

# BUSINESS



The Miami Herald



WEDNESDAY, MAY 13, 2009 | EDITOR: DAVE WILSON dwilson@MiamiHerald.com | 305-376-3685

A1

## THE MARKETS

STOCKS, MUTUAL FUNDS, 4C

DOW 30	8,469.11	+50.34	▲
S&P 500	908.35	-0.89	▼
NASDAQ	1,715.92	-15.32	▼
10-YR NOTE	3.18	+0.01	▲
CRUDE OIL	\$58.85	+\$0.35	▲

## Stocks end mixed

Investors are finding it hard to extend Wall Street's two-month rally. Stocks ended mixed but well off their lows as early concerns about a barrage of stock offerings eased and as rising oil prices lifted energy stocks. Investors have shifted into defensive corners of the market, driving up shares of drug makers like Pfizer and drink maker Coca-Cola Inc., which tend to hold up better in economic downturns.

## BUSINESS BRIEFS

### INVESTMENT FUNDS

#### Madoff trustee sues fund

The trustee overseeing the liquidation of disgraced financier Bernard Madoff's assets sued another investment fund on Tuesday, claiming it owes Madoff's victims more than \$1 billion it withdrew from his firm.

The complaint in Manhattan bankruptcy court alleges Harley International knew or should have known that the fortune came out of the pockets of victims of Madoff's giant Ponzi scheme. Of the \$1 billion total, the private, overseas hedge fund withdrew \$425 million during the three months before Madoff's arrest last year.

Trustee Irving Picard said the hedge funds' investments with Bernard L. Madoff Investment Securities resulted in returns that were "too good to be true."

### HOUSING MARKET

#### Home prices drop in 1Q

Home prices fell in nearly nine out of every 10 U.S. cities in the first quarter of this year as first-time buyers looking for bargains dominated the market.

While sales rose in six states that were among the hardest hit by the housing slump — including Florida — analysts said the nascent signs of recovery in the market could be short-lived if employers continue to lay off workers in bulk.

The National Association of Realtors said median sales prices of existing homes declined in 134 out of 152 metropolitan areas compared with the same period a year ago. Prices rose in the other 18 cities. The biggest drop, of more than 50 percent, was in Fort Myers.

### SEC INVESTIGATION

#### Stanford exec indicted

Laura Pendergest-Holt, the Stanford Financial Group Co. executive accused of obstructing the U.S. Securities and Exchange Commission's probe into an alleged \$8 billion Ponzi scheme, has been indicted by a federal grand jury.

Pendergest-Holt, 35, faces one count of conspiracy to obstruct and one count of substantive obstruction related to the federal investigation of her boss, Texas billionaire R. Allen Stanford, according to her attorneys and the U.S. Department of Justice.

The U.S. Securities and Exchange Commission sued Stanford, Pendergest-Holt and the company's finance chief, James Davis, on Feb. 17, alleging they defrauded investors through the sale of \$8 billion in bogus certificates of deposit from Antigua-based Stanford International Bank Ltd.

### LAWSUITS

#### Teflon case dropped

A lawsuit against DuPont Co. claiming its nonstick Teflon cookware coating could pose health risks to users has been dropped.

The lawsuit included 22 cases from about 15 states. All had been consolidated to be heard in federal court in Des Moines. But after the court decided the cases couldn't be certified as a class-action, the plaintiffs decided not to pursue the suit. The court didn't rule on whether the cookware is safe.

## EMPLOYMENT

# Fla. job losses may be slowing

Help-wanted ads remain weak in Florida but may be leveling out, which would be a good sign for the state's economy.

BY SCOTT ANDRON  
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In a sign that Florida's job market may be stabilizing, online help-wanted advertising is up slightly from earlier this year, according to data published Tuesday.

But such advertising remains down almost 30 percent compared

to this time last year, according to the study by the Conference Board, a New York-based research group that also publishes a monthly index of national consumer confidence.

The gap between the number of unemployed workers and the number of available jobs also remains wide, according to the Conference Board's analysis. The group calculates that there were 5.41 unemployed Floridians chasing each advertised job in the state in March, which is worse than the

national rate of 4.05 job-seekers per job. In contrast, there was just 1.1 job-seeker per job back in October 2006. April unemployment figures won't be released until later this month.

