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USD News Print Media Coverage

December 2002

**USD Print Media Coverage
December 2002**

Office of the President/Board of Trustees

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TV/Radio Coverage

Office of the President
Board of Trustees

SAN DIEGO UNION-TRIBUNE

**SAN DIEGO, CA
WEDNESDAY 374,856
DEC 11 2002**



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INFORMATION SERVICES

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SAN DIEGO

**Manchester name
no stranger at USD**

4154
A residence hall and athletic field at the University of San Diego are being named in honor of developer Douglas Manchester, who has donated \$6 million to the institution.

A 242,000-square-foot residence hall, completed this fall and formerly called Tecolote Village, will be renamed the Douglas and Elizabeth Manchester Village. An adjacent athletic field will be named the Manchester Athletic Field.

Manchester, chairman of Manchester Resorts, has served on the USD board of trustees since 1978.

His contributions to the Linda Vista campus have also paid for the Manchester Executive Conference Center, Manchester Family

Child Development Center, and nursing scholarships at USD's Hahn School of Nursing and Health Science.

The most recent gift will also pay for athletic scholarships at USD.

USD has received several other large donations over the past few years, including a \$10 million gift from Donald and Darlene Shiley for the Donald P. Shiley Center for Science and Technology, \$25 million from Joan B. Kroc for the Joan B. Kroc Institute for Peace and Justice, and \$7 million from Sid and Jenny Craig for the Jen-

ny Craig Pavilion.

Manchester honored by USD

A new residence hall and athletic field at the University of San Diego will be named after the family of developer Douglas F. Manchester, who donated \$6 million to the university.

The Tecolote Village, a 242,000-square-foot residence hall completed this fall, will be named the Douglas and Elizabeth Manchester Village. An adjacent athletic field will become the Manchester Athletic Field.

The Manchesters' donation also will provide scholarships for USD's athletic programs. **Source Code: 20021210tle**

San Diego Daily Transcript
12-11-02

SAN DIEGO UNION-TRIBUNE

**SAN DIEGO, CA
FRIDAY 374,856
DEC 6 2002**



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ON THE MOVE

Personnel moves in San Diego County

William Geppert has been elected to the board of trustees for the University of San Diego. Geppert is vice president and general manager of Cox Communications in San Diego. Also elected to the board was **Henry L. Nordhoff**, president and chief executive officer of Gen-Probe Inc.

Jerry Greenblatt has been elected president of the San Diego Chapter of the California Association of Collectors. Greenblatt is head of the debt collections arm for the law offices of Anderson & Kriger.

Raymond J. Hall has joined the Pacific Building Group as senior project manager. Previously, he was senior project manager and project manager with Sundt Construction.

Ed Nelsen has joined Financial Heritage as managing partner.

Send items for this column to:
Darlene M. Allain, On the Move,
The San Diego Union-Tribune,
P.O. Box 120191, San Diego, CA
92112-0191, or e-mail them to
darlene.allain@uniontrib.com.

SAN DIEGO BUSINESS JOURNAL

SAN DIEGO, CA
WEEKLY 20,000
DEC 9 2002



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PEOPLE

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Banking and Finance

Mark Hashim has joined The Barsa Companies and will be working for Barsa & Associates as a senior accountant. At ThompsonRose Interim Professionals, Patrick Ogden has been hired as director of business development and Aimee C. Sebastian has been appointed to senior relationship manager. RBC Dain Rauscher has named Glenn Mazzone branch manager of its La Jolla and Rancho Bernardo offices. Borrego Springs Bank has hired Julie L. Smart as chief administrative officer. Jeff Glowacki has been named West Coast sales manager for Comerica Private Bank.

Construction and Design

Paula Detwiller has joined O'Connor Construction Management, Inc. as marketing manager. Michael N. Archibald has

joined Suffolk Construction Co., Inc. as senior vice president. Raymond J. Hall has joined Pacific Building Group as senior project manager. Douglas E. Barnhart, Inc. has promoted Glynna Hoekstra to senior vice president.

Government and Nonprofit

Mayor Dick Murphy has appointed Hugh Constant, Brian Frasch, Walter Lam, Scott Maloni and Rick Otis, and reappointed Enrique Morones and George Woodworth, to the International Affairs Board. Centre City Development Corp. President Peter Hall was honored with the Founder's Award at the Downtown San Diego Partnership's Alonzo Award Ceremony. SANDAG has hired Lynn Lewenberg-Jones to serve as account executive. Martha Baker has been named the director of the Home of Guiding Hands Foundation.

High-Tech and Manufacturing

Patrick L. Moss has been hired by Predicate Logic, Inc. as the lead senior software engineer for the Joint Integrated SATCOM Technology team at the San Diego Defense and Space Technology Consortium. Avexus has appointed Robert Thibodeau to vice president of engineering. Novatel Wireless, Inc. has appointed Daniel E. Pittard to its board of directors.

Media and Marketing

Mentus has appointed David Cook as vice president of client services. Logo Expressions Inc. has hired Jackie McLaughlin as sales associate.

Miscellaneous

At the University of San Diego, Henry L. Nordhoff and William Geppert have been



Childs-Moore



Stone

elected to the board of trustees. The San Diego Natural History Museum has added Jean Childs-Moore as director of institutional development and James Stone as director of education. Anne B. Gust has joined Jack in the Box Inc.'s board of directors.

Real Estate

HomeBuyer Agents, Inc. has hired Jack Dowling as an exclusive buyer agent. Jane Fantel has joined RE/MAX Distinctive Properties as a founding member of the sales team.

KEEPING UP

• **USD president at Vatican:** University of San Diego President Alice B. Hayes is at the Vatican this week to present a North American perspective at a conference on "Globalization and Catholic Higher Education." The international gathering is being held to discuss the impact of globalization on the Catholic church and its education system.

Do you have an upcoming public event involving religion or ethics? Send information at least one week in advance of publication to Religion & Ethics, The San Diego Union-Tribune, P.O. Box 120191, San Diego, CA 92112-0191. Fax: (619) 260-5093. Items may also be e-mailed to: re.calendar@uniontrib.com.

San Diego Union Tribune
12-6-02

USD President Alice Hayes to Speak at Vatican Conference

SAN DIEGO – University of San Diego President Alice B. Hayes will present a North American perspective at a conference, "Globalization and

Catholic Higher Education," to be held in Vatican City Dec. 2-6. The international conference is a joint initiative of the Congregation for Catholic Educa-

tion and the International Federation of Catholic Universities. Its aim is to offer Catholic universities a forum for dialogue and debate about the challenges

globalization poses to society, educational systems and the Church.

Representatives from North America, Africa, Asia, Europe, Latin America and the Near East will speak to the conference of 350 educators and theologians.

"I'm honored and humbled to be chosen for this role," Hayes said. "As economic capital, goods, people and ideas continue to flow more freely through national borders, we need to make sure they do so in a manner that promotes human dignity and development."

According to university officials, Hayes plans to suggest that Catholic universities can positively impact globalization by focusing on intellectual, spiritual and moral development, not just workforce preparation; encouraging respect and appreciation for a student's own culture as well as the cultures of others; nurturing a sense of stewardship of the earth among students; using technology to provide access to learning; and using inter-institutional collaboration to expand teaching, research and service.

"We need to assure access, quality control, and an educational focus on the human person as a child of God, a member of a community and a citizen of the planet," Hayes said.

SOUTHERN CROSS
SAN DIEGO, CA
23-TIMES/YEAR 32,000
DEC 5 2002

**SAN DIEGO DAILY
TRANSCRIPT**

SAN DIEGO, CA
FRIDAY 15,000
DEC 6 2002



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Toy drive: College cops put out APB for teddy bears, toys

415A OrgWatch

By Michelle Cadwell Blackston

The Grossmont-Cuyamaca Community College District's Public Safety Department is having a teddy bear and toy drive in conjunction with the Volunteers of America's East County Toy Drive.

The organizations would like to provide gifts for 1,000 local children. Donations of new teddy bears and new, unwrapped toys can be dropped off through Dec. 20 at the public safety offices at either campus. Grossmont College is at 8800 Grossmont College Drive in El Cajon. The office is located in parking lot 5.

Cuyamaca College is at 900 Rancho San Diego Parkway in Rancho San Diego. The public safety office is in the Student Services One-Stop Center at the main entrance of the campus near Fury Lane.

Campus and driving maps are available at www.grossmont.net

or www.cuyamaca.net.

Donations can be picked up by calling Kim Danielson or Charlotte Hawes at the District Public Safety Department at (619) 644-7654. **Source Code: 20021205tga**

• • •

Scripps Memorial Hospital La Jolla will have its 73rd annual Candlelight Ball Saturday at the **Hilton La Jolla Torrey Pines**. The event is expected to raise more than \$50,000 for Scripps' Radiology Imaging Department to purchase digital X-ray imaging, CT scanners, updated MRI scanners and neuroangiography suites.

The event also will honor physicians who have served Scripps and the local community for more than 25 years. **Source Code: 20021205tgb**

• • •

San Diego Women's Foundation will give grants Monday to selected recipients at a reception at the University of San Diego. Women interested in philanthropy in the San Diego region

are invited to attend. Leslie Devaney from Mid-City Community Court and Karen McCabe from Rosa Parks City Heights Community Garden will talk about how their organizations benefited from the Women's Foundation grants. Dr. Alice Hayes, president of USD; Dr. Constance Carroll, president, San Diego Mesa College; and Julie Dubick, chairwoman of the grants committee of the SDWF will host the event.

The reception is from 5 p.m. to 7 p.m. in the Warren Hospitality Suite of the Jenny Craig Pavilion on the University of San Diego campus at 5998 Alcalá Park.

San Diego Women's Foundation was formed to increase the participation and leadership of women in philanthropy.

To become a member of the San Diego Women's Foundation, women pledge a minimum contribution of \$2,000 a year for five years. Each contribution is divided equally into a grant

making pool and an endowment fund.

For more information and reception reservations, call Simona Valanciute at (619) 235-2300. **Source Code: 20021205tgc**

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Records on priests called 'inadequate'

©NEW YORK TIMES NEWS SERVICE

OKLAHOMA CITY — The chairman of a church panel studying the sexual-abuse crisis in the Catholic Church said obtaining an accounting of all priests and children involved would be a challenge.

Some church officials had been "slovenly to the point of reckless" in their record keeping, said Gov. Frank Keating of Oklahoma, who leads the National Review Board established by the bishops in June to monitor their response to the abuse crisis.



Keating

Keating said his group had contacted some of the nation's 194 dioceses to assess their files on abuse. In this early step in producing a nationwide study outlining the scope of the crisis, the board has found some records "inadequate," he said.

"How much of that is the result of the passing of time or ignorance and neglect, and how much of it is a conspiracy of silence remains to be seen," Keating said.

His criticism of the record keeping by some bishops underlines the obstacles that the review board faces as it begins its work.

In the seven months since the bishops announced the creation of the 13-member board, the governor has vowed that he and other members would demand accountability from bishops whose negligent supervision of priests resulted in the victimization of children.

But many bishops have guarded their files jealously, and Keating has no power to make them turn over the files.

Some church officials with whom he must work closely, including a former assistant director of the FBI hired last month

"How much of that is the result of the passing of time or ignorance and neglect, and how much of it is a conspiracy of silence remains to be seen."

OKLAHOMA GOV. FRANK KEATING
HEAD OF THE NATIONAL REVIEW BOARD
ESTABLISHED BY THE U.S. CONFERENCE OF
CATHOLIC BISHOPS

by the bishops, call for more accountability with far less passion than Keating does, if at all. At the same time, some church officials in Rome and the United States are quietly critical of Keating's zeal.

In recent weeks, several Vatican officials, speaking anonymously, have criticized Keating, who is Catholic but has said he admires Martin Luther, calling him a self-promoting politician who is using the church as a whipping boy.

Keating called those accusations outrageous, noting that because of term limits he would step down as governor this month and had accepted an insurance industry post.

But he acknowledged hearing "through various grapevines" that some American bishops, too, have criticized him for saying prelates who transferred pedophile priests to new parishes should resign.

Still, Keating said most bishops were cooperating with the review board's mission, which was laid out in the Charter for the Protection of Children adopted in June by the U.S. Conference of Catholic Bishops.

Dozens of bishops including Cardinal Bernard F. Law, the Boston prelate at the epicenter of the crisis, crowded around to shake his hand at a meeting last month.

"Cardinal Law said, 'Thanks

for what you're doing, we're really going to set this right,'" Keating said. "And I said, 'Thank you, you need to. You've got to be part of the solution.'"

Under the order of a federal judge, the Boston Archdiocese this week released documents that showed it had allowed priests accused of abuse to remain in ministry or failed to persuade them to receive residential psychiatric treatment.

The charter for the protection of children empowered the board to undertake two studies: a historical overview of the "causes and context" of the abuse crisis and a descriptive study of its "nature and scope."

The bishops offered their full cooperation in the descriptive study, which they said should include statistics on perpetrators and victims.

Its success depends on the bishops' willingness to open their diocesan files, a step many have fought in court.

Last month, the bishops refused to consider a request by 50 of the church's wealthiest philanthropists to hire an outside auditor to comb their files for a nationwide accounting of how much the church has spent on the abuse crisis.

The board hinted last month that it had problems obtaining data from the dioceses for the statistical survey.

"We expect full cooperation from the bishops, but we have no authority over them," said Alice Bourke Hayes, the president of the University of San Diego. She is the member of the review board who is overseeing the statistical study.

"We expect them to be responsive and, if they are not, we will make that a point of information in our report."

Keating said: "Some of these dioceses have very little in the way of definite records. They are slovenly to the point of reckless in some cases, and that's why I think that some of the information is suspect."

RICHMOND TIMES-DISPATCH RICHMOND, VA SUNDAY 195,529 DEC 8 2002
COURIER-JOURNAL LOUISVILLE, KY SUNDAY 224,043 DEC 8 2002
NEW YORK TIMES NEW YORK, NY SUNDAY 1,746,700 DEC 8 2002
SAN DIEGO UNION-TRIBUNE SAN DIEGO, CA SUNDAY 374,856 DEC 8 2002
VIRGINIAN-PILOT NORFOLK, VA SUNDAY 197,208 DEC 8 2002

LEXINGTON HERALD-LEADER LEXINGTON, KY SUNDAY 130,000 DEC 8 2002
SPOKESMAN-REVIEW SPOKANE, WA SUNDAY 105,911 DEC 8 2002

Board's job: Make church obey sex abuse rules

41159
Knight Ridder Newspapers

Miami - Now that U.S. Catholic bishops have passed a sweeping set of rules for handling sexual abuse allegations against priests, it's up to a 13-person National Review Board and the FBI's highest-ranking female agent to make sure the dioceses comply.

Their chief weapon: The court of public opinion.

The board, headed by Oklahoma Gov. Frank Keating, can't punish prelates if they don't enforce the reforms revised 11 days ago in Washington - only the Vatican can do that. But the board is stacked with high-profile Catholics who know how to get on the nightly news.

Kathleen L. McChesney, the top-ranking woman at the FBI who, effective today, becomes the head of the bishops' newly created Office for Child and Youth Protection, said her chief tool will be public disclosure, including an annual report spelling out who's complying - and who's not.

McChesney's work will be monitored by the review board, whose members represent a Who's Who of top Catholics. Its members include Keating; Robert S. Bennett, the Washington lawyer who defended former President Bill Clinton in the Paula Jones sexual misconduct suit; Leon Panetta, Clinton's former chief of staff; Illinois Appellate Court Justice Anne M. Burke; retired Scripps Howard CEO William R. Burleigh; and University of San Diego President Alice Bourke Hayes.

McChesney says the hierarchy cannot afford to be viewed as less than forthcoming. The nearly yearlong scandal has led to a crisis of credibility that's hurt the church socially and financially. A recent Gallup poll of 656 Catholics who attend Mass weekly or almost weekly indicates that some Catholics are throwing fewer dollars

into the collection plate, said Sister Mary Ann Walsh, spokeswoman for the U.S. Conference of Catholic Bishops.

Victims' groups, however, question whether the board will have the fortitude to stand up to the bishops and the Vatican.

"It is too early to tell," said David Clohessy, national director of the Survivors Network of those Abused by Priests, or SNAP. "McChesney and all the review board members are all competent, very well-meaning and very professionally accomplished individuals.

"But from our perspective, it's not the resume, but the courage of an individual. It takes courage to look a bishop in the eye and say, 'You should have never re-assigned this priest or used that legal attack' ... That will take some real spine. Only time will tell."

Clohessy and other victims' advocacy groups have raised the issue of whether those abused by priests would be sufficiently represented by the board, which the U.S. Conference of Catholic Bishops created when the organization met in Dallas in June. The only sexual abuse victim on the all-volunteer board is Michael J. Bland, a former priest who was sexually abused by a priest as a child. He is now on the payroll of the Archdiocese of Chicago, working eight to 10 hours a week as a victims' counselor.

Bland said board members are highly sensitive to ridding the church of molesters: He himself testified at the bishops' conference in June on how he felt betrayed by the church hierarchy, which ignored his warnings about his predator.

Now, though, a different culture reigns, Bland said. The Dallas meeting prompted the church's top leaders - including those in Rome - to act, he said.

The board has been monitoring actions, meeting about once a month, said Walsh,



The Associated Press

Christine Hickey, left, of Somerville, Mass., Carol Xenos, center, of Chelmsford, Mass., and Susan Gallagher of Medford, Mass., shown participating in a recent demonstration, are all members of the Survivors Network of those Abused by Priests.

spokeswoman for the bishops' conference. It also has commissioned a comprehensive study of the crisis - with dioceses ordered by the new charter to cooperate. To be included in the study: The actual number of "perpetrators and victims." Since January, at least 300 of the country's 46,000 priests have been removed under allegations of molestation.

The board's duties also include overseeing McChesney, 51, a devout Catholic.

She's the only paid staffer - so far - in the Office for Child and Youth Protection. The office's mandate: help dioceses implement safe environment programs by working with parents, civil authorities, educators and community groups to educate people about preventing sexual abuse.

TIMES HERALD RECORD
MIDDLETOWN, NY
SUNDAY 105,582
DEC 1 2002
ANNAPOLIS, MD
SUNDAY 47,000
DEC 1 2002
SUNDAY CAPITAL

DAY

NEW LONDON, CT
WEDNESDAY 42,000
DEC 11 2002



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INFORMATION SERVICES

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Keep speaking out, Gov. Keating

EDITORIAL

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Oklahoma Gov. Frank Keating is in an unenviable position as chairman of a panel studying the sexual abuse crisis in the Catholic Church. Appointed by the American Conference of Bishops, Gov. Keating has tried hard to maintain an independent and critical stance. He has been outspoken on the need for accountability on how the nation's 194 dioceses handled sexual abuse cases. And he has earned the wrath of some bishops by saying that those who shuffled pedophile priests from post to post should resign.

Now some bishops are annoyed that he is criticizing the poor record-keeping of some dioceses, and the fact that Gov. Keating has been so outspoken about the reluctance of some church officials to cooperate.

But Gov. Keating is right, and he should continue to speak truth to power. Bishops who covered up abuses instead of fixing the problem *should* resign.

Every bishop *should* cooperate with the

Keating panel's investigation. Moreover, Gov. Keating must continue his outspoken ways because it is the only leverage he has over the bishops.

The reason why was best articulated by Alice Bourke Hayes, the president of the University of San Diego, and a member of the Keating commission: "We expect full cooperation from the bishops, but we have no authority over them. We expect them to be responsive, and if they are not we will make that a point of information in our report."

The panel is not merely accountable to the bishops, as some prelates made the mistake of assuming. It is accountable to the millions of American Catholics across the country who continue to be horrified by this scandal. The more specific and detailed Gov. Keating's report is, the better. And the more ready American bishops are to accept demands for change, the sooner the Catholic Church in America will be able to heal.

FBI agent to be head of bishops' office of child protection

By Donna Gehrke-White
Knight Ridder Newspapers

MIAMI — Now that U.S. Catholic bishops have passed a sweeping set of rules for handling sex abuse allegations against priests, it's up to a 13-person National Review Board and the FBI's highest-ranking female agent to make sure the dioceses comply.

Their chief weapon: The court of public opinion.

The board, headed by Oklahoma Gov. Frank Keating, can't punish prelates if they don't enforce the reforms revised 11 days ago in Washington — only the Vatican can do that. But the board is stacked with high-profile Catholics who know how to get on the nightly news.

Kathleen L. McChesney, the top-ranking woman at the FBI who, effective today, becomes the head of the bishops' newly created Office for Child and Youth Protection, said her chief tool will be public disclosure, including an annual report spelling out who's complying — and who's not.

"It would not be a good thing if the bishops are seen as not addressing the policy," McChesney said.

McChesney's work will be monitored by the review board, whose members represent a Who's Who of top Catholics. Its members include Keating; Robert S. Bennett, the Washington lawyer who defended former President Bill Clinton in the Paula Jones sexual misconduct suit; Leon Panetta, Clinton's former chief of staff; Illinois Appellate Court Justice Anne M. Burke; retired Scripps Howard CEO William R. Burleigh; and University of San Diego President Alice Bourke Hayes.

McChesney says the hierarchy cannot afford to be viewed as less than forthcoming. The nearly yearlong scandal has led to a crisis of credibility that's hurt the church spiritually and financially. A recent Gallup poll of 656 Catholics who attend Mass weekly or almost weekly indicates that some Catholics are throwing

fewer dollars into the collection plate, said Sister Mary Ann Walsh, spokeswoman for the U.S. Conference of Catholic Bishops. The poll was conducted for the Catholic philanthropic group Foundations and Donors Interested in Catholic Activities.

Victims' groups, however, question whether the board will have the fortitude to stand up to the bishops and the Vatican.

"It is too early to tell," said David Clohessy, national director of the Survivors Network of those Abused by Priests, or SNAP. "McChesney and all the review board members are all competent, very well-meaning and very professionally accomplished individuals.

"But from our perspective, it's not the resume, but the courage of an individual. It takes courage to look a bishop in the eye and say, 'You should have never reassigned this priest or used that legal attack' . . . That will take some real spine. Only time will tell."

Clohessy and other victims'

advocacy groups have raised the issue of whether those abused by priests would be sufficiently represented by the board, which the U.S. Conference of Catholic Bishops created when the organization met in Dallas in June. The only sexual abuse victim on the all-volunteer board is Michael J. Bland, a former priest who was sexually abused by a priest as a child. He is now on the payroll of the Archdiocese of Chicago, working eight to 10 hours a week as a victims' counselor.

Bland said board members are highly sensitive to ridding the church of molesters: He himself testified at the bishops' conference in June on how he felt betrayed by the church hierarchy, which ignored his warnings about his predator.

"I felt they did not believe me, that my story was not credible, that he was more important than me," he told the bishops, some of whom wept during his testimony. "The priesthood lost me — but kept the perpetrator."

Now, though, a different culture reigns, Bland said. Even before the scandal broke in January, the Chicago Archdiocese had retained Bland, now a Chicago psychologist, to work part time monitoring the psychological treatment of victims.

The Dallas meeting prompted the church's top leaders — including those in Rome — to act, Bland said. As an example, he noted the Vatican's recent forced defrocking of an accused Pittsburgh priest who had been suspended from his ministerial duties for more than 10 years.

The board has been monitoring such actions, meeting about once a month, said Walsh, spokeswoman for the bishop's conference. It also has commissioned a comprehensive study of the crisis — with dioceses ordered by the new charter to cooperate. To be included in the study: The actual number of "perpetrators and victims." Since January, at least 300 of the country's 46,000 priests have been

removed under allegations of molestation.

"They have to look into how this happened and how it is being dealt with," Walsh said.

The board's duties also include overseeing McChesney, 51, a devout Catholic who said she took the job "because I think there's a chance to make improvements and a chance to restore trust when it has been lost."

She's the only paid staffer — so far — in the Office for Child and Youth Protection. The office's mandate: help dioceses implement safe environment programs by working with parents, civil authorities, educators and community groups to educate people about preventing sexual abuse.

The date for McChesney's first report has not been set yet. Part of the reason is that the reforms must still be approved by the Vatican. Miami Archbishop John C. Favalora said he thinks Rome may give its assent by Christmas.

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39-TIMES/YEAR 41,000
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National Review Board Outlines Plans to Combat Sexual Abuse

The U.S. Catholic bishops' national review board on sexual abuse has outlined its plans to study the issue of clerical sexual abuse and to set benchmarks for measuring diocesan child-protection programs.

The board said one subcommittee, headed by Jane Chiles, former director

America December 2, 2002

of the Kentucky Catholic Conference, is studying diocesan plans to create a safe environment for children in church ministry and intends to "establish benchmarks" for such diocesan programs. Another subcommittee, headed by Duquesne University law professor Nicholas Cafardi, is working on "the constitutive elements necessary to guarantee due process rights in the procedures used by diocesan review boards" when they assess sexual abuse allegations, it said. Cafardi's subcommittee "found wide variation and little or no standardization in procedures" currently followed by diocesan review boards across the country.

The all-lay board reported that it has held listening sessions with victims "to understand firsthand the terrible ordeals through which these aggrieved parties have lived and their continuing resentment over what they view as the inept and callous handling of their cases by the hierarchy." Leaders of victims' groups "made clear that the single most important corrective action they seek is bishop accountability," the report said. The report was released following the board's meeting in Washington, D.C., on Nov. 11.

Concerning plans to engage in a "comprehensive study of the causes and context of the current crisis," the board said a subcommittee headed by the Washington attorney Robert S. Bennett "is preparing an extensive list of authoritative sources, broadly reflective of the diversity of opinion on the subject.... It is our intent to take testimony from these individuals in a series of scheduled sessions in cities across the country" in an effort to search out the roots of the crisis.

On a second study, to assess the nature and scope of the problem, the board said a preliminary review showed that there is little "accurate statistical information available," but "we have been assured that with proper focus and resources this data can be obtained." A subcommittee headed by Alice Bourke Hayes, president of the University of San Diego, is researching how that study should be done.

The report said the national office will issue its first public annual audit of diocesan policies and practices in 2003,

naming those not in compliance with national policy, and the national review board will review that audit and forward it with recommendations to the head of the bishops' conference.

College of Arts and Sciences



BIOBYTES: MARY SUE LOWERY, USD BIOLOGY PROFESSOR

In addition to teaching undergraduate and honors courses at the University of San Diego, Lowery does research on the biochemistry and physiology of fish muscle. She is also the faculty liaison to the school's Donald P. Shiley Center for Science and Technology, a 150,000-square-foot complex that will be finished in the summer. She has worked with

the building's designers and builders to incorporate multimedia and interactive learning tools into its entryway. To learn more about the center, go to <http://www.sandiego.edu/uralumni/science>



FAVORITE WEB SITES

A Deep-Sea Odyssey

<http://www.ocean.udel.edu/extreme2001>

"Take a virtual expedition to the deep sea, watch a deep-sea octopus swim and look at the Pompeii worm, Earth's hottest animal. This is a fun, interactive site for budding marine biologists."

SeaWiFS Project

<http://seawifs.gsfc.nasa.gov/SEAWIFS.html>

"See your local ocean from space. The site also includes satellite images, ocean productivity, teaching resources, spacecraft information, remote sensing of coral reefs and data sets."

Protein Explorer FrontDoor

<http://molvis.sdsc.edu/protexpl/frntdoor.htm>

"Rotate DNA, zoom in on the oxygen-carrying portion of hemoglobin and watch proteins move. This site has free-ware for visualizing macromolecules, tutorials and other animations."

El Niño Theme Page

http://www.pmel.noaa.gov/tao/el_nino/nino-home.html

"Everything you ever wanted to know about El Niño. It includes explanations of how the weather condition develops, current predictions, animations of oceanographic changes during El Niño, and historical comparisons of past El Niño events."

San Diego Union Tribune 12-23-02

**SAN DIEGO DAILY
TRANSCRIPT**

**SAN DIEGO, CA
WEDNESDAY 15,000
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Pacific Coast Foam selected to provide architectural accents for USD's Shiley Center

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Pacific Coast Foam has been selected to provide the ornate custom exterior architectural shapes and accents for yet another new building on the campus of the University of San Diego. This one — the Donald P. Shiley Center for Science and Technology — is currently under construction and scheduled to open spring 2003. Pacific Coast Foam has provided architectural details for the Jenny Craig Pavilion, the Joan B. Kroc Institute for Peace and Justice and the East Campus Student Apartments.

Pacific Coast Foam has partnered on the Donald P. Shiley Center for Science and Technology with **Plastering Specialties** (the plastering contractor and foam accent installer), to supply a myriad of architectural foam details, including molding details, columns, spires, finials, decorative arches and the exterior paint grade.

Pacific Coast Foam, San Diego's largest supplier and installer of expanded polystyrene (EPS) foam architectural shapes and accents, is working closely with a project team that includes **Carrier Johnson**, the design architect; **Rudolph and Sletten Inc.**, the general contractor; **Hope Engineering**, the structural engineer; **Latitude 33**, civil engineering; **Michael Wall Engineering**, electrical engineering; **Van Atta Enterprises**, landscape architect; **GEM Engineering**, mechanical plumbing; **Plastering Specialties**, plastering contractor and foam installation; and **Johnson Consulting Engineers**, telecommunications.

When completed, the Donald P. Shiley Center for Science and Technology will house the biology, chemistry, physics, marine science and environmental studies departments.

The 150,000-square-foot center will contain 70 laboratories, aquariums, a greenhouse, fluid dynamics lab, aviary and astronomy deck. Classrooms are designed with separate demonstration areas and workspaces, so students can move quickly from theory to practice.

A \$458,000 grant funded by NASA will enable the Science Center to purchase a slew of high-tech tools for the new building including high-speed computers, portable telescopes, a digital telescope camera, a wave tank, a weather station, a high-temperature ceramic superconductor and viewer, and an atomic absorption spectrometer for testing water samples. In addition, a \$1 million grant from the Fletcher Jones Foundation will fund an interdisciplinary biochemistry and molecular biology wing. The creative architectural design features the form of an inverted microscope intersecting a four-floor atrium, illustrating the landmark 1883 experiment identifying the colors of light most conducive to photosynthesis.

PCF and PCF/Install are located at 8585 Miramar Place, San Diego 92121. The telephone number is (858) 455-1274 or the company can be reached toll-free at (888) 511-FOAM (3626). Visit the Pacific Coast Foam Web site at www.pcofoam.com.

Submitted by Pacific Coast Foam.

Local Survey Finds Need for

Parish-Based AIDS Ministries

By Vincent Gagnani

SAN DIEGO – Parishioners in this diocese are looking to their churches for support in the fight against HIV and AIDS, according to a yearlong survey conducted by the Office for Social Ministry with assistance from Anne Hendershott, Sociology professor at the University of San Diego.

The survey – an attempt to further understand the need for outreach in the diocese – concluded that parishes need to make emotional, spiritual and educational support available to people living with HIV/AIDS.

"The survey results should be used to guide the commission in future activities that we can provide to parishes, whether it be in organizing prayer and support groups, or in prevention education especially for youth or young adult groups," said Carol Shaw, a member of the diocesan HIV/AIDS Commission.

The survey was conducted in parishes and online, and includes people from parishes in more than 70 different zip codes in the diocese.

Out of the 232 respondents, 174 said they were most supportive of parishes providing spiritual and emotional support to people living with HIV/AIDS. Many also said they were likely to use educational programs and referrals for service opportunities, and 113 said they would like parishes to provide information

about community HIV/AIDS organizations.

Seventy respondents said they would like more information on HIV and AIDS provided in homilies and 84 suggested church-sponsored speakers on HIV/AIDS.

Since 1997, the diocese's HIV/AIDS Commission has been reaching out to Catholics, providing educational resources, and spiritual and emotional support to Catholics.

"HIV is not limited to those who are not Catholic," said Chris LaFlamme, a member of the commission. "It affects all people."

La Flamme is developing an abstinence-only HIV/AIDS curriculum for use in Catholic schools.

"Youth and young adults are still acting irresponsibly, and we really want to bring them a message of chastity," said Kent Peters, director of the diocesan Office for Social Ministry.

La Flamme notes that, nationwide, the largest increase in HIV cases is among young people.

"What we're trying to do is talk about HIV and get people talking about HIV," he says. "No longer can we put the blinders on and say, 'It's not going to happen to me.'"

For those grieving a friend or family member who has died of AIDS, Sister Margaret Eilerman, CSJO, helps people design and make quilt panels to commemorate their loved ones. Each year,

Sister Eilerman and a group of about six volunteers host eight "sewing sessions" that include a potluck lunch.

"Our goal is to make this a safe place so that anybody can come and talk about their grief," she says. No sewing experience is necessary, and often the most difficult part of the process is designing a panel, Sister Eilerman adds.

In the process, the group does a lot of grieving together as well as a lot of celebrating.

"It's healing because you do this as a memory to the person who has died," Sister Eilerman says. "It's a celebration of life."

Once the panels are made, they are sent to Atlanta and displayed each year with panels from around the country. Afterward, they are often sent back to San Diego where they are displayed in blocks of eight at vari-

ous events.

Sister Eilerman will begin the next series of panel-making workshops Jan. 25 at St. John the Evangelist Parish, San Diego.

Frank Modic, a member of the diocesan HIV/AIDS Commission, says that while HIV and AIDS haven't garnered as much attention recently as they did 10 years ago, people are still being infected with HIV at alarming rates, and AIDS will soon return to the spotlight.

"We hope the priests in the Diocese of San Diego, if they can't give their full attention to it right now, at least realize the numbers that are out there and that they need to be ready."

For more information of HIV/AIDS outreach in San Diego, call the Office for Social Ministry at (858) 490-8323.

The Southern Cross

POWER STRUGGLE

Shut out, laity won't support church forever

By George J. Bryjak

THE recent pronouncement by Roman Catholic bishops concerning church policy in dealing with priests accused of sex crimes is a step in the right direction, albeit a small one. Unfortunately, the bishops decided to stonewall lay Catholics in the latter's attempt to be represented on church tribunals established to deal with these problems. If there was ever an "old boys" network bent on maintaining complete control in the face of enormous social pressure, this is it.

Consider the statement of Auxiliary Bishop Salvatore Cordileone of San Diego in the defense of all clergy tribunals: "To say that a tribunal judge will be biased is like saying that any judge in any trial will be biased."

While at first glance this statement rings true, the auxiliary bishop is comparing apples to oranges. That is, not all judicial situations are the same. To begin, civil and criminal court magistrates do not routinely pass judgment on peers during the course of their duty. Any time judges and defendants are members of one group, and victims belong to another or "out" group, the likelihood of judicial bias is present. In this case,

members of church tribunals are in a position to determine the fate of "brother" priests, individuals with whom they have a strong affinity.

We have already witnessed a hint of this bias in the Statement of Episcopal Commitment, a document concerning how bishops who mishandled sexual-abuse allegations will be treated by their brethren. Rather than censure colleagues for their complicity in these criminal acts, the document states that regional bish-

ops will provide one another "fraternal support, fraternal challenge and fraternal correction." To be sure, fraternal support, compassion and forgiveness are appropriate responses. However, in this instance, these virtues must be subordinate to issues of justice and the welfare of victims. Lest anyone forget, we are dealing with a serious category of crimes, the sexual exploitation (and, in many cases, protracted exploitation) of children, and the more heinous

offense of covering up these crimes by men (the bishops) who could have put an end to much of this abuse.

Tribunals composed exclusively of the clergy are not the answer to this problem. In-group bias is why professionals who pass judgment on colleagues (and whose decisions are not subject to external reviews by non-members) are always suspect in their objectivity, be they police officers, physicians or college professors.

Why should we expect fairness, contriteness or a concerted effort to control abusive priests, when some members of the clergy do not even consider these actions especially problematic? Many people were surprised with the brashness of a recent article in a Jesuit publication concerning the responsibility of bishops in cases of child molestation. Father Gianfranco Ghirlanda, dean of Canon Law at the Pontifical Gregorian University in Rome, stated: "From a canon law perspective, the bishop and the superior are neither morally nor judiciously responsible for the acts committed by one of their clergy."

Bishop Cordileone has noted that under canon law, there is "a difference between a person who repeatedly abuses prepubescent children,

See BRYJAK / Page 4



Laity suspicious of secrecy on priests

BRYJAK / From Page 1

and a person who gets involved with a 17-year-old girl who is sexually active." While I have no doubt that the bishop's statement is correct within the framework of Catholicism, the church is not a society unto itself (although it is apparent that many senior members of the clergy see it as such). Rather, it exists within the context of a larger political entity — in this case, the state of California — and is bound by the laws of the state, which considers both of these acts criminal. The age of sexual consent in California is 18 (regardless of the sexual activity of the child), and state law says an adult more than three years older than a minor with whom he or she has had sexual intercourse "is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison."

As long as bishops act as if canon law supercedes secular law concerning the sexual misconduct of priests, this behavior will continue. And there can be no doubt that an unknown number of bishops have long held this opinion. Otherwise the Catholic Church would not be mired in a nationwide sex scandal. My colleague, sociologist Anne Hendershott, argues that both conservative and liberal factions within the Catholic laity are using the current sexual crisis to promote their agendas. Conservatives are attempting to make a case against, and purge the priesthood of homosexuals, while liberals advocate ordaining women and putting an end to what they believe is a failed policy of celibacy.

I agree with Hendershott's assessment, but would include a third agenda that cuts across the conservative-liberal spectrum. We are witnessing a concerted effort on the part of an increasing number of Roman Catholics to grant the laity a greater voice in decision-making regarding the day-to-day operation of their

church, as well as make the church hierarchy more accountable (to the laity) for its decisions and behavior.

The current pedophile-priests crisis is but symptomatic of the fundamental problem in the Roman Catholic Church: the distribution of power. The organization of the church in the modern world has changed little from the time of the divine right of monarchs, an era when both aristocratic and church leaders considered themselves infallible. Much as it was then, bishops today make decisions independent of the laity and are accountable to no one for the consequences of these decisions. It is hardly surprising that such a hierarchal structure leads to secrecy, subterfuge and arrogance.

Consider the in-your-face attitude of Cardinal Bernard Law of Boston concerning pedophile priests under his command. For almost 20 years, he either denied there was a problem or sent the offenders to another diocese. Then, when taken to task about these decisions, he admonished those who challenged his authority and integrity.

And herein lies the rub, as an increasingly educated laity in a democratic society is saying "enough." The pedophile priest crisis did not cause the laity to question and challenge this power structure. Rather, undercurrents of hostility toward this antiquated hierarchy have been present for some time. The current situation has galvanized the opposition as well as attracted an untold number of allies who are now fully aware of power relationships within Catholicism. How the church responds to this challenge will go a long way in determining its future in the United States as a new generation of critically thinking Catholics will be even less tolerant of an establishment within which they have almost no voice.

George J. Bryjak is a professor of sociology at University of San Diego. Contact him at bryjak@sandiego.edu.



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Rabbinic Insights

Let There Be Light

Rabbi Wayne Dosick



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You may remember back to the summer of 1987 when hundreds of thousands of men and women throughout the world joined in a one-day convocation that they called the Harmonic Convergence.

All over the world, people held hands, sang songs, and played musical instruments, prayed, invoked peaceful thoughts, and spoke of a world of peace and harmony. They joined their energy together to move the world closer toward decency and goodness.

Around the world, many laughed. Intellectuals and rational thinkers scoffed. The media could hardly contain their scorn. The convergers were called naive and silly; they were dismissed as "New Age" freaks.

Holding hands and singing songs and thinking peaceful thoughts will bring peace and harmony to a troubled world? How foolish!

Yet, within months of the Harmonic Convergence, strange and wonderful things began happening across the world.

The Berlin Wall came down. Communism fell in the Soviet Union and the satellite countries. Blacks and whites began riding the buses together in South Africa. The shootings and the bombings virtually stopped in Northern Ireland. Ancient enemies in the Mideast sat down at negotiating tables.

Mere coincidence?

Perhaps.

But perhaps the combined prayers and spiritual energy of hundreds and thousands of diverse and otherwise disconnected citizens of the world had a positive cosmic effect on the energy of the world.

Prayer works.

Sending the focused energy of the world into the universe works.

Combined spiritual energetic forces can alter momentary reality.

That is why the Talmud teaches that if every Jew observed Shabbas twice in a row, *Masheach* will come. (BT Shabbat 118b) Not that *Masheach* particularly cares about religious ritual observance, but if the energy of harmony, tranquility, and peace that Shabbas evokes can be sustained from one week until the next, then all of earth will be enveloped in *Masheachvelt*, the atmosphere, the world of the messiah.

So, what if, once a year, we were to gather hundreds of thousands, even millions, of men and women from all over the world? We could join together to sing and pray for an end to war, an end to hatred, an end to bigotry, an end to intolerance. We could send thoughts of goodwill and peace out to the universe.

What would happen?

First, if more and more people joined in this Convergence for World Peace, there would be — at least for a day — fewer and fewer people available to fight wars. But, more significantly, we would bring a new *Weltanschauung*, a new worldview, a new energy, to our planet. Instead of so much self-interest, there would be more universal concern. Instead of shouts of war, there would be songs of peace. Instead of hateful energy, there would be loving energy flowing between and among peoples and countries.

Would it make a difference?

How could it not?

How could peoples and nations not be touched and affected by the new, positive, life-affirming, shared energy that would envelop the Earth? How could a new world order not be born?

But, you say, organizing a worldwide Convergence is too great a task.

Then, let's see what we can do as individuals.

At this season of the year, we are taught by our own religious tradition — and we are joined by those of many other religious faiths — that one candle can light the darkness. We are taught that it is our task to bring a ray of Light to the early-darkening winter skies, and to a world that craves the hope of the Light of wisdom and truth, love and peace.

Sadly, there are many, many dark places in our world right now — places that have rarely, and certainly not recently, seen the Light of hope.

These sad and troubled places ooze their darkness into the rest of the world, and too often, we get caught up in their darkness of despair and doom.

So, here's an idea.

For one minute each day — five would be better, but one is wonderful — send Light into the darkness.

How do you do that?

Visualize or think of a great White Light coming from God, from Source, from the Universe, into the dark places — and dark souls — of the world.

See that Light — send that Light — filled with the brightness of hope and imagination and creativity and love and peace — into all the places that need Light, into all the places that need love, into all the places that need peace.

If hundreds of thousands, if millions of people send Light into the darkness, Light is sure to come, and the dark places will be forever changed.

Make sending Light your daily meditation, your daily prayer.

Will it work?

Why not?

Prayer works.

The focused energy of the people of the planet will have a profound effect on the places — and the souls — on the planet.

We saw the vivid and dramatic effects of the Harmonic Convergence.

Equally, and just as powerfully, we can see the effects of the Convergence of Light.

The Jewish tradition teaches that we should each say 100 blessings a day. 100 blessings? If I did that, I would hardly have time for anything else.

the foolish dreams of a naive and unapologetic optimist?

Perhaps.

But, perhaps as God reveals more and more of the secrets of existence, and as human consciousness continues to evolve, we may come to understand more and more of our spiritual power, of our energetic ability



“At this season of the year, we are taught by our own religious tradition — and we are joined by those of many other religious faiths — that one candle can light the darkness.”

That, of course, is exactly the point. If we put and keep ourselves in God-energy by saying blessings, we stay in that God-energy in the “in-between blessing” time. We are constantly living with God-energy and infused with God-spirit. Thus, we keep ourselves hearing God’s word and doing God’s will.

