

The Prospect News
Special Situations
Daily

Tuesday May 27, 2008

Special Situations Calendar

MAY 29

• 10 a.m. ET: Bear Stearns Cos. Inc.: special meeting of stockholders to vote on merger with JPMorgan Chase & Co.

MAY 30

• 5 p.m. ET: Iomega Corp.: tender for shares by EMC Corp. ends

JUNE 5

• Trane Inc.: special meeting of stockholders to vote on acquisition by Ingersoll-Rand Co., Ltd.

JUNE 9

• 5 p.m. ET: Tracinda Corp.: tender offer for Ford Motor Co. ends
• Midnight ET: Loews Corp.: tender offer for exchange of shares ends

JUNE 10

• 11 a.m. ET: GMH Communities Trust: special meeting of shareholders to vote on merger with American Campus Communities, Inc.

JUNE 11

• 11 a.m. ET: Maxim Crane Works Holdings, Inc.: special meeting to vote on merger with Platinum Equity Partners II, LP affiliates

JUNE 16

• 10 a.m. ET: Elron Electronics Industries Ltd.: tender offer for Given Imaging Ltd. ends
• 11:59 p.m. ET: Electronic Arts Inc.: tender offer for Take-Two Interactive Software, Inc. ends

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Prospect News

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Opposing camps weigh in on NRG's all-stock bid for Calpine

By Paul A. Harris

St. Louis, May 26 – Shares of San Jose, Calif., independent power producer **Calpine Corp.** (NYSE: CPN) closed the Friday session unchanged at \$23.00 as two sides emerged in a dispute as to whether **NRG Energy Inc.**'s offer for the company represents a fair value.

On May 14 NRG proposed to acquire Calpine in an all-stock deal which would see NRG paying 0.534 of a share of its stock in exchange for one share of Calpine.

Based on Friday's \$40 closing price for NRG (NYSE: NRG) the bid would represent a cash equivalent of \$21.36 per share.

The most visible of the proponents is Calpine's biggest shareholder, Harbinger Capital Partners, which, in a Wednesday letter to the Calpine board, disclosed that Harbinger has stake in Calpine of between

24% and 25%.

On Thursday opposition to the deal surfaced in the form of a blog titled "NRG's Attempt to Steal Calpine," posted by Kinnaras Capital Management, a hedge fund that is long Calpine.

A serviceable number

In its publicly disclosed letter, Harbinger said of the NRG bid: "We believe this offer represents a good starting point."

However Kinnaras, in its Thursday blog, hazards a guess that Harbinger's finish line could be just about anywhere north of \$23.88 per share.

That is the exercise price of Calpine warrants which Harbinger holds, and which are set to expire on Aug. 25 of this year.

Harbinger disclosed its ownership of

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Riley Investment to nominate two directors to Zilog's board

By Jennifer Chiou

New York, May 23 – Riley Investment Management LLC notified **Zilog, Inc.** of its intent to nominate two individuals as directors when Zilog's nominating window opens on June 8, according to a letter included in a schedule 13D filing with the Securities and Exchange Commission.

On Feb. 6, Riley said it was disappointed that Zilog rejected Universal Electronics Inc.'s bid to acquire the

company in a deal that Riley, a 6.8% shareholder, would finance.

Zilog turned down Universal Electronics' unsolicited Jan. 18 offer of \$4.50 cash per share.

Riley, in a previous letter to Zilog, noted that Universal Electronics' offer would value Zilog at 8 times EV/EBITDA and 45 times earnings per share.

In its most recent letter, Riley expressed "its deep concern over the strate-

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The Prospect News Special Situations Daily will not be published on May 26 because of the Memorial Day holiday.

Special Situations Calendar

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- 9 a.m. ET: Getty Images Inc.: shareholder meeting to vote on acquisition by Hellman & Friedman LLC

SECOND QUARTER 2008

- Alliance Data Systems Corp.: acquisition by Blackstone Group
Announced: May 17, 2007

Expected closing: Second quarter of 2008

- Ansoft Corp.: acquisition by Ansys, Inc.

Announced: March 31

Expected closing: Second quarter of 2008

- ASE Test Ltd.: acquisition by Advanced Semiconductor Engineering, Inc.

Announced: Sept. 4, 2007

Expected closing: Second quarter of 2008

- Bear Stearns Cos., Inc.: acquisition by JPMorgan Chase & Co.

Announced: March 16

Expected closing: Second quarter of 2008

- BCE Inc.: acquisition by Ontario Teachers' Pension Plan Board, affiliates of Providence Equity Partners Inc., Madison Dearborn Partners, LLP and others

Announced: June 30, 2007

Expected closing: Second quarter of 2008

- BOE Financial Services of Virginia, Inc.: acquisition by Community Bankers Acquisition Corp.

Announced: Dec. 14

Expected closing: Second quarter of 2008

- CHC Helicopter Corp.: acquisition by First Reserve Corp.

Announced: Feb. 22

Expected closing: Second quarter of 2008

- Claxson Interactive Group Inc.: acquisition by subsidiary/controlling shareholders

Announced: April 2

Expected closing: Second quarter of 2008

- CollaGenex Pharmaceuticals, Inc.: acquisition by Galderma Pharma SA

Announced: Feb. 26

Expected closing: Second quarter of 2008

- CryoCor, Inc.: acquisition by Boston Scientific Corp.