The total number of online job ads in Florida in April was 158,800, according to the board's monthly Help Wanted OnLine Data Series. That's down from 165,100 in March, but up a bit from February. "Given the past three months of data, Florida's labor demand will have to be watched to see if the

recent short-term trend is signaling a bottoming in the decline in labor demand and a possible sign of recovery," said June Shelp, an economist and vice president of The Conference Board.

Nevertheless, the job market remains extremely competitive for workers compared to April 2008, when 224,800 jobs were advertised.

And want ads today don't necessarily translate into jobs tomorrow.

•TURN TO JOBS, 2C

## BALANCING ACT



MARSHA HALPER/MIAMI HERALD STAFF

KEEP MOVING: Canyon Ranch Medical Director Karen Koffler stretches in her office in between meeting patients.

# FIT BODY, FIT MIND

EXERCISE CAN KEEP ECONOMY-RELATED STRESS TO A MINIMUM



CINDY KRISCHER GOODMAN  
cgoodman@miamiherald.com

I want my wrinkles to melt away. I want my belly as flat as the girl in the Google ads. And I certainly want my arms to look as good as Michelle Obama's. But when forced to choose between exercise, work and family, sit-ups and push-ups fall to the bottom of my list.

Unfortunately, the downturn in the economy has most of us working more, trying to find a job, or shifting in a new career direction — giving up exercise and fitness the minute it doesn't fit into our schedule.

Yet, with the tough economy on everyone's mind, exercise is

probably the common denominator that keeps people sane — from employers to employees, to service providers to clients. Some people are taking extraordinary steps to preserve that outlet.

•TURN TO GOODMAN, 2C



Miami Herald.com/blogs  
Read Cindy Krischer Goodman's blog: The Work/Life Balancing Act

## BANKS

# BankUnited sees massive 2Q losses

With bids from prospective buyers due Thursday, BankUnited estimated its big losses continued in the second quarter.

BY MARTHA BRANNIGAN  
mbrannigan@miamiherald.com

BankUnited Financial Corp. estimated a massive loss of \$443.1 million for the fiscal second quarter as a Thursday deadline approached for prospective buyers to submit their bids.

The Coral Gables-based thrift, which is the largest financial institution based in Florida with \$13.14 billion in assets, said the estimated loss for the second quarter ended March 31 leaves the company with a stockholder deficit of \$1.03 billion.

The loss, spurred by a mounting pile of bad loans, amounts to \$12.55 a share. For the year-earlier quarter, BankUnited posted a net loss of \$65.8 million, or \$1.88 a share.

BankUnited estimated the loss in a regulatory filing with the

Securities and Exchange Commission, saying uncertainty about its financial condition has prevented it from preparing its financial results on time. It still hasn't reported actual results for the year 2008 or for the fiscal first quarter either.

According to its latest SEC filing, the bank has kept plenty of liquidity on hand: \$1.3 billion in cash as of May 7. Deposits are insured up to \$250,000 by the Federal Deposit Insurance Corp.

With 85 branches, most of them in South Florida, BankUnited provide a major footprint in the Florida banking market for any buyer.

Prospective buyers of the ailing institution are facing an 11 a.m. Thursday deadline to file their bids with the FDIC, according to a person familiar with the situation. The Office of Thrift Supervision, which has increasingly tightened its grip in recent

•TURN TO BANKUNITED, 2C

## REGULATION



JUSTIN SULLIVAN/GETTY IMAGES

# FDA taking issue with Cheerios' health claims

A warning letter to General Mills says that language on Cheerios boxes suggests the cereal maker is making claims that only FDA-approved drugs can make.

BY MATTHEW PERRONE  
Associated Press

WASHINGTON — Federal regulators have scolded the maker of Cheerios, saying the company made inappropriate claims about the popular cereal's ability to lower cholesterol and treat heart

disease.

The Food and Drug Administration said in a warning letter to General Mills that language on the Cheerios box suggests the cereal is designed to prevent or treat heart disease by lowering cholesterol. Regulators say that only FDA-approved drugs are allowed to make such claims.