If we keep sending Light to the dark places, we keep our world in Light; we keep the darkness of despair at bay; we give new direction to dark thoughts, and we give new hope to dark souls.

Are these the over-the-edge musings of a spiritualist gone too far,

to affect and move the universe.

Surely, we can do no harm. Possibly — and most probably, I confidently contend we can do much good.

Our hatreds and our guns have brought only the darkness of suffering and despair to our world.

Let’s try letting our spirits bring the new Light of hope and love and peace.

*Rabbi Wayne Dosick, Ph.D., is the spiritual guide of The Elijah Minyan, an adjunct professor at the University of San Diego, and the Director of The Soul Center for Spiritual Healing. He is the award-winning author of six critically acclaimed books, including **Golden Rules**, **Living Judaism**, and **Soul Judaism: Dancing with God into a New Era**.*



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A sad commentary on academia's values

Quincy Troupe resigns from UCSD" (A-1, Dec. 4):

What a sad commentary on the values of our own academic elite at UCSD. Richard Attiyeh, the vice chancellor who conducted the inquiry into Quincy Troupe's falsified resumé, said it was unlikely that the poet "would have lost his job," apparently indicating that a 30-year-old lie is not a lie. If fraud has no statute of limitations, does prevarication?

Professor Eileen Myles whines about UCSD not fighting for Troupe. Were he a surgeon about to operate on Myles' daughter, would she publicly defend him? Professor Anthony Davis says Troupe, being black, is held to a different standard (by whom?), indicating that dishonesty should be accepted in the black community. Student Brook Kuhn doesn't "care about the lie," indicating that he is well versed in today's liberal norm: the value of feelings over facts and truth. I could go on.

Thankfully, ethics Professor Larry Hinman had the guts to state that the university "had no choice but to fire Troupe." But, of course, he was from the University of San Diego, not UCSD.

Even today, Troupe cannot bring himself to tell the truth. In typical liberal fashion, he is not responsible for his actions. He "fabricated the degree on the advice of 'someone' else. He re-floated his false credentials in his poet laureate application.

Why would parents of UCSD students want to pay tens of thousands of dollars to have their children molded by the likes of the mendacious Troupe?

Attiyeh waffles on the question of verifying degrees for professor candidates. To enter each higher institution of learning, be it high school, college or grad school, we have to submit verification of completing the prerequisite level. Are we so gullible to believe UCSD is such a principled institution that no proof is needed to become a professor? That anyone with the right look and "feel" can come in off the

street and fill my kids' heads with their notions of honesty?

JOE KIRKPATRICK
Vista

I'm heading over to UCSD today for a class schedule since I could use a few more credits toward my master's degree. I definitely want to take one of Myles' writing classes. It should be an easy A for me, since integrity and ethics at UCSD obviously mean little to her.

I should be able to cheat on my exams and copy my essays off the Internet, knowing that Myles will be outraged if the university gives me any kind of a reprimand. After all, if I get caught, I will certainly learn something from my mistake.

GAIL BARAGER
San Diego

It took a while, but Troupe finally showed a good deal of guts by resigning. It is important that he did so, since the politically correct-driven UCSD administration appears incapable of making hard decisions, even when it is justified.

ROBERT STEBBINS
Encinitas

This is a stunning example of the rampant lack of integrity exhibited by many people who believe there is nothing wrong at all with lying, or breaking the rules, as long as they don't get caught. Then, if they get caught, they act real sorry. Sure, sorry they got caught.

The fact that other professors and students rallied to support Troupe is astonishing as well. Even though he faked his credentials and misrepresented his qualifications, they felt they could overlook that because he has proven himself an excellent poet and teacher.

Is it acceptable for an engineer to design bridges even though he never actually studied the strength of steel or concrete, as long as none of them falls down? Would it be all right for a doctor to perform surgery even though he

never actually studied anatomy, as long as none of his patients dies?

Should educators in the arts be allowed to lie about their qualifications simply because the possibility for catastrophic consequences is minimal?

Sneaking onto the playing field through the concession stand does not make you a member of the team.

GREG SIMMONS
Valley Center

Troupe's students, true to their calling, praise him for his work. This is as it should be, in spite of the fact that he turned out to be something of a fraud. Lying about college credentials on job applications is not uncommon, but Troupe exacerbated the situation by trying to top himself — lying about the lies. Getting caught was (pardon the pun) poetic justice.

SHERMAN GOODRICH
Jamul

Troupe's resignation from UCSD is a huge loss for our community, and for local bookstores. He and his wife, Margaret, have been responsible for bringing numerous artists and writers to our community. Quincy was always available to give a reading or an introduction at any local bookstore, large or small.

We are amazed at the pettiness and mean-spiritedness of your editorial page and some people in this community who have given this talented, giving and lovely man a public flogging. His contributions to teaching, the written word, art and music should outweigh any mistake he made decades ago in a much different world than we live in now.

The artistic community of San Diego, the state of California, his students and many friends will miss Quincy. New York's gain is our loss.

CAROLE CARDEN
Esmeralda Books
ADRIAN NEWELL
Warwicks Books
DENNIS WILLS
D.G. Wills Books

Today

● **HOLIDAY MUSIC:** Festivities don't come more festive than "Fiesta Navidad," an evening of mariachi music and folklórico dancing featuring Linda Ronstadt and the Mariachi Los Camperos de Nati Cano. The multicultural celebration starts at 7:30 tonight at the East County Performing Arts Center, 210 E. Main St., El Cajon. Tickets cost \$56 to \$66. Call (619) 440-2277.

What's ahead

CLASSICAL MUSIC

● **Cappella Gloriana** joins the Cabrillo Chamber Orchestra for a performance of Handel's "Messiah" at 8 p.m. Wednesday at North Coast Calvary Chapel, 7188 Avenida Encinas, Carlsbad. \$10; (760) 929-0029.

● **The USD University Choir and Choral Scholars** perform "Choral Gems through the Ages" at 8 p.m. Friday and 2 p.m. Sunday at Founders Chapel, Founders Hall, USD, 5998 Alcalá Park. \$6 and \$8; (619) 260-4600.

● **La Jolla Chamber Music Society Revelle Series** presents soprano Jennifer Bates with Caren Levine on the piano at 8 p.m. Friday at the Sherwood Auditorium, Museum of Contemporary Art, San Diego, 700 Prospect St., La Jolla. \$20 to \$45; (858) 459-3728.

● **Julian Wachner** conducts the San Diego Symphony as they perform Handel's Messiah at 8 p.m. Friday and Saturday, and 2 p.m. Sunday at Copley Symphony Hall, 750 B St., downtown. \$10 to \$55; (619) 235-0804.

● **San Diego Men's Chorus** presents "He's Makin' A List" at 8 p.m. Friday and Saturday, 7 p.m. Sunday at St. Mark's United Methodist Church, 3502 Clairemont Drive. \$20 and \$25; (619) 296-SONG.

● **The Navy Band Southwest** will perform "USO Holiday Concert," with a guest appearances by Ian Campbell of the San Diego Opera and Kathleen Halm, dramatic soprano for the opera, at 2 p.m. Saturday at the Civic Theatre, 202 C St., downtown. Free; (619) 570-1100.

● **Christmas Around the World Concert** — with soprano Ayse Underhill, mezzo-soprano Gail Lindstrom, pianist John Danke, flutist James Miles and Elizabeth Monacelli on the violin — will be performed at 3 p.m. Saturday at the Ruby Schulman Auditorium, Carlsbad City Dove Library, 1775 Dove Lane. \$10 donation; (858) 755-3075.

● **Tour of World Music** — The guitar orchestra performs music from Africa, Asia and Europe at 2 p.m. Sunday at MiraCosta Theatre, 1 Barnard Drive, Oceanside. \$6 and \$8; (760) 795-6815.

San Diego Union Tribune
12-9-02

**SAN GABRIEL VALLEY
TRIBUNE**

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SUNDAY 122,500
DEC 15 2002



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Concert dazzles 4134

We are so fortunate to be able to attend concerts by The Caltech-Occidental Concert Band, which played Nov. 23 at Caltech's Beckman Auditorium. The concert was simply perfection. What wonderful musicians attend Caltech and Occidental College. Also, the jazz bands, chamber music ensembles, the Caltech-Occidental Orchestra and singing ensembles are all simply wonderful as well.

Jay C. Easton, saxophone soloist, a man with a terrific sense of humor and an accomplished musician played on the following saxophones. He played "Rhapsody" by Mark Watters on the E-flat baritone saxophone, "Flight of the Bumblebee" by Nikolai Rimsky-Korsakov on the B-flat bass saxophone, "You're a Mean One, Mr. Grinch" by Albert Hague on the E-flat contra-bass saxophone and "Jack" from Bell and Howl by W. Clifton Baxter.

Easton serves on the woodwinds faculty at San Diego State University, the University of San Diego and the Bishops' School in La Jolla. He currently performs on and teaches more than forty woodwind instruments. He was delightful.

Marvin Neumann, composer of "An Icon Taken," conducted his world premiere composition. Chad Kishimoto directed the "Crown Imperial March." Paul Asimow, a Caltech professor and an accomplished musician, also with a sense of humor, conducted "La Gazza Ladra Overture."

This concert was by far the best that I have ever heard at Caltech. Every musician was superb. What a great music department Caltech has. Thanks also to William Bing for his humor and the marvelous concerts that he brings to the community of Pasadena for all of us to enjoy.

MARY JANE BAKER
PASADENA

GLENCOE NEWS

WILMETTE, IL
WEEKLY 2,288
DEC 19 2002



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WILMETTE LIFE

WILMETTE, IL
WEEKLY 43,548
DEC 19 2002

WINNETKA TALK

WILMETTE, IL
WEEKLY 43,548
DEC 19 2002

CAMPUS NEWS

Please mail notices for this column to: Campus News, c/o Pioneer Press Editorial Department, 3701 West Lake Ave., Glenview IL 60025. Items take two to four weeks to appear.

Nick Wallace, son of Donald and Lorraine Wallace of Winnetka and a 1999 New Trier High School graduate, recently received the Wall Street Journal Student Achievement Award in recognition of academic performance and leadership. Wallace is a senior at Vanderbilt University and was the sole Vanderbilt recipient of the award.

Jeff Malloy, son of Bill and Malinda Malloy of Wilmette, recently accepted a position as a resident hall assistant at Ball State University.

Resident hall assistants counsel students, assist directors with administrative duties and enforce university housing policies. They also act as a liaison between hall directors and student residents.

Malloy is a senior majoring in organizational communication and minoring in political science.

Laura Jablon, daughter of Janet and Michael Jablon of Wilmette and a New Trier High School graduate, is the recipient of an Owens Corning Scholarship. She is a senior majoring in management at the Indiana University Kelley School of Business.

Owens Corning established four scholarships to be given to a junior or senior in the Kelley School of Business —

one each for majors in accounting, marketing, finance and decision technologies. Recipients will have demonstrated both academic excellence as well as leadership in extracurricular activities.

Hans Williams, son of Bryan and Marylou Williams of Winnetka, was recently named the Most Valuable Player on St. Mark's School's boys varsity soccer team. Williams is a fifth-former (junior) at St. Mark's School in Southborough, Mass. Williams also was tapped to serve as co-captain of next year's squad.

Steven Orn '06, a graduate of New Trier High School from Wilmette, was recently awarded Deerpath Scholarships for academics and science at Lake Forest College.

Kathleen Hendriks, a junior majoring in philosophy at University of San Diego from Winnetka, is spending the fall semester studying in Madrid, Spain through Syracuse University's Division of International Programs Abroad.

Lynn Bacigalupo '03, a Winnetka resident and graduate of New Trier High School, was inducted this fall into Sigma Iota Epsilon honorary and professional management fraternity. Bacigalupo attends Ithaca College in Ithaca, N.Y.

Jessica Williamson, daughter of Alice and Bruce Williamson of Glencoe, and **Francis DiMaria** the son of Frank DiMaria of Northfield and

Patricia DiMaria of Skokie, were recently inducted into the National Society of Collegiate Scholars at Bucknell University.

Williamson is a sophomore in the College of Arts and Sciences, she is a graduate of New Trier High School and has been a member of the crew team.

DiMaria is a sophomore in the College of Arts and Sciences and a graduate of St. Ignatius College Preparatory in Chicago. A dean's list student, he is a member of Delta Upsilon fraternity.

Jonathan Campbell, son of John and Heather Campbell of Winnetka and a graduate of Geneva High School, was recently inducted into Dartmouth's Phi Beta Kappa honorary society. Campbell is a senior at Dartmouth College.

Rebecca A. Shapiro, daughter of Mark A. Shapiro and Roberta S. Goldberg of Winnetka, was recently named as a Commended Student in the 2003 National Merit Scholarship Program. Commended Students placed among the top 5 percent of more than one million students who entered the 2003 competition by taking the 2001 Preliminary SAT/National Merit Scholarship Qualifying Test.

Adam Zimble, a Winnetka resident, 1999 graduate of New Trier High School, and a 2003 graduate of the Huntsman Program at Wharton and University of Pennsylvania, recently won a Marshall Scholarship to study political theory at Oxford University in England.

EAGLE - TRIBUNE

LAWRENCE, MA
TUESDAY 60,000
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ACADEMIC ACHIEVERS

Our local scholars

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The following students have made the National Dean's List for the year 2001-2002:

ANDOVER

Jacqueline Bloom, University of Massachusetts Amherst; Heidi Carroll, University of Massachusetts Lowell; Virginia A. Carroll, Hesser College; Sarah Ferranti, Tufts University; Brian Gosselin, Fairfield University; Justin T. LeCam, Providence College; Maureen Lothrop, Providence College; Megumi Matsuki, Vassar College; Katie A. McKain, Purdue University; Jacqueline M. Morando, Westfield State College; Anne Muzere, University of Massachusetts Amherst; Caitlin Neri, Georgetown University; Matthew J. Sheehan, Westfield State College; Alex Shkolnik, Carnegie Mellon University; Thomas M. Tanin, University of Massachusetts Lowell; Jessica S. Taylor, Roger Williams University; Jeff Vallera, Bentley College; Kellie Wallace, College of the Holy Cross; Michael Wallace, University of Massachusetts Lowell

GEORGETOWN

Emily Anderson, Brown University; Douglas Godfrey, University of Massachusetts Lowell; Kelly Jordan, Merrimack College; Victoria McKillop, Teikyo Post University; Liliana Testaverde, Wellesley College; Krisin Varga, University of Massachusetts Amherst

BOXFORD

Geoffrey Goodhue, Ohio University; Makala Maybury, University of San Diego; Mary A. Kessing, Endicott College

NEWBURYPORT

Kerry Gavin, Pennsylvania State University

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA
SUNDAY 374,856
DEC 15 2002

Chenoweth awarded President's Premier

Coldwell Banker Encinitas is proud to name **Sandi Chenoweth** the newest



Sandi Chenoweth

4121
member of their International President's Premier Status awarded to the top 1 percent of all sales agents

internationally. A sales associate with Coldwell Banker for the last eight years, Chenoweth is a Previews Specialist. In addition to achieving the International President's Elite status for the last three years, she was a member of the President's Circle prior to that.

"Sandi is an outstanding Realtor who practices real estate the same way she practices life. She abides by the 'golden rule' and treats everyone with the utmost courtesy and respect. She is extremely service-oriented," says Marty Conrad, branch manager of Coldwell Banker Encinitas.

A native of san Diego County, Chenoweth specializes in the Shadowridge area of Vista, Aviara, Encinitas and Carlsbad. She gets most of her business from referrals, and relocation. "I enjoy the personal

contact that is involved in what I do," says Chenoweth. "I love the business, and I like helping people achieve their goals. Also, I take pride in maintaining my business with a professional attitude." A former flight attendant she and her husband recently celebrated their 32nd wedding anniversary. Their twin son and daughter attend the University of San Diego and Southern Methodist University. Chenoweth's hobbies include walking on the beach, reading, and travel.

School of Business Administration

Housing the drag on bright local economy

By Roger M. Showley
STAFF WRITER

San Diego economists like what they see for 2003, as the region is expected to outperform much of the nation, but an expensive housing market here still will remain out of bounds for thousands of home seekers.

"San Diego, in relative terms, is probably the strongest performing economy in the U.S., even though we have slowed down," Kelly Cunningham, chief economist for the San Diego Regional Chamber of Commerce, said yesterday.

Things look so good for the region that University of San Diego Professor Alan Gin told a residential real estate conference San Diego borders on being "recession-proof."

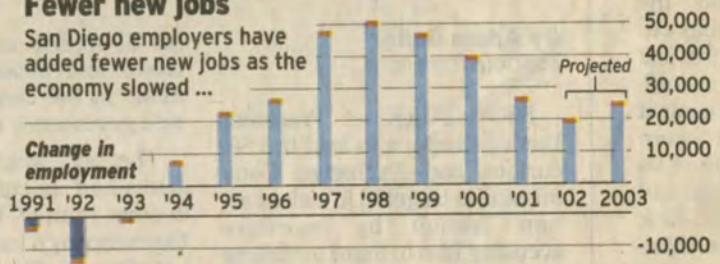
But San Diego County's overall housing supply and the price of homes here will remain an area of deep concern, the economists said, when considering the region's ability to attract and keep companies and their employees.

Because new-home construction still is not keeping pace with demand, they say prices will rise between 8 percent and 11 percent, a decline from the 17 percent gain so far this year.

For home buyers, economists project higher interest rates, perhaps rising to 7 percent for 30-year, fixed-rate mortgages, compared with about 6 percent today. Rising rates will force some home buyers onto the sidelines.

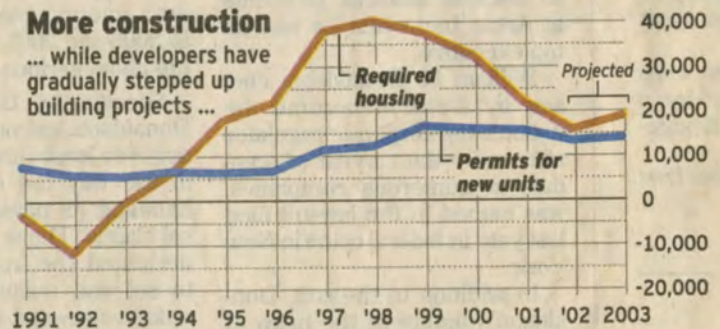
Meeting supply and demand Fewer new jobs

San Diego employers have added fewer new jobs as the economy slowed ...



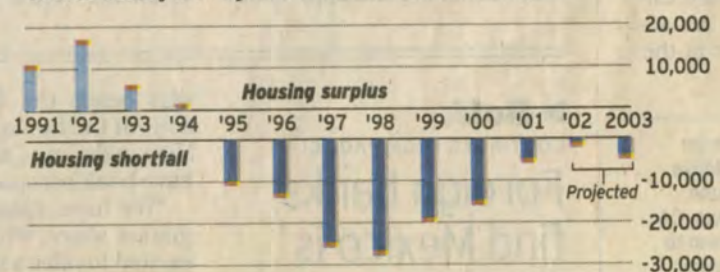
More construction

... while developers have gradually stepped up building projects ...



A smaller deficit

... thus easing the region's shortfall of new housing.



SEE Housing, C3

SOURCE: University of San Diego

DAVID HARDMAN / Union-Tribune

San Diego Union-Tribune 12-12-02

“San Diego, in relative terms, is probably the strongest performing economy in the U.S., even though we have slowed down.”

KELLY CUNNINGHAM, *chief economist, San Diego Regional Chamber of Commerce*



A boom in construction of downtown condominiums and apartments has been part of a gradual increase in home construction in San Diego County in the past few years. *Dan Trevan / Union-Tribune*

"Purchasing power will go down," home builder Sherm Harmer told the conference, sponsored by USD's Real Estate Institute.

For sellers, the economists warned that homes are likely to stay on the market longer, especially those priced above \$500,000.

Leslie Appleton-Young, chief economist of the California Association of Realtors, who also spoke at yesterday's conference, said foreclosures are not on the rise, even in the San Francisco Bay Area, hit hardest by the dot-com collapse.

She and other experts took note of the potential war with Iraq but doubted a repeat of the recession that hit San Diego following the 1990-91 Persian Gulf War.

Gin said for every sailor or Marine deployed from San Diego, one-third of a job is lost. Cunningham said that ratio would mean about a 20,000-job loss if 60,000 of 110,000 local service personnel were deployed and some of their families moved away, as they did a decade ago.

"The local economy is in much better shape than in 1990," Gin said, owing to greater diversity in economic activity, and less reliance on jobs tied to the defense industry.

However, the same cannot be said for housing affordability and availability.

Not keeping up

In the last 12 years, Gin said, San Diego housing production has not kept up with the growing job market, even after taking into account the early-1990s recession.

He calculated San Diego's shortfall of housing at 72 percent since 1991. That's the difference between homes built and homes needed by new workers and their families.

The numbers over the period: 275,000 new jobs generated, 216,000 homes needed to support those jobs, and only 125,259 homes authorized or built.

Next year, Gin projects, building permits will rise slightly to 14,500 units from this year's estimated 13,700.

"But that's not really enough to meet demand," he said.

Since 1991, median home prices have soared from \$173,000 to \$339,000, according to DataQuick Information Systems. But Gin predicted that the double-digit rises of recent months are ending.

If his forecast of an 8 percent to 11 percent increase for 2003 is correct, the median price of

housing will rise to about \$371,000 in 12 months. The median is the halfway point in price ranges, with half above and below that figure.

Prices on the rise

The realty association's Appleton-Young did not issue a forecast for San Diego home prices but said housing prices statewide should rise about 10 percent next year.

Even with price moderation, she noted that only 21 percent of San Diego households can afford the median-priced home, a problem that exists in most other large metropolitan areas of the state.

"This is an issue everyone in California and San Diego needs to think seriously about," she said, a reference to concern that some businesses may choose to relocate to other states and take jobs and economic growth with them.

But San Diego may not see such a loss, she said, because it has become a hub for immigrants in good times and bad.

While current homeowners may welcome continued price growth, some renters are in despair, unable to move into a home of their own. This week, a newly formed affordable housing task force began looking for ways to boost production of housing in the city of San Diego.

City planning director Gail Goldberg told yesterday's conference that expanding affordable housing in existing neighborhoods is a key goal of the "City of Villages" plan adopted by the City Council in October.

Three "pilot villages" will be selected next year to demonstrate ways redevelopment can occur while improving conditions for existing residents, she said.

"We all have the same objective — to create affordable units and improve the quality of life in San Diego," she said.

But Janice Weinrick, vice president of the Centre City Development Corp., said her agency overseeing downtown redevelopment may have trouble meeting affordable housing targets because of budget cutbacks proposed this week by Gov. Gray Davis.

The chamber's Cunningham, who did not participate in the USD forum, said San Diego's economy did not cool off as much this year as he had expected.

He is putting the final touches on his economic forecast for next year, due for release in mid-January. His preliminary figures indicate the gross regional product will grow from \$126.1 billion to \$133.6 billion next year, a 3.3 percent increase after adjusting for inflation. This year, output is expected to grow by 2.4 percent.

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Conference speakers discuss ramifications of housing crisis

By THOR KAMBAN BIBERMAN
San Diego Daily Transcript

If San Diego doesn't find a solution to its shortage of housing units, soaring prices and declining affordability, jobs will start going elsewhere, according to real estate experts and economists.

The problems resulting from a lack of housing affordability in San Diego were a major topic at a conference hosted by the University of San Diego's Real Estate Institute on Wednesday. Other local topics included San Diego's City of Villages plan, and how a war might impact the economy here.

Leslie Appleton-Young, the California Association of Realtors' chief economist, said she and her associates were expecting sales in the state to be down in 2002. Instead they have been running at about 10 percent higher this year than last, due in large part to a much stronger than expected per-

formance in the San Francisco Bay area. San Diego's numbers are in line, at about 10 percent higher this year than last as well.

Appleton-Young was also quick to point out that a median price rapidly approaching the \$400,000 mark in San Diego County may sound high (chart Page 2B), but it is still only half the amount being charged in many parts of the Bay area. Nationally, the median price is running at about \$160,000.

That is not to say that San Diego shouldn't be worried about its affordability. Appleton-Young said that this area also stands to lose jobs to other states if it doesn't make housing more affordable for its citizens. At present only 21 percent of San Diego-area households on the median income would be able to afford a median-priced home.

"I can see jobs moving to Oregon and Washington and Texas ..." Appleton-Young said. "We have to ask ourselves, 'Where will our children live?'"

This is also a major concern to Ginni Field, a **Prudential California Realty** manager, who believes that prices will soon flatten out. "The average price in Carlsbad is being pushed near \$600,000. How many people can afford that?"

On the plus side, Appleton-Young noted that the mortgage rates are at their lowest levels in 40 years. "I can't imagine rates getting any lower. One risk factor is we will see higher rates," she continued.

At the national level, there has been talk about a housing bubble for more than a year. Appleton-Young said that bubble did indeed burst, but only at the higher end. Here, again, the Bay area was a standout, where homes have been selling for \$3 million that would have netted \$6 million just a couple of years ago.

SAN DIEGO DAILY TRANSCRIPT

SAN DIEGO, CA
THURSDAY 15,000
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Appleton-Young said an under-supply of units has resulted in an average inventory level of about 4.4 months at present in San Diego County. "In 1995, there was almost a 20-month supply," Appleton-Young said.

As for how a war with Iraq might impact the housing market, Appleton-Young responded with "a war is never very good." She did say that the addition of manufacturing in connection with a war effort could have some benefits to the economy.

USD economics professor Alan Gin also raised concerns about a pending war, particularly if large numbers of troops are shipped out from the county's north coastal areas. But the precarious condition of the state budget, and its more than \$20 billion deficit might be a bigger concern, he added.

Having raised both of these specters, Gin said, "I am inclined to think that the local economy is much more recession-proof."

Gin said he believes this is true because in the last 30 years, there have only been four years of negative growth here. Another factor is that because the city was unable to lure large corporate headquarters, San Diego didn't experience as many of the massive layoffs as other parts of the country.

Gin predicted the county will experience modest growth of about 25,000 to 30,000 new jobs in the coming year, and unemployment will be in the high 3 percent to low 4 percent range. "When the employment rate was below 3 percent, we were spoiled," he said.

About 74,800 workers are in construction jobs currently. That is about 2.8 percent higher than last year's level.

These and other workers need to be housed, and Gin said by his calculations, there is a more than 88,000-unit shortfall.

"In the early 1990s we had a

See **Housing crisis** on 2B

Housing crisis

Continued From Page 1B

surplus situation, but that became a deficit situation in 1997. The supply problems will prevent a severe downturn in prices," Gin continued.

As for lending for new housing developments, Scott Cox, a **Guaranty Bank** senior vice president, said the bad news is that banks' profit margins are way down. The good news is that lenders are focusing much more on homebuilders than they have in the past.

"We are somewhat concerned about the way prices are going," Cox said.

Cox then predicted continuing consolidations in the banking industry. That may be bad news because the lender you have today may be someone else tomorrow who may have a very different view of you as a client.

Gail Goldberg, city of San Diego planning director, discussed the City of Villages plans. She said requests for proposals (RFPs) will be sent out in March to developers interested in developing three pilot City of Villages projects. These villages are designed to have housing, retail, transportation and employment centers all within walking distance.

The plan as adopted has not been without its detractors. Groups, from low-income housing advocates to developers, have criticized the fact that there is no

housing unit count in the plan.

Goldberg said that even without set housing numbers, the City of Villages pilot projects will serve as models for the rest of the city.

The exact locations and what the pilot projects will look like are still being determined. The RFPs are due back to the city in March.

Just before introducing Janice Weinrick, Centre City Development Corp. vice president of operations, Sherm Harmer of Urban Development Group offered a statistic. He said that about \$3.5 billion worth of new development is under way downtown, from the ballpark to Nat Bosa's many high-rise condominiums.

"The whole concept of the City of Villages is the way we redeveloped downtown," Weinrick said. She said there are some 80 projects downtown that are either being built or in the pipeline representing 12,000 units.

Weinrick, like Gin, is worried about the state budget. In fact, \$15 million that was supposed to go to the Bay to Park Link has been axed from CCDC's budget.

While they might not get a park, Harmer said Texas lenders will be watching as 14,000 new residents are added to downtown within the next four years.

thor.biberman@sddt.com
Source Code: 20021211tde

**SAN DIEGO DAILY
TRANSCRIPT**

SAN DIEGO, CA
FRIDAY 15,000
DEC 13 2002



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Get 'em back to the malls



Observations

By John Patrick Ford

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Alan Greenspan stepped down from the mount with his oracle for economic recovery: consumers must keep spending.

That's just what the retailers wanted to hear for their kickoff of the holiday shopping spree. Come back to the mall and spend, spend, spend for the good of our nation's economy and to take your mind off hostilities in Iraq.

The chairman of the Federal Reserve was not really a skill for America's giant retail trade. His holiday greeting to Congress did have some merit. After all, consumer-spending accounts for two-thirds of U.S. economic activity, claimed the Associated Press in a report showing early holiday season sales holding steady.

The chief economist at John Hancock opined that this year won't be as awful for retailers as initially predicted, but it won't be fantastic. "Santa may not get a hernia, but he may put his back out," he concluded.

Now that was an oblique way to depict the jolly Christmas spirit. It certainly was a more candid interpretation of the present state of the economy than Greenspan delivered to the congressional Joint Economic Committee in November. While admitting the current market was "remarkably resilient," he voiced concerns about a "soft patch" of uncertainty in the nation's households.

Later, in answering reporters' questions, the Muhammad of money matters stressed the importance of consumer confidence to keep the charts and indices on a positive path. Judging by the quantity of junk mail and newspaper ads for holiday shopping, Greenspan's marketing disciples are making every effort to lure those shoppers back to the malls.

Despite a glut of pre-season sales, consumers were clutching their pocketbooks for fear of losing their jobs or acquiring any more personal debt. The *Chicago Tribune* reported household debt had more than doubled since 1991 at nearly \$8 trillion spearheaded by credit card debt that increased at an annual rate of 10 percent.

Apparently, any vow to pay down this gigantic lien on future income has not kept the crowds away from the holiday-decked malls and auto show rooms. The Thanksgiving shopping spree beat the forecasts. Even

more promising were the online sales blazing past the year-ago figures by 67 percent, reported The Associated Press.

The curious trend in holiday shopping is the volume of personal online orders coming from the work place. Americans prefer the high-speed service in their office to their home PCs. Employers beware that they may be assisting as Santa's helpers

While recent retail sales dispute Alan Greenspan's warning about consumer "soft patches," another segment of the economy is almost glowing with optimism. Real estate is showing some handsome returns to investors. Stock market prospects pale beside the action in new development and rising home prices in Southern California.

Speakers at a University of San Diego forum put on by the Real Estate Institute pointed out to a standing-room-only audience that "historically low mortgage interest rates are the intravenous lines for the building industry." Much of this escalation in real estate ventures comes from stock market switches and foreign investors looking for better returns and stability of the dollar.

Pension funds no longer expect 20 percent returns from their stock portfolios and are satisfied with 7 percent or 8 percent from real estate investments. Jonathan Miller, a REI speaker, noted that over 42 percent of the real estate investment trusts are owned by institutional funds.

Consumers keep the real estate market hot by lining up for new home purchases as fast as the builders can supply them. Even with bargain mortgage rates, homeowners still carry a heavy burden of debt. Renters are merely priced out of the market they can afford and move further away from urban centers.

As this year of dicey economics winds down, Alan Greenspan will be watching the impact Old St. Nick might bring to the markets. Can Santa's team, led by Donner and Blitzen, produce enough thunder and lightning to boost the fourth-quarter earnings reports?

Whatever happens these last two weeks, consumers might keep the spirit of holiday shopping in check if they must face a New Year with even more debt to pay down. Greenspan then would appear as Ebenezer Scrooge if he told them to stay away from the malls.

Ford is a freelance writer located in San Diego. He can be reached at jpatrick.ford@sddt.com.

Source Code: 20021212tza

Murphy leads local home builder through a new era of growth

Source: Fieldstone Communities

As president of the San Diego Division of **Fieldstone Communities Inc.**, Andrew Murphy is leading one of the county's largest and established home builders into a new era in which growth has become the greatest challenge facing the community.

Murphy joined Fieldstone in 1992 during a deep recession that wiped out most local and pri-



Andrew Murphy

vately owned home builders. Founded in San Diego in 1981, Fieldstone held fast and survived, instilling in Murphy a determination and commitment to the community that shapes his leadership today. As Fieldstone continued to thrive, he rapidly rose from corporate treasurer to division president in San Diego.

Today, the landscape is different, with homes in high demand while the space to build them is rapidly disappearing. Now Murphy is in the position of transforming Fieldstone's approach to home building in ways that meet the community's housing needs while being sensitive to concerns about growth. It is Murphy's job to develop a flexible and strategic approach to land acquisition, planning and construction of Fieldstone communities in San Diego and south Riverside counties.

"The era of the master-planned community is coming to a close in San Diego," Murphy said. "Over the next five years, we're going to run out of these large tracts of land and that could result in the

closure of quite a few homebuilding companies. Like our major competition, Fieldstone must remake itself and how it builds homes in order to prevail."

An example of how Fieldstone is building smarter communities is the company's recent housing development in Poinsettia Cove, which was designed to help residents get around without cars. Perched along the coastline in Carlsbad, adjacent to Interstate 5, the homes are within walking distance of a planned commercial development with shops, services and restaurants — and conveniently located by the coastal transit line.

"The idea is that people who work between here and San Diego will take the rail line and leave their cars behind," Murphy said. "When they're at home, there are plenty of sidewalks, walking paths and bike trails they can use to avoid traffic and congestion."

Fieldstone is working on similar transit-oriented projects in San Diego and South Riverside counties, as well as other ways to provide smart subdivisions that



Poinsettia Cove in Carlsbad, one of Fieldstone Communities' housing developments, is designed to include shops and restaurants within walking distance, allowing residents to get around without cars.

conserve open space, offer alternative modes of transportation and embrace quality design.

Murphy's involvement in the growth issue is reflected not only

See **Murphy** on 4C

SAN DIEGO DAILY
TRANSCRIPT
SAN DIEGO, CA
WEDNESDAY 15,000
DEC 11 2002

Murphy

Continued from Page 1C
by a new corporate strategy, but his own participation in civic organizations in the San Diego community. He volunteers his time to chair the Residential Real Estate Committee of the policy advisory board at the University of San Diego's Real Estate Institute. This group of business professionals is working to bolster independent research to help frame the growth debate in San Diego by providing unbiased data and insight on housing related issues.

Because of his diverse background in the industry, Murphy is suited to represent the real estate community on issues ranging from Smart Growth to residential homes trends to the impact of housing on the local economy.

In addition to his role of division president, Murphy holds a California broker's license and serves as the broker of record for Fieldstone Communities. His previous experience includes work with a commercial developer, a major California bank and a real estate investment fund adviser.

In keeping with the corporate philosophy of helping nonprofit organizations that benefit people in the communities where Fieldstone builds, Murphy volunteers much of his free time to charitable organizations and projects. He is vice chairman of the board of directors of the YMCA of San Diego County and chairman of the Branch Operations Committee. He also serves on the board of directors of the BIA Cares for Kids, the charitable organization of the San Diego building industry.



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2002 Home Sales Figures Continue Upward Trend

Real Estate Institute Makes Plans for January Conference

Despite last year's predictions, the number of homes sold in California has increased since 2001.

A year ago, Leslie Appleton-Young, chief economist at the California Association of Realtors' headquarters in Los Angeles, predicted home sales in California would decrease by 2 percent in 2002.

Instead, home sales, which totaled 579,240 at the end of October, are on track to end the year up 10 percent, Appleton-Young said during the Residential Real Estate Conference: Outlook 2003 at the University of San Diego on Dec. 11.

The event was organized by the university's Real Estate Institute.



Real ESTATE

Mandy
Jackson

Staff Writer

Through November of this year, 32,140 houses and condominiums have been sold in San Diego County, according to Multiple Listing Service Statistics gathered by the San Diego Association of Realtors. In 2001, local sales totaled 34,263.

This year has been a record year for home sales nationwide, Appleton-Young said. The median price for a home in the United States is now \$160,000.

Since March, the median price of a home in California has been above \$300,000.

In San Diego County, the median price increased 21 percent at the end of November. It was \$339,000, up from \$267,800 in November 2001, according to statistics gathered by the Realtors group.

Next year, Appleton-Young forecasted that the state's median home price will increase to \$344,300. She predicted that interest rates will be on the rise next year, which may dissuade buyers from purchasing homes.

According to California Association of Realtors' affordability index, only 21 percent of the people living in San Diego County can afford a median-priced home here.

Appleton-Young warned that high housing costs will become a bigger problem as people leave for Washington, Oregon and other Western states with less expensive housing.

"At some point, housing affordability takes a bite out of jobs," she said.

San Diego County added 21,600 jobs between October of 2001 and October of this year.

At the conference, USD economics professor Alan Gin anticipated 25,000 to 30,000 new jobs will be added to the region in 2003.

According to Gin, San Diego County added 255,000 jobs from 1991 to 2001, creating a need for 210,000 additional homes. He said there is a deficit of 88,741 homes.

Scott Cox, senior vice president at Guaranty Bank, a Texas-based bank that is a major lender for homebuilders, said realtors are having a record year in San Diego County, but banks are doing only "OK," with commercial real estate and corporate lending down.

"If banks take money out of real estate (in 2003) it will be on the home building side," Cox said.

He said banks will fight hard to hold on to current customers and will put new customers under more scrutiny. Banks will fund condo projects, which have been difficult for builders to insure, but high-priced developments will be harder to finance, Cox said.

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Again At USD: The Real Estate Institute is gearing up for its Seventh Annual Real Estate Conference on Jan. 14.

This event will run from 8 a.m. to 2:15 p.m. at USD's Shiley Theatre with lunch at the Hahn University Center. Topics include corporate real estate and the San Diego Padres' ballpark in Downtown San Diego. Scholarships will also be announced.

The registration deadline is Jan. 7. The cost is \$195 per person. For more information, call Mark Riedy, director of the Real Estate Institute at (619) 260-4872, or Ilse Hunnicutt, executive assistant, at (619) 260-2256.

Revamped business codes show face of new economy, free trade

FRONT PAGE

4154
By TIM COFFEY
San Diego Daily Transcript

In February, business codes used to track the U.S. economy will officially change, modernizing the presentation of economic data by focusing more attention on industry subsectors.

The new classifications will focus more on economic trends in the technology industry and business services, and will be the standard for Canada and Mexico as well. The previous codes, a relic of the 1930s, were designed to track trends in manufacturing industries, a staple of the American economy since the Industrial Revolution.

Marketing firms, which use the codes for market research and direct mailings, and some economists believe the updated coding system will facilitate a better understanding of the regional economy.

Yet, organizations, such as Sandag, that use so-called time

series data for economic forecasting believe the conversion will create inaccuracies in historical information that could throw off future economic models. Sandag employs time series data to forecast future trends in population, employment, per-capita income and gross regional output.

Still, the new system marks a new era in economic reporting that will recognize new jobs and businesses created by the new economy and the North American Free Trade Agreement — all at the expense of the manufacturing industry.

"I think the old SIC was good for another time, but the codes needed to be modernized," said Alan Gin, an economics professor at the University of San Diego.

The new codes, termed the North American Industry Classification System, or NAICS, puts more emphasis on trends in the individual subsectors of the economy. The codes will track

such things as payrolls at temporary employment agencies and the number of software publishing firms.

It is a complete replacement of the Standard Industrial Classification, or SIC, which originated more than 70 years ago.

Nathan Clausen, a spokesman for the Bureau of Labor Statistics in Washington D.C., said the new codes will not change the compilation of economic data.

"The only difference is that businesses with the SIC code will change to an NAICS code," he said. "The methodology doesn't change."

The NAICS codes, which have been slowly phased in to acceptance since 1997, will be introduced to San Diego in February when the regional unemployment report is issued by California's Employment Development Department.

A See **Business codes** on 3A

SAN DIEGO DAILY
TRANSCRIPT

SAN DIEGO, CA
FRIDAY 15,000
DEC 13 2002

A *Continued From Page 1A*

The new codes will enable users to "track trade and employment better," said Cheryl Mason, a San Diego labor analyst with the EDD.

For instance, San Diego's regional unemployment report had classified all healthcare jobs under the simple heading Health Services. Under the new codes, employment levels will be separately recorded at hospitals, ambulance services, elder care facilities, and so-called social assistance programs.

Staffing levels will be available from virtually every local business sector, from grocery stores to newspapers.

The transition to more specific business classifications allows marketing companies to better direct their messages, said Susan Smith, the marketing director at MJE Marketing Services in Mission Valley.

"Having it more detailed will help us do a much better job," she said. "When you're talking about a particular NAICS code to some one else in the industry they'll know exactly what you're talking about."

"It gives people a common language," Smith said.

For others, it spells confusion. The EDD has pledged to recalibrate more than 10 years worth of employment data to NAICS codes by February, but some wonder if that's enough.

Planners at Sandag use historical data dating to the 1950s, such as employment levels and housing units, in a time series to predict future trends in the local economy.

"We're going to lose a lot of information, because we'll lose the time series," said Ed Schafer, a senior planner at Sandag.

Sandag also uses information from a variety of government agencies and each has a plan to switch to the new codes, which is creating some confusion.

Converting to the NAICS code "is a short-term problem. But it's a very intense problem, and right now there's a lot of uncertainty," Schafer said. "We use a lot of vendors and their conversions impact us. Right now we're trying to determine ... what their plans of conversion are and how that might affect us."

The federal government plans to start using the NAICS codes in March, one month after they debut in San Diego.

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Source Code: 20021212tba

Related Links

- ◆ www.bls.gov
- ◆ www.naics.com

**SAN DIEGO DAILY
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SAN DIEGO, CA
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Report: Higher taxes, fewer services on the state's horizon

4154
By **TIM COFFEY**
San Diego Daily Transcript

The effects of a prolonged economic downturn, namely higher taxes and reduced public services, could soon enter the California landscape as the state economy sputters into 2003, according to a report scheduled for release Thursday.

The stagnant demand for California's information technologies and telecommunications equipment is expected to continue, preventing new job creation and reducing personal income, according to the UCLA Anderson Forecast.

The quarterly economic report, produced by the Anderson business school at the University California, Los Angeles, was to be presented at a conference Thursday in Los Angeles.

The main theme of the report is that decreased business exports and consumer spending have both contributed to the state's current \$20 billion budget deficit. The forecast cited excessive technology inventories, weak demand for technology products worldwide, and continued slow growth in personal income and consumer spending.

The result is an extraordinary gap between revenues and expenses that will force California to raise taxes and cut state-sponsored programs.

"There is not enough fat in the budget for a multi-year deficit of the current magnitude (more than \$20 billion) to be resolved without pain (or at least inconvenience) for everyone," wrote the report's author, Tom Lieser, a senior economist for the Anderson Forecast. "And none of this, of course, is good for the state's business climate."

The California economy has resisted a full-blown recession since the technology

bubble burst in early 2000.

Yet, the same cannot be said for the national economy.

Starting in the first quarter of 2001, the U.S. economy two recorded consecutive quarters of negative economic growth, the basis for a recession. The economy has since broken that streak, but the pace of business spending nationwide has not resumed, forcing many California technology companies and related businesses to cut jobs or reduce employee pay.

