

NEW CENTURY FINANCIAL CORP

Form S-3

March 07, 2002

As filed with the Securities and Exchange Commission on March 7, 2002

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3 REGISTRATION STATEMENT

*UNDER
THE SECURITIES ACT OF 1933*

NEW CENTURY FINANCIAL CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

33-0683629
(I.R.S. Employer
Identification Number)

18400 Von Karman Avenue, Suite 1000
Irvine, California 92612
(949) 440-7030

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Brad A. Morrice
Vice Chairman, President and Chief Operating Officer
New Century Financial Corporation
18400 Von Karman, Suite 1000
Irvine, California 92612
(949) 440-7030

(Name and Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

Copies to:

David A. Krinsky
Karen K. Dreyfus
O Melveny & Myers LLP
610 Newport Center Drive, Suite 1700
Newport Beach, California 92660
(949) 760-9600

Allen Z. Sussman
Morrison & Foerster LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013
(213) 892-5200

Approximate date of commencement of proposed sale to the public: From time to time after this Registration Statement becomes effective as determined by market conditions.

Edgar Filing: NEW CENTURY FINANCIAL CORP - Form S-3

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. "

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.x

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. "

CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities to be Registered | Amount to be Registered | Proposed Maximum Offering Price Per Share(1) | Proposed Maximum Aggregate Offering Price(1) | Amount of Registration Fee |
|--|-------------------------|--|--|----------------------------|
| Common Stock, \$0.01 par value per share | 4,152,044 | \$15.79 | \$65,560,775 | \$6,032.00 |

(1) The price of \$15.79 was the average of the high and low trading prices of the Common Stock on the Nasdaq National Market on February 28, 2002 is set forth solely for the purpose of computing the registration fee pursuant to Rule 457(c) of the Securities Act of 1933, as amended.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

SUBJECT TO COMPLETION, DATED MARCH 7, 2002

PRELIMINARY PROSPECTUS

NEW CENTURY FINANCIAL CORPORATION

4,152,044 Shares of Common Stock

This prospectus relates to the public offering, which is not being underwritten, of up to 4,152,044 shares of our common stock, \$0.01 par value per share, which are held by some of our current stockholders and may be offered and sold from time to time by the selling stockholders following the effective date of the registration statement of which this prospectus is a part. An aggregate of 3,624,462 of these shares are being registered for resale pursuant to registration rights that we granted to purchasers of our stock in a private sale of shares by one of our principal stockholders. The balance of the shares are being registered for resale by one of our existing stockholders pursuant to the stockholders' registration rights agreement.

The prices at which the selling stockholders may sell the shares will be determined by the prevailing market price for the shares or in negotiated transactions. We will not receive any of the proceeds from the sale of the shares.

Our common stock is traded on the Nasdaq National Market under the symbol NCEN. On March 6, 2002, the last reported sale price of our common stock on the Nasdaq National Market was \$18.65 per share.

INVESTING IN OUR COMMON STOCK INVOLVES RISKS. WE REFER YOU TO THE DISCUSSION OF CERTAIN RISKS THAT PURCHASERS OF OUR COMMON STOCK SHOULD CONSIDER CONTAINED IN THE SECTION ENTITLED RISK FACTORS BEGINNING ON PAGE 1.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 2002

No person has been authorized to give any information or to make any representations other than those contained in this prospectus in connection with this offering, and if given or made, such information or representations may not be relied upon as having been authorized by New Century Financial Corporation (referred to in this prospectus as New Century, we, us, our, or the registrant), and selling stockholder or by any other person. Neither the delivery of this prospectus nor the sale made hereunder shall, under any circumstances, create the implication that information herein is correct as of any time subsequent to the date hereof. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any security other than the securities covered by this prospectus, nor does it constitute an offer to or a solicitation of any person in any jurisdiction in which an offer or solicitation may not lawfully be made.

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| <u>Risk Factors</u> | 1 |
| <u>Incorporation of Certain Documents By Reference</u> | 5 |
| <u>Use of Proceeds</u> | 7 |
| <u>Selling Stockholders</u> | 7 |
| <u>Plan of Distribution</u> | 10 |
| <u>Legal Matters</u> | 12 |
| <u>Experts</u> | 12 |
| <u>Where You Can Find Additional Information</u> | 12 |

RISK FACTORS

You should carefully consider the risks described below before making a decision to buy our common stock. If any of the following risks actually occurs, our business could be harmed. In that case, the trading price of our common stock could decline, and you may lose all or part of your investment. When determining whether to buy our common stock you should also refer to the other information in this prospectus, including the documents incorporated by reference herein.

A change in the assumptions we use to determine the value of our residual interests could adversely affect our financial position.

As of December 31, 2001, the value of our residual interests from securitization transactions on our balance sheet was \$306.9 million. The value of these residuals is a function of the delinquency, loss, prepayment and discount rate assumptions we use to determine their value. During 2000, we changed these assumptions to reflect trends in actual pool performance, prepayment experience and the interest rate environment. As a result of these changes, we recorded reductions in the value of our residuals by \$67.0 million. The reductions consisted of the following components:

\$25.6 million resulted from changes to the prepayment and loss assumptions used in the valuation of the residual interests;

\$14.5 million resulted from a change in the discount rate on our residuals from 12% to 13% and on our NIM bonds from 14% to 15%;
and

\$26.9 million resulted from the exercise by Salomon Smith Barney, Inc. of the call provision for our 1998-NC5 security in December 2000. We do not have any other residual interests that have a call provision similar to 1998-NC5.