Among other claims, the labeling states: "You can lower your cholesterol 4 percent in six

•TURN TO CEREAL, 2C

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BUSINESS PLUS

EMPLOYMENT

# Trend in online help-wanted ads may be good sign

• JOBS, FROM 1C

row. The ads predict employment 3 to 10 months down the road, Shelp said. University of Central Florida economist Sean Snaith was skeptical. "The pace of job loss is slowing, but to say we're bottoming out, especially here in Florida, is premature," said Snaith, who is forecasting a statewide unemployment rate above 10 percent through the end of next year.

Rebecca Rust, chief economist with the Labor Market Statistics Center of the state labor department, said her agency is following the Conference Board's online job ad statistics but that it's too early to say how well they will predict the future.

In the past, economists used newspaper help-wanted ads to predict future demand for workers, but the Conference Board stopped

*"The pace of job loss is slowing, but to say we're bottoming out, especially here in Florida, is premature."*

— SEAN SNAITH, a University of Central Florida economist who is forecasting a statewide unemployment rate above 10 percent through the end of next year

publishing those figures last year because newspaper classifieds have lost so much market share to online job boards.

The Conference Board has been measuring online job ads for only four years, compared to 55 for the newspaper ads. It makes sense that the online ads would predict the same thing, but economists like to see that empirically before drawing any conclusions.

BANKS

# BankUnited sees massive 2Q losses

• BANKUNITED, FROM 1C

week and months, is over-seeing the fate of the company in coordination with the FDIC in an effort to minimize losses to the insurance fund and taxpayers.

The bids are likely to be structured to include proposals for some sort of loss-sharing agreement on the huge portfolio of troubled assets the thrift holds, according to people familiar with the situation.

Three likely bidder groups have emerged. TD Bank, which has a major base in Florida, is expected to join with Goldman Sachs, the New York investment bank, in bidding for the thrift, according to people familiar with the matter.

WL Ross & Co., a distressed asset firm founded by Wilbur Ross, has confirmed that it plans to bid for the thrift. Private equity giants Blackstone Group and Carlyle Group are expected to join in that bid, according to people familiar with the situation.

A third suitor — JC Flowers & Co., a New York investment firm run by J. Christopher Flowers — also is looking at acquiring the thrift, according to a person familiar with the situation.

Ramiro Ortiz, chief executive officer of the ailing thrift, has been looking for new capital to revive the bank.

The government hasn't shown a willingness to put fresh capital into the existing institution. However, BankUnited has been arguing that would be the best and the least-expensive route for taxpayers.

In its SEC filing, BankUnited reiterated "substantial doubt" about its ability to continue as a going concern. "We have been actively trying to raise capital at the holding company level for over a year," it said.

"No assurance can be given that we will be able to raise capital at either the bank or the holding company level," BankUnited reported.

BALANCING ACT

# Exercise 'the best anti-depressant'

• GOODMAN, FROM 1C

"Fitness should be something that is a habit, something that can't be negotiated," says Marta Montenegro, editor-in-chief of SOBeFIT Magazine, based in Miami.

Lifestyle experts say some simple changes can help you balance work and fitness.

**Create new habits:** Montenegro says people often are too ambitious in their fitness goals.

She started out small, making one change at a time. Whenever she feels stressed, she takes a 10-minute walk around the office or her neighborhood. "In just 10 minutes you can break a pattern."

To create a habit of eating healthier, start with breakfast, she says. "Instead of having a muffin at Starbucks, order oatmeal."

Or fill your desk drawer, purse and car with healthy snacks. It's easy to give excuses about why you didn't exercise or eat right, she says. "The key is to make it a habit, a priority."

**Get moving:** Walking and stretching are the easiest ways to cram exercise into a busy schedule. Both are something you can do with your spouse, friends or children.

Donna Marie Seffer, a Plantation schoolteacher, wears a pedometer to work every day and aims for 5,000 steps. While teaching, she



**HEALTHY LIVING:** 'Fitness should be something that is a habit,' says Marta Montenegro, editor-in-chief of SOBeFIT Magazine.

walks around the classroom. During breaks, she walks the through the halls. When she gets home she walks around the block. "When I walk, it releases my stress because I can just put my mind somewhere else."