Announced: April 16

Expected closing: Second quarter of 2008

- Cytogen Corp.: acquisition by EUSA Pharma Inc.

Announced: March 10

Expected closing: Second quarter of 2008

- Draxis Health Inc.: acquisition by Jubilant Organosys, Ltd.

Announced: April 4

Expected closing: Second quarter of 2008

- Encysive Pharmaceuticals Inc.: acquisition by Pfizer Inc.

Announced: Feb. 20

Expected closing: Second quarter of 2008

- GB&T Bancshares, Inc.: SunTrust Banks, Inc.

Announced: Nov. 2

Expected closing: Second quarter of 2008

- Getty Images Inc.: acquisition by Hellman & Friedman LLC

Announced: Feb. 25

Expected closing: Second quarter of 2008

- Gibraltar Packaging Group, Inc.: acquisition by Rosmar Packaging Group, Inc.

Announced: March 14

Expected closing: Second quarter of 2008

- GMH Communities Trust, military housing division: acquisition by Balfour Beatty plc

Announced: Feb. 12

Expected closing: Second quarter of 2008

- GMH Communities Trust: American Campus Communities, Inc.

Announced: Feb. 12

Expected closing: Second quarter of 2008

- IBT Bancorp, Inc.: acquisition by S&T Bancorp, Inc.

Announced: Dec. 17

Expected closing: Second quarter of 2008

- Lifecore Biomedical, Inc.: acquisition by Warburg Pincus

Announced: Jan. 15

Expected closing: Second quarter of 2008

- Maxim Crane Works Holding, Inc.: acquisition by Platinum Equity Capital Partners II, LP

Announced: May 5

Expected closing: By June 30

- Merisel, Inc.: acquisition by American Capital Strategies, Ltd.

Announced: April 4

Expected closing: Second quarter of 2008

- MFB Corp.: acquisition by MutualFirst Financial, Inc.

Announced: Jan. 8

Expected closing: Second quarter of 2008

- Moldflow Corp.: acquisition by Autodesk, Inc.

Announced: May 1

Expected closing: Second quarter of 2008

- Navteq Corp.: acquisition by Nokia Corp.

Announced: Oct. 1, 2007

Expected closing: Second quarter of 2008

- Nuclear Solutions, Inc.: acquisition by Inter-Americas, Inc.

Announced: Jan. 18

Expected closing: Second quarter of 2008

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Special Situations Calendar

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- NuCO2 Inc.: acquisition by Aurora Capital Group
Announced: Jan. 30
Expected closing: Second quarter of 2008
 - Packeteer, Inc.: acquisition by Blue Coat Systems, Inc.
Announced: April 21
Expected closing: Second quarter of 2008
 - Performance Food Group Co.: acquisition by Vistar Corp.
Announced: Jan. 18
Expected closing: Second quarter of 2008
 - Restoration Hardware, Inc.: acquisition by Catterton Partners affiliate
Announced: Nov. 8
Expected closing: Second quarter of 2008
 - Shore Financial Corp.: acquisition by Hampton Roads Bankshares, Inc.
Announced: Jan. 9
Expected closing: By June 2
 - Sirius Satellite Radio Inc. and XM Satellite Radio Holdings Inc. merger
Announced: Feb. 20, 2007
 - Sirtris Pharmaceuticals Inc.: acquisition by GlaxoSmithKline
Announced: April 22
Expected closing: Second quarter of 2008
- FIRST HALF 2008**
- Activision Inc.: acquisition by Vivendi
Announced: Dec. 2
Expected closing: First half of 2008
 - Dominion Homes, Inc.: acquisition by Angelo Gordon & Co., LP, Silver Point Capital, LP, BRC Properties, Inc.
Announced: Jan. 18
Expected closing: First half of 2008
 - ESS Technology Inc.: acquisition by Imperium Partners Group, LLC
Announced: Feb. 22
Expected closing: Mid-2008
 - Manatron, Inc.: acquisition by Thoma Cressey Brava
Announced: Jan. 15
Expected closing: By April 30
 - Mobile Storage Group, Inc.: acquisition by Mobile Mini, Inc.
Announced: Feb. 22
Expected closing: June 2008
 - MTC Technologies, Inc.: acquisition by BAE Systems Inc.
Announced: Dec. 24
Expected closing: First half of 2008
 - NetManage, Inc.: acquisition by Micro Focus International plc
Announced: May 1
Expected closing: June 2008
 - Rural Cellular Corp.: acquisition by Verizon Wireless
Announced: July 30, 2007
Expected closing: First half of 2008
 - SunCom Wireless Holdings, Inc.: acquisition by T-Mobile USA, Inc.
Announced: Sept. 17, 2007
Expected closing: First half of 2008
 - Trane Inc.: acquisition by Ingersoll-Rand Co.
Announced: Dec. 17
Expected closing: Second quarter of 2008
 - Whidbey Island Bank: acquisition by Frontier Financial Corp.
Announced: Sept. 26, 2007
Expected closing: Second quarter of 2008
- THIRD QUARTER 2008**
- Allscripts Healthcare Solutions Inc.: acquisition by Misys Healthcare LLC
Announced: March 18
Expected closing: In four to six months
 - Atari, Inc.: acquisition by Infogrames Entertainment SA
Announced: April 30
Expected closing: Third quarter of 2008
 - Basic Energy Services, Inc.: acquisition by Grey Wolf, Inc.
Announced: April 21
Expected closing: Third quarter of 2008
 - Bentley Pharmaceuticals, Inc.: acquisition by Teva Pharmaceutical Industries Ltd.
Announced: March 31
Expected closing: Third quarter of 2008
 - Bois d'Arc Energy, Inc.: acquisition by Stone Energy Corp.
Announced: April 30
Expected closing: Third quarter of 2008
 - Clayton Holdings, Inc.: acquisition by Greenfield Partners, LLC affiliate
Announced: April 14
Expected closing: Third quarter of 2008
 - CNET Networks, Inc.: acquisition by CBS Corp.
Announced: May 15
Expected closing: Third quarter of 2008
 - Countrywide Financial Corp.: acquisition by Bank of America Corp.
Announced: Jan. 11
Expected closing: Third quarter of 2008
 - DirecTV, Inc.: acquisition by 180 Connect Inc.
Announced: April 18
Expected closing: Third quarter of 2008
 - EP MedSystems, Inc.: acquisition by St. Jude Medical, Inc.
Announced: April 9
Expected closing: Third quarter of 2008
 - FTD Group, Inc.: acquisition by United Online, Inc.
Announced: April 30
Expected closing: Third quarter of 2008
 - Greater Community Bancorp: acquisition by Valley National Bancorp