In 2001, we increased the loss and delinquency assumptions we use to value our residuals to match the trends we were observing in the actual performance of the underlying pools of mortgages. However, significant declines in interest rates resulted in a compensating increase in the anticipated cash flow from the residuals. As a result, we did not need to adjust the overall value of our residuals.

In the future, if our actual experience differs materially from the revised prepayment, delinquency, loss and interest rate assumptions we used to calculate residual value, future cash flows and earnings could be negatively affected.

A prolonged economic slowdown or a lengthy or severe recession could hurt our operations, particularly if it results in a decline in the real estate market.

The risks associated with our business are more acute during periods of economic slowdown or recession because these periods may be accompanied by decreased demand for consumer credit and declining real estate values. Declining real estate values reduce the ability of borrowers to use home equity to support borrowings because they negatively affect loan-to-value ratios of the home equity collateral. In addition, because we make a substantial number of loans to credit-impaired borrowers, the actual rates of delinquencies, foreclosures and losses on these loans could be higher during economic slowdowns. Any sustained period of increased delinquencies, foreclosures or losses could adversely affect our ability to sell loans, the prices we receive for our loans, or the value of our residual interests in securitizations, which could have a material adverse effect on our results of operations, financial condition and business prospects.

High delinquencies or losses on the mortgage loans in our securitizations may decrease our cash flows or impair our ability to sell or securitize loans in the future.

Loans we make to lower credit grade borrowers, including credit-impaired borrowers, entail a higher risk of delinquency and higher losses than loans we make to borrowers with better credit. Virtually all of our loans are made to borrowers who do not qualify for loans from conventional mortgage lenders. No assurance can be given that our underwriting criteria or methods will afford adequate protection against the higher risks associated with

loans made to lower credit grade borrowers. We continue to be subject to risks of default and foreclosure following the sale of loans through securitization. To the extent such losses are greater than expected, the cash flows we receive through residual interests would be reduced. Increased delinquencies or losses may also reduce our ability to sell or securitize loans in the future. Any such reduction in our cash flows or impairment in our performance could have a material adverse effect on our results of operations, financial condition and business prospects.

Our earnings may decrease because of increases or decreases in interest rates.

Our profitability may be directly affected by changes in interest rates. First, these changes may reduce the spread we earn between the interest we receive on our loans and our funding costs. Second, a substantial and sustained increase in interest rates could adversely affect borrower demand for our products. Third, during periods of rising interest rates, the value and profitability of our loans may be negatively affected from the date of origination or purchase until the date we sell or securitize the loan. Fourth, our adjustable rate mortgage loans have periodic and lifetime interest rate caps above which the interest rate on the loans may not rise. In the event of general interest rate increases, the rate of interest on these mortgage loans could be limited, while the rate payable on the senior certificates representing interests in a securitization trust into which these loans are sold may be uncapped. This would reduce the amount of cash we receive over the life of our residual interests, and require us to reduce the carrying value of our residual interests. Fifth, a significant decrease in interest rates could increase the rate at which loans are prepaid, which also could require us to reduce the carrying value of our residual interests. If prepayments are greater than expected, the cash we receive over the life of our residual interests would be reduced. Any such change in interest rates could have a material adverse effect on our results of operations, financial condition and business prospects.

If we are unable to maintain adequate financing sources, our earnings and financial position will suffer and jeopardize our ability to continue operations.

We require substantial cash to support our operating activities and growth plans, which is provided primarily by \$1.7 billion in short-term warehouse and aggregation credit facilities to fund loan originations and purchases pending the pooling and sale of such loans. We also have residual financing agreements that provide us with financing secured by residual interests we have retained in certain securitization transactions and securitization transactions involving net interest margin securities, or NIMs. If we cannot maintain or replace these facilities on comparable terms and conditions, we may incur substantially higher interest expense that would reduce our profitability.

During volatile times in the capital markets, access to warehouse, aggregation and residual financing has been severely constricted. If we are unable to maintain adequate financing or other sources of capital are not available, we would be forced to suspend or curtail our operations, which would have a material adverse effect on our results of operations, financial condition and business prospects.

An interruption or reduction in the securitization and whole loan markets would hurt our financial position.

We are dependent on the securitization market for the sale of our loans because we securitize loans directly and many of our whole loan buyers purchase our loans with the intention to securitize them. The securitization market is dependent upon a number of factors, including general economic conditions, conditions in the securities market generally and conditions in the asset backed securities market specifically. In addition, poor performance of our previously securitized loans could harm our access to the securitization market. Accordingly, a decline in the securitization market or a change in the market's demand for our loans could have a material adverse effect on our results of operations, financial condition and business prospects.

Our inability to realize cash proceeds from loan sales and securitizations in excess of the loan acquisition cost could adversely affect our financial position.

The net cash proceeds received from loan sales consist of the premiums we receive on sales of loans in excess of the outstanding principal balance, plus the cash proceeds we receive from securitizations, minus the discounts on loans that we have to sell for less than the outstanding principal balance. If we are unable to originate loans at a cost lower than the cash proceeds realized from loan sales, our results of operations, financial condition and business prospects could be materially adversely affected.

Our warehouse and aggregation financing is subject to margin calls based on the lender's opinion of the value of our loan collateral. An unanticipated large margin call could adversely affect our liquidity.

The amount of financing we receive under our warehouse and aggregation financing agreements depends in large part on the lender's valuation of the mortgage loans that secure the financings. Each such credit facility provides the lender the right, under certain circumstances, to reevaluate the loan collateral that secures our outstanding borrowings at any time. In the event the lender determines that the value of the loan collateral has decreased, it has the right to initiate a margin call. A margin call would require us to provide the lender with additional collateral or to repay a portion of the outstanding borrowings. Any such margin call could have a material adverse effect on our results of operations, financial condition and business prospects.

