



Consolidated Edison Company  
of New York, Inc.  
4 Irving Place  
New York NY 10003  
www.conEd.com

Corresp.  
05-S-1376

October 30, 2006

Hon. Jaclyn A. Brillling  
Secretary  
State of New York  
Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

2006 NOV - 1 PM 4: 12  
RECEIVED  
PUBLIC SERVICE  
COMMISSION  
OSFC-FIL-ES-ALBANY

RE: Case 05-S-1376, Con Edison Steam Rate Case

Dear Secretary Brillling:

Consolidated Edison Company of New York, Inc. ("Con Edison" or the "Company") made changes to its Schedule for Steam Service, P.S.C. No. 3 – Steam, effective October 1, 2006, pursuant to an order of the Public Service Commission (the "Commission"), issued and effective September 22, 2006, in Case 05-S-1376.

The Company was directed by Ordering Clause 4 of the Commission's September 22, 2006 order to file proof with the Commission that a notice to the public of the changes proposed by the amendments and their effective date was published once a week for four successive weeks in newspapers having general circulation in the areas affected by the amendments. As directed by the Commission, the Company is filing herewith an affidavit attesting that publication was made, plus copies of the notice that was published, in the New York Post on October 5, 12, 19, and 26, 2006.

Very truly yours,

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

*Christine Colletti*

Christine Colletti  
Director  
Rate Engineering

**State of New York**

COUNTY OF NEW YORK

SS:

Maranda Greene being duly sworn,  
says that he/she is the principal Clerk of the Publisher  
of the

***New York Post***

a daily newspaper of general circulation printed and  
published in the English language, in the County  
of New York, State of New York; that advertisement  
hereto annexed has been regularly published in  
the said "**NEW YORK POST**" once,  
on the 5, 12, 19, 26 day of OCTOBER 2006

Maranda Greene

Sworn to before me this 26 day

of October 2006

[Signature]

**NOTARY PUBLIC**

**BYRON STEVENS**  
Notary Public, State of New York  
No. 01ST6117803  
Qualified in New York County  
Commission Expires November 1, 2008

# Biovail gets more heat

By RODDY BOYD

Securities regulators in the U.S. and Canada appear to be ratcheting up the pressure on the founder of Biovail over details of his controversial offshore stock trading.

Eugene Melnyk — one of the highest-profile men in Canada and the owner of the NHL's Ottawa Senators — was to be interviewed by the Securities and Exchange Commission this week, according to an Ontario Securities Commission release.

Biovail watchers believe the OSC release indicates

that the SEC's long-running investigation could have now expanded into his trading of the company's stock.

Melnyk, whose corporate governance and trading activities at Biovail have been under investigation since 2004, seized the spotlight when Biovail sued 22 hedge funds and analysts last February, alleging a wide-ranging conspiracy to drive down Biovail's stock price.

More recently, The Post reported Melnyk's lawyers ordered private investigators to rifle through the trash of a former Banc of

America Securities analyst nearly two dozen times. The analyst, Jerry Treppel, was fired shortly after he downgraded the company to "sell" in 2002.

Treppel, is suing Biovail for defamation.

The SEC's Biovail inquiry was thought to be directed primarily at Biovail's "accounting and financial reporting practices" from 2001 to 2003, with the investigation of Melnyk's trading being handled by the OSC.

In late July, the OSC issued a 92-count statement of allegations directed at Melnyk and three associ-



**TRASH TALK:** Surveillance photos allegedly show a private investigator rummaging through former Biovail analyst Jerry Treppel's garbage under the orders of lawyers for Biovail founder Eugene Melnyk (inset).

ates involved in the management of four separate Cayman Islands trusts set up to hold 9.4 million Biovail shares.

"In failing to file [necessary] insider reports, Melnyk acted contrary to the

public interest by failing to disclose his complete holdings and changes in his holdings to the public," the OSC wrote.

The SEC's questioning of Melnyk explained why a late-September appear-

ance before an OSC panel addressing its allegations was postponed.

Biovail shares gained 12 cents to close at \$17.05.

A Biovail spokesman declined to comment.

roddy.boyd@nypost.com

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CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

# M'soft bigs get pay cut

Microsoft reduced the total pay of Chairman Bill Gates and Chief Executive Officer Steve Ballmer for the first time in at least six years as profit gains slowed.

Gates and Ballmer, both 50, each earned \$616,667 in salary in the fiscal year ended in June, up 2.8 percent from a year earlier. Both had their bonuses cut 13 percent to \$350,000, Redmond, Wash.-based Microsoft, the world's largest software maker, said in a regulatory filing.

Earnings growth has stalled as Microsoft spends more to get the Xbox video-game console in stores and endured delays for the release of the Vista version of the Windows operating system. The company's stock fell 6.2 percent during the fiscal year, compared with a



**BILL GATES**  
Gets less.

6.6 percent gain for the S&P 500 Index.

"This is probably a function of management wanting to show that the top dogs are accountable for the numbers they produce the same way everybody else is accountable," said Tony Ursillo, who helps

manage \$75 billion in investments, including Microsoft shares, at Loomis, Sayles & Co. in Boston.

Microsoft in August dished out performance bonuses worth almost \$1 billion to its top 900 executives, excluding Ballmer and Gates. One-third of those bonuses vested immediately, with the rest paid out over the next two years. The bonuses, put in place in 2003 to hold onto key managers, were based on performance between 2003 and 2006.

Compensation varies from year to year and is determined by the board based on qualitative and quantitative factors, as listed in the filing, according to a statement from Colleen Healy, Microsoft's general manager for investor relations. *Bloomberg*

# Thain warms to Deutsche Boerse

NYSE Group Chief Executive John Thain said he's open to buying part of Deutsche Boerse, operator of the Frankfurt stock exchange, in addition to Euronext.

