

# SECURITIES AND EXCHANGE COMMISSION NEWS DIGEST

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



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## SEC ADOPTS ASSESSABLE STOCK RULE

The SEC today announced that it has adopted certain rule changes relating to assessable stock. These rule changes (Release 33-4121) make clear that the levying of assessments on assessable stock is subject to the disclosure requirements of the Securities Act of 1933. The rule changes include an exemption regulation (Regulation F) which, because of the limited amount of assessments involved, will permit compliance by most companies without the necessity of registering under the Act.

The new requirements (a new Rule 136 and a revision of Rule 140) were adopted as a result of the abuses in the levying of assessments which came to the Commission's attention through the complaints of investors and as a result of the Commission's own investigations. Some companies with assessable stock outstanding have levied assessments without giving the stockholders any information in regard to the purposes for which such additional funds are to be used. In instances which have come to the Commission's attention, funds raised through the medium of assessments have not been used in a manner calculated to result in any benefit to the company or to its stockholders.

The new rules provide minimum requirements as to the disclosure which must be made; they do not prevent the levying of assessments. It is the Commission's belief, however, that they will result in the elimination of the abuses which have been found to exist. Compliance with these requirements will be simple and inexpensive and will not impose any undue burden upon companies seeking to raise funds through the levying of assessments on assessable stock. The elimination of abuses in this area should have a salutary effect on the confidence of investors in assessable securities.

## JOHN CONNELLY INC. STOCK OFFERING SUSPENDED

The SEC has issued an order temporarily suspending a Regulation A exemption from registration under the Securities Act of 1933 with respect to a public offering of stock by John F. Connelly, Inc., 159 County St., Somerset, Mass.

Regulation A provides a conditional exemption from registration with respect to public offerings of securities not exceeding \$300,000 in amount. In a notification filed September 3, 1957, Connelly, Inc. proposed the public offering of 379 common shares at \$100 per share pursuant to such an exemption. The Commission's suspension order asserts that the company failed to file a current report of stock sales, as required, and that the notification falsely represented that none of the proceeds of the sale of stock would be used for remuneration of management officials.

The order provides an opportunity for hearing, upon request, on the question whether the suspension should be vacated or made permanent.

## TRADING IN JACOBS STOCK SUSPENDED

The SEC has issued an order (Release 34-6029) suspending trading in the common stock of F. L. Jacobs Co. on the New York and Detroit Stock Exchanges and in the over-the-counter market for a further ten-day period, July 31 to August 9, 1959, inclusive.

## SEC ORDER CLEARS GMAC INDENTURE

The SEC has issued an order under the Trust Indenture Act (Release 39-138) declaring that trusteeship of Morgan Guaranty Trust Company of New York under six existing General Motors Acceptance Corporation trust indentures heretofore qualified under said Act, and its trusteeship under a new indenture

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pursuant to which \$50,000,000 of GMAC 4-7/8% Debentures due June 15, 1964, are to be issued, is not so likely to involve a material conflict of interest as to make it necessary to disqualify such trustee from acting as such.

#### GENESCO FILES FOR EXCHANGE OFFER

Genesco Inc., 111 Seventh Ave., North, Nashville, Tenn., filed a registration statement (File 2-15404) with the SEC on July 29, 1959, seeking registration of 535,000 shares of common stock. Genesco proposes to offer this stock to the holders of the common stock of The Formfit Company, of Chicago, in exchange for their holdings of Formfit common, on the basis of .891-2/3 shares of Genesco common for each share of Formfit common.

According to the prospectus, Genesco has agreed to exchange 454,318 shares of its common stock for an aggregate of 509,516 shares or approximately 84.9% of the common stock of Formfit, on the basis set forth above, under an agreement between Genesco and the holders of such shares.

Genesco (formerly General Shoe Corporation) manufactures various types and patterns of Men's, boys', women's and children's shoes; and it also operates women's specialty stores and men's furnishing stores. Formfit's business consists of the manufacture and sale of brassieres, girdles and various combinations thereof.

