

# SECURITIES AND EXCHANGE COMMISSION

# NEWS DIGEST

A brief summary of financial proposals filed with and actions by the S.E.C.



Washington 25, D.C.

Securities Exchange Act Release No. 5405

FOR RELEASE November 23, 1956

Chairman J. Sinclair Armstrong of the Securities and Exchange Commission today announced the adoption by the Commission of an amendment to its Rule X-12F-2 under the Securities Exchange Act of 1934 to restrict the continuance of unlisted trading privileges on national securities exchanges where substantial changes occur in the company whose securities enjoy such privileges.

Heretofore, the rule permitted the continuance of unlisted trading privileges to securities which enjoyed such privileges notwithstanding specified changes in the securities, such as changes in the par value, the number of shares authorized, or the number of shares outstanding. Under the amendment, if the security is listed and registered on another exchange the continuance of unlisted trading privileges in such a security will depend upon whether or not the listing on such other exchange can continue without a new application for registration thereof under the Securities Exchange Act. In the case of a security which is not fully listed and registered on another exchange, if these changes in the security are accompanied by a major change in the capitalization of the issuer, unlisted trading privileges may be continued only if the Commission finds, upon application, that notwithstanding the change the security is substantially equivalent to the security theretofore admitted to unlisted trading privileges.

A major change in capitalization is defined by the new rule to mean one where, by reason of one or more mergers, consolidations, acquisitions of assets or securities, or similar transactions (not including a sale of securities for cash, a stock dividend or a stock split) the number of outstanding shares of stock of the issuer has been increased by more than 100% within any 12 consecutive calendar months. One consequence of the amendment will be to prevent the acquisition of unlisted trading privileges in connection with mergers which, in substance, substitute a new enterprise for the old one.

\* \* \* \*

Kromex Corporation, Cleveland, filed a registration statement (File 2-12919) with the SEC on November 21, 1956, seeking registration of \$1,000,000 of 6% Convertible Debentures, Series due 1976, and 130,000 outstanding shares of \$1 par Capital Stock. The securities are to be offered for public sale through an underwriting group headed by Lee Higginson Corporation and P. W. Brooks & Co. Incorporated. The interest rate on the debentures, and the public offering price and underwriting terms for both offerings, are to be supplied by amendment.

Kromex is engaged primarily in the design, manufacture and sale of aluminum and chrome-plated kitchenware and giftware. It proposes to apply the net proceeds of the sale of the debentures as follows: \$400,000 to the purchase of additional machinery and equipment, including plating and anodizing facilities, and to rearrangement and expansion of manufacturing facilities; approximately \$128,000 to the retirement of a like

amount of existing indebtedness; and the balance to the general funds of the company to provide additional working capital.

The 130,000 shares of stock are to be sold by certain selling stockholders, as follows: Emanuel M. Asquith, President, 84,030 of his present holdings of 131,532 shares (42.4%); Manuel S. Ziskin, Executive Vice-President, 36,300 of his holdings of 77,500 shares (25%); Sam Simms, 6,154 of his holdings of 13,137 shares; and Edith Simms, 3,516 of her holdings of 7,506 shares. The Emanuel M. Asquith Family is listed as owner of a total of 182,350 shares (58.8%).

\* \* \* \*

Commercial Discount Corporation, Chicago, filed a registration statement (File 2-12918) with the SEC on November 21, 1956, seeking registration of 100,000 shares of 6% Cumulative and Participating Preferred Stock, \$10 par. The company proposes to offer these shares for public sale at \$10 per share, through an underwriting group headed by Julien Collins & Company and Cruttenden, Podesta & Co. The underwriting commission is to be \$1 per share. Net proceeds from the preferred stock financing will be added to the company's working funds and will be used for any corporate purposes incident to carrying on and expanding its business. Such proceeds may be used initially to reduce outstanding short term borrowings.

#### Securities Act Release No. 3721

The Securities and Exchange Commission has issued orders temporarily suspending Regulation A exemptions from registration under the Securities Act of 1933 with respect to public offerings of securities by the following:

American States Oil Company, Pauls Valley, Okla.

Regulation A notification, filed August 10, 1954, with respect to a public offering by J. Tom Grimmett, also of Pauls Valley, of an indeterminate number of shares of American States stock at a price not exceeding \$50,000 in the aggregate.

Backers Discount & Finance Co., Inc., Newark, N. J.

Regulation A notification, filed January 20, 1956, proposing the public offering of 600,000 common shares at 50¢ per share.

Gas Hills Mining and Oil Incorporated, Kemmerer, Wyo.