ASE Test gets court OK to go private May 30

By Jennifer Chiou

New York, May 23 – **Advanced Semiconductor Engineering, Inc.** announced that the High Court of Singapore has sanctioned the company's proposal to take its majority owned subsidiary, **ASE Test Ltd.**, private on May 30.

As already announced, ASE Test shareholders approved the deal on May 6.

In September, Advanced Semiconductor Engineering

announced it would take ASE Test private for some \$784 million.

As previously reported, the all-cash acquisition consideration consists of \$14.78 for each ASE Test ordinary share listed on Nasdaq and the New Taiwan dollar equivalent of \$0.185 for each ASE Test Taiwan Depositary Share.

Kaohsiung, Taiwan-based Advanced Semiconductor Engineering and ASE Test are independent providers of integrated circuit packaging and testing services.

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those warrants in a Form 3 filed with the Securities and Exchange Commission on Feb. 11, 2008, less than two weeks after Calpine emerged from Chapter 11 bankruptcy.

In its Wednesday letter to the Calpine board Harbinger expressed its belief that it is the largest holder of those warrants.

Meanwhile Kinnaras believes that a fairer price for Calpine stock would be in the mid-\$30s.

Fiduciary duty

Near the close of its Wednesday letter Harbinger stated "we believe the board, in the exercise of its fiduciary duties, must now make the full terms of the offer public so that all shareholders can express their opinions to the board."

In its Thursday blog, meanwhile, Kinnaras asserted that Calpine's board "made a serious mistake" by squelching news of the offer for a week.

"...The board should have immediately notified shareholders when the offer was made on May 14, rather than be upstaged by Harbinger," Kinnaras asserted.

Upstaged or not, one special situations equities analyst told Prospect News on Friday that on May 13 Calpine shares closed at \$19.81. Then on May 14 they closed \$0.59 higher at \$20.40 per share. The following day they closed at \$20.74.

And on May 16 – five days prior to

the Harbinger letter – the shares were up to \$21.33.

"You gotta think some people knew about this offer," the analyst said, adding that more recent trading in the stock could be pointing to the expectation that NRG will ultimately sweeten the deal.

Price tag

Harbinger stated in its letter to the Calpine board that it had "yet to identify anything objectionable about the [NRG stock-for-stock] offer that cannot be resolved through negotiation.

"We note that the current trading price of Calpine before the premium to be paid by NRG is itself already more than 20% greater than the value that many board members supported only last fall as the value of the common stock in the bankruptcy proceedings.

"Clearly, more than anyone else, the board members who several months ago believed Calpine's stock was worth \$17.36 a share are in a position to appreciate the value creation for Calpine shareholders that the NRG offer represents."

Kinnaras, however, disagrees.

Among its assertions: the weighted average age of the Calpine's power plants is under 10 years, while some of NRG's plants are over 35 years old, and Calpine, whose power generation is mostly produced with natural gas, is better suited to operate

on an environmental landscape that would tax greenhouse emissions.

Kinnaras concludes that independent power producers with high debt loads such as **Dynegy Inc.** and **Mirant Corp.** trade for 17- to 18-times EV/EBITDA, which is where Calpine currently stands based on its last 12 months adjusted EBITDA.

"However, Calpine is poised to increase EBITDA by 25% if not more.

"Assuming shareholders hold out for the next 12 months, shares in Calpine could be valued at \$35 per share."

