inflated claims to the GSEs about customer demand for the securities to preserve their respective allocations of new issues thereby maintaining commissions earned from their dealings in the GSE securities.

n35. See In the Matter of the Distribution of Securities Issued by Certain Government Sponsored Enterprises, Sec. Ex. Act Rel. Nos. 30192-30251, 50 SEC Docket 914-983 (Jan. 16, 1992).

The respondents were ordered to cease and desist from committing future violations, to pay penalties totaling \$5.165 million, to the United States Treasury and to implement and maintain policies designed to ensure future compliance with the relevant provisions of the Exchange Act. The SEC issued a report pursuant to Section 21(a) of the Exchange Act describing in detail the actions for which the respondents were sanctioned. n36

n36. See Report Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding the Distribution of Certain Debt Securities Issued by Government-Sponsored Enterprises, Release. No. 34-30255, 50 SEC Docket 985 (Jan. 16, 1992).

In a major investment adviser fraud case, Steven D. Wymer was indicted in the Central District of California on thirty counts of securities fraud, mail fraud, money laundering, making false statements to the SEC, and obstruction of justice. n37 The indictment alleged that Wymer controlled two investment advisers, Institutional Treasury Management, Inc. (ITM) and Denman and Company (Denman), through which he defrauded advisory clients, causing clients to lose over \$100 million. The indictment also alleged that after the SEC began to inquire into the status of one ITM client, Wymer began a series of sophisticated transactions designed to conceal the fraud.

n37. United States v. Wymer, SEC Lit. Rel. No. 13136, 50 SEC Docket 889 (Jan. 6, 1992).

On September 29, 1992, Wymer agreed to plead guilty to a superseding information charging nine counts of fraud and to forfeit his assets to make restitution to his clients. In addition, the SEC obtained an order permanently enjoining Wymer from violating several provisions of the securities laws and ordering Wymer to pay any disgorgement and penalties the court determines appropriate. n38 The court subsequently ordered Wymer to pay \$209 million in restitution and prejudgment interest to 19 defrauded clients. And, the SEC permanently barred Wymer from association with any broker, dealer, investment company, investment adviser, or municipal securities dealer. n39

n38. See SEC v. Institutional Treasury Management, Inc., Denman & Company and Steven D. Wymer, SEC Lit. Rel. No. 13164, 50 SEC Docket 1338 (Feb. 11, 1992); SEC Lit. Rel. No. 13389, 52 SEC Docket 1796 (Sept. 29, 1992).

n39. See In re Steven D. Wymer, Sec. Ex. Act Rel. No. 30786, 51 SEC Docket 1022 (June 8, 1992).

The SEC has also brought actions against a number of other investment advisers. In SEC v. Kienlen, n40 the court enjoined Thomas Kienlen corporation, a registered investment adviser, for misrepresenting facts about fund safety,

operating costs, and performance. In *SEC v. Bayse*,ⁿ⁴¹ the SEC enjoined Bayse, an investment adviser, for accepting personal investment opportunities from Drexel Burnham in exchange for causing certain funds he managed to buy junk bonds from Drexel.

ⁿ⁴⁰ SEC Lit. Rel. No. 13159, 50 SEC Docket 1274 (Feb. 5, 1992).

ⁿ⁴¹ SEC Lit. Rel. No. 13145, 50 SEC Docket 1170 (Jan. 24, 1992).

Financial Fraud

The SEC's investigation in the savings and loan area resulted in a number of enforcement actions. In a widely publicized action, the Commission filed an injunctive action against Charles Keating, Jr. and nine other individuals charging multiple violations of the securities laws arising from the operations of American Continental Corporation (ACC) and its former subsidiary Lincoln Savings and Loan Association (Lincoln).ⁿ⁴² The complaint alleged, among other things, that the defendants engaged in a scheme to defraud investors by filing financial statements during the period from 1985 to 1988 that overstated ACC's earnings by more than \$120 million; that ACC and certain defendants operated a program to sell unsecured subordinated debentures to customers of Lincoln by providing false and misleading financial statements to purchasers of the debentures which, among other things, misrepresented that the debentures were insured by the Federal Savings and Loan Insurance Company; and that Keating sold over \$7.5 million worth of ACC stock based on inside information that ACC's financial statements were misleading as a result of the attempts to inflate ACC's earnings.ⁿ⁴³ Keating had previously been convicted of multiple counts of securities fraud in state court. Federal criminal charges against Keating are still pending. Several of Keating's associates have settled the SEC injunctive action.ⁿ⁴⁴

ⁿ⁴² *SEC v. Charles Keating, Jr., et al.*, SEC Lit. Rel. No. 13118, 50 SEC Docket 607 (Dec. 13, 1991).

ⁿ⁴³ Bank regulators also brought a number of high profile action relating to the Lincoln Continental matter. In re Peter Fishbein, Karen E. Katzman, Lynn Toby Fisher, and Kaye, Scholer, Fierman, Hays & Handler, No. OTS AP-92-09 (Mar. 11, 1992), Kaye Scholer consented to a \$41 million fine. In another action arising out of the savings and loan scandal, the accounting firm of Ernst & Young agreed, without admitting any wrongdoing, to pay \$400 million to settle federal charges that it had inadequately audited four large thrifts. See NYT at A-1 (Nov. 23, 1992); Wall St. J. at A-1 (Nov. 23, 1992).

ⁿ⁴⁴ See New York Times, Aug. 4, 1992, at 10, col. D.

The U.S. District Court for the Southern District of New York issued an important opinion denying the SEC's request for an injunction against the accounting firm of Price Waterhouse. The SEC alleged in *SEC v. Price Waterhouse*,ⁿ⁴⁵ that Price Waterhouse and three individuals (two partners and a senior manager) violated Section 10(b) and Rule 10b-5 under the Exchange Act and Section 17(a) of the Securities Act when Price Waterhouse certified that the 1980 financial statements of AM International, Inc. (AMI) were prepared in accordance with GAAP, and that the firm conducted an examination of those financial statements in accordance with GAAS. The SEC also alleged that the defendants aided and abetted AMI's fraudulent misstatements of its financial statements.

ⁿ⁴⁵ 797 F. Supp. 1217 (S.D.N.Y. 1992).

The court ruled against the SEC on each issue and denied the injunction. The court stated that it is highly improbable that an accounting firm would risk surrendering a valuable reputation for honesty and careful work by participating in a fraud merely to receive increased fees. The court declined to reach the SEC's allegations that the defendants had committed negligence-based violations of Sections 17(a)(2) and (a)(3) of the Securities Act. The court held that, even assuming they were negligent, the individual defendants had acted in good faith, and there was no evidence that they had committed other violations of federal law. As to the firm, the court also noted that there was no evidence that its national leadership had ignored issues brought to its attention or had unduly pressured its accountants to placate corporate management. As to all the defendants, the court held that the long period of time since the violations, i.e., five years from the time of the violations to the filing of the suit, and another six years from filing until trial, weighed heavily against the issuance of an injunction. (Editor's note: the Price Waterhouse decision was discussed in the October 1992 issue of INSIGHTS.)

On August 14, 1991, the SEC filed an injunctive action alleging that senior management of Miniscribe Corporation, with assistance of other officers and employees, engaged in a series of fraudulent acts designed to materially inflate Miniscribe's reported net income from 1986 through 1988. n46 Among the 15 defendants named were the former Chairman and CEO, President, Chief Financial Officer, Controller, and Secretary and Treasurer. The complaint alleged that the senior officers took various steps to conceal material inventory shortfalls, thereby inflating profits of the firm and misrepresenting the financial condition of the company. Certain officers allegedly sold stock at artificially inflated prices while in possession of the material non-public information about the company.

n46. SEC v. Wiles, et al., SEC Lit. Rel. No. 12942, 49 SEC Docket 071 (Aug. 14, 1991).

Simultaneously with the issuance of the charges, seven defendants consented to permanent injunctions and disgorgement of illicit profits. Three of the defendants, who were CPA's, also consented to permanent suspension from appearing before the SEC. Subsequently, other former officers of Miniscribe entered into current settlements to resolve the action. n47

n47. See SEC v. Q.T. Wiles et al., SEC Lit. Rel. No. 13416, 52 SEC Docket 2237 (Oct. 8, 1992) (injunction, disgorgement and civil penalty ordered against former mid-level manager).

In another case involving a scheme to fraudulently inflate earnings, SEC v. Levin, n48 three former officers of Amre, Inc. settled SEC charges. The complaint alleged that Amre reported inflated earnings by improperly understating expenses and inflating revenues, inflating values for its assets, and understating its liabilities to allow the firm to meet the earnings projections the firm had provided to securities analysts. One defendant agreed to pay disgorgement and penalties based upon allegations of inside trading. Levin, the former chief financial officer of Amre, was also barred from serving as an officer or director of a public company for 10 years. n49

n48. SEC Lit. Rel. No. 13180, 50 SEC Docket 1532 (Mar. 3, 1992).

n49. In related administrative proceedings, Amre and two former Amre officers consented to administrative sanctions. In re Amre, Inc. and Walter Ward Richardson, Release No. 34-30431, 50 SEC Docket 1474 (March 2, 1992); In re Mac M. Martirosian, Sec. Release No. 34-30870, 51 SEC Docket 1315 (June 30, 1992).

Disclosure Cases

The court, in SEC v. Amster & Co., n50 granted the defendants' motion for summary judgment, holding that the defendants were not required to report preliminary considerations of a proxy contest in their Schedule 13D. The court held that the SEC improperly "[derived] from § 13(d) a duty falling upon these defendants to report concerning a proxy contest before deciding to wage one." n51 The court explained that "specific disclosures are required only if the purchaser's 'purpose' is 'to acquire control' of the insurer's [sic] business," and "purpose is equated with intention." n52 Thus, a party does not need to report "a perceptible desire to influence substantially the issuer's operations" until "desire crystallizes into decision," although disclosure is necessary once a party decides to seek control even if the party has not decided the means for seeking control. n53 The SEC has asked the court to reconsider its decision. n54

n50. 762 F. Supp. 604 (S.D.N.Y. 1991).

n51. Id. at 611.

n52. Id. at 609.

n53. Id. at 613-14 (quoting *Chromalloy American Corp. v. Sun Chemical Corp.*, 611 F.2d 240, 246-47 (8th Cir. 1979)).

n54. Court Urged to Reconsider Dismissal of SEC Williams Act Suit, 23 Sec. Reg. L. Rep. (BNA) 915, 916 (1991).

The SEC, in SEC v. Wellshire Securities, Inc., n55 brought an action against a corporation and two directors of the corporation alleging that the defendants had a duty to correct misstatements made by a broker-dealer because the

defendants were involved in drafting a market letter. The court held, however, that the defendants were not sufficiently involved in the issuance of the misstatements to be liable under the antifraud provisions of the securities laws. The defendants only became involved because the broker-dealer asked for confirmation of information in a market letter, and the defendants complied with the request by reviewing the letter and correcting the draft. The court explained that if these actions constituted sufficient entanglement to warrant liability then there would be "a pervasive chilling effect on cooperation and honesty." n56 The court also based its holding on the fact that although the defendants may have been careless in relying on certain individuals to review the market letter, their reliance was not so imprudent as to amount to recklessness. n57

n55. 773 F. Supp. 569 (S.D.N.Y. 1991).

n56. *Id.* at 574.

n57. In *SEC v. International Loan Network*, 968 F.2d 1304-(D.C. Cir. 1992), the D.C. Circuit upheld a preliminary injunction against the two promoters of International Loan Network Inc., based on charges that they operated a fraudulent pyramid type investment scheme. On December 1, 1992, the two top officials of International Loan Network, Melvin J. Ford and Odell Mandley, consented to injunctions and agreed to disgorge their assets and pay an additional \$1.4 million to settle the action. SEC Lit. Rel. No. , 52 SEC Docket (Dec. 1, 1992).

Insider Trading

During the past two years, there have been a number of key court decisions in insider trading cases. The Second Circuit issued an important en banc decision in *United States v. Chestman*, n58 affirming, in part, and reversing, in part, a conviction for insider trading. (Editor's note: The Chestman decision was discussed in the January 1992 issue of *INSIGHTS*.) The defendant, Robert Chestman, a stockbroker, was convicted of fraudulent trading in connection with a tender offer in violation of Rule 14e-3(a), Rule 10b-5 and mail fraud. A panel of the Second Circuit had reversed the convictions. n59 The en banc Court vacated the panel's decision and reinstated the Rule 14e-3(a) conviction.

n58. 947 F.2d 551 (2d Cir. 1991) (en banc).

n59. *United States v. Chestman*, 903 F.2d 75 (2d Cir. 1990).

Chestman argued that because Rule 14e-3(a) excludes the breach-of-duty element of common law fraud, the SEC exceeded its rulemaking authority when it promulgated the Rule. In rejecting Chestman's argument, the Court observed that Section 14(e) vests the SEC both with broad authority to define "fraud" and with the power to "prescribe means reasonably designed to prevent" fraudulent practices. n60 The court found this delegation of authority necessarily encompasses the authority to proscribe conduct outside the purview of common law fraud. In reversing the Rule 10b-5 and mail fraud convictions, however, the court found that while repeated disclosures of business secrets between family members may sustain the finding of the functional equivalent of a fiduciary relationship, there was insufficient evidence of the requisite confidential relationship in this case. n61

n60. 947 F.2d at 558.

n61. In *United States v. Willis*, 778 F. Supp. 205 (S.D.N.Y. 1991), the district court rejected a motion to dismiss an indictment for insider trading based on the Chestman case, finding that a physiatrist-patient relationship is "a traditional inherently fiduciary relationship" and, therefore, that the indictment satisfies the requirements for the misappropriation theory as set forth in Chestman.

The U.S. District Court in *SEC v. Trikilis*, n62 issued an important decision limiting the scope of SEC Rule 14e-3. The court held that the rule, which prohibits trading based on nonpublic information in connection with tender offers, only applies to defendants who know that the information upon which they are trading relates to a tender offer. The SEC had previously taken the position that the defendant need not know that the information on which he traded related to a tender offer, so long as the information was material and the offer or had in fact taken a substantial step or steps toward commencing a tender offer. The court held that "if a tippee does not know that information relates to a tender offer, Rule 14e-3 can hardly deter her from trading on it." In connection with a proposed settlement of the Trikilis case, the SEC has filed a motion asking the court to vacate its Rule 14e-3 decision.

n62. [Current] Fed. Sec. L. Rep. (CCH) ¶ 97,015 (C.D. Cal. July 28, 1992). The defendant had earlier successfully urged the court to dismiss the claims which had been filed in the Western District of Missouri on the grounds of improper venue. See *SEC v. Trikalis*, No. 91-0560-CV-W-2 (Oct. 16, 1991).

In another decision interpreting Rule 14e-3, *SEC v. Peters*, n63 the Tenth Circuit reversed a jury verdict in favor of a defendant and remanded for a new trial. The court followed the *Chestman* rule and held that the SEC had authority under Section 14(e) of the Exchange Act to promulgate Rule 14e-3 and that the common law requirement of a breach of fiduciary duty was not a necessary element of such a violation. The court thus held that the district court had erred in instructing the jury that the defendant must breach a fiduciary duty before Rule 14e-3 is violated. The court also held that the district court erred by refusing to permit cross-examination of the defendant and his opinion character witnesses regarding prior fraud suits against the defendant that settled without findings or admissions of liability. The defendant had testified at trial about his good character, thus raising the issue before the court. n64

n63. [Comment] Fed. Sec. L. Rep. (CCH) ¶ 97,045 (10th Cir. Oct. 26, 1992). See *SEC v. Peters*, 753 F.Supp. 1505 (D. Kan. 1990) (denying defendants' motion for summary judgment).

n64. Fed. Sec. L. Rep. ¶ 96,088 (N.D. Ill. July 10, 1991). See also, in *SEC v. Saul*.

The Seventh Circuit adopted the misappropriation theory of insider trading liability in *SEC v. Cherif*, n65 and upheld a district court's preliminary injunction barring the defendant from future trading and freezing the defendant's assets. Cherif, a terminated bank employee, allegedly retained his electronic access card, entered the bank on several occasions, obtained information about possible takeover targets, and traded on the basis of the nonpublic information. After finding that a person violates Rule 10b-5 and Section 10(b) by misappropriating and trading on material nonpublic information, the court rejected Cherif's argument that the misappropriation theory was not applicable because his employment with the bank ended before he stole and traded on the information. The court found that Cherif breached a continuing fiduciary duty to the bank by using his key card and confidential knowledge learned during his employment at the bank to break into the bank and steal inside information about upcoming transactions.

n65. 933 F.2d 403 (7th Cir. 1991).

There has been considerable controversy about the SEC's ability to bring insider trading actions involving bonds. n66 (Editor's note: these issues were discussed in the November 1992 issue of *INSIGHTS*, p.18.) While a corporation and its insiders have a fiduciary duty to the holders of its common stock, the courts have virtually unanimously held that their duties to bondholders are purely contractual and, in the absence of contract terms to the contrary, a corporation and its insiders have no duty to disclose material nonpublic information to bondholders.

n66. See Note, *Insider Trading in Junk Bonds*, 105 Harv. L. Rev. 1720 (1992).

In 1992, the SEC filed a number of insider trading cases involving bonds, thus indicating that it believes it can utilize the misappropriation theory in connection with bond trades. The SEC alleged in *SEC v. Morse*, n67 that an officer of the Kentucky Infrastructure Authority, a governmental corporation, was in charge of redeeming certain municipal bonds issued by the Authority. The Authority was required to redeem a certain amount of its bonds each year and could do so by purchasing them on the open market. According to the SEC, in June 1991, Morse knew that the Authority need to buy bonds with a face value of \$110,000 in order to meet its redemption requirement for the year, and took advantage of this by purchasing the bonds. The SEC alleged that Morse had misappropriated from the Authority material nonpublic information (that the Authority needed additional bonds to meet its redemption requirement) and had traded based on that information. Morse settled the case without admitting or denying the SEC's allegations, by consenting to an injunction against violations of Rule 10b-5 and agreeing to disgorge his profits on the trades together with prejudgment interest. Interestingly, the SEC did not require that Morse pay any civil penalty. Morse has also been indicted on Kentucky state criminal charges arising from the same transactions. n68

n67. SEC Lit. Rel. No. 13280, 51 SEC Docket 1285 (June 23, 1992).

n68. In another unusual insider trading case, the SEC charged four government employees with trading on information misappropriated from the Office of the Controller of the Currency. SEC v. Acree, Sec. Lit. Rel. No. 13219, 51 SEC Docket 279 (Apr. 9, 1992).