Regulation A notification, filed January 4, 1956, proposing the public offering of 1,200,000 common shares at 25¢ per share.

Milneal Enterprises, Inc., Reno, Nevada

Regulation A notification, filed March 3, 1955, proposing the public offering of 40,000 common shares at \$1 per share.

Regulation A provides a conditional exemption from registration for public offerings of securities not exceeding \$300,000 in amount. The Commission's suspension orders in the foregoing cases allege a failure on the part of the respective companies to comply with certain terms and conditions of the Regulation or some other basis for the suspensions in question, including in the case of Backers Discount the use of an offering circular and sales material which was false and misleading; and the orders provide an opportunity for hearing, upon request, on the question whether the suspensions should be vacated or made permanent.

In the case of American States, the Commission's orders asserts that that company's Notification failed to disclose the sale by Grimmatt, controlling stockholder, of a substantial number of unregistered American States shares within one year prior to the filing of the Notification; that the aggregate price of all American States stock offered and sold under the filing substantially exceeded the permissible amount allowed by the Regulation (\$100,000) for offerings by other than the issuer; and that a final judgment was issued by the United States District Court for the Southern District of New York on July 18, 1956, enjoining Grimmatt from further violating the registration requirement of the Securities Act of 1933 in the sale of American States stock.

The order with respect to Backers Discount asserts (A) that the issuer failed to file a letter dated August 2, 1956, from its president, Nick Scafuri, to the underwriter, Marlin Securities Co. of Newark, announcing that a quarterly dividend had been declared on the company's outstanding shares, which was used as sales literature in connection with the stock offering and which was misleading in failing to disclose (a) that the issuer's officers, directors and insiders had waived the payment of such dividend on their holdings of 740,000 shares in order that the dividend could be paid to purchasers of the stock being offered, and (b) that as of June 30, 1956, earned surplus of only \$1,185.23 was available for the dividend payment, which was substantially less than the \$12,000 required for the dividend payment had it been paid on all shares; (B) that the company's February 6, 1956, offering circular was false and misleading (a) in its reference to the issuance of 500,000 shares to Scafuri when, in fact, he received only 425,000 shares and 25,000 shares each were issued to Richard Ballin, counsel for the issuer and underwriter, Abram I. Melrod, also counsel for the issuer, and Saul Marshall, accountant for the issuer, and (b) in its reference to a \$10,000 payment to the underwriter prior to the offering for expenses and to an arrangement for the payment to the underwriter of \$2,500 as additional expense money as each 100,000 shares are sold when, in fact, only \$1,500 had been paid the underwriter prior to the offering and the entire proceeds on the sale of the first 19,500 shares sold were retained by the underwriter; (C) that a telegram from the issuer to the underwriter announcing a quarterly dividend payable to all stockholders of record May 31, 1956, and used in connection with the stock offering was misleading in failing to state (a) that the issuer's officers, directors and insiders had agreed to forego dividends on their

holdings of 740,000 shares in order that such dividend could be paid to purchasers of the stock being offered and (b) that the available earnings and surplus of the issuer were insufficient to pay the entire dividend; and (D) that the use of the offering circular and sales material in connection with the stock offering 'would and did operate as a fraud and deceit upon the purchasers."

In the case of Gas Hills Mining, the Commission's order asserts that Philip Gordon & Co., the underwriter of that company's stock offering, was permanently enjoined on September 27, 1956, by the Supreme Court of the State of New York from selling securities or engaging in the business of a broker or dealer in securities within or from that State.

The Commission's order with respect to Milneal Enterprises asserts that the issuer failed to file the required reports of its sale of stock pursuant to the offering and the use of the proceeds thereof, and has ignored requests from the Commission's staff for such reports.

#### Securities Exchange Act Release No. 5407

The Securities and Exchange Commission has instituted proceedings under the Securities Exchange Act of 1934 to determine whether an application for broker-dealer registration filed by F. W. Horne & Company, Inc., of Rochester, New Hampshire, should be denied. The order for proceedings schedules the matter for hearing on December 12, 1956, in Room 300, U.S. Post Office Building, Concord, New Hampshire.