Elsewhere in the independent power producer space shares of Dynegy (NYSE: DYN) closed 2.59% lower, down \$0.25, at \$9.39.

Shares of Mirant (NYSE: MIR) ended 2.05% lower at \$40.69, having given up \$0.85 on the day.

NRG's closing price of \$40 per share represented a 0.87%, or \$0.35, decline on the day.

The pre-Memorial Day Friday found the major U.S. exchanges in retreat.

The S&P 500 fell by 1.32%, or 18.42 points, to close at 1,375.93.

The Dow Jones Industrial Average closed 1.16%, or 145.99 points, lower, ending at 12,479.63.

The Nasdaq ended 0.81% lower, down 19.91 points, to close at 2,444.67.

Silicon Storage agrees to have Riley as board nominee

By Jennifer Chiou

New York, May 23 – Riley Investment Partners Master Fund, LP entered into an agreement with **Silicon Storage Technology, Inc.**, under which Silicon is obligated to include Bryant Riley in its board's slate of nominees for election as a director at its 2008 annual meeting, according to a letter included in a schedule 13D filing with the Securities and Exchange Commission.

Bryant Riley has a 5.6% stake in the company.

In addition, Silicon Storage must also use its reasonable best efforts to cause Riley's election at the meeting.

According to the filing, if and when elected, Riley will be appointed to the compensation committee and nominating corporate governance committee of the board.

Under the agreement, the committee will use its reasonable best efforts to appoint one additional member to the board as promptly as practicable, who will be unanimously approved by the committee.

In addition, Riley Investment agreed to withdraw its nomination letter for the 2008 annual meeting.

On April 10, Riley nominated Bryant Riley, Eric Singer, Melvin Keating and Bob D'Agostino for election to the board of directors of Silicon Storage at the company's 2008 annual meeting.

Riley Investment Partners previously said that the goal of its nominees is to maximize the potential of Silicon Storage's assets "while generating consistent superior financial returns for shareholders and fostering a positive environment for employees."

In January, Riley Investment Partners said it looked forward to reviewing the company's delinquent financial reports that were to be filed by Jan. 15.

The investor hinted in September 2007 that it may nominate directors to Silicon Storage's board if the company did not share its sense of urgency regarding the company's undervalued shares.

At that time, the reporting persons owned about 5 million shares, or 4.9%, of the company's outstanding stock, a prior SEC filing said.

Silicon Storage, based in Sunnyvale, Calif., provides flash memory semiconductor devices for the digital consumer, networking, wireless communications and internet computing markets.

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gic direction of Zilog and urged the board of directors to move swiftly to maximize shareholder value through a sale of the company."

In the filing, Riley noted that over the past six months, two credible offers have been made for Zilog, stating that the company's shares were trading 60% lower than current levels when the first offer was made.

As previously reported, Riley said that the company's performance has been disappointing and noted that nearly 50% of Zilog's revenue is generated from "legacy products that have an uncertain outlook" including "a universal remote business that has significant customer concentration, a situation where flash growth has slowed to

a crawl."

The investor also previously cited the more than \$80 million in GAAP net losses generated for shareholders since Zilog emerged from bankruptcy.

In addition, Riley already noted in a previous filing that Zilog's sales have declined five out of six years with "the one year of 4% revenue growth expected to be followed by a year of over 17% revenue decline."

Riley also previously questioned the board members' rationale in granting themselves raises and boosting meeting fees by 50% after the first four meetings of the year.

"To put Zilog's board fees in perspective, if just the fees paid to the board

members were eliminated (not all other expenses associated with the board) it would add \$0.02 per share to earnings, which is worth \$0.90 per share in the stock price at the Universal Electronics' valuation and apparently even more per share at your valuation," Riley's prior letter said.

Cutting board fees in half would add more than \$0.45 per share in stock value, according to the investor.

Zilog previously announced it was considering alternatives with the assistance of LRG Capital Corporate Advisory Group, LLC.

Based in San Jose, Calif., Zilog is a supplier of eight-, 16- and 32-bit microcontroller and microprocessor system-on-a-chip products.

Clear Channel banks provide debt financing; funds put in escrow

By Sara Rosenberg

New York, May 23 – **Clear Channel Communications Inc.**'s bank syndicate has fully funded the debt needed for the buyout of the company and those funds have been secured in an escrow account, as was agreed upon when a settlement between the parties was recently reached, according to a news release.

Citigroup, Deutsche Bank, Morgan Stanley, Credit Suisse, RBS and Wachovia are the lead banks on the debt financing.

As a result of the debt funding, the bank syndicate was dismissed from lawsuits in Texas and New York, and the banks, in turn, are dismissing their appeals. In addition, the banking group and sponsors have agreed that Clear Channel can specifically enforce all contracts related to the buyout

against any party.

The equity financing for the transaction is required to be put into escrow by May 28 by the private equity sponsors and certain shareholders investing in the merged company.

"Today's actions significantly increase the certainty that our merger will close," said Mark Mays, chief executive officer of Clear Channel, in the late Thursday night news release. "Cash on the barrelhead for one of the largest LBOs in history is an enormous win for our shareholders."