"We have always said that we were receptive to adding other European cash businesses into the Euronext model," Thain said in an interview on the floor of the New York Stock Exchange. "I think it's a possibility."

Euronext is under pressure to consider alternatives to combining solely with NYSE Group after agreeing to be acquired in a transaction now valued at \$11.2 billion. Europlace, a French business lobby group, will recommend that Euronext seek a combination with NYSE Group and

Deutsche Boerse, Le Figaro newspaper reported, citing a person with knowledge of the proposal.

Euronext scuttled more than six months of merger negotiations with Deutsche Boerse when it agreed to be acquired by NYSE Group in June. Deutsche Boerse CEO Reto Francioni has continued to press his offer for Euronext arguing that it would benefit shareholders and customers more than an NYSE deal.

Deutsche Boerse spokeswoman Candice Adam declined to comment yesterday on Thain's remarks. *Bloomberg*

Stock tables are on page 65.

# Rotten Apple options

A probe by Apple Computer Inc. found that Chief Executive Officer Steve Jobs knew the company backdated stock options, though he didn't benefit or know of accounting issues from the practice.

Fred Anderson, whose tenure as chief financial officer included the five years when options were manipulated, resigned as a director, Cupertino, Calif.-based Apple said. The actions of two unnamed former executives raised "serious concerns," Apple said.

"I apologize to Apple's shareholders and employees for these problems, which happened on my watch," Jobs said in a statement. "They are completely out of character for Apple."

A three-month review of 650,000 e-mails and interviews with more than 40 people found that options awarded on 15 dates between 1997 and January 2002 were backdated. The company began the investigation in June, becoming one of 140 companies to concede grant dates may have been manipulated to enrich employees.

Apple shares fell 18 cents to \$75.20 in extended trading. They rose \$1.30, or 1.8 percent, to \$75.38 in regular Nasdaq Stock Market trading and have advanced 4.9 percent this year after more than doubling in 2005.

Bloomberg

# GM talks on alliance end

General Motors Corp. ended talks aimed at teaming with Carlos Ghosn's Renault SA and Nissan Motor Co. because of a dispute over GM's demand to be compensated for taking part in an alliance.

GM wanted payment to make up for the benefits the French and Japanese automakers would have received, the companies said yesterday. GM Chief Executive Officer Rick Wagoner also said a Renault-Nissan partnership would have prevented his company from pursuing ties with other automakers.

The decision signals GM directors' ongoing support for Wagoner's strategy to recover from last year's \$10.6 billion loss. It also rebuffs billionaire Kirk Kerkorian, GM's fourth-biggest investor, who spurred Wagoner three months ago to study a link with Ghosn.

Bloomberg

# RALLY REVIVING

## Newly confident market charts new waters

By PAUL THARP

The mighty stock market comeback roared even higher yesterday to set more new records — rewarding investors who'd kept the faith with double-digit payoffs of up to 43 percent.

Across the board, stocks charged ahead in one of the best rallies in months, with the Dow Jones industrial average jumping 123.27 points for the second session of back-to-back all-time highs.

The broadly based Standard & Poor's 500 index — representing more than \$12 trillion in stocks — hit a new 5½-year high, and the Nasdaq composite index surged a healthy 2.11 percent to outpace gains at its two runaway sister indexes.

Even a gloomy report on the housing market by Federal Reserve Chief Ben Bernanke was seen as a positive because it means that inflation may be stifled enough for a potential interest rate cut.

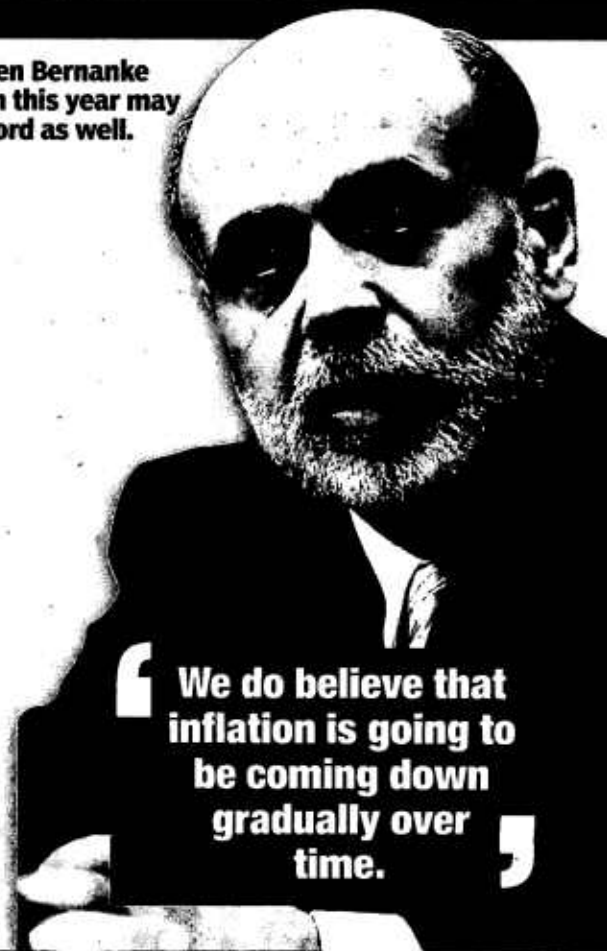
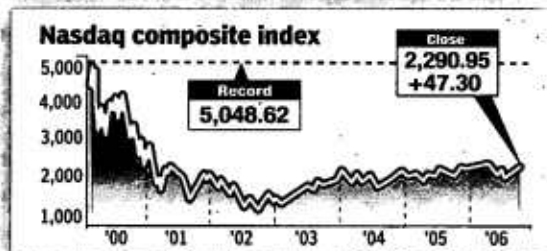
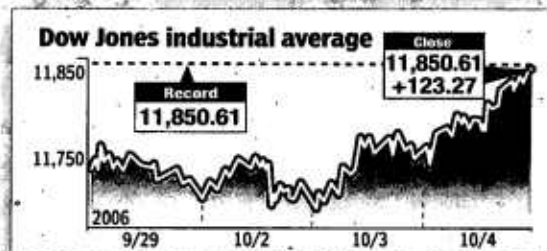
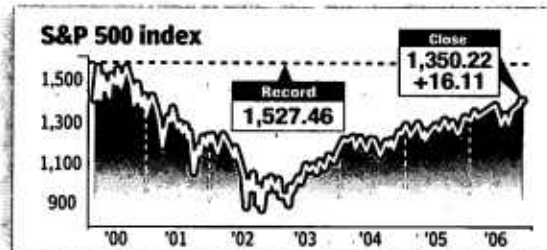
The Fed chief said the housing market is suffering a "substantial correction" that may chop 1 percent off economic growth in the second half of the year.