Our business is dependent upon conditions in California where we conduct a significant amount of our business.

In 2001, approximately 43.6% of the mortgage loans we originated or purchased were secured by property in California. An overall decline in the economy or the residential real estate market, or the occurrence of a natural disaster, such as an earthquake, or a major terrorist attack in California could adversely affect the value of the mortgaged properties in California and increase the risk of delinquency, foreclosure, bankruptcy, or loss on mortgage loans in our portfolio. This would negatively affect our ability to purchase, originate and securitize mortgage loans, which could have a material adverse effect on our business, financial condition and results of operations.

In 2001, California experienced energy shortages. As a result, energy costs, including natural gas and electricity, may increase significantly in the future. There may also be limitations in the amount of energy resulting in power blackouts during short periods of time. Therefore, because our headquarters, a substantial number of our branch offices and some of the independent brokers in our wholesale network are based in California, our operations may be disrupted and operating expenses may increase in the future. Any such disruption or increase in expenses could be material and could adversely affect our loan originations, margins and our profitability. To date, we have not experienced material increases in our overall operating expenses. However, if the power outages associated with the energy crisis continue or become more severe, we could experience material disruptions or cost increases in the future, which could have a material adverse effect on our results of operations, financial condition and business prospects.

Many of our competitors are larger and have greater financial resources than we do, which could make it difficult for us to compete successfully, and we could face new competitors.

We face intense competition in the business of originating, purchasing and selling mortgage loans. Many of our competitors are substantially larger and have considerably greater financial, technical and marketing resources than we do. In addition, certain government sponsored entities, such as Fannie Mae and Freddie Mac, are beginning to purchase some categories of non-prime loans, which may cause new competitors to enter our market and reduce our profit margins.

Certain large finance companies and conforming mortgage originators also originate non-prime mortgage loans to customers similar to the borrowers we serve. Competitors with lower costs of capital have a competitive advantage over us. In addition, establishing a wholesale lending operation such as ours requires a relatively small commitment of capital and human resources. This low barrier to entry permits new competitors to enter our markets quickly and compete with our wholesale lending business. Several new wholesale originators have been formed in recent quarters and have recruited former senior managers from our wholesale division. If these competitors are able to attract some of our key employees and disrupt our broker relationships, it could have a material adverse effect on our results of operations, financial condition and business prospects.

Changes in the volume and cost of loans originated by our wholesale division may decrease our loan production and decrease our earnings.

We depend primarily on independent mortgage brokers and, to a lesser extent, on correspondent lenders for the origination and purchase of our wholesale mortgage loans, which constitute the majority of our loan production. These independent mortgage brokers have relationships with multiple lenders and are not obligated by contract or

otherwise to do business with us. We compete with these lenders for the independent brokers' business on pricing, service, loan fees, costs and other factors. Competition from other lenders and purchasers of mortgage loans could negatively affect the volume and pricing of our wholesale loans, which could have a material adverse effect on our results of operations, financial condition and business prospects.

A decline in the quality of servicing of the loans could lower the value of our residual interests and our ability to sell or securitize loans.

In March 2001, we sold to Ocwen Federal Bank FSB the servicing rights on \$4.18 billion of our servicing portfolio which was comprised of 25 separate asset-backed securities. In August 2001, Ocwen began servicing all of our newly originated loans pending their sale or securitization. In February 2002, we announced the intent to re-establish our loan servicing platform and have begun to add the necessary infrastructure. Ocwen will continue to service the mortgage loans in our existing securities. Poor servicing and collections could adversely affect the value of our residual interests and our ability to sell or securitize loans, which could have a material adverse effect on our results of operations, financial condition and business prospects.

We may be required to repurchase mortgage loans or indemnify investors if we breach representations and warranties, which would adversely impact our earnings.

When we sell loans, we are required to make customary representations and warranties about such loans to the loan purchaser. Our whole loan sale agreements require us to repurchase or substitute loans in the event we breach a representation or warranty given to the loan purchaser or make a misrepresentation during the mortgage loan origination process. In addition, we may be required to repurchase loans as a result of borrower fraud or in the event of early payment default on a mortgage loan. Likewise, we are required to repurchase or substitute loans if we breach a representation or warranty in connection with our securitizations. The remedies available to a purchaser of mortgage loans are generally broader than those available to us against the originating broker or correspondent. Further, if a purchaser enforces its remedies against us, we may not be able to enforce the remedies we have against the sellers. The repurchased loans typically can only be financed at a steep discount to their repurchase price, if at all. They are also typically sold at a significant discount to the unpaid principal balance. Significant repurchase activity could negatively affect our cash flow and results of operations.

New legislation could restrict our ability to make mortgage loans, which could adversely impact our earnings.

Several states and cities are considering or have passed laws, regulations or ordinances aimed at curbing predatory lending practices. The federal government is also considering legislative and regulatory proposals in this regard. In general, these proposals involve lowering the existing federal Homeownership and Equity Protection Act thresholds for defining a high-cost loan, and establishing enhanced protections and remedies for borrowers who receive such loans. However, many of these laws and rules extend beyond curbing predatory lending practices to restrict commonly accepted lending activities, including some of our activities. For example, some of these laws and rules prohibit any form of prepayment charge or severely restrict a borrower's ability to finance the points and fees charged in connection with his or her loan. Passage of these laws and rules could reduce our loan origination volume. In addition, for reputation reasons and because of the enhanced risk, many whole loan buyers elect not to purchase any loan labeled as a high cost loan under any local, state or federal law or regulation. Accordingly, these laws and rules could severely constrict the secondary market for a significant portion of our loan production. This would effectively preclude us from continuing to originate loans that fit within the newly defined thresholds and would have a material adverse effect on our results of operations, financial condition and business prospects.