Clear Channel is being purchased by Bain Capital Partners LLC and Thomas H. Lee Partners LP for \$36.00 in cash or stock per share, in a transaction valued at about \$17.9 billion. This buyout agreement was recently revised to lower the purchase price

from \$39.20 per share.

The decrease in the offer price came about because of the settlement agreement among the company, the sponsors and the bank syndicate in connection with the lawsuits, under which Clear Channel accused the banks of refusing to execute necessary documents in an effort to cause the buyout to collapse.

The transaction is expected to close by the end of the third quarter, subject to shareholder approval.

Details on the debt financing for the amended acquisition agreement have not yet come out.

Clear Channel is a San Antonio media and entertainment company specializing in "gone from home" entertainment and information services.

QVT nominates Adkins, Emmanuel to Top Ships board

By Devika Patel

Knoxville, Tenn., May 23 – **Top Ships Inc.** investors QVT Financial LP has nominated Philip Jeffrey Adkins and Constantinos Emmanuel to the company's board, according to an SC 13D filing with the Securities and Exchange Commission Friday.

QVT nominated the directors after it "made a request to a representative of [Top Ships] for independent shareholder representation on the board" but received no response.

The fund, which owns 2.90 million shares or 10.35% of Top Ships' common stock, was distressed by the company's recent decisions.

If Adkins and Emmanuel are elected to the board, QVT said, they will "seek to put an end to [Top Ships'] continuing

succession of transactions that suffer from serious conflicts of interest between the [Top Ships] and its management, or between [Top Ships] and third parties that have material outside business dealings and relationships with [Top Ships'] management."

The filing states that Adkins and Emmanuel will "seek to ensure that all transactions entered into by [Top Ships] are in the best interest of [Top Ships] and all of its shareholders."

Adkins is the chief executive officer of Fairstar Heavy Transport NV, an ocean transportation services company based in the Netherlands. Adkins earned his bachelor's degree in East Asian Studies at Columbia University. Since 2006, Adkins has served on the board of directors of Convexa Yerevan Invest AS. In addition,

from 2004 to 2006 Adkins served on the board of directors and as a member of the finance committee of TORP Technology AS.

Emmanuel is a partner, deputy managing partner and alternate managing partner in the Theo V. Sioufas Law Offices in Piraeus, Greece. Emmanuel is a director of a number of companies controlled by clients of the law firm and is the chairman of Stegi Agapis O Evangelistis Ioannis, a charity association in Greece. Emmanuel earned a bachelor of laws at the University of Athens Law School.

Maroussi, Greece-based Top Ships is a provider of international seaborne transportation services carrying refined petroleum products and crude oil.

Special Situations News

Lewis Dickey Sr. reports 5.1% stake in Cumulus Media

By Angela McDaniels

Tacoma, Wash., May 23 – **Cumulus Media Inc.** investor Lewis W. Dickey Sr. purchased 1,035,000 shares of the company's class A common stock between May 13 and May 22.

The shares were priced from \$4.48 to \$5.01 each, according to a schedule 13D filing with the Securities and Exchange Commission.

The investor beneficially owns 1,919,000 shares, or 5.1%, of the company's class A common stock.

On May 12, the company announced it agreed to terminate its \$11.75-per-share July 23, 2007 merger agreement with an investor group led by company chairman Lewis W. Dickey Jr.

The investor group was not able to come to terms to move forward with the \$1.3 billion deal, according to a company news release.

Cumulus Media operates 344 radio stations in the United States. The company is based in Atlanta.

Crescendo Partners buys 6.16 million Cott shares

By Angela McDaniels

Tacoma, Wash., May 23 – **Cott Corp.** investors led by Crescendo Partners II, LP, Series I purchased 6,159,600 shares of the company's stock for \$2.44 to \$3.59 each.

The investors also sold 37,000 shares for \$2.61 to \$3.17 each.

The transactions took place between March 27 and May 20,

according to schedule 13D filing with the Securities and Exchange Commission.

Following the purchases and sales, the reporting persons beneficially own 6,224,566 shares, or 8.7%, of the company's stock.

Cott is a Toronto-based non-alcoholic beverage company and retail brand soft drink company.

Stilwell demands removal of John Judge from William Penn board

By Jennifer Chiou

New York, May 23 – Stilwell Value Partners VI, LP voluntarily discontinued its lawsuit against **William Penn Bancorp, Inc.** after determining that it would be more effective and appropriate to pursue William Penn's directors on a personal basis, according to a schedule 13D filed with the Securities and Exchange Commission.

In the filing, Stilwell demanded the removal of 87-year-old John Judge from William Penn's board due to disabling illness,

which allegedly may have progressed to senile dementia.

Stilwell also demanded that the board take action to stop the directors from seeking to control the vote on the plans, and that each director personally reimburse Prudential Bancorp, Inc. of Pennsylvania for defending the lawsuit.

According to the filing, Stilwell reported a 5.7% stake in the Arlington, Va.-based financial services company.

Axcelis refuses to accept resignations of three directors

New York, May 23 – **Axcelis Technologies, Inc.** said its board has decided not to accept the resignations of three directors who were re-elected on May 1.