Bernanke also said inflation still worries the Fed — but that amounted to another clear message of what Wall Street wanted to hear: Low interest rates may be here to stay for a while.

The low-rate hopes were also boosted by a report from the Institute for Sup-

### Record romp

The surging Dow and remarks by Fed chief Ben Bernanke (right) suggesting rates won't be raised again this year may help push the broader S&P 500 index to a record as well.



**We do believe that inflation is going to be coming down gradually over time.**

ply Management showing the economy in September grew at its slowest rate in three years, providing more reason to believe the Fed won't tinker with rates.

Many investors shrugged off the housing weakness because gasoline and heating costs are down dramatically from a year

earlier, giving new comfort to consumers.

"Consumers are suddenly more optimistic because the lower energy costs are offsetting their worries about declining housing values," said Hugh F. Johnson, president of Johnson Illington Advisors LLC.

"The rally lets everyone

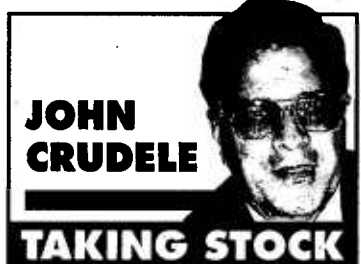
know, both investors and non-investors, that stocks are going up, and going up for a good reason. There's more confidence — at long last — that they won't get blindsided again," he said.

In busy trading across all markets, the Nasdaq shot up 47.30 points to 2,290.95. The Dow jumped 1.05

percent to hit two records — reaching 11,851.25 just seconds before the closing bell, and closing moments later at 11,850.61 to break Tuesday's 11-year record by 123.27 points. The S&P 500 surged 1.21 percent, or 16.11, to 1,350.22. The Russell 2000 index rose 2.1 percent to 733.47, up 15.12.

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# Jobs report will show which way wind is blowing



**JOHN CRUDELE**

### TAKING STOCK

**N**OW the game becomes: How far into record territory can the Dow travel, especially if it doesn't get additional help from other more important market indicators?

As you probably already know, the Dow Jones industrial average yesterday went deeper into the record books, and Wall Street and the financial press again distinguished themselves by cheering as loudly as they could to get the average investors' attention.

As one commentator gloated on that Wall Street infomercial that

masquerades as TV news: "This'll encourage small investors to put their money into the market." Barker-ism at its best. Objectivity at its worst.

But yesterday, at least, it seemed to work as the Standard & Poor's index and over-the-counter stocks joined in the celebration.

One of the Dow's biggest hurdles will come tomorrow morning, when the U.S. Department of Labor releases its monthly report on new jobs.

I've made a franchise out of guessing whether this number will be over or under Wall Street estimates and have had remarkable success at this game.

This, of course, is important because the labor report is the granddaddy of all government releases, and it tends to not only move the market but also sets investors' moods. Today I'm here to predict — nothing.

Wall Street is expecting the gov-

ernment to announce that 125,000 new jobs appeared in September.

The trick to my past successes in guessing this number has been understanding the assumptions that Washington makes about jobs that are being created by newly formed companies.

During some months these assumptions are so dramatic that it's easy to correctly guess whether the actual number will beat Wall Street expectations. September isn't one of those months.

One thing is certain, however. If tomorrow's figure is exceptionally weak, it'll confirm what everyone has recently been saying — the economy is stalling.

And, oddly enough, that might be good for another burst of stock enthusiasm.

A strong number would create a problem.

The very unlikely chance of a large gain in jobs would suddenly stir fears on Wall Street that the

Federal Reserve will have to resume raising interest rates, despite Fed Chairman Ben Bernanke yesterday saying how pleased he was with the economy.

That could take some oomph out of Wall Street's rally.

One caveat: October tends to historically be one of the worst months for stocks anyway.

Underneath the rah-rah over the new Dow high, there is the problem that even with yesterday's gains, the Standard & Poor's and Nasdaq indexes are nowhere near their old records.

The best economic news, of course, is that oil and gasoline prices are coming down from the absurd levels to which Wall Street speculators drove them.

And that might be enough to help stocks, especially if corporate profits manage to deliver the 14 percent gains over the next few weeks that are expected.

We'll see.

john.crudele@nypost.com

# YouTube deal may bring about others



By SAM GUSTIN

**H**OW do you like it now, gentlemen? Forty-eight hours after Internet giant Google stunned corporate America with its blockbuster \$1.65 billion purchase of YouTube, some tech watchers were already de-

claring the dawn of the new Internet age: Web 2.0.

Coined by Web expert **John Battelle**, Web 2.0 is loosely defined as the next generation of user-centered, Web-based products and service. The Google-YouTube deal was one of the rare examples of an Internet catchphrase come-to-life.