The SEC brought a second insider trading case involving municipal bonds against an analyst handling municipal bonds for a broker-dealer. The SEC charged in SEC v. Scherer, n69 that a former Merrill Lynch analyst, Edward Scherer, personally invested in debt securities while in possession of material non-public information that Merrill Lynch would soon issue a research report recommending the purchase of the bonds, which Scherer was working on. The SEC alleged that Scherer later sold the bonds after the price had risen as a result of the recommendation.

n69. SEC Lit. Rel. No. 13340, 52 SEC Docket 1055 (Aug. 20, 1992).

In a third case, the Commission seeks, in SEC v. Singer, n70 to recover more than \$3.6 million in trading profits and a permanent officer and director bar against brothers Gary and Steven Singer. The SEC alleged that Gary and Steven Singer, the Cooper Companies chairman and chief operating officer respectively, were engaged in an extensive scheme to profit from insider tips in junk bond trades. Gary Singer is also accused of price manipulation of a publicly trade note and of fraudulently shifting the company's junk bond profits to family accounts. In addition to the civil action against the brothers, a criminal indictment was brought by the U.S. Attorney for the Southern District of New York against both the company and the Singers. Many of the junk bond trades that underlie the criminal indictment took place after the company was under investigation for price manipulation. This prompted Director of Enforcement William McLucas to note that "[the] level of deceit and audacity of the defendants in this case was quite remarkable." The indictment contains RICO charges, and the government is pursuing forfeiture claims against the company and the individual defendants.

n70. SEC Lit. Rel. No. 13432, 52 SEC Docket (Nov. 10, 1992.)

In the past two years, the SEC has brought a number of other high profile insider trading actions. In SEC v. Gleeman and Garvey, n71 the Commission settled civil charges against an ex-Skadden, Arps, Slate, Meagher & Flom paralegal and his childhood friend, a 1988 Wharton School graduate. Gleeman allegedly set up foreign trading accounts with his father's assistance and convinced Garvey to apply for a paralegal position in Skadden, Arps' mergers and acquisitions department. Together the three individually traded on the basis of inside information on 15 different deals. The first of these deals proved to be the ring's undoing as the SEC immediately froze the overseas account and spent the better part of the next two years determining who had set up the account. Garvey and Gleeman agreed to pay a civil money penalty of \$1.1 million, which the SEC waived because of their lack of financial resources. In addition, Garvey, Gleeman and his father have been charged in a criminal information filed by the United States Attorney for the Southern District of New York with criminal conspiracy to commit securities fraud. n72

n71. SEC Lit. Rel. No. 13410, 52 SEC Docket 1956 (Oct. 15, 1992.)

n72. Id.

In SEC v. Falbo, et al., n73 the SEC charged seven people with insider trading violations in connection with the 1988 takeover of Pillsbury Co. by Grand Metropolitan PLC (Grand Met). n74 The SEC alleged that Robert Falbo, an electrician who had been installing a security system at Grand Met's U.S. headquarters in New Jersey at the time of the takeover bid, learned about the bid both through his work and from his wife, who was secretary to a Grand Met senior vice-president. The others named in the complaint were Anthony Capricuso, Robert Falbo's accountant; Michael Nardino, an accountant and partner of Capricuso's; Mark and Eric Muenster, twin brothers who are Capricuso's nephews; and Lorre Meade, a secretary who met Robert Falbo when he was doing electrical work near her desk. The SEC alleged that Robert Falbo passed the takeover tip to Meade under the agreement that she would trade in her account for both of them. The SEC alleged that the seven defendants earned a total of \$750,000 from illegal trades. The SEC is seeking disgorgement and ITSA penalties of three times the unlawful profits. Robert Falbo and Anthony Capricuso have also been indicted in a related criminal action, filed simultaneously with the SEC's civil suit. n75

n73. SEC Lit. Rel. No. 13364, 52 SEC Docket 1520 (Sept. 16, 1992).

n74. See also, SEC v. O'Hagan, SEC Lit. Rel. No. 12344 (Jan. 10, 1990).

n75. United States v. Falbo, (S.D.N.Y. Sept. 16, 1992).

In the so-called "society seven" case, SEC v. **Downe**, n76 the SEC alleged that seven prominent socialites swapped inside information over poker, during parties, and on yachting excursions over a two-year period in the late 1980s. The SEC alleged that the insider information concerned LBO's and tender offers; and charged the defendants with improper transactions in the securities of Bally Manufacturing Corp., Bear Stearns Co., Kiddie, Inc., Edgcomb Corp. and Tyler Corp. The SEC is seeking disgorgement of \$23 million. The "Society Seven" include Martin Revson, a member of the founding family of Revlon, Inc.; **Edward Downe, Jr.**, former director of Bear Stearns and son-in-law of Henry Ford II, Fred Sullivan, former CEO of Kidde, Inc.; Steven Greenberg, former chairman of Anametrics, Inc., and Milton Weinger, a former top broker with Oppenheimer & Co. Fred Sullivan has settled SEC civil charges of giving **Downe** a takeover tip and has agreed to pay \$58,000 in penalties. In related criminal actions, **Edward Downe, Jr.** has pled guilty to an information charging tax and securities law violations, and Milton Weinger has pled guilty to perjury. n77

n76. SEC Lit. Rel. No. 13260, 51 SEC Docket 995 (June 4, 1992).

n77. States v. Dunne, 24 Sec. REg. & Law Rep. BNA 835 (S.D.N.Y. June 24, 1992.)

The SEC commenced an unusual insider trading case in SEC v. Naegeli, n78 in which it alleges that the legal advice given by a Swiss attorney aided and abetted insider trading by the attorney's client. The complaint arose out of the same facts as a 1989 complaint n79 in which the SEC alleged that Christian Norgren, a director of the European corporation ABB Asea Brown Boveri Ltd., traded based on his advance knowledge of ABB's intent to acquire a U.S. corporation, Combustion Engineering. The SEC alleges that after Norgren became aware of ABB's proposed acquisition of Combustion Engineering, he informed Naegeli, his attorney and business agent. According to the SEC, Naegeli advised Norgren on a method to capitalize on his information with the hope of avoiding U.S. prohibitions on insider trading. The SEC alleged that Naegeli's activities on behalf of Norgren aided and abetted Norgren's violations. Interestingly, the SEC seeks only an injunction against future violations by Naegeli; it does not seek any civil penalty. The defendant in Naegeli is litigating with the SEC, and the case may result in important precedent concerning the duties of foreign lawyers under the U.S. securities laws. n80

n78. SEC Lit. Rel. No. 13277, 51 SEC Docket 1283 (June 23, 1992).

n79. SEC v. Finacor Anstalt, 89 Civ. 7667, SEC Lit. Rel. Nos. 12296, 12603 and 12766 (S.D.N.Y.). Norgren and the corporation through which he conducted his trading settled the earlier complaint by consenting to injunctions, disgorging their profits of some \$2.59 million plus prejudgment interest, and paying a penalty of \$300,000.

n80. See also, SEC v. Stevens, Sec. Lit. Rel. No. 12813, 48 SEC Docket 739 (Mar. 19, 1991); SEC v. Willis, Sec. Lit. Rel. No. 12754, 47 SEC Docket 1550 (Jan. 14, 1991); SEC v. Finecor Anstalt, Sec. Lit. Rel. No. 12766, 48 SEC Docket 67 (Jan. 22, 1991); SEC v. Louis-Dreyfus, Sec. Lit. Rel. No. 12777, 48 SEC Docket (Feb. 14, 1991).

Penny Stock Fraud

The SEC adopted rules under the Remedies Act intended to prevent abuses in the sale of low priced securities. n81 The rules define penny stocks and impose significant disclosure requirements. The disclosure rules require that a broker-dealer: (1) give a customer a schedule setting forth details about the specific transaction and about the penny stock market; (2) tell the customer current quotation prices or similar market information; and (3) inform the customer of the broker-dealer's compensation and of the compensation of an associated person. The rules became fully effective on January 1, 1993.

n81. Release No. 34-30571, 51 SEC Docket (Apr. 10, 1992).

The SEC has continued to crack down on penny stock fraud bringing numerous cases against brokers and dealers and others. For example, in SEC v. Hasbo, n82 the Southern District of New York issued a lengthy decision permanently enjoining three former registered representatives at J.T. Moran, n83 First Jersey Securities, and other small brokerage firms, from future violations of the securities law and ordering them to disgorge illegal gains in a penny stock case. The court made extensive findings of fact regarding the pervasive nature of the fraud engaged in by these and other

registered representatives at the various firms, including, among other things, high pressure sales tactics, misrepresentations to clients (including claims to inside information and wild price predictions), unauthorized trading, and refusing to sell securities. The decision is informative because of its extensive discussion of illegal practices in the sale of penny stocks.

n83. In *United States v. Moran*, No. 91-673(S) (ILG) (E.D.N.Y. July 19, 1991), the District Court for the Eastern District of New York had accepted the guilty plea of John Moran -- the former chairman of J.T. Moran, once one of the twenty largest retail securities brokerage firms in the United States.

The SEC brought a civil proceeding against Stratton Oakmont, a brokerage firm, alleging that the firm employed numerous young, untrained brokers who cold-called customers and suggested to them that they trade in well-known stocks listed on the New York Stock Exchange. n84 After suggesting these stocks, the brokers allegedly then pressured customers to buy highly speculative, over-the-counter "house stocks" controlled by Stratton Oakmont, urged these buyers not to sell these stocks and in some instances made unauthorized trades in customer accounts. One broker, Richard J. Puccio, settled with the Commission and agreed to cooperate with the SEC in connection with the case.

n84. *SEC v. Stratton Oakmont, Inc.*, Sec. Lit. Rel. No. 13195, 51 SEC Docket 132 (Mar. 26, 1992).

Disgorgement Issues

The Second Circuit issued an important decision concerning the distribution of illicit profits disgorged to the SEC in *SEC v. Wang*. n85 The Wang case was a high-profile insider trading enforcement action, in which a Taiwanese businessman had traded in at least 25 securities based on information about upcoming major corporate transactions leaked by an employee of a major Wall Street investment bank. The SEC obtained disgorgement of more than \$19 million in illegal trading profits and drafted a plan of distribution of these profits that was approved by the district court.

n85. 944 F.2d 80 (2d Cir. 1991).

The most important issue resolved by the Second Circuit opinion is the standard of review for SEC plans of disgorgement. The SEC argued that a district court was required to approve its plan of disgorgement unless the court finds that the plan is arbitrary and capricious, for instance that it is contrary to public policy, or that it is proffered in bad faith. The Second Circuit rejected this argument, and held that a district court should conduct a much broader inquiry to determine whether the SEC's plan was "fair and reasonable," the same standard used in evaluating proposed settlements of private damages class actions. The Second Circuit also held that after the district court conducts this fairness inquiry, an appellate court may overturn the district court only if it finds an abuse of discretion. Having set forth this standard, the Second Circuit held that the SEC's decision not to provide disgorgement to Susquehanna and other similarly situated investors was fair and reasonable. n86

n86. See *SEC v. Ivan F. Boesky, et al.*, SEC Lit. Rel. No. 13382, 52 SEC Docket 1793 (Sept. 28, 1992) (Court approved three proposed coordinated distribution plans pursuant to which more than \$56 million previously disgorged by Ivan Boesky, Martin Siegal, and Kidder Peabody & Co., Inc. would be distributed).

The U.S. Bankruptcy Court for the Southern District of Florida issued a significant opinion concerning the treatment of disgorgement orders in bankruptcy proceedings. n87 The court found an SEC disgorgement order to be non-dischargeable in bankruptcy. The court relied on 11 U.S.C. § 523(a)(7), which holds that an individual debtor may not be discharged from any "fine, penalty, or forfeiture payable to and for the benefit of a governmental unit[.]" n88 The court analogized disgorgement to the restitution order held to be a non-dischargeable penal sanction in *Kelly v. Robinson*. n89 It held that disgorgement is not solely designed to compensate the victims, but is at least partially a penal sanction designed to deter wrongdoers. The court's reasoning appears to cover most if not all SEC disgorgement orders, not merely those for violating an SEC bar order.

n87. *In re Telsey*, [Current] Fed. Sec. L. Rep. (CCH) ¶ 97,000 (Bankr. S.D. Fla. 1992).

n88. The court therefore did not reach the SEC's alternative argument under 11 U.S.C. § 523(a)(2), that the disgorgement order was non-dischargeable because it represented a debt obtained by "false pretenses, a false representation, or actual fraud[.]"

n89. 479 U.S. 36 (1986).

And, in *Bilzerian v. SEC*, n90 the court held that the automatic stay provisions in the bankruptcy code do not prohibit the SEC from seeking an order to fix the amount of disgorgement to be paid by a defendant in an SEC action. The court noted, however, that the automatic stay provisions would prevent the SEC from attempting to enforce any disgorgement award.

n90. [Current] Fed. Sec. L. Rep. (CCH) ¶ 97.043 (Oct. 22, 1992).

Conclusion

Empowered by the additional powers available under the Remedies Act and fueled by high profile enforcement actions in the area of government securities and savings and loan fraud, the SEC continues to vigorously enforce the securities laws. With the changing administration, we expect that Richard Breden will resign and a new chairman will be appointed. Nevertheless, we expect the 1993 SEC enforcement year to be an active one, particularly in the traditional areas of financial fraud, insider trading and regulation of registered entities. In addition, there should be an increased focus on the government securities markets, trading in high yield and other bonds, and the activities of investment advisers.

Copyright 1992 Newsday, Inc.
Newsday

December 10, 1992, Thursday, CITY EDITION

SECTION: NEWS: Pg. 11

Other Edition: Nassau and Suffolk Pg. 13

LENGTH: 887 words

HEADLINE: 'Queen' Diana Still Reigns

BYLINE: LIZ SMITH

BODY:

I READ about an Eskimo hunter who asked the local missionary priest, 'If I did not know about God and sin, would I go to hell?' 'No,' said the priest, 'not if you did not know.' 'Then why,' asked the Eskimo earnestly, 'did you tell me?' "

So writes Annie Dillard.

SO NOW it's official! Charles and Diana have separated, like so many other modern couples. Can you imagine what we're all in for? Diana is already People magazine's No. 1 cover girl; not to mention how many rags she constantly graces in Great Britain and the world over.

I'm picturing all the stories titled "Diana Goes It Alone" and "Charles - The Bachelor King?" (Wow, I just had a thought! Imagine the eventual coronation of these two separated royals, with the Archbishop of Canterbury placing the crowns on their very individual heads!) Of course, we'll soon see a story called "The Agony of the Young Princes," although I doubt the Heir and the Spare, as they are called, will find their lives changing one jot or tittle because mummy and daddy are apart. (Mummy and daddy have mostly been apart from the beginning.)

Here's what I think the Monarchy Establishment is worried about now, not that much can be done about it. The fact is that Diana is the most popular creature in the kingdom, next to the Queen Mum. The public loves her and can't get enough of her. Charles is a dud; right up there in the dull pantheon with his famous mother, but without her sterling character. It's all dogs, polo, tweeds, kilts and being fairly glum and boring while going through the paces. Diana is the bright light in a gloomy England. (And elsewhere in Europe. Her recent visit to Paris was an unqualified triumph. Paris Match magazine put her on its cover two weeks in a row.) So she will most likely create a "court" of her own.

The aristocracy, and what passes for it, has already "taken sides" - Diana or Charles. Some people said "Oh, but well, he'll eventually be king," and stepped over the line to the prince of Wales. But Diana's side is looking better and better; certainly it's more light and lively.

There is no way this appealing young beauty can help being the focus of all eyes for years to come - for the rest of her life in fact! And her "separate" state is only going to make that potential even more so.

WHAT WITH the Charles and Diana bulletins, and the news that Sarah Ferguson, the duchess of York, has been awarded \$132,000 for invasion of privacy (in the matter of photos of her with John Bryan), "PrimeTime Live" naturally has a winner on its hands tonight: Diane Sawyer interviews the duchess of York herself!

I am told that the controversial Fergie appears on TV showing considerable restraint. Obviously, she doesn't want to say anything that is a reflection on the Palace. Her single most fascinating statement is that her fervent supporter within the Palace is her husband, Andrew, the duke of York. Although they, too, are separated, Fergie says "He's my best friend."

The duchess tells Diane: "I can't go through a year like this ever again. I cannot do it. It's too much stress. And, of course, I brought it on myself." The duchess seems to have learned a lesson in deportment.

Other reports had Fergie sniffily dismissing "PrimeTime's" popular reporter. But what actually happened was a kind of friendly little joke. Asked a personal question near the closing, Fergie says, "You know what I think? This interview should have ended five minutes ago."

Ms. Sawyer laughs and comments, "So, you're calling in the dogs?"

Fergie then says, "Where are they? Where are they?" (Perhaps you had to be there?)

F.S. I WAS one of "PrimeTime Live's" detractors when the show began, but here's a case where ABC's Roone Arledge and all concerned really applied themselves. They stayed on the air in spite of negatives. They changed the show and it has become a triumph.

Everybody talks and tunes in when there is a Fergie-type segment. But "PrimeTime" deserves credit for an amazing investigative year on serious issues. It has won the RFK Grand Prize . . . The Investigative Reporting Excellence Award, given by tough journalists, three years in a row. (Nobody else has won even twice) . . . And it has snagged more Emmys than any other magazine show in the past two years!