If many of our borrowers become subject to the Soldiers' and Sailors' Civil Relief Act of 1940, our cash flows from our residual securities may be adversely affected.

Under the Soldiers' and Sailors' Civil Relief Act of 1940, a borrower who enters military service after the origination of his or her mortgage loan generally may not be charged interest above an annual rate of 6% during the period of the borrower's active duty status. The Act also applies to a borrower who was on reserve status and is called to active duty after origination of the mortgage loan. The significant military mobilization as part of the war on terrorism could increase the number of the borrowers in our securitized pools who are subject to this Act and thereby reduce the interest payments collected from those borrowers. To the extent the number of borrowers who are subject to this Act is significant, the cash flows we receive through residual interests would be reduced, which

would cause us to reduce the carrying value of our residual interests. Any such reduction in our cash flows or impairment in our performance could have a material adverse effect on our results of operations, financial condition and business prospects.

We are exposed to risk of environmental liabilities with respect to properties to which we take title.

In the course of our business, we may foreclose and take title to residential properties, and could be subject to environmental liabilities with respect to these properties. We may be held liable to a governmental entity or to third parties for property damage, personal injury, investigation, and clean-up costs incurred by these parties in connection with environmental contamination, or may be required to investigate or clean up hazardous or toxic substances, or chemical releases at a property. The costs associated with investigation or remediation activities could be substantial. In addition, as the owner or former owner of a contaminated site, we may be subject to common law claims by third parties based on damages and costs resulting from environmental contamination emanating from the property. If we ever become subject to significant environmental liabilities, our business, financial condition and results of operations could be materially and adversely affected.

Our charter and bylaws and Delaware law contain provisions that could discourage a takeover.

Our amended and restated certificate of incorporation and our amended and restated bylaws include various provisions that could delay, defer or prevent a takeover attempt that may be in the best interest of our stockholders. These provisions include the existence of a classified board of directors, the ability of our board of directors to issue additional shares of our preferred stock without any further stockholder approval and requirements that (i) our stockholders give advance notice with respect to certain proposals they may wish to present for a stockholder vote, (ii) our stockholders act only at annual or special meetings and (iii) two-thirds of all directors approve a change in the number of directors on our board of directors. Issuance of our preferred stock could also discourage bids for the common stock at a premium as well as create a depressive effect on the market price of our common stock.

We are also subject to Section 203 of the Delaware General Corporation Law which, subject to certain exceptions, prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years following the date that the stockholder became an interested stockholder. The preceding provisions of our charter and bylaws, as well as Section 203 of the Delaware General Corporation Law, could discourage potential acquisition proposals, delay or prevent a change of control and prevent changes in our management.

The concentrated ownership of our voting stock by a small group of our stockholders may have an adverse effect on your ability to influence the direction we will take.

Upon completion of the offering, a small group of our stockholders, comprised of our management team, directors, and Brookhaven Capital, will beneficially own an aggregate of approximately 49% of the total voting power of our voting stock. These stockholders, if they were to act in concert, would have near majority control and would have significant ability to influence the approval of certain fundamental corporate transactions (including mergers, consolidations and sale of assets) and the election of all of the members of our board of directors, whether or not their actions are in the best interests of our other stockholders.

Various factors may cause the market price of our common stock to become volatile, which could adversely affect our ability to access the capital markets in the future.

The market price of our common stock may experience fluctuations that are unrelated to our operating performance. In particular, the price of our common stock may be affected by general market price movements as well as developments specifically related to the consumer finance industry and the financial services sector. These could include, among other things, interest rate movements, quarterly variations or changes in financial estimates by securities analysts, or a significant reduction in the price of the stock of another participant in the consumer finance industry. This volatility may make it difficult for us to access the capital markets through public offerings of our common stock, regardless of our financial performance.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The SEC allows us to incorporate by reference the information that we file with it, which means that we can disclose important information to you by referring you to other documents filed with the SEC. The following documents which have been filed by us with the SEC pursuant to the Securities Exchange Act of 1934, as amended, or the Securities Act of 1933, as amended, are incorporated by reference in this prospectus:

The description of our common stock contained in our Registration Statement on Form 8-A filed with the SEC on June 2, 1997; and
Annual Report on Form 10-K for the year ended December 31, 2001.

The information incorporated by reference is considered to be part of this prospectus, and later information that we file with the SEC will automatically update and may supersede this information. In addition, all documents we file pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act subsequent to the date of this prospectus and before the termination of the offering of the common stock offered hereby are incorporated herein by reference and will be a part hereof from the date of filing of such documents.

You may obtain copies of all documents that are incorporated in this prospectus by reference (other than the exhibits to those documents that are specifically incorporated by reference herein) without charge by writing or calling Mr. Stergios Theologides, at New Century Financial Corporation, 18400 Von Karman Avenue, Suite 1000, Irvine, California 92612, telephone number (949) 440-7030.

You should only rely on the information incorporated by reference or provided in this prospectus. We have not authorized anyone else to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in this prospectus or any supplement is accurate as of any date other than the date on the front of those documents. Our business, financial condition, results of operations and business prospects may have changed since that date.