"One way to think about [Web] 2.0 is that it's about the user, not the provider," said **John Barker**, president of DZP Marketing Communications.

In other words, power

to the people.

Ever post a video to YouTube? Tag a story on del.icio.us? Add a "friend" on MySpace.com, which like The Post, is owned by The Post's parent company, News Corporation? Well, then you are participating in Web 2.0.

The concept has become so powerful in the tech world, that today it is virtually unthinkable that a startup seeking funding would not use the term somewhere in its publicity materials.

Google CEO **Eric Schmidt** recently called

"Web 2.0" a "marketing term, and it's not a term that I use." Then he said: "it's really happening." Schmidt should know, his company's purchase of YouTube marks the highest value ever paid for one of the new generation of user-centric Web companies.

Mere minutes after the Google deal was announced, rumors hurtled around the Web that the search giant was ready to snatch social networking site FaceBook for a cool \$2.3 billion — a suggestion that must have sent a wave of terror through the hearts of Yahoo! executives, who have been reportedly coveting the site for \$1 billion.

That may have sounded ludicrous a week ago, but the YouTube deal gives it legs.



**MARK CUBAN**  
No YouTube fan.

Less than three weeks after this column reported that YouTube was for sale for over \$1.5 billion, a fact that was dismissed by many so-called "Internet experts" — Google snatched the Web video leader, leaving many media bigs holding the bag.

Let's start with Dallas Mavericks owner **Mark Cuban**, the late-1990s tech billionaire who declared that anyone paying \$1.5 billion for YouTube would be a "moron." Google is sitting on \$10 billion cash.

"I still think Google is crazy," Cuban wrote on his blog after the was announced. Some commenters on his site disagreed.

"This proves you have no clue about the Internet business," one wrote. "Your time was a decade ago, get over yourself."

## Sept. 11 books vie for award

By KEITH J. KELLY

The three finalists for the National Book Awards features two novels centered around 9/11 and one non-fiction book on the topic.

Two big names who won the fiction award in the late 90s, "Charming Billy" author Alice McDermott and "Cold Mountain" author Charles Frazier, were shut out this year. McDermott had written her sixth work, "After This: A Novel" and Frazier had jumped publishing houses to publish "Thirteen Moons."

Among the major publishing conglomerates, the biggest cheers went up from the German-based von Holtzbrinck Group, which placed three books from its Farrar, Straus & Giroux imprint and one from its young people's imprint in the running for the awards. The National Book Awards, which comes with a \$10,000 prize in each category, will be presented Nov. 15.

The finalists playing on the 9/11 theme included two novels: Jess Walter's "The Zero", from Regan/HarperCollins, which follows a hero cop in the days following the World-Trade Center attacks and "A Disorder Peculiar to the Country" by Kan Kalfus, from Ecco/HarperCollins, a black comedy about a marriage unraveling in the days after 9/11.

The other fiction finalists included: Dan Spiotta's "Eat the Document" (Scribner) about a woman fugitive from the 1970s who hid out for 20 years and raised a son; Richard Powers' "The Echo Maker" (Farrar, Straus & Giroux) and Mark Z. Danielewski's "Only Revolutions," (Pantheon) a best-selling love story told through the words of two 16-year-old vagabonds in competing free verse that requires the book to be held upside down to read some sections.

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CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

### Death Notice

#### DEATH NOTICE

**DINONNO, TONY**, Age 65, of Monroe, NJ, on Sunday Oct. 8th. Visitation Thurs. 4-8 PM at Clayton & McGirr Funeral Home, Freehold, NJ. Funeral Mass Fri. 10 AM at St. Robert Bellarmine, Freehold, NJ. Interment St. Rose of Lima Cemetery, Freehold, NJ.

#### Death Notices and In Memoriam Messages

Notices may be submitted via telephone, fax or email by a Funeral Director, Monday thru Friday, 8:30 A.M. to 4:00 P.M., to appear in the following day's edition. Sunday notices must be received by 1:30 PM on Saturday, and Monday notices must be received by 3:30 P.M. on Saturday.

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# FEDS' FUTILITY

## Front-running prosecutions lack conviction

By RODDY BOYD

Nearly 18 months after announcing a groundbreaking series of indictments against 15 New York Stock Exchange specialists, federal prosecutors have a grim track record in winning convictions.

In April 2005, federal prosecutors charged the NYSE specialists with front-running clients to the tune of just over \$19 million.

The seven specialist firms where the nailed traders worked paid out more than \$247 million in fines and disgorgements, and the NYSE consented to outside oversight.

Despite obtaining two high-profile plea deals in May — from Van Der Moolen's Joseph Bongiorno and Patrick McGagh — the elite Southern District of New York prosecutors have suffered setbacks in half of the cases they've brought.

"The track record is below par, given their usual rate of conviction," said former federal prosecutor Robert Mintz, of Newark's McCarter & English. "They can basically pick and choose what cases to bring, so their conviction levels should be much higher."

As prosecutors gear up for the trial of former Fleet Specialists partner David Finnerty, they are not only

### Crackdown cracks

The feds' huge illegal-trading bust at the NYSE isn't living up to its advance billing — with only two convictions and two guilty pleas so far. Here's how the bust is shaking out:



fighting expensive defense lawyers, but the growing sense that the indictments did not contain the bomb-

shells they promised.

The feds have garnered a paltry two convictions — against Van der Moolen's

Michael Stern and Michael Hayward — although both men were acquitted on several counts.

The prosecutions of their Van der Moolen colleagues — Richard Volpe and Robert Scavone — ended in acquittals.

Two other specialists, Donald Foley of Fleet Specialists and Bear Wagner's Kevin Fee, had all charges dropped "in the interests of justice," according to a statement released by prosecutors.

Mintz declined to speculate why the feds have had difficulties.