See **Economic Report** on 5A

Economic Report

Continued From Page 1A

However, the San Diego region has not faced such dire straits.

The county's diversified businesses, and lack of overbearing manufacturers and corporate headquarters, have insulated the region enough to offset increased unemployment claims and waning consumer confidence.

"We don't have a lot of the cyclical industries that might affect other metropolitan areas not just in California, but in other parts of the country as well," said Alan Gin, an economist at the University of San Diego.

"That shields us from the downside," he said.

San Diego is one of the few economic bright spots in the otherwise dreary California economy. The region has increased new job creation by 1.9 percent through the third quarter of 2002, ended September 2002. Likewise, taxable sales grew by 4.4 percent from the fourth quarter 2000 to the like quarter in 2001, the most recent data available.

The only community to create more jobs was Riverside-San Bernardino, at 2 percent. Only Riverside and Ventura counties generated more sales, at 7.7 percent and 5.3 percent, respectively.

California was also not without its bright spots.

According to the Anderson Forecast, the state's healthcare industry was "completely unaffected" by the general malaise, and Native American casinos and other gaming enterprises "offset" declines in tourism.

The California public school system has also limited rising unemployment. Since the first quarter of 2001, Sacramento's reluctance to shrink school budgets created about 68,000 new school jobs, compared to a decline of 80,000 non-farm jobs statewide.

Sales of new cars and residential real estate have maintained a strong level of growth, resulting from the unprecedented cuts in the Federal Funds rate. The effectiveness of the rate cuts appears to

be enduring as new car registrations in California through the third quarter mirror results from last year, and the residential real estate market has not retracted, even in the San Francisco Bay area.

However, Lieser's report documented an acute decline in personal income, suggesting the run on so-called "big-ticket items" might not last. Since early 2001, personal income has declined by \$6.3 billion, the report said.

The decline was primarily related to "the loss of exceptional income from options and bonuses (as well as loss of jobs) in the high-tech industries clustered in Silicon Valley and elsewhere in California," Lieser wrote.

Businesses have also cut back on office space — the commercial market in the Bay area is "one of the worst in history," according to the report — and product shipments. Exports of computers and electronics were down \$513 million and transportation equipment was off \$269 million.

Even before the strike by longshoremen, California's third-quarter exports were a disappointment, the report said. Business shipments have now declined 40 percent since the fourth quarter of 2000.

The forecast said it was "unlikely" the state government would cut funding to public schools, forcing hard hits to other programs and making it virtually impossible for local governments to add jobs.

Yet, the most dangerous move the state will make will be to raise taxes.

California businesses have struggled to compensate for high prices in electricity and real estate in recent years, and the added cost of higher taxes could be the tipping point, said Kelly Cunningham, economic advisor to the San Diego Regional Chamber of Commerce, a local business advocacy group.

"We're all going to be concerned about this," he said. "In a way, it

could have that productivity impact because it will drive businesses away and we're already seeing somewhat of a flight of businesses here."

Cunningham added that California regions with positive economic growth, such as San Diego, are often overlooked for areas suffering from severe economic declines. Those regions often paint the picture of the state's economy to non-Californians.

"We in San Diego need to be particularly concerned because the State of California is overshadowed by the Bay area and Los Angeles, and the rest of the state has to go along with it," he said. "As business people in San Diego we need to be concerned about this."

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SCOR to store

A first look at the new metrics
for supply chain performance
within retail stores.

by Peter Bolstorff

As with many of you, I have two categories of retail experience. As an employee, I spent three years as a part-time stocking clerk and sales associate in an *Our Own Hardware* franchise store. So tasks like unloading trucks, pricing merchandise and stocking shelves, verifying receipts, staging promotions, running the cash register (and having to call the manager to fix your user error), taking inventory (and checking it twice), assembling point-of-sale displays (barbeque grills were the worst), helping customers with advice and locating merchandise (looking intelligent while using trial & error search strategy), and dealing with returns (both legitimate and not) are imprinted in my memory.

As a consumer, I've spent a lifetime shopping at stores in all types of retail industries. Instant credit application or 90 days same as cash (furniture), loyalty programs (apparel and video rental), home delivery and installation (appliances), merchandise security (books and other media), technical service — warranty service contracts (small engine equipment), store-within-a-store (banks in grocery stores), and real-time inventory availability (home electronics) are just a few of the many added processes designed to make the shopping experience faster and better.

Like everyone else, retailers have had to figure out [how to deliver more for less](#). In SCOR language, that means improving delivery reliability, flexibility and responsiveness by **planning, sourcing, making, delivering** and **returning** more

effectively and efficiently. The retail industry is setting the bar pretty high: Table 1 compares supply chain key performance indicators (KPIs) of select retailers and their industries. The following metric definitions were used for calculations:

Pretax Profit Margin equals Last 12 Months (LTM) Income Before Taxes divided by LTM Revenue, expressed as a percentage. The percentage represents the amount of each dollar of Revenue that results in Income Before Taxes.

Return on Assets (ROA) equals the LTM Net Income from Total Operations divided by the Total Assets from the most recent balance sheet. A measure of profitability, ROA measures the amount earned on each dollar invested in assets.

Days of Sales Outstanding equals the Receivables from the most recent balance sheet divided by LTM Revenue multiplied by 360.

Days Cost of Goods Sold in Inventory equals Average Inventory from past two annual balance sheets divided by latest fiscal year Cost of Goods Sold, multiplied by 360.

The challenge with using SCOR 5.0 in retail industries is that it does not contain processes and metrics that are intuitively relevant to a store. Recognizing this, the Supply-Chain Council initiated a development project to expand the model to include store operations.

With *Walt Disney Co.* as the sponsor and contributing companies including *Best Buy Co. Inc.*, *Deloitte & Touche*, *Gold'n Plump Poultry*, *PRAGMATEK Consulting Group Ltd.*, *SUPERVALU Inc.*, *Target Corp.*, *Technicolor* and the *University of San Diego*, the project team presented preliminary recommendations at last month's SCOR User Conference. The rest of this article discusses some of the key proposed changes.

Proposed process changes

The team recommended that no changes were needed to the SCOR Level 1 framework of Plan, Source, Make, Deliver and Return. While this statement may seem trivial, one of the alternatives was to create another Level 1 like **Sell**, which would significantly change the scope of the model.

Proponents of this point of view state that retail store costs are accounted for in the Sales Expense category of Sales, General and Administrative (SG&A) versus Cost of Goods (COGS), and thus warrant a new major process type. The counterpoint view (and eventual winner) is to think of the retail store as an extension to the Deliver process and the associated costs another component of Total Supply Chain Cost. This position doesn't deny there are other business processes — like product development, sales, marketing, human resources, etc. — but attempts to determine where the retail store best fits within the SCOR model.

The team recommended the addition of a SCOR Level 2 category, **D4 — Deliver Retail Product**, to more effectively model different material flow configurations between supplier and suppliers' supplier, retail distribution, retail stores, and the ultimate consumer (see Diagram 1 — Simulated Geographic Map).

In this example, think of the product movement as Gold'n Plump Boneless Skinless Chicken Breast and Disney's Return to Neverland DVD. While Technicolor, Disney, SUPERVALU, and the Target and Best Buy regional distribution centers use other SCOR processes, D4 refers to the process category to deliver products to the consumer *in the store*.

Previously, SCOR model retail scenarios attempted to characterize the store with **D1 — Deliver Stocked Product**. To a manufacturer this makes logical sense, but from a retail perspective the breakdown occurs in how the work processes and information flow are defined.

To make the point, the team contrasted the proposed and existing Deliver process categories at SCOR Level 3 (see Table 2 — Proposed Deliver Process Categories). As an employee and consumer it is easier to visualize the D4 retail store processes of determining stocking requirements, generating a stocking schedule, picking product from the backroom, stocking the shelf, helping fill the customer's shopping cart (directly and indirectly), checking out (including the scan, credit approval, payment, etc.), and delivering/installing the product (i.e., a dishwasher) than it is force-fitting the D1 elements.

Additionally, some team members discovered that EDI and XML transaction sets as organized in CPFR (collaborative planning, forecasting and replenishment) and the Efficient Consumer Response (ECR) scorecard map more effectively to the D4 elements.

Metrics — Benchmarking

With a goal of **more standardized metrics** and initiating a benchmarking study for the Retail Sector using SCOR, the team brainstormed over 30 metrics and organized them to a recommendation of four changes to the current scheme, as noted in **Table 3 in red**.

Retail Store Cost or Retail Store Supply Chain Cost represents the "activity based" costs as organized in the D4 Level 3 elements (again, see **Table 2**). Common themes involve Backroom Costs, Floor Stocking — Merchandising Cost, Checkout Costs and Delivery/Installation Costs.

The main exclusions were costs for sales associates on commission and the customer service costs for managing the returns processes. The latter is defined effectively under the current SCOR Warranty — Returns Processing Cost measure.

Many of you have already experienced the fact that supply chain performance is not just a function of how your company performs but how your company performs *with* its suppliers and customers. The first step in any improvement effort is a common understanding and set of goals.

Though not perfect, the proposed changes to effectively integrate the retail store into the SCOR model is definitely a step in the right direction. ◀



Peter Bolstorff is the founder of Minneapolis-based **SCE Limited**, a training firm spun off from *PRAGMATEK Consulting*

Group Ltd. that is focused on educating the do-it-yourself business marketplace in supply chain improvement techniques. He chairs the SCOR Integration Committee and the Supply-Chain Council's Technical Committee, and designed the Supply-Chain Council's executive education series to aid in the successful implementation of SCOR. He is serving a two-year term on the SCORboard, the board of directors for the Supply-Chain Council.

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Company takes scholastic approach to stocks

Camelback Research Alliance has experienced success in bear market. Can it ride the bull?

By Russ Wiles
THE ARIZONA REPUBLIC

For the past seven decades, ever since the crash of 1929, Wall Street has been a favorite research topic in academia.

Business professors have prodded and poked at all sorts of stock market phenomena as if they were dealing with rats in a laboratory, trying to unlock the market's inner secrets. Some salient theories have emerged, but many others have proved to be of little practical use.

Enter a 30-person Scottsdale, Ariz., company called Camelback Research Alliance, which supplies the analysis behind a free Internet stock-picking service that has beaten the market since its debut.

"The firm's focus is how to apply academic research to real-world investing," said Donn Vickrey, co-founder and executive vice president of Camelback Research, who also is a professor of accounting at the University of San Diego. Carr Bettis, a professor at Arizona State University, is the other founder.

The two met at an academic conference but took quite dissimilar paths up to that time. Bettis, the son of a minister, spent much of his childhood in Australia and the South Pacific, while Vickrey, the son of a professor, grew up in Arizona, Texas and other states.

What they shared was an interest in investment research that was relevant.

"We're constantly looking through the academic literature," Vickrey said. "Maybe 10 percent of the time we find something interesting and robust."

So far, the company seems to be passing its own test.

Among its various pursuits is StockScouter, a service found in the investing section of Microsoft's MSN Money site (<http://money.msn.com/>). It ranks 7,000 stocks on a 10-point scale using criteria including insider ownership, valuations, technical trends, earnings evaluations and other fundamental data.

MSN Money highlights the

top 50 StockScouter picks.

Investors who bought the several hundred stocks given top 8, 9 or 10 ratings at StockScouter's debut in August 2001 earned a 6.6 percent return over the next 15 months, Microsoft said in its most recent performance update, vs. a 26.9 percent loss for the Standard & Poor's 500 index.

While it's impractical for most investors to buy so many stocks, Microsoft considers the results encouraging for StockScouter.

Camelback's analysis for StockScouter has flourished in part because the firm's research favors risk avoidance at a time when caution has paid off. How the analysis will fare in a bull market has yet to be seen.

StockScouter is part of the investment-analysis segment of Camelback, which provides software and data programs for institutional clients such as mutual funds and hedge funds.

Camelback also has an equity consulting business designed to help public corporations comply with Securities and Exchange Commission filings for stock options and such.



NICK DE LA TORRE / GANNETT NEWS SERVICE

Scott Vorhauer (left) vice president, and **Donn Vickrey**, co-founder and vice president, lead Camelback Research Alliance, a company that's building a name for itself through stock selections on the Microsoft MSN Money Web site.

The firm also runs three small, fairly new hedge funds through its Pinnacle Investment Advisors unit.

Hedge funds are flexible investment pools that cater to clients typically worth at least \$1 million. Many hedge funds pursue short selling or other risky tactics that make them unsuitable for mainstream investors. The StockScouter program clearly is designed for wider circles.

"The idea was to develop a

quantitative model like what an institutional client would have, with an ability to explain it (to mainstream investors)," Vickrey said.

Quantitative analysis is a statistics-driven approach that allows investors to sort through various stock attributes, such as

"Information is the key when making investment selections."

- **Scott Vorhauer**, Camelback vice president

earnings, that are available in database form. Subjectivity doesn't enter into the equation.

"Information is the key when making investment selections," said Scott Vorhauer, a Camelback vice president and one of the firm's first employees, having met Vickrey while a business student at the University of San Diego. "But there's so much information out there, you need to apply technology to process it."

While Camelback has built a reputation for cutting-edge re-

search for its institutional clients, Vickrey and Vorhauer say there are many simple principles that mainstream investors can pursue to improve their odds of success.

One is having the commitment to invest regularly in good markets and bad, following what's known as a "dollar cost averaging" strategy.

Another is staying well-diversified, which includes spreading cash among various asset groups such as distinct types of stocks and bonds.

Also, they say, it pays to set stop losses or prearranged brokerage sell orders to unload stocks or mutual funds if they drop by a sufficient amount: perhaps 20 percent to 25 percent below what the investor paid.

"A lot of investors keep their losers too long," Vickrey said.

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CALIFORNIA

Hunter is poised to become leader of Armed Services

He would shape policy and Pentagon budgets

By Dana Wilkie *4154 San Diego Union-Tribune*
COPLEY NEWS SERVICE

WASHINGTON — The man who stands below the cluster of swords mounted in the House Armed Services Committee room — the large guy with ruffled coat and tired eyes — still looks a lot like the young lawyer who cajoled and charmed his way onto the committee 22 years ago.

He is grayer, of course, and his face has settled in fleshy folds around the chin. But when a colleague whispers something, Duncan Hunter's face bursts into the same wide, roguish smile he used long ago to convince the

skeptical that a brand-new congressman from San Diego should help shape America's military.

If all goes as planned, Hunter will become chairman of this committee in January, giving the conservative Republican a chance to mold defense policies and Pentagon budgets at a time when America stands on the verge of war. The rise of this El Cajon politician marks a personal triumph for a man who has waited nearly a quarter-century to put his stamp on the nation's armed forces. And it's a lesson in how a gregarious nature and single-minded pursuit can get one far in Washington.

Hunter will take the chairman's seat from Rep. Bob Stump, an Arizona Republican who is retiring. When Congress returns after its winter recess, Hunter expects to have enough com-



Rep. Duncan Hunter would become one of the most powerful men in the House as head of the Armed Services Committee. K.C. Alfred / Union-Tribune file photo

mittee votes to lead a panel responsible for a wealth of military affairs — strategy and deployment, troop pay and quality of life, and a defense budget approaching \$400 billion.

Hunter, 54, is slipping into a role for which he has prepared most of his adult life. In 1980, after snatching a congressional seat from 18-year Democratic veteran Lionel Van Deerlin,

Hunter quickly wrapped up some cases at his law office near Chicano Park, then flew to Washington to persuade those in California's congressional delegation to put him on the Armed Services Committee. He was 32 years old.

"My dad said, 'Your real campaign is just starting; you've got to get on

SEE Hunter, A7

HUNTER

CONTINUED FROM PAGE A3

GOP leader is set to succeed Bob Stump

Armed Services," recalls Hunter, who — like his father — served in the military. "He thought that was the most important thing we do in Congress, is provide for defense."

A wonkish sort who loves the technological minutiae of military weapons, Hunter became chairman of one subcommittee that buys equipment and weapons and another that conducts research on them. He worked at updating weapons, developing ballistic missiles systems and using defense dollars to secure the U.S.-Mexico border.

There are some in San Diego, however, who view Hunter's push to wall off the border as narrow-minded and intolerant.

"In the world we live in, you can't really afford to have an isolationist mentality," said Craig Barkacs, a lawyer and University of San Diego professor who ran unsuccessfully against Hunter in 2000. "Our best hope of not having people come across the border is for there to be a successful and

prosperous Mexico."

Having spent his entire congressional career on Armed Services, Hunter is clearly comfortable quizzing the likes of Defense Secretary Donald Rumsfeld and dissecting aerial maps of enemy nations. Straightforward and plain-spoken, he often asks questions tinged with the black-and-white conservatism that has marked his career and is sure to mark his chairmanship.

He has made his priorities clear: He will push to build up military troops, modernize weapons, increase the defense budget — by as much as \$50 billion on the next go-round — and trim the Defense Department's bureaucracy.

Observers predict Hunter will be a more energetic leader than Stump, and likely a more persuasive one. Some call him dynamic. Others say he gets things done with a combination of persistence and good nature.

On a recent September morning, after protesters disrupted a hearing on Iraq weapons that Hunter was chairing, the congressman quipped that "we're putting them down as undecided."

"He's definitely in charge of the hearings because he's got a take-charge personality," said Ivan Eland, director of defense policy studies for the Cato Institute, a libertarian think tank here.

"If you define the major problem that we have in Congress, it would be that we're too spread out. Really concentrating on armed services has enabled me to focus."

REP. DUNCAN HUNTER

Earlier this month, the White House would not support nearly \$400 billion in 2003 defense programs because full retirement and disability benefits would go to all veterans with service-related disabilities and 20 years of service. Hunter got the White House to approve benefits for those with a Purple Heart or who had suffered injuries during training or hazardous duty.

"Those in the White House said over and over again that they wouldn't take that position, but through his persistence, he was successful in overcoming their objections," said Rep. Jimmy Saxton, a New Jersey Republican on Armed Services.

But Hunter's resolution gave benefits to only about 35,000 of the 550,000 veterans who needed them, said David Autry, spokesman for Disabled American Veterans, who believes Hunter scaled back the benefits package to spare the Republican president some heat.

"He negotiated with the White House rather than run the risk of the president vetoing the bill and having the veto overridden (by Congress)," Autry said. "That would have hurt the (Republican) party and perhaps the president as well."

Hunter is skilled at winning money for defense contractors, including those in San Diego. Some, however, believe Hunter sometimes puts contractors ahead of common sense. He once devised a plan allowing two shipbuilders to develop submarines whose elements would be melded into a single vessel. It gave the shipbuilders work, but the Navy hated the idea. And despite the cost over-

runs and delays associated with the Patriot antimissile system, he continues to support this Lockheed Martin weapon.

"People get on the Armed Services Committee because they have defense industries or military bases in their districts, and they want to keep shoveling money toward those," Eland said. Though he has had opportunities to serve on other committees, Hunter never has.

"If you define the major problem that we have in Congress, it would be that we're too spread out," he said. "Really concentrating on armed services has enabled me to focus."

A man with a gregarious nature and seniority collects a lot of chits. Hunter has known Dick Cheney since Cheney was a congressman and often phones the vice president just to chat. When Hunter built a log cabin in the Blue Ridge Mountains, several of his Capitol Hill colleagues came to help. When he has lunch at a restaurant here, his packed table often erupts with animated stories and loud laughter.

Duncan Hunter

Home: Alpine.

Age: 54; born May 31, 1948, in Riverside.



Education: Western State University, law degree in 1976.

Experience: 1980 to present, U.S.

House of Representatives; 1976-1980, own law practice; 1969-1971, U.S. Army with tour in Vietnam.

Family: Wife, Lynne; two sons; one grandson.

When Saxton recently lost his father, Hunter drove more than 300 miles to attend the funeral, though Saxton did not ask his friend to be there.

"He goes out of his way for his friends, more than most other people do," Saxton said. "Everyone likes him."

FAMILY/FREEBIES

FAMILIES

The Holiday Of Lights The Del Mar Fairgrounds' drive-through display of seasonal festive lights features more than 350 elements, through Jan. 1, 2003. Del Mar Fairgrounds. Hours are 5:30 to 10 p.m. Sundays through Thursdays and 5:30 to 11 p.m. Fridays and Saturdays. Admission is based on vehicle size and occupancy. Call (619) 220-TIXS.

Don Tenorio The Hispanic Theatre of San Diego and the Mexican Actors Association present the first binational theatre collaboration of "Don Juan Tenorio" by Jose Zorrilla in Spanish, 7 p.m. tomorrow and 5 p.m. Saturday. City Heights Performance Annex, 3795 Fairmount Ave. \$10 and \$5; (858) 278-6139.

9 p.m. tomorrow and Saturday and again Dec. 13 and 14. La's Mesa downtown Village. Visit www.lmvma.com or call (619) 462-3000.

Book Sale The Friends of San Carlos Library hold a book sale from 9:30 a.m. to 3:30 p.m. Saturday. 7265 Jackson Drive. (619) 527-3430.

Annual Walk-On-Water Competition Watch students walk on water with self-propelled buoyancy "shoes" at the 12th annual Walk-on-Water Competition, 10:30 a.m. Saturday. University of San Diego, Aquatic Center, east of the main USD entrance at the top of Linda Vinda Road.

North Park Lion's Holiday Parade This year's parade features more than 120 entries and steps off at 11 a.m. Saturday on University Avenue at Utah Street. (619) 574-5196.

Sounds & Sights Of The Holiday Season The J. Jansen Band performs from 1 to 3 p.m. Saturday. Chula Vista Center, Carousel Food Court, at Fifth Avenue and H Street, Chula Vista. Visit www.chulavistacenter.com.

Herb Cohen & The Swing Set Band perform from 2 to 4 p.m. Saturday. In the center of the mall at Parkway Plaza shopping center, El Cajon. (619) 579-9932.

Ocean Beach Holiday Parade The 23rd annual parade features floats, marching groups and a fireworks display, stepping off at 5:05 p.m. Saturday from Sunset Cliffs Boulevard and Newport Avenue, Ocean Beach. Before the parade, there will be a "Family Fun Zone" and holiday craft bazaar from 10 a.m. to 4 p.m. in the Pier Parking lot and on the lawn. (619) 222-7991.

San Diego Union Tribune
12-5-02

The 1915 Wood Lath Botanical Building is the site for the 16th annual poinsettia display, running Friday through Wednesday, December 6-January 8, 2003. Over 300 poinsettia plants will decorate the historic building, open from 10 a.m. to 4 p.m. Friday through Wednesday. Free. For more information, call 619-239-0512 or 619-235-1100. (BALBOA PARK)

Ale, Ale, the Gang's All Here, the sixth annual San Diego Strong Ale Festival is set for December 6 and 7 at Pizza Port (571 Carlsbad Village Drive). More than 60 beers with over eight percent alcohol from S.D. breweries and many prominent regional breweries will be tapped.

Festivities begin at 4 p.m. on Friday and at 11 a.m. on Saturday, continuing until 11 p.m. each night. The \$15 fee includes commemorative tasting glass and four tasting tickets; additional tastes set will set you back \$1 each. For more information, call 760-720-7007. (CARLSBAD)

★ **They'll Be Walking on Water** when the 12th annual Walk-on-Water Competition takes place on Saturday,

December 7, beginning at 10:30 a.m. at the University of San Diego Aquatic Center. Local high school and college students design the shoes to defy gravity and stay afloat during their races across the water. Viewing is free for spectators. USD is found at 5998 Alcalá Park. Call 619-260-4659 for information. (LINDA VISTA)

All You'll Need Is Gift Wrap when the Athenaeum Music and Arts Library hosts a holiday book and craft sale on Saturday, December 7, from 10 a.m. to 4 p.m. Sheet music, books on a variety of subjects, CDs and LPs, and art periodicals are among the items on offer. The Athenaeum is located at 1008 Wall Street; 858-454-5872. (LA JOLLA)

Art in the Valley, the Carmel Valley Artists host their 39th annual winter show and sale from 9:30 a.m. to 3:30 p.m. on Saturday, December 7, at the Karl Strauss Brewery Gardens (9675 Scranton Road). Thirty-eight artists will exhibit work in a variety of media. Admission is free. Dial 760-945-6922 for details. (SORRENTO VALLEY)

All Aboard! The Great American Train Show steams into the Del Mar Fairgrounds on Saturday and Sunday, December 7 and 8. The show features

eight operating model railroads, hundreds of tables, over 10,000 trains, 34 free workshops, and more. Show hours are 11 a.m. to 5 p.m. both days. Admission is \$7 for adults, free for those under 12 with an adult. Call 702-252-0334 for information. (DEL MAR)

English Historian Edward Gibbon gained renown for his masterpiece *The History of the Decline and Fall of the Roman Empire*. Discuss a selection from the work with the Great Books Reading and Discussion Group on Saturday, December 7, at 2 p.m., in the third-floor conference room at the San Diego Public Library (820 E Street). 858-755-8978. Free; newcomers are welcome. (DOWNTOWN)

Book Sale, the San Carlos branch library holds its monthly book sale from 9:30 a.m. to 3:30 p.m. on Saturday, December 7. Paperbacks and hardbacks of all types are offered. The library is found at 7265 Jackson Drive; 619-442-1860. (SAN CARLOS)

Reader 12-5-02

ARIZONA DAILY STAR

TUCSON, AZ
WEDNESDAY 98,000
DEC 11 2002



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People

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▶ **Michelle Garrard** started her year at Cardiff University in Wales as the Ambassadorial Scholar for the Southern Arizona District of Rotary International. She graduated in 1999 from Catalina Foothills High School and is the daughter of Foothills residents **John** and **Carol Garrard**.

▶ **Timothy Lewis** is spending the Fall 2002 semester studying in Madrid, Spain, through Syracuse University's Division of International Programs Abroad. He is a sophomore majoring in business administration at University of San Diego and lists his permanent address in a Foothills neighborhood.

▶ **Laura Owen**, a junior English major at Carleton College in Northfield, Minn., recently played the role of Audrey in a performance of William Shakespeare's "As You Like It." She is the daughter of Foothills residents **David Owen** and **Julia Annas**.

ARIZONA REPUBLIC

PHOENIX, AZ
TUESDAY 886,200
DEC 17 2002



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Local students make splash in colleges countrywide

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Local high school students are doing all kinds of interesting things at colleges and universities across the country.

Arcadia High School graduate **Lindsey Porter** is a member of the dance team at Transylvania University in Lexington, Ky. The junior is involved in a variety of activities on campus. She is a treasurer of the Phi Mu Fraternity, a member of the Student Government Association and a student orientation leader.

Porter has a double major in Spanish and business administration. She is the daughter of **Joseph** and **Beth Porter** of Scottsdale.

David Ritter of Scottsdale has been named a dean's scholar at Syracuse University in New York. To receive a dean's scholarship, a student must have strong academic credentials from high school, be active in extracurricular affairs and demonstrate good character. The scholarship is worth \$4,000 per year.

Leigh Jedeikin and **Jessica Barbera**, both of Phoenix, are

just wrapping up a fall semester in Madrid. While there, students study language, literature and culture. They live with local families.

Jedeikin is a sophomore majoring in business administration at the University of San Diego. Barbera is a junior majoring in business administration at San Diego.

Matthew Peterson is doing well at Denison University in Ohio. He is the first recipient of the David Everett Reese Family Foundation Scholarship.

The scholarship, which pays one half of a student's tuition, recognizes students who are academically strong, well rounded and who display leadership ability.

Matthew is the son of **Kate** and **Dean Peterson** of Phoenix. He graduated this past fall from Sunnyslope High School.

If you know a person who has done something terrific, we want to know about it. Send a note to The Arizona Republic, Local People Section, 200 E. Van Buren St., Phoenix, AZ 85004. Or e-mail localpeople@arizonarepublic.com.

VIRGINIA HORSE JOURNAL

MARSHALL, VA
12-TIMES/YEAR
DECEMBER 2002



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The Virginia Horse Council Announces New Executive Secretary

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Stepping into the position last month is Keli Harold. She has a bachelor's degree in Business Administration from the University of San Diego in California. Before moving to Virginia with her husband in 1993, her primary focus since college had been business/office management in the real estate field (sales and property management) in her native town of San Diego, California. After her first year in Virginia, she accepted a job with a local weekly newspaper as a Special Investigations Reporter. Harold was promoted to Advertising Director of the newspaper, and maintained both positions until May 1997, when she went to work for the Louisa County Attorney. She then joined an infant nutrition company in Gordonsville as the Assistant to the president in January 1999. She was quickly promoted to Director of Corporate

Communications and handled the corporation's public relations and assisted the sales and marketing departments until she left to stay at home with her children. Harold and her family have four Polish Arabian horses and a Paint horse.

"I am very fortunate to work for a progressive thinking employer, The Virginia Horse Council, which enables me to have the best of both worlds-I am home with my children, and I stay involved with the business world. There aren't many professions where a person can do all of that," Keli said. "I feel very blessed that I have the ability to work for The Virginia Horse Council and I look forward to getting more involved in the organization and the horse industry," she added.

For more information about the Virginia Horse Council, call 540-894-0735, or email virginiahorsecouncil@juno.com. 

School of Education

Klein Announce Creation of Institute for New Principals

By ABBY GOODNOUGH

Schools Chancellor Joel I. Klein plans to announce today the creation of a training institute for new principals, at least partly financed with private dollars, officials said last night.

Mr. Klein has repeatedly said that improving the quality of the city's 1,200 principals is his top priority. More than a third have been on the job for three years or less, and many experienced principals are preparing to retire. More than 225 are serving on an interim basis, often because there are no standout candidates for the jobs.

In recent months, Mr. Klein has hinted that he wants to recruit new principals from across the nation, seeking not just educators but also people from business and other sectors. He has said that learning from experienced principals should be a crucial component of any training program.

Mr. Klein is said to be modeling the program after one in San Diego, where new principals serve paid internships under veterans while taking classes designed

by the school system and the University of San Diego.

Mr. Klein also wants to give principals the power to hire their assistant principals, but that change might require

legislative approval. He also wants to free principals from excessive paperwork so that they can spend more time in the classroom. In San Diego, principals are required to spend at least two hours a day in the classroom.

The announcement comes two days after the city principals' union declared an impasse in contract negotiations with Mr. Klein and Mayor Michael R. Bloomberg. Jill Levy, the union's president, said Monday that she would file a complaint with the Public Employment Relations Board because Mr. Klein had asked the city's 1,200 principals to answer a survey about their jobs. Ms. Levy said that Mr. Klein was using the survey to negotiate directly with her members, which she said violated fair labor practices.

The union's 5,300 members — which include principals, assistant principals and other school administrators — are seeking a 10 percent raise over 30 months. Their last contract expired in April. Ms. Levy has accused Mr. Klein of stalling the contract talks while he completes a four-month, top-to-bottom study of the school system, a major part of which is figuring out how to improve and give more power to principals.

Mr. Klein will also announce a committee of principals from across the city who will advise him on matters relating to their jobs, one official said.

David Chai, a spokesman for Mr. Klein, would not confirm details of the announcement, which Mr. Klein is to make this afternoon at the Tweed Courthouse.

New York Times 12-11-02

School of Law

**METROPOLITAN
NEWS-ENTERPRISE**

LOS ANGELES, CA
TUESDAY 2,500
DEC 31 2002



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Three State Officials Picked for Sacramento Trial Court

4154 193

By a METNEWS Staff Writer

Three high-profile California state officials were appointed yesterday to the Sacramento Superior Court.

"Gov. Gray Davis named his chief deputy legalaffairs secretary, Shelleyanne Wai Ling Chang, to the trial court in the state capital, along with California Air Resources Board Executive Officer Michael P. Kenny and Board of Prison Terms Chief Counsel John P. Winn.

Chang, 42, was a lawyer for the Internal Revenue Service and a state lawyer before joining the governor's office in 1999.

Chang is the governor's top lawyer, after Chief Legal Affairs Secretary Barry Goode, and manages the work of the six-lawyer office. She directed litigation, analyzed proposed legislation, and represented the state on various gambling issues involving Indian tribes.

Soon after joining Davis' office she became a member of the governor's four-lawyer negotiating team that reached gambling accords with 61 Indian tribes in 1999.

Chang was a deputy attorney general from 1993 to 1999, handling litigation for state officials, the pension systems and the Department of General Services. She also was bond counsel for the California Housing Finance Agency.

Chang is a graduate of the University of Washington and earned her law degree from McGeorge Law School in Sacramento. She joined the IRS office of chief counsel in 1985, representing the commissioner of internal revenue in tax and bankruptcy courts.

She became a member of the State Bar of California in 1991 while working for the IRS.

Kenny, 48, has served since 1996 as the top staff executive of the California Air Resources Board, with a staff of about 1,100 and an annual budget of \$150 million. He reports to a part-time board of 11 and full-time board Chairman Alan C. Lloyd, all of whom are appointed by the governor.

The board oversees state air pollution control and works with local air control districts to establish industrial emissions standards.

Kenny began working for the board as general counsel in 1990. Previously, he was enforcement counsel for the Fair Political Practices Commission, and before that,

from 1984 to 1988, he was a San Joaquin deputy district attorney.

He graduated from UCLA, earned his law degree from University of San Diego Law School and became a member of the State Bar of California in 1980. He began his law career with the Sacramento firm of James & Kilpatrick in 1981.

Winn, 45, is a former prosecutor and state Department of Corrections lawyer who became chief counsel to the Board of Prison terms in 2000. In his current job, Winn counsels the board's chairman and staff on hearings to grant or revoke parole and define the status of mentally disordered offenders and sexually violent predators.

Winn is a graduate of the University of Massachusetts and Boston College of Law, and was admitted to the State Bar of California in 1988. He became a Sacramento deputy district attorney in 1988 and a Yolo deputy district attorney in 1990, and joined the Department of Corrections in 1993.

LOS ANGELES DAILY
JOURNAL

LOS ANGELES, CA
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INFORMATION SERVICES

JUDICIARY

Southern California Judges Named

■ Davis fills two vacancies in San Diego County and another in Orange County.

By Tina Spee
Daily Journal Staff Writer

LOS ANGELES — Gov. Gray Davis has appointed three new judges for Orange and San Diego counties.

Kerry Wells, a deputy district attorney in San Diego, and San Diego private practitioner Lisa A. Foster have been chosen to fill judicial vacancies in San Diego. Thomas M. Goethals, a partner at Laguna Hills' Pohlson, Moorhead & Goethals, was appointed to Orange County Superior Court.

Wells, 49, has been a member of the San Diego district attorney's office since 1980, and is chief of its South Bay Division.

As former head of the office's Stalking

and Domestic Violence Units and head of its Stalking Strike Force, Wells in 1991 prosecuted Elizabeth Broderick, a San Diego socialite convicted of the second-degree murder of her ex-husband and his wife.

Wells received her bachelor's degree from the University of Arizona and her law degree at Whittier School of Law. She fills the vacancy created by the retirement of Judge William Draper.

An adjunct professor of law at the University of San Diego School of Law, Foster, 45, is a private attorney in San Diego. Until recently, she represented whistle-blowers in False Claim Act lawsuits at San Diego's Phillips & Cohen.

From 1985 to 1990, Foster worked as a staff attorney at the Legal Aid Foundation of Los Angeles, where she created an urban environmental law practice. She then served for three years as the executive director of California Common Cause.

Foster earned her bachelor's degree from Stanford University and her law degree at Harvard Law School in 1983. She fills the vacancy created by the retirement of Judge Victor Bianchini.

Goethals, 50, is a partner at Pohlson, Moorhead & Goethals. He specializes in criminal defense, personal injury and business litigation.

He has handled more than 150 jury trials, both as prosecutor and defense attorney in criminal cases. For 10 years, he was with the Orange County district attorney's office, where he headed the homicide section and appellate section.

Goethals received his bachelor's degree from Santa Clara University in 1974 and graduated from Loyola Law School in 1977. He fills the vacancy created by the retirement of Judge Tully H. Seymour.

Each new judge will receive a salary of \$139,476.

3 appointed to Superior Court bench

4154 U.S.D., Law Sch.
The governor names his legal affairs secretary, an air-quality official and a parole board lawyer.

By Ramon Coronado
BEE STAFF WRITER

Three new judges have been appointed to the Sacramento Superior Court, Gov. Gray Davis announced Monday.

"It is something I have been hoping for, but when it happened I was in such a shock that I forgot to tell my husband," said Shelleyanne W.L. Chang.

Chang, 42, is the chief deputy legal affairs secretary for Davis.

Michael P. Kenny, executive officer of the California Air Resources Board, and John P. Winn, chief counsel to the Board of Prison Terms, also were appointed.

"I'm simply thrilled, and I am looking forward to the challenge," said Kenny, 48.

Winn, 45, who also serves as liaison with the Governor's Office and has worked closely with Chang, said he too was thrilled upon receiving the news of his ap-

► JUDGES, page B4

SACRAMENTO BEE

SACRAMENTO, CA
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DEC 31 2002



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"I am excited and honored by the confidence the governor has placed in me," Winn said.

The appointees will join about 70 other judges in the Sacramento Superior Court, which operates out of five sites, employs about 700 workers and has an annual budget of about \$70 million. The three appointments leave one unfilled vacancy. Each of the appointees will receive a salary of \$139,476.

Chang lives in the Pocket area of Sacramento with her husband, Keith Yamanaka, and their 10-year-old daughter, Alexandra Chan.

As the governor's legal affairs secretary, Chang reviews the work of other attorneys and advises the governor and his staff on legal issues and pending litigation. She also advises the attorney general on litigation involving the governor, and reviews

and analyzes proposed legislation.

She has been one of the primary attorneys representing the state on Indian gaming issues and was one of four lawyers on the governor's negotiating team that drafted gaming compacts with 61 tribes.

Chang joined the Governor's Office in 1999 after working as a deputy attorney general for about six years. She received the attorney general's award for outstanding achievement in 1997.

She is a member of the Asian Bar Association of Sacramento and has served on the board of Legal Services of Northern California.

She earned a bachelor of arts degree from the University of Washington and a law degree from McGeorge School of Law. She replaces Judge Harold Manson, who received a federal appointment.

Kenny has headed the state Air

Resources Board since 1996. He supervises a staff of more than 1,000 employees and an annual budget of more than \$100 million.

He has practiced law for 16 years, drafting wills and trusts and handling personal injury and business litigation. From 1984 to 1988, he was a deputy district attorney in San Joaquin County.

From 1988 to 1990 he was an enforcement counsel for the Fair Political Practices Commission where he monitored compliance and prosecuted violations of the state conflict of interest laws.

Kenny joined the Air Resources Board as a general counsel in 1990 where he supervised litigation and advised the board until his appointment as executive officer in 1996.

He earned a bachelor of arts degree from UCLA and a law degree from the University of San Diego Law School. He fills the vacancy created by the retirement of



**Shelleyanne
W.L. Chang**



**Michael P.
Kenny**



**John P.
Winn**

Judge Gary E. Ransom.

Kenny lives in Sacramento with his wife, Susan Olson, and their children, Connor, 15; Caitlin, 13; and Liam, 8.

Winn lives in Folsom with his wife, Vicki, and their sons, Christopher, 10, and Kevin, 8.

Winn has been chief counsel for the Board of Prison Terms since 2000. He manages the board's legal unit and provides legal support to the chairperson and the agency's staff members on hearings dealing with parole, parole revocation, mentally disordered offenders and sexually violent predators.

As liaison to the Governor's Office he provides advice to the attorney general in litigation involving the Board of Prison Terms.

From 1993 to 2000, Winn worked as a senior staff counsel in the state Department of Corrections. He worked as a deputy district attorney in Sacramento County from 1988 to 1990 and in Yolo County from 1990 to 1993. He was in private practice from 1986 to 1990.

He earned a bachelor of arts degree from the University of Massachusetts and a law degree from Boston College of Law. Winn replaces Judge Morrison England who resigned to take a federal appointment.

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The Bee's Ramon Coronado can be reached at (916) 321-1191 or rcoronado@sacbee.com.

Red Sox GM job: Is it 'kid' stuff?

Epstein's moves will receive scrutiny in a tough sports town.

By STEVE WILSTEIN
The Associated Press

THE KID was everywhere, always asking questions.

When he was on the public relations staff of the San Diego Padres, he'd corner Tony Gwynn and pick his brain about players and game situations.

The kid did that with everyone who could teach him something about baseball.

Then when Gwynn sat down with the Padres to talk about his last contract a few years ago, there was the kid again, in the same room with owner John Moores and president Larry Lucchino.

"I'm not going to lie," Gwynn says. "I thought, 'What the heck is he doing here? Why is he in here on this?' After I left that meeting, it dawned on me that his goal was to someday be a general manager. So it made sense for him to be there."

Players and fans will keep wondering about Theo Epstein, who last week became the Boston Red Sox general manager at age 28 — the youngest GM in baseball history.

"Players are going to question him and challenge him," Gwynn says. "'How much baseball knowledge do you have? Who are you? You've never done this.' He's going to hear all the negative stuff that there is to hear. He's going to have to be thick-skinned.

"Boston is a tough sports town



THEO EPSTEIN

and he will be scrutinized more than any other general manager in baseball."

Epstein has already heard all the jokes about his age and his own father's comment that, as dizzying as the new job might be, "At Theo's age, Alexander the Great was already general manager of the world."

Lucchino, who became the Red Sox president and CEO when John W. Henry bought the team last winter, mentored Epstein's development at San Diego and Baltimore and calls him "a gifted person" who will be surrounded by experienced people.

Epstein's first move, the day after taking over, was to hire 68-year-old former Detroit GM Bill Lajoie as his special assistant.

In Boston, The Kid has meant

only one person for more than six decades — Ted Williams. Now, less than six months after Williams died, the Hub is welcoming the new Kid, a clean-cut Yale graduate who grew up a mile from Fenway Park. The Red Sox, he says, "are very much in my blood."

He thinks like Boston fans, knows how much they yearn for a World Series championship after 84 years of futility, and speaks their language, as he showed in giving his support to manager Grady Little: "He is the manager of this nine."

Epstein set the bar high for himself when he boldly declared that the Red Sox would win a World Series. He didn't say when, but he doesn't come across as someone who is looking ahead too many years. He rose quickly and clearly expects the Red Sox to do the same.

Cynics might have been suspicious that his appointment was based on family ties, maybe family money. They would have been wrong. Epstein comes from a family of writers and teachers, not corporate bigwigs or baseball insiders.

Sometimes what you know matters more than who you know.

Epstein's strong suits seem to be brains, organization, imagination and an inclination to work hard — traits he inherited or learned early on.

His father, Leslie, heads the creative writing department at Boston University. Epstein's sister, Anya, writes screenplays and TV scripts. His twin brother, Paul, coaches girls' soccer at Brookline High and is a guidance counselor and social worker at the school.

His grandfather, Phillip, collaborated with twin brother Julius to write the screenplay for "Casablanca." Their Oscar is in the den of Epstein's parents' home.

"Nothing would ever trump that," Epstein says. "But I think we can make room for a World Series trophy."

Epstein, who was the sports editor of the Yale Daily News and manager of the school's hockey team, got his start in baseball as a summer intern in the PR department of the Baltimore Orioles in 1992. He impressed people there, and kept impressing them when he followed Lucchino to San Diego in 1995.