THE END of the Charlotte Ford-**Ed Downe** marriage is inevitable. The popular Long Island and NYC couple have separated and it has nothing to do with Ed's problems with the law. (He pleaded guilty in September to conspiracy to violate federal tax and security laws.)

Charlotte, one of the heirs of the late Henry Ford II, loyally stuck by her husband through thick and thin, and some say she has even been supportive and generous financially. No, their problems were personal, stemming from the other lady in **Downe's** life.

But Charlotte and Ed were excellent companions during their long wedlock. He was a real father to her daughter by Stavros Niarchos - Elena. And Charlotte was equally supportive of Ed's offspring from his previous union.

Ed and Charlotte always lived a somewhat unconventional marriage. They had separate apartments in the same building and each enjoyed varying interests. But they were good friends for the most part.

Downe will be sentenced on Dec. 16 could receive the maximum - 10 years and a \$500,000 fine.

GRAPHIC: File Photo-The Duchess of York-"I brought it on myself"

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The Business Journal-Jacksonville

October 30, 1992

SECTION: Vol 8; No 3; Sec 1; pg 1

LENGTH: 511 words

HEADLINE: Court Fight Starts Over Who Directs Fernandina Firm

BYLINE: Jane Hirsch

DATELINE: Fernandina Beach; FL; US; South Atlantic

BODY:

A battle is under way for control of American Body Armor & Equipment Inc. of Fernandina Beach, according to court documents.

It involves an attempt to keep major shareholder **Edward Downe** from appointing a third director to the company's board.

"Election of a new director by Mr. **Downe** would constitute an indirect effort to exercise control over assets of the estate" because the board makes decisions about recovering assets for the company and "whether to pursue litigation against Mr. **Downe**," said a motion filed this week in bankruptcy court.

Downe, a prominent New York businessman, is part of a group that bought about 55 percent of American Body Armor's common stock in 1990. He controls the votes of those shares.

Attempts to reach **Downe** and his attorney were unsuccessful. Company officials would not comment.

This week's motion was filed by Foley & Lardner attorney Gardner Davis, who represents American Body Armor's creditors' committee. It asks the court to prohibit **Downe's** attempt to "stack the board in his favor" without first reviewing the qualifications of **Downe's** nominees.

Downe is the husband of automobile heiress Charlotte Ford.

On July 9, company Chairman Hugh **Downe**, **Edward Downe's** son, resigned from the board along with another director, Martin Revson. Jonathan Spiller, company president, Spencer Jourdain and Michael O'Neill, a New York lawyer associated with **Downe**, were elected to the board the same day. On Aug. 3, Jourdain resigned, leaving only Spiller and O'Neill on the board.

According to the motion, American Body Armor lost \$8.5 million while **Downe** controlled it between March 1990 and May 1992, when it filed for protection from creditors under Chapter 11 of the bankruptcy code.

Last week, the company reported a third quarter profit of \$208,247, or 6 cents a share, compared with a loss of \$141,339, or 4 cents a share, for the same period last year. It is the company's second consecutive profitable quarter. The company earned \$31,965, or 1 cent a share, in the second quarter.

"The board's responsibility is to the company as a whole, not merely to management or a controlling shareholder," creditors' attorney Davis said. "The company's present employees and new management have made the sacrifices

necessary to turn the company around. The creditors seek to prevent Mr. **Downe** from re-asserting control over the company and thereby potentially jeopardizing a successful reorganization."

American Body makes bullet-resistant vests. It listed assets of \$4.7 million and liabilities of \$8.3 million when it filed for bankruptcy protection. This month, the court extended the deadline for its reorganization plan to Nov. 23.

This week's motion follows one Davis filed Oct. 7, asking the court to recover aggregate payments of \$67,671 made to **Downe** and \$61,876.29 to Revson during the year prior to the bankruptcy petition. The payments covered **Downe's** American Express charges and both **Downe** and Revson's stay at Amelia Island in June 1991.

A hearing on the Oct. 7 motion will be held Feb. 18.

UMI-ACC-NO: 9290353

LOAD-DATE: June 25, 1994

September 25, 1992, Friday, NASSAU AND SUFFOLK EDITION

SECTION: NEWS: Pg. 21
Other Edition: City Pg. 38

LENGTH: 636 words

HEADLINE: Campaign'92;
Abrams Grabs Clinton's Coattails;
Candidate enjoying coordinated effort

BYLINE: By Bob Keeler, STAFF WRITER

BODY:

Emerging from his fund-raising cocoon for his first street campaigning in more than a week, Democratic Senate candidate Robert Abrams stood by Bill Clinton's side at a Bryant Park rally yesterday and basked in the glow of Clinton's strength in the state.

Abrams, the state attorney general, didn't get the chance to speak at the Democratic presidential candidate's Manhattan rally, but he did get to listen to Clinton tell the crowd: "I want to commend especially to you Carolyn Maloney [Manhattan congressional candidate] and Bob Abrams. I'm going to need some help in Congress if we're going to turn this country around."

Unlike his Republican opponent, Sen. Alfonse D'Amato, who has distanced himself from President George Bush recently, Abrams sees Clinton as a winner in New York and is hoping to profit from Clinton's presence just above him on the ballot.

"I haven't seen enthusiasm like this in all the years I've been in politics, and it's absolutely coming together," Abrams said after the rally. "I think what you saw here in Bryant Park is a harbinger."

Later in the day, Abrams attended a meeting with Jewish leaders and a fund-raising dinner with Clinton. Starting this morning, with a rally attended by vice-presidential candidate Al Gore, Abrams was to ride on what was billed a two-day Clinton-Gore-Abrams bus tour of the state - minus Clinton and Gore, who were to campaign elsewhere.

"We're going to run a coordinated campaign," Abrams said. Political strategists agreed that a close linkage with Clinton makes sense for him. "It's the change message," said political consultant Hank Morris. "I think for him to be with Clinton is a total plus."

D'Amato's 1986 opponent, Mark Green, who is now New York City's consumer affairs commissioner, added: "Since Al D'Amato is unhappy that Bill Clinton will win New York by probably 15 points, then it's politically intelligent for Bob to be with the head of the ticket, who will not only be the next president, but who will have coattails."

Meanwhile, Abrams has spent most of his time fund-raising, rather than campaigning in the streets.

While Abrams has been quiet, D'Amato has bombarded him on the air since the primary.

"Is it worrisome to Abrams supporters that Al has had a two-week headstart? Sure," said Green. But the important thing, Green said, is that Abrams be on the air constantly in the closing weeks of the campaign, as he was in the primary. So, for now, Green said, "It's more important that he raise money than even that he raise issues."

Abrams acknowledged that problem: "There's a certain reality. He's sitting with the dollars."

As Abrams raises money, D'Amato is trying to raise questions about Abrams, citing a 1989 report of the state Commission on Government Integrity, which criticized Abrams and other state and city officials, including former Mayor Edward I. Koch, for taking campaign contributions from people who do business with their offices.

And when The Associated Press reported yesterday that Abrams would refund a \$2,000 contribution by Steven Greenberg, a Wall Street figure facing insider-trading charges, D'Amato's staff criticized Abrams for not returning contributions and loans from Greenberg and **Edward Downe Jr.**, another accused insider trader, in earlier campaigns.

But D'Amato has his own ethics problems, including a report of the Senate Ethics Committee that criticized him for allowing his brother Armand to use the senator's office to lobby for a defense contractor, Sperry / Unisys Corp. "The people of this state are very smart," Abrams said. "I trust their judgment, and they know the difference between Bob Abrams and Al D'Amato." If ethics becomes a central issue, Green predicted: "Bob Abrams will net nine votes for every one who responds to D'Amato's ads."

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The Record

September 24, 1992; THURSDAY

SECTION: NEWS; 3 Star
ALSO IN 2 Star P, 2 Star B; Pg. A37

LENGTH: 201 words

HEADLINE: ABRAMS TO GIVE BACK \$2,000 CONTRIBUTION

SOURCE: Wire services

BYLINE: The Associated Press

DATELINE: ALBANY, N.Y.

BODY:

State Attorney General Robert Abrams will return a \$2,000 contribution made to his U.S. Senate campaign by a Wall Street figure facing insider trading charges, a campaign spokesman said Wednesday.

Timothy Gilles, a spokesman for the New York Democrat, said there were no plans to refund more than \$100,000 in other contributions and loans that trading scandal figures Steven Greenberg and **Edward Downe Jr.**

had made to Abrams' earlier campaigns for attorney general.

Greenberg, who had run a public relations firm, and **Downe**, husband of socialite Charlotte Ford, were charged in June by the Securities and Exchange Commission with participating in an insider trading scheme that began in 1987.

Downe, a member of the elite Southampton social set on Long Island, has pleaded guilty to criminal charges in connection with the scheme.

Greenberg has said through his lawyer that he would fight the charges.

Gilles said Abrams, hoping to unseat two-term Republican Sen. Alfonse D'Amato, is refunding a \$2,000 contribution that Greenberg made June 25, 1991, a year before the SEC moved against him.

"It's being returned because of today's inquiry," Gilles said.

LOAD-DATE: October 7, 1995

September 18, 1992, Friday

SECTION: Pg. 31

LENGTH: 534 words

HEADLINE: New Ford on the production line...

BYLINE: Nigel Dempster

BODY:

THERE is some good news for car heiress Charlotte Ford - whose third husband **Ed Downe** Jnr has been implicated in an insider dealing scam that made at least £13million and faces a possible custodial sentence - she will become a grandmother in February.

Younger daughter of the late Henry Ford II, Charlotte, 50, has been with former publisher Ed for 16 years (they married in 1986) and she tells me loyally: 'I married him for better or worse and just because he's got a problem, I'm not about to leave him.'

Charlotte, whose great-grandfather invented the Model T and founded the world's second largest car manufacturers, married Greek billionaire Stavros Niarchos in Mexico after becoming pregnant on a yachting holiday in 1965. They divorced, also in Mexico, after the birth of daughter Elena.

Now Elena is pregnant - she married Polish immigrant's son Stanley Olender, 33, last October after meeting him at the swank Meadow Club in Southampton, Long Island. The Ford family lives locally in great opulence and Stan was an assistant superintendent designing flowerbeds and landscaping.

Says Charlotte: 'Elena now helps him in his own business, Stanley O's Total Estate Management, in Southampton as his bookkeeper, and they live between Long Island and Fort Lauderdale, Florida. They don't want to know what the baby will be - it's a surprise.'

As for Ed, Charlotte's third husband after a marriage to Wall Street financier Tony Forstmann, she says: 'There has been talk here that he's been fined \$4million and faces five years in jail when sentencing takes place in December. But all he has pleaded guilty to is two technical violations.

'We don't know what will happen. But Ed has been up and down hundreds of millions in his life and he's talking about starting out over again.'

Downe, 62, has a son Cubby, 35, and daughter Hilary by a former marriage. He was charged along with Martin Revson, 81, who founded the Revlon cosmetics giant with his brother Charles.

GRAPHIC: For better or worse: Ed and wife car heiress Charlotte

LOAD-DATE: November 4, 1993

September 18, 1992, Friday

SECTION: Pg. 31

LENGTH: 334 words

HEADLINE: New Ford on the production line...

BYLINE: Nigel Dempster

BODY:

THERE is some good news for car heiress Charlotte Ford - whose third husband **Ed Downe** Jnr has been implicated in an insider dealing scam that made at least £13million and faces a possible custodial sentence - she will become a grandmother in February.

Younger daughter of the late Henry Ford II, Charlotte, 50, has been with former publisher Ed for 16 years (they married in 1986) and she tells me loyally: 'I married him for better or worse and just because he's got a problem, I'm not about to leave him.'

Charlotte, whose great-grandfather invented the Model T and founded the world's second largest car manufacturers, married Greek billionaire Stavros Niarchos in Mexico after becoming pregnant on a yachting holiday in 1965. They divorced, also in Mexico, after the birth of daughter Elena.

Now Elena is pregnant - she married Polish immigrant's son Stanley Olender, 33, last October after meeting him at the swank Meadow Club in Southampton, Long Island. The Ford family lives locally in great opulence and Stan was an assistant superintendent designing flowerbeds and landscaping.

Says Charlotte: 'Elena now helps him in his own business, Stanley O's Total Estate Management, in Southampton as his bookkeeper, and they live between Long Island and Fort Lauderdale, Florida. They don't want to know what the baby will be - it's a surprise.'

As for Ed, Charlotte's third husband after a marriage to Wall Street financier Tony Forstmann, she says: 'There has been talk here that he's been fined \$4million and faces five years in jail when sentencing takes place in December. But all he has pleaded guilty to is two technical violations.'

'We don't know what will happen. But Ed has been up and down hundreds of millions in his life and he's talking about starting out over again.'

Downe, 62, has a son Cubby, 35, and daughter Hilary by a former marriage. He was charged along with Martin Revson, 51, who founded the Revlon cosmetics giant with his brother Charles.

GRAPHIC: For better or worse: Ed and wife car heiress Charlotte

LOAD-DATE: November 4, 1993

September 18, 1992, Friday, Late Edition - Final

SECTION: Section D; Page 13; Column 5; Financial Desk

LENGTH: 478 words

HEADLINE: Oppenheimer Broker Offers Guilty Plea to Perjury Count

BYLINE: By KENNETH N. GILPIN

BODY:

A senior broker at Oppenheimer & Company pleaded guilty yesterday to one count of perjury in the insider-trading case that has swirled for much of the summer around the Southampton socialite **Edward R. Downe Jr.**

Milton Weigner, 62 years old, entered his plea before Judge Kevin Duffy in Federal District Court in Manhattan.

Mr. Weigner admitted that he had lied to lawyers from the Securities and Exchange Commission when asked if Mr. **Downe's** son, Hugh, knew about and had requested the orders transacted through several accounts established for him at Oppenheimer. Mr. Weigner said yesterday that it was not Hugh **Downe**, but his father who had placed some of the orders through those accounts.

Millions in Profits>

On June 4, the S.E.C. charged that in the mid- to late 1980's **Edward Downe** and some of his friends exchanged inside information that they used to reap millions of dollars in profits for themselves and others in the stock market. Mr. Weigner had testified before the S.E.C. on matters relating to **Edward Downe's** stock trading activities between Oct. 24, 1989, and March 13, 1990.

A 30-year veteran with Oppenheimer, Mr. Weigner was **Edward Downe's** preferred broker.

Over a 15-year period, many of **Edward Downe's** friends opened accounts at Oppenheimer with Mr. Weigner. A total of 53 accounts, or one-quarter of all the accounts Mr. Weigner handled, were opened during this period, most in the early 1980's, according to testimony.

Aside from Hugh **Downe's** accounts, others handled by Mr. Weigner included several for Charlotte Ford, **Edward Downe's** wife; Leonard Lauder, head of Estee Lauder; Peter Duchin, the band leader; Robert Morgado, head of Warner Music, and Mary Conley, the socialite. The accounts ranged in value from as little as \$5,000 to more than \$200,000.

Earlier this summer **Edward Downe** pleaded guilty to conspiracy to commit wire fraud and filing false tax returns, and failure to disclose ownership of stock in Bear, Stearns & Company while he was a director of the Wall Street firm.

Others implicated in the insider-trading scheme were Martin E. Revson, co-founder of the Revlon cosmetics empire; Steven A. Greenberg, a former New York public relations man; Thomas Warde, a Los Angeles real estate developer, and David Salomone, a London real estate entrepreneur.

One Case Is Settled

Fred R. Sullivan, former chairman of Kidde International Inc., a consumer products company, and a director of many other companies, was accused of providing confidential information to **Edward Downe** and has agreed to settle his case for \$58,000 without admitting or denying guilt.

Currently, Mr. Weigner and **Edward Downe** are the only two involved in the case who face criminal charges.

Mr. Weigner faces a maximum sentence of five years in jail and fines of \$250,000. A sentencing date has not been set.

LOAD-DATE: September 18, 1992

September 18, 1992, Friday, CITY EDITION

SECTION: BUSINESS; Pg. 49
Other Edition: Nassau and Suffolk Pg. 53

LENGTH: 912 words

HEADLINE: SHORT CUTS

BYLINE: Compiled from staff and wire reports

BODY:

U.S. Export Sales

Fall as Europe's

Economy Falts

THE U.S. TRADE DEFICIT surged 16.2 percent in July as export sales to economically stalled Europe plunged, the Commerce Department said yesterday.

The latest \$7.82 billion trade gap was the nation's worst since November, 1990. The imbalance hit a nine-year low in February, but has widened in four of the five months since then.

During the depths of the recession, trade provided one of the few bright spots in the U.S. economy. But economic stagnation has spread to major U.S. trading partners, and analysts said only domestic growth will keep the U.S. recovery alive.

"We're going to have to lift ourselves by our own bootstraps," said economist Robert G. Dederick of Northern Trust Co. in Chicago.

Also, the Labor Department reported the third consecutive weekly increase in claims for unemployment benefits. Claims for the week ended Sept. 5 were 400,000, up 6,000 from the week before.

D. & B. SILENCED. A federal judge has temporarily barred Dun & Bradstreet from publishing a financial report on a company that claimed it was false and would irreparably damage its reputation.

The temporary restraining order bars dissemination of the report on Towers Financial Corp., a Manhattan-based debt collection and insurance company, until a hearing can be held on its request for a permanent injunction. Towers contends the report violates federal laws governing competition, as well as state laws.

"It's not a newspaper story that is being stopped," said Towers president Stephen Hoffenberg. "It's a business report for profit that's in dispute between two competitors."

Dun & Bradstreet, a Manhattan-based business information company, says the report is accurate and protected by the First Amendment. WEINGER GUILTY. A former top stockbroker at Oppenheimer & Co. pleaded guilty to participating in the insider-trading scandal involving members of the famed Revlon and Ford families.

Milton Weinger, 62, pleaded guilty to one criminal count of perjury for lying to the Securities and Exchange Commission and faces up to five years in prison and a \$250,000 fine.

In June, Weinger was among seven wealthy businessmen the SEC sued for their alleged role in an insider-trading ring that the agency said netted them about \$13 million in illegal profits between 1987 and 1989.