A spokeswoman for the feds declined comment.

Defense lawyers representing three of the indicted specialists told The Post that each trial poses two separate challenges for the government.

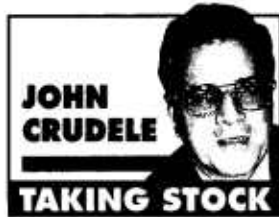
"They have to find consistent law-breaking, and since most of [the specialists] are accused of trading ahead on under 1 percent of a massive volume of trades, that isn't really there," one lawyer said.

Another defense attorney told The Post that the question of motive has been tough to overcome.

"I think when [Michael Stern's lawyer] David Meister argued that Stern's net income from the alleged front-running was around \$500, when the guy was earning at least \$2.5 million per year, that's a tough sell," he said.

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## Trader may point fingers in court fight



SO far, the serial trials of a group of New York Stock Exchange specialists can best be described as dull, at least by the standards of Enron and WorldCom. And they have also been relatively unsuccessful, with roughly half the defendants being judged not guilty.

The record could change today when the trial of David A. Finnerty starts.

Finnerty was a senior vice president at a company called Fleet Specialists, whose duty it was to keep an orderly market

in stocks such as Johnson & Johnson, General Electric and Goldman Sachs Group.

And, like most of the other 15 specialists who have been charged with crimes in the prosecution in New York, Finnerty is pleading not guilty.

In short, the SEC charged that the specialists weren't efficiently finding buyers for every stock order being sold.

Instead, the specialists were illegally making money by stepping in between the buyers and sellers when orders were delivered to the trading floor by the NYSE's computerized system.

But the excitement isn't in whether the lowly specialists and their even lower-level clerks were actually participating in this kind of skullduggery.

The big question is



whether higher ups at specialist firms — and maybe even at the New York Stock Exchange — either looked the other way or encouraged such tactics.

The gossip on Wall Street is that Finnerty may be considering pointing

fingers, but his lawyer, Fred Hafetz, adamantly refused to discuss strategy when I called.

But Hafetz is known to have looked into the culture that pervaded at the NYSE in the late 1990s, when Dick Grasso was head of the exchange.

Specifically, Hafetz is said to have been interested in the fact that Grasso's compensation was at least partly determined by the amount of trading volume that the NYSE was able to generate.

A report by investigator Dan Webb, commissioned when Grasso was ousted by the Big Board, says on page 26 that Grasso's compensation was based on "the NYSE's market share of trading..."

In other words, there was a financial incentive for the NYSE to encourage

specialists to step in between trades because it would double the overall volume and increase the exchange's market share.

If Hafetz and Finnerty decide to take an aggressive approach, the court could be enlightened as to what was happening when, according to sources I've previously quoted, the mantra on the NYSE floor was "we don't match DOTS." DOTS stands for the NYSE's computerized trading, which is formerly known as the Direct Order Turnaround system.

If Finnerty decides to go this route, he may say he was following the orders of immediate higher-ups, not anyone in a position of power at the NYSE.

But a move like that would allow prosecutors to climb a ladder as high up as they'd like.

john.crudele@nypost.com



DICK PARSONS  
Stunned.

## YouTube bid KO'd media rivals

CANNES, France — Google paid a "knockout" price that traditional media companies could not have matched when it bought video entertainment site YouTube for \$1.65 billion, the chairman and CEO of Time Warner said.

"The AOL guys would've loved to have got YouTube. We looked, but decided AOL has not only better technology, it's also in-house," said Dick Parsons, CEO of Time Warner, AOL's parent company.

"Here are lots of reasons why we did not go to the Google level (on price). YouTube has no earnings. How do you convince the market you can make money? Google can do that better than anyone, and I didn't have Google dollars," he told reporters at a media conference yesterday.

Web search leader Google said Monday it had agreed to acquire YouTube for \$1.65 billion in stock, the highest price yet paid for a consumer-generated media site.

"It's a stunning price, a stunning story. You have to tip your hat to the founders. It's a knockout price," Parsons said on the sidelines of the MIPCOM conference in Cannes.

"Some of these sites are working, most are not. Whether it will be a value-adding asset remains to be seen. But note the acquirer. For us and traditional media companies, this would be a tough, tough price. But for Google it's in their sweet spot."

Parsons said Google wanted to acquire anything that generates traffic and said he saw the firm as a partner.

"Google is misunderstood. They see themselves as an enabler, not a portal. They acquire as much Web traffic as they can and monetize it based on their technology," he said. Reuters

# Pub bookkeeper thief gets 3 yrs.

By LAURA ITALIANO

The 5½-months-pregnant thieving bookkeeper of the popular Gramercy Tavern was sent to prison for at least three years yesterday for taking \$275,000 from the restaurant's safe.

Sandrene Austin, 28, pocketed a couple of hundred dollars in cash every day she worked for nearly two years, prosecutors said in winning a grand-larceny conviction.

She then covered her tracks by exaggerating — by the same couple of hundred dollars — the amount of gift certificates that patrons had used to pay for that day's meals.

The thefts — which magically stopped whenever Austin went on leave or vacation — were only discovered after more user-friendly software was installed to track the money.

Prosecutor Diana Florence had asked for a lesser sentence of two to six years. But Manhattan Supreme Court Justice Gregory Carro made the unusual move of giving Austin more time.

Austin has failed to show remorse or make restitution, the judge said.

Austin used the money to buy a two-family house in Queens for herself and her relatives — and the family likely participated in the scheme by using fraudulent documents when applying for a mortgage, the judge said.