At Lucchino's urging, he went to the San Diego Law School while working for the Padres. He skipped a lot of classes but earned his degree and passed the bar exam on his first attempt.

Now, after 12 seasons learning the game from different vantage points — he scouted 200 games a year and operated the radar gun to measure pitchers' velocity for three years — Epstein is in the position that seems to have been part of his plan all along.

Brains and talent aside, though, Epstein is still at the mercy of the Red Sox's record.

"All the brains in the world do not mean a thing in baseball if you don't win," Gwynn says. "He will ultimately be judged by W's and L's, just like everyone else. If they get to the World Series, he'll look good. If they don't, well, a 28-year-old general manager, what did you expect?"

Steve Wilstein is the national sports columnist for The Associated Press. Write to him at swilstein(at)ap.org

JEWISH ADVOCATE

BOSTON, MA
WEEKLY 27,500
DEC 6 2002



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For Epstein, youth is served

Longtime Brookline resident named GM of Red Sox at age of 28

By Jason Nielsen
Advocate Staff

When longtime Brookline resident Theo Epstein became the 11th general manager of the Boston Red Sox and the youngest one in baseball history last week, he also achieved his dream of running his favorite team.

The 28-year-old signed a three-year contact Nov. 25, starting a new

era in the team's 101-year history. "I grew up in Boston and moved here from New York City in 1978, the Bucky Dent year," Epstein said at his introductory news conference. "I was a Red Sox fan from day one, and the team is very much in my blood. We're going to become a championship organization and win a World Series."

Leslie Epstein, Theo's father and the director of the creative writing

department at Boston University, said when his son wants something, he won't budge. He described his son as a mixture of caution and spontaneity with a streak of independence. "He's a good person with high ethical standards," he said.

"Baseball needs new vision and new blood," said the elder Epstein, a longtime Red Sox fan. "Baseball is

FRONT PAGE

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Continued on Page 11

A the stodgiest and high-bounded of all sports. Theo represents new energy, and the Red Sox are daring and wise enough to realize that."

Born in New York City on Dec. 29, 1973, Epstein grew up in Brookline, a mile from Fenway Park. He attended Lawrence School and Brookline High School before attending Yale University. He later earned a law degree from the University of San Diego.

Paul Epstein, 28, a social worker at Brookline High, said he's "extremely proud" of his fraternal twin. He said they're very close and extremely competitive. Paul joked that his dad remembers Theo's first words as being "he did it" as he pointed to his brother.

The competitiveness between the brothers continues to this day. They play on the same soccer team. "I made the all-star team, and he didn't," Paul jokingly pointed out.

Theo's sister Anya Epstein, 32, a television writer and producer in New York City, grew close to her brother during their one year together at Yale, when she was a senior and he was a freshman. They spent a lot of time with each other and tried to get all of the siblings together for dinner at least once a week.

It took time for her to think of her "kid brother" as a trusted confidant. All of sudden, she said, Theo was giving her advice on past boyfriends.

She said her brothers were sports fanatics as kids. "It was pretty much sports 24 hours a day," she said. "It was a little extreme."

Theo's new position has created a small rift in the family: Her husband's a Yankee fan. "Theo and the Red Sox win as of now," she said.

While he never played at any level higher than the Pony League (he was on the Yankees, and his team won the championship), Epstein's father said he always had an innate knowledge of baseball. He recalled watching a baseball game with his son when he was a 9-year-old. "Theo knew that the center fielder should move three steps to his left," he said. "Even then, he was a student of the game."

Epstein's introduction to pro baseball came as a media relations intern with the Baltimore Orioles in

1992. He created a tribute to the Negro League players during the 1993 All-Star Game activities. He's credited with helping Baltimore star Leon Star get elected to the Baseball Hall of Fame. The idea for the tribute was actually part of Theo's essay on his application to Yale.

His father believes the best advice he gave his children was to learn how to write well. He said people have to "learn how to write to get on in society. Theo, like his siblings, became good writers," Leslie said. "He was hired initially by the Orioles because they knew he could write."

Epstein worked his way up from media relations assistant to baseball operations director with the San Diego Padres while earning his law degree. In 1998, the Padres went to the World Series, and three years later, its scouting and player development system was called one of the best in baseball, according to Baseball America.

Paul said his brother does have other interests besides baseball. Theo recently started to play the guitar. His brother calls him regularly to play a few notes of a song he just learned and ask him to name the song. "It's not easy to do given his limited knowledge," Paul said with a laugh.

While Epstein never went to temple or had a Bar Mitzvah, Leslie, a novelist who has written extensively on Jewish themes, said his children have a very strong Jewish identity, developed entirely from books.

He recalled telling the boys it was time for them to go to temple. They said they didn't want to go and immediately asked if their father had gone. "I said no, and they said, 'Don't be a hypocrite,'" Leslie said.

So instead of sending them to temple, Theo's father gave them a stack of books to read. "It's presumptuous to say Theo's Jewish background influenced him," the Epstein patriarch said, "but not foolish to be ruled out."

Volunteerism is valued in the Epstein family. Leslie and his wife, Ilene, work with the elderly. While Paul has made a career of helping others, Theo spent the night of his appointment as GM serving dinner at an AIDS banquet.

Ilene, co-owner of The Studio in Cambridge, said it has been

completely surreal to read about her son in the newspaper. "I see his face staring at me in the TAB, and I think, 'What is he doing there?' It's completely insane and hasn't really sunk in yet."

She has stopped listening to the radio because she knows the honeymoon period with the media will end soon. A huge Sox fan, she is confident Theo will do a good job. "It was definitely time for a change," she said. "The team was not working as it was. Theo has strong convictions, passion and intelligence. He inspires confidence and will do a good job."

Baseball's 'Brat Pack' trying to make names

4154 UNIV. of San Diego Law School

Youthful Epstein is latest breath of fresh air for Sox

Some who possess forums such as these in which to inform, enlighten and generally mouth off are having a wonderful time at Theo Epstein's expense. Even our more artistic colleagues, newspaper cartoonists, gleefully scribble away.

There's a rendition of the new Red Sox general manager as a toddler, pouting in response to a hulking player agent. There's another of Epstein being mistaken for a batboy.

Stay tuned for Epstein in a high chair, Epstein wearing a bib, Epstein riding a tricycle, and other contrived caricatures making the point that the guy is



ALAN GREENWOOD

a mere 28 years old.

No doubt after his first debatable move (as if any move by a Red Sox GM is not rigorously debated) Epstein's likeness will be awash in tears with a giant "WAAHHH!" ballooned over his head.

Most of these jabs are, of

GREENWOOD | PAGE C-2



Photo by THE ASSOCIATED PRESS

It's clear that Red Sox CEO Larry Lucchino, left, has high hopes for his prodigy and new general manager, Theo Epstein.

for themselves

SUNDAY TELEGRAPH

NASHUA, NH
SUNDAY 30,000
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Greenwood | This is not your father's Sox team

CONTINUED FROM | PAGE C-1

course, borne from unbridled jealousy. Those of us peeking at a horizon marked "45" or higher would love nothing better than to reel back the odometer to 28 years, 11 months, especially if part of the deal means gaining one of the greatest jobs in America.

Of course, upon saddling up the way-back machine, we must be able to retain whatever wisdom has been inflicted upon us on life's highway. What good is it to regain 16 years if sentenced to do the same stupid things all over again?

Assuming his professional friends and mentors are correct, Epstein had exhausted most of his youthful foolishness by the time he started shaving regularly. Certainly to graduate from Yale, and from the University of San Diego Law School is indicative of

someone with a little more on the ball than the typical 28-year-old prowling Fenway's bleachers, splashing beer on his neighbors and shrieking "Yankees Suck!"

Clearly, Epstein's soul is well-developed - he stuck his law degree in a drawer and took a job in baseball.

Long before Larry Lucchino stumbled and fell in his courtships of J.P. Ricciardi, Billy Beane, Gene Michael, et al, Epstein had both feet on the fast track. From the day last spring when Lucchino hauled him back home from San Diego, Epstein stood no lower than one rung away from the job he now holds.

Perhaps most importantly in Lucchino's agile mind is Epstein's power, by merely his presence, to finish refreshing an organization that for too many years cried out for open windows and brisk breezes.

Lucchino and principal owner John Henry made institutional change their mantra upon taking over the Red Sox. Even before they peeked inside Fenway's darkest inner sanctums, they understood, as did anyone within baseball's little fraternity, that the franchise was drunk on arrogance, bloated by the certainty that no matter what they did or did not do, at least two million folks would make the cash registers sing each and every season.

For openers, the new regime set about treating fans like customers, which may seem elementary to a barkeeper or shoe salesman, but was a wholly foreign concept within Fenway's decayed culture. Civility replaced barking, appreciation replaced condescension.

Eight months into his tenure, Lucchino understands that he has only just begun chasing the

ghost of Pinky Higgins out of his ballpark.

While a case can be ably constructed that Mike Port deserved a shot to keep the seat he had warmed since Dan Duquette's banishment, he likely fell victim to guilt by past associations. No one would ever compare the affable Port to the Duke of Self-Importance, but an institutional revolution may best be waged by someone unfettered by old habits or bad memories.

Epstein can go wrong only by fearing to try anything at any time. He should improvise for the sake of improvisation, testing any boundaries and daring any traditions that have anchored the Red Sox since before most of us were born.

Go for it, kid.

Alan Greenwood can be reached at 594-6427 or by e-mail at alang@telegraph-nh.com.



Burrelles
 INFORMATION SERVICES

Young Blood

The youngest general manager in baseball history comes from a driven family

By **Bella English**
 The Boston Globe

4154 San Diego U.

The view from Theo Epstein's office at Fenway Park includes a billboard that depicts a Red Sox player with the question "Cursed?" Underneath, it continues: "Yeah, with the best fans in baseball."

That, of course, depends on how you define "best." If "best" means fanatic, crazed, heartsick, fickle, rambunctious, and often downright hostile — do we have to invoke Bill Buckner's name here? — then OK, Boston fans are the best.

Epstein, the new general manager of the Red Sox, knows about the long-suffering fans of Fenway: "I was one of them," he says. From childhood until he left for college, he and his family attended 15 home games a year. When asked whether he ever booed the Sox, Epstein pauses.

"I tend not to be a booper. I tend to sit quietly with my arms crossed in front of me. When we're not winning, I'm very unhappy. The staff is pretty unhappy. And the fans are exceptionally unhappy."

But back to that billboard. Are the Red Sox really cursed by the ghost of Babe Ruth?

"I don't really believe in curses," Epstein says, flashing a broad grin. "Look, I can't sit here and deny that the Red Sox have broken their fans' hearts for the better part of a century. But I think with the right approach, tremendous resources, great ownership, and hard work, we can put ourselves in the position to win the World

Series. It's just a matter of time."

Speaking of time, Theo Epstein has always been a young man in a hurry.

Some of his best baseball hits came when he was a toddler, he says, only half-joking. He ruined his pitching by learning to throw a curveball before his arm was ready. As a college intern for the Baltimore Orioles, he conceived and organized a huge commemoration for surviving Negro League players. He went to law school while working for the San Diego Padres. And now, at 28, he's the youngest GM in baseball history.

Family of achievers

Theo Epstein is now in the driver's — some might say suicide — seat of the Boston Red Sox. Clearly, brains and focus got him there fast. But he attributes much of his success to the home he grew up in.

Epstein has a twin brother and older sister, both doing well in their chosen fields. His father, Leslie, is an acclaimed novelist and director of the creative writing program at Boston University. And his mother, Ilene, is, as he puts it, part of "a great Brookline institution."

"The Studio," he says. It's the fashionable women's clothing store near Coolidge Corner that Ilene Epstein, her twin sister, Sandy, and best friend Marcie Brawer have run for nearly 25 years. It is also, he reveals, "where I saw my first naked lady." (As boys, he and his brother, Paul, used to hang out there, waiting for their mother.)

There seems to be a creative strain running through

the Epstein family. Leslie Epstein's father, Philip, and his father's identical twin, Julius, won the Academy Award for best screenplay for "Casablanca." Theo's sister, Anya, 32, followed the family tradition: she wrote scripts for the NBC series "Homicide: Life on the Street" and is now writing screenplays. She is married to Dan Futterman, an actor. His twin, Paul, is a social worker and soccer coach at Brookline High School, where the boys graduated in 1991.

Growing up, the Epstein parents had high expectations. "There were raised eyebrows over low B's or C's because they knew I could do better if I tried," says Theo. In college, he "really kind of stopped working because I was into other things. I think my father saw I wasn't going to be one of those typical Yale students who spent hour after hour in the library trying to get an A instead of an A-minus."

He finds it amusing when others talk about his high-achieving family. To him, it was a relaxed household, full of love.

"When I think of my family, I think of my dad locked in his office, writing about a sentence a day, with classical music on; my sister locked in her room with bad pop music on, talking to her friends on the phone; my mom hustling home from work to make an unbelievable dinner in 30 minutes; and my brother and I beating the heck out of each other in the hallway," he says. "Those are my memories."

Please see **Young man / D3**

But he is unabashedly proud of his family's accomplishments: his father's writing and teaching; his sister, "so talented as a writer and producer and now as a great mother"; his brother's work with children ("What he does is so much more important than anything I'll ever do").

And then there's mom. Ilene Epstein never went to college. "She overcame a very difficult childhood," says Theo, one that included being bounced between foster homes. "She's certainly an inspiration with her entrepreneurship and business savvy and what she's been able to accomplish."

A life around the field

Being part of the Red Sox family seemed almost preordained for Epstein. "I was probably a Red Sox fan before I even knew it," he says, adding that his father, even while living in New York, despised the Yankees and adored the Sox — something that the twin toddlers absorbed. At age 4, Theo and his family moved to Boston, where they lived a mile from Fenway Park. Today, he lives "a block and a half from Gate D," walks to work, and tells time by looking out his seventh-floor living-room window, from which he can see the clock and scoreboard at Fenway.

He says he's confident about his baseball-management skills but nervous about other aspects of the new job, notably the lack of privacy. He pauses, then adds: "Actually, I'll be pretty nervous 162 times next year," the number of games on the schedule. He notes that his old boss in San Diego, Kevin Towers, put on 30 pounds his first year as the Padres GM.

"We called watching a game with him nine innings of pain," says Epstein.

Nail-biting, not bingeing, might be more Epstein's style. Late at night, to unwind, he'll strum his acoustic guitar or surf the Internet. He also runs and lifts weights. "If I didn't, I'd wither away. I'm really skinny," he says. He's 6-1 and rangy, while fraternal twin Paul — delivered a minute earlier, by caesarean section — is 6-4 and strapping.

Growing up, the brothers played both soccer and baseball, though Paul favored soccer, Theo baseball. Theo played on the Brookline High School team but says his baseball skills peaked at age 3, when his parents would take the boys to Central Park and pitch to them.

"I'd hit them over the fence. People would gather to watch the little kid," says Epstein. "But that came about 20 years too early to maximize my earning potential." He made the Brookline Little League All-Stars but says he was "a second-tier player" as a pitcher at Brookline High School. Paul says his brother "didn't have overpowering physical gifts, but I think he made up for it with pitcher's intellect."

Though his parents attended all of the boys' soccer games, they had a hard time watching Theo on the mound, worrying he'd lose. "I was too nervous," says his mother, who has saved all the boys' trophies and sports memorabilia — her "archival

vaults" — in the comfortable old Brookline apartment where she raised three kids and where she is now compiling a scrapbook of Theo's latest venture.

As close as Theo is to Paul, Ilene Epstein is to her identical twin, Sandy Gradman. The two work together and live three blocks apart. When Gradman was diagnosed with breast cancer two years ago, she says, her nephew Theo called her constantly from San Diego.

"Theo is just brilliant, but... he is completely without the ego a kid like that can have," Gradman says. "I'm sure he'll make mistakes along the way, but I think he'll be very successful."

Though the entire family is close, Theo and Paul often operated as a unit, and sports was their life. They'd turn the long hallway of the apartment into "a baseball infield, a basketball court, a football field, a hockey rink, a boxing ring, and a bowling alley," Paul says.

Growing up, the boys watched so many sports events on television that their father made a deal: For every minute of TV, there would be a minute of reading. It taught the boys a set of skills — but not the one their father had in mind. "How to beat the system," Theo says. "It was the ever-popular locking yourself in the room with a book, shuffling the pages loudly while quietly listening to the game on the radio."

"The rule," agrees his father, "was loosely enforced."

"Their obsession with baseball was very, very extreme," says Anya, who lives in New York and recently taught her toddler to say, "Yay Sox!" on the phone to Uncle Theo. "The TV was always turned to sports. I had to fight for my hour of 'Little House on the Prairie.'"

They used to drive the neighbors crazy, too.

"The people downstairs used to bang on the pipes," says Paul. "If things got really bad, they would come knock on the door, and we would run to the bathroom and leave our parents to deal with it." In high school, the self-described "late bloomers" didn't drink or party. "We lived through sports," Paul says. After one particularly noisy home game, a downstairs neighbor demanded to see the boys.

"You guys are 15 years old!" he scolded. "You should be out drinking beer and chasing girls!"

When the twins went their separate ways for college — Theo following his sister to Yale, Paul heading to Wesleyan University in Connecticut — they spoke every day on the phone, a tradition that continues. And when Theo returned to Boston last March to become the Red Sox' assistant general manager, Paul was most excited about signing him up for his weekend soccer team.

Though they were inseparable as children, the twins haven't done everything in lock step. Paul and Anya were engaged within a month of each other, and Paul married fellow social worker Saskia Grinberg nearly two years ago. "I think Theo was quite relieved, because he said it bought him more time from my mom," Anya says, laughing.

But not from the Boston media. He's now being called Boston's most eligible bachelor — something

his twin says he finds "hilarious." Theo would like to set the record straight.

"I am involved," he says, adding that he wants to "protect the privacy of the relationship." He will allow that she's 24 and a consultant in the biotech industry.

Problems to solve

Though he says that his family and friends, not baseball, are his life, Epstein might be stretching the truth. He's at Fenway about 100 hours a week during homestands, he travels with the team, and he puts in up to 80 hours a week at work during the off-season.

For a while, Epstein considered becoming a journalist, but a stint as sports editor of the Yale Daily News changed his mind. He wanted to be part of a team effort, and being a reporter was, he says, a "very individualistic pursuit."

He worked summers during college as an intern for the Orioles and then moved with Orioles owner and CEO Larry Lucchino to the Padres, working his way up to a position as head of baseball operations. Meanwhile, he attended law school at the University of San Diego at the suggestion of Padres management, which thought it would help his career in baseball. "What made it a slam-dunk for me was that no one else in the Padres had a law degree," says Epstein. "Many of the agents are lawyers, and it also helped me with critical thinking."

In Epstein's small, sparse office, there are just three pictures on the walls, all of them with Ted Williams, who retired as a player more than a decade before he was born. "Certain geniuses come around every few generations," he

says. The Red Sox management hands out copies of Williams' booklet, "The Science of Hitting," to its minor-league players. But after two years of fast starts and dismal finishes, the Sox need more than a booklet to win a World Series, or even a pennant.

"I think the team is better than they played the last four months of the season, but not as good as the first two months of play," Epstein says. He knows the Sox need to bolster their bullpen, and he mentions his first acquisition as GM, pitcher Ryan Rupe, claimed on waivers from the Tampa Bay Devil Rays.

Epstein would probably agree with the Yogi Berra saying, "Ninety percent of this game is half mental." He knows the Sox can't out-spend the Yankees, but they might be able to out-fox them. To that end, Red Sox management runs computer studies, looking for certain statistical indicators to identify future stars among minor-league players. That, along with traditional scouting, should give the Sox the "difference makers" they need, Epstein believes.

Soon, Epstein will move into a larger office, though he loves his view of the billboard and of the Cask 'N Flagon, a popular pregame watering hole.

The trappings of power mean little to him; what happens on the field is what counts.

This is a young man in a hurry, and the fans are sure to be right at his heels.

SALAMANCA PRESS

SALAMANCA, NY
TUESDAY 2,300
DEC 3 2002

Boston bids kid hello

By STEVE WILSTEIN
AP Sports Writer

The kid was everywhere, always asking questions.

When he was on the public relations staff of the San Diego Padres, he'd corner Tony Gwynn and pick his brain about players and game situations.

The kid did that with everyone who could teach him something about baseball.

Then when Gwynn sat down with the Padres to talk about his last contract a few years ago, there was the kid again, in the same room with owner John Moores and president Larry Lucchino.

"I'm not going to lie," Gwynn says. "I thought, 'What the heck is he doing here? Why is he in here on this?' After I left that meeting, it dawned on me that his goal was to someday be a general manager. So it made sense for him to be there."

Players and fans will keep wondering about Theo Epstein, who last week became the Boston Red Sox general manager at age 28 — the youngest GM in baseball history.

"Players are going to question him and challenge him," Gwynn says. "How much baseball knowledge do you have? Who are you? You've never done this." He's going to hear all the negative stuff that there is to hear. He's going to have to be thick-skinned.

POST - JOURNAL

JAMESTOWN, NY
TUESDAY 23,837
DEC 3 2002

Boston is a tough sports town and he will be scrutinized more than any other general manager in baseball."

Epstein has already heard all the jokes about his age and his own father's comment that, as dizzying as the new job might be, "At Theo's age, Alexander the Great was already general manager of the world."

Lucchino, who became the Red Sox president and CEO when John W. Henry bought the team last winter, mentored Epstein's development at San Diego and Baltimore and calls him "a gifted person" who will be surrounded by experienced people.

Epstein's first move, the day after taking over, was to hire 68-year-old former Detroit GM Bill Lajoie as his special assistant.

In Boston, The Kid has meant only one person for more than six decades — Ted Williams. Now, less than six months after Williams died, the Hub is welcoming the new Kid, a clean-cut Yale graduate who grew up a mile from Fenway Park. The Red Sox, he says, "are very much in my blood."

He thinks like Boston fans, knows how much they yearn for a World Series championship after 84 years of futility, and speaks their language, as he showed in giving his support to manager Grady Little: "He is the manager of this nine."

Epstein set the bar high for himself when he boldly declared that the Red Sox would win a World Series. He didn't say when, but he doesn't come across as someone who is looking ahead too many years. He rose quickly and clearly expects the Red Sox to do the same.

Cynics might have been suspicious that his appointment was based on family ties, maybe family money. They would have been wrong. Epstein comes from a family of writers and

See Wilstein, pg. 11

HOUR

NORWALK, CT
TUESDAY 20,000
DEC 3 2002

Wilstein

from pg. 9

teachers, not corporate bigwigs or baseball insiders.

Sometimes what you know matters more than who you know.

Epstein's strong suits seem to be brains, organization, imagination and an inclination to work hard — traits he inherited or learned early on.

His father, Leslie, heads the creative writing department at Boston University. Epstein's sister, Anya, writes screenplays and TV scripts. His twin brother, Paul, coaches girls soccer at Brookline High and is a guidance counselor and social worker at the school.

His grandfather, Phillip, collaborated with twin brother Julius to write the screenplay for "Casablanca." Their Oscar is in the den of Epstein's parents' home.

"Nothing would ever trump that," Epstein says. "But I think we can make room for a World Series trophy."

Epstein, who was the sports editor of the Yale Daily News and manager of the school's hockey team, got his start in baseball as a summer intern in the PR department of the Baltimore Orioles in 1992. He impressed people there, and kept impressing them when he followed Lucchino to San Diego in 1995.

At Lucchino's urging, he went to the San Diego Law School while working for the Padres.

Now, after 12 seasons learning the game from different vantage points — he scouted 200 games a year and operated the radar gun to measure pitchers' velocity for three years — Epstein is in the position that seems to have been part of his plan all along.

Brains and talent aside, though, Epstein is still at the mercy of the Red Sox's record.

GREENWICH TIME

GREENWICH, CT
SUNDAY 12,239
DEC 1 2002

NEWS-TIMES

DANBURY, CT
SUNDAY 44,000
DEC 1 2002

KENNEBEC JOURNAL

AUGUSTA, ME
SUNDAY 15,670
DEC 1 2002

SUNDAY REPUBLICAN

WATERBURY, CT
SUNDAY 56,274
DEC 1 2002

HERALD PRESS

BRISTOL, CT
SUNDAY 15,000
DEC 1 2002

NEW HAVEN REGISTER

NEW HAVEN, CT
SUNDAY 128,328
DEC 1 2002

BURLINGTON FREE PRESS

BURLINGTON, VT
SUNDAY 48,585
DEC 1 2002

SUNDAY TELEGRAPH

NASHUA, NH
SUNDAY 30,000
DEC 1 2002

SUNDAY WACO TRIBUNE-HERALD

WACO, TX
SUNDAY 40,902
DEC 1 2002

Young Sox GM has diverse past

4154
By Howard Ulman
Associated Press

BOSTON — Long before Theo Epstein was born, the phrase that describes his challenge as the youngest general manager in baseball history was written in a screenplay by two of his relatives.

"Here's looking at you, kid," grandfather Phillip and grand-uncle Julius Epstein wrote in "Casablanca." Now, Theo is the kid being looked at very closely by passionate Boston Red Sox fans.

What, they ask, will he do to bring the team its first World Series title since 1918?

How, they wonder, did this clean-cut prodigy who grew up a mile from Fenway Park and doesn't turn 29 until three days before the new year, get to the point where he can decide the futures of Pedro Martinez and Nomar Garciaparra, free agents after the 2004 season?

A home video of Theo in Central Park is a clue to how it all began and where it would lead. Not yet 5 years old, he is shown hitting a wiffle ball with a bat.

"Crowds used to gather and kind of watch, so I think maybe I did peak at about age 4, baseball-wise," he told The Associated Press in an interview at Fenway Park. "So it was a huge amount of my life early on."

His parents, who moved from the Upper West Side of New York when Theo was 4½, still have the video in the home where he grew up in the Boston suburb of Brookline. They also have the Oscar statuette awarded for the "Casablanca" screenplay.

"The academy award, which actually rests in the den at my parent's place, represents our grandfather and our great uncle. So nothing would ever trump that," he said. "But I think we can make room for a World Series trophy."

Breaking a streak of no championships that began 55 years before he was born may seem like wishful thinking to often-disappointed Red Sox fans. But Epstein has been hooked on baseball for most of his life.

"If my mom wanted to go vacuum or do some housework and leave me occupied, she would

turn on the baseball game and that would be it for a couple of hours," Epstein said. "My dad tells stories of me early on aligning the defense in the outfield" of televised games.

He played baseball and soccer in high school but was much more than a jock.

His father Leslie, a Rhodes Scholar, was a professor at Queens College before becoming head of the creative writing department at Boston University. One of dad's household rules: For each minute of television Theo and his twin brother Paul watched, they must read for a minute.

"I was angry about it at the time but I'm pretty happy about it now," Theo said. "We read most of the classics by the time we were through with elementary school. I also learned how to cheat the system."

"I'd lock myself in a room with a book and riffle through the pages for a couple of hours and I could watch the Red Sox games" at the same time.

Just the kind of mental agility that would help him in academic and social circles.

His grandfather's movie "was just sort of a neat part of family history that I could use to meet girls," he said, "and a great source of pride."

About two years ago, he took up rhythm guitar, which he now plays in a band that practices in a friend's basement.

Epstein went to Yale, where he was sports editor of the school newspaper, the University of San Diego, where he got a law degree and the start to a career in baseball when he got a stint in 1992 as a summer media relations intern with the Baltimore Orioles. While there, he organized a tribute to players in the Negro Leagues.

He was an intern for two more years, then moved to the Padres where he spent three more years in media relations. In 1998, he became a baseball operations assistant and in 2000, baseball operations director with San Diego.

"This was not your average intern," said Red Sox vice president Charles Steinberg, who hired Epstein in San Diego.

J.P. Ricciardi saw that and,





AP photo

Theo Epstein, the new general manager of the Boston Red Sox, describes his challenge as the youngest general manager in baseball history while talking with Associated Press reporters at Fenway Park in Boston, this past Wednesday.

when he was named general manager of the Toronto Blue Jays, he wanted to name Epstein his assistant GM. But Epstein wanted to be available if the Red Sox called.

When Larry Lucchino, who had been president of the Padres, was part of the group that bought the Red Sox in February, he brought Epstein with him as assistant general manager.

"It will be clear to you over time that this is a gifted person with a real opportunity to have a profound impact on this franchise," Lucchino said.

Epstein immerses himself in details. With the Padres, one of his tasks was to learn every team's depth chart of prospects

from top to bottom. He would scout hundreds of games and put in countless hours of work.

With the Red Sox, he encourages input. He'll get plenty from a group of experienced aides, including former GMs. He already has helped develop a plan to build the farm system, add players to the major-league roster and proceed aggressively — but, at times, cautiously if the price for a player is too high.

"There's going to be a lot of pressure to go for the quick fix," he said. "If that means sacrificing more of the future than we're willing to do, we have to remain disciplined and pass on a potential quick fix."

Epstein is confident he can

handle fan scrutiny. He's already deflected cynics who suggest he's just a Lucchino puppet.

"I laugh at people who call me sort of a yes-man for Larry or who claim that I'm beholden to Larry in any way," he said. "I wish they could see some of our discussions. We really go at it."

That's hardly surprising for a kid who, before his tenth birthday, would go with his father and brother to Fenway Park where his twin would take along some reading material.

"By the third inning, Paul would be reading 'Highlights' magazine," Theo said. "I would be keeping score for the whole nine innings."

FEATURE

LITIGATION

Give Me Shelter

Attorney Robert Scott Dreher's efforts to help the homeless in San Diego mean more beds will be available this winter. **By Eron Ben-Yehuda.**

After a yearlong battle on behalf of the homeless in San Diego County, sole practitioner Robert Scott Dreher takes satisfaction from breakthroughs last week that will mean more shelter beds are available this winter.

"So, something good happened this Christmas," Dreher says.

Within the past 12 months, Dreher has sent letters to a dozen cities accusing them of violating state law by not providing adequate refuge for people living on the streets.

In late January, he filed a class action in San Diego Superior Court on behalf of 700 to 800 homeless people living in northern San Diego County to compel five cities to collaborate on reopening a joint regional shelter. *Hatcher v. City Oceanside*, GIC 782067 (San Diego Super. Ct., filed Jan. 25, 2002).

He also initiated a federal lawsuit last month to stop El Cajon, in the eastern part of the county, from shutting a homeless camp on church property. *The Rector, Wardens and Vestrymen of St. Alban's Episcopal Church v. City of El Cajon*, 02-CV-2272 (S.D. Cal., filed Nov. 18, 2002).

To Dreher, the cities' obligation to the homeless is not just legal, but moral.

"They're people, [but] we treat dogs better than this," Dreher, 42, says.

"Goddamn, just help them. The law requires that you help them," he adds.

On Dec. 17, El Cajon's city council agreed to spend as much as \$175,000 for a shelter housing up to 200 transients. One day later, the five north county cities named in the state suit tentatively agreed to settle the dispute by paying for 100 additional beds in the region.

Father John W. Conrad lauds Dreher's efforts.

"I think he's a saint," Conrad, who runs St. Alban's Episcopal Church in El Cajon, says. He opened the church property as a shelter for the homeless.

But officials of the municipalities targeted by Dreher don't sing his praises.

Vista city attorney Wayne Dernetz says the settlement, in which the defendants deny liability, doesn't prove Dreher's claim that Vista or the other northern towns are required by law to do more than they're already doing on behalf of the downtrodden.

"It could be equally inferred that the plaintiff's attorney had no case," Dernetz says.

'Tent City'

Dreher is under no illusions that his work has helped solve what he refers to in court papers as a "crisis" in San Diego County.

"The homeless problem is way beyond what I can do as a lawyer," Dreher says.

San Diego is not the only county struggling to house its homeless.

"I don't know of any region that has a



Photo by Hugh Williams

Sole practitioner Robert Scott Dreher says 10 percent of his caseload consists of pro bono work for the homeless. Although there's lots of work that remains to be done on behalf of the homeless, Dreher says he is proud of what his suits have accomplished.

sufficient amount of either winter or year-round shelters," says Julie Snyder, a legislative advocate of Housing California, a statewide coalition of nonprofit housing developers and homeless service organizations.

Any given day in California, 360,000 people are homeless, she says. The state has 27,700 shelter beds to accommodate them.

There are 4,200 shelter beds for the 15,000 transients living in San Diego

building. Dozens camp there. To better accommodate them, Conrad brought in portable toilets and showers. He feeds 120 homeless a day.

"They would come to the church because [Conrad] would help them," Dreher says. "Pretty soon, it became sort of a tent city."

That didn't sit well with nearby businesses and residents, says Foley, who lists a litany of problems at the camp.

Tremendous amounts of trash have

walk.

"This is clearly a health and safety issue," Foley says.

Conrad dismisses these claims.

"Morgan Foley doesn't know what he's talking about," Conrad says.

Students and their parents, he says, can take a path that steers clear of the camp. Litter is not a big problem because church personnel make sure trash is placed in a dumpster. Security monitors the grounds when school children are present. Anyone caught using drugs or alcohol is thrown out.

"The city of El Cajon has ginned up as many grievances as they can find," Conrad asserts.

Under the proposal accepted by the El Cajon city council Dec. 17, a prefabricated tent in an open field will start accommodating the homeless Jan. 6.

Foley says that Dreher's suit did not affect the council's decision. City officials had looked for a solution before the case was filed, he says. It took a presentation by an ad hoc group of Christian real estate brokers, ministers and social service providers to find an appropriate site and an operator to run the shelter, he says.

"We were waiting for others to come in and take on these responsibilities," Foley says.

'I think he's a saint,' Father John W. Conrad, who runs St. Alban's Episcopal Church in El Cajon, says of attorney Robert Scott Dreher. Conrad opened the church property as a shelter for the homeless.

County, according to the county's Regional Task Force on the Homeless.

Until last week, El Cajon, the target of Dreher's federal lawsuit, hadn't signed off on an organized emergency homeless shelter in two years.

In May, Conrad began allowing El Cajon's homeless to set up tents in an open space next to the church's downtown

piled up, he says. City officials have received complaints of illegal drug use and alcohol abuse by the homeless, and one woman in the camp was prostituting her daughter, Foley says. Moreover, he says, to get to the day school at a different section of the church property a mother and child had to walk around an intoxicated woman who had passed out on the side-

But Conrad says the suit made a difference because the city would want to make the case go away.

"With Scott Dreher's lawsuit, it gave them the opportunity to act from a position of self-interest," Conrad says.

With the council taking action, Dreher is offering to dismiss his suit against El Cajon. But Foley, who requested an injunction to force the church to comply with state and local building codes, says he's waiting to see whether the church will continue to allow the homeless to camp on its grounds.

"There is no guarantee that they will have the violations cured anytime certain," Foley says.

Foley argues that the church doesn't have the proper permit for operating what is essentially a homeless campground in downtown El Cajon, which is peppered with small shops, an apartment complex and a retirement home.

"This is clearly incompatible with the use of their surrounding neighborhood," Foley says.

Nevertheless, in *St. Alban's Episcopal Church*, Dreher says federal law trumps city ordinances. Because city officials are threatening to close down the camp, they are violating the Free Exercise Clause of the First Amendment and Religious Land Use & Institutionalized Persons Act of 2000, Dreher claims in the suit that he filed on behalf of the church.

The act prohibits the government from making zoning decisions that substantially burden religious exercise, unless the government can show a compelling interest for doing so.

Caring for the poor and hungry is a tenet of Christianity, Dreher says, so by interfering with this effort, El Cajon is offending the church's right to practice religion.

"I don't need to go to you and ask permission before I say my prayers," he says.

Father Conrad says that, with a new shelter opening, he will work to minimize the homeless staying at his parish by directing them to the shelter. But if that's full and there's nowhere else to go, then he won't turn away someone, even if that means letting them sleep outside.

"I'm certainly not going to sell the Gospel short to make Morgan Foley happy," Conrad says.

'A Perception Problem'

The state class action Dreher filed in January named as defendants five cities in northern San Diego County — Carlsbad, Encinitas, Oceanside, San Marcos and Vista.

In *Hatcher*, Dreher claimed that the cities have failed to provide homeless with temporary shelter during cold weather and have prevented shelters opening on private property.

Dreher filed the suit after Vista decided last year to stop hosting a regional 100-bed emergency winter shelter. It had opened every year from December through March for the past 10 years. The other cities named in the suit helped pay the \$100,000 annual cost to maintain the shelter. North County Solutions for Change, a nonprofit agency, ran the operation.

Its executive director, Chris Megison, says a regional shelter made more sense than each city having its own facility, with separate staff and buildings.

"The economies of scale [are] just horrible," Megison says.

Vista assistant city attorney Jonathan B. Stone says his city stopped serving as the host site because the nonprofit agency decided to look for a different location.

"Somebody has to operate the program," Stone says. "Last year, nobody approached Vista."

Megison, however, blames a new city

council seated in late 2000 that adamantly opposed the winter shelter.

"There was a perception problem," Megison says.

"The perception was that Vista was a dumping ground for the region's homeless during the winter months. [So] they chopped off a good program at the knees," he says.

The details of the tentative settlement reached Dec. 18 are confidential. But Dreher can say that the agreement will provide about 100 shelter beds that will be disbursed among the five cities. Precisely how many beds each city will accept and the cost can't be disclosed until final approval is given by the individual city councils, which is expected during the next few weeks.

"If the settlement is approved, it would replace the beds lost with the closing of the Vista shelter," Dreher says.

Each defendant denies any wrongdoing, but pursuing the litigation would have proved "hugely expensive," Dernetz says.

The targeted cities argue that Dreher misunderstands their legal obligations. In essence, he is demanding that they run and pay for a winter shelter, which is not required by law, they argue.

A city's general plan only must identify potential sites for winter shelter, Stone says. It doesn't have to ensure that one opens.

Turning over public land or covering the construction costs for a shelter is voluntary on the part of municipalities, he says.

All five cities named in Dreher's class action already have programs to help the homeless.

A Jan. 18 letter to Dreher from Carlsbad officials, for example, states that the city has provided rental assistance to more than 600 very low- and extremely low-income people, including several homeless families and individuals. The letter says that the city allocates funds each year to several organizations that serve the homeless, including a program that specifically assists migrant farm workers.

Vista also is doing good works, Stone says. He points out that the city is contributing \$500,000 for a transitional housing facility in the city that's expected to open in a year and accommodate 170 people. Moreover, the city allowed a 250-bed winter shelter at Green Oak Ranch, a 142-acre property in Vista.

The ranch opened its doors on Thanksgiving and will remain open until April.

The ranch does have requirements for those hoping to stay there, says its executive director, Carl Fielstra.

Priority is given to homeless families and the "most vulnerable," like single women, Fielstra says.

"If our facility is preempted by families, we may not take single men at all," he adds.

There are rigorous intake procedures as well, he says. Homeless people must pass a drug test, and they can't have a violent criminal history.

The restrictions help protect two foster homes that the ranch hosts on the site.

"I don't think it's appropriate to put them at risk," he says of the foster children.

These efforts by the cities are commendable, but they aren't enough, Dreher says. They don't offer enough emergency shelter for single men, or those who may

have drug and alcohol problems or a violent past. These people still need a place to spend the night, Dreher says. And that's what the settlement will help provide, he says.

Last year, the emergency shelter in Vista took in 711 people during the winter, according to the suit. North County Solutions for Change estimates a 50 percent increase in need this year.

Escondido has an open-door policy at its 125-bed shelter. But Dreher says that city is too far away, 10 miles or more from the homeless who live in the cities named in the suit.

Dreher also is mulling over whether to file a similar state court lawsuit against six cities, Chula Vista, Coronado, Imperial Beach, La Mesa, National City and Santee, in southern and eastern San Diego County. Those cities collectively have 800 homeless, according to John Thelen, project director of the county's task force on the homeless.

'Blood Boil'

Dreher, a 1985 University of San Diego Law School graduate, became a homeless advocate in the early 1990s.

At the time, he worked as an associate in San Diego's McInnis, Fitzgerald, Rees,

Sharkey & McIntyre, an insurance defense firm where he specialized in representing engineers in construction defect suits.

One day, Dreher substituted for a firm partner at a meeting of the San Diego Volunteer Lawyer Program, a pro bono, non-profit organization that serves the poor. He stayed on and was assigned a case representing a homeless man hired by a merchant to stick leaflets on parked cars. After the work was completed, the merchant stiffed the man.

"It was a pissy little \$350 bucks," Dreher says.

"[The merchant] said, 'Fuck you. Sue me.' That made my blood boil. If he had done that to Donald Trump, he would have gotten his ass kicked."

The case settled for \$1,200, which included the costs of the suit plus compensation for the inconvenience to Dreher's client.

His client cried with joy, Dreher recalls. It was then Dreher realized how much good he could do as a lawyer on behalf of the less-powerful.

"If you get access to a lawyer you can say, 'No, you're not going to fuck me,'" Dreher says.

Ever since he has served on the pro bono program as a board member.

These days, as a sole practitioner, 10 percent of his caseload consists of pro bono work for the homeless, he says. The rest of his practice is plaintiffs' securities and business litigation.

Although there's lots of work that remains to be done on behalf of the homeless, Dreher is proud of what his suits have accomplished.

"It helps people now, and that's all I can do," he says. "I can't do everything."

An assault on our civil rights? Hardly

By Kevin Cole

Many are legitimately concerned about governmental overreaching in seeking more effective methods to battle terrorism. The war on terrorism, they fear, may claim civil liberties among its victims.

Publicity regarding a recent case involving the landmark of the Warren Court's criminal procedure revolution, *Miranda vs. Arizona*, suggests that civil-rights vigilance is exceeding its rational scope.

On Dec. 4, the U.S. Supreme Court heard oral argument in *Chavez vs. Martinez*, which CNN.com proclaimed "could make *Miranda* warnings a thing of the past." Local television stations jumped on the story, and the *Union-Tribune* editorialized against giving law enforcement personnel "a green light to detain citizens and use any means of interrogation" as going "much further than a free society should tolerate, even in these times." One academic supporter of *Miranda* said, "To see the solicitor general arguing that there's no right to be free from coercive interrogation is pretty aggressive."

The *Martinez* case arose from a 1997 conflict between Oxnard police and Oliverio Martinez. Police claim that, during his arrest, Martinez grabbed an officer's gun and pointed it at police. Police shot Martinez, inflicting painful, life-threatening injuries that instantly blinded him.

While being transported to the hospital and while receiving treatment in the emergency room, Martinez was questioned by Officer Chavez, who never administered the famous *Miranda* warnings and continued his interrogation even after Martinez, screaming in pain, asked that questioning cease. Eventually, Martinez made incriminating statements. Martinez survived and filed suit seeking money damages for aspects of the police conduct, including the interrogation — the aspect pertinent to the current Supreme Court case.

Cole is a professor of law at the University of San Diego.

Supported by the United States, Oxnard asked the court to rule that the interrogation cannot result in money damages because Martinez's statements were never used against him at trial. Even if Martinez's statements were inadmissible against him, the government argues, damages are inappropriate because the rights at issue simply bar introduction of statements at trial.

As the government often can use other evidence to prosecute suspects, and will often have greater concerns in battling terrorism than prosecuting a single suspect, critics fear that police will essentially make their own rules in a potentially large class of interrogations unless damages are available in cases like Martinez's.

