

G. In 2007 after the full review, Baxter will discuss with NRC whether Baxter will need to continue to use a qualified external consultant. It is anticipated that the last external consultant review will be completed in 2007. In no event shall such review extend beyond one additional review in 2009 in the context of this Agreement.

H. Baxter will submit to the NRC a letter within two weeks (by December 27, 2004) which documents the Agreement. (Met by Baxter's December 17, 2004 letter).

I. Upon issuance of a Confirmatory Order by the NRC, confirming the Agreement reached by the parties on December 13, Baxter will pay the Civil Penalty in the amount of \$31,200.00 within thirty days of the date of issuance of that Confirmatory Order.

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through the NRC's confirmation of the licensee commitments as outlined in this Order.

I find that the licensee's commitments as set forth in Section III above are acceptable and conclude that with these commitments, the public health and safety are reasonably assured. However, in view of the foregoing, I have determined that public health and safety require that these commitments be confirmed by this Order. Based on the above and the licensee's consent, this Order is immediately effective upon issuance. The licensee is required to provide the NRC with a letter summarizing all of its actions, up to and including, its last external consultant review that is to be completed in 2007.

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *It is hereby ordered*, effective immediately that:

A. Baxter pay a civil penalty of \$31,200.00 for Violations I.A, I.B and I.C. set forth in the NRC October 25, 2004 Notice. (The NRC will characterize these violations as a Severity Level II problem. Also, Baxter and the NRC agree to disagree on the willful characterization of Violation I.C, and the NRC agrees to treat Violations II.A, II.B, and II.C as non-cited violations).

B. Baxter implement the corrective actions a documented in its August 23, 2004, letter except that with respect to item 1(c) in that letter ("Additional External Review by Outside Consultant"), that item is replaced by the terms of the December 13, 2004, settlement. Specifically, Baxter will

provide for reviews of irradiator operations to be conducted by a qualified consultant with such review to include a review of operations, maintenance, radiation safety and the RSO and ARSO functions. Review results will be documented and made available to NRC during inspections conducted by NRC. Such reviews to be conducted as noted below.

1. A review by the qualified external consultant will be conducted in 2005 of the RSO and ARSO function to supplement the reviews done in 2004.

2. In 2007, a qualified external consultant will conduct a full review as listed in Item B.

3. In 2007 after the full review, Baxter will discuss with NRC whether Baxter will need to continue to use a qualified external consultant, although it is anticipated that the last external consultant review will be completed in 2007, and in no event, shall such review extend beyond one additional review in 2009 in the context of the Agreement.

The Director, Office of Enforcement may relax or rescind, in writing, any of the above conditions upon a showing by the licensee of good cause.

Any person adversely affected by this Confirmatory Order, other than the licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and must include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemaking and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, to the Director of the Division of Regulatory Improvement Programs at the same address, and to Baxter. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel by means of facsimile transmission to (301) 415-3725 or e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If such a person requests a hearing, that person

shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order shall be sustained. An answer or a request for a hearing shall not stay the effectiveness date of this order.

Dated this 26th day of January 2005.

For the Nuclear Regulatory Commission.

**Frank Congel, Director,**

*Office of Enforcement.*

[FR Doc. 05-2026 Filed 2-2-05; 8:45 am]

BILLING CODE 7590-01-P

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## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application of Boston Restaurant Associates, Inc. To Withdraw Its Common Stock, \$.01 par value, From Listing and Registration on the Boston Stock Exchange, Inc.; File No. 1-13320

January 28, 2005.

On January 11, 2005, Boston Restaurant Associates, Inc., a Delaware corporation ("Issuer"), filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its common stock, \$.01 par value ("Security"), from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

On December 23, 2004, the Board of Directors ("Board") of the Issuer approved a resolution to withdraw the Issuer's Security from listing and registration on the BSE. The Issuer stated: (1) That on December 20, 2004, the BSE notified the Issuer that the BSE would suspend trading of the Security at the close of business that same day. The suspension was the result of a failure of the Issuer to maintain a minimum of \$500,000 of stockholder's equity as required by the BSE. (2) After careful consideration the Issuer decided to request a voluntary delisting of the Security from the BSE. The Issuer stated that the Security currently trades on the OTC Bulletin Board.

The Issuer stated in its application that it has complied with BSE

<sup>1</sup> 15 U.S.C. 78j(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).

procedures for delisting by complying with all applicable laws in effect in the State of Delaware, the state in which it is incorporated, and by filing the required documents governing the withdrawal of securities from listing and registration on the BSE.

The Issuer's application relates solely to withdrawal of the Security from listing on the BSE and from registration under Section 12(b) of the Act,<sup>3</sup> and shall not affect its obligation to be registered under Section 12(g) of the Act.<sup>4</sup>

Any interested person may, on or before February 22, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of the BSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

#### *Electronic Comments*

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include the File Number 1-13320 or;

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number 1-13320. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/delist.shtml>). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5-417 Filed 2-2-05; 8:45 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

### **Issuer Delisting; Notice of Application of The Charles Schwab Corporation To Withdraw Its Common Stock, \$.01 par value, From Listing and Registration on the Pacific Exchange, Inc.; File No. 1-9700**

January 28, 2005.

On January 12, 2005, The Charles Schwab Corporation, a Delaware corporation ("Issuer"), filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its common stock, \$.01 par value ("Security"), from listing and registration on the Pacific Exchange, Inc. ("PCX").

The Board of Directors ("Board") of the Issuer unanimously approved resolutions on January 20, 2004 to withdraw the Issuer's Security from listing on the PCX. The Issuer stated the following reasons factored into the Board's decision to withdraw the Security from listing on the PCX: (1) The Security is currently traded on the New York Stock Exchange, Inc. ("NYSE") and The Nasdaq Stock Market; and (2) the low volume of trading in the Security on the PCX does not justify the expense and administrative time associated with remaining listed on the PCX.

The Issuer stated that it has complied with PCX Rule 5.4(b) by complying with all applicable laws in effect in Delaware, in which it is incorporated, and by providing the PCX with the required documents governing the withdrawal of securities from listing and registration on the PCX.

The Issuer's application relates solely to the withdrawal of the Security from listing on the PCX and shall not affect its continued listing on the NYSE or its obligation to be registered under Section 12(b) of the Act.<sup>3</sup>

Any interested person may, on or before February 22, 2005, comment on the facts bearing upon whether the

application has been made in accordance with the rules of the PCX, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

#### *Electronic Comments*

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include the File Number 1-9700 or;

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number 1-9700. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/delist.shtml>). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5-416 Filed 2-2-05; 8:45 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

### **Issuer Delisting; Notice of Application of Regal-Beloit Corporation To Withdraw Its Common Stock, \$.01 Par Value, From Listing and Registration on the American Stock Exchange LLC File No. 1-07283**

January 28, 2005.

On January 19, 2005, Regal-Beloit Corporation, a Wisconsin corporation ("Issuer"), filed an application with the Securities and Exchange Commission

<sup>5</sup> 17 CFR 200.30-3(a)(1).

<sup>1</sup> 15 U.S.C. 78l(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).

<sup>3</sup> 15 U.S.C. 781(b).

<sup>4</sup> 17 CFR 200.30-3(a)(1).

<sup>3</sup> 15 U.S.C. 781(b).

<sup>4</sup> 15 U.S.C. 781(g).