Under a previous plea offer, family members could have kept the soon-to-be mother of three out of jail entirely by putting the house up for sale and allowing her to make restitution. Instead, they sat and watched yesterday as she was led off to prison in handcuffs.

laura.italiano@nypost.com

# 11 cheated worker's comp: DA

Eleven people have been charged with scamming the worker's compensation system out of hundreds of thousands of dollars — including a man who kept cashing his deceased friend's check for 16 years.

Norman Berger is facing up to 15 years in prison for collecting nearly \$180,000 in benefits that were supposed to go to his housemate, who died more than a decade ago, said Queens District Attorney Richard Brown.

Berger, 60, of Manhattan, is charged with grand larceny, insurance fraud and other infractions.

The 10-month investigation caught 11 people reaping benefits they didn't deserve, authorities said.

Another suspect, Diane Brown, was hurt in 1984. But in 1998 she started working at a city hospital and allegedly continued to claim she was unemployed and due \$47,000.

Ikimulisa Livingston

## LEGAL NOTICE

### Con Edison Makes Certain Changes to its Steam Tariff Effective October 1, 2006

On September 22, 2006, the New York State Public Service Commission approved a two-year steam rate plan commencing October 1, 2006. Under the plan, steam base rates are continued at their current level for the two-year rate term, except that recovery of certain costs will be shifted between base rates and Fuel Adjustment Clause ("FAC") charges beginning October 2007 and demand charges will be implemented beginning November 2007 for steam customers with annual consumption of 22,000 Mlb or greater.

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(c) a charge of \$291 during business hours and \$336 during any other time was added for the investigation of a leak, pressure condition, or other problem at a customer's premises when the Company determines that there is a problem with the customer's piping and/or equipment;

(d) the steam air-conditioning incentive program in Service Classification ("SC") 2 and SC 3 was extended to accept customers' applications until September 30, 2008;

(e) the Special Monthly Adjustments ("SMA") section of the FAC, which is a monthly charge or credit per-Mlb, was modified to explain that the SMA will recover carrying charges associated with the East River Repowering Project prior to October 2007 (costs incurred thereafter will be recovered through base rates) and purchased water and water chemical costs used for steam production (currently recovered through base rates) commencing October 2007, and to clarify the allocation of common costs of the 74th Street and 59th Street stations to the electric department; and

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CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.



# NYPD DAILY BLOTTER



## Brooklyn

■ Two thugs attacked a livery driver in Bedford-Stuyvesant, authorities said yesterday.

The attack took place at 2:40 a.m. Tuesday when the 39-year-old driver picked up Fainclai Williams, 25, and Monique Allen, 33, near Fulton Street and Marcus Garvey Boulevard, sources said.

As they drove to an undisclosed location, Williams began yelling about the fare.

When the vehicle stopped at a light, Williams got out, spit at the driver through a window and struck him in the face, cops said.

Williams then allegedly yanked the driver out of the car and kicked and punched him.

Allen also allegedly attacked the victim, who suffered minor injuries.

Police nabbed the pair, who were charged with assault and other crimes.

■ A man in his 20s was found dead in Cypress Hills, apparently killed by a fall from an 18-story building, police said. His body was discovered in front of 735 Lincoln Avenue at 10:37 a.m. yesterday. It was not immediately clear whether the man jumped, fell or was pushed.

■ A Bushwick man clubbed his building superintendent whom he accused of turning off his heat and slashing his bicycle tires, authorities said yesterday.

Sources said Neil Collins, 40, fought with the 29-year-old super in the hallway of their Kosciuszko Street building near Broadway at 10:10 a.m. Tuesday.

Collins screamed at and threatened the super, then whacked him in the shoulder and back with a bat.

A spokesman for DA Charles Hynes said Collins was charged with assault, menacing and weapons possession. The super suffered minor injuries.

■ A man smashed his business partner in the head with a pipe at a Bensonhurst construction site, authorities said yesterday.

Ioannis Pasiakos, 57, began arguing with the 29-year-old partner on 78th Street near 20th Avenue at 2:35 p.m. Tuesday, cops said.

The dispute involved Pasiakos' claim that the

victim had no right to authorize construction assignments without him.

Pasiakos ordered the work stopped, but the younger man told hard-hats to continue, sources said.

Pasiakos then allegedly struck the victim with a metal pipe.

Cops charged Pasiakos with assault, menacing and weapons possession.

## Manhattan



■ Police are asking for the public's help finding a woman in poor physical and mental condition who disappeared from her Upper West Side apartment.

Yesenia Rivera (above), 26, wearing a red shirt and black pants, was last seen leaving her Riverside Drive apartment at West 102nd Street at around 1:20 p.m. on Sept. 23, cops said.

Police said she is in need of medication.

■ The body of an unidentified man was found floating in the East River near the Queensboro Bridge just after 7 p.m. yesterday. The cause of death was not immediately apparent.

## Queens

■ A driver was critically injured and his passenger killed early yesterday when their car slammed into a guardrail and flipped over on the Grand Central Parkway in Forest Hills.

The dead man was identified as Nathaniel Jermaine, 31, of Malverne, L.I. The driver's name was withheld. The accident took place at 4 a.m. near the Queens Boulevard exit.

■ The NYPD is searching for a wig-wearing bandit who has allegedly robbed four banks this month.

The robber first struck Oct. 3 at 9 a.m. in the North Fork branch on Lef-

erts Boulevard near Liberty Avenue, where he demanded cash from a teller and fled with money.

Then, on Oct. 7, he wore a brown or black wig and walked into a Bank of New York branch near the North Fork branch. He again demanded cash and ran with his loot.

The thief allegedly robbed two more banks, last Thursday and this past Monday, on Cross Bay and Queens boulevards.

## Staten Island

■ A driver speeding along the Staten Island Expressway was killed after he lost control of his Cadillac Escalade SUV and it overturned on the center median at 9 p.m. The 40-year-old victim, whose name was withheld, was trapped in the wreckage and died at St. Vincent's Hospital.