Also named in the SEC suit was Martin Revson, the brother of Revlon founder Charles Revson, and **Edward Downe Jr.**, former Bear, Stearns & Co. director and husband of Charlotte Ford.

Downe was also named in criminal charges stemming from the insider-trading scandal, and he pleaded guilty to conspiracy to violate federal tax and securities laws. He is to be sentenced Dec. 16.

EUROPEAN PUBLISHING GIANT. British publishing group Reed International Plc. and Elsevier NV of the Netherlands said they plan to merge into one of the world's largest publishing and information groups.

Elsevier, already a global force in English-language science publications, and Reed, with its strong presence in business publications and consumer magazines, would have a combined market value of nearly \$10 billion.

The combined group will have a total of more than 25,000 employees: 11,000 in Britain, 4,500 in the Netherlands and 7,500 in North America.

SEARS BIAS SUIT. A former Sears sales manager who was fired at age 50 has won a \$1.1 million age-discrimination verdict against the company.

A federal court jury in Pensacola, Fla., awarded Charlie Alphin \$567,000 for back pay and benefits, then doubled it because the jury decided Sears violated the Age Discrimination in Employment Act.

Alphin testified that a store manager told him several months before his dismissal in 1986, "Both of us had been around too long and we're too old and we're making too much money." Alphin, a 30-year veteran, was making \$46,000 annually.

Sears said it hasn't decided whether to appeal.

TIME WARNER DEAL. Time Warner Cable said it has signed a letter of intent to sell its 42.5 percent stake in the Denver cable TV system, Mile-Hi Cablevision, to a minority-owned partnership headed by Robert Johnson, founder of Black Entertainment Television. Terms were not disclosed.

OUT OF JUICE. Procter & Gamble Co. said it is closing its Citrus Hill 100 percent pure juice unit and getting out of the pure juice business after disappointing sales. As a result, the company said, it will take a third-quarter charge of about \$200 million after taxes.

BOTTOM LINE

VALUABLE VIRUS. The Michelangelo computer virus sowed panic among PC users worldwide, but it was a boon to bug-killer John D. McAfee.

McAfee Associates, a Santa Clara, Calif., software company with just 26 full-time employees, said it saw revenues hit \$6.3 million in the first half of this year, an increase of 133 percent over the same period the year before. McAfee publishes a virus-protection program, and sales were helped by the panic leading up to March 6, when Michelangelo was to strike "infected" personal computers.

McAfee had predicted Michelangelo would strike 50,000 to 5 million computers, destroying the data on their hard drives. In fact, only a handful of computers were affected and McAfee was criticized for capitalizing on a sense of alarm he had helped to create.

"I've never hyped anything," McAfee said. In the meantime, his company is preparing to make an initial public offering of 2 million shares of stock.

GRAPHIC: Photo by Stephen Castagneto-(**Edward**) **Downe**

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Business Dateline;
Miami Review

September 11, 1992

SECTION: Sec A; pg 8

LENGTH: 2770 words

HEADLINE: Palm Beach Publisher a Scam Artist From Way Back

BYLINE: David Poppe

DATELINE: Palm Beach; FL; US; South Atlantic

BODY:

Alan Ainsley knows how to make an entrance. Shortly after moving his New Jersey auto leasing business to Florida in 1986, he agreed to buy a \$2 million Palm Beach mansion. He scotched the deal by bouncing two \$100,000 deposit checks, prompting the seller to sue him.

He didn't let that experience sour him on the Gold Coast. He stayed, leasing posh office space for his business, driving fancy cars, playing tennis afternoons at the Seaview courts in Palm Beach and moving from one luxury condo to another.

But he didn't pay for much of the good living. A review of Palm Beach County Circuit Court records shows Ainsley or entities controlled by him have been sued 29 times in six years, mostly for non-payment of debt.

For Ainsley, editor of a magazine called Sharper Visions and president of a cosmetics company called Juvenescence Inc., such behavior is nothing new. His name is, however. Court records show that Ainsley is actually notorious ex-convict Alan Herbert Abrahams.

In the late 1970s, using the name James A. Carr, Abrahams masterminded a multimillion dollar commodities fraud at a Boston company called Lloyd, Carr & Co.

At its peak, Lloyd Carr had 12 offices nationwide. It was, regulators say, the quintessential boiler room, using high-pressure tactics to sell vastly overpriced futures options.

Born in the bicentennial month of July 1976, the company took in some \$26 million in its 18-month life. When it was liquidated, less than \$6 million was recovered, much of it from Swiss and Bermudan bank accounts in James Carr's name.

Captured at a Tarpon Springs resort in 1978, Abrahams spent seven years in prison, getting released in September 1985. It was a punishment his prosecutor, former assistant U.S. attorney Michael Collora, still bemoans as "very light."

That's not all. A Columbia University drop-out, Abrahams' criminal record dates to the 1950s. In the early 1970s, he spent 18 months in a Lewisburg, Pa., prison for embezzling with-holding taxes from a company he'd inherited from his father.

A few weeks after his release from Lewisburg in 1973, Abrahams was once again off to prison, this time on a fraudulent check charge. Sentenced to four to six years at the minimum security Jones Farm in New Jersey, Abrahams

escaped in December 1974 and fled to Canada. He later moved to the Bahamas before resurfacing in Boston as James Carr.

The Boston Globe later described Carr as "a supersalesman who drove a Rolls-Royce and a Mercedes." His waterfront house on the peninsula of Marblehead, Mass., where the man, then in his early 50s, lived with 24-year-old Lynn Heinsius in 1977, was sold a decade later for \$800,000.

People who know him well describe him as physically vain and proud of his accomplishments as a con man. Blue-eyed and stocky, he has had several face lifts, sports a deep tan and claims to be a decade younger than his 66 years, says a former woman friend.

Throughout Abrahams' life, no person has been too innocent or defenseless to be hurt. A 1978 Boston Globe series reported how he frequently hired maids to keep house for him, then fired them before payday, stiffing them out of two or three weeks' wages. More recently, ex-girlfriend Heinsius has had to go to court to get him to pay \$87 per week in child support for his 16-year-old daughter.

Now known as Alan Ainsley, he talked to a reporter for a few minutes on the telephone but wouldn't discuss directly the subject of his former lives as Alan Abrahams or James Carr. "I'm not confirming anything. You do what you have to do," he said.

Ainsley complained that The Review would write about a businessman whose criminal convictions were, in some cases, more than 20 years old. "If that were true," he said, referring to his record, "then nobody who has been an ex-convict is entitled to be in business."

PALM BEACH SCHEMES

A review of court records suggests that the only thing that's changed about Abrahams over the years is his name. Since coming to Palm Beach, he has used the aliases Alan Ainsley, James Ainsley, Alan Carr, James Allen, Bill Alexander and Larry Peters.

The schemes started almost as soon as Abrahams got to Palm Beach, less than a year after his release from prison.

At the time, he ran an auto leasing company called Dynax Corp. One of his first moves was to lease office space for Dynax at the Reflections Building on Australian Avenue.

The lease took effect in August 1986. Nine months later, Dynax's landlord sued, saying the company was \$20,000 behind on rent. The case was later dropped after Dynax moved out.

Other suits, both large and small, piled up: Ainsley and his housemate, Claudia Caplan, allegedly didn't pay their American Express bill; Florida National Bank filed a police complaint accusing Ainsley of passing bad checks; First American Bank claimed Dynax overdrew its checking account; a Palm Beach condo owner alleged Ainsley and Caplan contracted to buy a \$230,000 unit they occupied at Lake Towers Condominium but failed to make their \$18,000 deposit or pay rent for three months; an auto repair firm alleged Ainsley failed to pay for work done on his Mercedes-Benz 560 SL convertible; law firms Broad and Cassel and Jones, Foster, Johnston & Stubbs sued for legal fees; a Dynax leasing customer claimed his car was repossessed when Dynax failed to make payments to a Pompano Beach car dealer.

Ainsley proved a tough target. Frequently suits were dropped because he could not be served with court papers. Judgments went uncollected because assets couldn't be traced.

Naud Boca Raton lawyer Samuel Susi, who won a \$5,700 judgment for unpaid legal fees against Ainsley in 1988: "We collected a little bit. Not very much. The problem is, I don't think Ainsley is his real name. He's got his assets in different names, you can't track anything down. It gets to the point where you get tired."

CONTRACT TO BUY HOMES

One suit against Ainsley was filed by the owner of the \$2 million Palm Beach home, called Villa St. Tropez, that Ainsley contracted to buy.

Ainsley hired West Palm Beach lawyer Terence Watterson to defend him, but after filing court papers arguing that Ainsley was not to blame for writing two worthless \$100,000 deposit checks, Watterson quit the case. The lawyer told the court Ainsley had paid his legal fees with a rubber check.

Ainsley did manage to contest the case for more than two years even though he consistently failed to appear for depositions and hearings. Finally, Palm Beach County Circuit Judge Daniel T.K. Hurley found that Ainsley and Dynax had "willfully and purposefully failed to comply with this court's orders" and awarded the seller \$177,000.

The seller, a company called European American Design, never collected. Its attorney Kirk Friedland, a West Palm Beach solo practitioner, said that because Ainsley is an assumed name and Abrahams has such a web of aliases, locating assets was nearly impossible.

"He's able to use his knowledge of the court system to delay things and use his different names to avoid paying his debts," Friedland said. "It's a real shame."

By the late 1980s, Ainsley folded his Dynax Corp. amid a flurry of lawsuits. Then he and Claudia Caplan, with whom he shares a Palm Beach condo, acquired a publication called The Sharper Shopper, and set about turning it into a slick style magazine called Sharper Visions.

The magazine is mailed free to a target audience of Palm Beach and Broward county residents with household incomes in excess of \$75,000. Its editorial content consists entirely of articles reprinted from elsewhere.

"Sharper Visions is the most widely circulated magazine in the three-county area," Ainsley said, "with more advertising and readers than any other magazine."

But some of Sharper Visions' claims are dubious.

The magazine's July 1991 advertising rate card claims circulation of 90,123. The card says the magazine had applied for membership in the trade group Business Publications Audits (BPA), which verifies the circulation's of its members.

In an article about Sharper Visions in The Sun-Sentinel in October 1991, an editor claimed the magazine had circulation of 57,000 as of June 1991 and would have circulation of 90,000 as of November 1991. The editor said BPA would audit Sharper Visions in December.

The audit never happened. "They have not even applied to BPA," said Joel Wethall, supervisor of marketing services for BPA.

Ainsley said Sharper Visions had a good reason for passing on the audit: "Because we are improving circulation so rapidly, it (an audit) wouldn't really reflect what we are doing," he said, adding that the magazine probably would apply for a BPA audit "within 90 days."

Ainsley insisted Sharper Visions has circulation of 60,000, and said the magazine "would seek whatever redress is available" if its circulation claims were questioned.

'SERIOUS DOUBTS'

Esa Jokela, advertising director of competitor Palm Beach Life magazine, which has a paid audited circulation of about 15,000, says he has "serious doubts" that Sharper Visions' claims are true.

Jokela said research by The Palm Beach Post's advertising department shows there are some 54,000 adults in Palm Beach County with household incomes in excess of \$75,000. If they live in 30,000 households, Sharper Visions could reach every member of its target audience with half its claimed circulation.

"He's managed to double the size of the market he claims to be covering," Jokela said. (Though the magazine claims to circulate in Broward also, there are few Broward ads and the publication is difficult to find south of Palm Beach County.)

Shedding more doubt on Sharper Visions' circulation claims is a suit filed by one of Sharper Visions' former printers. The printer, Graphics Plus Inc., says it printed the June 1990 issue --23,500 copies--for which it is owed \$20,000. For the magazine to have 60,000 circulation, it would have had to more than double its size in one year.

Sharper Visions claims to publish five issues annually, but advertising professionals say the magazine appears infrequently and irregularly.

Gina Boner, owner of Boner & Associates Advertising in West Palm Beach, said one of her clients agreed to pay \$5,000 for a full-page ad in the fall/winter 1991 issue of Sharper Visions. But the issue didn't appear until April 1992, four months after the end of the Christmas shopping season. No Christmas issue was published.

Boner said the client, Oakbrook Square shopping center in North Palm Beach, tried to cancel its ad because of the delays but could not get a refund.

Tern Spiers, manager of Oakbrook Square, said the shopping center chose not to sue. "We would like to get our money back, but he doesn't pay judgments...so it's not even worth small claims court," she said.

Boner said advertisers would be wise to steer clear of Sharper Visions. "If any of my clients would even think of placing an ad there, I would recommend against it."

Sharper Visions is not Ainsley's only business. He is also involved in a cosmetics company called Juvenescence, which makes "skin renovation products." An ad claims that independent studies at the UCLA Medical Center confirm that the skin cream works "because it accelerates shedding of outer layer skin cells, stimulates regeneration of new skin protein, and increases collagen production, thereby promoting the growth of new, fresher, younger looking skin."

But UCLA officials said they'd never heard of Juvenescence.

"In a nutshell, our folks had nothing to do with testing this product and, in fact, are not clear on what basis they had for making these claims," Mike Byrne, a spokesman for UCLA Medical Center, said after seeing a Juvenescence ad.

During the past six years, Abrahams hasn't spent all his time in Palm Beach. On at least two occasions, he spent extended vacations in the Long Island resort town of Southampton. Those vacations, acquaintances say, frequently coincided with brewing legal trouble in Palm Beach. In 1987, he left for Southampton after being arrested at his Dynax office on a bad check charge.

THE SOCIETY SEVEN

The Wall Street Journal has reported that Abrahams was friendly with a real estate broker named Adele Scholl in Southampton. Scholl, in turn, knew millionaire socialite **Edward R. Downe Jr.**, who is married to Ford Motors heiress Charlotte Ford.

Downe, the former publisher of Ladies' Home Journal and an ex-director of Bear, Stearns Cos., was involved in trading stocks based on insider information. Earlier this year he pleaded guilty to two felonies related to his insider trading and the Securities and Exchange Commission has filed a civil suit claiming he earned \$8 million from 1987 to 1989 heading a ring of wealthy corporate insiders who traded tips.

Though Scholl has not commented publicly since the scandal broke, her lawyer told The Wall Street Journal in June that after she accused Abrahams of stealing from her in 1988, he "turned **Downe** in" as revenge.

The **Downe** insider trading ring became known as "The Society Seven." **Downe** is expected to be sentenced to a prison term and the SEC is seeking \$23 million in illegal profits from the group.

For his part, Abrahams/Ainsley vehemently denies any role in the Society Seven case. "I was not involved in it in any way, shape or form," he said. "I never informed on **Downe**. I have no involvement in that in any way. ...I'm not a tipster to the SEC." He would not comment on his relationship with Scholl.

SEC spokesman John Heine wouldn't discuss Abrahams. "The speculations in the press are just that," he said.

Abrahams' alleged role as friend of law enforcement struck at least one observer as ironic. Allan Sloan, a financial writer for New York Newsday whose column is syndicated in The Review, wrote: "Abrahams ratting to the feds on an alleged insider trader is like Attila the Hun turning in a jay-walker."

Through such exploits, Abrahams has earned himself more than a few enemies. The Review first heard of Alan Ainsley's true identity through an anonymous letter, and confirmed the tip through a suit filed by his former companion, Lynn Heinsius.

CHILD SUPPORT

Heinsius, the mother of Abrahams' youngest daughter, sued in 1987 for child support. In that case, she submitted affidavits swearing Abrahams was the father of Ardis Heinsius and had assumed the name James Alan Ainsley. (Abrahams has three daughters. One of them goes by the name Allison Carr and works as a sales rep for Sharper Visions magazine.)

Though efforts to contact Heinsius in New Jersey were unsuccessful, newspaper articles from the late 1970s identify her as Abrahams' companion or as his wife. She was with him in Tarpon Springs when he was apprehended in 1978.

In the child support case, Ainsley ultimately took a blood test and was found to have a 98.75 percent probability of paternity. Though the defendant in the case was Alan Abrahams, it was Alan Ainsley who was ordered to pay \$87 a week in child support in June 1989. Records show he has not regularly paid support for his daughter.

Also, a longtime acquaintance said the two men are one and the same, and provided documentation, including a Social Security number and photographs, to back up the claim.

What kind of a man spends a lifetime cheating others? Abrahams was born into wealth in New York City. His father had founded a loudspeaker manufacturer called Racon Electric Co. in 1922. Abrahams inherited the profitable business in 1960 when his father died.

But Abrahams failed to pay rent on Racon's factory, causing the company to lose it. He didn't pay Racon's state taxes for seven years and he embezzled employee withholding taxes, a crime that landed him in prison in 1971.

Through the years, acquaintances have described him as jovial, athletic and remorseless. But perhaps the most enlightening window on Abrahams' mind-set comes from letters he wrote to Heinsius from prison after his conviction in the Lloyd, Carr & Co. scam. She later submitted the letters to the court in her child support case.

"What are they going to say when I get out and build a colossus?" he wrote in 1979.

And from another 1979 letter: "I love you darling. I love you. You and Ardis are the life I want to come home to. I want to make you both confident and happy and secure and fearless again--and independent--and unbelievably rich. I want you both to understand that. We're a breed apart--stronger and tougher and smarter than anyone else...and with no fears or weaknesses."

GRAPHIC: Photo

UMI-ACC-NO: 9273200

LOAD-DATE: June 23, 1994

September 4, 1992, Friday, Late Edition - Final

SECTION: Section D; Page 12; Column 5; Financial Desk

LENGTH: 415 words

HEADLINE: Ex-Broker Pleads Not Guilty To Perjury Charge by S.E.C.

BYLINE: By RONALD SULLIVAN

BODY:

What had been widely anticipated as a second plea bargain in the so-called Southampton insider securities trading scandal was aborted yesterday when the prosecutor and defense lawyer arrived at a Manhattan Federal courtroom to find that the judge was on vacation.