USE OF PROCEEDS

We will not receive any proceeds from the offering. The selling stockholders will receive all the proceeds from the offering. All expenses incurred in connection with registration of the shares, including, without limitation, all registration expenses, all listing fees and all fees and expenses of complying with securities or blue sky laws, will be borne by us. The selling stockholders will bear and pay any underwriting, brokerage and other selling commissions and discounts, and the fees and expenses of counsel(s) to the selling stockholders.

SELLING STOCKHOLDERS

The following table sets forth the number of shares of common stock owned by each of the selling stockholders as of March 6, 2002. To our knowledge, except as provided below, none of the selling stockholders has had a material relationship with us within the past three years other than as a result of the ownership of the shares covered by this prospectus. The shares offered by this prospectus may be offered from time to time by the selling stockholders named below. Because the selling stockholders may offer all or some of the shares which they hold pursuant to the offering contemplated by this prospectus, and because there are currently no agreements, arrangements or understandings with respect to the sale of any of the shares, no definitive estimate can be given as to the amount of shares that will be held by the selling stockholders after completion of this offering and the following table has been prepared on the assumption that all shares of common stock offered hereby will be sold.

| Name of Selling Stockholder | Shares Beneficially Owned(1) | | | | |
|---|------------------------------|----------------------------|----------------|-----------------------|---------------------------|
| | Number Before Offering | Percent Before Offering(2) | Number Offered | Number After Offering | Percent After Offering(2) |
| 4G Investment Group | 40,000 | 0.16% | 40,000 | | |
| AIM Small Cap Equity Fund | 153,000 | 0.63% | 50,000 | 103,000 | 0.42% |
| Archon Partners LP | 19,350 | 0.08% | 15,000 | 4,350 | 0.02% |
| Awad Asset Management | 484,600 | 2.00% | 300,000 | 184,600 | 0.76% |
| Banzai Partners LP | 17,832 | 0.07% | 9,648 | 8,184 | 0.03% |
| Banzai Offshore Fund Ltd. | 7,507 | 0.03% | 5,340 | 5,340 | 0.01% |
| Bay Pond Investors (Bermuda) L.P. | 22,000 | 0.09% | 22,000 | | |
| Bay Pond Partner, L.P. | 135,000 | 0.56% | 135,000 | | |
| Benchmark Partners, L.P. | 12,500 | 0.05% | 12,500 | | |
| Boston Provident Partners | 63,500 | 0.26% | 23,500 | 40,000 | 0.16% |
| BP Institutional Partners | 1,500 | 0.01% | 1,500 | | |
| BPSS Dublin / Swiss Life American Fund | 18,000 | 0.07% | 18,000 | | |
| Capital Crossover Partners LP | 20,850 | 0.09% | 13,066 | 7,784 | 0.03% |
| Capital Crossover Partners (QP) LP | 303,262 | 1.25% | 190,044 | 113,218 | 0.47% |
| CCP Executive Fund LP | 32,063 | 0.13% | 20,093 | 11,970 | 0.05% |
| Condor Partners LP | 40,500 | 0.17% | 30,000 | 10,500 | 0.04% |
| Elks Youth Eye Service | 12,000 | 0.05% | 5,500 | 6,500 | 0.03% |
| Endeavor Asset Management | 7,500 | 0.03% | 7,500 | | |
| Endicott Partners, L.P. | 35,000 | 0.14% | 35,000 | | |
| Endicott Partners II, L.P. | 20,000 | 0.08% | 20,000 | | |
| Endicott Offshore Investment, Ltd. | 20,000 | 0.08% | 20,000 | | |
| FBR Employees Capital Crossover Partners, L.P. | 18,825 | 0.08% | 11,797 | 7,028 | 0.03% |
| First Financial Fund | 272,000 | 1.12% | 243,000 | 29,000 | 0.12% |
| Frorer Partners L.P. | 10,000 | 0.04% | 10,000 | | |
| Greenlight Capital, LP | 89,200 | 0.37% | 89,200 | | |
| Greenlight Capital Qualified, LP | 34,300 | 0.14% | 34,300 | | |
| Greenlight Capital Offshore, Ltd. | 101,500 | 0.42% | 101,500 | | |
| Richard A. Horstmann(3) | 1,973,753 | 8.13% | 250,000 | 1,723,753 | 7.10% |
| Investors of America, Limited Partnership | 265,000 | 1.09% | 60,000 | 205,000 | 0.84% |
| James F. Dierberg IRA Rollover | 40,000 | 0.16% | 40,000 | | |
| Kensington Realty Income Fund LP | 18,500 | 0.08% | 18,500 | | |
| Lincoln National Global Asset Allocation Fund, Inc. | 5,100 | 0.02% | 5,100 | | |
| Lyxor Asset Management (Managed Acct) | 129,907 | 0.54% | 79,245 | 50,662 | 0.21% |
| M&M Arbitrage, LLC | 50,200 | 0.21% | 50,200 | | |