#### SOTTILE INC. FILES FOR OFFERING AND SECONDARY

Sottile, Inc., 250 South East First St., Miami, filed a registration statement (File 2-15405) with the SEC on July 29, 1959, seeking registration of 2,000,000 shares of common stock, of which 1,543,000 shares are to be issued and sold by the issuing company and 457,000, representing outstanding stock, by the present holders thereof. Bear, Stearns & Co. is listed as the principal underwriter; and the public offering price and underwriting terms are to be supplied by amendment.

The primary activities of Sottile (formerly South Dade Farms, Inc.) consist of renting farms to tenants and operating its cattle ranches and citrus groves. Its properties are located in Dade, Broward, Palm Beach, Manatee, Highlands and Polk Counties, Fla. In addition the company and its subsidiaries own 80% of the stock of each of seven banks located in Miami, Coral Gables, Fort Lauderdale, Palmetto, Boynton Beach, Homestead and Avon Park, Fla.

The company proposes to use the net proceeds of its sale of additional stock, together with about \$900,000 to be received from James Sottile, Jr., board chairman and president and one of the selling stockholders, in payment of the net amount owed by him to the company at July 23, 1959, as follows: (1) \$5,257,183 will be applied to the retirement of 70% of the common stock outstanding at the date of the stock offering; (2) \$3,200,000 will be invested in the capital stocks of six of the company's seven bank subsidiaries; (3) \$6,464,000 will be used to repay a recently incurred bank loan of \$6,400,000, with interest (the proceeds of which loan were used as follows: \$4,123,712 to pay current maturities of long-term debt, maturing bank loans and other current liabilities, \$1,075,617 advanced to or for the account of James Sottile, Jr., of which \$822,140 was used to repay bank loans which had been incurred by Sottile, Jr., for the benefit of the company and credited to his account with the company and on which the company was contingently liable - substantially all of the indebtedness repaid from the proceeds of the \$6,400,000 bank loan was initially incurred for the acquisition and development of properties); (4) \$1,285,745 will be applied to the retirement of certain funded debt; and the balance will be added to working capital, of which amount about \$1,000,000 will ultimately be used in the development of the company's citrus groves.

According to the prospectus, 35 of the presently outstanding 50 shares of common stock are to be retired, as indicated in (1) above, in connection with which indebtedness of the holders to the company in the aggregate amount of \$244,816 is to be cancelled. Among such holders are James Sottile, Sr., a director and former board chairman. None of the 15 shares presently owned by James Sottile, Jr., and his children are to be retired. Each of these shares of no par common stock is to be converted into 169,242 shares of new \$1 par common stock, or an aggregate of 2,538,630 shares. Of these shares, 457,000 shares are being sold by Sottile Jr. and members of his family to the underwriters for public distribution.

## TOWER'S MARTS PROPOSES STOCK OFFERING

Tower's Marts, Inc., 210 East Main St., Rockville, Conn., filed a registration statement (File 2-15406) with the SEC on July 29, 1959, seeking registration of 300,000 shares of Class A common stock, to be offered for public sale at \$3 per share. The offering is to be made on an all or none basis by D. Gleich Co., of New York, for which it will receive a commission of 42¢ per share, plus \$34,000 as reimbursement for expenses.

The company was organized in March 1958 to engage principally in the operation and management of retail discount department stores; and in addition thereto, and as an important part of its operations, it engages in real estate transactions including the acquisition of suitable sites, designing and supervision of construction of buildings for its own operations, as well as for others, and store planning and layout. It now has outstanding 55,000 shares of Class A common and 328,791 shares of Class B common. Net proceeds of the sale of the additional Class A stock will be added to the general funds of the company to be available for general corporate purposes. It is anticipated that \$225,000 will be used for the acquisition of new sites, engineering fees, the purchase and installation of fixtures, leasehold improvements, equipment and other expenses in connection with the opening of new stores; \$170,000 will be used to stock and equip the department in new stores operated by a subsidiary; and the balance will be added to working capital.