Horne & Company's application for registration as a broker-dealer was filed with the Commission on October 24, 1956. It lists Frank W. Horne as the president, a director and controlling stockholder of the company. The Commission's order asserts that information developed in an investigation conducted by its staff "tends to show" (A) that, during the period December 1, 1955, to date Horne & Company has engaged in the conduct of a securities business in interstate commerce without being registered with the Commission as a broker-dealer, and that Horne and Walter Smith (a salesman) caused it so to do; (B) that from approximately December 1, 1955, to approximately June 1, 1956, Horne & Company solicited and induced preferred stockholders of a certain corporation to sell their preferred shares to Horne & Company at prices ranging from \$2.50 to \$5.50 per share, and in connection therewith represented that said corporation was in very poor financial condition due to mismanagement, that the price being offered for such shares was fair, that the price might go lower, that the said corporation was losing money, that it had no operating funds and would not be able to redeem its preferred stock, and that it was in no position to pay dividends; (C) that, contemporaneously therewith, Horne & Company solicited and induced certain other persons to purchase the said preferred shares at prices ranging from \$7 to \$8 per share, and in connection therewith made representation that said corporation was in sound financial condition and was making money, that its directors had voted to call the preferred stock within a period of 60 to 90 days, that the call price would be \$11 per share, that accumulated dividends of \$1.50 per share would be paid, that this was a chance "to make a quick profit,

and that the purchase price of \$7 or \$8 per share was a fair price for the stock; and (D) that Horne and Smith caused Horne & Company to solicit and induce the said purchases and sales of preferred stock and to make the representations in question.

The reported information, if true, tends to show, according to the Commission's order, that Horne & Company, Horne and Smith violated the registration requirement of the Securities Exchange Act and "engaged in transactions, practices and a course of business which would and did operate as a fraud and deceit" upon the sellers and purchasers of the preferred shares. At the December 12 hearing, inquiry will be conducted into the question whether the reported information is true and, if so, whether it is in the public interest to deny registration to Horne & Company as a broker-dealer.

#### Securities Exchange Act Release No. 5408

The Securities and Exchange Commission today announced the issuance of two orders under Section 19(a)(4) of the Securities Exchange Act of 1934 summarily suspending trading in the capital stock of Great Sweet Grass Oils Limited and of Kroy Oils Limited, respectively, on the American Stock Exchange for a period of ten days from November 25, 1956 to December 4, 1956, inclusive, and that such action is necessary and appropriate for the protection of investors and to prevent fraudulent, deceptive or manipulative acts or practices. The summary suspension orders heretofore entered on November 14, 1956 against trading in the two stocks expire tomorrow. The result of these new orders is that it will continue to be unlawful under Section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule X-1502-2 thereunder for any broker or dealer to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, such securities otherwise than on a national securities exchange.

The Commission's action was taken because the questions raised in the Commission's orders and notices of hearings under Section 19(a)(2) of the Act as to alleged false statements in reports filed by both companies with the Commission have not been resolved. The Commission has ordered the hearings in the two cases consolidated in order to expedite a final determination and the consolidated hearing will commence on November 26, 1956 in Washington, D.C.

Under these conditions, the Commission is of the opinion that it would be impossible for the investing public to reach an informed judgment at this time as to the value of the companies' securities, or for trading in such securities to be conducted in an orderly and equitable manner.

In light of the foregoing and other factors, the Commission is of the opinion that the public interest requires the summary suspension of trading in such securities on the American Stock Exchange and that such action is necessary and appropriate for the protection of investors and is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices under the Act.

# SECURITIES AND EXCHANGE COMMISSION

# NEWS DIGEST

A brief summary of financial proposals filed with and actions by the S.E.C.



Washington 25, D.C.

FOR RELEASE November 23, 1956

CAUTION: Following for Release in Morning Newspapers of Monday, November 26, 1956.

Chairman J. Sinclair Armstrong of the Securities and Exchange Commission today announced the adoption by the Commission of a new rule under the Securities Act of 1933 to permit the use of a summary prospectus during the 20-day statutory waiting period after the registration statement has been filed but before it has become effective. This new rule (Rule 434A) should encourage greater dissemination among the investing public, by means of a summary prospectus, of pertinent financial and other information with respect to public offerings of securities so as to enable investors to exercise a more informed judgment whether to purchase such securities.

"The new rule is a major step in the Commission's administration of the Securities Act," Chairman Armstrong commented, "and should make an important contribution to investor protection under the law. The summary prospectus rule should prove to be a major development in carrying out the original purpose of the Securities Act--to get information to prospective investors during the waiting period. The ultimate objective of the Securities Act requirement for registration of securities with the Commission is to provide disclosure of pertinent financial and other information with respect to securities offered for public sale; and the purpose of the disclosure requirement is to enable investors to make an analysis of the merits of the securities and an informed and prudent investment decision. By facilitating more widespread dissemination of registration disclosures among members of the investing public, the new rule should aid both in the distribution of new securities and in the analysis and evaluation of such securities by prospective investors."