| Name of Selling Stockholder | Shares Beneficially Owned(1) | | | | |
|--|------------------------------|----------------------------|------------------|-----------------------|---------------------------|
| | Number Before Offering | Percent Before Offering(2) | Number Offered | Number After Offering | Percent After Offering(2) |
| M&M Arbitrage Fund II, LLC | 59,900 | 0.25% | 59,900 | | |
| M&M Arbitrage Offshore, Ltd. | 64,900 | 0.27% | 64,900 | | |
| M&M Opportunity Fund, LLC | 50,000 | 0.21% | 50,000 | | |
| Malta Hedge Fund, LP | 5,200 | 0.02% | 5,200 | | |
| Malta Hedge Fund II, LP | 19,200 | 0.08% | 19,200 | | |
| Malta Offshore, Ltd. | 1,800 | 0.01% | 1,800 | | |
| Malta Partners, LP. | 1,800 | 0.01% | 1,800 | | |
| Malta Partners II, LP | 7,000 | 0.03% | 7,000 | | |
| Mark T. Dodson Family Trust | 10,000 | 0.04% | 10,000 | | |
| MicroCapital, LLC | 20,000 | 0.08% | 20,000 | | |
| Millenium Global Offshore, Ltd. | 45,000 | 0.19% | 45,000 | | |
| Pennant Offshore Partners, Ltd. | 180,690 | 0.74% | 85,860 | 94,830 | 0.16% |
| Pennant Onshore Partners, L.P. | 25,370 | 0.10% | 14,650 | 10,720 | 0.39% |
| Pennant Onshore Qualified, L.P. | 64,990 | 0.27% | 24,490 | 40,500 | 0.04% |
| Points West Int 1 Invest. Ltd. | 37,114 | 0.15% | 26,262 | 10,852 | 0.17% |
| Potomac Capital Partners, LP | 5,000 | 0.02% | 5,000 | | |
| Putnam Asset Allocation Funds Balanced Portfolio | 42,500 | 0.18% | 42,500 | | |
| Putnam Asset Allocation Funds Growth Portfolio | 22,000 | 0.09% | 22,000 | | |
| Putnam Investment Funds Putnam Small Cap Value Fund | 164,900 | 0.68% | 164,900 | | |
| Putnam Variable Trust Putnam VT Global Asset Allocation Fund | 9,900 | 0.04% | 9,900 | | |
| Putnam Variable Trust Putnam VT Small Cap Value Fund | 53,500 | 0.22% | 53,500 | | |
| Putnam World Trust II Putnam U.S. Small Cap Value Equity Fund | 2,100 | 0.01% | 2,100 | | |
| Radyr Investments Limited | 20,000 | 0.08% | 20,000 | | |
| Retirement Plan Partners, LP | 15,180 | 0.06% | 11,500 | 3,680 | 0.02% |
| Riggs Partners, LLC | 100,000 | 0.41% | 100,000 | | |
| Michael Sachs(4) | 567,382 | 2.34% | 527,582 | 39,800 | 0.16% |
| Seneca Capital International, Ltd. | 87,325 | 0.36% | 87,325 | | |
| Seneca Capital L.P. | 37,675 | 0.16% | 37,675 | | |
| Silver Capital Management | 6,962 | 0.03% | 6,962 | | |
| Stanley Shopkorn | 50,000 | 0.21% | 50,000 | | |
| Stratford Partners, LP | 20,000 | 0.08% | 20,000 | | |
| Sunova Long Term Opportunity Fund, L.P. | 99,100 | 0.41% | 16,000 | 83,100 | 0.34% |
| Sunova Offshore Ltd. | 543,784 | 2.24% | 194,000 | 349,784 | 1.44% |
| Sunova Partners, L.P. | 181,500 | 0.75% | 90,000 | 167,500 | 0.38% |
| Swiss Life (UK) PLC | 7,000 | 0.03% | 7,000 | | |
| The Pinnacle Fund, L.P. | 40,000 | 0.16% | 40,000 | | |
| Third Point Partners LP | 121,394 | 0.50% | 68,850 | 52,544 | 0.22% |
| Third Point Offshore Fund Ltd. | 178,553 | 0.74% | 110,655 | 67,898 | 0.28% |
| Thomas B. Akin | 25,000 | 0.10% | 25,000 | | |
| Umpqua Investment Company, LLC | 13,500 | 0.06% | 6,000 | 7,500 | 0.03% |
| Veritas SB Investment Trust | 5,000 | 0.02% | 5,000 | | |
| Warren Kantor Profit Sharing Plan | 10,000 | 0.04% | 10,000 | | |
| WCFS, Inc. | 10,000 | 0.04% | 3,000 | 7,000 | 0.03% |
| Whiffletree Partners LP | 12,500 | 0.05% | 12,500 | | |
| Whitehead 1980 Charitable Trust | 1,000 | | 500 | 500 | |
| Total | 7,519,968 | | 4,152,044 | 3,367,924 | |

(1) This registration statement shall also cover any additional shares of common stock which become issuable in connection with the shares registered for sale hereby by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration which results in an increase in the number of the registrant's outstanding shares of common stock.

- (2) If a stockholder holds options or other securities that are exercisable or otherwise convertible into our common stock within 60 days of March 6, 2002, we treat the common stock underlying those securities as owned by that stockholder, and as outstanding shares when we calculate that stockholder's percentage ownership of our common stock. However, we do not consider that common stock to be outstanding when we calculate the percentage ownership of any other stockholder.
- (3) In this filing, Richard A. Horstmann disclaims beneficial ownership of 1,173,753 shares.
- (4) Includes 225,232 shares of common stock owned by Westrec PS Plan, of which Mr. Sachs is the trustee and sole beneficiary, and 3,500 shares owned by Mr. Sachs' wife. Also includes 15,000 shares of common stock issuable pursuant to options exercisable within 60 days of March 6, 2002. In this offering, 211,032 shares are being sold by Westrec PS Plan and 316,550 shares are being sold by Mr. Sachs. Mr. Sachs is one of our directors.