The prospectus lists Samuel J. Rosenstein as president. He and two other officers each own 12,292 shares of the Class A and 67,050 shares (20.38%) of the Class B stock. The owners of a total of 55,000 shares of the Class A common have agreed to sell such shares to the underwriter at 10¢ per share.

## NORTH AMERICAN CIGARETTE MFGRS. PROPOSES STOCK OFFERING

North American Cigarette Manufacturers, Inc. 521 Park Ave., New York, filed a registration statement (File 2-15407) with the SEC on July 29, 1959, seeking registration of 150,000 shares of common stock. The stock is to be offered for public sale on a best efforts basis by American Diversified Mutual Securities Company, the offering price and selling commission to be supplied by amendment. In addition to the selling commission, the underwriter will receive up to \$25,000 for expenses and the right to purchase one common share at 10¢ per share for each 6-2/3 shares sold.

The company was organized under New York law in July 1957 and was subsequently merged on June 3, 1959, into a Delaware subsidiary. It was incorporated for the purpose of manufacturing cigarettes, cigars and any other products of which tobacco is an integral or component part. Since its inception it has been engaged in product research, market analyses and limited production since July 1958. The company's principal product is the DIPLOMAT cigarette. It now has outstanding 392,378 common shares (and an additional 15,936 have been subscribed for). Net proceeds of the sale of the additional stock are to be used as follows: \$35,000 for additional machinery, \$100,000 for advertising; \$40,000 for sales organization; and \$220,000 for working capital.

The prospectus lists Eugen O. Kronisch as president and owner of 49,150 shares (12%) of the outstanding stock. Ella McCarthy (Kronisch) owns 136,438 shares, or 33%. Officers and directors as a group own 45% of the outstanding stock. The prospectus further notes that a contingent liability against the company may exist in the amount of \$330,000 plus interest by reason of the fact that a prior public offering of stock may not have been entitled to the intrastate exemption from Securities Act registration on which the company relied in its offering of that stock.

## ROZEE BONUS CLUB PROPOSES STOCK OFFERING

Rozee Bonus Club, Inc., 112 West 42nd St., New York, filed a registration statement (File 2-15408) with the SEC on July 29, 1959, seeking registration of 84,000 shares of common stock, of which 70,000 shares are to be offered for public sale at \$5 per share. The offering is to be made on a best efforts basis by Jay W. Kaufmann & Co., of New York, for which it will receive a selling commission of 75¢ per share. An additional 5% will be allowed the underwriter, for expenses, on the first 70,000 shares sold; and for each five of the first 70,000 shares, the underwriter will receive one five year warrant to purchase a share of stock at \$5 per share.

The company was organized in January 1957 by Louis B. Rosenblatt, president, and Renee Rosenblatt, but did not begin business until January 1958. It offers to the public, for an annual fee of five

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dollars, an identification card and directory entitling the holder to a ten percent discount for cash purchases at more than 2,000 restaurants, hotels, motels, car rentals, service stations, sight-seeing tours and other services in the United States and Canada. It has outstanding 301,000 shares of common stock (in addition to 110 shares of \$50 par preferred stock), of which the Rosenblatts own 200,000 shares. Net proceeds of the sale of the additional stock are to be used for general corporate purposes (including advertising and promotion) and will serve to strengthen the company's cash position, according to the prospectus.

#### ADRS FOR STEEL CO. OF WALES FILED

Morgan Guaranty Trust Company of New York filed a registration statement (File 2-15409) with the SEC on July 29, 1959, seeking registration of American Depositary Receipts for 80,000 Ordinary Shares of Steel Company of Wales Limited.

#### INFRARED INDUSTRIES PROPOSES STOCK OFFERING

Infrared Industries, Inc., 62 Fourth Ave., Waltham, Mass., filed a registration statement (File 2-15402) with the SEC on July 29, 1959, seeking registration of 100,000 shares of common stock, to be offered for public sale by Lehman Brothers. The public offering price and underwriting terms are to be supplied by amendment.

