

SEC Report, continued from page 3

successor, Performance Nutrition, Inc. (PNI). The Commission's complaint alleged that Lewellyn, along with Charles Bazarian (Bazarian) and others, promoted the common stock of Omnet, and, later, PNI, through Royal American Management, Inc., and that Bazarian and certain other persons subsequently offered and sold the common stock of Omnet and PNI based on the promotional activities of Lewellyn and others. [SEC v. Royal American Management, Inc., et al., CIV-94:1619-T, USDC, WD/OK] (LR-15147)

Shaner & Co., Inc. and Mark Shaner Enjoined

The Commission announced that on Oct. 21 it filed an action in federal district court against Shaner & Company, Inc., a registered broker-dealer, and Mark Shaner, its President, for violating and aiding and abetting violations of the anti-fraud provisions of the federal securities laws. The complaint alleges that from at least Dec. 1994 to Oct. 1995, in the offer and sale of limited partnership units in the Shaner Fund, L.P., Shaner, through Shaner & Co., misrepresented and omitted to state material facts to investors, concerning the intended use of investor proceeds and the risks of investing. The complaint seeks an order of permanent injunction, disgorgement including prejudgment interest and civil penalties. Simultaneous with filing the complaint, Shaner and Shaner & Co. consented, without admitting or denying the allegations in the complaint, to the entry of an order of permanent injunction, disgorgement of \$621,804 plus prejudgment interest of \$34,581 and an order which does not impose civil penalties based on their financial inability to pay. On Oct. 28, the Court permanently enjoined Shaner and Shaner & Co. from violating, and aiding and abetting violations of the above-mentioned provisions and ordered them to pay the agreed amount of disgorgement and prejudgment interest. [SEC v. Mark S. Shaner and Shaner & Co., Inc., SD/IA, No. 4-96-CV-70767] (LR-15149)

Temporary Restraining Order Entered Against Consumer Plus, L.C., Palmer Research and Development and David Palmer

On Nov. 4, a complaint was filed in the United States District Court for the District of Utah seeking a temporary restraining order, an asset freeze and other relief against Consumer Plus, L.C., Palmer Research and Development and David R. Palmer.

The complaint alleges the defendants are

violating Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The Commission alleges that Palmer and Palmer Research have been soliciting investments in the form of unregistered interests in Consumer Plus and that these interests are securities. It is further alleged that Palmer and Palmer Research misrepresented, among other things: the aggregate dollar value of the securities being offered, the return on investment which could be expected; and the success of Consumer Plus' business operations. In addition, the complaint alleges that Palmer has been misappropriating a significant portion of the funds invested in Consumer Plus to pay personal expenses.

On Nov. 5, the Honorable J. Thomas Greene, United States District Judge, issued a temporary restraining order, asset freeze and other relief. Judge Greene also scheduled a Nov. 15, 1996, hearing on the Commission's application for a preliminary injunction. [SEC v. Consumer Plus, L.C., Palmer Research and Development and David R. Palmer, Civil Action No. 2:96CV-0930G, USDC, D. Utah] (LR-15150)

Frederick Moran and Firms Enjoined and Ordered to Pay Penalties

On Nov. 1, Judge Bernard Newman enjoined defendants Frederick A. Moran and Moran Asset Management, Inc. from violating Sections 204, 206(2) and 207 of the Advisers Act and Advisers Act Rule 204-1(b)(1). Judge Newman also enjoined Moran and Moran & Associates, Inc. Securities Brokerage from violating Section 15(b) of the Exchange Act and Rule 15b3-1 thereunder. Judge Newman incorporated his previous findings that Moran violated Section 206(2) of the Advisers Act by placing his personal interest ahead of the interest of clients, when he allocated shares of Liberty Media Communications purchased in advance of the announcement of the Bell Atlantic/TCI/Liberty merger to his personal and family accounts while allocating shares of those securities purchased at higher prices to his clients. The Court also found that Moran violated the other listed provisions of the securities laws by failing to disclose that two sons were directors of Moran Asset Management and Moran & Associates. The Judge specifically rejected Moran's claim that he was the victim of a government "vendetta." The Court ordered Moran to disgorge \$9,551.17 plus prejudgment interest and ordered the three defendants to pay civil money penalties totaling

\$100,000. [SEC v. Frederick Augustus Moran, et al., 95 Civ. 4472, BN, SDNY] (LR-15151)

Investment Company Act Releases Federated Investors, et al.

A notice has been issued giving interested persons until Nov. 29 to request a hearing on an application filed by Federated Investors, et al. for an order pursuant to Section 6(c) of the Investment Company Act exempting applicants from Sections 12(d)(1)(A)(ii) and (iii) of the Act, under Sections 6(c) and 17(b). The order would provide exemptions that would grant an exemption from Section 17(a), and under Rule 17d-1 to permit certain transactions in accordance with Section 17(d) and Rule 17d-1. The order would also permit certain investment companies to purchase shares of affiliated investment companies that are money market funds for cash management purposes. (Rel. IC-22313 - Nov. 4)

Holding Company Act Releases GPU International, Inc., et al.

A supplemental order has been issued authorizing a proposal by GPU International, Inc. (GPU) and NCP Energy, Inc. (NCP), each a non-utility subsidiary of General Public Utilities Corporation, a registered holding company, to authorize NCP to transfer by dividend its interest in the Pasco Cogeneration Project to GPU, at any time and from time to time on or before Dec. 31, 1996. (Rel. 35-26599)

MONTHLY AIR TRAVEL CONSUMER REPORT ISSUED

From U.S. Dept. of Transportation

■ (WASHINGTON) The Department of Transportation this week issued its monthly Air Travel Consumer Report, which contains information about airline on-time arrivals, mishandled baggage and consumer complaints for September 1996.

The 10 largest U.S. carriers posted a 78.7 percent on-time record in September, better than August's 74.7 percent mark but not as good as September 1995's 85.6 percent record. The airlines reported a mishandled baggage rate of 4.51 complaints per 1,000 passengers in September, better than August's 5.13 rate but not as good as September 1995's 4.11 rate.

Consumers registered 565 complaints about airline service with the department in September, a 16 percent decrease from the 672 complaints received in August but 26 percent more than the 449 tallied in September 1995.