

FILE COPY

ADMINISTRATIVE PROCEEDING
FILE NO. 3-200

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of
INTERNATIONAL HYDROCARBONS LTD.
505 - 8th Avenue Building
Calgary, Alberta, Canada

(23S - 1983)

Securities Act of 1933 -
Section 3(b) and Regulation A

INITIAL DECISION

Samuel Binder
Hearing Examiner

Washington, D.C.
July 15, 1966

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of	:
	:
INTERNATIONAL HYDROCARBONS LTD.	:
505 - 8th Avenue Building	:
Calgary, Alberta, Canada	:
	:
(23S - 1983)	:
	:
Securities Act of 1933 -	:
Section 3(b) and Regulation A	:

INITIAL DECISION

Before: Samuel Binder, Hearing Examiner.

Appearances: Patrick J. Griffin, Jr., Jack H. Bookey, and
Walter F. Pitts, for the Division of Corpo-
ration Finance of the Commission.

Clarke C. Brown and Neil A. Bennett, of Brown,
Schlegel, Bennett & Milbank, for International
Hydrocarbons Ltd.

Robert N. Gygi, for Harold Warren and Paul A. Clack.

On June 21, 1966 the Securities and Exchange Commission ("Commission") issued its findings, opinion and order in the above-captioned matter. Pursuant to Rule 261 of Regulation A,^{2/} the Commission ordered that the exemption from registration with respect to a proposed public offering of 250,000 shares by International Hydrocarbons Ltd. ("International") of its \$1 par value common stock at \$1 per share in United States funds or \$1.08 per share in Canadian funds be permanently suspended.

In its findings and opinion, the Commission pointed out, among other things, that International's "notification stated that the securities were to be offered in the United States through licensed securities salesmen, and listed as exhibits to the notification the consent and certification of the underwriters. Not only were such documents not filed as exhibits, but as the issuer stipulated Harold Warren who, together with Paul A. Clack was named in the offering circular as a salesman employed by the issuer on a best efforts basis, had not in fact consented to act as an underwriter."^{3/}

1/ Securities Act Release No. 4835.

2/ Rule 261 provides, in pertinent part, for the issuance of an order suspending the exemption under Regulation A if the Commission has reason to believe that no exemption is available, that the terms and conditions of the regulation have not been complied with or that the offering circular or other sales literature contains false and misleading statements of fact.

3/ Harold Warren and Paul A. Clack intervened in the proceedings and were granted leave to be heard. Both gave testimony during the hearing.

In these circumstances the Commission's order directing the permanent suspension of International's securities offering did not operate to make the Regulation A exemption unavailable with respect to the securities of any other issuer should Harold Warren become an underwriter or salesman thereof and if the exemption were otherwise available.

The Commission in its findings also pointed out that, "Still pending before the hearing examiner is a petition by Clack pursuant to Rule 252(f) of Regulation A, for a determination, on the basis of the evidence adduced at the hearings, that a permanent suspension order in these proceedings shall not make a Regulation A exemption unavailable with respect to the securities of any issuer solely because petitioner is an underwriter or salesman of such securities"^{4/}.

In pertinent part, Regulation A disqualifies an issuer from offering securities thereunder if such issuer employs as an underwriter a person who was an underwriter or was named as an underwriter by an issuer who had made a filing under the Regulation which was the subject of a suspension order pursuant to Rule 261^{5/}.

^{4/} See In the Matter of International Hydrocarbons Ltd., Securities Act Release No. 4835, footnote 2.

^{5/} "Disqualification" is a term commonly used in connection with the non-availability of the exemption by reason of the occurrence of events specified in Rule 252(c) of Regulation A. See "Regulation A under the Securities Act of 1933 - Highways and Byways" by Ezra Weiss (1962).

^{6/} See Rule 252(e).

The period of "disqualification" is five years from the filing of the notification which was the subject of the suspension order under Rule 261.

Clack has been a securities salesman in connection with prior offerings of securities and may again act in this capacity in the future. He seeks to avoid the adverse impact of Rule 252(e) in the event that he should act as an underwriter in the future for any issuer which decided to employ Regulation A to make a public offering of securities.^{7/} In this connection Clack filed on December 9, 1965 a petition requesting general relief pursuant to Rule 252(f).

Rule 252(f) provides that "Paragraph (c), (d) or (e) [of Rule 252] shall not apply to the securities of any issuer if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied. Any such determination by the Commission shall be without prejudice to any other action by the Commission in any other proceeding or matter with respect to the issuer or any other person."