And so Milton Weinger, a former securities broker for Oppenheimer & Company, could take only the first step: pleading not guilty to perjury charges yesterday before another court official, Magistrate Judge Barbara Lee. Mr. Weinger is charged with having lied to the Securities and Exchange Commission in connection with its suit against him and five others on insider trading charges.

Neither Federal prosecutors nor Mr. Weinger's lawyer would comment on whether a plea bargain had been reached or even discussed.

Another of the accused men, **Edward R. Downe Jr.**, a former director of Bear, Stearns & Company, has already pleaded guilty to similar charges. Mr. **Downe** was charged with conspiring to commit wire fraud and failing to disclose certain trades. He has yet to be sentenced.

Broker to the Rich and Famous

According to the S.E.C. complaint in June, Mr. **Downe** and various of his friends and business associates traded insider securities information while vacationing in his Southampton, L.I., mansion or aboard a Caribbean yacht.

Although Mr. Weinger, who is 62 years old, was not a member of Mr. **Downe's** elite Southampton circle, he was nevertheless charged with carrying out the illegal insider trades as an Oppenheimer stockbroker working on behalf of Mr. **Downe**, the **Downe** family and 53 of Mr. **Downe's** friends -- a veritable Who's Who of New York notables.

One of the charges that Mr. Weinger denied yesterday was that he lied to the S.E.C. about his dealings on securities belonging to a son of Mr. **Downe**.

Plea Seen as Pro Forma

But the "not guilty" plea by Mr. Weinger before Judge Lee was widely viewed as a pro forma legal procedure in anticipation of the plea bargain he is expected to strike with Federal prosecutors before Judge Kevin T. Duffy. Judge Lee, as a magistrate, was not authorized to oversee a plea bargain.

The other defendants are Martin E. Revson, co-founder of Revlon cosmetics; Thomas Warde, a Los Angeles real estate developer; Steven A. Greenberg, a New York public relations executive, and David Salamone, a London businessman.

Fred R. Sullivan, a former chairman of the manufacturing company Kidde Inc., was accused of providing confidential information.

LOAD-DATE: September 5, 1992

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September 3, 1992, Thursday, BC cycle

SECTION: Financial

LENGTH: 142 words

HEADLINE: Former stockbroker charged with perjury

DATELINE: NEW YORK

BODY:

A former Manhattan stockbroker was indicted Thursday on charges of committing perjury during a 1989 Securities and Exchange Commission investigation into allegations of insider trading.

Acting U.S. Attorney Roger Hayes said the indictment charges Milton Weinger, 62, of New York City, with lying to SEC investigators looking into allegations of trading violations in accounts belonging to family and friends of **Edward R. Downe**.

Weinger was accused of lying about the way decisions were made for accounts belonging to **Downe's** son, as well as the frequency of discussions between Weinger and **Downe** about the accounts under investigation.

If convicted of perjury, Weinger faces five years in prison and a \$250,000 fine.

Weinger pleaded not guilty at his arraignment and was released on his own recognizance, officials said.

GEOGRAPHIC: MANHATTAN (56%):

ASAP

Copyright 1992 Cowles Business Media Inc.
Inside Media

August 26, 1992

SECTION: Pg. 1; ISSN: 1046-5316

LENGTH: 3900 words

HEADLINE: **Downe** syndrome: publisher **Edward R. Downe Jr.** pleads guilty to insider trading

BYLINE: Pfaff, Fred

BODY:

"They got **Ed Downe!**"

That line found the ears of veteran publishing executives across the country on June 4, the day the U.S. Attorney's Office in New York induced **Edward R. Downe Jr.** to plead guilty to insider trading charges. The government nabbed **Downe** for serving stock tips along with cocktails to fellow members of the wealthy Southampton, N.Y., celebrity summer crowd, raking in as much as \$23 million.

Missing from all the stories on **Downe** the insider trader, however, has been the impact of **Downe** the publisher. In eight short years, **Ed Downe** networked his head off, climbed into the Fortune 300, controlled some notable magazines, presided over several editorial firsts and came to stand for a breed of entrepreneurs who use media as pawns in a wider agenda.

Ed Downe was an emerging direct-mail magnate: media was his ticket to the stars. At least in part, **Downe** succeeded in entering the Southampton set by failing in media. When he averted bankruptcy and sold his magazines--Ladies' Home Journal, Sport and Photoplay, among others--to Charter Publishing in 1974, he pocketed \$9 million. That money, a direct-mail empire, a series of business and political connections, a self-confessed hunger for "the game" and marriage to automobile heiress Charlotte Ford transformed a once humble businessman into the prince of the posh party circuit. Several magazines would never be the same again.

"You could see the seeds of what ultimately happened with Ed during his stint in the publishing business," says circulation consultant Chip Block, who was **Downe** Publishing's corporate circulation director and a **Downe** protegee. "Ed didn't have the feel for magazines," says Fred Danneman, who served **Downe** as corporate marketing director. "He didn't identify with the culture of magazines." Observes Bob Thomas, former publisher of Ladies' Home Journal, "Ed was a publisher, but he got off on the wrong foot."

Downe certainly didn't start big. He started out to become a minister but abandoned that dream and Vanderbilt University after his sophomore year in 1948 to become a reporter and staffer at two Virginia weekly newspapers. After he graduated from the school of journalism at the University of Missouri in 1952, he took the job nobody wanted at True, a now-defunct men's adventure magazine--writing the mail-order shopping columns. When True editor Ken Purdy left to become editor of rival Argosy, **Downe** went with him.

Then **Downe** caught a serious case of the business itch. He started night courses on business and marketing at Columbia University, rented a windowless 9-foot by 16-foot room in the basement of his Manhattan apartment building and launched a mail-order business of his own. Together with the female superintendent from a building across the street, **Downe** slaved from 9:30 at night to 3 or 4 a.m. every day assembling and packaging pocket alarm watches, TV tube testers, fur-lined potties and other gadgetry. He'd haul the orders to the post office every morning at around 7 a.m.

A childhood of bedtime stories about the British Empire had made **Downe** something of a romantic. Any historical memento was fair game. He got hold of used mosquito netting, camouflage pants, canteens, silk escape maps and a variety of gadgets the U.S. Army had left over from World War II. Soon Americans were ordering the stuff through the mail, and **Downe** was attempting to set up shop in Mexico with Bill Barlow (who ran Media Industry Newsletter for 15 years before selling it in 1990). By 1957, mail-order was both a full-time business and obsession.

The pace of his life and career accelerated. "My step-father taught me to live well," **Downe** once told an associate. "To live the good life, you have to have money. That starts you. Once you start, you have to keep going."

Relentless is the only way to describe **Downe's** expansion. The secret to success in direct-mail advertising is part product, part creativity and part media savvy. **Downe** shaved 15 percent off his production bills by forming an in-house agency, then found he could get remnant space on the cheap from mass magazines.

When publishers wouldn't devote sales reps to small direct-mail accounts, **Downe** started a rep firm to do the job. He'd guarantee an increase in advertising from specific direct-mail accounts, vowing, "If I don't sell it, I'll buy it." Before long, **Downe** the rep firm was a major mail-order seller, collecting 20 percent commissions while scouting, and even creating, remnant opportunities; and **Downe** the direct mailer was a major customer of such magazines as Family Weekly (the Sunday magazine Gannett later bought and turned into USA Weekend) and McCall's.

"Ed **Downe** was the shrewdest media buyer I've ever seen," says John Mack Carter, the Hearst Magazines editorial director who was president of **Downe** Communications. **Downe** would identify the right magazines and run tiny ads in every issue. As the ads pulled, he'd run as many as 10 pages of ads within magazine issues that pulled the best for him. He knew how much touting advertisers could get in direct-mail columns, and he apportioned space buys to get the maximum.

When Family Weekly ran into financial trouble in 1965, **Downe** bought it for \$150,000. He'd built up Greenland Studios, his Florida-based mail-order operation, into a sizable purveyor of schlock, and even acquired other direct mailers. He saw a chance to expand and upgrade his mail-order operations by owning media. Keeping management in place, **Downe** built up Family Weekly largely by charging newspapers a fee for carrying the magazine, and by devoting more space to his mail-order merchandise and reinvesting cash profits.

Then **Downe** acquired 42 percent of Bartel Media Corp., which owned The MacFadden Women's Group, Sport magazine and a number of radio stations. In 1975, shortly before he sold out, **Downe** bought and folded Bartel into his company, installing Peter Callahan as president of the magazine subsidiary, MacFadden-Bartel. (Callahan later bought the women's magazines and created the formidable MacFadden Publishing.)

At some point it dawned on **Downe**: If the mail order and magazine marriage worked for one mass magazine, why not several? In 1969, Curtis Publishing was running dry in its attempt to save its flagship magazine, The Saturday Evening Post. The company entered merger talks that would've made **Downe** a majority shareholder, but Curtis moved too slowly to close the deal. **Downe** recalls racing to Philadelphia for a Curtis board meeting.

"Everyone in the boardroom was between 90 and death," **Downe** says. "I told them I had to leave for New York at noon, because it was opening day for the New York Mets and I'd promised to take my 12-year-old son. I waited and waited. Finally, the chairman came out and told me we could probably close the deal if I stayed through lunch. I left."

Months later, Curtis was posting staggering losses, and only a fire sale of American Home and Ladies' Home Journal would produce the S.O.S. funds. **Downe** struck a bargain again, at a time when the growth of TV and feminism was dampening hopes for a bright future for these magazines. But he saw fat--which he trimmed by scrutinizing every expense and personally cutting every check for the first three months--and he saw great cross-marketing opportunity.

"A lot of Ed's rationale for buying the magazines was to run all of his junk ads in them," says Chip Block. Even German cuckoo clocks that didn't keep time faithfully were selling fast; **Downe** Communications stock started climbing on Wall Street, and ad pages gained. American Home shot up 35 percent to 816 pages and \$15.5 million in revenues in 1966, the first full year under **Downe** ownership; and Ladies' Home Journal recorded 12 percent page and 15 percent revenue gains, to 983 pages and \$33.5 million revenues.

And LHM was breaking barriers. Women were hired as sales reps--a first--minorities and Vietnam veterans were given special opportunities, and **Downe** magazines put black women on the cover. LHM ran celebrated black model Naomi Sims on the cover in 1969. "Everybody was opposed to it, and said we'd lose subscriptions and advertisers," **Downe** recalls. "I said, (F-K it.) We ended up losing less than 50 subscriptions and one advertiser."

But **Downe** had inherited some real laggards, during what some still insist was the toughest period in magazine history. At Curtis, combination buys with LHM had kept American Home alive. **Downe's** mail-order ads were cheapening the magazines and raising tempers within **Downe** Publishing. And **Downe's** appetite for acquisition was eating up resources. He bought a watch company; he invested in more direct-mail studios; he even bought a fragrance company and several leading radio stations in top markets.

"**Downe** sold so many mail-order ads on a barter basis that I had to stop taking any mail order for 18 months," says Bob Thomas, who became publisher of LHM when Charter formally acquired the magazine. Many magazines were trading ad space for merchandise and accommodations; **Downe** was just more open about it. Actually, Ladies' Home Journal had gotten only a mild dose of mail-order, because previous publisher/editor John Mack Carter and marketing director Fred Danneman had convinced **Downe**, in Danneman's words, "that the Journal was a different kind of magazine and we'd chase away principal advertisers if we allowed in much direct mail advertising."

American Home wasn't so fortunate. "Ed almost destroyed the advertising viability of American Home," says a former **Downe** executive, who recalls that some General Foods and Bristol-Myers brands stopped advertising in the magazine as it ballooned with mail-order. According to Danneman, the magazine had permitted no more than 50 percent advertising; **Downe** pushed the ratio beyond 60 percent.

Like many risky practices, the mail-order infusion fed on itself. "The bad drove out the good at American Home," recalls one former **Downe** executive. "Mainstream advertisers left, so we had to take in more mail-order."

American Home's mapping process tells it all. The late Jack Dunn (then ad director) would assign positions for ads and editorial, then John Mack Carter would move some ads to accommodate editorial needs. Then **Downe** would shift ads in order to give prime space to mail-order products he needed to move out of his warehouse.

"That was always a trying time," recalls Danneman. "American Home became almost a catalog. Ed perceived his magazines' role as to help him sell his products, but the danger was running mail-order ads in positions advertisers were paying premiums for."

Through all of this, **Downe** stayed intimately involved in direct-mail. After several small scrapes over the placement of editorial within the magazines, **Downe** largely retreated to securing prime space for ads touting his own mail-order merchandise, and to honing and milking the magazines' circulation bases. Circulation he understood, because it hinged on direct mail.

Together with Chip Block, **Downe** broke ground in circulation and pumped in needed cash by selling advance renewals--getting current readers to pay discounted rates for renewing their subscriptions well before they lapsed. **Downe** had been using his Greenland Studios mailing lists for subscription mailings because the CPM was low; Block formed **Downe** Select Marketing to build more targeted lists. Within two years, LHM circulation profits rose dramatically--from 1 cent to 20 cents per copy. Overall circulation contribution to profits rose from \$5 million to \$25 million.

Yet one former **Downe** executive charges that when **Downe** bought the subscriber lists of Life and Look, he never fulfilled those circulation obligations. Block and his successor, Dan McNamee (now president of McNamee Consulting), say that's bunk--Life and Look paid for mailings that offered readers refunds or subscriptions to a number of magazines, including **Downe's**. McNamee says that several long-term, field-sold subscriptions were carried as nonpaid copies on the books.

But bend the rules he did. "Ed was always pushing the ends of the envelope always operating in the grey areas," says one former **Downe** executive. "The FTC had a rule that you had to fulfill product within 30 days. Ed and his lawyer would regularly be shouting in the halls. (Ed we'll get in trouble with the FTC! (Larry, you don't understand. They take a yardstick approach; they'll nab Reader's Digest and the other big guys long before they nail us.)"

Downe set a high standard for motivating salespeople. A familiar face on the sales floor, he established an escalating commission system that had many salespeople making \$20,000 bonuses on top of their salaries and regular commissions. One top seller earned a \$40,000 bonus one year--enough to put a downpayment on five-bedroom house. **Downe** had a box at Madison Square Garden. Routinely he'd stroll through the sales floor, grab a few guys and take them, along with his chauffeur, to a hockey game.

When one aging salesman with a heart problem was advised to spend some time in Florida, **Downe** suggested he spend every two weeks there. The seller didn't have a house in Florida. No problem. **Downe** put up the downpayment on a condo.

Downe bought goodwill wherever he could. As a longtime associate tells it, **Downe** would take to lunch and try to help any publisher, ad director, ad salesperson or direct-mail column writer who got fired. And if a publisher or ad director was about to post a decline in direct-mail ads versus the previous year **Downe's** phone was open. Often **Downe** would buy enough space in the book to show an overall page increase.

"If trying to make everyone like him was a fault, I wish everyone had that fault," says Fred Danneman. "Ed was just good to people.

"Ed freed me up to lead a more productive life," says Peter Callahan, who audited **Downe's** initial public offering for Peat Marwick, and later (on **Downe's** recommendation) was hired as Bartel Media Corp.'s CFO. "Ed stood for the underdog, and he gave a lot of people their start in media."

Somewhere along the line, **Downe's** humility gave way to his deep hunger. At first, employees recall him as a subdued presence who wore the same dark suits, white shirts, plain dark ties everywhere. He had to be goaded into even attending--let alone speaking at--the three parties that were staged to celebrate the LHM-AH acquisition. "He wasn't a snob in any way," recalls Danneman. "He didn't create the royal presence. He was a down-to-earth guy. That's why I was so amazed by the transition: He became so fashionable, so outgoing, so interested in art, so much the hail-fellow-well-met."

Danneman and others were watching the development of the dealmaker. Chip Block will never forget the day he asked **Downe**, who'd been his mentor, why he didn't invest the millions he made from selling off his magazines and "go have fun." **Downe** looked at him as if he were eyeing ghost. "What about the action, the game, the fun?" he demanded.

"Ed yearned to be a big-time operator" recalls Lenore Hershey, who became LHM editor in 1974. "What tripped him up was he got greedy. He was in love with the romance of making money."

"The deal meant as much, maybe more, to Ed than running the operation did," recalls Danneman. "He bought a lot of companies with the bright-eyed idea that he'd turn them into good, valuable properties. And so many just didn't make it."

These ventures exhausted **Downe's** magazine earnings, and no amount of advance renewals could make up the difference. The company was growing too fast to establish a financial cushion. When magazine consultant James B. Kabak & Co. introduced the now-standard model for magazine profitability, American Home was the first customer. The model showed the magazine, which **Downe** believed was profiting, was actually suffering heavy losses on a cash basis.

By 1973, **Downe** owed millions to a team of banks led by Citibank. They forced him to bring in Roland Tremble as CFO. The banks loved the former American Broadcasting Co. CFO's hard-nosed, bottom-line style; **Downe** publishing executives hated it. Tremble brought in what one former **Downe** executive calls "an empire of financial guys who hated each other," then was pushed into the presidency at the banks' insistence. Pushed aside was John Mack Carter.

So Carter called on the Pritzker family, which had just bought McCall's. The Pritzkers needed an editor with vision; he needed a stable property and a stake in the profits. What he didn't tell the family was that he'd signed an agreement not to compete with American Home or Ladies' Home Journal for five years. News leaked of Carter's overture, and **Downe** hit the roof.

"Ed would do anything for you if he thought you were working for the company and you were loyal to him," recalls a former **Downe** executive. "But if he even suspected you were disloyal at all, you were on his black list." Associates say that one business acquaintance who'd declined to back **Downe** on a deal found he couldn't get a club membership several years later.

With Carter, **Downe's** disillusionment was monumental. Though older, Carter had been more a son than an employee. "Ed gave John the Earth and the Moon, but John wanted the stars, too," recalls one former colleague. Doors slammed, voices pitched, and tensions mounted for days until **Downe** settled on selling American Home to Carter.

"Loyalty is so very important," says **Downe**. "It's a way of conducting yourself. John is an outstanding editor but I don't think much of his business practices." Carter won't discuss the blowup. Says **Downe**, "He thought he could turn American Home around, and in the end, he couldn't."