PLAN OF DISTRIBUTION

Pursuant to purchase agreements entered into on or about February 28, 2002 among us, one of our stockholders and the selling stockholders, we agreed to keep this registration statement current and effective under the Securities Act, subject to certain exceptions, until the earlier of (i) the second anniversary of the effective date of the registration statement, (ii) the date on which the shares become eligible for resale by non-affiliates by reason of Rule 144(k) under the Securities Act or any other rule of similar effect, or (iii) the date on which the shares purchased by such purchaser have been sold pursuant to a registration statement.

As used in this PLAN OF DISTRIBUTION, the term selling stockholders includes the selling stockholders named in the table above and any permitted transferees or other successors-in-interest of shares received from a named selling stockholder who is a permitted assignee of the registration rights contained in the purchase agreement after the date of this prospectus. The selling stockholders may sell the shares from time to time and may also decide not to sell all the shares they are allowed to sell under this prospectus. The selling stockholders will act independently of us in making decisions with respect to the timing, manner and size of each sale. The sales may be made on one or more exchanges or in the over-the-counter market or otherwise, at prices and at terms then prevailing or at prices related to the then current market prices, or in negotiated transactions. The selling stockholders may effect such transactions by selling the shares to or through broker-dealers.

To the extent required, this prospectus may be amended or supplemented from time to time to describe a specific plan of distribution. In effecting sales, broker-dealers engaged by the selling stockholders may arrange for other broker-dealers to participate in the resales.

The selling stockholders may enter into hedging transactions with broker-dealers in connection with distributions of shares or otherwise. In such transactions, broker-dealers may engage in short sales of shares in the course of hedging the positions they assume with selling stockholders. The selling stockholders also may sell shares short and redeliver shares to close out such short positions. The selling stockholders may enter into option or other transactions with broker-dealers which require the delivery of shares to the broker-dealer. The broker-dealer may then resell or otherwise transfer such shares pursuant to this prospectus. The selling stockholders also may loan or pledge shares to a broker-dealer. The broker-dealer may sell the shares so loaned, or upon a default the broker-dealer may sell the shares so pledged, pursuant to this prospectus.

Broker-dealers or agents may receive compensation in the form of commissions, discounts or concessions from selling stockholders. Broker-dealers or agents may also receive compensation from the purchasers of shares for whom they act as agents or to whom they sell as principals, or both. Broker-dealers or agents and any other participating broker-dealers or the selling stockholders may be deemed to be underwriters within the meaning of Section 2(11) of the Securities Act in connection with sales of shares. Accordingly, any such commission, discount or concession received by them and any profit on the resale of shares purchased by them may be deemed to be underwriting discounts or commissions under the Securities Act. Because selling stockholders may be deemed to be underwriters within the meaning of Section 2(11) of the Securities Act, the selling stockholders will be subject to the prospectus delivery requirements of the Securities Act. Any shares of a selling stockholder covered by this prospectus which qualify for sale pursuant to Rule 144 promulgated under the Securities Act may be sold under Rule 144, rather than pursuant to this prospectus.

The shares may be sold by selling stockholders only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states the shares may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Securities Exchange Act, any person engaged in the distribution of shares may not simultaneously engage in market making activities with respect to our common stock for a period of two business days prior to the commencement of such distribution. In addition, each selling stockholder will be subject to applicable provisions of the Securities Exchange Act and the associated rules and regulations under the Securities Exchange Act, including Regulation M, which provisions may limit the timing of purchases and sales of shares of our common stock by the selling stockholders. We will make copies of this prospectus available to the selling stockholders and have informed them of the need for delivery of copies of this prospectus to purchasers at or prior to the time of any sale of the shares.

Pursuant to the terms of the purchase agreement, we agreed to pay all expenses incurred in connection with registration of the shares, including, without limitation, all registration expenses, all listing fees and all fees and expenses of complying with securities or blue sky laws. The selling stockholders will bear and pay any underwriting, brokerage and other selling commissions and discounts, and the fees and expenses of counsel(s) to the selling stockholders. We have agreed to indemnify the selling stockholders against certain liabilities, including liabilities under the Securities Act. The selling stockholders may agree to indemnify any broker-dealer or agent that participates in transactions involving sales of the shares against certain liabilities, including liabilities arising under the Securities Act.

LEGAL MATTERS

The validity of the securities offered hereby will be passed upon for us by O Melveny & Myers LLP, Newport Beach, California.

EXPERTS

The consolidated financial statements of New Century Financial Corporation and subsidiaries as of December 31, 2001 and 2000 and for each of the years in the three-year period ended December 31, 2001 are incorporated by reference in this prospectus and elsewhere in this registration statement in reliance upon the report of KPMG LLP, independent auditors, incorporated by reference herein, and upon the authority of such firm as experts in accounting and auditing.

WHERE YOU CAN FIND ADDITIONAL INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy the materials we file at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the Public Reference Rooms. Our SEC filings are also available to the public from the SEC's World Wide Web site on the Internet at <http://www.sec.gov>. This site contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC. You may also read and copy this information at the National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006.

We maintain an Internet site on the World Wide Web at www.ncen.com. The information contained on our website is not a part of this prospectus and you should not rely on it in deciding whether to invest in our common stock.

We have filed a registration statement, of which this prospectus is a part, covering the offered securities. As allowed by the SEC rules, this prospectus does not include all of the information contained in the registration statement and the included exhibits, financial statements and schedules. We refer you to the registration statement, the included exhibits, financial statements and schedules for further information. This prospectus is qualified in its entirety by such other information.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution.