Each of the three – Stephen R. Hardis, R. John Fletcher and H. Brian Thompson – received less than a majority of votes and as a result was required to offer to resign by Axcelis' corporate governance policies.

Two separate issues led a majority of the shareholders to withhold authority from the election of the three directors –

the failure of the board to recommend in favor of the declassification proposal and the desire of some shareholders for the company to engage in discussions with Sumitomo Heavy Industries.

But Axcelis' board noted that the three directors are experienced and knowledgeable about the company and said that if their resignations were accepted the board would be left with only four remaining directors. One or more of the three directors serves on each of the key committees of the company and Hardis serves as lead director. The board said it believed

that losing this experience and knowledge would harm Axcelis.

The board also expressed its intention to be responsive to the shareholder concerns that gave rise to the withhold votes.

The board added that it is seeking to engage in confidential discussions with Sumitomo and, prior to next year's annual meeting, will consider recommending in favor of a declassification proposal at that meeting.

Axcelis is a Beverly, Mass., maker of semiconductor manufacturing equipment.

UBS reports 42.54% stake in Dune Energy

By Angela McDaniels

Tacoma, Wash., May 23 – **Dune Energy, Inc.** investor UBS AG sold 28,912 shares of the company's stock for \$1.72 to \$1.77 each between March 24 and March 31.

The investor also purchased 38,958 shares between March 24 and May 23. The shares were priced from \$1.07 to \$1.95 each, according to a schedule 13D filing with the Securities and Exchange Commission.

UBS beneficially owns 58,890,227.88 shares, or 42.54%, of Dune Energy's stock. The figure includes common shares underlying shares of 10% senior redeemable convertible preferred stock

held by the investor.

When taking into account the common shares underlying all the outstanding preferreds, UBS' stake in the company is 22.32%.

According to the filing, Dune Energy met with UBS in March to discuss the possible voluntary conversion of the preferreds held by UBS in order to simplify the company's capital structure. It also discussed the possibility of UBS having a representative on Dune Energy's board of directors.

UBS said it has continued to discuss the voluntary conversion of the preferreds with the Houston-based oil and gas exploration company.

Huff increases ownership of FX Real Estate to 13.6%

By Angela McDaniels

Tacoma, Wash., May 23 – **FX Real Estate and Entertainment, Inc.** investor William R. Huff purchased 62,730 shares of the company's stock for \$4.81 to \$6.33 each.

The purchases were made on the open market between March 13 and May 2, according to a schedule 13D filing with the Securities and Exchange Commission.

Huff also purchased 1.15 million shares for \$10.00 each in a rights offering on April 1. Under the rights offering, shareholders

could buy one share for every two shares held as of March 6.

In addition, Huff agreed to backstop the rights offering, and he bought 2,659,556 shares for \$10.00 each on May 13 under that agreement.

The investor beneficially owns 6,739,542 shares, or 13.6%, of the company's stock.

FX Real Estate and Entertainment is based in New York and is focused on the development of real estate and entertainment-based projects and attractions.

CBS tenders for all outstanding shares of CNET Networks

By Susanna Moon

Chicago, May 23 – **CBS Corp.** said it began its tender offer for all outstanding shares of common stock of **CNET Networks, Inc.** (Nasdaq: CNET) for \$11.50 per share, net to the seller in cash, without interest.

The offer is scheduled to expire at midnight ET on June 20.

The tender offer is being made under the company's May 23 purchase offer and its agreement and plan of merger, dated May 15, by and among CBS, Ten Acquisition Corp., a wholly-owned subsidiary of CBS, and CNET Networks.

The tender offer and merger are subject to shareholder approval and other conditions, including the acquisition by CBS of more than 50% of CNET Networks' issued and outstanding shares on a fully diluted basis in the tender offer.

CBS said on May 15 that it would acquire CNET Networks, Inc. via an \$11.50-per-share cash tender offer in a deal valued at some \$1.8 billion.

CNET's board of directors unanimously approved the merger agreement and recommends its stockholders tender their shares,

according to a CBS news release.

A \$35 million termination fee is included in the agreement, it was reported in a form 8-K filing with the Securities and Exchange Commission.

The transaction is expected to be completed in the third quarter of 2008.

CBS said with the acquisition, it will become one of the 10 most popular internet companies in the United States with an estimated 200 million users worldwide.

"Together, CBS and CNET Networks will have significant additional exposure to the fastest-growing advertising sector and can accelerate our growth through a number of new content, promotion and advertising initiatives," CBS president and chief executive officer Leslie Moonves said in the release.

BNY Mellon Shareowner Services is the depository. Citigroup Global Markets Inc. and UBS Investment Bank are dealer managers. MacKenzie Partners, Inc. is the information agent.

San Francisco-based CNET is an interactive media company. CBS is a mass media company based in New York.

Stilwell pushes for John Judge to be removed from Prudential Bancorp board

By Jennifer Chiou

New York, May 23 – Stilwell Value Partners I, LP voluntarily discontinued its pending lawsuit against **Prudential Bancorp, Inc. of Pennsylvania** because it has determined that it would be more effective and appropriate to pursue Prudential's directors on a personal basis, according to a schedule 13D filed with the Securities and Exchange Commission.