Carter, meanwhile, found himself strapped by operational contracts he couldn't change. Coated paper was in tight supply, the magazine industry was on allotment, and only primary buyers got guaranteed shipments. Carter didn't have a primary contracts, so he literally had to beg printers and competing publishers to sell him paper at any price. And he'd agreed not to raid **Downe's** editorial ranks or to revamp American Home to compete directly with LHH.

"It was an unbelievable blood-sweating operation in terms of making payroll, and generating ad revenues in a climate where the money wasn't there and TV was the only medium that was growing," Carter recalls. "I ended up strapped by overhead and printing contracts."

Carter, when **Downe** sold to Charter Publishing, Charter chairman Raymond K. Mason went shopping for American Home. Mason badgered Carter to sell, claiming the magazine needed editorial and advertising changes--despite climbing subscription renewals and news-stand sales that indicated Carter's formula was working. Indeed, Carter cut the rate base from 3.5 million to 2.6 million and still managed to narrow annual losses from \$3 million to \$500,000.

"I beat my head against the wall saying (no) for two years," says Carter. "When the fun had long left, Mason was still there, so I said okay, and he got the whole operation." Saved from near bankruptcy, Carter concentrated on editing Good Housekeeping for Hearst Magazines. **Downe**, meanwhile, swore to colleagues that he'd never take on another business that required a big staff. He moved on to investing, to the art of the deal.

At least publicly, Carter defends **Downe**, even though the two have barely spoken since the sale of American Home. "I wasn't misled; I misread the advertising market," says Carter. "You can't overlook Ed's great contribution to the business. He had utter confidence that advertising in magazines works. He was one of the shrewdest buyers of ad space judges of the value of magazines I've ever known."

If anything, Carter says, **Downe** was ahead of his time: "**Ed Downe** invented cross-media. He was crossing media before today's geniuses were out of school. He understood that he needed a variety of media to make advertising really efficient; publishers are all striving for the mix today."

Downe's influence in magazines only entered a new chapter when he sold his magazines. An avid Republican, he worked both sides of the fence and contributed and cocktail-partied his way into a friendship with Democratic New York governor Hugh Carey, who got him involved in several oil deals. That led him to Mason, a high roller who'd built a sizable oil business in Jacksonville, Fla., but who also craved the limelight. Through Carey, **Downe** helped Mason get a major oil distributorship on the Eastern seaboard; Mason bailed **Downe** out of publishing for \$50 million; and **Downe** later bought \$1 million worth of shares in Mason's company, Charter Publishing (He eventually sold out for \$12 million.).

Mason didn't want to be a publisher; he wanted to be a big-time party guy. Whereas **Downe** had a limousine and sports arena boxes, Mason had a fleet of jets. But like **Downe**, he had an all-out appetite for dealmaking that ultimately cost him his publishing company. Mason bailed out at bargain price to another schemer, Bob Riordan, who founded and ran Family Media until its unseemly demise last year amid a massive mail fraud probe.

"Mason bought the magazines to get laid," says Chip Block. Adds Danneman, "Getting major magazines promised Mason entree to executives and celebrities he couldn't get to before. He wanted a new stage."

But running a magazine company is nothing like running an oil business. Mason's management was accustomed to converting crude oil to big cash in six days through a pure commodity process--negotiating strictly on price for like product.

As former Charter executives tell it, even a cast of future publishing celebrities--including John Beni (now president of Calners Magazines) and Tom Kenney (now president of Reader's Digest)--couldn't overcome the mindset of Charter's top management. When LHJ's editorial and marketing team wanted to shell out more money for whopping stories and splashier graphics, Mason's people turned them down. They didn't understand the delicate franchise upon which magazine businesses are built.

Then Mason plunged corporate cash into an oil well that ran dry. Charter ultimately ran out of money, and like **Downe**, bailed out. "Mason was a great dealmaker with no feel for operations," says Dan McNamee. "He should've been working at Goldman Sachs or Morgan Stanley, not in publishing."

Mason and **Downe** were two of a kind. Only **Downe** may have pushed the envelope a little too far. **Downe** recently pleaded guilty to government charges of failing to disclose trades made from offshore accounts on companies he served as a director; conspiring to commit wire fraud; and conspiring to file false tax returns. At his sentencing hearing in October, he faces up to 10 years in prison, \$500,000 in fines and six years of supervised release. The Securities and Exchange Commission, meanwhile, is attempting to have **Downe** permanently barred from securities activities.

Others, though, say LHJ wouldn't be around today if **Downe** hadn't rescued the magazine from the Curtis crash. Some even feel his departure was a big loss to the magazine world. "If you took a straw poll, **Ed Downe** would come out a big winner," says Peter Callahan. Observes John Mack Carter, "Most of us have seen so much that more than anything, we don't want dull. And **Ed Downe** did not suffer from dull."

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LENGTH: 875 words

HEADLINE: Sealed with a Bow

BYLINE: Dennis Duggan

BODY:

You might think that wrapping a giant red ribbon around a multimillion-dollar Southampton mansion is a little like suctioning a Garfield cat to the window of a Rolls Royce. But when you are married to a man who seems beyond surprising, you are game for anything. So when Andrea Schlossberg heard her husband suck in his breath at the sight of his beribboned new home and cry "ohmigod!" she felt like throwing her fist in the air just like the winner of an Olympic gold medal.

"I got the idea a few weeks ago watching a movie called 'Housesitter.'" she said over the phone from the home she bought a few days ago for her husband, Martin, for slightly more than \$3.2 million. The three-story, turn-of-the-century house includes a clay tennis court, a 15-by-50-foot swimming pool, a pool house and a three-car garage. It was formerly owned by **Edward R. Downe Jr.**, 62, who is at the center of an alleged insider trading ring that the government says made at least \$13 million in profits.

But it is now known, as invitations to a surprise party held at the house Saturday night read, as "Marty's new toy." That was also the legend on a specially-made cake baked in Manhattan and designed to resemble the new home. The cake was served to the 50 or so friends of the Schlossbergs who arrived at the party for Martin, who turned 54 yesterday.

Like everyone else in town, the guests couldn't get over the giant ribbon tied into a bow that extends along the 160-foot-long exterior of the sprawling white and gray structure. It is still there and if a hurricane doesn't come along and rip it away, it will be there for another whole week.

"I have a wonderful wife," Martin Schlossberg sighed yesterday. He is the head of the MJM Group, a firm that manufactures and imports ladies' clothing, headquartered at 1400 Broadway.

Southampton's newest homeowners have been married for over a quarter of a century and are the parents of two daughters, Darion and Debra. Darion was with her mother three weeks ago watching "Housesitter," the movie with Steve Martin and Goldie Hawn. In the movie, Martin brings his intended to see a new home he has built for her that is tied with a red ribbon. The intended, however, is offended by Martin's presumptuousness and turns down his marriage proposal.

It was no secret that Andrea had bought the home as a birthday present for Martin. A home is not something you put under a Christmas tree - but the ribbon tied around it and the surprise party for her husband were to be the icing on the cake.

But it is no easy task to transfer an idea from the silver screen to the reality of a home so big. Yesterday, Andrea said she didn't know just how big their new home was: "Ten bedrooms, I think," she said, "I haven't counted all the rooms yet."

But determined to surprise her blase husband - "He always manages to surprise me throwing these colossal parties" - Andrea enlisted the help of Dorothy Wahl, owner of Hampton Balloons in Southampton, which caters to the whims of the rich who inhabit this gold-edged tip of eastern Long Island.

"She was dubious at first," Andrea said. "She told me, 'I don't know if I can do this,' " but finally agreed to her first ever house-ribboning.

It took Wahl and two helpers five hours to wrap the mansion last Friday in a ribbon made of plastic. Satin was ruled out because of the heavy rains that fell all that day.

On Friday evening, a five-car calvacade left from the Manhattan apartment at Fifth Avenue and 51st Street where the Schlossbergs maintain one of several residences and headed out to their newest home on Long island.

Martin gasped as he walked up the multicolored steps to his new home. So what if the giant ribbon didn't quite live up to Andrea's expectations. "I wanted a 60-inch-wide ribbon but this was smaller," she said. "I was a little disappointed, but then I thought to myself maybe the house is so big it dwarfed the ribbon."

It had never been the intention of the Schlossbergs to buy a home. They started out a few weeks ago asking an agent at Sotheby's in town to look around for a rental.

"But you know it's like looking for a boat and you end up by getting a bigger boat than you wanted," said Andrea with a laugh.

When the Schlossbergs walked into the front door of the former **Downe's** home - his wife, automobile heiress Charlotte Ford lives in her own mansion a few doors away - they knew right away this was the place they wanted.

"Martin loved it right away," said Andrea. "So here we are. We moved in Friday night at 6:30 in a driving rain and stayed up until 4 a.m. unpacking boxes. Not only was Martin surprised by the red ribbon, but he seemed shocked when he saw all the people who came to his birthday party Saturday."

A nice touch was the avant garde art collection left behind by **Downe**, who has pleaded guilty to two criminal charges related to his trading activities in a case said to rank with the Ivan Boesky and Michael Milken scandals that sent both men to jail.

"He is a sweet man, a nice man," she said, begging to differ with the opinions of government prosecutors who would like to find **Downe** a new home in one of their federal institutions. As for the art, she said, "I wouldn't begin to understand it."

GRAPHIC: Photos by John Cornell Jr.-1) MARTY'S NEW TOY. A ribbon surrounds Andrea Schlossberg's birthday present to her husband, Martin. The \$3.2 million gift is in Southampton, L.I. 2) Martin and Andrea Schlossberg outside their home.

June 26, 1992, Friday, Late Edition - Final

NAME: Milton Weinger

SECTION: Section D; Page 1; Column 3; Financial Desk

LENGTH: 1604 words

HEADLINE: Broker in Insider Case Made Sales, Not Waves

BYLINE: By SUSAN ANTILLA

BODY:

In a business where gregarious back-slappers seek the highest possible profile, a stockbroker accused of insider trading this month is an anomaly: colleagues seem to know little about the highly successful but mysterious figure.

Or maybe it is a case of friends deserting Oppenheimer's Million Dollar Roundtable broker now that trouble has presented itself.

In any case, as the Government continues its inquiry into the multimillion-dollar insider-trading case involving Southampton socialites and rich businessmen, Milton Weinger, the Oppenheimer & Company broker named in the Securities and Exchange Commission complaint, remains remote and almost totally out of public view.

"When I read the stories in the paper, I said, 'Who's this guy Weinger?'" said a former Oppenheimer executive who knew most of the firm's top-producing brokers. "This guy was supposed to be a big hotshot, but he must have really kept to himself."

On June 4, the S.E.C. accused Mr. Weinger, who is 62 years old, of making illegal stock trades along with five others, including **Edward R. Downe Jr.**, a former magazine publisher and the husband of Charlotte Ford, the automotive heiress. Mr. **Downe** pleaded guilty to two criminal counts related to the S.E.C. complaint.

According to the S.E.C. complaint, "Weinger, together with **Downe**, directed the trading, on a discretionary basis, in at least 53 brokerage accounts for **Downe's** relatives and friends."

The Government says Mr. **Downe** illegally used nonpublic information to profit in the accounts Mr. Weinger kept for him, for members of his family and for his friends between 1987 and 1989. The Government contends that Mr. Weinger knew that some trades he executed for Mr. **Downe** were based on inside information, a charge Mr. Weinger denies.

U.S. Seeks Millions

The complaint says that "during the relevant period, Weinger, one of Oppenheimer's leading producers, earned commissions in excess of \$1 million by executing securities transactions for **Downe** and the Weinger/ **Downe** discretionary accounts." The Government wants to seize the commission money and it seeks repayment of \$2.3 million in what it says were illegal profits, including \$31,777 in Mr. Weinger's personal account.

Mr. Weinger declined to be interviewed, but his lawyer, David Brodsky of Schulte Roth & Zabel, said yesterday that Mr. Weinger neither traded on inside information himself nor knew that Mr. **Downe** had used inside information for his trades.

To win its case against Mr. Weinger, the Government must establish that he knowingly used inside information obtained from Mr. **Downe** in executing trades for the 53 accounts, as well as for his own.

So far, it is known that the 53 accounts of Mr. **Downe** and his family, friends and associates represented fully 25 percent of the broker's business. Mr. Weinger had full discretion over most of those accounts, which meant he could choose which securities to buy and sell without consulting the clients. On some of the other accounts, the customer had to be consulted before a trade was made. And on a small portion -- fewer than 10 accounts, Mr. Brodsky said -- Mr. **Downe** had power of attorney. Mr. Brodsky is expected to argue that Mr. Weinger is not culpable for questionable trading that might have occurred under Mr. **Downe's** direction in those accounts.

The 53 accounts belonged to a somewhat unlikely combination of people connected with Mr. **Downe**, none of whom were accused of wrongdoing.

His friend Aileen (Suzy) Mehle, the gossip columnist, had an account, as did Peter Duchin, the orchestra leader, and Leonard Lauder, the head of Estee Lauder. Other accounts ranged from those of Mr. **Downe's** wife, Charlotte, and his son, to Ms. Ford's secretary and her manicurist. Mr. Weinger had discretion over accounts belonging to a friend of Mr. **Downe**, Sahabzada Yaqub Khan, the former Pakistan Foreign Minister and an ambassador, and Mr. Khan's wife.

None of Mr. Weinger's clients would talk publicly about the broker. Mrs. Mehle said that she had never met him and that "it would be presumptuous of me to talk about him when this thing is in court." Mr. Duchin was in Canada but said through a spokeswoman that he had never met Mr. Weinger. A spokeswoman for Mr. Lauder said his "complex" schedule would not permit him to respond to interview requests. Mr. Khan did not return a telephone message.

But Mr. Weinger's lawyer and others did provide some bits and pieces of information. Mr. Weinger is said to have achieved professional and financial success after a difficult and lonely life. He was born in the Catskill Mountains of New York, the middle child of five children whose father was a handyman. Mr. Weinger's mother died of kidney disease in 1941, when Milton Weinger was 11 years old. Mr. Weinger then took on parental responsibilities for his two younger brothers.

The family moved to the Bronx, then to Brooklyn. Milton Weinger delivered newspapers and did odd jobs starting at age 13, and he was graduated from Stuyvesant High School when he was 16. He went on to City College, where he majored in accounting. He graduated cum laude in 1950 when he was 20 years old.

The broker was married when he was 40; he and his wife, Sylvia, have three children and live in an apartment on Manhattan's East Side. They have a home, too, in Southampton, but one that is distinctly modest by the standards of many of the investors whose accounts he kept. The Weingers purchased the house for \$500,000 in 1990.

Although they each own summer homes in the same seaside town, Mr. Weinger and Mr. **Downe** were said to have done little socializing together.

A Family Foot in the Door

Despite the difficulties of his early years, Mr. Weinger's career was favorably influenced by family ties. While most beginning brokers start out groveling for business by making "cold calls" to strangers and relying on the largesse of old friends, Mr. Weinger walked into what was already a lucrative business.

In 1962, a cousin who was an Oppenheimer broker, Stanley Fingerhut, asked Mr. Weinger to team up with him, helping to handle his increasing volume of business. Mr. Weinger left his job as an accountant at Joseph Sterns & Company and began learning the brokerage business.

As business grew, though, Mr. Fingerhut decided to move on, and he left Oppenheimer in 1967 to set up Mount Vernon Associates, a hedge fund. By then, Mr. Weinger had already begun to rank among Oppenheimer's top 10 stockbrokers. Mr. Brodsky said.

At that point, Mr. Weinger invited his younger brother, Norman, to leave his job at the accounting firm of Esco & Heinberg and come to Oppenheimer in 1967. It was then that Milton Weinberg came to know Mr. **Downe**, who had

been using Esco & Heinberg for his personal and corporate accounting work. Each year, Mr. **Downe** would introduce three, sometimes five, new accounts to Mr. Weinger. Mr. Brodsky confirmed, ultimately adding up to the 53 under Government scrutiny. Ultimately, Mr. Weinger shed some of his old accounts as he spent an increasing amount of time on the accounts linked to Mr. **Downe**. Through his lawyer, Mr. **Downe** declined to be interviewed.

Even after Mr. Weinger technically attained star status at Oppenheimer, regularly landing in the firm's coveted Roundtable club of top-producing brokers, he remained relatively unknown in the brokerage community.

'I Think He Wore Glasses'

More curiously, even among others of the two dozen or so top brokers at Oppenheimer, he seems not to be well known. People at the firm say this was so despite the fact that the top brokers gathered at 8:30 A.M. each Wednesday on the 40th floor of the firm's World Financial Center tower for a private session with research analysts.

Mr. Weinger was "mild-mannered, bright, quiet -- and I think he wore glasses," recalled a colleague who attended the weekly meetings. The broker, who requested anonymity, said that while Mr. Weinger's brother Norman "was outrageously funny," Milton Weinger "was quite opposite," leaving little impression on those who sipped coffee with him on Wednesdays.

Oppenheimer says it has nothing to say about its accused star. A call to the firm's president, Nathan Gantcher, was cut off and transferred to the firm's legal counsel, Robert I. Kleinberg, before the caller could finish saying Mr. Weinger's last name. Mr. Kleinberg's secretary said he was not responding to calls from the press.

Subpoenas Issued in '88

Oppenheimer appears certain to have known about the investigation since at least early 1988, when subpoenas had begun to go out for trading records even before the alleged violations ended. Top managers could not have missed the fact that all of the records sought were for Milton Weinger's accounts.

Mr. Weinger's response to the Government allegations will be filed with the S.E.C. on July 31, the deadline for all of the defendants in the insider-trading case. In the meantime, the Oppenheimer broker continues to go to his office most days, finding the stock market a welcome distraction from the case, an associate says. It is likely he will continue to lose accounts among the 53 brought in by Mr. **Downe**, people on Wall Street say, as the clients become increasingly irritated by subpoena requests and bad publicity.