In a 1954 amendment of Section 10(b) of the Securities Act, the Commission was authorized to adopt rules and regulations permitting the use, in securities offerings, of a prospectus which omits in part or summarizes information which must be set forth in the more complete prospectus required to be used in connection with the sale of securities. In its Rule 434, adopted in November 1955, the Commission permitted the distribution of bulletins or cards prepared by certain independent statistical services which contain a fair summary of the information contained in the prospectus.

In its new Rule 434A, the Commission has further implemented that provision of the law by permitting the use of a summary prospectus prepared by the issuer. The summary prospectus is not intended to supplant the complete prospectus, which must be furnished each purchaser of the securities. Its purpose is to supply prospective investors with a condensed or summarized statement of some of the more important information contained in the prospectus so as to enable them to determine whether or not they would be interested in more complete information in regard to the securities being offered.

Summary prospectuses may be used after the filing of the registration statement either before or after the effective date of the registration statement. All such prospectuses must, however, inform prospective investors that a more complete preliminary or final prospectus may be obtained and list the names of one or more persons from whom they may be obtained.

The new regulations supersede the instructions as to newspaper prospectuses previously contained in Forms S-1 and S-9. Under the new regulations the two types of prospectuses have been consolidated into a single set of requirements so that a summary prospectus may be published in a newspaper or other periodical or printed in a form suitable for manual or other distribution.

Under the new regulations the use of summary prospectuses is limited to registrants on Form S-1 or S-9 which are required to file reports under section 13 or 15(d) of the Securities Exchange Act of 1934. The purpose of this provision is to limit the use of such prospectuses to companies which have published information and financial statements meeting the Commission's disclosure standards.

The rules require, as contemplated by the provisions of the 1954 amendments to Section 10(b) of the Act, that a summary prospectus be filed with the Commission as a part of the registration statement prior to its use. Further, under the terms of the statute the Commission may by order suspend the use of a summary prospectus at any time, if it has reason to believe that such prospectus is materially misleading.

In view of the fact that the new regulations provide, for the first time under the Securities Act of 1933, for the use of a summary type of document prepared by the issuer in connection with the offering of securities, the Commission intends to maintain a careful watch over the use of summary prospectuses by issuers, underwriters and dealers, in order to observe the operation and effect of the new regulations.

CAUTION: Following for release in morning newspapers of Monday, November 26, 1956

New York State Attorney General Jacob K. Javitz and the U.S. Securities and Exchange Commission, jointly announced today that they have agreed upon a basic 10-Point Guide for the public, to furnish a warning against fraudulent securities practices.

Among those cooperating with the Attorney General and the Commission in developing this 10-Point Guide were representatives of the New York Stock Exchange, American Stock Exchange, National Association of Securities Dealers, Association of Stock Exchange Member Firms, Investment Bankers Association of America and the Better Business Bureau of New York City, which originally met on September 28, 1956. This meeting was called by Mr. Javitz and Mr. Paul Windels, Jr., New York Regional Administrator of the Securities and Exchange Commission.

Because of the mounting number of complaints being received by law enforcement agencies involving unscrupulous stock operators, it was felt that a combined effort supplementing the continuing activities of the cooperating organizations to warn the public of the pitfalls involved in buying securities from unknown sources must be made.

"Too many people have fallen prey to unknown, high-pressure telephone salesmen who have peddled securities of no value or dubious value," Mr. Javitz and Mr. Windels declared. "With the publication of this 10-Point Guide," they added, "we hope to provide the public with a simple but effective guide to saving themselves from falling for sucker bait."

The 10-Point Guide is as follows:

1. Think before buying.
2. Deal only with a securities firm which you know.
3. Be skeptical of securities offered on the telephone from any firm or salesman you do not know.
4. Guard against all high pressure sales.
5. Beware of promises of quick spectacular price rises.
6. **Be sure** you understand the risk of loss as well as **the prospect** of gain.
7. Get the facts --- do not buy on tips or rumors.
8. Request the person offering securities over the phone to mail you written information about the corporation, its operations, net profit, management, financial position and future prospects. Save all such information for future reference.



9. If you do not understand the written information, consult a person who does.
10. Give at least as much thought when purchasing securities as you would when acquiring any valuable property.

This 10-Point Guide has been one of the developments of the close cooperation initiated between the offices of Attorney General Javitz of New York and the New York Regional Office of the Securities and Exchange Commission headed by Paul Windels, Jr.

It is presently contemplated that thousands of copies of the above 10-Point Guide will be distributed throughout New York by securities firms, the Better Business Bureaus, and other agencies interested in increased vigilance on the part of the investing public.

---ooo0ooo---