With that, according to the filing, Stilwell is seeking the removal of John Judge from Prudential's board due to his alleged infirmity to hold the directors personally liable for costs incurred in defending the lawsuit and to stop the directors from attempting to self-adopt stock benefit plans against the wishes of the public shareholders.

According to the filing, Judge, who is at least 87 years old, allegedly suffers from very labile hypertension and may also allegedly be suffering from senile dementia likely caused by the hypertension.

On Feb. 11, Stilwell Value said that it wanted Joseph Stilwell to bring his "broad experience" and "fresh perspective" to the board of directors of Prudential Bancorp.

In a May 14 letter, Stilwell Value said it demanded that Prudential's board take corrective measures to require the directors to faithfully discharge their fiduciary duties and not seek to control the outcome of the vote to adopt stock benefit plans.

The investors claimed in the filing that holders of an average of 77% of the voting public shares of Prudential Bancorp withheld their votes in the election of directors at the company's 2008 annual meeting.

Not including shares held in Prudential Bancorp's Employee Stock Ownership Plan, holders of an average of 88% of the voting public shares withheld their votes, a previous filing stated.

As already reported, in December, Stilwell filed proxy materials for the solicitation of proxies to withhold votes on the election of Prudential Bancorp's directors at the 2008 annual meeting.

Almost one year ago in an SEC filing, Stilwell reported that holders of 75% of Prudential Bancorp's voting shares withheld from voting at the prior annual meeting.

At that time, the investors wanted the company to include public shareholders who own a "substantial number" of Prudential Bancorp shares to be on the board.

It was previously reported that Joseph Stilwell has attempted to become a member of Prudential Bancorp's board since 2005.

The investors beneficially own 1,113,100 shares, or 9.8%, of the company's outstanding stock.

Prudential Bancorp is a Philadelphia-based holding company for Prudential Savings Bank, which operates six full-service branches in the Philadelphia area.

Draxis shareholders approve merger with Jubilant; deal to close next week

By Jennifer Chiou

New York, May 23 – **Draxis Health Inc.** announced that its shareholders authorized the company's acquisition by a subsidiary of **Jubilant Organosys Ltd.** at its annual and special meeting that took place on Friday at 10 a.m. ET.

Draxis reported that 99% of the votes cast were in favor of the arrangement, meeting the 66.67% approval requirement. Of the total shares outstanding, 77% were voted either in person or by proxy at the meeting.

The record date for the meeting was April 24.

As already reported, the Jubilant subsidiary will acquire all of Draxis' common shares for \$6 each in the \$255 million deal.

Draxis previously said it obtained an interim order from the Quebec Superior Court in connection with the proposed statutory arrangement.

The transaction is subject to customary closing conditions,

including receipt of a final order from the Quebec Superior Court approving the plan of arrangement. The hearing for the final order is expected to take place on Tuesday, and Draxis said it expects the transaction to close shortly after that.

It was previously reported that Draxis will provide Jubilant with entry into the radiopharmaceutical business, an industry that Jubilant called "attractive, regulated, high-growth and high-margin."

A \$10.5 million break-up fee payable by Draxis to Jubilant is included in the agreement.

Jubilant, a Noida, India, integrated pharmaceutical company, said it plans to fund the acquisition through a combination of cash on hand and debt.

Toronto-based Draxis provides sterile products, non-sterile products and radiopharmaceuticals.

CKX board to consider revised sale price by 19X

By *Susanna Moon*

Chicago, May 23 – **CKX, Inc.** said a committee from its board of directors plans to hold a meeting on May 27 to consider 19X, Inc.'s revised offer price for the company.

On May 12, 19X lowered the price to \$12.00 per share and requested the deadline for closing the transaction be extended to Sept. 30.

The revisions were attributed to changes in the market for media companies and buyout transactions in general, a CKX news release said.

It was previously reported that CKX agreed to sell the company to 19X for \$13.75 per share.

19X's Robert F.X. Sillerman said 19X is committed to completing the acquisition on terms that "takes into account the seismic shift in the buyout world" since the company first entered into the transactions.

CKX said it would file revised proxy materials if the companies reach an agreement on the revised terms.

New York-based CKX owns and develops entertainment content.

19X is a private company owned and controlled by Sillerman and Simon R. Fuller, a CKX director and CEO of 19X subsidiary 19 Entertainment Ltd. London-based 19 Entertainment produces entertainment properties, including "American Idol."

SM&A directors re-elected at shareholders meeting

By *Susanna Moon*

Chicago, May 23 – **SM&A** said its nine current directors were re-elected at the company's annual shareholders meeting on Friday.

Directors re-elected were Dwight L. Hanger, chairman; Cathy L. McCarthy, president and chief executive officer; Peter Pace, general, United States Marine Corps (retired), president and CEO of SM&A Strategic Advisors, Inc.; William C. Bowes; J. Christopher Lewis; Dr. Joseph B. Reagan; Robert Rodin; John P. Stenbit; and Robert J. Untracht.

On May 22, the company's president and chief executive Cathy McCarthy and the company's founder, retired chairman and chief executive officer, Steven Myers, announced that they had reached an agreement to resolve the pending proxy contest for the benefit of all the company's stockholders, employees and clients.