Those who sat with him in the weekly meetings of the star brokers still express surprise. "I was taken aback," one broker said, confessing astonishment that Mr. Weinger's client list included such luminaries. "He probably didn't talk much about his clients. But a lot of brokers doing business with people like that don't talk about it."

GRAPHIC: Photo of Milton Weinger from college yearbook - 1950 (Most recent photo available)

Chart: "The Weinger File"

Occupation: Broker, Oppenheimer & Co.
Since: 1962
Previous: Accountant, Joseph Sterns & Co.
Born: March 27, 1930, in upstate New York
Education: B.B.A. with honors, City College, 1950
Family: Wife Shirley, three children

"Securities and Exchange Commission actions against Weinger"

Accuses him of collaborating with **Edward R. Downe Jr.** to use non-public information to make trades in 53 Oppenheimer accounts belonging to Mr. **Downe** or to his friends or relatives.

§ Demands that Mr. Weinger forfeit \$1 million in broker's commissions he is accused of earning on illegal insider trades, and that he repay \$2.3 million in allegedly illegal profits, including \$31,777 gained from trades in his personal account.

LOAD-DATE: June 26, 1992

June 22, 1992

SECTION: Top of the News; Number 3271; Pg. 35

LENGTH: 770 words

HEADLINE: NAILING THE SOUTHAMPTON SEVEN

BYLINE: Dean Foust in Washington

HIGHLIGHT: The SEC widens its insider-trading net -- but faces a battle royal

BODY:

When prosecutors filed insider-trading charges against a group of prominent New York socialites on June 4, the news shocked the Long Island enclave of Southampton. There, the government contends, in a mansion on Ox Pasture Road, **Edward R. Downe Jr.** swapped inside corporate information with at least six friends. During parties, over poker, and on yachting excursions in the late 1980s, **Downe** allegedly provided this inner circle with stock tips that enabled the group to reap more than \$23 million in profits. **Downe** has pleaded guilty to related criminal charges, while retired Kidde Chairman Fred R. Sullivan settled civil charges of giving **Downe** a takeover tip. Sullivan agreed to pay \$58,000 in penalties.

But some legal experts predict the government could have a hard time nailing the other members of the Southampton Seven, all of whom deny wrongdoing. The reasons: murky insider trading laws and the courts' penchant for rejecting the government's notion of who can be swept into its insider-trading dragnet. Attorneys for the defendants are gearing up for a battle royal, denouncing the Securities & Exchange Commission for overreaching. The government "is ready to call things insider trading which aren't," says Harvey L. Pitt, attorney for one of the accused traders, public relations maverick Steven A. Greenberg.

In settling the criminal charges, **Downe** didn't plead guilty to insider trading. Instead, the former magazine publisher admitted to violating a technical SEC rule requiring officers and directors to report whenever they buy or sell stock in companies they serve. Critics say the plea deal transforms a common infraction among executives, and rarely punished, into a crime that carries a penalty of up to five years in prison. "This removes any burden the SEC has to prove insider trading and increases its leverage," says Columbia Law School Professor John Coffee. "It would be like the IRS bringing criminal prosecutions for anyone filing their income taxes two days late."

It's not surprising that the government is trying such hardball tactics. Despite the SEC's success at winning sanctions against prominent Wall Street figures during the 1980s, prosecutors recently have suffered setbacks in court. Some legal experts believe those decisions could hurt the government's ability to expand its investigation beyond Southampton's insiders to others who allegedly received tips.

A case decided last October that partially overturned an insider-trading conviction of stockbroker Robert Chestman could prove particularly nettlesome for the SEC now. In that case, the U. S. Court of Appeals in New York ruled that the government hadn't proved that Chestman knew the tip he received from the son-in-law of an executive was confidential inside information.

HASTY CASE? The SEC now will have to prove that the Southampton Seven, whose members also include Revlon Inc. co-founder Martin Revson, knew that any tips they received from **Downe** were based on privileged information he gained as a director of Bear Stearns Cos. and Kidde. "There's no question the Chestman decision gives the SEC problems" with recipients of third-hand tips, says former SEC enforcement official Wallace L. Timmeny.

But SEC enforcement director William McLucas doesn't believe the Chestman ruling will cause problems because the facts in that case were unique. The Southampton case, he insists, "involves insiders . . . and tippees who knew the tips were illegal."

Just in case, prosecutors may have a strategy for getting around that October decision. The government allowed **Downe** to plead guilty to a charge that doesn't involve fraud -- and thus can't be used by investors to sue him for damages. In return, **Downe** may be expected to testify against his friends. But even if he says they knew the information was confidential, that may not be good enough. Defense lawyers will try to discredit **Downe** as a convict who is trying to reduce his sentence.

The defendants also claim that SEC enforcement officials, who have been investigating the case for four years, misread events as they hastily filed the charges to beat the statute of limitations deadline. That some of the accused were buying Kidde stock while others were selling suggests there was little coordination among the alleged traders, say defense attorneys.

Defense lawyers customarily deny that their clients did anything wrong, of course, and often proceed to settle. That could happen here. But for now, it appears that lawyers for the Southampton Seven plan to put the SEC and its insider-trading theories on trial.

URL: <http://www.businessweek.com/index.html>

GRAPHIC: Photograph, THE MANSION ON OX PASTURE ROAD, SITE OF PARTIES, POKER -- AND ILLEGAL STOCK TIPS? PHOTOGRAPH BY JOHN KEATING; Photograph, **DOWNE** AND GREENBERG, THE SEC SAYS THEY AND OTHERS MADE \$23 MILLION ON INSIDE INFORMATION PHOTOGRAPH BY JOHN S. ABBOTT; MARINA GARNIER

June 16, 1992, Tuesday, Late Edition - Final

NAME: **Edward Reynolds Downe Jr.**

SECTION: Section B; Page 1; Column 2; Metropolitan Desk

LENGTH: 2880 words

HEADLINE: Living Poolside, and Wanting More;
Insider-Trading Charges and the Southampton Summer Set

BYLINE: By N. R. KLEINFELD, Special to The New York Times

DATELINE: SOUTHAMPTON, L.I., June 14

BODY:

They gathered by the sea during the hazy summer, and at first life couldn't have been sweeter. The poolside parties at **Ed Downe's** place in this moneyed resort were a treasured habit. In the morning, the tennis players would compete on the clay court. Once the sun was high, the very adequate buffet lunch would be set out by the pool, and everyone ate and fraternized at the umbrella tables.

Then Mr. **Downe** and the other gin rummy players would duck indoors to play, at stakes of three cents to a nickel a point. A wretched streak could cost someone hundreds of dollars, but the pockets of these players ran exceedingly deep.

Almost always, 15 or 20 people were poolside, partaking in the merriment. Martin Revson, a fixture for years, used to joke afterward with Mr. **Downe**: "Well, Ed, how many bodies did we have today?"

Wanting it All

Beneath the conviviality and grandeur, however, lurked dark mysteries, at least in the view of the Securities and Exchange Commission. In this genteel milieu and in other pleasure centers, the Government contends, these gregarious and talkative "bodies" did more than imbibe summer fun. The S.E.C. charged on June 4 that in the mid- to late 1980's some of them exchanged insider information that they used to reap millions of dollars in profits for themselves and others in the stock market.

At the heart of the case is **Edward Reynolds Downe Jr.**, now 62 years old, who indulged in trading of spectacular ferocity and volume and who, apparently out of a need to be liked, persuaded dozens of friends and relatives -- from the celebrated to his hired help, from those in severe financial distress to those already very rich -- to entrust him or his broker with goodly sums to play on their behalf in the stock market. At the same time, Mr. **Downe** doled out loans and gifts almost willy-nilly, sometimes getting himself into binds.

Above all else, the life of Mr. **Downe** and his friends and relatives offers an illuminating glimpse into the forces and motivations that apparently drive many of the rich. In large part these were people who, even after having three of everything, openly craved a fourth.

"No matter what, we all try to make all that we can," one friend said. "Anyone who says he has enough, I always consider that person suspect."

Mr. **Downe** has already pleaded guilty to two criminal charges related to his trading activities and is hoping to settle the S.E.C.'s civil case against him. Lawyers for Mr. **Downe** and the other defendants have instructed their clients not to

talk about the case. This account of Mr. **Downe** and his friends and relatives was pieced together from dozens of interviews with investigators and those who know him and the people around him. Almost all of them spoke only on condition of anonymity.

The other defendants are Martin E. Revson, co-founder of the Revlon cosmetics empire; Steven A. Greenberg, a former New York public relations man; Milton Weinger, a broker at Oppenheimer & Company; Thomas Warde, a Los Angeles real-estate investor, and David Salamone, a London real-estate entrepreneur. Fred R. Sullivan, former chairman of Kidde Inc., a consumer products company, and a director of many companies, was accused of slipping confidential information to Mr. **Downe** and has agreed to settle his case for \$58,000, without admitting or denying guilt.

Focusing on the period beginning in the summer of 1987 and ending in early 1989, the S.E.C. says that various members of this group exchanged confidential information they had learned about five companies, and that some of them then traded heavily in those companies' stocks and reaped millions. The companies were Bally Manufacturing, Kidde International, Bear Stearns, the Tyler Corporation and the Edgcomb Corporation.

The Background

The Long Path To Ox Pasture Rd.

An enormous white and gray structure fringed with tall shade trees, Mr. **Downe's** beach house is set back on three acres behind a white wall on Ox Pasture Road, a picturesque street of showy houses not far from the redoubtable Meadow Club, where Mr. **Downe** and his wife, the automobile heiress Charlotte Ford, are members.

The couple, favoring a certain degree of independence, are fortunate enough to have his-and-her houses (hers situated on 14 acres a few miles away). They have his-and-her apartments in Manhattan, too, one below the other on Sutton Place.

Poolside, Mr. **Downe** was always a gabby, clubbable host, a paunchy fireplug with a ready smile. Years ago, he made a tidy fortune from his **Downe** Communications magazine empire, and he has lived a relentlessly prodigal life ever since.

Despite the **Downe** circle's obvious love of material possessions, it is not easy to understand why they would be -- as the Government contends -- swapping confidential information for quick and illegal profit. Indeed, the period in question, an era in which Wall Street executives were being hauled out of their offices in handcuffs, would seem to have been the worst of times to try making money on the sly in the stock market.

But if the Government is correct, the spell of potentially vast riches was still bewitching the beach elite of Southampton. Although the defendants have told friends that their trading was based on nothing more than rumors and speculation already published in the press, the S.E.C. is convinced otherwise.

Before he found the stock market and the mansions, **Edward R. Downe Jr.** was a reporter, and he used to tell friends that if he ever managed to accumulate \$10,000 he would be in ecstasy. Born in New York in 1929, he graduated from the journalism school of the University of Missouri in 1952 and then spent a brief time as a combination of reporter, pressman and deliveryman on two weekly newspapers in Virginia. Next, he joined the staff of True magazine, a men's periodical that told heroic adventure stories in gritty prose. In 1954, he left to become an editor at True's rival, Argosy, where he eventually switched to the advertising side.

After a series of entrepreneurial ventures for the next decade or so, Mr. **Downe** bought Family Weekly, a magazine-insert for newspapers, in 1966. Late the next year, he founded his own company, **Downe** Communications Inc., and went on to buy more magazines, radio stations and a watch company. His company went public and its stock was so hot at one point in the late 1960's that Mr. **Downe's** holdings were reckoned at a cool \$300 million. But that value plunged in the next few years as the company ran up a string of losses.

The Characters

Stock Investments And Political Gifts

While some people are truly comfortable around only one other person at a time, Mr. **Downe** was only comfortable around two dozen. If a friend was in town, he knew he could always bunk at **Ed Downe's**. Now and then, he threw parties in New York, but he preferred to entertain out on the eastern end of Long Island, where for years he rented houses among the summer parvenus. But then, in December 1974, he bought the mansion on Ox Pasture Road.

By that time, Mr. **Downe** was worn down by his workload. He soon sold **Downe Communications** to the Charter Company, a Jacksonville, Fla.-based oil and insurance conglomerate, and pocketed nearly \$9 million.

Not knowing what to do with himself and his money, Mr. **Downe** began taking an eclectic sampling of courses at the New School, New York University and Columbia, including art courses. From this sprang his decision to collect contemporary American art; he earnestly set out buying the works of a vast array of young and unknown painters, and before long was living in wall-to-wall art, bathroom walls included.

His marriage to Susan Campbell, meanwhile, was coming apart, and in 1977 they were divorced. Increasingly, he immersed himself in the social scene and charity circuit and got involved in supporting and contributing to innumerable political campaigns, mainly of Democrats.

Mr. **Downe** became a friend and longtime contributor to Hugh L. Carey, then Governor of New York. He also gave money to the campaigns of Mayor John V. Lindsay, and after him Edward I. Koch and David N. Dinkins. He has backed Gov. Mario M. Cuomo, as well contributing to the campaigns of a dozen or so Democratic United States Senators.

Mr. **Downe** also became an active investor in the stock market. In the mid-1970's, he poured a sizable sum of money into the Charter Company, when it was selling for about \$5 a share. Within a few years, Mr. **Downe** told friends he had a profit of as much as \$30 million from the stock.

A Bermuda Company

And he dated many women. One of them recalled that she liked the fact that after they had a sumptuous meal at his Southampton home with some rather stuffy guests, he took her upstairs where they played billiards with the servants. In 1980, Mr. **Downe** began seeing Charlotte Ford, and six years later they were married.

Mr. **Downe** was also drawn to the idea of being a corporate director. In 1985, he joined the board of Bear Stearns and, the next year, Kidde's board as well. It was information that Mr. **Downe** gleaned from those positions that he and others used illegally to trade stocks, the Government says.

A few months before he became a Bear Stearns director, Mr. **Downe** and one of his friends formed an offshore company called Broadsword Ltd. in Bermuda, which the S.E.C. contends was set up to conceal stock transactions. Broadsword brokerage accounts were also opened in London. The associate was David Salamone, a slim, sandy-haired Englishman in his 30's with a wry sense of humor, whom Mr. **Downe** had met in the mid-1970's.

People familiar with the investigation said Mr. **Downe** told the S.E.C. that over a period of years he loaned Mr. Salamone more than \$1 million, apparently to help him with a sizable building project that never panned out. They say that Mr. Salamone, with Mr. **Downe's** blessings, opened Broadsword and traded stock in order to make undetected profits to repay Mr. **Downe**. People close to Mr. Salamone, however, say that version of events is nonsense. In recent months, Mr. Salamone has dropped from sight.

Friends confirm that Mr. **Downe** did spray around a lot of his own money. Almost anyone with a hard-luck case would get a loan, not always repaying it.

Mr. **Downe** has told friends that almost everyone seems likable to him, although as he once conceded to an acquaintance: "There are good guys and bad guys in the world. The trouble is, I couldn't differentiate. My judgment sinks."

The Trading
Social Director, Money Manager

"What broker do you use?"

Ed Downe was asked that question a fair amount in the 1980's and he had a ready answer: Milton Weinger at Oppenheimer & Company. A veritable parade of friends of Mr. **Downe's**, on his advice, opened brokerage accounts with Mr. Weinger -- quite a few of them discretionary accounts that permitted Mr. Weinger to make whatever trades he felt were in his client's best interests.

A total of 53 such accounts, or a quarter of the accounts handled by Mr. Weinger, were opened over a 15-year period, most of them in the early 80's; the S.E.C. maintains that illegal trading occurred in all of them. Mr. Weinger's lawyer said the broker did not know any of the trades were based on inside information.

Among the accounts were several for Ms. Ford; a few for Mr. **Downe's** children; and others for Leonard Lauder, the head of Estee Lauder; Peter Duchin, the band leader; Robert Morgado, the head of Warner Music, and Mary Conley, the socialite. There were a number for artists whose works Mr. **Downe** had bought. There were even accounts for Ms. Ford's secretary and Mr. **Downe's** secretary. They ranged in value from as little as \$5,000 to more than \$200,000. With many of these accounts, the S.E.C. said, Mr. Weinger carried out trades based on consultations with Mr. **Downe**.

"This was Ed's way of wanting to be friendly with the people," said an old friend. "I thought he was crazy to have all these accounts opened, but he wanted to be liked."

In his own account, **Ed Downe** was the heaviest trader of all. He began to make some big scores in the early 1980's, but then had spottier luck. On balance, he was unimpressive and made little money. It was through the Bermuda company Broadsword, the S.E.C. says, that he reaped sizable profits.

Mr. **Downe** always gave the appearance of being flush, but friends suspect he was feeling a pinch in the mid- to late 1980's. Still, he spent heavily and continued to be beneficent with loans and gifts. When his chauffeur, who had worked for him since 1965, had a stroke several years ago, Mr. **Downe** bought him a condominium in Florida and began sending him regular support payments.

Then there was his son, Hugh **Downe**, known as Cubby, is not said to have a good head for business. Unfortunately, business was the path he chose. He began a messenger and limousine service in New York called Educated and Dedicated that eventually closed. Subsequently, in 1989, his father invested more than \$2 million to buy a controlling stake in the American Body Armor & Equipment Inc., a maker of bulletproof vests and armored cars. Ms. Ford also invested in the firm. Cubby was installed as chairman. The company recently filed for protection under the bankruptcy laws.

"Ed lived a pretty expensive life," said a friend who spoke on condition of anonymity. "He was just generous to a fault."

There was, for instance, the curious case of Gael Wood, a microbiologist who wrote on health subjects for women's magazines. Mr. **Downe** dated her for some time after meeting her in 1977 at the Meadow Club.

"He was terrific," she said. "Not much to look at, but he was very charming." After Mr. **Downe** remarried, Ms. Wood remained a friend. Years later, when she was tight for money, he provided her with \$130,000 so she could buy an apartment. But then in 1990, he filed a lawsuit seeking return of the money, though he has told friends he does not intend to pursue the case.

"I'm in debt up to my ears," said Ms. Wood, whose opinion of Mr. **Downe** has changed: "He's a charming, socially ambitious Svengali. He can be utterly ruthless when crossed."