■ Police busted a teenager for stealing electrical equipment after he was caught breaking into a garage in Westerleigh, authorities said yesterday.

Bobby Hambrick, 16, entered the garage of a private home on Benedict Avenue at around 4:10 a.m. Tuesday but was spotted by a neighbor who called cops.

Police found in Hambrick's possession a Palm handheld digital device and a cellphone he had allegedly stolen elsewhere.

Hambrick was charged with burglary, criminal trespass and possession of stolen property, said a spokesman for DA Daniel Donovan.

■ A Rikers Island inmate jailed for stealing laptop computers from a medical practice has been linked to a second theft at the same West Brighton office, authorities said yesterday.

Thomas Davis, 33, was caught on security tape hauling five laptops and two carrying cases out the back door of the HIP Staten Island Medical Group on Clove Road at 7:19 p.m. on Aug. 15, sources said.

He was charged with grand larceny and criminal possession of stolen property, said DA Donovan's spokesman.

Davis had been incarcerated for allegedly stealing laptops from the same office on Aug. 22.

Jamie Schram and Perry Chiaramonte

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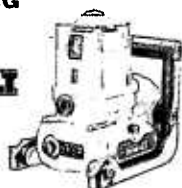


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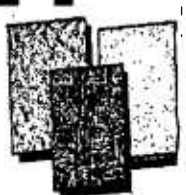


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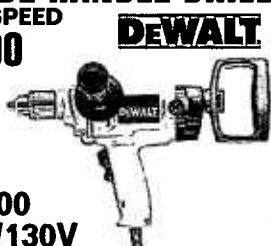
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### 4 1/2" H.D. GRINDER

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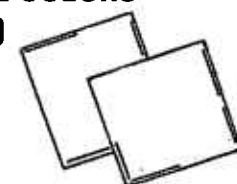
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REG 238.00 MDL#DW369CSK



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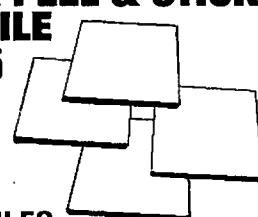
REG 184.00 MDL#DW511



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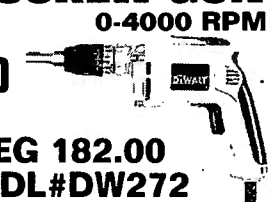
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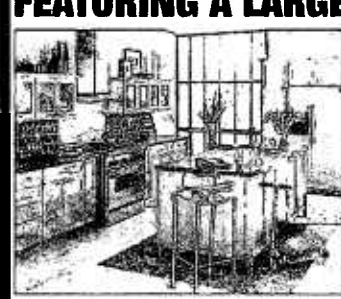
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# More to follow Trosten

Former Refco Chief Financial Officer Robert Trosten was arraigned yesterday, and federal prosecutors are promising another indictment within the next two weeks tied to the massive collapse of futures broker Refco.

The feds pegged Trosten as a key accomplice to the multi-year financial fraud deal and executed by Refco's former chief executive Philip Bennett.

Driven by the desire to conceal more than \$450 million in losses related to credit extended to hedge fund clients, Bennett and Trosten engineered an accounting scam to keep the losses off the books and away from auditors and potential investors.

Wearing a dark blue suit and a buzz cut, the youthful-looking Trosten pleaded "not guilty" to three counts of fraud and conspiracy to defraud in front of Judge Naomi Buchwald.

Bennett also pleaded "not guilty" to multiple fraud and conspiracy charges — for the second time — given the superceding nature of the indictment.

There are more indictments coming.

U.S. Attorney David Esks, under pointed questioning from an impatient Judge Buchwald — who made little attempt to hide her displeasure at having the March trial date pushed back — told the courtroom that there would be another indictment filed "within two weeks."

Trosten's high-priced lawyer Robert Morvillo and Esks verbally agreed to a \$10 million bail arrangement, guaranteed by Trosten's house in Sarasota, Fla.

Roddy Boyd

# HIGH-STAKES CASE

## BofA's Finnerty ruled over shady NYSE traders: feds

By RODDY BOYD

Former Bank of America specialist David Finnerty was the corrupt "king" of the New York Stock Exchange floor, and bent its rules to line his pockets, federal prosecutors said yesterday.

Jurors and spectators in Judge Denny Chin's 11th floor courtroom woke up from two weeks of mundane testimony to see both prosecutors and the defense dust off their best courtroom dramatics for their closing arguments.

The stakes are high for both sides.

Finnerty faces a maximum of 10 years in prison for each count of securities fraud. Federal prosecutors, stung by an unexpected series of acquittals and dropped charges in their case against the 15 NYSE specialists, desperately need a victory.

Finnerty is accused of abusing his role as a market-maker in GE to trade for the firm's account —

called interpositioning — or trading ahead of customer orders and reaping \$4.5 million for BAS specialists.

Finnerty's defense, led by Fred Hafetz, dismissed the prosecution's evidence as a case of "Garbage in, garbage out."

He also heaped ample scorn on the credibility and character of the three NYSE clerks who testified that Finnerty repeatedly ordered them to trade ahead.

"How come none of [the clerks] complained to the NYSE about Finnerty's trading? It's like a yenta town down there — no one stops talking — but word never got to [NYSE] authorities," Hafetz claimed. He described many of Finnerty's contested specialist trades as "judgement calls."

Federal prosecutors did not mince words, repeatedly labeling Finnerty's actions as "criminal" and scoffing at defense claims

that they were better suited for the NYSE's internal regulation.

U.S. Attorney Anirudh Bansal made a methodical — and powerful — argument to the jury that with over 95 percent of Finnerty's 26,300 contested trades profitable for him, "common sense" would dictate something was terribly wrong.