Observers of this debate might come away with several misimpressions:

Misimpression: Currently, *Miranda* effectively prevents misconduct in interrogation. Withholding damages for *Miranda* violations just because the statement is not used at trial will radically alter the status quo.

Reality: To date, few courts have permitted damages for *Miranda* violations — not a surprising result, as the U.S. Supreme Court, in 1990, called the privilege against self-incrimination a "trial right," and stated that, although "conduct by law enforcement officials prior to trial may ultimately impair that right, a constitutional violation occurs only at trial." In other words, damages cannot be awarded for violating this constitutional right when a statement is not offered at trial, because the right is not violated until the statement is admitted.

Misimpression: If *Miranda* is curtailed, nothing remains to control against misconduct in interrogation.

Reality: The *Miranda* warnings and the rights *Miranda* recognized — to cut off questioning and to counsel during interrogation — supplement constitutional rights that long predated that decision. A suspect's "involuntary" statements — those obtained by overbearing the suspect's will — are inadmissible even more broadly than those obtained outside *Miranda*, which can be used to

impeach a suspect who testifies and to find physical evidence against a suspect. Moreover, even without *Miranda*, the Fourth Amendment right against unreasonable seizures would continue to limit questioning of those not suspected of wrongdoing.

Misimpression: All coercion is bad and should be deterred by civil sanctions.

Reality: We commonly coerce persons to give statements — when they are forced to testify under a grant of immunity. The witness is threatened with jail time unless he answers questions. Indeed, any police questioning has some coercive force, generating concern on the suspect's part that authorities have suspicions about his activities.

Misimpression: If damages are not available for either *Miranda* violations or involuntary statements not used against the person making them, then in some cases police will be free to do whatever they please to coerce information from suspects.

Reality: The government agrees that damages should be available for some government action — that which goes beyond merely eliciting coerced statements and instead violates substantive due process. These tactics "shock the conscience," in the court's language, and include physical violence and infliction of extreme psychological pain.

Permitting damages for all *Miranda* violations, or elicitation of any involuntary statement, would pressure courts to shrink *Miranda* doctrine, and what counts as an involuntary statement, in emergency situations. The resulting statements may then actually become admissible against the suspects themselves, and the doctrine generated by emergency may migrate to run-of-the-mill cases as well.

Whether the government's approach to damages is preferable to Martinez's is a matter on which reasonable minds might differ. It is also one on which reasonable minds should focus, rather than grasping the easy answer of choosing sides in the supposed war on civil liberties.



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Now Is the Time To Retool

Supermajority rule would smooth judicial nominations

4154

By John O. McGinnis
and Michael B. Rappaport

Over the past six years, the judicial confirmation process has become an exercise in bipartisan cynicism. The Senate Judiciary Committee under Republican and Democratic control alike has often refused to hold hearings or take votes on federal court nominees of an opposing-party president. While this may please special-interest groups, it does great harm to deliberative democracy and the judiciary.

Now that the same party controls the presidency and the Senate, the Senate has the opportunity to establish nonpartisan rules to help ensure that future instances of divided government will not result in damaging gridlock. The Senate should pass a supermajority rule requiring its judiciary committee to hold a hearing within six months of a nomination and vote within

McGinnis and Rappaport, professors at Northwestern University School of Law and San Diego University School of Law, respectively, are writing a book on supermajority rules.

one month of the hearing unless two-thirds of the committee members conclude a delay is warranted.

The need for reform can be best understood through a brief review of recent pathologies. Under Democratic leadership, the judiciary committee refused to hold hearings for many of President Bush's nominees. These include John Roberts, a lawyer who — for clients of diverse views — has appeared before the U.S. Supreme Court 35 times. The committee also delayed providing a hearing for more than 16 months to Michael McConnell, a pre-eminent law professor with bipartisan support from academia.

But the problem cannot be simply laid at the door of Democrats. When the Republicans controlled the committee, they also let distinguished nominees, such as Harvard law professor Elena Kagan, wait months and in some cases years without a hearing. While both sides are now playing a statistics game to show who behaved worse, the reality is that both parties have been at fault.

By delaying or refusing to provide hearings for plausible nominees, the committee endangers the quality of the judiciary

and the constitution. The confirmation of well-qualified candidates of presidents of either party should improve American jurisprudence; their learned disagreements would help refine the law. But lengthy delays put careers in limbo and will deter the finest candidates.

Interest-Group Antics

The cause of our confirmation gridlock is interest-group politics. Interest groups have inordinate leverage on the confirmation process. By holding up nominees acceptable to the vast majority, these groups display their political might and raise funds for their enterprises.

Because most of those who are nominated and then opposed by interest groups would actually benefit from the favorable publicity produced by a fair hearing, interest groups prevail upon the committee chairman not to schedule a hearing — the Beltway equivalent of blackballing a candidate.

This is a familiar strategy of interest groups. They raise the costs of information to the public, whether by slipping in enriching legislative provisions at the last minute or by killing a public-interest provision in a closed-door conference committee.

The supermajority rule would restrain the power of special interests by requiring timely hearings. The nominee would then be assured of a hearing unless several members of the minority party agreed to

delay. While the public would gain the benefit of more deliberative democracy, the rule would maintain the committee's autonomy and avoid hearings on weak candidates that would merely waste time.

This proposal differs from the reform offered by President Bush, most importantly because it would not require that each nominee receive a floor vote even if rejected by the committee. We believe that the judiciary committee develops expertise in its subject matter and thus should enjoy the autonomy of deciding which nominees are reported to the floor. So long as the committee is required to vote on nominees, the public can hold its members and their party accountable for its actions.

If enacted, the rule would be difficult to repeal, even if an opportunistic majority wanted to go back to the old ways in order to stall the nominees. The public cannot follow the complexities of hearing schedules but would understand an attack on the hearing rule for what it would be — rank partisanship.

If senators believe a nominee's confirmation would harm the constitution, they should articulate their reasons and vote against the nominee. Denying hearings and refusing to take votes encourage neither candor nor an informed public. Such obstructionism simply allows the well organized to frustrate the rational deliberation that strengthens the common bond that is our constitution. ■

More firms seek SEC's OK as rating agencies

From Tribune news services

NEW YORK—The world of debt rating has belonged to three agencies for years, but that might change in 2003.

After a tumultuous year in the credit markets, the two top credit rating agencies, Moody's Investors Service and Standard & Poor's, have come under attack for missing red flags at companies such as Enron Corp. and WorldCom Inc. Their smaller competitor, Fitch Ratings, has become a target to a lesser extent.

That's nudged open the door to other firms hopeful of receiving the Securities and Exchange Commission's "Nationally Recognized Statistical Rating Organization" designation, a status the three largest agencies have enjoyed for more than 20 years.

Ratings issued by NRSROs are built into the infrastructure of the fixed-income markets in the form of investment guidelines for pensions, insurance companies, and bond and money-market funds.

"The rating agencies are fighting for their lives," said Frank Partnoy, a finance professor at the University of San Diego Law School and a former derivatives trader.

Critics such as Partnoy charge the rating agencies with ineptitude, complacency and conflicts of interest because they're compensated by issuers, not by investors.

Partnoy says NRSRO ratings are highly coveted not because they are backed by superior research but because they provide "the key that unlocks the gates to the financial markets."

Many firms are clamoring to get copies of those keys.

"The rating agencies failed miserably in warning investors on Enron, WorldCom and Genuity Inc.," said Sean Egan, co-founder of Egan-Jones Rating Co., which is seeking NRSRO status. "The SEC lists protecting investors as job No. 1, so it has to find ways to make ratings firms more responsive to investors."

Glen Grabelsky, managing director in Fitch Ratings' credit policy group, said that while the

current system "works fine," the agency is "open to competition."

In testimony before the SEC in November, S&P President Leo O'Neill said the agency "believes that the marketplace benefits from a variety of credible sources of credit information" and called for more transparency in the NRSRO designation process.

When Moody's President Raymond McDaniel testified before the SEC, he said he is "neither in favor of nor opposed" to more competition, but warned that new entrants could try to compete for business by offering higher ratings.

The SEC held hearings in November as part of a broader study on the rating agencies mandated by passage of the Sarbanes-Oxley Act earlier this year.

Egan said there would be no risk of his agency currying favor with issuers because it is compensated by investors.

Egan-Jones also boasts a record that includes early and accurate calls on companies such as Enron and WorldCom.

It cut Enron's rating to junk on Oct. 26, while the other rating agencies waited until Nov. 28, four days before Enron filed for bankruptcy protection. Egan-Jones cut WorldCom to junk in July 2001, while Moody's and S&P waited until May of this year. It filed for bankruptcy in July.

Egan-Jones employs 10 analysts and rates approximately 800 issuers. That compares with about 700 analysts at Moody's, 1,250 at S&P, including equity analysts, and 720 at Fitch.

AM Best, which has a history of rating the finance strength of insurance companies, also has queued up at the SEC.

"We felt it was the right time in terms of the development AM Best has taken," said Larry Mayewski, executive vice president and chief rating officer, referring to the company's move to issue debt ratings as well as financial-strength ratings in 1999.

The company, which rates 500 securities for more than 150 issuers, employs about 500 people, including 125 analysts.

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A Higher Standard for Corporate Advice

By KURT EICHENWALD

A ruling last week by a federal judge in Houston may well have accomplished what a year's worth of reform by lawmakers and regulators has failed to achieve: preventing the circumstances that led to Enron's stunning collapse from happening again.

News
Analysis

To casual observers, Friday's decision by the judge, Melinda F. Harmon, may seem innocuous and not surprising. In it, she held that banks, law firms and investment houses — many of them criticized on Capitol Hill for helping Enron construct off-the-books partnerships that led to its implosion — could be sued by investors who are

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seeking to regain billions of dollars they lost in the debacle.

But in devising her ruling, Judge Harmon engaged in a complex analysis that filled in gaps left in securities laws by an eight-year-old Supreme Court decision that Congress has been urged to address with new legislation but has failed to do so. She has established a precedent increasing the potential liability for corporate advisers that aid companies like Enron in disguising their financial condition — something no reform measure this year has accomplished.

Ultimately, Judge Harmon ruled that corporate advisers like Citigroup, J. P. Morgan Chase and Merrill Lynch could be deemed primary participants in a fraud if they constructed corporate transactions with the knowledge that such deals would

FRONT PAGE
mislead investors about the company's finances. That ruling both accepted — then sidestepped — the Supreme Court's 1994 holding that advisers could not be liable for "aiding and abetting" a corporation in a securities fraud.

While Judge Harmon's opinion is subject to appeal, and technically applies in only her court, it is based on standards being pushed by the federal government through the Securities and Exchange Commission. The result, experts said, is that corporate advisers will treat the interpretation as a likely national standard, and thus will restrict their own actions accordingly.

"It transforms the landscape of securities law enforcement," Stephen L. Meagher, who teaches courses on corporate fraud at Stanford University Law School. "The fact that one court has adopted a theory that has been on the radar screens for some time will affect the advice that banks, law firms and accounting firms get from their own legal counsel and, more importantly, from their insurers. I think now corporate advisers will scatter like flies

Continued on Page A20 D

from these types of transactions.”

In the future, experts said, corporate advisers would be irresponsible to disregard the ruling.

“Somebody who is a prudent manager of business has to look deep into this well and say, ‘I have to pay attention in the most fundamental way to this decision,’” said Stephen M. Ryan, who specializes in corporate defense law at Manatt Phelps & Phillips. “This theory is going to be urged on everyone by the S.E.C., and it is easier for judges to rule with one of their brethren who has made a critically reasoned judgment.”

The reasons for the importance of the 307-page decision are multifaceted, involving complex interplays between finance and law that have developed in recent years.

The primary impediment limiting the effectiveness of other steps to prevent another debacle like the one at Enron stems from the nature of modern financial markets. Over the past decade or so, an industry has emerged of corporate advisers that use complex financial instruments to help companies find ways around the types of safeguards being adopted.

Relying on transactions involving derivatives and other complex investment tools, this business — part of “structured finance” — has allowed some corporations to transform financial reports effectively into marketing material, masking evidence of earnings volatility and indebtedness. It is the financiers in this business who helped Enron create its off-the-books partnerships — vehicles called special-purpose entities — which can allow corporations to pretty up financial reports.

With such financing techniques, corporations have been able to dump assets off their books by creating “buyers” that were in fact entities they had created themselves. Such sales could pump up reports of earnings and cash flow, while the company’s financial exposure to the partnership could, under the accounting rules, remain hidden.

Experts said Washington’s reform efforts — which include changing the capital requirements of such entities, mandating disclosures of financial guarantees and establishing an accounting oversight board — simply gave the structured finance industry additional hurdles to maneuver

around. Just as efforts to close tax loopholes spur financial wizards to devise strategies to test the law’s limits, so the experts in structured finance are driven to devise new strategies to find legal ways to buff, if not distort, the performance of underachieving corporations.

“They are just redefining the equation,” Michael H. Sutton, a former chief accountant with the Securities and Exchange Commission, said of recent reform efforts. “That’s not going to stop the pressure to structure transactions that meet the requirements of the new rules.”

The result, experts said, is that this year’s efforts to revise the rules have created few structural changes to impede variations on the kinds of deals that helped bring down Enron.

“For the people selling these cockamamie deals, nothing’s changed at all,” said Daniel Dooley, a partner at PricewaterhouseCoopers. “They are still looking at ways to get around the rules. Just because Enron gave these types of transactions a bad name doesn’t mean that companies aren’t still willing to avail themselves of them.”

Not only were there few impediments established by reforms, experts said, but for years, institutions that aided corporations in their structured finance business appeared to face little legal liability for taking things too far.

That is because the Supreme Court ruled in 1994 that federal securities law did not authorize lawsuits against advisers for aiding a company in a deceit. In other words, even if evidence supported claims that banks, law firms and investment houses had aided and abetted a fraud, the court held in a 5-to-4 ruling that such a claim was not expressly permitted under the securities law.

In the decision, handed down in *Central Bank of Denver v. First Interstate Bank of Denver*, the high court virtually invited Congress to rewrite securities laws if lawmakers did indeed intend for such suits to be brought. Not only did Congress decline to do so, but in 1995 it also adopted legislation making civil securities fraud suits more difficult to bring.

As a result, experts said, advisers have faced little risk in helping clients achieve the accounting results they wanted through structured finance.

“These gatekeepers were once subject to high litigation risk, but as you went through the 1990’s, the deterrence that may have kept them honest just started to disappear,” said John C. Coffee Jr., a professor at

Columbia University Law School. “Not only had the legal risk gone down, the benefits of acquiescing to the client went up. And when costs go down and benefits go up, you’re going to see the output increase.”

Criminal law offered no better alternatives, despite the widely held perception — voiced by members of Congress of both parties — that most structured finance transactions at Enron were patently illegal.

Indeed, experts said, while crimes occurred at Enron — including self-dealing and more common forms of accounting fraud — the misrepresentations of its financial health could have taken place without breaking any laws. Ultimately, these experts said, Enron was brought down not by crime but by the transactions permitted by structured finance.

tations of its financial health could have taken place without breaking any laws. Ultimately, these experts said, Enron was brought down not by crime but by the transactions permitted by structured finance.

“Enron was following the letter of the law in nearly all of its deals,” said Frank Partnoy, a finance professor at University of San Diego Law School and a former derivatives trader. “It is fair to say that the most serious allegations of criminal wrongdoing at Enron had almost nothing to do with the company’s collapse. Instead, it was the type of

transaction that is still legal.”

Prosecutors handling the Enron investigation have already encountered the complexities presented by the criminal law. Most of Enron’s off-the-books deals were done with the consent of its accountants, who in turn were following an aggressive interpretation of the rules. Defendants could thus combat accounting fraud charges with claims that they had no intent to defraud — a required element of a crime — since they had relied on professional advice.

Because of that strong defense, lawyers in the case said, prosecutors

have decided, barring evidence that the accountants were misled, not to bring accounting fraud charges involving issues approved by Arthur Andersen. In other words, the structures that contributed so mightily to Enron’s collapse will be deemed an accounting fraud only if they failed to comply with the rules they were designed to evade.

Revisions contained in the Sarbanes-Oxley Act, adopted last summer in response to the accounting scandals, do little to overcome those hurdles, legal experts say.

“The underlying difficulties in criminal prosecutions are going to remain relatively the same despite the new provisions,” Thomas C. Newkirk, associate director of en-

forcement for the S.E.C., told a seminar on securities law earlier this year.

Ultimately, it has appeared that even with changes in the rules, corporate advisers could be comfortable in the knowledge that their potential liability, both criminal and civil, was limited if their financial engineering deceived investors.

Now, with Judge Harmon’s ruling, the ground has shifted, and such business is potentially fraught with peril.

Corporate advisers “are typically risk-averse when they view these sorts of decisions,” Mr. Meagher, of Stanford University, said. “And the risk on the horizon will be treated seriously.”

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BIDS & OFFERS

*Inside the World of
Corporate Finance & Wall Street*

Where's the VC? *4154*

Yogi Berra may have been describing a venture industry tagged by two years of downturn and successive quarters of red ink when he said, "It's déjà vu all over again."

To venture capitalists like Oliver Curme, general partner at Battery Ventures, the troubles tugging on the business today are reminiscent of those a decade ago, shortly before the start of the Gulf War. Information-technology spending was depressed. There was little or no IPO market healthy enough to allow venture capitalists to cash out by bringing their private companies public.

"We were looking around [thinking] this venture business might not work out," Mr. Curme said. It did work out, of course. But not without nine innings of toil and pain.

Few want to predict how much anguish will come to pass this time. But the industry increasingly is looking as if it won't hit bottom until 2004 as it copes with the excesses of the "dot-com" boom. That could place more pressure on general partners hoping to steer through the wreckage of failing firms and ruined portfolios. The value of the start-up companies in which they've invested—hoping for an IPO or merger payday down the road—could continue to fall, the flow of new money into the industry could dwindle further and the average returns for the VC business could stay negative.

"We won't see IPOs for the next three years," said Mark Jensen, national director of venture-capital services at Deloitte & Touche.

Then again, a great man once said, it ain't over 'til it's over.

Ratings War

In the business of providing credit ratings, it's been two's company, three's a crowd for years. But that might change in 2003.

A tumultuous 2002 in the credit markets has seen the two top credit-rating agencies, Moody's Investors Service and Standard & Poor's, along with their smaller competitor Fitch Ratings, come under attack for missing red flags at companies such as Enron and WorldCom.

That's nudged open the door to other firms hopeful of receiving the Securities and Exchange Commission's equivalent of a car-inspection license for ratings firms: the Nationally Recognized Statistical Rating Organization designation, a status the three largest agencies have enjoyed for more than 20 years.

When a firm gets an NRSRO tag, it's key; any ratings that firm puts out are then built into the fabric of the fixed-income markets in the form of investment guidelines for pensions, insurance companies, and bond and money-market funds.

"The rating agencies are fighting for their lives," said Frank Partnoy, a finance professor at the University of San Diego Law School and a former derivatives trader. Critics such as Mr. Partnoy charge the rating agencies with complacency and conflicts of interest as they're compensated by issuers, not investors.

"The rating agencies failed miserably in warning investors on Enron, WorldCom and Genuity," said Sean Egan, co-founder of Egan-Jones Rating, which is based in Wynnewood, Pa., and is seeking NRSRO status. "The SEC lists protecting investors as job No. 1, so it has to find ways to make ratings firms more responsive to investors." A.M. Best, which has a long history of rating the finance strength of

insurance companies, also has queued up at the SEC, as has Toronto-based Dominion Bond Rating Service Ltd. and others.

What do the Big Three have to say? Glen Grabelsky, managing director in the credit-policy group of Fitch Ratings, a unit of Fimat, said that while the current system "works fine," the agency is "open to competition."

In testimony before the SEC in November, the president of McGraw-Hill Cos.' S&P unit, Leo O'Neill, said the agency "believes that the marketplace benefits from a variety of credible sources of credit information."

In the same format, Raymond McDaniel the president of Moody's, a unit of Moody's Corp., said he is "neither in favor of nor opposed" to more competition, but warned that new entrants could try to compete for business by offering higher ratings.

**WALL STREET JOURNAL
(CENTRAL EDITION)**

DES MOINES, IA
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Debt fiascos crack open door for new credit rating agencies

4154

The top 2 rating agencies failed in warning investors on Enron, WorldCom and Genuity Inc.

By CHRISTINE RICHARD
 DOW JONES NEWSWIRES

When it comes to debt rating, it's been two's company, three's a crowd for years. But that might change in 2003.

After a tumultuous year in the credit markets, the two top credit rating agencies, Moody's Investors Service and Standard & Poor's, have come under attack for missing red flags at companies such as Enron Corp. and WorldCom Inc. Their smaller competitor, Fitch Ratings, has become a target to a lesser extent.

That's nudged open the door to other firms hopeful of receiving the Securities and Exchange Commission's Nationally Recognized Statistical Rating Organization (NRSRO) designation, a status the three largest agencies have enjoyed for more than 20 years.

Ratings issued by NRSROs are built into the infrastructure of the fixed income markets in the form of investment guidelines for pensions, insurance companies, and bond and money market funds.

"The rating agencies are fighting for their lives," said Frank Partnoy, a finance professor at the University of San Diego Law School and a former derivatives trader.

Critics such as Partnoy

charge the rating agencies with ineptitude, complacency and conflicts of interest as they're compensated by issuers, not investors.

Partnoy says NRSRO ratings are highly coveted not because they are backed by superior research but because they provide "the key that unlocks the gates to the financial markets."

Many firms are clamoring to get copies of those keys.

"The rating agencies failed miserably in warning investors on Enron, WorldCom and Genuity Inc.," said Sean Egan, co-founder of Egan-Jones Rating Co., which is seeking NRSRO status. "The SEC lists protecting investors as job number one, so it has to find ways to make ratings firms more responsive to investors."

OPEN TO COMPETITION

Glen Grabelsky, managing director in Fitch Ratings credit policy group, said that while the current system "works fine," the agency is "open to competition."

In testimony before the SEC in November, S&P President Leo O'Neill said the agency "believes that the marketplace benefits from a variety of credible sources of credit information" and called for more transparency in the NRSRO designation process.

In the same format, Moody's President Raymond McDaniel said he is "neither in favor of nor opposed" to more competition, but warned that new entrants could try to compete for busi-

ness by offering higher ratings.

The SEC held hearings in November, as part of a broader study on the rating agencies mandated by passage of the Sarbanes-Oxley Act earlier this year.

Egan said there would be no risk of his agency currying favor with issuers because it is compensated by investors.

Egan-Jones also boasts a record that includes early and accurate calls on companies such as Enron and WorldCom. It cut Enron's rating to junk on Oct. 26, while the other rating agencies waited until Nov. 28, four days before Enron filed for bankruptcy protection. Egan-Jones cut WorldCom to junk in July 2001, while Moody's and S&P waited until May of this year. It filed for bankruptcy in July.

Egan-Jones employs 10 analysts and rates approximately 800 issuers. That compares with around 700 analysts at Moody's, 1,250 at S&P, including equity analysts, and 720 at Fitch.

AM Best, which has a long history of rating the finance strength of insurance companies, also has queued up at the SEC.

"We felt it was the right time in terms of the development AM Best has taken," said Larry Mayewski, executive vice president and chief rating officer, referring to the company's move to issue debt ratings as well as financial strength ratings in 1999.

The company, which rates 500 securities for over 150 issuers, employs around 500 people, including 125 analysts.

Mercantile exchange suit tests bounds of copyright

by Tamara Loomis 4154 P. A12

Can a price be copyrighted? It may seem bizarre but that is the question at the core of a high-stakes dispute between the New York Mercantile Exchange and the online commodity marketplace IntercontinentalExchange (ICE).

Late last month, NYMEX, the nation's largest regulated commodity futures exchange, sued its electronic rival in Manhattan federal court.

The lawsuit, which has been assigned to Judge John G. Koeltl, accuses ICE of copyright infringement for allegedly using NYMEX-created prices for natural gas futures and light sweet crude oil futures contracts to clear and settle trades of derivative contracts for those two commodities.

NYMEX is claiming that the prices, which are set at the end of each business day, are protected because they are included in its automated database, which is registered with the U.S. Copyright Office.

Additionally, the exchange asserts, the prices are "original works of authorship" requiring "a significant degree of educated judgment" of the NYMEX staffers who set the prices.

Neither a NYMEX spokeswoman or the exchange's outside counsel, Herbert C. Ross of Olshan Grundman Frome Rosenzweig & Wolosky, would comment on the lawsuit. Kelly LaFleur, an in-house lawyer who is handling the defense for ICE, also declined to comment.

Typically, copyright protection cov-

ers original or expressive works such as a song, a painting or a novel. Over the years, the doctrine has been extended to protect works as diverse as software code and belt buckles.

Facts or ideas, on the other hand, have never been copyrightable. Yet as far-fetched as it may sound — most people think of the price of an item as the quintessence of a fact — the idea of copyright-protected prices has legal precedence.

In a 1994 decision in *CCC Information Services Inc. v. Maclean Hunter Market Reports Inc.*, the 2nd U.S. Circuit Court of Appeals ruled that projected used car valuations were original works that qualified for copyright protection, since the predictions

See Copyright, Page A12

were based on professional judgment and expertise.

One other circuit has followed suit. In *CDN Inc. v. Kapes*, the 9th Circuit found suggested wholesale prices for collectible coins to be copyright protected, largely for the same reasons cited in *CCC Information Services Inc.*

But many copyright experts say the two cases go too far. Pointing out that the decisions stand alone in extending protection to prices, they argue that the cases misinterpret a 1991 U.S. Supreme Court decision, *Feist Publications Inc. v. Rural Telephone Service Co. Inc.*, that set the standard for database protection.

Feist, in which the court held that telephone white pages were not copyrightable, sharply limited the scope of copyright protection as it extends to facts. Under the decision, only a compilation of facts — or a database — may be protected, and then only if it demonstrates "sufficient originality" in selection or arrangement.

The circuit court cases "cross the line," said Marci Hamilton, a professor at Benjamin N. Cardozo School of Law. "Courts should be very nervous about extending copyright protection in such circumstances."

Hamilton said the NYMEX claim is no different.

"I think it is an outrageous overreaching in the face of existing law," she said. "They may have a right in the selection and arrangement of the data as a compilation, but certainly not in the facts or data itself."

Commodities experts also worried that NYMEX is unfairly taking advantage of its quasi-governmental status.

"Exchanges get certain regulatory privileges in exchange for acting in part in the public good," said Frank Partnoy, a professor at the University of San Diego School of Law.

"The price information is a public good," he said, "so the idea that NYMEX would feel that its prices were copyrightable is absurd and counter to the very notion of exchanges."

And copyright lawyers expressed concern that, should NYMEX win, the impact could reverberate beyond the immediate dispute with ICE.

"Many of these numbers take on a life and significance that goes far beyond the narrow use NYMEX is putting them to," said Jonathan Band, a partner at the Washington, D.C., office of San Francisco's Morrison & Foerster who represents Internet companies. "Say I wanted to compare how this commodity is doing versus that commodity. If a court were to find an infringement here, that kind of analysis would be impossible."

Yet database owners countered that the NYMEX prices should qualify for protection, because setting them required the educated judgment of the exchange's staff.

"If it were just the price at the end of the day, like a stock price, it would

be more akin to the white pages, and would not be protected," said Keith Kupferschmid, intellectual property counsel at the Software and Information Industry Association, of which NYMEX is a member. "But it seems more akin to coin or stamp prices, in that some amount of creativity goes into creating the price."

The NYMEX lawsuit is only the latest twist in an ongoing battle over database protection that has been waging since *Feist*.

Most of the action has been on Capitol Hill, where a diverse group of database owners, including the New York Stock Exchange, the American Medical Association and the New York Times, have been pushing for legislative protection.

They say that *Feist* has created a gap in copyright law that facilitates piracy, a problem that has become especially acute because of the Internet.

"With the Internet, you can copy and distribute information to thousands of people with the click of a mouse," Kupferschmid said.

But an equally unlikely coalition of data collectors worried about access to basic factual information, including Yahoo, Charles Schwab & Co. and the American Library Association, has successfully fended off any initiatives, and the two sides are at a stalemate.

With their efforts in Congress thwarted, the database owners have been turning to other tactics, including cease and desist letters and the courts.

Around the same time NYMEX sued ICE last month, several major retailers, including Wal-Mart and Target, threatened legal action against various Internet shopping sites that had published information about post-Thanksgiving Day sales ahead of their intended release.

Upon receiving the cease and desist letters, the Web sites immediately pulled the information, saying they could not afford to go up against a big retailer like Wal-Mart.

Atlanta-based ICE is in a very different position, and experts predicted it would not cave in nearly as quickly.

It is the largest online energy exchange after Enrononline's demise earlier this year, and has a powerful array of founding members, such as Goldman Sachs, Morgan Stanley, Royal Dutch/Shell and BP Amoco, backing it. After acquiring London's International Petroleum Exchange last year, ICE has been competing with NYMEX for global supremacy in energy trading.

Copyright experts are sure to be watching the case closely.

Said Morrison & Foerster's Band: "It raises very serious questions about the availability of information in the information age." ♦

Tamara Loomis reports for the New York Law Journal, an affiliate of the Daily Business Review.

Kansas City law firm could see big payday with win

BY HEATHER COLE
hcole@bizjournals.com

4154
FRONT PAGE

Kansas City-based Shaffer Lombardo & Shurin could see a big payout from their representation of General American's liquidators in a lawsuit against New York-based KPMG.

The firm got the job in part because two principals, Rick Lombardo and Michael Shaffer, were assistant prosecutors under Albert Riederer, 57, who was Jackson County, Mo., prosecutor from 1980 to 1992 and is now the special deputy liquidator for General American Mutual Holding Co.



Albert Riederer

Riederer and Scott Lakin, 44, director of the Missouri Department of Insurance, sued
See MDI, Page 42

ST. LOUIS BUSINESS JOURNAL

ST. LOUIS, MO
WEEKLY 19,500
DEC 20 2002

MDI: Shaffer Lombardo is entitled to a maximum fee of 30 percent of a damages award

Continued from PAGE 1

KPMG Dec. 12. The lawsuit said KPMG abandoned and breached its professional obligations to General American, its members and the insurance department prior to a liquidity crisis that forced the sale of General American to Metropolitan Life Insurance Co. for \$1.2 billion in January 2000.

Shaffer Lombardo is entitled to a maximum fee of 30 percent of a damages award, with the percentage decreasing for larger awards, Riederer said. He said he believed the damages were substantial but couldn't estimate a possible award.

Riederer selected Shaffer Lombardo, a choice confirmed by Lakin, after talking with several law firms around the state. "I knew all the law firms all had experience with this kind of litigation. I settled on this firm because I was familiar with their work and felt we had a good working relationship."

Riederer, who is making \$300,000 annually as special deputy liquidator, is being paid out of a receivership fund established by the insurance department to repay policy holders who owned General American prior to its sale.

Shaffer Lombardo, which also has offices in St. Louis, filed the lawsuit with special counsel Michael Devitt. A professor at San Diego University, Devitt has worked with Lombardo on several lawsuits against Big Five, now Big Four, accounting firms in the last 15 years, Lombardo said. Devitt will be paid by Shaffer Lombardo. Lombardo declined to disclose the payment arrangement with Devitt.

Riederer resigned after 26 months as a Missouri Western District appellate court judge in 1999 after being tapped by then-Gov. Mel Carnahan to take charge of the General American's liquidation. Riederer

had been in private practice between 1990 and 1997.

Riederer brought Shaffer Lombardo on board in May 2001 to investigate the cause of General American's collapse. The firm was paid \$160 an hour for the investigation, standard fees set by the Department of Insurance. The firm was chosen to file the lawsuit because it had conducted the investigation, said Randy McConnell, a spokesman for the Missouri Department of Insurance.

Shaffer Lombardo stopped receiving money for billable hours, at Shaffer Lombardo's request, in early 2002 when the investigation was completed, Lombardo said.

Any money spent on billable hours for the investigation will be deducted from any award before Shaffer Lombardo's fee is determined, Lombardo said.

Many attorneys do work for receiverships, but most don't generate money for the receivership, Lombardo said. "What we're doing has a chance of creating a large affirmative recovery for the investment of policy holders if we're successful. If we're successful, they're going to benefit from the lawsuit. If we're not successful, they're no worse off and we spent a lot of time for nothing."

Riederer has another receivership position — he was appointed as special deputy liquidator for Transit Casualty Co. in July, following the retirement of his predecessor in that position, J. Burleigh Arnold. Riederer makes \$175,000 annually in the Transit Casualty position.

Arnold netted over \$14 million in a compensation package that included a \$350,000 annual salary and bonuses. Neither of Riederer's positions includes a similar package of bonuses, McConnell said.

A gaming hazard to youth

Video games can trigger seizures in rare cases.

4154

By Ben Finley

INQUIRER WASHINGTON BUREAU

WASHINGTON — The millions of video games sold in the United States this holiday season come with sometimes-overlooked warnings that they can trigger seizures in some players, especially children, who have a rare condition known as photosensitive epilepsy.

For these people — perhaps 1 in 4,000 — a video game's bright flashes and dramatic patterns sometimes can set off an electrical storm of brain signals. That may cause involuntary body movements, involuntary oral or visual responses, and blackouts, said Dr. Edward Novotny, director of the Pediatric Epilepsy Program at Yale University School of Medicine in New Haven, Conn.

The video-game industry says its products do not cause the at-
See **GAMES** on A22 **D**

between screen and player was about six feet. A small screen is preferable because it flickers less powerfully than a large one, he said, and a "well-lit" room has its main lights on.

A catch-22 makes protecting vulnerable players especially difficult, Harding noted.

Although Nintendo warns that anyone who has had a seizure induced by flashing lights or patterns should consult a doctor before playing a video game, he said, that does not protect against a first attack.

"Warnings are good except for people who don't know they are photosensitive," he said.

The condition made headlines in Japan in December 1997 when nearly 700 TV viewers out of 10 million were hospitalized after watching a *Pokemon* cartoon. The trigger was a series of pulses of red and blue light that flashed for five seconds from the eyes of the show's most popular character.

Of the 560 people with confirmed seizures, most were children, and 76 percent had had seizures for the first time, according to Harding.

Robert Fellmeth, executive di-

rector of the Children's Advocacy Institute at the University of San Diego Law School, said that only government regulation would ensure adequate warnings.

The Consumer Product Safety Commission, which has jurisdiction over video games, has received 25 reports of seizures linked to playing video games since 1988, according to its database. Spokesman Ken Giles said the commission was aware of the warnings but noted that photosensitive seizures were not unique to video games.

Harding said photosensitive epileptic seizures could be greatly reduced if game-makers adopted the voluntary standards used on British television. Those standards, which apply only to TV programs, ban flashes that occur more than three times per second and flashing that appears on more than a combined 25 percent of the screen. The standards also warn against certain patterns, such as ones with more than five contrasting light-dark pairs of stripes that are large or moving on the screen.

These standards have been adopted in Japan, Russia and by the Disney Co. but only for TV programming.

Tips for Game Use

Here's what experts recommend for people who play video games:

- Take a 15-minute break every hour.
- Do not play when fatigued.
- Play as far as possible from the screen; six feet is recommended.
- Keep the room's lights on when playing.
- Don't play video games if seizures are in your personal or family medical history, unless you've consulted your doctor.
- Blurry eyes, twitching and distractedness are signs that it's time to stop.
- High-definition television screens are better than low-definition screens. Small screens are better than big ones.

SOURCE: Inquirer Washington Bureau

A person who suffers a seizure, Harding said, should be lain on his or her side, head tilted downward to keep airways open in case of vomiting. Victims should not be restrained unless they are hurting themselves, and a doctor should be called immediately.

Contact reporter Ben Finley at 202-383-6039 or bfinley@krwashington.com.



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Contra Costa County sued in foster dad sex case

By *Charlie Goodyear*
CHRONICLE STAFF WRITER

Thomas Bertinuson convinced child welfare workers for more than a decade that he was a good foster father — while they ignored complaints from children in his care that he molested them in his suburban East Bay home, according to a new lawsuit.

The suit filed last week in Contra Costa County and one filed two years ago say county officials violated state law by failing to report the sexual abuse complaints to authorities.

Bertinuson, 54, a former PG&E worker who lived in Moraga, was sentenced last month to 15 years to life in state prison after pleading guilty this year to 51 counts of child molestation involving eight former foster children.

The suits seek unspecified damages on behalf of a 12-year-old boy abused four years ago and a 20-year-old man who says he was molested at age 10. Both cases detail how Bertinuson manipulated the county social welfare system to control boys in his custody and gain access to new victims.

The cases have come to light as a new report by California's Social Services Department says agencies tasked with supervising the quality of foster care are ill-equipped to deal with the burgeoning number of foster children.

As police investigated the criminal case involving Bertinuson, he fled to

Chile three years ago, where he was accused of producing child pornography. He was brought back to Contra Costa County in August 2001 to face criminal charges. Eight of his former foster children testified before a Contra Costa grand jury.

While Bertinuson sits in prison, the attorney handling both lawsuits said the examination of how Contra Costa County had failed to protect the foster children it placed in Bertinuson's care is widening.

Number of victims uncertain

"We're not even sure we've located all the victims," said attorney Thomas Greerty.

Lynn Yaney, a spokeswoman for the county's department of social services, said she could not comment on the pending litigation. Social workers named in the suits are barred by confidentiality rules from commenting on their cases, she added.

Andrea Cassidy, an attorney for the county, said she was not aware of the most recent lawsuit and could not comment on the case filed in 2000 because it involves a juvenile.

Bertinuson's attorney did not return calls seeking comment.

According to court records, Bertinuson was first licensed as a foster parent in 1987. On his first application and throughout his renewals, Bertinuson requested that he be allowed to care for

two male children at a time, preferably ages 9 to 12 years old.

One of the first signs of trouble came in 1990, when Bertinuson claimed one of his foster children had assaulted him. According to the 2000 lawsuit, the child told social worker Michelle Lasky that he had not hit Bertinuson but instead pushed him away because "Bertinuson kept trying to touch him and play with his hair."

Social workers criticized

"I think we have a serious problem with social workers who aren't trained, who are naive, who bring their own personal biases into their work," Fellmeth said. "Some social workers believe court records allege Bertinuson took pictures of these events, which occurred almost daily," according to records.

Chevalier never reported the allega-

tell you that almost always the children are the heroes. They care about everyone but themselves. Our clients are the heroes in these cases."

In 1992, the 20-year-old plaintiff, who was age 10 at the time, complained to his social worker, Yvonne Chevalier, that Bertinuson masturbated him and made the boy masturbate Bertinuson,

"The county investigated it, found it was untrue, but someone still allowed that boy to be transferred to Bertinuson's care," Greerty said.

Social workers almost never inspected Bertinuson's apartment, where he lived with the boys, and continued to let him care for children during periods when his foster-parent license had lapsed, Greerty added.

The lawsuits also fault county officials for failing to discover that Bertinuson insisted on having the boys in his care streak their hair blond and tan nude at a tanning salon.

Bertinuson frequently gave his foster children video games, computers, mountain bikes and other gifts to win their compliance, according to the lawsuits. He forced the 12-year-old plaintiff into oral copulation after threatening to take away the "toys," court records show.

The suits seek unspecified damages on behalf of a 12-year-old boy abused four years ago and a 20-year-old man who says he was molested at age 10. Both cases detail how Thomas Bertinuson manipulated the county social welfare system to control boys in his custody and gain access to new victims.

Lasky did not report the boy's complaint or initiate an investigation, the suit alleges, a violation of state law and county rules that require social workers to report suspected abuse and regularly inspect the homes of foster parents.

Robert Fellmeth, a professor at the University of San Diego law school and director of the Children's Advocacy Institute, said California had several laws requiring the strict oversight of foster children.

tions to police or licensing authorities, records claim. Bertinuson in turn accused the boy of "acting out." The boy was transferred to a locked juvenile facility for 2½ years and assigned a new social worker, according to records.

In 1998, Bertinuson allegedly made a false claim of abuse against another foster parent in a successful attempt to win custody of another boy, whom he then abused, the suits claim.

the children are evil, that they are manipulative, that they are bad seeds. I can

E-mail Charlie Goodyear at cgoodyear@sfchronicle.com.

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The Recorder

December 6, 2002, Friday

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HEADLINE: Power Source
AG's energy settlement provides financial fuel for plaintiffs lawyers

BYLINE: By Jeff Chorney
RECORDER STAFF WRITER

BODY:

During negotiations between Williams Energy Marketing & Trading Co. and the state of California, a group of high-profile plaintiffs attorneys sat at the table, hoping to settle their suits, too.

By the time the complicated deal was done, the attorneys did better than that: They emerged with what they hope will be the means to fuel the rest of their litigation against the industry giants accused of ripping off ratepayers.

Under the deal, Williams has agreed to cooperate with the government and private attorneys' investigations. The Tulsa, Okla.-based company also will set up a \$15 million "war chest" to pay past and future fees and expenses for the private attorneys.

Plaintiffs attorneys say the help will be valuable as they pursue other utilities defendants in a handful of civil actions still pending in the courts. If the Williams settlement is any indication, those suits could be worth hundreds of millions of dollars in damages.

"It's good for the litigants," Barry Himmelstein of San Francisco's Lieff Cabraser Heimann & Bernstein said of the settlement with Williams. Although he contends the \$15 million was no "windfall," Himmelstein expects the money will be enough to fund the rest of the litigation against utilities companies named alongside Williams.

But while the plaintiffs attorneys are pleased with being included in the first major deal between the state and a utilities defendant, others inside and outside the case have a different take.

"Funding future litigation is unusual," said Robert Fellmeth, a public interest law professor at the University of San Diego School of Law and an expert on unfair competition. "You may put money into a settlement to police an injunction, but to put money in to fund litigation against other defendants is unusual."

An attorney for one of Williams' co-defendants, Dynegy Inc., agreed: "If the fee award is for time not yet done, that is highly unusual," said Douglas Tribble of Pillsbury Winthrop.

Lawrence Schonbrun, a Berkeley solo who challenges attorney fees in class-action cases, believes fees should be scrutinized to make sure they don't take away money that could go to the class. And he said the Williams settlement raises a larger topic.

"I think this is a major issue about how litigation is structured between private attorneys and the public attorney general in pursuing litigation of this type," Schonbrun said.

So how did it come to pass that a government-negotiated deal gives juice to the private bar? None of the parties would discuss too many details of negotiations, including when each party came to the table. But consider some of the players' strategies.

Although the private plaintiffs filed their cases before Attorney General Bill Lockyer got involved, "there was no question at any point here that the AG was going to proceed and has very broad investigatory authority," said Supervising Deputy Attorney General Ken Alex, who helped negotiate the deal.

The AG's office filed two civil actions against the utilities company. Alex said the office has filed about 70 lawsuits and other actions - mostly filings before regulatory boards - in connection with the state power crisis.

As for Williams, several sources close to the case pointed out that the company wouldn't want to just put to bed the AG's cases, but would want a so-called global deal that included the private plaintiffs. Otherwise, the settlement would have little value.

"While we have the power to usurp private actions, it's our policy to try and not use that power. But if a defendant wants a global settlement, we're not averse to that," said Tom Dresslar, a spokesman for Lockyer.

The AG's office and Williams wanted to settle because the company isn't doing very well financially, said Alex, the deputy AG. Now that its California litigation is resolved, Williams can attract long-term investment, said Kelly Swan, spokesman for the company.