The company was organized in 1957 by E. Douglas Reddan, Norman C. Anderson, and Robert H. Watts. Its principal business to date has been the manufacture and sale of infrared detectors. Initial production was for the Sidewinder missile program. Today, infrared detectors are produced by the Company for most of the infrared systems under procurement by the Armed Forces of the United States Government. The company intends to continue to operate in the infrared field with emphasis on company-sponsored research and development to maintain its position in this industry. It is said to have developed civilian as well as military applications for detectors and has also developed and is marketing related products utilizing infrared principles. Net proceeds of the stock sale will be added to working capital for use in financing the expanding volume of the company's business. A portion thereof may be used to reduce temporarily indebtedness to banks.

According to the prospectus, the company has outstanding 407,800 shares of common stock in addition to in excess of \$345,000 of indebtedness. Of the stock, 184,800 is owned by Reddan, company president; 180,000 by Anderson, vice president and secretary; and 43,000 by Watts, a director.

#### BABCOCK RADIO ENGINEERING PROPOSES OFFERING

Babcock Radio Engineering Inc., 1640 Monrovia Ave., Costa Mesa, Calif., filed a registration statement (File 2-15403) with the SEC on July 29, 1959, seeking registration of 100,000 shares of capital stock, to be offered for public sale through Schwabacher & Co. The public offering price and underwriting terms are to be supplied by amendment.

The company is engaged in the development, manufacture and sale of electric components of remote control systems designed for control by radio of the navigation and operation of unmanned aircraft and missiles. Of the net proceeds of the sale of stock, about \$500,000 will be used immediately for reduction of existing bank loans. The balance will be added to working capital and will be available for general corporate purposes, including the carrying of larger inventories and trade receivables.

The company has outstanding 448,276 shares of stock, together with \$800,000 of loans outstanding under a bank credit agreement. Of the outstanding stock, 210,552 shares are owned by Ferris M. Smith, board chairman, and 136,931 by Stuart K. Babcock, president. Officers and directors as a group own 416,276 shares, or 92.9% of the outstanding stock.

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## SEC SUSPENDS MANAGED FUNDS OFFERING

In a decision and stop order announced today (Release 33-4122), the Securities and Exchange Commission suspended the effectiveness of a registration statement relating to the offering of shares of Managed Funds Incorporated, ("Registrant"), St. Louis mutual fund, because of materially misleading statements and omission of material facts in the registration statement and the company's prospectus.

The stop order bars further sales of Managed Funds shares until and unless the informational disclosures contained in the registration statement and prospectus have been revised and corrected in accordance with the Commission's decision. In announcing its decision, the Commission reiterated the statement made at the time of the commencement of the proceedings in April that Managed Funds has a portfolio of securities having an aggregate market value of approximately \$80 million and that issuance of the stop order should not be construed in any manner as questioning the ability of Managed Funds to meet the contract terms of its outstanding shares.

In addition to the misstatements and omissions of material facts concerning such matters as Registrant's investment and dividend policies and the direction of its operations by two directors and executive officers independently of the board and in their personal interests, according to the Commission's decision, there was a failure to disclose the employment of an investment adviser and the terms thereof, a failure to disclose that such contract violated provisions of the Investment Company Act, and a failure to disclose the purchase and sale of portfolio securities through broker-dealer firms, which participated in the public offering of Registrant's shares, based upon the amount of their sales of such shares.

Registrant's principal promoters were Hilton H. Slayton and Hovey E. Slayton, and for five years prior to their recent resignations following the commencement of the Commission's action, Hilton Slayton was president and director and Hovey Slayton vice-president and director. Since January 1951 Slayton & Company, Inc., has been the retail distributor of Registrant's shares; and since June 1954 Mutual Fund Distributors, Inc., has sold Registrant's shares through other broker-dealer firms, Slayton & Company confining its activities to sales to public investors through its own sales organization. The two Slaytons owned all of the common stocks of these two firms. They also owned all the common stock of Slayton Associates, Inc., which since August 1952 has had a contract to serve as Registrant's investment adviser. Under Slayton Associates' investment advisory contract, it was to receive a fee at an annual rate equal to 1/2 of 1% of the value of Registrant's assets; and for the five years ended November 30, 1959, Slayton Associates received under this contract total fees in excess of \$1,000,000 (the Slaytons, in addition, received substantial salaries as officers of Registrant).