**Take advantage of employer wellness programs:** More companies are embracing the wellness trend, realizing it's less

expensive to prevent rather than treat most medical conditions. Even as employers cut benefits, a growing number are offering on-site yoga classes or weight loss programs — some even offering incentives to participate.

**Learn to relax:** David Posen, a stress management expert, says in his *Little Book of Stress Relief*, that unlike the stress reaction, which is involuntary and triggers automatically, the relaxation response has to be brought forth voluntarily and intentionally.

Jodi Cross, who works from home as a director of a women's organization, starts her day triggering the relaxation response by reading for 30 minutes by a pond in her backyard in Boca Raton. She alternates with walking for 45 minutes around the neighborhood. Cross admits it takes discipline: "If I don't do it first thing in the morning, and just figure that I will read a few e-mails first, the next thing I know it's late afternoon and I'm much more stressed."

**Stop sacrificing sleep:** Karen Koffler is a busy working mom. She's also the medical director at the Canyon Ranch in South Beach. Koffler often gets up early and rides her bike to work. But she also makes sure she goes to bed early, tucking herself in by 9 p.m. Koffler believes adults should get seven to 10 hours of sleep a night. "If you are shaving time from sleep-

ing to get things done, you're going to be less efficient in your day to day life."

**Consider fitness part of your job description:** Exercise helps you take a global view of a situation or conflict. It can spur creativity and even help you find solutions that wouldn't occur to you when you're in front of a computer.

With the downturn, publicist Tadd Schwartz says clients want more time. Yet, he's making time to run, putting his running shoes next to his bed to ensure he uses them each morning instead of gravitating toward his computer.

**Check out the deals:** The upside of recession is fitness professionals and health clubs are responding to new budgets — offering discounts and showing more willingness to bargain. Fitness centers such as The Mind and Body Connection in Davie and the Downtown Athletic Club in Miami are offering free classes and short-term memberships for the newly unemployed.

"The best anti-depressant is exercise," says Cheryl Patella, a Miami fitness expert. Patella has been working with small groups of women at parks who come to exercise with their children. "Just do whatever your time will allow you to do."

Send your comments and ideas to Cindy Krischer Goodman at [cgoodman@MiamiHerald.com](mailto:cgoodman@MiamiHerald.com).

REGULATION

# FDA disputes Cheerios' health claims

• CEREAL, FROM 1C

weeks."

The FDA allows companies that market whole grain foods like Cheerios to highlight their ability to reduce the risk of heart disease. While the box carries that claim in the lower left hand corner, the language about cholesterol is much larger and appears separately — something the FDA does not allow.

Regulators also object to the company's claim that Cheerios can lower cholesterol by 4 percent because companies are not allowed to quantify the benefit of their foods.

Additionally, companies that make claims about their whole grain foods are supposed to mention that fruits and vegetables are also part

*In a statement issued Tuesday morning, General Mills said the dispute with the FDA is more about language than science.*

of a fiber-rich diet. General Mills' labeling does not include that information.

"Therefore, your claim does not convey that all these factors together reduce the risk of heart disease and does not enable the public to understand the significance of the claim in the context of total daily diet," states the FDA.

The warning letter, dated May 5, was posted to FDA's website Tuesday.

In a statement issued Tuesday morning, General Mills said the dispute with the FDA is more about language than science.

"Cheerios' soluble fiber

heart health claim has been FDA-approved for 12 years, and Cheerios' 'lower your cholesterol 4 percent in six weeks' message has been featured on the box for more than two years. The science is not in question," the company said. "The clinical study supporting Cheerios' cholesterol-lowering benefit is very strong."

Cheerios is the best-selling cereal brand in the United States, with sales of \$1.4 billion last year, according to General Mills.

The Minneapolis-based company said it would work with the FDA to address the complaints. The warning let-

ter asks the company to correct the problems within 15 business days of receipt.

The FDA regularly issues warning letters to companies that do not follow regulations for manufacturing and marketing. The letters are not legally binding, but the agency can take companies to court if they are ignored.

In recent years the FDA has begun cracking down on manufacturers who overstate the benefits of their products, amid increased demand for healthy foods.

Shares of General Mills rose 74 cents to \$53.65.

According to General Mills, Cheerios is the nation's best-selling cereal, having been on the market since 1941.

The Minneapolis Star Tribune contributed to this report.

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