And what about the private plaintiffs?

"We didn't have to [join]," said Leonard Simon of Milberg Weiss Bershad Hynes & Lerach in San Diego. "We thought that it was advisable to try to get on the same page as the AG. It's good for ratepayers."

Simon would not say whether the private plaintiffs had engaged in any settlement talks before Lockyer got involved.

According to Alex, who helped negotiate the settlement on behalf of Lockyer, his office let the plaintiffs attorneys deal with Williams directly and did not help come up with the \$15 million.

Himmelstein said it's normal for an early partial settlement in a complex case to include the creation of a war chest. He pointed to other large cases where war chests were created by a partial settlement, including *In re Brand Name Prescription Drugs Antitrust Litigation*, 94-897, in which some defendants settled before a trial in U.S. District Court for the Northern District of Illinois.

The plaintiffs lawyers also cited precedent for a public agency negotiating a settlement that included a fund for future litigation.

Francis Scarpulla, a San Francisco solo who is working with Lieff Cabraser in the utilities litigation, pointed to *In re Petroleum Products Antitrust Litigation*, MDL150. In that case, several states and private parties accused the oil industry of conspiring to fix gas prices between 1959 and 1981.

As defendants settled out, funds were created to pay for future litigation, Scarpulla said. The money went to attorneys general in four states, as well as the private attorneys.

Unlike the Williams case, though, the money could only be used for expenses incurred in suing the other defendants, not fees, Scarpulla added.

Simon said attorneys wouldn't be able to just tap the fund at will. Rather, they'll perform work and then go back and ask the judge for reimbursement. If the fund is not exhausted when all the litigation is completed, the remainder will go to the class, private parties or a charity approved by the court, according to the settlement.

The Recorder December 6, 2002, Friday

Williams said it agreed to the fund for the same reason it agreed to the other parts of the settlement - because it's good for the company. Continuing the case could have been even more expensive than the terms Williams agreed to, said Alex Goldberg, assistant general counsel for the company.

"You really have to put yourself in the shoes of what's going to happen two years down the road," Goldberg said, adding that in such complicated litigation, the experts can be as expensive as some of the lawyers.

The deal still has to be approved by a judge. Hearings are expected to begin early next year.

The Williams settlement was announced in mid-November. It renegotiates the company's long-term contracts to provide energy to California, and, while not requiring Williams to admit wrongdoing, it puts to rest the company's portion of civil litigation filed by Lockyer and several private attorneys from San Francisco, San Diego and Los Angeles.

The offices of Lockyer and Gov. Gray Davis pitched the deal as a victory because they say it will save consumers potentially hundreds of millions of dollars.

Simon and Himmelstein serve as liaison counsel for the private plaintiffs' portion of the complicated case. In several lawsuits, they, Lockyer and other plaintiffs allege that utilities generators and distributors engaged in antitrust practices and unfair competition.

The Williams settlement affects six superior court lawsuits that have been brought together as Wholesale Electrical Antitrust Cases I and II, Judicial Council Coordination Proceeding Nos. 4204 and 4205.

Williams, along with Reliant Energy, Dynegy Inc., PG & E and several others are named as defendants in the cases. The myriad plaintiffs include several San Diego water districts, Lt. Gov. Cruz Bustamante, the city and county of San Francisco and private parties hoping for class-action status.

There is another group of utilities cases, 11 superior court actions coordinated as Natural Gas Antitrust Cases I, II, III and IV, Nos. 4221, 4224, 4226 and 4228. There have been no settlements in those cases.

Not all the private attorneys agree that joining forces with the politicians was the best thing to do.

"I'm hoping we can move it out of the political sphere and into the legal sphere, which will be a much more effective way to get a solution," said Michael Aguirre of San Diego's Aguirre & Meyer, another of the plaintiffs firms.

He said California needs a "wartime" attorney general for the utilities debacle, that Lockyer "clearly could have been more aggressive."

Even though he's happy about the cooperation clause, Aguirre said he hopes the settlement will not be a blueprint for other pending cases.

For now, though, those cases will keep moving ahead, and it remains to be seen how valuable will be the advantage won by the plaintiffs side.

If the private and government attorneys find what they're looking for - evidence the utilities companies worked together to drive up the prices - it could prove key.

"A cooperation clause in this case is extremely important," Simon, of Milberg Weiss, said. "You hope that it will lead to the right evidence and save you a lot of time as you pursue litigation against other defendants."

Schonbrun asked whether that kind of enforcement shouldn't be up to the attorney general, especially since the class includes practically anyone who paid a utility bill since Jan. 1, 1998, according to the settlement.

The Recorder December 6, 2002, Friday

"My concern is that the gravamen of this litigation was firms manipulating prices to gouge consumers, and for that reason, it's especially important that the people purporting to be acting in the name of consumers not be . . . getting excessive fees of their own," Schonbrun said.

Alex admitted that having private attorneys do the work of the attorney general was an "odd system," but he also defended them.

"There are benefits to having outside parties do some of these cases," Alex said. "And I certainly think, in the context of the settlement, that they did bring to bear something in this deal."

Reporter Jeff Chorney's e-mail address is [n].

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JUDICIARY

Laypeople on Panel
Has Less Impact
Than Critics Expected

454 BY DONNA DOMINO FRONT PAGE

SPECIAL TO THE DAILY RECORDER

When voters revamped the state Commission on Judicial Performance in 1994, they clearly wanted a change in the agency that disciplines California's judges.

Not a single judge had been censured or removed for misconduct since 1990, and there was a feeling that the commission, then dominated by judges, was protecting its own.

So Proposition 190 required that a majority of the commission's 11 members be laypeople rather than judges. And the initiative, approved by 85 percent of the voters, mandated that the commission open up

See PANEL, page 4

Continued from page 1

many of its previously confidential proceedings to the public.

Despite these changes, however, a study by the Daily Journal of the commission's work over the past 13 years shows that the number of judges disciplined since the passage of Proposition 190 has remained about the same. And, although the number of complaints against judges jumped, that spike ended after five years. Since then, the number of complaints against judges has inexplicably dwindled to 835 last year, the lowest since 1991.

Connie Dove, who recently retired as president of the California Judges Association after 19 years, attributed the increase in complaints starting in 1995 in large part to the posting of notices on courthouse bulletin boards with information about how to lodge grievances.

Meanwhile, the percentage of judges disciplined for misconduct remained largely unchanged, ranging from 3 percent to 6 percent of all complaints each year.

Golden Gate University School of Law Dean Peter Keane, the author of Proposition 190, acknowledges the measure did not result in more judges being punished for errant behavior.

Nonetheless, Keane maintains the initiative helped dispel the cloud of cronyism hanging over the commission. Allegations of a whitewash in the case of former Supreme Court Chief Justice Malcolm Lucas, in particular, left Keane and others in the legal community with the impression that unethical judicial behavior, from egregious to mundane, was going unpunished.

In January 1994, Lucas was cleared of wrongdoing by the commission after he was criticized for frequent absences from the court, out-of-state trips and for accepting travel expenses from insurance groups.

Calling the Lucas case "the biggest black mark on the California judiciary in its 160-year history," Keane cited it as "one of the triggering events" that motivated him to write the measure.

"The CJP had the chutzpah to say that just because he's the chief justice, it's OK," Keane said. Perhaps more worrisome, many suspected Lucas' preferential treatment was the tip of the iceberg, he said.

Prior to Proposition 190, Keane recalls "a very predominate feeling, much of it backed by anecdotes, that there were situations where a judge had done something wrong and word got around and phone calls were made on his behalf to judges on the commission."

That cast a shadow of doubt on the integri-

ty of the entire process, he said. "It doesn't have to happen in many situations for the whole system of regulation of judicial conduct to be thought of as corrupt."

Keane downplayed the significance of the relatively stable rate of judicial disciplines in the wake of Proposition 190, asserting that the reform measure had halted improper insider influences and served as a warning.

"It's much more of a preventative thing, and just as important to the integrity of the justice system is how it's perceived," he said. "It was perceived as being fixed, and it's not perceived that way anymore."

Proposition 190 also required disciplinary proceedings to be open to the public once formal charges are filed and transferred authority over the Code of Judicial Conduct from the private California Judges Association to the state Supreme Court.

Even those who opposed Proposition 190 acknowledge the measure's salutary effects.

U.S. District Judge Jeremy Fogel, an expert in judicial ethics who sat on the Santa Clara bench for 17 years before being appointed in 1998, said he initially had "some problems" with the initiative, citing the extensive amount of "political trading" that accompanied it in the Legislature. But now he applauds the measure's overall objectives.

"I think its basic goal — having a diverse commission and greater openness — was entirely right and reasonable," he said.

More importantly, the fact that a commission now dominated by laypeople has resulted in the same disciplinary rates proves that corruption charges were unfounded, he says.

"The perception that a judge-dominated commission was protecting judges was largely untrue," he said. "When you have a fair-minded group of people looking at the same conduct, they're likely to reach similar conclusions whether they're judges or public members.

"Regardless of what the truth was about judges protecting judges under the old system, you couldn't ever convince the public that wasn't going on because the commission was dominated by judges. I think the perception the commission is acting honestly and independently is much stronger now."

Dove described the atmosphere as "pretty anti-judge" when Proposition 190 was approved.

Judges feared members wouldn't maintain confidentiality regarding complaints about judges and wouldn't devote enough time to the tremendous amount of reading involved in the commission's work, she said. They also worried that public members "wouldn't understand what it was like to be under the pressure of the bench," Dove said.

Praising the commission's appointments as "mostly conscientious and savvy," Dove observed that a "parade of horrors didn't happen in most cases," adding, "most judges were and are pretty pleased with how the commission has worked."

The revamped commission now includes three judges (named by the state Supreme Court), six public members (two appointed by the governor, two by the Senate, two by the Assembly speaker) and two attorneys (picked by the governor). Members, who do not receive a salary, are appointed to staggered four-year terms.

After the reform measure was adopted, the number of judges calling the CJA's ethics hotline increased, Dove said. When inquiries come in, judges or commissioners are queried about whether they prefer talking to a colleague in their own county or farther away before being referred to three members of CJA's Committee on Judicial Ethics.

"They were being much more careful and calling to ask before they did anything rash," she recalled. "Surprisingly, the bulk of the inquiries concerned off-the-bench behavior,

Dove said, whereas most of the commission's charges are for on-the-bench conduct.

Dove suggested that jurists now are required to take ethics classes to qualify for the state-provided insurance that supplies them with defense counsel in disciplinary proceedings. The classes "sensitized the judiciary into a lot of issues that were getting them into trouble."

Despite fears that political appointments would include legal advocates with an ax to grind, Fogel said that has not occurred. "In general, the majority of people appointed to the commission have not had a political agenda and have taken their job very seriously."

The appointment of victims rights advocate Harriet Salarno in 1995, the first year the law took effect, gave rise to judges' fears of a witchhunt and unjustified punishments.

Salarno, founder of Crime Victims United of California, acknowledged that her appointment by Gov. Pete Wilson was "very controversial from the judges' point of view." The fact that there was no dramatic increase in disciplines proves the judiciary's fears were unwarranted, and the public members could be trusted to be fair, she said.

Decisions about opening inquiries or issuing formal proceedings are made by the commission, not the staff. The agency's staff has grown from 12 members in 1989 to 25 today, including 15 attorneys. It had a budget of \$3.5 million last year.

Salarno insists members were not coerced about whether to file misconduct charges or about the level of discipline to impose.

"I felt I had absolutely free rein," she said of her four-year tenure. She said she was not surprised that disciplines had remained steady after the panel's majority was transferred to public members.

"I had no idea what to expect. I was surprised that most complaints were for minor things," Salarno recalled.

"The bottom line was, it was just common sense," she said of most case decisions.

Commission records show the overwhelming majority of complaints come from litigants, followed by attorneys, then other jurists and court personnel.

Public members' greatest advantage, Salarno said, is that they are more neutral than judges and attorneys.

"A lot of lawyers could be concerned about having to appear in front of that judge," she said. "Some of the lawyers [on the panel] would say, 'he's a great judge; I appeared in front of him, maybe he had a bad day.' The public members were much fairer — we didn't have to appear in front of them or see them at conventions like the judge members did."

However, she criticized the process as being too slow, creating a burden for incoming commission members and accused jurists alike.

"It's not fair to the commissioners to have the cases lingering and judges to have charges hanging over them," she said, noting that the public member-dominated commission had inherited the case against Tulare County Superior Court Judge Howard Broadman, a case which "went on forever, and all kinds of new charges came in. The process is way too slow, just like the judicial system." (See related article, Page 6)

Robert Fellmeth, director of the Center for Public Interest Law at the University of San Diego School of Law, which monitors all state regulatory agencies, says the unchanged number of disciplines shouldn't be interpreted to mean the system is working as well as it could to monitor ethical violations.

He voiced disappointment that the measure had not resulted in more disciplines.

"I think part of the problem is inertia, and there's not a detection system and a proactive system to straighten things out," Fellmeth

commented, recommending that the commission create an "independent office that affirmatively examines judges for intellectual sloth, laziness and delays, not just waiting for complaints."

Most of the advisory or "stinger" letters sent to judges are for delayed rulings, and they are not made public.

"The rules need to be reexamined to determine how hard judges work and the number of hours," Fellmeth said. "Some of them have tenure mentality and overdelegate to clerks or other judges."

He mentioned opinion writing on three-judge panels to illustrate his point. Calling it "one of my pet peeves," he pointing out that "three judges should be looking at the case, not just deferring to the one who's writing the opinion."

"Here are people who couldn't agree on what to eat for lunch, but all of a sudden they're agreeing in areas that are very policy-sensitive," Fellmeth said.

"Those are the kinds of tribal rules the tribe won't challenge," he remarked. "There is an inertial effect to a discipline system that's been in place for many years. People get used to the idea there are only certain categories of behavior that can be complained about."

In Fellmeth's opinion, delayed rulings merit only private advisory letters because judges think, "there but for the grace of God go I." And he accused jurists of "playing the oral argument game" by not promptly scheduling cases for arguments, even for simple appeals.

Longtime commission critic Stephen R. Barnett, a Boalt Hall School of Law professor, agreed the discipline rates have limited significance.

"I don't put much stock in [the number of] complaints," he said, noting that accusations of misconduct "can be swords held over the head of a judge by every disgruntled litigant, court employee or ex-lover."

Overall, he said, instances of misconduct or ethical violations among the judiciary are relatively rare.

"There are some bad apples, but California's judges on the whole are not ripe for the commission's discipline," Barnett said. In fact, he said, Proposition 190 initially had a witch hunt-like effect.

"The commission did go through a stage of terrorizing judges," Barnett said, citing the commission prosecution of Broadman and Court of Appeal Justice A. Anthony Kline, the latter for allegedly refusing to follow higher court precedent.

"They went overboard," he said. "They went from one extreme, coddling judges before 190, then careened toward the other extreme of persecuting judges after 190."

"The cases were rightly thrown out."

Barnett also pointed out that the commission has had "a flap over the conduct of its own director," referring to conflict of interest charges against Victoria Henley during the commission's investigation of former Sonoma County Superior Court Judge Patricia Gray over a campaign flier attacking her opponent.

Even though Barnett once derided the group as the "commission on judicial protection," he says he did not support Proposition 190 because "it intruded too much on the judiciary's independence."

But he also criticized the commission for its steadfast and continued resistance to open its proceedings and noted that he had participated in the lawsuit that forced the commission to make public the votes of its members.

"It was based on Proposition 190; the language required it," Barnett said. "In terms of openness, that was a significant development. But the commission fought it tooth and nail."

State slashes aid for kids - and taxes for adults

"It's important to remember how our vast good fortune came to be.... Our parents and grandparents sacrificed... invested... delivered to us unprecedented advantage. We have a profound obligation and duty to honor their great gift by building on that noble tradition."

- Gray Davis' inaugural address (Jan. 4, 1999)

By Robert C. Fellmeth

SPECIAL TO THE BEE

In July of 2002, we cut \$11 billion in public spending for fiscal 2002-03, primarily affecting children. The governor now convenes a special legislative session to offer another \$10 billion in cuts over two years.

Yet another \$12 to \$20 billion in cuts beyond that is in prospect. The Republicans in the Legislature contend that spending has been excessive in recent years and such cuts are simply an efficiency correction. Both they and the governor essentially reject new revenue categorically. And the media help to stimulate that aversion by pouncing on any proponent of enhanced revenue with pejorative "aha! tax and spender!" headlines.

But let's review recent public finance trends. On the cost side, public officials commonly use raw numbers in describing trends, ignoring the fact of inflation and population gain; some raw number increases are needed year to year to hold real spending per child even. Now, with a remarkable population bulge in our middle and high schools, such increases are especially needed just to hold this investment constant.

As to revenue, start with Proposition 13's "I've got mine - too bad for you, kid" discrimination against our children.

My own property taxes are now based on a grandfathered value that is one-eighth my home's recent appraisal. My boy will soon try to buy real property and will pay eight times my taxes to finance the same services. Son, welcome to this unique (not exactly "the greatest") generation of California adults.

The picture is even more stark on the state and federal personal income tax side. These taxes have been cut, reducing public assets for children. Bipartisan votes have approved massive spending over the last decade in the form of "tax expenditures" (deductions and credits). They require only a majority vote, remain permanently in place once enacted and attract virtually no media attention - certainly not the negative headlines additional taxes for children command.

They have shredded the general fund tax base for our children. And almost all have been expended for special interests and the elderly - a group with a universal safety net, assured medical coverage and one-third the poverty level of children. Such unreported spending has continued apace - over the last four years, we have added \$5.7 billion in new state tax breaks.

The feds went wild after 2000, enacting what translates to reductions of \$27 billion per annum for California adults. Now with the surplus gone, big deficits loom - to be paid later by our children while they will also payroll-tax fund our Social Security and Medicare and finance our prescription drugs.

A key indicator: Look at the percentage of personal income expended for child-related state spending in 1979. Apply that percentage to current personal income levels, and adults should be publicly investing \$11.2 billion more than the Legislature has approved for the current year - before this new round of cuts. Republicans and our "middle ground" governor need to compare this performance to the inaugural pledge to replicate the commitment of our forbears.

How were California children doing before the governor's current disinvestment epistle?

SACRAMENTO BEE

SACRAMENTO, CA
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Not well. The California Children's Budget 2002-03 documents their status in a densely cited 600 pages. Poverty is now spiking back up and extreme poverty (below half of the poverty line) is near record levels with almost one million California children facing federal welfare safety net cut-off over the next several years.

More than 15 percent of the state's children remain medically uncovered. That percentage is now increasing again. Meanwhile, we have enough federal money - at only a one-third state match - sufficient to medically cover all of our children. Rather than spend the one third, we shall be sending over \$700 million back to Washington. Every other state in the union medically covers their poorest children for the first year where moms qualify - California now covers the first two months and then sets up a barrier to save paltry state money.

Gray Davis has proclaimed himself "the education governor," noting in his inaugural: "I offer the words of the Prophet Isaiah: 'My People are gone into captivity for want of knowledge.' My friends, unless we invest in the future of our youth, our youth will have no future."

Our schools are now 49th in class size and heading toward the bottom. Our community colleges are operating well beyond capacity in terms of class size, and higher education slots per 18-year-old will be lower than in 1991 - just when we need more higher education so our youth will have a future.

It is this disinvested base that the governor now proposes to reduce for a third time - with no countervailing revenue increases. It is revealing that a decade ago, when faced with a similar dilemma, Republican Pete Wilson signed tax increases making up over half of the shortfall.

But it is not on the table, as parents who are now off welfare and working will lose child care, higher education will actually contract and new school investment necessary for real reform is largely abandoned. And the list goes on and on - excluding perhaps only the politically powerful prison guards enjoying unprecedented increased pay and entertaining our legislative leadership on Maui. It does not hit just the fat - such as the governor's cockamamie \$1,000 rewards for children scoring high in tests; it hits flesh and bone - a formidable contraction of commitment to our children.

Those officials catering to self-indulgence implicitly presume there are no alternatives to child disinvestment. Poppycock. We are among the wealthiest jurisdictions in the history of the world, with personal income projected up another 6 percent. We need not rely on a tax base disproportionately depending on volatile capital gains income.

And new revenue is available from the alcohol industry - given a largely free ride in California; and from the very wealthy at record affluence and who can well afford the additional 2 percent they were assessed 20 years ago. We can roll back recent tax breaks and sunset the other \$23 billion on a rotating schedule so we collect for our kids unless we have a continuing reason to forego it.

The governor likely believes that widespread electoral disappointment in his performance is the product of an energy crisis he did not cause or a media obsessed with his fund-raising. He is wrong. His words in 1999 poetically captured what most of us believe. The people want a leader. A leader does what is right - damn the consequences to himself personally.

He and his focus group consultants might be surprised at the reaction to such real leadership on behalf of our children. A lack of such leadership now will condemn to ignominy his historical legacy, and that of legislators who choose to supinely follow him.

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Robert C. Fellmeth is the Price Professor of Public Interest Law at the University of San Diego and director of the Children's Advocacy Institute.



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Red Tape Hampered Probe of Doctor

Board spent five years
on inquiry into man
who overprescribed pills
to celebrities, others.

By LEE ROMNEY
Times Staff Writer

Between the time the first patient complained about Dr. Jules Mark Lusman's penchant for prescribing addictive narcotics and when the cosmetic surgeon was forced to give up his California medical license, five years came and went.

With a star-studded cast including Winona Ryder, a singular lack of cooperative witnesses and a dramatic finale, the case took longer than most and has drawn far more public attention. For all of its distinctiveness, however, the case illustrates some commonplace delays that hamper the Medical Board of California as it polices the state's nearly 90,000 doctors.

For example: The board, overwhelmed by complaints that seemed to pose greater danger to patients, at first didn't assign the case the highest priority. Medical records were hard to obtain, requiring drawn-out court battles. What ended as a barrage of evidence initially arrived in trickles.

Two of Lusman's lawyers quit; his legal defense dragged on for months. Expert testimony was difficult to coordinate, and the burden of proof — "clear and convincing" under California law — was high and hard to meet.

Delays like these have gummed up the works of the medical board for more than a decade, some board critics say. And far too often, they say, the

[See Board, Page B8]

Reforms Are Sought in Doctor Probes

[Board, from Page B1] #
discipline ultimately delivered is too light, falling well short of the revocation that ended the Lusman case. Just 38 of the state's doctors had their licenses revoked last year, although the board opened 2,608 investigations and referred 589 cases to the attorney general.

"It takes too long, there are too many steps, and very few complaints end up with any discipline," said Julianne D'Angelo Fellmeth, administrative director of the University of San Diego's Center for Public Interest Law, which has monitored the board and pressed for reforms.

In the Lusman case, state regulators had the advantage of a warning. The doctor was disciplined in South Africa in 1986 for overprescribing addictive medications, and for that reason, regulators here placed him on probation for his first two years of practice. Yet, after his probation expired, it took multiple allegations of wrongdoing before the same behavior derailed him in California.

Wrongdoing Denied

Lusman, whose license was revoked Dec. 6 after an administrative hearing, has denied wrongdoing and is appealing the board's decision in California Superior Court.

Ron Joseph, the medical board's executive director, said the case was not at all typical. "We worked as well as we could under the circumstances, but it was a complicated case," he said.

Yet the Lusman case in many ways is emblematic of inappropriate-prescription complaints, which are hard to prove and a growing concern in California, other state regulators say.

"I think it's the tip of a major iceberg facing California: the whole area of pain management and the number of patients who are addicted," said Dr. Ronald H. Wender, president of the board's Division of Medical Quality.

A recent board report noted that the agency has too few experts in pain management to review those cases.

As it happens, the Lusman case comes as the medical board is under intense political scrutiny, and as it is launching some significant reforms. Partly because of the spotlight on the board itself, and partly because of the Lusman case's high profile — it involved patients including Ryder and musician-actress Courtney Love — reformers are raising questions about why it took so long to adjudicate.

"Why five years? That's what everybody's going to be asking," said state Sen. Liz Figueroa (D-Fremont), who sponsored a bill to reform the system that becomes law next month. "It's alarming."

Figueroa headed a routine legislative review last spring that led to a critical report on the board's enforcement record. Board officials and critics alike label her reform law — which calls for an independent enforcement monitor to evaluate the disciplinary system and increases public disclosure about problem physicians — a victory for consumer protection.

Independently, the board created "strike teams" to expedite the most severe cases, and reorganized the complaint unit so that cases involving the quality of patient care are fast-tracked. The board also is changing the way it collects data in hopes of pinpointing clogs in the system.

Many delays are outside the board's direct control — as when doctors themselves drag out legal proceedings, or when the board's prosecutors from the state attorney general's office run into problems obtaining records. (Doctors are entitled to challenge accusations in proceedings before administrative law judges, who then make disciplinary recommendations to the medical board.)

Mixture of Delays

If a case takes a year to investigate "because it took 10 months and a lot of court maneuvering to get the records, then there's a problem with the legal aspect of the system," said Wender, who heads the board's enforcement committee.

"On the other hand, we'll have to take responsibility for those things under our purview. If it took four months for the expert to review the case, then that's not an expert we're going to be able to use."

As with many cases, Lusman's included a mixture of delays, many outside the medical board's control.

The first patient complaint arrived in 1997, from a woman who claimed that she became addicted to Demerol under Lus-

man's care. The case was handed to the attorney general's office for prosecution after a year, but by then the patient was no longer talking.

The court battle for access to her medical records dragged on for nearly three years. Meanwhile, another patient who complained — in February 1999 — cooperated only partially, again forcing investigators into court for a subpoena.

"It wasn't one tip that took five years to complete," said Joseph. "There were a series of patients who went through the 'I'm mad at my doctor' phase, and when we were ready to go to hearing they weren't mad at their doctor anymore."

After records were in hand, a medical expert's review took still more time. It wasn't until the summer of 2001, when another doctor came forward to complain, that the case broke open, said Dave Thornton, the board's chief of enforcement.

Suspecting risk to a greater number of patients, investigators worked with the California Board of Pharmacy, which conducted an audit and found that Lusman was writing multiple prescriptions for a number of patients in the same week or even day, state records show.

Investigators then got a search warrant for Lusman's office and home, taking patient files. Lusman's case moved relatively fast after that and, by last March, investigators won an interim order suspending his right to prescribe.

Meanwhile, the hearing to determine whether his license would be pulled was plagued by 10 months of delays. Expert witnesses had scheduling conflicts, Lusman's first lawyer bowed out, and Lusman injured himself in Mexico, said Deputy Atty. Gen. E. A. Jones.

Then Lusman, whose second lawyer had quit, got a four-month reprieve to assemble his defense.

In this case and others, legal delays outside the medical board's control were compounded by the board's essentially reactive role. It generally waits for complaints to arrive, for witnesses to come forward and for patterns to emerge before it seeks subpoenas or takes other aggressive action.

Other regulators are less hampered. The Board of Pharmacy has the authority to inspect pharmaceutical records with no subpoena, and can therefore more easily uncover the types of abuses that led to Lusman's undoing.

Lack of Cooperation

In a report to the board in October, Wender, the enforcement committee chairman, cited other common hindrances. He found that investigators and prosecutors don't cooperate closely enough.

And expert review — generally the keystone of patient care investigations — has suffered due to a dearth of some specialists, a lack of imposed time limits to complete reviews, and — in some cases — the poor quality of reviewers themselves.

In general, watchdog groups say, California's enforcement record against doctors is mediocre compared to other states.

"California has just never broken into the [ranks of] better states," said Dr. Sidney M. Wolfe, director of Public Citizen's Health Research Group in Washington, D.C. The agency ranks states according to the prevalence of serious disciplinary actions — from probation to revocation of licensure.

California was 25th last year, up from 42nd place a decade ago but down from its peak at 18th in 1997.

Still, even the harshest critics say that the California board has made progress. It is a far cry from the panel of a dozen years ago, when top officials ordered hundreds of unattended complaints dismissed or destroyed to conceal a backlog. Though disciplinary actions have dropped since 1997, the overall trend over the decade has been upward.

One setback is a hiring freeze that has limited the investigative staff to about 70, down from a peak of 95 last year.

But investigators and prosecutors have managed to speed up their work, state records show. In 1995, it took an average of nearly four years from the time a complaint was received to the time action was taken. That's down to a little over two years.

Though no organization tracks the time it takes to complete cases, Dale L. Austin, chief operating officer of the Federation of State Medical Boards, said most states average between nine and 18 months.

SPEAKING OUT

BY FRANK PARTNOY

4154

The Rating Agency Paradox

Despite their market influence, credit scores fail to be informative

When I testified about Enron before a Senate committee last January, the senators were especially interested in credit rating agencies. How, they asked, could Moody's and Standard & Poor's have missed the problems at Enron? And what, if anything, could they do to improve rules related to credit ratings?

The Senate held hearings on credit ratings, but ultimately punted these questions to the Securities and Exchange Commission, which held hearings dominated by the rating agencies. Given the agencies' track

record—they rated Enron investment grade four days before bankruptcy and didn't do much better on Global Crossing, WorldCom and several utilities—it is time for a different approach.

Credit ratings pose an interesting paradox. On one hand, ratings have great market value. Their changes are major news, and a downgrade below investment grade can be an issuer's death knell, as it was for Enron. Issuers pay sizable fees to the agencies. Moody's main income is these fees, and its shares are worth more than \$6 billion.

On the other hand, credit ratings have scant informational value. Rating changes lag the market by a year or more. Ratings are correlated with actual defaults only because agencies lower their ratings in response to public news. Anyone who reads this magazine every month could do better.

How can ratings have great market value, but little informational value? The answer lies in regulation. Since the mid-1970s, regulators have enacted hundreds of rules that depend on credit ratings. Meanwhile, the SEC has raised insurmountable barriers to entering the credit ratings market, by designating only a few agencies as "Nationally Recognized Statistical Ratings Organizations."

The result: Many institutions cannot buy bonds unless the NRSROs (Moody's, S&P and Fitch) have given those bonds their highest ratings. A top credit rating is the key to unlock the benefits of these regulations. This is why ratings are so valuable.

Moreover, unlike other financial market participants,



FRANK PARTNOY, a professor of law at the University of San Diego, wrote the upcoming *Infectious Greed: How Deceit and Risk Corrupted the Financial Markets*.

rating agencies are exempt from civil liability under the securities laws, and courts consistently have dismissed suits against them. S&P settled Orange County's suit against it for 0.007% of the claimed damages. In the law's eyes, rating agencies can do no wrong.

The SEC's hearings focused on admitting a few new NRSROs. Competition couldn't hurt, and independent firms, such as Egan-Jones Ratings Co., have a much better track record than S&P and Moody's.

But adding a few agencies won't change the market's structure or prevent future consolidation. Four or five agencies (instead of three) would divide the spoils of the same corrupted oligopoly. The quality of ratings

would not change nor would the fact that ratings' value stems from regulation, not information.

A better idea is to scrap the regulatory dependence on credit ratings and base regulations on a market measure, such as credit spreads. A rolling average of the difference between the yield on a particular bond and a comparable Treasury bond would be a much better predictor of default. The burgeoning credit derivatives market is another good source of market-based information.

Our regulations have subsidized and protected rating agencies for 25 years. Yet, according to one recent study, only 29% of bond fund managers believe the agencies update ratings in a timely manner. If so few experts believe in credit ratings, why do our regulations continue to depend upon them?

**CALIFORNIA REAL ESTATE
JOURNAL**

**LOS ANGELES, CA
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BEST BEST & KRIEGER 4154

The San Diego office of Best Best & Krieger has three new partners — **Warren B. Diven**, **Shawn Hagerty** and **Robert J. Hanna**.



Warren B. Diven

Diven has 23 years of public finance and public agency law expertise. He has been lead counsel in public financings, including general obligation, revenue, land secured and tax allocation bonds, and the restructuring and workout of distress assessment districts and community facilities districts.



Shawn Hagerty

Hagerty is general and special counsel for municipalities and redevelopment agencies, which he advises on municipal law. He also serves as special counsel for public entities in eminent domain, telecommunication, redevelopment, rent control, land use and property matters. Hagerty teaches urban planning and land-use law at the University of San Diego Extension.



Robert J. Hanna

Hanna is a member of the firm's litigation department, where his practice emphasizes real property, title insurance and trust litigation. He has been an adjunct professor at the University of San Diego since 1985.



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INFORMATION SERVICES

Diane Bell

4154- Univ of San

At Golden Hall, political vows, a bit of humor



Yesterday marked the swearing into office of many newly elected local officials as friends and family looked on. At San Diego's Golden Hall, it was a time of thank-you's, promises,

insights and humor. Following are snippets from speeches made by the new and re-elected City Council members during the ceremony.

Michael Zucchet, commenting on moving into Byron Wear's former office: "We spent a good part of the morning putting the Z's back on the computer keyboards." (He added that he was only kidding.)

Charles Lewis, upon taking the place of his former boss, George Stevens: "Let me put everyone on notice that although the style may be different, the message is the same, and I will not make any deals that are not in the best interest of my community. Period." Lewis says he is rehiring most of Stevens' former staffers, including Luis Natividad, who was just elected a councilman in National City.

Donna Frye pledged to facilitate the public's right to know and citizen input: "I will never forget what it's like to sit in the audience for 10 hours waiting to give three minutes of testimony."

Ralph Inzunza, who held his infant

▶ DIANE BELL

CONTINUED FROM PAGE B1

Back surgery? Writing humor just might help

son as he was sworn in: "Our city needs diversity, and I don't mean the mayor putting up with all the Democrats on the council."

Predicting the future

Malte Farnaes, a USD law student, was confident that he would pass the rigorous California bar exam — until his lunch at a Chinese restaurant on the day the exam results were to be published. Farnaes' face fell when he broke open a fortune cookie with this prediction: "You may soon change your line of work." With trepidation, he checked the bar results on the Internet that evening. Much to his relief, he passed. Needless to say, when

his law firm colleagues treated him to a celebration lunch, they decided against Chinese food.

San Diegans Ink

After Junior Seau gave a luncheon talk about his foundation, one young audience member — Philip Geerdes, age 10 — was so impressed, he donated \$10 of his hard-earned money on the spot. His gesture, in turn, so impressed Seau that the Charger rewarded Philip with a personally signed trading card . . . Most people slow their pace right after spinal surgery. But not UCSD Vice Chancellor James M. Langley. A former newspaper reporter and novelist, he found that writing humorous pieces helped take his mind off his discomfort. In the months since his surgery, he has penned six plays. One of them, "Gentle Tiger Burning," was selected for staging by a theater in Australia with Langley's sister, Lauren Mitsak, directing . . . Anne Cleveland, the 46-year-old San Diegan who

swam across the English Channel last July, isn't resting on her laurels. This month she starts training for a double header — swimming from England to France and back again in 2004 — a round-trip distance of 44 miles.

Quote of note

When Gary Nordstrom, a cancer survivor, conducted a prostate cancer awareness seminar for the local FBI headquarters, his talk was preceded by an announcement over the FBI's PA system: "The prostate training will begin immediately in the conference room." A few moments later, four female agents walked in, one saying: "We don't want to miss this." And they didn't.

Diane Bell's column appears Tuesdays, Thursdays, Saturdays. Fax items to (619) 293-2443; call (619) 293-1518; e-mail to diane.bell@uniontrib.com; or mail to The San Diego Union-Tribune, P.O. Box 120191, San Diego 92112-0191.

SEE Diane Bell, B3

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**Coldwell Banker
Olivenhain
welcomes
Liebovitz** 4154

Coldwell Banker Olivenhain's newest addition, **Al Liebovitz** has extensive experience in real estate and law. Liebovitz lived and



Al Liebovitz

worked all over both coasts of the U.S. including New York City, Los Angeles, Orange County and

San Diego.

Prior to working with Coldwell Banker, Liebovitz worked with the Manhattan District Attorney's office, NYNEX Properties, Pacific Bell and TDI, Inc., as well as San Diego's Wireless Facilities, Inc., and Campus Networks Inc. He has functioned as the real estate manager, the director of corporate real estate, vice president, the senior director

of business development, and the president.

"We are fortunate to have Al as part of our team," says Rosina Baur branch manager of Coldwell Banker Olivenhain. "He has such a broad background, we are all looking forward to gaining his perspective."

A graduate of Western State University, College of Law, and the University of San Diego, School of Law, he is a member of the State Bar of California, the American Bar Association, the American Planning Association, and has his California Real Estate Broker's license. He has volunteered with the Los Angeles Police Department and the Orange County District Attorney.

Liebovitz' clients benefit from his high level of professionalism and sophistication. He was a licensed real estate broker since 1987 and a real estate attorney since 1995. His experience includes hundreds of successful transactions valued at more than \$500 million while representing Fortune 100 companies.

Hitting the Books

When the news broke that Princeton University computers tapped into a Yale University Web site 14 times earlier this year, it immediately cast doubt on the ethical fortitude and intelligence of Princeton's admission office. It also spelled out the critical nature of acquiring, managing, sharing, and protecting student information at universities and colleges. That importance, which also applies to other information flowing through educational institutions, also exists at high schools and elementary schools, which, along with their higher-education counterparts, are registering greater interest in and enlisting more resources for CRM strategies, systems, and applications.

"We're seeing an uptick in self-service portals like those that allow students to go online to check grades, get course descriptions, obtain transcripts, and register for classes," says Kevin Scott, senior analyst with AMR Research in Boston. "You might not think of those capabilities as a traditional CRM application. But if you look at students as one set of a college's customers, certainly the college builds a relationship to make their lives easier, in part by providing them more information more easily."

BY ERIC KRELL

Hitting the Books

Many CRM vendors agree with that assessment. "Colleges and universities are moving to the sweet spot that the

The ABCs of ROI

Educational institutions have so far focused their CRM activities on improving customer service and strengthening their recruiting efforts. As a result typical returns tend to include efficiency gains and more effective marketing campaigns:

□ Arizona State University credits a Brio solution with playing a key role in winning a \$500,000 federal grant and reducing the IT department workload so two full-time data warehouse employees could be reassigned to work on other systems.

□ At the University of Pennsylvania, the Wharton School of Business's computing division, using a CRM solution from Talisma reduced per-case response time to its student and faculty constituents from about 10 minutes per case to fewer than two minutes per case.

□ Spain's Open University of Catalonia reports its administrative team is 40 percent more productive in responding to 40,000-plus student and alumni inquiries, thanks to a Siebel solution.

□ University of San Diego Law School improved response rates to event marketing campaigns from about 1 percent to 7 percent by targeting students who are a potentially better match for the law school. It also expects to reduce printing and postage costs associated with recruiting efforts by 50 percent.

□ Seventy-five percent of Decatur, IL, public schools' end users indicate that new help-desk reporting system improves their experience.

□ Broward County (FL) School District saved more than \$100,000 on a testing tool by using a data warehouse and reporting solution to develop a similar tool internally. The district also reduced the time it takes to access complete student records from about 20 minutes to three minutes or fewer, and can now grant one-click access to student records to all students, teachers, administrators, and parents in the district.

commercial marketplace was in about two or three years ago," says Ron Police, senior vice president of Oracle's sales operations for higher education. "Our pipeline is growing every month."

Call centers, marketing automation, and analytics mark the areas of greatest interest to educational institutions, although marketing automation appears less important to the kindergarten through 12th grade (K-12) market. However, some public school districts plan to strengthen their teacher-recruiting processes with analytics and marketing automation.

In addition to K-12 versus higher-education differences, there also exist nuances between public schools versus private schools and perhaps most important, significant distinctions between implementing CRM in a corporate setting and in an educational environment. Just ask the former corporate IT managers who have recently transferred their expertise to universities and school systems. "On the first day of our training sessions, we sometimes have to say, 'This is a mouse, you push this button, and if you hold it down, you can drag,'" says Phyllis Chasser, senior data warehouse analyst for the Broward County School District, in Florida. Others with key CRM implementation responsibilities lament the difficulty of selling the system to a wide range of end users by justifying the cost of new functionality that, for example, results in improved high school math scores, a better quality of university applicant, or online cafeteria menus.

Compared with the corporate world, educational institutions serve a larger and more diverse set of customers: students, parents, teachers, administrators, academic advisors

and guidance counselors, department heads, maintenance, finance, and alumni, to name most, but not all. "The typical initial response to the word customer in education is that it is not broad enough," says Dr. Jeff Tanner, associate dean of Baylor University's Hankamer School of Business, in Waco, TX. "The term constituent is used intentionally to recognize that we're really talking about very different groups and to make the point that ROI is not always financial."

'C' is for 'Constituent'

When Indra Bishop joined the University of San Diego (USD) from Siebel Systems, the senior CRM consultant's first move was to internalize the term constituent relationship management. Her second move, she says, involved "getting our arms around what CRM would mean to the entire university, what different constituents wanted, and which pieces would give us immediate benefits."



USD went live with the first of many phases of its tiered Oracle CRM (Marketing Online, TeleSales, and Sales Online applications) implementation this past May, when the university's first applicant marketing campaign generated a 2 percent response rate from 50,000 emails to undergraduate prospects. Although several non-CRM factors suppressed the response rate, Bishop says, the campaign enabled USD to hear from more than 1,000

"The number one service we provide to customers is a relationship."

—Max Burgstahler

students who in past years the university had no means to interact with, other than through a prohibitively expensive direct mail campaign.

The main recruiting objective for USD and other universities is to increase the quality, rather than the quantity, of admitted students. USD Law School, which this fall became the university's second group to implement Marketing Online, recently fielded 4,500 applicants and admitted 1,300 of them to yield its freshman class of 320 law students. Boosting the quality of admitted students, as well as the likelihood that those admitted will accept the offer (and go on to graduate from the program), helps reduce the number of admitted students, and as a result the cost of communicating with them and wooing them to accept. Carl Eging, director of admissions for the law school, plans to reduce print and postage costs by roughly 50 percent through Oracle's CRM applications.

In addition to targeting enrollment management, USD Law School also has sharpened its event-management capabilities. Prior to its CRM investment the law school would mail marketing materials to 10,000 LSAT-takers announcing its presence at recruiting events offered through the Law School Admission Council. "We used to get about a 1 percent response rate to that," Eging says. "And printing all those pieces cost a lot of money."

With its new CRM capabilities USD Law School narrowed its focus to 800 LSAT-takers (whom the analytics deemed to be of higher quality and a potentially better fit for USD Law), emailed them information, and received a 7 percent response rate.

"While that's a small CRM step, it marks a major change for us," Eging says. "Much of our IT infrastructure probably should have been replaced five or six years ago."

And that's the case across the organization. "We have not taken the approach that we're simply installing a product," Bishop says. "Our provost was very interested in having analytics capabilities so we could analyze which of our target segments provide the best students to USD. But we're also maintaining that CRM focus as we put in place new infrastructure and business processes. We think big and start small."

'H' is for 'Help Desk'

Although some private K-12 schools have invested in CRM applications, most CRM decisions in public K-12 schools are made at the district level. Based on facility count elementary schools often represent a lion's share of the constituents. At Decatur Public Schools in Illinois, for example, MIS Director Max Burgstahler oversees IT operations in two high schools, several administrative buildings, four middle schools, and 17 elementary schools. Like most other school districts, CRM—in the form of customer service applications—entered Decatur through the IT department and, specifically, its help-desk offering.