The Fall
Frisking Guests At the Front Door

There were many people whom **Ed Downe** knew well, but his downfall may have been hastened by a man he apparently met but once.

One of Mr. **Downe's** Southampton friends was a woman named Adele Scholl. Friends of hers said that for a time in the 1970's and early 1980's, she owned a small tennis club in Southampton called the Tuckahoe Racquet Club, and she also worked as a real estate broker. She, too, opened a discretionary account with Mr. Weinger in the mid-1980's.

At one of the poolside parties in the late 1980's, Ms. Scholl brought along the man she was living with, an ex-convict and unlicensed commodities options salesman named Alan Herbert Abrahams. For a few minutes, he got a chance to talk with Mr. **Downe**.

In living with Ms. Scholl, Mr. Abrahams came to learn of the considerable money she was making through her Oppenheimer account, including trading in Kidde. He also came to suspect that the trading was rooted in inside information. In 1988, Ms. Scholl severed her relationship with Mr. Abrahams when she became convinced he was siphoning money from her. Incensed, he called the S.E.C. and told them about Ms. Scholl and **Ed Downe**. Soon after, a four-year inquiry into Mr. **Downe** and his network began.

Fissures began to open between some of the friends. In the fall of 1990, after Steve Greenberg was summoned to testify by the S.E.C., he began making tape recordings of conversations with Mr. **Downe**, as well as one conversation with Mr. Sullivan, apparently to protect himself.

Turning Up Pressure

By now Mr. **Downe** had himself been questioned, and when he found out about the tapes he was astonished. He blew up and broke off with Mr. Greenberg. The tapes, however, are not believed to incriminate any of the defendants.

Around this time, Mr. **Downe** grew jittery enough that he began frisking some of his visitors when they came to see him.

Government investigators began to put considerable pressure on Mr. **Downe** by bringing in family members for mug shots and handwriting samples and questioning. The action that finally persuaded Mr. **Downe** to make a plea bargain and cooperate was the Government's threat to indict Cubby. He has not been charged with any wrongdoing.

In recent weeks, Mr. **Downe** has told close friends that he is broke. He has placed his Southampton home on the market at \$3.5 million -- a price indicating a motivated seller. Already, his legal bills are staggering.

Many of his friends fully expect that **Ed Downe** will go to jail, and they figure they will no doubt go there and visit him. "I'm true blue," one of them said. "I'm upset by all this, but I'll stand by him."

This summer season in Southampton began much as all the others have. A dozen or so faithful showed up at **Ed Downe's** on the sun-drenched Saturday of Memorial Day weekend. The lunch, as always, was delectable.

And even though Mr. **Downe** knew the Government was closing in, there were plenty of tantalizing stories and good laughs. But now, something irrevocable has happened, and everyone has to wonder just how much fun the rest of the summer will be.

GRAPHIC: Photos: The entrance to the Southampton, L.I., estate of **Edward Reynolds Downe Jr.**, where the S.E.C. contends millionaires traded insider information over iced drinks and buffet lunches in an effort to become even richer. (Marty Heitner for The New York Times); **Edward Reynolds Downe Jr.** with his wife, Charlotte Ford, the automobile heiress, at a gala benefit last year. They have separate estates in Southampton, as well as individual apartments in Manhattan. (Bill Cunningham) (pg. B1); In the moneyed world of Southampton, L.I., the Securities and Exchange Commission contends insider trading led to millions in illicit profits. At the center of the case is **Edward Reynolds Downe Jr.**, left. He was with another defendant, Martin E. Revson, co-founder of the Revlon cosmetics empire, on the East Side of Manhattan last month. (Bill Cunningham) (pg. B7)

LOAD-DATE: June 16, 1992

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June 14, 1992, Sunday, Late Edition - Final

SECTION: Section 9; Page 4; Column 3; Styles of The Times

LENGTH: 115 words

HEADLINE: EGOS & IDS;
Psst! House For Sale

BYLINE: By Degen Pener

BODY:

Looking for the perfect place to discuss stock tips this summer? The Southampton, L.I., home of **Edward R. Downe Jr.** has been on the market for more than a month. Mr. **Downe** is the socially connected businessman who was charged with insider trading and pleaded guilty June 4 to two related criminal charges.

The house, on 3.1 acres on Ox Pasture Road in the estate section of the village, includes a tennis court and a pool house. It is listed with Sotheby's International Realty in Southampton. The asking price is \$3.5 million.

Once the house is sold, Mr. **Downe** will not lack adequate seaside lodging. His wife, Charlotte Ford, the automobile heiress, owns a mansion nearby.

LOAD-DATE: June 14, 1992

June 14, 1992, Sunday

SECTION: Business

LENGTH: 1164 words

HEADLINE: High society caught in insider scandal

BYLINE: Mike Graham reports from New York

BODY:

AN insider-trading scandal involving several New York society figures has become the talk of the rich in Southampton, the plush seaside retreat on Long Island.

The Securities and Exchange Commission (SEC) last week filed civil charges against a group of businessmen known as the "society seven". They include **Edward Downe**, 62, the husband of car heiress Charlotte Ford, and Steven Greenberg, 49, a flamboyant public-relations executive who features prominently in Andy Warhol's diaries.

A number of people from the smart world of the Hamptons have been unwittingly caught up in the scandal among them Aileen Mehle, alias "Suzy", the blue-blooded high-society gossip columnist, and Chuck Scarborough, the NBC news anchorman married to Ann Ford, Charlotte's sister. None has been charged with any wrongdoing, but the list of accused itself reads like a directory of corporate glitz.

It includes Martin Revson, the brother of the co-founder of Revlon; David Salamone, a British businessman; Thomas Warde, a Los Angeles property investor; and Milton Weinger, a top broker at the Wall Street firm of Oppenheimer.

Fred Sullivan, the retired chairman of Kidde, a consumer-goods company, was also named in the suit, but the 77-year-old poker-playing friend of **Downe** has settled with the SEC. He agreed to pay \$58,000 in penalties for supplying information he himself did not trade in it without admitting guilt.

The SEC alleges that **Downe** and Greenberg conspired between 1987 and 1989 to commit "numerous instances of insider trading in connection with securities transactions". It claims they generated at least \$23m in illegal profits for themselves, their families and friends.

Among the companies involved, says the SEC, were Bally Manufacturing, Kidde, Edgecomb, Tyler and Bear Stearns, where **Downe** is a member of the board.

With the exception of **Downe**, all the accused have denied the charges. However, **Downe** has already pleaded guilty to two related criminal offences that could put him in prison for up to 10 years.

The news has shocked his high-flying friends who know **Downe** better as a benevolent figure in the art world. A self-made man who "came to New York with four cents for a five-cent bag of peanuts", **Downe** made his fortune in magazines. But in the mid-1970s he sold his stake in **Downe** Communications, the publishing empire whose stable of titles included True Confessions, The Ladies' Home Journal and American Home.

Turning his attention to art, he earned a reputation for generosity, often purchasing pictures just to keep the artists afloat. But it was his very generosity as a patron, say friends, that may have led to his downfall. Most of his purchases were made before the collapse of the art market in 1989. Afterwards, he was thought to be struggling to stay solvent and maintain his luxurious Long Island mansion.

His alleged co-conspirator is a very different man. The son of a clothing manufacturer from Brooklyn, Greenberg first became known as a Wall Street whiz-kid, but soon realised there was money to be made in public relations.

By the time he was 25 he had founded his own firm, Anametrics, and by the mid-1980s he had attained a reputation on the Manhattan social circuit, where his thousand-dollar suits and shoulder-length white hair gained him an entree into Andy Warhol's world.

He also earned a reputation for his sexual charms. A one-time escort of the actress Margaux Hemingway, he has frequently been photographed with film stars such as Ursula Andress attending parties at the Palladium and the Roxy Roller Disco both of which he owned.

Another regular female companion was Gael Love, the editor of Fame magazine, which Greenberg owned for two years. Their frequent, and sometimes highly public arguments were the stuff of gossip columns. Now Greenberg is charged with having provided illegal inside information to **Downe** about two of his clients, Bally Manufacturing and Edgcomb. He says that he is innocent.

His lawyer, Harvey Pitt, says that Greenberg intends to fight the charges and points to several instances of stock buying which were omitted from the government's lawsuit as proof of his innocence.

"I am perplexed and appalled by these charges because I don't understand what the SEC thinks it is doing. I think it is flat out wrong," Pitt told The Sunday Times. "Our defence will not be complicated. We're just going to rely on the truth."

SEC officials will not reveal why they first began their investigation but it is widely believed that a disgruntled friend of **Downe** alerted them four years ago.

Alan Herbert Abrahams was romantically involved with Adele Scholl, one of **Downe's** neighbours in the exclusive Southampton community. It is thought that in 1988 Abrahams, a former commodities options salesman, was jilted by Scholl, after she accused him of stealing money from her.

In a moment of anger, Abrahams apparently decided to inform the SEC about **Downe** and his friends, all of whom had stock-trading accounts at Oppenheimer which were handled by **Downe's** friend, Milton Weinger. However, Weinger's lawyer says his client had no idea the stock was being traded on insider information and claims the charges against Weinger are false. Revson claims the allegations against him are likewise unfounded.

The criminal charges against **Downe** detail the involvement of Salamone. However, it is Greenberg who is thought to have provided the final evidence of **Downe's** criminal offences. He is believed to have taped several telephone calls between **Downe**, Sullivan and himself, then turned the tapes over to the government, though SEC officials have declined to confirm their existence.

Some of the other defendants in the action are said to be outraged by Greenberg's action. But the evidence on the tapes, together with the increasing harassment of his family by investigators, is thought to have finally convinced **Downe** to plead guilty.

Last year SEC lawyers took testimony from his daughter about a Caribbean sailing trip on board the Ford family yacht, where **Downe** and Greenberg allegedly shared insider information. The US Attorney's office in Manhattan also brought his wife in to give handwriting samples. One friend described the incident as a deliberate humiliation of the heiress.

The last straw came when the SEC hinted that it might bring charges against **Downe's** son Hugh, with whom he owns 55% of an armoured-car manufacturer, American Body Armor & Equipment. When the younger **Downe** was brought in for questioning, investigators made him submit to a mugshot and several hours of interrogation.

Downe will be sentenced in September. However, those who are familiar with his financial situation say that he may well have trouble paying the SEC fines: many of his holdings are now debt-ridden or making losses. In the intervening months he will have plenty of time to reflect on the worst summer in Southampton he has ever experienced.

—

Ed Downe

...

—



UNITED STATES SENATE

FACSIMILE TRANSMITTAL SHEET

ADRIA D. GIORDANO, SCHEDULER
SENATOR CHRISTOPHER J. DODD
448 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-0702
202.224.0342 / FAX: 202.228.0546

TO: BETH NOLAN

DATE: 1/3/01

PAGES (INCLU. COVER): 2

— COMMENTS —

Beth-

The Senator asked me to fax this to you-- it's part of Ed Downe's file.

Thank you

Adria Giordano

12/1999 06:13 212860070

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CAROLYN E. MALONEY
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20515-3214
WASHINGTON, DC 20515
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SALES AND FINANCIAL SERVICES
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Congress of the United States
House of Representatives
Washington, DC 20515-3214

December 22, 2000

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Clinton,

I am writing on behalf of my friend and constituent Edward R. Downe Jr who is seeking a Presidential pardon. Mr. Downe is an elderly man who wants to clear his record for the sake of his grandchildren.

In 1993, Mr. Downe was convicted on a securities-related offense and sentenced to probation and community service. Mr. Downe admitted his guilt and has repaid society for his crime. Not only did he complete his community service in December 1996, which consisted of teaching at the Brooklyn Campus of Long Island University, but he has continued to teach at LIU every semester since then without pay. Mr. Downe has devoted time to helping young people in other ways, working with The Howard Samuels Center at City College. Additionally, he spends a great deal of time with Foster Pride, a charity that is New York's only after-school and Saturday art program for children in foster care.

The charitable work Mr. Downe currently performs is founded on a lifetime of small and large acts of generosity and kindness. He has mentored students, paid for acquaintances to receive much needed medical care, supported the arts and educational programs and opened doors for the underprivileged. Mr. Downe has been a champion of equality - he was the first publisher to hire women to sell advertising and the first to put a black woman on the cover of a major woman's magazine. While many of his charitable acts are done publicly, often it is his quiet, unseen acts of enormous kindness that have made an extraordinary difference in people's lives.

Mr. Downe is a remarkable individual who rose from poverty to run a publishing empire. He would like to clear his record so his family does not bear the burden of the taint to his reputation. In light of his service to society, his volunteer work, his charitable activities and his sincere contrition for his crime, I hope you will review his record and consider granting him a pardon.

Very truly yours,

Carolyn E. Maloney
CAROLYN E. MALONEY
Member of Congress

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Ed Downe

copy to case
12/28
resent 1/2/01
per Mr. request

12-29-00
To Counsel's
Office ?

CHRISTOPHER J. DODD
United States Senator
Washington, D.C. 20510

December 27, 2000

00DEC290000

Dear Mr. President:

I want to tell you about my friend, Ed Downe, and why I believe a Presidential pardon is warranted.

I have known Ed Downe for over 20 years. We speak almost everyday. He is a very fine person who, through his generosity and kindness, has helped people when there seemed to be no hope.

Ed made a mistake a number of years ago, for which he has accepted full responsibility. He plead guilty and was sentenced to 3000 hours of community service. Over the years, Ed has expressed to me, his family and friends his deep remorse for his actions.

Ed's community service consisted of teaching mostly minority students at the Brooklyn campus of Long Island University in New York City. Ed's community service obligation was met several years ago; yet, because he found the experience so rewarding, Ed has continued to teach and assist students as a volunteer.

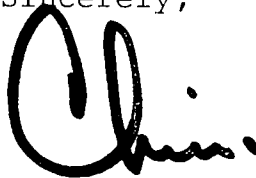
Ed Downe has received his share of public recognition for his charity and personal support of various causes. There is ample evidence that Ed Downe is a good citizen. But, Mr. President, Ed is an even better person. He has made a difference in the lives of people few people ever know about. There are the disadvantaged students that Ed not only taught, but with whom he has personally stayed in touch over the years and financially assisted, when they were in financial trouble. Young artists who would not have been able to continue without Ed's support. The family who lost their father that Ed brings together each and every year for a memorial service. The young man who needed help with the National Guard.

Mr. President, the examples of Ed's private goodness is extensive, but they all share one thing in common -- they were all done quietly to help people -- average people in need. It is these quiet, unseen, unknown gestures of human decency that Ed has made over the years that make him so special and the case for a Presidential pardon so worthy.

Mr. President, over the years Ed Downe has asked me for numerous favors, but, without exception, he has never requested anything for himself. His requests have always been on behalf of others whom he felt were deserving of assistance.

Mr. President, Ed Downe is a good person, who is truly sorry for the hurt he caused others, not to mention himself. This is a meritorious case, and I would be most grateful if you would grant Ed Downe a Presidential pardon.

Sincerely,

A handwritten signature in black ink, appearing to be "John F. Kennedy". The signature is written in a cursive style with a large, prominent initial "J".

The President
The White House
Washington, D.C. 20500



Dear Beth - —

12/27

Attached is Senator Dodd's letter to The President to be included with the packet of materials I left for you last Friday.

If you have any questions, you can reach me at 224-0353. Many thanks. Pat

CHRISTOPHER J. DODD

United States Senator
Washington, D.C. 20510

The President

The White House

Washington, D.C. 20500

-BY HAND-

—

Ed Downe

—

United States Senate
Office of the Democratic Leader
Washington, DC 20510-7020

copy to cable
12/22
to Sen. / 12/21
Per Mr. [unclear]
00 DEC 28 14:20

December 22, 2000

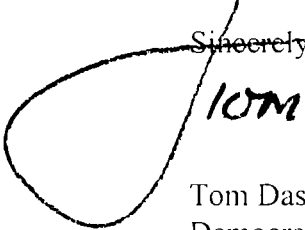
The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Edward R. Downe, Jr., has petitioned for a Presidential Pardon. I have known Ed Downe since the mid 1980's and write to encourage your serious review of his case.

I do not have any knowledge of his misdeeds and have never discussed them with him. I do know, however, that at sentencing the judge saw fit to give Mr. Downe probation and community service. His community service consisted of teaching a number of different courses at the Brooklyn Campus of Long Island University. And, although that community service was completed four years ago, he has continued to teach each fall and spring semester for which the only compensation is the gratification of helping young, primarily minority, students improve their lives.

Ed is a devoted family man, has two children and four grandchildren and is deeply remorseful for the blight he has cast upon himself and those he loves. Ed has had time to seriously reflect on his past. I believe that his request for a pardon is heartfelt and deserving of serious consideration

Sincerely,

Tom Daschle
Democratic Leader

TO COUNSEL
cc: LEG
AFFS
FOR
REPLY
①
1/2/01

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14TH DISTRICT, NEW YORK

2430 RAYBURN BUILDING
WASHINGTON, DC 20515-3214
(202) 225-7944

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Congress of the United States
House of Representatives
Washington, DC 20515-3214

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(212) 860-0608

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ASTORIA, NY 11102
(718) 922-1804

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CONGRESSWOMAN CAROLYN B. MALONEY

DATE: _____

TO: Bruce Lindsay

FAX NUMBER: _____

FROM: Cong Carolyn Maloney

PHONE NUMBER: (212) 860-0606 FAX NUMBER: (212) 860-0704

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CAROLYN B. MALONEY
15TH DISTRICT, NEW YORK

2430 KAYBURN BUILDING
WASHINGTON, DC 20515-3214
(202) 226-7944

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DISTRICT OFFICES:
 1651 THIRD AVENUE
SUITE 311
NEW YORK, NY 10128
(212) 860-0808
 28-11 ASTORIA BOULEVARD
ASTORIA, NY 11102
(718) 932-1804

Congress of the United States

House of Representatives

Washington, DC 20515-3214

December 22, 2000

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President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

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Carolyn B. Maloney
CAROLYN B. MALONEY

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Member of Congress