On December 1, 1953, Slayton Associates entered into a written contract with Stephen M. Jaquith, then a registered representative employed by the securities firm of Model, Roland & Stone, under which Jaquith was employed as an "Investment Counselor and Manager of the Securities Portfolios" of Registrant. Under this contract, Slayton Associates would direct brokerage commission business to Jaquith, or to such persons or firms as he might designate. Between June 1954 and April 1959, Jaquith performed the major function of determining the particular securities to be purchased for or sold from Registrant's portfolios. In view of the nature and extent of the services rendered by Jaquith under this contract, the Commission ruled that Jaquith served as an additional "investment adviser" for Registrant; and since the contract with Jaquith was never submitted to or approved by Registrant's directors or shareholders, provisions of the Investment Company Act requiring such approval were violated.

Furthermore, according to the decision, in 1954 and 1955 Hilton Slayton, through Jaquith, arranged with Model, Roland & Stone for Harold W. Smith and James S. Stubbs to become registered representatives of that firm. Smith is the husband of Hovey Slayton's sister; and Stubbs formerly was attorney for the Slaytons and was a director of registrant from 1949 to 1955. During the period December 1953 to March 1959, Model, Roland & Stone received \$1,888,083 in brokerage commissions from Registrant. Jaquith's average annual net income from that firm exceeded \$100,000. During the period November 1954 to March 1959, Smith's net income from the firm approximated \$119,831 and Stubbs' \$229,471, although they performed no services to Registrant or the Model firm.

The facts relative to the activities and arrangements between Slayton Associates, Jaquith, the Model firm, Smith and Stubbs should have been disclosed in the prospectus, according to the Commission, which stated that the Slaytons were not acting in the interests of Registrant's shareholders, but rather in their own personal interests, by directing substantial brokerage commissions to Smith and

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Stubbs and in directing to Jaquith brokerage commissions in payment for advisory services which Slayton Associates was obligated to perform and for which it was paid.

Registrant's prospectus represented that the principal and primary objective of registrant is capital growth, that such investment policy will result in normal turnover of portfolio securities and that dividends are to be paid quarterly based on the receipt of income or profits on securities held. In fact, the Commission stated, under the direction of the Slaytons the company's primary objective was to provide a flow of cash to its stockholders at a high uniform rate in the form of quarterly distributions principally of gains realized on the sale of securities and consideration was not given to the question of whether securities on which there were unrealized losses should be sold. In many instances the securities sold in order to realize a distributable gain were reacquired immediately thereafter at somewhat higher prices than those at which they had been sold. This policy, the Commission indicated, resulted in an extremely high rate of turnover of portfolio securities (70% in 1956, 44% in 1957, and 97% in 1958); and it was designed to promote the sales of Registrant's shares, thereby increasing the sales commissions received by the Slaytons as well as the management fees paid to Slayton Associates. The policy was deleterious to shareholders in several ways, the Commission stated, and the prospectus was misleading in failing to disclose the unfavorable aspects of such policy.

The record also showed, the Commission stated, "that the board of directors gave scant attention to the management of the Registrant; made no efforts to be informed concerning Registrant's policies and whether such policies were being followed; made no decisions concerning purchases and sales of portfolio securities; and generally permitted the Registrant to be managed by the Slaytons without consultation with or approval by the board as a whole."

In the sale of portfolio securities, some eight or nine million dollars of business was directed to approximately 36 broker-dealer firms during the year ended November 30, 1958; but the prospectus failed to disclose that brokerage transactions were directed to firms who were engaged in the sale of Registrant's shares.

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