"We consider the student our ultimate customer," says Burgstahler, who with a staff of 12 provides PC and network support to 2,000 computers across the district. "The number one service we provide to customers is a relationship. We let them know there is someone here, we know about their problem, and we're

working on it. As we close out these items, we communicate the resolution back to the customers. We're also able to track activity and trend some of our problems. So, we can look at our system and say, 'We're fielding a lot of questions about our email system, is it time for some training?' If so, we deliver that training."

The customer-facing component of that functionality is basic in CRM terms: email. When users—almost entirely teachers and administrators, although students with email addresses can also query the system—have a problem with their computer, the network or a particular application, they send an email that automatically opens an incident report in the Unipress Web-based solution Decatur Public Schools uses.

"One of the constant challenges we



have in the educational world is that a lot of the software is designed for older operating systems," Burgstahler notes. So, updated computers and operating systems often result in problems for lesson-planning and grading software written for Windows 95 and even DOS.

Hitting the Books

Judging from a recent survey those problems are resolved quickly. Students and administrators who used the new help-desk service indicated by a four-to-one margin that it had improved their experience. Another win resulted from some rudimentary data mining, in which Burgstahler's staff noticed a high frequency of printer problems. Since those problems required small, inexpensive, but time-consuming repairs, Burgstahler chose to outsource

"Data will make a difference in student achievement."

—Phyllis Chasser

printer repair. "That has freed us up to do more of the critical network type of work for our customers," he says.

'A' Means Access for All

In Florida's Broward School District the definition of customers, like everything else, is a little larger. The district is home to 270,000 prekindergarten through 12th grade students, 140,000 adult (continuing education) students, 38,000 employees, and more than 250 schools.

"We're extremely customer oriented," senior data warehouse analyst Chasser says. "If you're outside our little group you're our customer." That descriptor covers students, parents, administrators, guidance counselors, department heads (e.g., dropout prevention, psychological services, strategic planning, maintenance, finance grant writing), and even the media. "All the statistics about our schools in the papers and on television come from us," Chasser says.

Before linking those customers to a database (called TERMS, with a front-

facing reporting solution from Brio), it often took principals, guidance counselors, and teachers up to 20 minutes to print out information spread out on dozens of different screens requested by students, parents, or other teachers. "Now it takes no more than three minutes or three seconds, depending on the student, to get that same information," Chasser says. And new information entered into the reporting tool is updated on TERMS nightly.

All students in the district have access to the data warehouse, as do all teachers, counselors, and, by the end of this month, parents. "We've lined up libraries and other public spaces with computers," says Chasser, who with her staff is ironing out the security issues of granting access to the reporting tool via any Internet connection. "In a district as large as Broward there are quite a few families who don't have a computer, and we need to meet their needs."

In meeting the needs of Broward's other constituents Chasser's staff and the reporting tool have achieved impressive results. Attendance records are updated daily, which has increased the accuracy with which the district can enforce a Florida state regulation that requires students with too many absences to lose their driver's license. "When a student approaches the number of allowable absences," Chasser explains, "he or she immediately receives a warning letter." In the past that notification system was much less disciplined and required a manual, on-screen review of each student's record.


Quicker access to automatically updated records also enables teachers and administrators to swiftly identify the adult who should be contacted in the case of a student injury or discipline incident.

When the district's testing depart-

ment considered buying a \$107,000 test report from an outside vendor, Chasser's group was able to study what the report provided and then develop a similar tool internally for about \$2,000 in time and salaries. That translated to savings of more than \$100,000—and the report can be modified to fit other tests.

Other benefits include quicker access to more accurate (i.e., up-to-date) information for grant writers within the district, and deeper information on standardized-test performance to teachers. For example, when a high school math teacher looked deeper into his students' relatively disappointing performance on a standardized math test, he saw that they did poorly on the graph-building portions of the exam. "He told me, 'I never thought I had to put much time into the graphs, because that seemed to be the easy part of the process,'" Chasser says. "So, he's more focused on teaching graphs now."

In coming months Chasser intends to increase the amount of personnel information reported into and stored on the database. "We spend a fortune recruiting 8,000 to 10,000 new teachers each year," Chasser says. "When we run reports that show most of our people are coming from Atlanta, that might mean that we spend less money advertising in Philadelphia and more on our Atlanta recruiting efforts."

Broward's mantra, Chasser asserts, "is that data will make a difference in student achievement." And that translates to a different type of return than most ROI objectives in the corporate world. Yet, test scores, attendance records, and other nonfinancial metrics help measure not only how well institutions develop their students' intelligence, but also the real return on their CRM investments. 

Eric Krell is a freelance journalist based in Austin, TX.

Other USD-Related News

CALENDAR

CITY

● **Epiphany preparation service:** An ecumenical Communion service to prepare for the Epiphany will be held at 4 p.m. on Sunday at the First Unitarian Universalist Church of San Diego, 4190 Front St., Hillcrest. The service will include word, song and the sharing of bread and wine. Information: (619) 463-4676.

● **Thomas Moore in town:** Author and psychotherapist Thomas Moore will be at St. Paul's Episcopal Cathedral, 2728 Sixth Ave., next month for a lecture and workshop. Sponsored by Friends of Jung, the lecture will be held at 7:30 p.m. on Jan. 10. The workshop will be held from 10 a.m. to 5 p.m. on Jan. 11. The lecture is \$15 for members of Friends of Jung or \$25 for nonmembers. The workshop is \$65 for members or \$75 for nonmembers. Information: (858) 587-4651.

● **Interfaith families workshop:** "Times and Seasons," a four-part workshop exploring the

challenges of interfaith families, will be held 9 a.m. on Jan. 12, 19, 26 and Feb. 2 at Congregation Beth Israel, Epstein Family Conference Room, 9001 Towne Center Drive. Interfaith couples will be brought together to share concerns about children, families, needs for individuality and other issues. Free. Information: (858) 535-1111.

● **CYT classes:** The Christian Youth Theater's (CYT) winter term of after-school theater arts classes will begin the week of Jan. 6. The classes, which are held from 4 to 6 p.m. once a week for 10 weeks, will be held in six locations of the county. In the north, classes will be held at Santa Fe Christian School, 838 Academy Drive, Solana Beach; Green Valley Church, 11501 Rancho Bernardo Road, Rancho Bernardo; and Carlsbad Community Church, 3175 Harding St., Carlsbad. East County students can enroll in classes at Holy Trinity Church, 405 Ballard St., El Cajon. San

Diego central classes will be held at The Rock Academy, Calvary Baptist Church, 6866 Linda Vista Road. South County classes will be held at Thurgood Marshall School, 2295 MacKenzie Creek Road, Chula Vista. Registration and cost details: (619) 588-0206.

NORTH

● **Dramatic presentation:** Rob Styler, a storyteller from Second Adam Ministry, will give a dramatic presentation on Sunday of "Don't Talk to Me About Sacrifice" at the 9 and 10:40 a.m. services, North Coast Presbyterian Church, 1831 South El Camino Real, Encinitas. The presentation is about Isaac from Genesis 12. Free. Information: (760) 753-2535.

● **Adat Shalom concert:** Temple Adat Shalom is holding a concert featuring the 2nd Avenue Kezmer Ensemble at 2 p.m. on Sunday at the synagogue, 15905 Pomerado Road, Poway. Free. Information: (858) 451-1200.

● **Guest speaker:** Vista-Palomar Unitarian Universalist Fellowship is welcoming guest speaker and congregation member Bruce Thompson who will talk about "Deep Time and Our Place in the Universe,"

10:30 a.m. on Sunday at the fellowship, 1600 Buena Vista Drive, Vista. Information: (760) 941-4319.

KEEPING UP

● **Monsignor honored:** Monsignor Dennis L. Mikulanis, a longtime Catholic priest in San Diego, was awarded the Bishop Charles Francis Buddy Award at the University of San Diego on Dec. 7. The award is presented by the USD Alumni Association and recognizes his efforts to spearhead a series of meetings on Islam's tenets and practices following the terrorist attacks on Sept. 11, 2001. He also is a founding member of the Interreligious Council of San Diego and serves as a chaplain for the police departments in San Diego and Chula Vista. Mikulanis currently is pastor of San Rafael Roman Catholic Church in Ranch Bernardo.

San Diego Union Tribune 12-27-02

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The 2240 Wells Fargo team members in San Diego wish you and your family a joyous holiday season.

During this special time of year, we want to thank our customers and recognize the community partners we are proud to support. We provided two million dollars this year to support their efforts to make San Diego a better place for all of us.

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YMCA – Oceanside
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Zoological Society of San Diego

San Diego Union Tribune 12-1-02

The University of the Third Age

2003 Winter Session January 6 - 24

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| <p>6 Monday</p> <p>In The Volunteer Spirit San Diego's Americorps Teachers</p> <p>Going My Way Dr. Alice Hayes, President, USD</p> | <p>7 Tuesday</p> <p>Winter Reading Table, 2003 Sandy Steel, Librarian, San Diego Public Library, Carmel Mountain Branch</p> <p>Homeland Security: Legal Concerns For Everyone Patrick K. O'Toole, Esq.</p> | <p>8 Wednesday</p> <p>Homeland Security: A Regional Approach to Homeland Security Dr. Mark Thiemens, Dean, Division of Physical Sciences, UCSD</p> <p>Trends In Philanthropy in San Diego Ann Miller, San Diego Foundation</p> | <p>9 Thursday</p> <p>Journey to the Source of Creativity Dr. Patty Lipe</p> <p>Effects of Osteoporosis After 60 Paul Murphy, M.D.</p> |
| <p>13 Monday</p> <p>Darwin's Dilemma: Why Does Evolutionary Theory Continue to Meet With Public Resistance? Ric Matthews, Dean of Math & Sciences, Mira Costa College</p> <p>World of Music I Navroj Mehta, Violinist/Conductor</p> | <p>14 Tuesday</p> <p>The Coming of Global Christianity Cyril Jones-Kellett, Editor, <i>Southern Cross</i></p> <p>Evolution of "Just War" Theory John Chambers, Associate Professor Emeritus, USD</p> | <p>15 Wednesday</p> <p>Stories in Nature Doug Elliott, Professional Storyteller</p> <p>San Diego Highways in 2030 Gary Gallegos, Executive Director, SANDAG</p> | <p>16 Thursday</p> <p style="text-align: center; border: 1px solid black; padding: 5px;">Field Trip</p> |
| <p>21 Tuesday</p> <p>World of Music II Navroj Mehta, Violinist/Conductor</p> <p>The King of Instruments Dr. James Cobble, SDSU (ret)</p> | <p>22 Wednesday</p> <p>Plastic Surgery 2003: The State of the Art Dennis Bucko, M.D.</p> <p>The Roles and Missions of MCRD Maj. Gen. Jan Huly, Commanding General, MCRD</p> | <p>23 Thursday</p> <p>One Jesus, Four Gospels Dr. Maria Pascuzzi, USD Dept of Theological & Religious Studies</p> <p>Updates: Hormone Replacement & Prostate Cancer Robert Langer, M.D., M.P.H. Professor of Family & Preventive Medicine, UCSD</p> | <p>24 Friday</p> <p>Our Neighbors to the North: What Americans Don't Understand About Canada Dr. Bill Chandler, Department of Political Science, UCSD</p> <p>World of Music III Navroj Mehta, Violinist/Conductor Appreciation Luncheon</p> |

Speaker sessions are presented at 9:30 am and 10:45 am

world church 12-19-02

Presented by



University of San Diego
The Division of Continuing Education

Program Highlights

- Kathy Williams will teach Tai Chi Chuan, the ancient Chinese discipline of meditative movements practiced as a system of exercise. Comfortable clothing and shoes are suggested. Advance registration required, fee included in registration.

- Computers Workshop for Beginner and Intermediate levels. Two computer workshop options will be available this winter. The first week will be Beginning Computers, focusing on Microsoft Word and buying a home computer. The second and third weeks will be Intermediate Computers, focusing on Microsoft Word, Excel, Power Point, digital cameras, and the Internet. The classes will be taught by Nicole Rooney, and will be held in Maher 114. Advance registration is required, fee included in registration.

- Join Dora Schoenbrun-Fernandez every morning at 8:00 am beginning January 7 for Conversational Spanish. The class will provide the tools you need to communicate in Spanish. Advance registration required, fee included in registration.

Workshops are offered 8:00 am - 9:15 am each day.

Fee: \$100.00

Per Person

Includes Pre-workshops,

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To Register Call 619-260-4585



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Angelo Mion; master in marble, tile

By **Jack Williams**
STAFF WRITER

4154

From fancy floors to majestic towers, from courtyards to cathedrals, Angelo Joseph Mion found a wide-spread market for his decorative tile, terrazzo and marble.

"You can't drive more than five minutes in San Diego without seeing something he did," said his son, Ronald.

Mr. Mion, who retired in 1988 after six decades in the tile-terrazzo-marble industry, died Nov. 25 at his home in Bainbridge Island, Wash. He was 92.

The cause of death was congestive heart failure, his son said.

After founding what originally was Florentine Tile and Terrazzo in Lynwood, Mr. Mion moved the business to San Diego in 1957 and established headquarters on Banks Street in the Morena district. Eventually, it became Florentine Co.

"We really have very little competition" he told *The San Diego Union* in 1982, reflecting on projects ranging from the blue-tiled dome of the Immacolata at the University of San Diego to the marbled walls of the downtown Wells Fargo Bank Building.

Other structures showcasing



Angelo Joseph Mion

his work include San Diego State University, the University of California San Diego, Westgate Hotel, several banks and churches, Timken Art Gallery, Salk Institute and the San Diego Gas & Electric building. He also was involved in the construction of Qualcomm Stadium, providing the tile for restrooms.

"He once worked on a project at Lindbergh Field from 4 a.m. to midnight for several days to make a deadline," his son said.

Mr. Mion, a resident of Allied Gardens before moving to Washington in retirement, was born in Atlanta.

As an infant, he moved with his widowed mother and three older sisters to Fanna, Italy, his parents homeland.

At 18, after graduating from high school in Venice, Italy, Mr. Mion returned to the United States. He began working for an uncle in the marble and terrazzo business in Charlotte, N.C.

During World War II, he served in the Navy Sea Bees, taking part in constructions projects in the Pacific. He moved to South Gate after the war, eventually opening a business that expanded to Palm Springs and San Diego.

One of his specialties was Carrera marble, produced in

more than 30 shades and imported from Italy. As his company grew to a prominence in the industry, he was involved in installing thousands of tons of marble throughout the San Diego area, his son said.

Early in his career, Mr. Mion formed a partnership with Plinio Blasutta, a longtime San Diegan who died in 1992. He eventually joined Gordon Forsyth, whom he had hired as an estimator, in buying out Blasutta's interest, his son said.

"I'm the outside man," Mr. Mion said in a 1982 interview. "My partners take care of the business end."

Accordingly, he supervised construction projects until he was in his mid-70s. Then he took an extended vacation, visiting Italy for the first time in 50 years.

Mr. Mion kept fit by playing racquetball into his early 70s, often taking on players half his age. He also bowled, played golf and enjoyed hunting.

Survivors include his wife of 66 years, Eunice; daughter, Marie Spooner of Bainbridge Island, Wash.; son, Ronald of Del Mar; and four grandchildren.

Services were Nov. 27 at St. Cecilia Catholic Church, Bainbridge Island, Wash.

Jack Williams: (619) 542-4587;
jack.williams@uniontrib.com

MINNESOTA PARENT

MINNEAPOLIS, MN
MONTHLY 65,000
DECEMBER 2002



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LONG ISLAND PARENTING

GARDEN CITY, NY
MONTHLY
DECEMBER 2002



Burrolles'
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L.A. PARENT

BURBANK, CA
MONTHLY 110,000
DECEMBER 2002



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Spoken Word & Storytelling

4154 By Vicky Reed

Words, words, wondrous words ... bringing our world and the world of long ago alive through story. These CDs bring spoken words to life so that they can dance in our children's imaginations. This year, give the gifts of love, language and story!

Ages 4 and Up

• *Stranger in the Woods*, by Laura and Robert Sams, Carl R. Sams II Photography, 2002; \$12.95; 800-552-1867, www.strangerinthewoods.com; ages 4 and up. This delightful CD, inspired by the book of the same name, presents a word-for-word narration of the reactions of animals and birds to a snowman who suddenly appears in their woods after a winter storm. The recording also includes 12 original songs inspired by the story. Add a copy of the book and you'll have a perfect holiday or birthday gift!

Ages 8 and Up

• *The Firebird*, by Keith Bilderbeck, Baba Yaga Records, 2002; \$12; 877-302-1739, www.babayaga.com; ages 5 and up. This lively retelling brings the famous Russian fairy tale to life for listeners. An action-packed, scary,



musical adventure is created by a cast of engaging characters – from the clever Vassilisa to the evil witch Baba Yaga.

• *Stories from the Heart of the World*, by Yvonne Healy, The Brookwood Studio Inc., 2002; \$14.95; 800-760-9233 ext. 29, www.yhealy.com; ages 8 and up. Travel around the world through Yvonne Healy's stories. This charming collection includes folktales, myths, family tales and anecdotes as Healy shares her adaptations of stories from far away or long ago.

Vicky Reed, M.A., is active in the Storytellers of San Diego, and for the past 15 years has coordinated storytelling and children's literature courses for the Department of Continuing Education at the University of San Diego.

SAN DIEGO PARENT MAGAZINE

SAN DIEGO, CA
MONTHLY 90,000
DECEMBER 2002

BAY AREA PARENT (SAN FRAN. & PENINSULA EDITION)

BURLINGAME, CA
MONTHLY 65,000
DECEMBER 2002

BAY AREA PARENT (NORTH BAY EDITION)

NOVATO, CA
MONTHLY
DECEMBER 2002

PARENTING NEW HAMPSHIRE

NASHUA, NH
MONTHLY 27,400
DECEMBER 2002

CHARLOTTE PARENT/OUR KIDS & TEENS MAGAZINE

CHARLOTTE, NC
MONTHLY
DECEMBER 2002

SEATTLE'S CHILD

SEATTLE, WA
MONTHLY 40,500
DECEMBER 2002

Engagement Gioia Wahhab and Jason Bowser

Grandma entered the bank
armed with Cupid's bow

By Nina Garin
STAFF WRITER

4154

At first, the elderly woman opening an account at Union Bank was just another one of Jason Bowser's demanding customers.

Little did he know that after giving Joanne Di Girolamo free checks, she would not only become his most loyal bank member, she'd also bring him into her family.

After the Italian grandmother spent two hours going over the details of her checking account, she realized the East County-raised banker would be a perfect match for her granddaughter, Gioia (pronounced Joy-a) Wahhab.

So, a few days later, Di Girolamo brought Wahhab, 26, to the bank under the guise that her granddaughter was to have power of attorney on the account.

"My grandmother said she found the perfect guy for me," remembers Wahhab, an export compliance specialist for Qualcomm. "But I never liked being set up, so I didn't take it too seriously."

At the bank, Bowser, 27, Wahhab and grandmother had a nice conversation. The couple realized they had some things in common — they are both only children and both play tennis. But the situation was so awkward that they didn't make

plans to see each other again. "I went home and told my friends that I met this beautiful, successful girl," says Bowser. "But that we were set up by her grandmother. It was just weird."

But Di Girolamo wasn't ready to give up. The determined grandmother returned to the bank. She told Bowser that Wahhab just bought a condo and needed someone to help her move. Bowser agreed to help, but only if Wahhab called and asked.

Di Girolamo then went and told her granddaughter that Bowser offered to help her move — all she had to do was call him up. So Wahhab, not realizing the setup, called.

As Bowser walked down the Pacific Beach street looking for the right apartment, he noticed a armoire being lowered from the balcony. The ropes began to slip and he ran to save it. He heard one of her friends ask, "Is that the bank guy?"

"I loved that he jumped right in and felt comfortable around my friends," says Wahhab.

Even though they were busy moving, they felt sparks and decided to see each other again. But instead of going to the movies and dinner, the couple spent a lot of time shopping at Home Depot.

"We were working on her condo," says Bowser. "So we



Thanks to some clever matchmaking and a little scheming on her grandmother's part, Gioia Wahhab and Jason Bowser fell in love.
Jerry Rife / Union-Tribune

would hang out at the Home Depot and had a lot of time to talk and build a really good foundation of friendship.”

Last Christmas Eve, Bowser proposed to Wahhab by giving her a meaningful Lladro porcelain figurine.

“I collect Lladros,” explains Wahhab. “It was always my dream that the guy who pro-

posed to me would give me (the “Loves’ Little Surprises”) Lladro. When I opened the Christmas Eve gift from Jason, I began to shake, thinking ‘This is the one!’ ”

They plan to marry on April 26 in the Immaculata Church on the University of San Diego’s campus.

Unfortunately, Wahhab’s

grandmother passed away before the engagement. She died of cancer in August of 2001.

She will, however, be honored at the wedding with a special tribute — a bouquet of Di Girolamo’s favorite flowers, peach roses, will be on display. The couple will present it while her favorite song, “Ave Maria,” is played.

“I loved Joanne as if she was my own grandmother,” says Bowser. “She was my guardian angel.”

Passages runs weekly in Currents. If you have a significant, life-changing event you'd like to share, e-mail

Nina Garin at
nina.garin@uniontrib.com



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Students to pay more at all UC, CSU schools

Campus protests fail to prevent first increase in 8 years

● California State University system fee increases, affecting students at San Diego State and Cal State San Marcos:

\$72

per semester for undergraduate students

\$114

per semester for graduate students

● University of California system fee increase, affecting students at UCSD:

\$135

per quarter

Students enrolled at UC's professional schools will pay more.



John Moores, chairman of the UC regents, listened to public comment via teleconference yesterday.

FRONT PAGE
By Eleanor Yang
and Lisa Petrillo
STAFF WRITERS

University of California regents and California State University trustees yesterday voted to increase student fees for the first time in eight years, calling the state's economic crisis worse than the one a decade ago — when thousands of college courses were eliminated and hundreds of professors were laid off.

Starting next month, some Cal State students will begin paying between 10 percent and 15 percent more to attend one of the system's 23 campuses. And some UC students will pay nearly 4 percent more for one quarter.

The midyear increases are the public universities' attempt to address a gargantuan \$30 billion statewide shortfall antici-

INSIDE

● Californians get a glimpse of what tax increases might be necessary to help balance the budget. **A16**

pated during the next two years.

In addition to the hit to higher education, the cuts will push some people off Medi-Cal, delay road construction and cost some state workers their jobs.

Despite student protests yesterday, CSU undergraduates will pay an additional \$72 per semester beginning next month, and CSU graduate students will pay \$114 more per semester.

UC students will pay a \$135 quarterly fee hike, which is slightly more than an 11 per-

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SEE **Fees, A16**

► FEES

CONTINUED FROM PAGE A1

UC, CSU boards pin increases on budget shortfall

cent annual increase. Students enrolled at UC's professional schools, including medical, nursing and pharmaceutical students, will pay an additional \$150 to \$400 per quarter.

The higher education crisis is compounded because the cuts coincide with historic enrollment growth.

The 23-campus CSU system is expecting enrollment to grow by about 100,000 students by the end of the decade. The University of California system anticipates 52,000 more students — or a 32 percent enrollment increase — by the end of the decade.

"What we're going to be dealing with has never happened before in American higher education," CSU Chancellor Charles Reed said.

When a similar financial catastrophe struck the state a decade ago, tens of thousands of students were turned away from classes because of limited course offerings.

Anticipated cutbacks to instruction paired with explosive growth mean even more students may be turned away in the next few years.

Although Reed would not comment on the likelihood of layoffs or additional fee hikes starting next fall, he did characterize next year's budget as far worse.

While the CSU system received about \$125 million less than anticipated this year, Reed said next year the shortfall could double.

Hundreds of students throughout the state protested yesterday while trustees and regents approved the fee increases — the first midyear increases in more than 10 years.

Nearly 200 students from 19 campuses attended the CSU meeting in Long Beach — some cutting short studying for final exams this week and others taking time from their winter break.

Many told stories of financial

hardship, working more than 40 hours a week already to make ends meet, sleeping on couches and living on Ramen noodles.

Currently, CSU undergrads pay systemwide fees of \$1,428 per year and graduates pay \$1,506 per year. Those numbers do not include campus-specific fees, which average \$500 per year, nor room and board.

UC undergrads from California pay \$3,429 in fees per year, while graduate students from California pay \$3,609 in systemwide fees.

Despite the increases, students attending California's public colleges and universities are paying less than their counterparts at other public campuses across the country. The national average is \$4,082 for a four-year campus, according to the American Association of State Colleges and Universities.

The fee hikes come days after Gov. Gray Davis proposed \$134 million in midyear cuts at

two systems. They were part of \$10.2 billion in spending cuts the governor proposed for transportation, environment, health care and social services to address the anticipated shortfall.

At CSU, Reed said, the remainder of the midyear cuts will result in a hiring freeze, unfilled positions, postponed maintenance and delayed library equipment purchases.

Number of courses

San Diego State University President Stephen Weber said his university would remain committed to offering the same number of courses this spring semester as those offered last year.

He said SDSU does not anticipate layoffs this spring, but next year is uncertain.

Many UC regents yesterday reluctantly approved the fee increases and some said that instead of raising student fees, taxes ought to be increased.

"Our policy is a foolish one,"

Cost comparison

The University of California regents and the California State University trustees yesterday agreed to raise student fees at public universities, including San Diego State, Cal State San Marcos and UCSD. The increases will take effect spring 2003.

PUBLIC UNIVERSITIES

| | | Yearly fees | Campus fees | Total | Enrollment |
|------------------|---------|-------------|-------------|-------|--------------------------|
| CSU system | Current | \$1,428 | NA* | NA | 406,896 (23 campuses) |
| | Future | \$1,572 | NA* | NA | |
| UC system | Current | \$3,429 | NA* | NA | 165,000 (9 campuses) |
| | Future | \$3,834** | NA* | NA | |
| National average | | \$4,082 | | | |

PRIVATE UNIVERSITIES

Numbers are for the current school year. Point Loma Nazarene has announced a tuition increase for next year.

| University | Yearly tuition | Campus fees | Total | Enrollment |
|-----------------------------------|----------------|-------------|----------|------------|
| University of Southern California | \$26,464 | \$686 | \$27,150 | 16,000 |
| Point Loma Nazarene | \$15,760 | \$500 | \$16,260 | 2,390 |
| Alliant International University | \$14,370 | \$390 | \$14,760 | 550 |
| University of San Diego | \$21,880 | \$108 | \$21,988 | 4,841 |

* Each campus adds its own fees to the systemwide charges. At San Diego State, for example, students pay \$442 a year in fees. UCSD fees are \$140 per quarter, which total \$420 per year assuming three quarters. Cal State San Marcos fees are \$184 a semester, or \$368 a year.

**\$135 per quarter increase, assumes three quarters in a year

SOURCES: Local universities, American Association of State Colleges and Universities

UNION-TRIBUNE

said San Francisco Regent Ward Connerly, who voted against the increase. "The budget problems should be a taxpayer issue."

Lt. Gov. Cruz Bustamante appealed to the regents, calling the fee increase bad public policy that will cut off access to education for the poor and middle class.

"This is the wrong direction, regents," said Bustamante, an ex-officio member of both boards.

San Diego-area Regent John Davies countered, "I don't think it's fair to say the first thing we do is raise student fees. I don't like cutting any of the things on this list. We're cutting research, that is what the UC system contributes to the wealth of California. But it would be irresponsible not to spread around the pain."

Regents did not meet in San Francisco as usual, but met at teleconference sites across the state, including the UC San Diego campus.

Regents in San Diego were met with a protest of about a dozen students, who hung yellow police tape across the lawn outside the UCSD administration building and posted signs claiming the cuts would amount to "No Student Access."

'Underhanded' policy

"It's an underhanded, backdoor policy and it is disrespectful to those you mean to represent," said Stephen Klass, a 20-year-old junior at UCSD and chairman of the statewide UC Student Association.

Officials at both UC and CSU systems emphasized that those students on financial aid will receive grants to cover the fee increases.

Additional Cal Grants are also anticipated for tens of thousands of students in need of aid.

The UC increase will raise an estimated \$25 million, one-third of which will be channeled into financial aid.

Regents also agreed to cuts systemwide to "spread the pain" of the \$74 million that the governor proposes to cut from the UC budget this year.

Yesterday's cuts included \$20 million to administration and libraries, \$18 million to research, \$6.3 million to student services, \$4 million to Internet Advanced Placement programs to California high school students seeking college credits, and \$3.3 million from educational outreach to help needy students access the UC system.

How those cuts will affect each campus of the UC system is uncertain. Also unknown is how much the budget will be cut next year, but officials made it clear that next year is expected to be even more painful.

SAN DIEGO UNION-TRIBUNE

**SAN DIEGO, CA
SUNDAY 374,856
DEC 8 2002**



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Miller achieves success in record time

Sandy Miller doesn't understand the meaning of a short week or taking it slow, maybe some of the reasons why she is a successful Realtor. Miller began her career in real estate only three years ago, but has already been awarded the Rookie of the Year, President's Circle awarded to the top 11 percent of agents internationally, and the President's Elite awarded to the top 4 percent of agents internationally. "Sandy Miller was in the President's Circle within her first year of working for the company," says Delton Garcia branch manager of the Coldwell Banker downtown office. "She is extremely outgoing, and has a vivacious personality. She is a great negotiator who doesn't limit herself to one community. She goes everywhere in San Diego to accommodate her clients."

Miller graduated from Azusa Pacific University in 1979 with degrees in Spanish and Social Work. She attended University of San Diego where she received her paralegal certification. It took working for 13 attorneys to make Miller realize she could do anything. "When people ask me how I landed in this business, I tell them, I had the hardest job one person could have. How much more difficult can real estate be?"

BLACK RIVER TRIBUNE

LUDLOW, VT
WEEKLY 3,500
DEC 11 2002



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People Will Talk

4154 **CHESTER CHATTER**

By RUTHIE 875-3260

There are countless Christmas stories but one that perhaps is my very favorite is the "Night the Beasts have the Gift to Talk." When my girls were little they had me read to them the story many times during the Christmas holidays.

The story had a lesson to be told. On Christmas Eve when the star shines down on the barn roof and finds its way into the stable, each animal has about an hour to talk. Instead of using the gift in a nice way, they begin to grumble, complain, and whine. The rooster crows too loud, the cow eats more than its share of grain, the pig made a mess, and on and on they went about every animal, down to the mice in their little nest.

Just like that, don't you know, time was up. They had not gotten around to mention the lovely sound of the rooster, which they truly did enjoy hearing each morning in the barn yard — and of course, by the way, the farmer had plenty of hay for all and a pig is a pig after all.

On Christmas Eve we bundles up warm and headed out into the cold across the street to the big barn. We were going top get hay for Santa's Reindeer and most important

of all listen and follow the star. "Girls, girls, listen. Don't you hear some talking? Oh, yes, Mama," they cried.

The tradition continued until it grew to be five little people holding onto their mother's hand, grandchildren waiting to listen to the animals speak. As they gathered the hay for Santa, they hoped that just this one time the animals would not blow it.

Friends gathered on a very cold evening last week by the big stone fireplace to bid a fond farewell to Brent Anderson. Brent, Innkeeper of the Stone Hearth Inn is leaving for his new job with the American Red Cross in St. Paul, MN. Brent will be greatly missed by his friends.

My grandsons, Alex and Ben Bolaski, spent the weekend with me while their parents were in Maine for a few days. As always, I love to have them come by.

Record Concrete enjoyed their Christmas party last Saturday evening at the Stone Hearth Inn. It was munchies, good cheer, and a good time was had by all.

Kerry Farrand of the University of San Diego has returned to her studies after spending the Thanksgiving holiday visiting her parents, Lucas Farrar, family, and friends.

Athletics

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA
SATURDAY 374,856
DEC 28 2002



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USD looks to quell mental lapses against Nevada

By **Hank Wesch**, STAFF WRITER

Two days off for the holidays cooled the heated disappointment USD coach Brad Holland and his team felt after Monday's loss to Utah.

But when they returned to practice Thursday, the first order of business was to remember, not forget, the 64-58 defeat.

"We spent an hour or so reviewing some things about the game that were also about us," Holland said yesterday. "Mostly it was about the mental part of being a good basketball team."

"You look at our losses and we're a team that beats ourselves with mistakes as opposed to

being beaten physically by the other team. That's mental. We're competing well enough, but we're competing to stay close, and late in games we haven't had the 'we're going to get this done' attitude.

"We had that in our first two games (wins over Nevada and UCLA), but we've lost it and we need to get it back."

Reinforcing specific individual roles and encouraging greater individual initiative were part of the session.

"We need Roy Morris to be more aggressive and also Jason Blair at times," Holland said. "They've been passing up some shots that we

want them to shoot, and shoot with confidence."

The Toreros will need to be sharper mentally for tonight's rematch in Reno with Nevada, a team USD defeated 77-75 in the season opener on Nov. 23, because USD is only suiting 10 players. True freshmen Travis Smith and Derek Stockalper have the flu and did not travel.

That leaves Holland a core of starters in Matt Delzell, Morris, Blair, Jason Keep and Corey Belser and one experienced reserve in Mike McGrain. Walk-on guard Brad Lechtenberg (Grossmont College) could see the most playing time of his career as a backcourt substitute.



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UTAH 64



SAN DIEGO 58

Holland lashes out at Keep after loss

USD coach upset before and after game with star

By Hank Wesch, STAFF WRITER

4154

By any measurement, USD's game against Utah last night was not a Keeper for the Toreros. And if coach Brad Holland or 6-foot-10 center Jason Keep could have thrown it back, there's no question they would have.

But the way Keep shot free throws, if he had tried to throw it back, he probably would have missed.

Utah (7-3) played smart, poised basketball and did everything needed to win on the road. The Utes worked the shot clock down repeatedly on offense and then executed for scores in the final 10 seconds. They whipped USD on the boards 33-25. They made 15-of-17 free throws to USD's 19-of-32, with Keep contributing 12 of the misses.

And Utah prevailed 64-58 before 2,516 at the Jenny Craig Pavilion.

Keep entered the game as USD's leading scorer, at 18 points per game. But the senior transfer from Oklahoma State missed the first start of his USD career when Holland benched him for conduct unbecoming a Torero in practice yesterday afternoon.

"It's an honor to start here, and I didn't think he conducted himself right," Holland said. "So I didn't start him."



USD's Matt Delzell (left) battles Utah's Tim Drisdorn for loose ball. Jim Baird / Union-Tribune

SEE Toreros, D5

► TOREROS

CONTINUED FROM PAGE D1

Utah helped by poor USD foul shooting

Twenty minutes after the game was over, Holland still hadn't gone to the locker room to talk to his club. And he spent part of the time being uncharacteristically critical of a player. The player was Keep, whom Holland had made a personal project, both on and off the court, after his transfer a year ago.

"It's frustrating because this is a game that could have been had by our club," Holland said. "But our inability to make foul shots and too many breakdowns by Jason Keep on defense hurt us more than anything else in the second half. And I'm going to talk to them about that.

"I thought we guarded them well with the exception of Jason Keep," Holland continued. "I didn't think Jason Keep's defense was worth anything."

USD's shorter, quicker line-up began the game with good energy and produced an early eight-point lead. But unflappable Utah hit the last shot of the half, a three-pointer at the buzzer by Bryant Jacobson, and led 29-28 at the break.

Keep stayed on the bench

for the first 5:43. And while the positive aspect of the discipline kept him out of foul trouble (only one at halftime), he wasn't as effective on offense as he had been starting.

Keep was 2-for-8 from the field at the break and 1-for-5 from the free throw line. He finished 7-for-14 and 10-for-22, missing six of seven free throws in one stretch. Recognizing Keep's difficulty, Utah went to a Hack-a-Shaq approach until Keep found the range, hitting six in a row at one point.

Keep wasn't specific about what he had done to be hit with the discipline. But if reform is necessary . . .

"I have to change my approach," Keep said. "I have to make my free throws. It's a mental drag. I'll probably lose a lot of sleep over this."

Utah worked its way to its first lead, 21-19, when Jacobson cashed a three-pointer with 7:44 to play in the half. The lead changed hands four times the rest of the way, the last on Jacobson's second three-pointer.

USD fought back to a 33-32 lead four minutes into the half, but Utah then went on an 8-0 run and never let the Toreros come back.

"That one guy (Keep) is a load," said Utah coach Rick Majerus. "But we kept our poise, hit free throws and had pretty good offensive execution. I'm happy for the guys."

SUMMARY

Utah 64, USD 58

| Utah | Min | FG-A | FT-A | R | A | F | Pts |
|---------------|------------|--------------|--------------|-----------|-----------|-----------|-----------|
| Markson | 16 | 1-3 | 0-0 | 2 | 2 | 3 | 3 |
| Caton | 23 | 1-1 | 2-2 | 4 | 0 | 4 | 4 |
| Frost | 26 | 5-9 | 1-1 | 4 | 1 | 3 | 13 |
| Drisdom | 25 | 1-4 | 0-0 | 2 | 4 | 2 | 2 |
| Jacobson | 39 | 4-10 | 1-2 | 5 | 0 | 3 | 12 |
| M.Jackson | 22 | 1-3 | 7-8 | 3 | 1 | 3 | 9 |
| Chaney | 23 | 1-7 | 2-2 | 1 | 2 | 2 | 5 |
| C.Jackson | 6 | 2-3 | 0-0 | 2 | 0 | 2 | 4 |
| Koford | 20 | 5-8 | 2-2 | 6 | 0 | 3 | 12 |
| Totals | 200 | 21-48 | 15-17 | 34 | 10 | 25 | 64 |

Percentages: FG .438, FT .882. 3-Point Goals: 7-16, .438 (Jacobson 3-6, Frost 2-4, Markson 1-1, Chaney 1-3, Drisdome 0-1). Team Rebounds: 5. Blocked Shots: 4. Turnovers: 19 (Markson 4, Drisdome 4). Steals: 4 (Frost 2). Technical Fouls: none.

| USD | Min | FG-A | FT-A | R | A | F | Pts |
|---------------|------------|--------------|--------------|-----------|-----------|-----------|-----------|
| McGrain | 26 | 0-0 | 0-1 | 3 | 1 | 2 | 0 |
| Belser | 23 | 1-2 | 0-0 | 3 | 2 | 4 | 20 |
| Blair | 34 | 6-11 | 1-1 | 5 | 1 | 3 | 13 |
| Morris | 40 | 3-10 | 8-9 | 1 | 4 | 3 | 14 |
| Delzell | 30 | 1-5 | 0-0 | 6 | 4 | 3 | 2 |
| Smith | 10 | 1-2 | 0-0 | 0 | 0 | 1 | 3 |
| Lechtenberg | 1 | 0-0 | 0-0 | 1 | 1 | 0 | 0 |
| Stockalper | 4 | 0-0 | 0-0 | 1 | 0 | 0 | 0 |
| Keep | 33 | 7-14 | 10-22 | 4 | 0 | 4 | 24 |
| Totals | 200 | 19-44 | 19-32 | 26 | 13 | 21 | 58 |

Percentages: FG .432, FT .594. 3-Point Goals: 1-8, .125 (Smith 1-1, Blair 0-2, Delzell 0-2, Morris 0-3). Team Rebounds: 2. Blocked Shots: 5 (Keep 4). Turnovers: 14 (Blair 3, Keep 3). Steals: 4. Technical Fouls: none.

| | | |
|------------|----|---------|
| Utah (7-3) | 29 | 35 - 64 |
| USD (6-4) | 28 | 30 - 58 |

A-2,516. Officials—Dave Libbey, Thomas Wood, Michael Scyphers.



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Keep leads USD over short UCSD

4184

By Hank Wesch
STAFF WRITER

One glance at the rosters for last night's USD-UCSD basketball game, and it was easy to see the possibility of a Gulliver vs. the Lilliputians scenario developing. With Gulliver being USD's 6-foot-10, 280-pound center, Jason Keep, a player of size and skill the Division II Tritons had no way of countering.

Toreros
105
Tritons
62

And so it was.

Keep scored 32 points and grabbed 14 rebounds, and USD romped 105-62 at Jenny Craig Pavilion. Both the point total and the point differential were the largest for the Toreros in Brad Holland's eight-plus seasons as head coach.

But it wasn't the size of the instigator or the size of the rout that Holland wanted to talk about afterward. It was the measure of progress that the Toreros (5-3) had shown as a whole over efforts that had resulted in three losses, two by large margins, in their last four games.

"We took a step forward toward sustaining our effort for a full game," Holland said. "Our goals tonight were to limit the turnovers to 20 or less (16), outrebound them (47-34) and get some points off the fast break. Which we did."

UCSD (1-3) lost its second game of the season to a Division I opponent. The Tritons opened the season with an 87-57 loss at San Diego State. And coach Greg Lanthier said he'd gladly face the city's big boys again next year.

"We know we'd have to catch lightning in a bottle to win," Lanthier said. "But we don't play these games to win; we play them for the experience our players get from it and for the community. These are good games for us."

"We probably caught USD at the worst possible time. They hadn't been pleased with the way they were playing, and we knew they would come out and play hard. And if they play hard, we're going to have a hard time."

Keep had 18 points, or one more than the entire Tritons team, in a first half that ended with USD in front 53-17.

The Toreros senior simply had his way inside against a Tritons team whose biggest player, 6-7, 230-pound sophomore center Jordan Watkins, was at a three-inch and 50-pound disadvantage.

Keep scored 32 points and grabbed 14 rebounds, and USD romped 105-62 before 2,157 at Jenny Craig Pavilion. Both the point total and the point differential were the largest for the Toreros in Brad Holland's eight-plus seasons as head coach.

"This was the kind of game you don't want to play, but you do want to play," Keep said. "It's against a Division II school, but it helps the (statistical) numbers and it helps the team."

With a 30-point loss to Purdue and a 15-pointer to BYU immediately in the rearview mirror, Holland and his staff put the Toreros through a hard practice on Thursday.

"They felt we didn't compete the last part of the BYU game, which we didn't," Keep said.

Playing purposefully from the start, USD opened a 20-point lead in the first 10 minutes, was up by 35 at halftime and as much as 49 in the second half. Jason Blair (16), Roy Morris (14 points and 12 assists), Nick Lewis (12) and Matt Delzell (11) joined Keep in double-figure scoring, and four other Toreros helped light up the scoreboard.

Watkins led UCSD with 12 points and eight rebounds; Sean Crawford added 10 points.

Long-range marksmen riddle USD

4154
Indiana natives lead hosts in tournament title game

By Jeff Washburn
SPECIAL TO THE UNION-TRIBUNE

WEST LAFAYETTE, Ind. — Long before legendary UCLA coach John Wooden was a school-boy star in basketball-crazy Indiana, Hoosiers were known for their perimeter shooting skills.

Purdue
95
Toreros
65

The USD men's team got a first-hand look at a collection of long-range-shooting Hoosiers last night, when Wooden's alma mater, Purdue, crushed the Toreros 95-65 in the Boilermaker Invitational's championship game in Mackey Arena.

It is the Toreros' worst defeat since Stanford trounced USD by 30 points early in the 1997-98 season.

With the visiting Toreros (4-2) packing their defense, Purdue's David Teague, Willie Deane, Darmetreis Kilgore and Kenneth Lowe feasted from three-point range in front of the 10,109 gathered for the title game. Those four combined for eight treys in 11 attempts during the first 20 minutes, when the Boilermakers built an insurmountable 53-30 lead.