Bansal also argued that Finnerty's attempt to coerce his former clerk into giving non-incriminating evidence as proof that his actions were criminal.

"A man doesn't try to bully a witness if he doesn't have something to hide," Bansal said.



**KING OF THE SHILL:** In closing arguments yesterday, federal prosecutors attacked ex-Bank of America trader David Finnerty for his trading on the NYSE floor. AP

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CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

## Kumar cost CA \$3.5B

CA Inc. former Chief Executive Officer Sanjay Kumar's accounting fraud cost investors up to \$3.5 billion as news of the scandal caused shares of the software maker to plummet.

Company announcements and news articles in 2001 erased \$3.1 billion to \$3.5 billion in CA's stock value, Mukesh Bajaj, a consultant and finance professor at the University of California at Berkeley, testified yesterday in Brooklyn federal court in New York. That figure was based on \$15 being cut from CA's share price after a New York Times article and company fraud disclosures, Bajaj said.

Kumar, 44, faces up to 90 years in prison after being convicted of leading a \$2.2 billion accounting fraud at the company, formerly known as Computer Associates. Bajaj's testimony came on the second day of a pre-sentencing hearing before U.S. District Court Judge I. Leo Glasser.

Bloomberg

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Most Widely Held

Table with columns: Name, Vol (000), Last, Chg. Lists top widely held stocks like AT&T Inc, BkofAm, Chevron, etc.

Most Active

Table with columns: Name, Close, Chg, Vol. Lists active stocks like Corning, FordM, SprintNex, etc.

Table with columns: Name, Close, Chg, Vol. Lists active stocks like SPDR, iShR2K nya, SP Engy, etc.

Table with columns: Name, Close, Chg, Vol. Lists active stocks like SunMicro, Nasd100Tr, Level3, etc.

Biggest Daily Gainers

Table with columns: Name, Close, % chg, Vol. Lists biggest gainers like YankCdl, MillsCp If, ApplBio, etc.

Table with columns: Name, Close, % chg, Vol. Lists biggest gainers like TutogenM, PanRoyal s, TgtMOT08, etc.

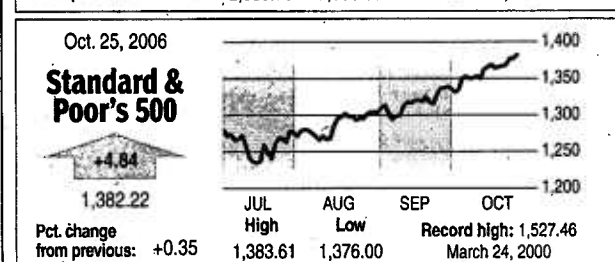
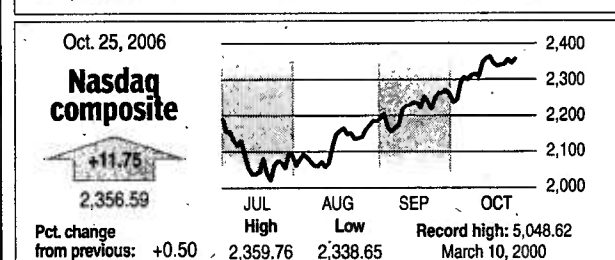
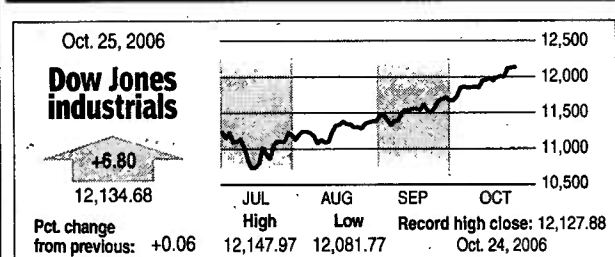
Table with columns: Name, Close, % chg, Vol. Lists biggest gainers like Candela, BuffaloWW, Vocus n, etc.

Biggest Daily Losers

Table with columns: Name, Close, % chg, Vol. Lists biggest losers like AllieCAMun, Crane, AllIntMun, etc.

Table with columns: Name, Close, % chg, Vol. Lists biggest losers like Lifecell, SelCmfrt s, Integral, etc.

Daily Markets Roundup



Currencies

Table listing currencies with yesterday's and today's rates for Argentina, Australia, Brazil, etc.

British pound expressed in U.S. dollars. All others show dollar in foreign currency.

Bond Yields

Table listing bond yields for Prime Rate, Discount Rate, Federal Funds Rate, and various Treasury securities.

World Indexes

Table listing world indexes: Amsterdam, Brussels, Frankfurt DAX, FTSE 100, Hong Kong Idx, etc.

US Indexes

Table listing US indexes: 30 Indus, 20 Transp, 15 Utilis, Nasdaq100, Composite, etc.

Biggest Mutual Funds

Large table listing mutual funds with columns for Name, Obj, Close, Daily Chg, 4-wk, 12-mo, 3-yr, 5-yr.

GR = Growth. GI = Growth & Income. SS = Single-state Muni. MP = Mixed Portfolio. LG = Long-term US Govt. EI = Equity Income. SC = Small Co Growth. CP = Cap Appreciation. IL = International. Total Return: Change in NAV with dividends reinvested.

Most Active MEDIA

Table listing active media stocks: SiriusS, Interpublic, TimeWam, XM Sat, Comcast, etc.

Most Active TECH

Table listing active tech stocks: SunMicro, Corning, Intel, Lucent, Microsoft, Yahoo, Cisco, etc.

Most Active FINANCIAL

Table listing active financial stocks: Nasd100Tr, SPDR, iShR2K nya, SP Engy, iShJapan, etc.

Most Active RETAIL

Table listing active retail stocks: Amazon, WalMart, HomeDep, RadioShk, etc.