Clack's petition was held in abeyance pending the outcome of the proceeding against International Hydrocarbons Ltd. That matter having been determined by the Commission's order of June 21, 1966 there remains for determination the issue whether Clack's petition for general relief under Rule 252(f) should be granted.

^{7/} For the purposes of Regulation A the term "underwriter" has the meaning given it by Section 2(11) of the Act.

The pertinent evidence relating to Clack's petition may be summarized as follows: In the spring of 1965 an officer of International proposed to Clack that he participate as a salesman in Oregon for International's Regulation A offering. Clack requested additional information concerning the offering but did not receive all the information he was seeking. On May 11, 1965 International made its Regulation A filing with the Commission.

On or about May 12, 1965 he received a form of consent to be named as an underwriter which he executed shortly thereafter and personally delivered to issuer's attorney.

Clack testified that he had informed one of the attorneys for International that a conflict of interest might arise between International and a company called Omega Natural Gas Company, Ltd. ("Omega") in which he felt that he might be personally involved. In this connection, it appeared that in about June, 1964 Clack had sold securities in Oregon of Omega, a company having the same or similar corporate purposes as International and having the same management as International. Clack also testified that he was under the impression that he would have the right to examine any letters of comment received from the Commission concerning International's Regulation A filing. On June 24, 1965, the Commission issued its order temporarily suspending the issuer's exemption under Regulation A and Clack received notice of it. In the early part of September, 1965, Clack advised the attorney for

International that he wanted to be relieved of any obligation which might have arisen by virtue of the execution of the underwriting agreement. On October 7, 1965 counsel for International wrote a letter to Clack stating that after Clack had executed the underwriting agreement but prior to its submission to the Commission, his office had received "notice of the pendency of proceedings regarding the application for a Regulation A exemption from registration". It was the position of the issuer that the entire matter including Clack's consent to serve as underwriter should be held in abeyance pending final determination of the matters raised by the Commission.

The uncontradicted evidence disclosed that Clack had not offered or sold securities of the issuer nor did he have any connection with the management of the issuer or in the preparation of the notification and offering circular. In its reply to the petition of Paul A. Clack and Harold Warren filed on July 8, 1966, the Division states, inter alia, that:

"A review of Commission records by this Division discloses no information, other than Mr. Clack's connection with the issuer herein, which would deny an exemption to an issuer pursuant to subdivisions (c), (d) or (e) of Rule 252 of Regulation A by reason of Mr. Clack serving as an underwriter for the securities of such issuer. Because of this and because Mr. Clack apparently was not in any way culpable in the preparation and filing of the International Hydrocarbons Ltd. notification, this Division believes that a showing of good cause under Rule 252(f) has been made and therefore recommends that the relief requested be granted."

The hearing examiner finds that Clack has made a showing of good cause within the meaning of Rule 252(f) of Regulation A, and concludes that the Commission's Findings, Opinion and Order issued herein on June 21, 1966 should not operate to make the Regulation A exemption unavailable for the securities of any issuer solely because Paul A. Clack is an underwriter thereof, if the exemption is otherwise available.^{8/}

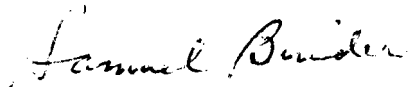
Accordingly, IT IS ORDERED that the petition of Paul A. Clack filed on December 9, 1965 requesting relief under Rule 252(f) of Regulation A be and hereby is granted.

This order shall become effective in accordance with and subject to the provisions of Rule 17(f) of the Commission's Rules of Practice.

Pursuant to Rule 17(b) of the Commission's Rules of Practice a party may file a petition for Commission review of this initial decision within fifteen days after service thereof on him. Pursuant to Rule 17(f) this initial decision shall become the final decision of the Commission as to each party unless he files a petition for review pursuant to Rule 14(b) or the Commission, pursuant to Rule 17(c), determines on its own initiative to review this initial

^{8/} Such determination is made without prejudice to any other action by the Commission in any other proceeding or matter with respect to the issuer or any other person.

decision as to him. If a party timely files a petition to review or the Commission takes action to review as to a party, this initial decision shall not become final as to that party.

A handwritten signature in cursive script that reads "Samuel Binder".

Samuel Binder
Hearing Examiner

Washington, D.C.
July 15, 1966