Under terms of the agreement, SM&A has agreed to add two new independent board members from a pool of candidates to be recommended by major shareholders, including Myers, and

approved by the board.

They will replace two existing directors who will voluntarily resign, the company added.

Myers will vote his stock for SM&A's nine current directors at the company's annual meeting on Friday. He also agreed to a standstill agreement that expires in advance of the company's 2010 annual meeting.

"We met with each of our major stockholders over the past few weeks and we take their input seriously," McCarthy said in a news release.

"We are extremely gratified by the overwhelming support we received for the steps we have taken and are taking to enhance the future of the company. With this contest behind us, I look forward to an open dialogue with Steve and knowing he is available to share his insights and experience."

Based in Newport Beach, Calif., SM&A is a management consulting firm.

Convertibles and Distressed Debt Reviews

Rite Aid sweeps up; Ford loses again; Cheniere adds; Transocean dips as energy names ease

By Rebecca Melvin

New York, May 23 – **Rite Aid Corp.**'s new 8.5% convertibles moved up to 105 on day one of secondary market trading on Friday, boosted by a rebound in the underlying shares, which were oversold on Thursday, market players said.

The Rite Aid convertible settled at about 103 bid, 103.25 offered, as shares also trimmed gains.

Ford Motor Co.'s 4.25% bonds extended losses, the day after the No. 2 U.S. carmaker lowered its outlook, saying higher oil and commodity prices are sabotaging its efforts to restore profitability.

But **Cheniere Energy Inc.** bucked the energy sector trend, and moved up, with its 2.25% convertibles due 2012 edging back to the 60 mark as its underlying shares jumped 13%.

Energy names overall remained weaker, extending a trend of a couple of days, as investors considered whether prices may have moved too high, too fast in response to spiking oil prices.

Transocean Inc. was among those energy names that may have succumbed to profit taking, and **Peabody Coal Corp.** was lower on its second day in trade, but looking fairly resilient versus its stock.

Overall, volume was low ahead of the long Memorial Day weekend, and market players were unwilling to make too much of price moves that may not have been indicative of genuine sentiment.

"On days like this, it's hard to tell whether it's real because of the light volume. People might just be selling positions before they go away for the weekend," a New York-based sellside analyst said.

Vertis, American Color boosted by merger news; Primus bonds buoyed on successful exchange

By Stephanie N. Rotondo

Portland, Ore., May 23 – As the market prepared for an early close Friday, traders reported a decidedly weaker trading session in the distressed arena.

"It's obviously a holiday day," said one trader. "Retailers, everything is softer with the general market."

Bucking that trend was **Vertis Inc.** paper. The company announced that it had inked a merger agreement with **American Color Graphics**, whose bonds were also trading up on the day. Along with the merger agreement came a restructuring plan, in which virtually all of each company's debt would be exchanged for new debt, as well as new equity in the combined company.

Meanwhile, **Primus Telecommunications Group Inc.** announced it had exchanged over \$60 million in debt, a move aimed at extending maturities and – according to some market sources – life expectancy. The news of the

successful transaction boosted the company's bonds by at least 1 point during the session.

The bond market was scheduled to be closed Monday in observance of Memorial Day.

News that Vertis and American Color Graphics had come to terms on a merger deal sent Vertis' paper up as much as 2 points.

One trader saw Vertis' 9¾% notes due 2009 around 94, while another trader pegged the issue at 94 bid, 96 offered.

Several traders, however, said they did not see anything in American Color's 10% notes due 2010. But according to Trace, those bonds gained about 5 points to the 34 level.

The merger comes along with a restructuring plan aimed at improving the companies' balance sheets, as well expand their positioning in North America, Vertis and American Color said in their announcement.

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Hathor seeks institutions; Caza raises for exploration; Artificial Life looks to buy

By Kenneth Lim

Boston, May 23 – **Hathor Exploration Ltd.** is raising C\$12 million through a private placement of stock that the company says is more for strategic than operational purposes.

Meanwhile, **Caza Oil & Gas, Inc.** announced a £11.5 million stock placement that will help to fund its U.S. exploration programs.

Artificial Life Inc. said it raised \$4.75 million in a private stock placement to boost its balance sheet as it seeks out acquisition opportunities.

Hathor Exploration said it is selling C\$12 million worth of stock through a private placement on a bought-deal basis.

The company is selling 4 million common shares at C\$3 per share. Hathor common stock (TSX: HAT) closed at C\$3.15 on Friday, up by 3.28% or C\$0.10.

The deal is led by Cormark Securities Inc. and the syndicate includes Desjardins Securities Inc, Dundee Securities Corp. and PI Financial Corp. The underwriters have a greenshoe for an additional 1 million shares, or C\$3 million.

Proceeds will be for continued exploration and development of the company's mineral deposits and for general working capital purposes.

Hathor is a resource exploration company based in Vancouver, B.C.

Many parties had been approaching Hathor to invest in the company because of promising outcomes at its projects, Hathor president and chief executive Stephen Stanley told Prospect News.

"Obviously with the success we've had with our drill results, a lot of people have approached us," he said.

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