The expenses in connection with the offer and sale of the securities being registered are estimated as follows:

| | |
|---------------------------------|---------------------|
| SEC registration fee | \$ 6,032.00 |
| Legal fees and expenses | \$100,000.00 |
| Accounting fees and expenses | \$ 5,000.00 |
| Printing fees | \$ 1,000.00 |
| Miscellaneous fees and expenses | \$ 5,000.00 |
| Total | \$117,032.00 |

Item 15. Indemnification of Directors and Officers

Under Section 145 of the Delaware General Corporation Law, or the DGCL, we have broad powers to indemnify our directors and officers against liabilities they may incur in such capacities, including liabilities under the Securities Act.

Our Amended and Restated Certificate of Incorporation provides that a director of the company shall not be liable to the company or its stockholders for monetary damages for breach of fiduciary duty as a director except to the extent provided by applicable law for any breach of the director's duty of loyalty to the company or its stockholders, for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, pursuant to Section 174 of the DGCL or for any transaction from which the director derives an improper personal benefit. Under the DGCL, liability of a director may not be limited (i) for any breach of the director's duty of loyalty to the Company or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) in respect of certain unlawful dividend payments or stock redemptions or repurchases and (iv) for any transaction from which the director derives an improper personal benefit. The effect of the provisions of our Amended and Restated Certificate of Incorporation is to eliminate the rights of the company and its stockholders (through stockholders' derivative suits on behalf of the company) to recover monetary damages against a director for breach of the fiduciary duty of care as a director (including breaches resulting from negligent or grossly negligent behavior), except as provided in our Amended and Restated Certificate of Incorporation and in the situations described in clauses (i) through (iv) above. This provision does not limit or eliminate the rights of the company or any stockholder to seek nonmonetary relief such as an injunction or rescission in the event of a breach of a director's duty of care.

Our Amended and Restated Bylaws provide that we will indemnify our directors and officers to the fullest extent permitted by the DGCL, subject to certain limitations for settlements not approved by us, for losses covered by an insurance policy, for judgments for an accounting of profits pursuant to Section 16(b) of the Securities Exchange Act and similar laws and where prohibited by applicable law.

We have entered into agreements with each of our directors and officers pursuant to which we have agreed to indemnify such director or officer from claims, liabilities, damages, expenses, losses, costs, penalties or amounts paid in settlement incurred by such director or officer in or arising out of his capacity as a director, officer, employee and/or agent of the company or any other corporation of which such person is a director or officer at the request of the company to the maximum extent provided by applicable law. In addition, such director or officer is entitled to an advance of expenses to the maximum extent authorized or permitted by law.

At present, there is no pending litigation or proceeding involving a director or officer of the company as to which indemnification is being sought nor are we aware of any threatened litigation that may result in claims for indemnification by any officer or director.

Item 16. Exhibits

| Exhibit Number | Description |
|---------------------------|---|
| 5.1 | Opinion of O Melveny & Myers LLP. |
| 23.1 | Consent of KPMG LLP, independent auditors. |
| 23.2 | Consent of O Melveny & Myers LLP (included in Exhibit 5.1 hereto). |
| 24.1 | Power of Attorney (included on page II-4 of this registration statement). |

Item 17. Undertakings

The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) to include any prospectus required by section 10(a)(3) of the Securities Act, unless the information required to be included in such post-effective amendment is contained in periodic reports filed by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act and incorporated herein by reference;
 - (ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement, unless the information required to be included in such post-effective amendment is contained in a periodic report filed by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act and incorporated herein by reference. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and
 - (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.
- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered there in, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (5) That, insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate

jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

II-3

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement on Form S 3 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Irvine, State of California, on the 7th of March, 2002.

NEW CENTURY
FINANCIAL
CORPORATION

By:

/s/ BRAD
A.
MORRICE

Brad A.
Morrice
Vice
Chairman,
President
and Chief
Operating
Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Robert K. Cole and Brad A. Morrice, or each of them individually, as his true and lawful attorneys-in-fact and agent, with full power of substitution and resubstitution, for him and in his name, place, and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments, exhibits thereto and other documents in connection therewith) to this registration statement and any subsequent registration statement filed by the registrant pursuant to Rule 462(b) of the Securities Act of 1933, as amended, which relates to this registration statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agent, or any of them, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|--|---|---------------|
| /s/ ROBERT K. COLE _____ Robert K. Cole | Chairman of the Board and Chief Executive Officer (Principal Executive Officer) | March 7, 2002 |
| /s/ BRAD A. MORRICE _____ Brad A. Morrice | Vice Chairman, President and Chief Operating Officer | March 7, 2002 |
| /s/ EDWARD F. GOTSCHALL _____ Edward F. Gotschall | Vice Chairman and Chief Financial Officer (Principal Financial and Accounting Officer) | March 7, 2002 |
| /s/ FREDRIC J. FORSTER _____ Fredric J. Forster | Director | March 7, 2002 |

Edgar Filing: NEW CENTURY FINANCIAL CORP - Form S-3

/s/ MICHAEL M. SACHS

Director

March 7, 2002

Michael M. Sachs

/s/ TERRENCE P. SANDVIK

Director

March 7, 2002

Terrence P. Sandvik

/s/ RICHARD A. ZONA

Director

March 7, 2002

Richard A. Zona

II-4

INDEX TO EXHIBITS

| Exhibit Number | Description of Exhibit |
|---------------------------|---|
| 5.1 | Opinion of O Melveny & Myers LLP. |
| 23.1 | Consent of KPMG LLP, independent auditors. |
| 23.2 | Consent of O Melveny & Myers LLP (included in Exhibit 5.1 hereto). |
| 24.1 | Power of Attorney (included on page II-4 of this registration statement). |