At night's end, Deane, the tournament's MVP, had a game-best 22 points, and Purdue (4-1) had 14 field goals from beyond the arc. Purdue's school single-game record for three-pointers is 16 in a 1998 victory against Ohio State.

Not surprisingly, the Boilermakers' primary three-point shooters call Indiana home. Teague is from Indianapolis, Deane lives in Fort Wayne, Kilgore is from South Bend and Lowe is from Gary.

"I told coach (Gene) Keady that I'm disappointed that we couldn't give them a better game in the championship game," USD coach Brad Holland said. "We played real strong for eight minutes or so, and then Purdue started hitting shots left and right. We ran into a buzz saw. Purdue played very well. We had no answer for their perimeter people."

Deane, Teague, Kilgore and Lowe combined for 39 first-half points, nine more than San Diego's entire roster.



Purdue freshman Matt Kiefer puts up a shot while being fouled by USD's Abdou Sane. Dave Umberger / Associated Press

The Toreros' Jason Keep led all scorers with 24 points and added nine rebounds, but USD didn't come close to stopping Purdue's three-point barrage. And when USD turned the ball over 23 times, 11 more than Purdue, it had no hope of victory against the Big Ten Conference opponent.

"We panicked a little bit and again had trouble with turnovers," Holland said. "One of our downfalls, no matter who we are playing, is that we don't sustain our defense or our offense for 40 minutes. We have to get better at that."

Deane and company shot 14-of-25 from three-point range, a phenomenal percentage.

Said Holland: "We were late fighting through screens a few times, but Deane ... you are not blocking his shot. And Kilgore, Lowe and Teague made some threes. Those guys are 6-4, 6-5 or 6-6, and our starting guards are 6-1 and 6-2."

Kilgore and Lowe each added 16 points, and

SUMMARY

Purdue 95, USD 65

| USD | Min | FG-A | FT-A | R | A | F | Pts |
|---------------|------------|--------------|--------------|-----------|-----------|-----------|-----------|
| Delzell | 15 | 0-1 | 1-2 | 0 | 1 | 1 | 1 |
| Blair | 22 | 4-10 | 2-2 | 11 | 1 | 2 | 10 |
| Keep | 32 | 10-15 | 4-6 | 9 | 1 | 3 | 24 |
| Smith | 20 | 2-7 | 0-0 | 3 | 3 | 3 | 4 |
| Morris | 28 | 4-12 | 2-2 | 2 | 3 | 2 | 12 |
| Sane | 4 | 0-1 | 0-0 | 1 | 0 | 1 | 0 |
| Lechtenberg | 4 | 0-2 | 0-0 | 0 | 0 | 1 | 0 |
| Nevin | 4 | 0-1 | 0-0 | 0 | 0 | 0 | 0 |
| Stockalper | 13 | 2-6 | 0-2 | 2 | 0 | 0 | 5 |
| McGrain | 16 | 0-2 | 0-0 | 0 | 3 | 0 | 0 |
| Belser | 20 | 1-5 | 0-0 | 2 | 1 | 3 | 2 |
| Lewis | 14 | 2-3 | 1-2 | 3 | 0 | 1 | 6 |
| Hegarty | 8 | 0-0 | 1-2 | 8 | 1 | 1 | 1 |
| Totals | 200 | 25-65 | 11-18 | 45 | 14 | 18 | 65 |

Percentages: FG .385, FT .611. **3-Point Goals:** 4-20, .200 (Morris 2-6, Lewis 1-1, Stockalper 1-3, Delzell 0-1, Blair 0-1, Smith 0-3, Lechtenberg 0-2, Nevin 0-1, Belser 0-2). **Team Rebounds:** 4. **Blocked Shots:** 3 (Keep 2). **Turnovers:** 23 (Smith 4, Blair 4). **Steals:** 8 (Keep 2, Belser 2). **Technical Fouls:** none.

| Purdue | Min | FG-A | FT-A | R | A | F | Pts |
|---------------|------------|--------------|--------------|-----------|-----------|-----------|-----------|
| Buscher | 23 | 6-7 | 0-0 | 5 | 1 | 3 | 12 |
| Kilgore | 25 | 6-12 | 0-0 | 0 | 0 | 4 | 16 |
| Booker | 25 | 2-4 | 0-1 | 5 | 2 | 2 | 4 |
| Deane | 24 | 7-16 | 3-4 | 8 | 6 | 2 | 22 |
| Lowe | 27 | 6-10 | 3-4 | 3 | 3 | 3 | 16 |
| Teague | 17 | 4-6 | 0-0 | 1 | 1 | 0 | 12 |
| Ford | 4 | 0-2 | 0-0 | 2 | 0 | 1 | 0 |
| Parkinson | 16 | 1-1 | 2-2 | 1 | 6 | 2 | 4 |
| Buckley | 13 | 1-4 | 2-2 | 1 | 0 | 0 | 4 |
| Garrity | 6 | 0-1 | 0-0 | 0 | 0 | 2 | 0 |
| Kiefer | 20 | 1-2 | 3-5 | 5 | 0 | 3 | 5 |
| Totals | 200 | 34-65 | 13-18 | 33 | 19 | 22 | 95 |

Percentages: FG .523, FT .722. **3-Point Goals:** 14-25, .560 (Kilgore 4-6, Booker 0-1, Deane 5-8, Lowe 1-2, Teague 4-5, Ford 0-1, Buckley 0-2). **Team Rebounds:** 2. **Blocked Shots:** 4. **Turnovers:** 12 (Buscher 2, Deane 2, Kiefer 2). **Steals:** 10 (Booker 4). **Technical Fouls:** None.

| | | | | |
|--------------|----|----|---|----|
| USD (4-2) | 30 | 35 | - | 65 |
| Purdue (4-1) | 53 | 42 | - | 95 |

A-10,109. **Officials**-Gene Monge, Glenn Mayborg, Sam Banks.

USD MEN'S SCHEDULE

| Date | Opponent | Time | TV |
|---------|--------------------|------|------|
| Dec. 11 | at BYU | 7:05 | |
| Dec. 14 | UCSD | 7 | |
| Dec. 21 | UC RIVERSIDE | 7 | |
| Dec. 23 | UTAH | 7 | 4SD |
| Dec. 28 | at Nevada | 7:05 | |
| Jan. 2 | at SMU | 5 | |
| Jan. 8 | at San Diego State | 7 | 4SD |
| Jan. 11 | SANTA CLARA* | 7 | 4SD |
| Jan. 17 | at LMU* | 7 | |
| Jan. 18 | at Pepperdine* | 6 | FSN2 |

* - West Coast Conference game

Teague and forward Brett Buscher each scored 12 on a night when Purdue made 34-of-65 field goals (52.3 percent).

USD, which advanced to the title game with a victory against Indiana University Purdue University at Indianapolis (IUPUI), led the Boiler-makers 16-12 at the 13:10 mark on Roy Morris' short jumper. But from 11:50 until 4:33 remained in the opening half, Purdue outscored the Toreros 25-2, including five three pointers.

The Toreros finished the first half with 16 turnovers, many of which contributed to Purdue's 25-2 surge.

"We played better than we thought we were going to, and they didn't play as well," Keady said. "Our defense had a lot to do with that, and then we shot the ball extremely well."

Keep was selected to the All-Tournament team along with Purdue's Deane and Lowe, Middle Tennessee State's William Pippen and IUPUI's Josh Mullins.



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INFORMATION SERVICES

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Toreros are torrid early, apply late torch to UCR

By Hank Wesch, STAFF WRITER

RIVERSIDE — In endeavoring to establish that Tuesday night's win over UCLA was no fluke, the USD men's basketball team came out and hit its first 14 shots last night.

Toreros
84

UC Riverside
64

Even so, it wasn't the Toreros' start, but the finish that made the desired point against feisty UC Riverside. From a 58-58 tie with 10:07 to play, the Toreros went on a 24-3 run to claim an 84-64 victory and a 3-0 start to a season for the first time since 1990.

Seniors Jason Blair and Jason Keep had twin totals of 18 points and six rebounds and freshmen Travis Smith and Nick Lewis also reached career highs with 10 and 13 points respectively to lead the Toreros.

SEE USD, C16

► USD

CONTINUED FROM PAGE C1

Toreros break school mark for FG percentage

"To have a good team you've got to have good senior leadership and guys in the rotation stepping up as well," said USD coach Brad Holland. "We've had that the last two games with Travis Smith, Nick Lewis, Corey Belser and Mike McGrain.

"What they did against UCLA was huge, and they did it again tonight."

McGrain, who had turned in a gritty job of guarding UCLA's Jason Kaponi in the 86-81 overtime victory four days earlier, hit two free throws with 10:01 remaining to break the 58-58 tie. Thirty-seven seconds later, Belser buried the only three-pointer he attempted to boost USD's lead to 63-58 and trigger the run with which USD sent UCR to its second loss of the season.

Smith, who had only two points in the season opener against Nevada to show offensively for his brief career, scored five in the first three minutes when UCR backed off of him trying to defend against the inside threats of Blair and Keep. Smith had two rebounds and four assists in 19 minutes.

"We wanted to come in and prove that the UCLA win was no fluke," Smith said. "They weren't guarding me, so I wanted to be aggressive and take the shots that were there for me."

The Toreros pattern for the first half was set when a turnover on their first possession was followed by a Smith steal and layup, a Smith assist to Keep for a layup and a Smith three-pointer in the first 2:19. Despite making their first 14 shots and finishing the half shooting 81 percent (17-for-21), the Toreros went to the locker room with only a 41-35 lead.

"That's because we had 13 turnovers," said Holland. "It seemed like if we didn't turn it over, we scored. But I really didn't think that we defended like we did against Nevada or

UCLA, and we couldn't stop Riverside like we should have."

The Highlanders got team highs of 16 points and seven rebounds from Nate Carter, the freshman out of Horizon High who was the San Diego County prep Player of the Year last season. Carter, who scored 23 in UCR's loss to USC on Nov. 22, has rapidly established that he not only belongs at the Division I level but has a very bright future there.

UCR chipped away in the first 10 minutes of the second half on the slashing and scoring of Carter and three-pointers by teammates Mark Miller, Ted Bell and John Galbreath. A pair of free throws by Kevin Butler tied the score at 58-58 before USD went on the crushing and deciding run.

"At that point (the tie) I had no idea what was going to happen," said Holland. "But we made a couple of shots and got stingy on defense. And once we started getting stingy on defense, we got more offense as well."

The Toreros finished the game shooting 70.5 percent (31-of-44) from the field, a school record. The previous best had been 66 percent (31-of-47) on Jan. 11, 1991, against Saint Mary's.

SUMMARY

USD 84, UC Riverside 64

| USD | Min | FG-A | FT-A | R | A | F | Pts |
|---------------|------------|--------------|--------------|-----------|-----------|-----------|-----------|
| Delzell | 31 | 1-1 | 0-0 | 3 | 4 | 0 | 2 |
| Blair | 34 | 4-5 | 9-11 | 6 | 1 | 2 | 18 |
| Keep | 28 | 7-9 | 4-7 | 6 | 0 | 1 | 18 |
| Smith | 19 | 4-10 | 0-0 | 2 | 4 | 2 | 10 |
| Morris | 26 | 6-8 | 1-2 | 3 | 0 | 3 | 14 |
| Stockalper | 1 | 0-1 | 0-0 | 1 | 0 | 0 | 0 |
| McGrain | 25 | 1-2 | 2-3 | 1 | 5 | 4 | 4 |
| Belser | 19 | 2-2 | 0-0 | 1 | 0 | 2 | 5 |
| Lewis | 16 | 6-6 | 1-2 | 3 | 1 | 1 | 13 |
| Hegarty | 1 | 0-0 | 0-2 | 0 | 0 | 0 | 0 |
| Totals | 200 | 31-33 | 17-27 | 27 | 15 | 15 | 84 |

Percentages: FG .705, FT .630, 3-Point Goals: 5-13, 417 (Smith 2-6, Blair 1-1, Belser 1-1, Morris 1-3, Stockalper 0-1). **Team Rebounds:** 1. **Blocked Shots:** 1 (Belser). **Turnovers:** 20 (Blair 5), **Steals:** 8 (Blair 2). **Technical Fouls:** None.

| UC RIVERSIDE | Min | FG-A | FT-A | R | A | F | Pts |
|---------------|------------|--------------|-------------|-----------|-----------|-----------|-----------|
| Galbreath | 34 | 1-2 | 0-0 | 2 | 2 | 3 | 3 |
| Carter | 34 | 6-16 | 3-3 | 7 | 1 | 4 | 16 |
| Hands | 23 | 1-4 | 2-2 | 3 | 4 | 4 | 4 |
| Butler | 25 | 4-9 | 3-5 | 1 | 3 | 5 | 12 |
| Bell | 21 | 4-8 | 0-0 | 0 | 0 | 0 | 10 |
| Peters | 14 | 1-1 | 1-2 | 1 | 0 | 1 | 3 |
| Wessel | 20 | 2-6 | 0-0 | 1 | 1 | 2 | 4 |
| Dixon | 3 | 0-1 | 0-0 | 1 | 0 | 0 | 0 |
| Schille | 20 | 3-4 | 0-0 | 1 | 1 | 5 | 7 |
| Miller | 6 | 2-2 | 0-0 | 1 | 1 | 2 | 5 |
| Totals | 200 | 24-53 | 9-12 | 22 | 13 | 26 | 64 |

Percentages: FG .453, FT .750, 3-Point Goals: 7-20, .350 (Bell 2-5, Miller 1-1, Galbreath 1-2, Schille 1-2, Butler 1-4, Carter 1-5, Wessel 0-1). **Team Rebounds:** 4. **Blocked Shots:** 1 (Butler). **Turnovers:** 20 (Wessel 4), **Steals:** 8 (Butler 2). **Technical Fouls:** None.

| | | | |
|--------------------|----|----|----|
| USD (2-0) | 41 | 43 | 84 |
| UC Riverside (0-1) | 35 | 29 | 64 |

A-N/A. Officials—Jim Stupin, Ralph Schemel, Matt Tackett.

Tim Sullivan

LeBron James sets bar high for hoops hype



4131 USD
LeBron James is at a crossroads. No, he is a crossroads.

He is the confluence of ceaseless hype and cable television's insatiable need for programming.

He is the intersection of intense curiosity and intolerable pandering. He is where reality collides with restraint.

James is the high school basketball star who went national Thursday night, whose precocious play inspired ESPN to dispatch Dick Vitale and Bill Walton to broadcast a game only eyewitnesses would have seen a generation ago. Presumed to be the first pick in next year's NBA draft, already the leading cause of shoe-company salivating, James is a player of such Jordanesque potential that he is widely referred to as the "Air Apparent."

He is a sign of things to come — not all of them good; he is the herald of a new age of teen icons and evaporating innocence. Two years ago, three of the top

SEE Sullivan, C13

four selections in the NBA draft were high school players, but none of them approached James' nationwide acclaim. Neither did Kobe Bryant or Kevin Garnett when they skipped college and turned pro.

LeBron James cracked the cover of *Sports Illustrated* as a high school junior. At 17, a sneaker company commissioned a gold mouthpiece for him that was inscribed "King James." As coaches are compelled to comb younger classes for tomorrow's talent, Vitale's weathered "Diaper Dandies" coinage may eventually acquire a literal meaning.

"I'm almost to the point where I want to get rid of ranking sixth-, seventh- and eighth-graders," Clark Francis said. "I ranked the top sixth-graders in Indiana, and I get a call from this father. 'My son's not on the list.' He was the MVP of some national tournament. I tell them, 'We've got six years to get it right.'"

Francis is editor and publisher of *The Hoop Scoop*, a Louisville-based recruiting service. For almost 20 years he has been scouting the nation's gymnasiums for the benefit of hardcore hoops junkies and coaches. His national ratings for middle-school players are the inevitable product of a screening process as comprehensive and discerning as Ivy League admissions. If his ratings serve to warp the sensibilities of impressionable adolescents, they are not arrived at randomly.

"If you're a top high school player," Francis said, "I've seen you 25 times."

Thursday, Francis was in St. Louis for a 15-hour hoops festival. Though he was too engrossed with the games in front of him to follow James' televised exploits, Francis received telephone updates after every quarter.

To those of us on the periphery of prep basketball, such attention might seem excessive. To those in the business, it is business as usual.

"I don't think it's a new phenomenon," said San Diego State coach Steve Fisher. "I remember 10 or 12 years ago they were ranking the top fifth- or sixth-graders in the country. I think what has happened with the influx of high school guys who put themselves available to the NBA draft is that it really put the focus on the high school kids as opposed to 10 years ago — will the sophomores leave college early?"

One of the more compelling chapters of John Feinstein's "A Season On The Brink" details Bob Knight's pilgrimage to watch the precocious Damon Bailey, then in junior high school. During his Michigan days, Fisher made a special trip to see 12-year-old Chris Webber in an AAU Tournament.

"And I wasn't alone," Fisher said. "Michigan State was there. Ohio State were there. You knew unless he had a catastrophic injury that he would be where he is now."

Clark Francis declared Ste-



Akron high school sensation LeBron James (left) guards Isaiah Swann in nationally televised game. *Mark Duncan/Associated Press*

phon Marbury the best player in his class when the future NBA star was still in the sixth grade. He has yet to have a parent ask that a child be de-listed because being ranked posed too much pressure. Coaches

are quick to compare the experience of prominent young players to that of musical prodigies or Olympic gymnasts. They see the tide as irreversible.

"I think it's a trend that's going to stay," said USD coach

Brad Holland. "Sports gets so much attention in our society now that it's natural that it filters down to grade school.

"We (coaches) all hear about who's the best seventh- or eighth-grader in the nation. Eighth-graders. But for every guy that pans out, there's five that don't. It's very difficult to excel."

For every LeBron James, there are scores of players who never approach their potential. They're neither as gifted nor as motivated, and they fall prey to the belief that they're better than they actually are. They are the ones for whom too much attention is a trap, the ones who peak as junior high Jordans.

"Some kids are able to handle it and feed off some notoriety," Holland said. "Some people relax and think they've got it made. Some kids sit on their laurels."

Some kids would be better served to play in secret. Some kids are hardly kids at all.

LOS ANGELES TIMES
(NATIONAL EDITION)

LOS ANGELES, CA
WEDNESDAY 20,000
DEC 11 2002

LOS ANGELES TIMES

LOS ANGELES, CA
WEDNESDAY 1,058,494
DEC 11 2002

STEVE HARVEY
ONLY IN L.A.

Marilyn Stein of Pacific Palisades needed a medicine for her dog Sammy, but her vet didn't have it. So she was referred to a drugstore. When she went to pick up the prescription, the clerk said, "Let me get the pharmacist."

The pharmacist, who was very busy, didn't notice that the prescription was for a "Sammy Canine Stein." He told Marilyn Stein that Sammy shouldn't drink booze or operate any heavy machinery while on the medication.

Stein tried to point out that Sammy was a pooch, but the distracted pharmacist apparently didn't hear her, for he also told her that Sammy had to take his medicine with food.

"Dog food?" Stein asked.

The pharmacist didn't answer, possibly having concluded that Sammy belonged to a strange family.

From dogs to lawyers: A category of items at a swap meet caught the eye of Alex Baker of Upland (see accompanying). I'd

check with the spouse before bringing one home.

Speaking of questionable purchases: On a trip to Turkey, Jack and Marilyn Jones of Upland came upon a shop owner who seemed to be spoofing the claims of some sidewalk peddlers (see photo).

What's in a name: Well! A. Forsythe of Westminster observes that Leisure Homes isn't so casual about collecting every single penny it's owed (see accompanying).

Food for thought: Emily Whiteman of Culver City noticed a one-stop shopping area for people who don't take care of their teeth (see photo).

Hitting bottom: A robbery suspect barricaded himself in an apartment in Paramount, prompting L.A. County sheriff's deputies to use tear gas. The suspect was eventually found huddled in the bathroom, dripping wet, the city's action-packed newsletter reported.

"In an effort to wash off the gas," the newsletter said, "the suspect kept putting his head in the toilet and flushing."

Unclear on the concept: I'm tired of hearing about Replay

TV, a new system that records programs and automatically skips over commercials.

Yes, the company repeats, no more annoying commercials on your tapes. I just wish I didn't have to keep hearing about it on the company's radio commercials.

miscellAny: Former UCLA and Laker basketballer Brad Holland, who coaches the men's team at the University of San Diego, told Union-Tribune columnist Diane Bell: "I'm still not very

bright. I rely on 18- to 22-year-olds for my livelihood." But he said he was in no hurry to coach in the pros: "I like money, but I really like coaching kids who make less money than I do."

Sports Media JAY POSNER

Superstation stalls launch, galls XTRA vets

Until last night it was right there, live and in color at www.foxsports1150.com: "Super Station launches Dec. 16"

Just below were the logos from XTRA Sports 690 AM and Fox Sports AM 1150, plus these words:

"From Ventura to Baja — over 100,000 watts of power"

Already, I sense trouble. As we are reminded every week-day from 4 to 8 p.m., XTRA 690 booms from Baja to the Canadian Rockies. Now they're telling us that with an additional 23,000 watts, the "superstation" will reach only to Ventura?

But the folks in Banff, Canmore and Jasper need not worry just yet. It turns out the new station isn't launching Monday, a fact the Web site finally has been updated to reflect.

According to a recent memo sent to XTRA's sales department, the new station will be known as the XTRA Sports Superstation and will launch Dec. 30 — although most of the first week will be taken up with "best of" programming because of the New Year's holiday. The memo said regular programming is expected to begin Friday, Jan. 3.

The memo also said the new lineup will be Tony Bruno from 5 to 9 a.m., Jim Rome from 9 to noon (finally live again in San Diego), Steve Hartman and Bill Werndl (or "Wurndell," as it read on the memo) from noon to 3 p.m. and Lee Hamilton from 3 to 7 p.m. Everything else is "to be determined," although look for plenty of Fox Sports Radio programming in the late-night and overnight periods.

Rumors this week had it that

Scott Kaplan and Billy Ray Smith, who host the "Vast Morning Wasteland" on XTRA, might have a place on the new station because their show could generate more local income than Bruno's syndicated show. The memo, however, did not mention the "VMW."

"We still haven't gotten official word," Smith said yesterday. "It's the most aggravating and frustrating situation . . . and I played for Dan Henning.

"I understand the Tony Bruno thing. They already have a program; it's already paid for — I get that. The part that's frustrating is Clear Channel: They're the biggest radio conglomerate in the world and they can't sit down with me?"

John Kentera echoed similar thoughts when I spoke with him earlier yesterday. He's heard he won't return as the host of his weeknight talk show, his Friday night high school show and "Padre Talk" with Randy Jones, but he also said he hasn't been told anything officially.

"I'm kind of waiting to see when my last day is," Kentera said. "I'm just trying to do all my shows and appearances. It's amazing, for a guy who got fired, I'm still working every day."

In addition to his talk shows, Kentera is working as an analyst on some San Diego State and USD basketball games for Channel 4 San Diego. He'll also be the analyst tomorrow when Channel 4 presents three CIF-San Diego Section championship football games at 12:30, 4 and 7:30. (Jim Stone will handle the play-by-play on the first game, with Chris Marlowe taking over for the latter two.)

Meanwhile, everyone waits. "They told us they'd be able to tell us Tuesday," Smith said. "They just didn't tell us which Tuesday. That was a couple weeks ago."



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INFORMATION SERVICES

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USD women throw away another big lead

4184

By Nicole Vargas
STAFF WRITER

Different opponent, same old story for the USD women's basketball team.

After watching Nebraska overcome a 19-point deficit to win on a buzzer-beating layup Saturday, the Toreros blew a 17-point lead to Kent State last

night, falling 62-57 in the third-place game of the USD Surf and Slam Classic at Jenny Craig Pavilion.

The defeat extended the Toreros' losing streak to a season-high four games and dropped them below .500 for the first time at 5-6.

"There's no life in our game," said USD coach Kathy Marpe. "We were trying to do that with the press, and when the press is going good, it's there. But as soon as we get into that half-court game, we get tight."

Playing better than their 4-6 record, the Golden Flashes were able to chip away at the Toreros' lead behind senior Jamie Rubis, who scored 22 points with a team-high four three-pointers and eight rebounds.

"Anytime you play the home team in a tournament, that's always going to be a tough game," said Kent State coach Bob Lindsay. "But we've played a pretty tough schedule with four nationally ranked teams, and I think we have benefited

to some degree."

The Golden Flashes used a 9-0 run to close USD's lead to 44-43. Although Toreros junior Marta Meñuez was able to convert an offensive rebound to increase the lead to three, Rubis answered with a three to tie the score at 48-48.

That ignited a 14-9 run by Kent State that saw the Golden Flashes make 6-of-12 shots, compared with 4-of-14 by USD.

"We're being outscored in the second half and teams are realizing that," said Marpe, whose squad led 34-22 at the half thanks to superior first-half shooting (52 percent vs. 30 percent) and five three-pointers, four more than Kent State.

Meñuez led the Toreros with a double-double (14 points, 10

rebounds), and Kerri Nakamoto and Polly Dong each scored 11 with three rebounds.

"There's no magic answer," Marpe said.

No. 15 Penn St. 83, Nebraska 64

In the end, there wasn't a team that could contain Penn State as the Lady Lions took home the Surf and Slam Classic title with a win over Nebraska.

Nebraska's five-game winning streak was stopped by the Lady Lions (9-2), who were led over the two-day tournament by junior All-American Kelly Mazzante.

Mazzante, who earned tournament MVP honors, followed a 28-point performance against Kent State with 24 against the Cornhuskers.

**NORTH COUNTY TIMES
(ESCONDIDO EDITION)**

ESCONDIDO, CA
SUNDAY 46,000
DEC 29 2002



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Penn State too much for Kent

4154
ASSOCIATED PRESS

SAN DIEGO — Kelly Mazzante scored 19 of her 28 points in the first half, leading No. 17 Penn State to a 96-68 victory over Kent State on Saturday night in the Surf 'N Slam Classic at the Jenny Craig Pavilion.

Tanisha Wright had 19 points and seven assists, and Jessica Brungo added 15 points for Penn State (8-2), which made 11-of-23 3-pointers.

Valerie Zona scored 15 points for Kent State (3-6). Ashley Clark added 14 points and Katalin Kollat 12.

Mazzante hit 12-of-22 shots, including 4-of-9 from 3-point range, as the Lady Lions won after not having played in two weeks. Mazzante, a junior, moved past Lisa Shepherd into fifth place on the Lady Lions' career scoring list with 1,677 points.

Penn State shot 57.6 percent in the first half to take control of the game and was in front 47-34 at the break.

The University of San Diego, the host school, lost to Nebraska 62-61 in the late nightcap of the tourney doubleheader.

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA
WEDNESDAY 374,856
DEC 11 2002



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City women renew rivalry

By Nicole Vargas, STAFF WRITER

Tammy Blackburn recalls the last time she played the USD women's basketball team.

After defeating the Toreros for the fourth time in her career, the former San Diego State guard was awarded a game ball as a tribute to the feat, made more impressive because at least one of the wins came against some of USD's greatest players — Vista grad Chris Enger and Jill Shaver.

"It was a big deal back then," said Blackburn (1991-94), who keeps the ball alongside her WAC Championship ball. "It was hard not to get up for this game. It was like playing for a major championship."

It was once called the City Championship, complete with a trophy and year-long bragging rights, and was played annually, and sometimes twice a year, until 1996.

Six years after the last City Championship game, the Toreros and Aztecs renew their rivalry when the two meet tonight at Jenny Craig Pavilion.

USD coach Kathy Marpe is the only member of either program who has ties to the old rivalry, back when USD played in the Sports Center, the Aztecs called Peterson Gym home

and the two teams' current freshmen were in junior high.

Although SDSU holds a 24-1 edge — many of the games being blowouts — Marpe thinks the old trend could change.

"It's going to be a hotly contested game," said Marpe, whose team prevailed 76-68 in 1989.

Although SDSU women's coach Jim Tomey is in his first year, he knows about the electricity that comes with playing the crosstown rivals. As assistant to men's coach Steve Fisher, he was on the sidelines for three spirited losses to the USD men's team.

"It should be healthy, positive competition," Tomey said.

Said Blackburn, the former Aztecs player (and now a commentator for the SDSU webcasts): "Even though it is not for an actual championship, I'm sure they realize this is an important game."

Alumnae showdown

In addition to the USD-SDSU women's game, the Toreros and Aztecs alumnae will meet in a game starting at 5 p.m., a first between the two women's programs.

SAN DIEGO UNION-TRIBUNE

**SAN DIEGO, CA
SUNDAY 374,856
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USD women unable to hold lead

SPECIAL TO THE UNION-TRIBUNE

4154

FULLERTON — Tamara Quinn scored a game-high 22 points to lead the Cal State Fullerton women's basketball team to a 76-74 come-from-behind victory over USD last night at Titan Gym.

CS Fullerton

76

Toreros (w)

74

Erin Malich had 18 points, and Marie Plocher and Tiara Harris combined for 27 for the Toreros (5-3).

With the win, the Titans improved

to 2-6 overall. The loss ended USD's three-game winning streak.

The Toreros led 46-39 at the half, but Fullerton stormed back to tie things at 66-66 with 5:44 remaining. Quinn hit two free throws with 3:35 left to snap a 69-69 tie and went on to score her team's final eight points.

With just over one second to go, Harris attempted a three-pointer to tie but was fouled. She then missed the first free throw and made the second before intentionally missing the third. The horn sounded before the Toreros could get a final shot off.

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA
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Poor-shooting Toreros lose to Kansas

UNION-TRIBUNE 4124

Unable to overcome a 31 per-
cent shooting effort, the USD
women's basketball team lost
59-56 to Kansas last night be-
fore 811 at Jenny

Kansas

59

Toreros (w)

56

Craig Pavilion.

Erin Malich
led the Toreros
(2-1) with 18
points, and Marta
Menez chipped
in 13 points and a
team-high 11 rebounds. Kerri
Nakamoto finished with 10
points and combined with Polly
Dong for eight assists and
three three-pointers.

The Jayhawks (3-0) were
paced by Aquanita Burras (16
points) and Tamara Ransburg's
15 points and 15 rebounds.

USD led 29-27 at the half, but
the Toreros were outrebound-
ed for the game 51-37. Kansas
committed twice as many turn-
overs (21-10) as USD, but the
Jayhawks also attempted nearly
three times as many foul shots.

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA
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USD women in acid test facing USC

By Steve Mullins *4154*

It wasn't your typical response to news about making the NCAA Tournament.

That collective sigh of disappointment you might have heard coming from USD's Jenny Craig Pavilion last Sunday evening was let out by the school's women's volleyball team upon seeing its fate flash across a television screen during the tournament's selection show on ESPNEWS.

First-round opponent: USC. The No. 1-ranked team in America on its home court.

"It's a pretty tough first-round matchup for us," said Toreros coach Jennifer Petrie, whose team meets the Trojans (25-1) tonight at 7 at USC's Lyon Center. "We were hoping for a better draw, but I think we'll be up for the challenge."

Although USD (25-7) is ranked No. 25 in the country, it drew the nation's top team because of selection criteria. This is the second year in which the selection committee seeded 16 of the tournament's 64 teams and paired them and others based on geographic proximity.

Because of a rule forbidding teams from the same conferences from meeting in the first and second rounds, the Toreros immediately were ruled out of the brackets containing fellow West Coast Conference schools Pepperdine and Santa Clara. That left two brackets: Notre Dame's and USC's.

Based on the other teams grouped in the West Regional, USD's date with USC was an easy one for the committee to make. Tonight's winner gets to play the Utah (25-8)-Texas A&M (20-9) survivor tomorrow night.

"I don't think it's fair, because we feel like we had a strong season," Petrie said. "The (NCAA) is going to review its selection process after this season and I would imagine that it will change it."

For now, Petrie is only worried about her team playing "a flawless match against USC."

The only loss the Trojans suffered this season was a five-game setback against Stanford, the No. 2 seed in the tournament. This season four USC players were named to the All-Pac-10 first team.

Even so, it wouldn't be wise for the Trojans to look past the Toreros. Earlier this season USD beat quality teams in Texas, Northwestern, Colorado State and South Carolina.

Said Petrie: "USC has a tough first-round draw in us. We're healthy and we're firing on all cylinders."

Steve Mullins is a Union-Tribune news assistant.

SAN DIEGO UNION-TRIBUNE

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USD may bid for Final Four

Why not San Diego?

It makes perfect sense, holding the NCAA women's soccer final four at USD's Torero Stadium, and it could become reality sooner than you think. USD officials confirm they are considering a bid for the Women's College Cup, as it is called, and it would be hard to imagine the NCAA passing on San Diego.

"We have not put in any official bids," says USD spokesman Ted Gosen, "but we've had some serious discussions about doing that down the road. It is something we are looking at now that we have a stadium that seats

7,000."

Austin, Texas, hosted the recently completed final four, and the new home of the Carolina Courage in Cary, N.C., has been awarded the 2003 and 2004 events. The NCAA, you figure, will be looking to return to the West Coast in 2005.

The lone drawback is Torero Stadium's limited seating capacity, which is currently 7,035. Six of the last seven finals have drawn more than that.

The announced crowds in Austin last week were 10,040 for Friday's semifinals and

10,027 for Sunday's final. But those in attendance said they were closer to 7,000. And while Cary's State Capital Soccer Park claimed a 10,000-seat capacity in its NCAA bid, the Courage plays its games in a 7,000-seat configuration.

San Diego, however, offers several tantalizing pluses: a rich soccer history, a community supportive of women's sports (exhibit A: the soldout NCAA women's volleyball final four at Cox Arena last year), and ideal December weather.

— MARK ZEIGLER

HIGH SCHOOL WINTER PREVIEWS

Girls soccer

In the spotlight: Few soccer players can say their offseason included helping the United States win a World Cup, but that's exactly what USDHS midfielder/forward Angie Woznuk did. She was one of three local players who helped the U.S. win the Inaugural FIFA Under-19 Women's World Championships. The Portland-bound senior now must focus on returning the Dons to championship form. USDHS, which is listed among the state's programs to watch by Student Sports magazine, will this season try for an 11th section title in 13 years.



Angie Woznuk

In addition to Woznuk, the Dons will count on two other college-bound athletes, defender Joslyn Williams (USD) and midfielder/defender Amy MacIntyre (Gonzaga).

Others to watch: Besides Woznuk, players returning from last year's Union-Tribune all-section team are Marissa Malkiewicz (San Pasqual), Shannon Sullivan (Poway), Carrie Dew (La Costa Canyon), Amy Epsten (OLP), Carrie Schmit (Grossmont), Rosa Anna Tantillo (La Jolla), Bre Skidmore (Bonita Vista) and Sally Wilcox (West Hills). Torrey Pines' Rachel Buehler, who will attend Stanford, is recovering from knee surgery.

Season outlook: La Costa Canyon returns seven players from its section Division I championship team and opens the year ranked No. 5 in the nation. Even without Buehler, Torrey Pines remains loaded with top players like Duke-bound Rachel Cohen. The Falcons are ranked 15th in the nation. Division III teams will have trouble fending off USDHS. Defending champ West Hills remains strong in Division II, and reigning titlist Francis Parker is the team to beat in Division IV.

- NICOLE VARGAS

CHARLESTON DAILY MAIL

CHARLESTON, WV
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Former San Diego assistant named Concord head coach

DAILY MAIL STAFF

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An offensive coordinator from a NCAA I-AA program has been named Concord College's new head football coach.

Greg Quick, who coached the University of San Diego's record-setting offense this season, was announced by Concord Athletic Director Steve Lee.

"Greg comes from a successful background as both a coordinator and head coach on

the collegiate level," said Lee. "He has been successful in turning around programs as a head coach at St. Norbert College and at the University of Chicago."

Quick's first head coaching job was at the University of Chicago, a Division III school, in 1989. He led the Maroons to their best record since 1929. Then, in 1994, Quick took over the St. Norbert program, a Wisconsin-based Division III school. He led the Green

Knights to one first-place finish and two second-place finishes in five years.

For the past three seasons, Quick has been at the University of San Diego, guiding an offense that established 23 individual and team records while producing the nation's top quarterback in pass efficiency this season.

"I think I have a solid foundation and I think my past experience helps," said Quick. "I have had a chance to speak to

some of the players. For a little while, they were in limbo and they were a ship without a captain.

"But they realize that they have a new direction now. They are a little anxious because of the unknowns, but I'm sure they feel the college has hired a capable person to do the things that it takes to be successful on and off the field."

Quick replaces Ollie Pottmeyer.

Steady life helps 6-foot-9 center begin to thrive

By Denise T. Ward
COMMUNITY SPORTS WRITER

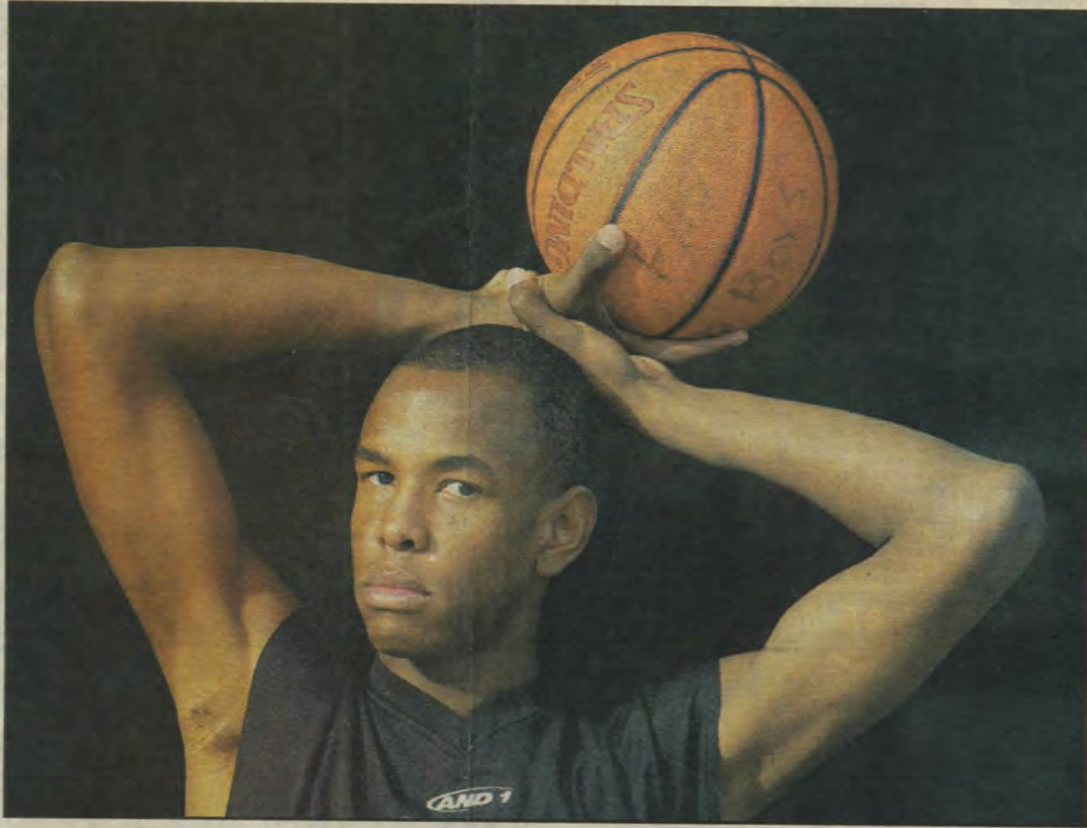
FALLBROOK — It's easy to see that Fallbrook High center Marlon Howe has found a comfort zone. He goofs around with teammates while relaxing before a game. During a walk across campus, he speaks to nearly everyone he meets.

He's found peace at a school where he stands out among peers only because he's 6-foot-9. He feels like a regular student who's making a name for himself on the basketball court.

Howe's done this in just two years at Fallbrook after family troubles forced him to move from school to school and from San Diego to San Marcos to a place residents call "The Friendly Village."

"I like it out here," Howe, 17, said. "They don't have any kind of standards of what type people should be."

Howe's name isn't well-known. Last year, he came off the bench as the backup center, averaging only about four points a game. This year, things have changed with Howe mov-



After not getting much playing time a year ago, junior Marlon Howe is averaging 15 points and eight rebounds a game for Fallbrook High, which is 4-2 this season. *Nadia Borowski Scott / Union-Tribune*

ing into the starting job.

"He waited patiently," said Fallbrook coach Mike West, whose team is 4-2 with Howe in the pivot. "He was very raw last year and has really developed into one of the top players in the county."

West said Howe's work ethic and his commitment to improve are his strongest characteristics. He's only been playing basketball since the eighth grade and, although he's made tremendous strides over last year, is expected to get even better.

"It all goes back to his work ethic," West said. "Not a day goes by that he's not doing something basketball-wise or

doing something in the classroom. He'll outwork every person on the floor. He had a tough background and he understands what his opportunities are."

West is not the only one to notice the change in Howe, who attended San Marcos High as a freshman. After playing over the summer on several travel teams, including the Southern California All-Stars

Finding a home in Fallbrook

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA

FRIDAY 374,856

DEC 13 2002

and Elite Basketball of Orange County, Howe saw his popularity skyrocket almost overnight. He said he receives letters of interest from several colleges a day.

"I've never had a kid like him," West said. "It's his athleticism, combined with his work ethic, combined with his desire to improve. He has a tremendous upside."

Howe said the extra attention is fine, but his main concern is helping the Warriors win Avocado League and CIF-San Diego Section titles. Last year, Fallbrook lost in the first round of the playoffs.

Howe, who's averaging 15 points and eight rebounds a game, said much of his improvement resulted from playing with college players during the summer, including UCLA's Cedric Bozeman and Dijon Thompson. He currently practices with USD players every Sunday. Howe said he would like to play for USD and coach Brad Holland for a number of reasons.

"It's local, and I want to go to a small school with a good coach like Coach Holland," Howe said. "Plus, USD has a 100 percent graduation rate."

Howe has improved his performance in the classroom as well with a 3.0 grade-point average. He said he knows what it's like to be in trouble and have problems in school and would rather not go back to that.

Howe's inspiration for wanting to do well and stay on the right track is his grandmother,

VARSIITY FRIDAY: Varsity sports played by the North County's high schools are featured on the Community Sports page each Friday during the school year.

Flora Jones, who moved her grandson to Fallbrook two years ago in order to provide a more stable home. A younger brother, Chris Haley, who plays on Fallbrook's junior varsity basketball team, also moved in with his grandmother this year.

Jones rearranged her living situation to care for her grandchildren and said she would have it no other way. She said Howe remains close to his mother but felt it would be better to live apart.

"They came to live with me in San Marcos three years ago, but I was living in a senior community and they couldn't stay there," Jones said. "I had to get a home for me and my grandkids right away, so I bought the house in Fallbrook."

Jones said she's able to provide Howe and his brother with the home structure and consistency they need.

"I don't know where I would be without her," Howe said. "She makes sure me and my brother have whatever we need. If I was down in San Diego, I think I would be just another tall kid. Out here it's more than that. I'm a good person and a good basketball player."

Denise T. Ward can be reached at (619) 718-5304 or at denise.ward@uniontrib.com

Compiled by USD
Office of Communications and Marketing