

# 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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**HARBOR PLYWOOD-HUNT FOODS MERGER CLEARED.** The SEC has issued a decision under the Investment Company Act of 1940 approving as "reasonable and fair" the terms of the proposed merger of Harbor Plywood Corporation (Aberdeen, Wash.) with and into Hunt Foods and Industries, Inc. (Fullerton, Calif.). The requested order of the Commission exempting certain transactions incident to the merger from the prohibitions of Section 17(a) of the Act was withheld at this time, for reasons indicated hereinafter.

Harbor Plywood is a registered closed-end, non-diversified investment company. It has outstanding 1,024,216 common shares, of which Hunt Foods owns 749,088 shares (73.14%). At September 30, 1961, the net asset value of the outstanding stock of Harbor Plywood was \$40,838,811, or \$39.87 per share. For the 12-month period ended March 31, 1961, and the six-month period ended September 30, 1961, Harbor Plywood's net income amounted to \$.44 and \$.27 per share, respectively. Hunt Foods is primarily engaged in the food and grocery products business. At June 30, 1961, it had outstanding 4,655,930 common shares, of which Harbor Plywood owns 222,906 or 4.79%, and the consolidated book value of the outstanding common amounted to \$29.17 per share. For the 12-month period ended that date, consolidated net income applicable to the common stock amounted to \$11,710,533, or \$2.64 per share.

Under the merger proposal, the publicly-held shares of common stock of Harbor Plywood will be converted into shares of common stock of Hunt Foods on the basis of an exchange ratio determined by dividing (a) the sum of (i) the arithmetic average of the net asset value per share of Harbor Plywood stock for the 15 trading days immediately preceding the effective date of the merger, based on closing market prices (or management's estimates of value in the absence of market quotations) of Harbor Plywood's portfolio securities for such period, plus (ii) an adjustment of \$1.65 per share, by (b) the arithmetic average of the closing market prices of the Hunt Foods common stock on the New York Stock Exchange for the same 15-trading-day period. The adjustment of \$1.65 per share gives recognition principally to the claims in a derivative and class action brought by a stockholder of Harbor Plywood against the two companies and certain directors of Harbor Plywoods which allege certain irregularities by the defendants. The defendants considered the suit to be without merit; but in order to avoid the expense and delay which litigation would involve, the merger proposal has been advanced as a means of settling the litigation and at the same time of obviating the question whether the cross-ownership of securities between the two companies violated the Investment Company Act.

The Commission ruled that the merger proposal would eliminate the problems of cross-ownership now existing between the two companies. Based upon its analysis of various comparative financial data with respect to the two companies, the Commission also held that the merger was fair and reasonable and involved no overreaching on the part of any person concerned. The Commission observed, however, that it is possible that the market of the Hunt Foods stock during immediately preceding the effective date of the merger, which prices will affect the exchange ratio, may not fairly represent the cash value of the Hunt Foods stock. To ensure against this possibility, the Commission withheld issuance of its order exempting the proposed merger transaction from the provisions of Section 17(a), until the companies have filed an amendment to the application setting forth the market prices of the Hunt Foods stock during the 15 trading days immediately preceding the effective date of the merger and the Commission is satisfied that an order may then appropriately issue.

The merger is subject (among other things) to the requisite approval by the shareholders of the two companies at meetings to be held February 23, 1962, and to approval by the Court of Chancery of the State of Delaware of the terms of the merger as a full and complete settlement of the claims the subject of the derivative action above referred to.

**PLAN APPROVED FOR ELIMINATING PENN. GAS MINORITY INTEREST.** The SEC today announced a decision under the Holding Company Act (1) directing the elimination of a 5.95% minority interest in Pennsylvania Gas Company, of Warren, Pa., and (2) approving a plan filed by Penn Gas' parent, National Fuel Gas Company, New York holding company, for the elimination of such minority interest by an offer of National stock in exchange therefor. Approval of the exchange plan is subject to Federal court approval; and the Commission, on request of National, will apply to the United States District Court in Pittsburgh for such approval.

Penn Gas has outstanding 622,080 common shares, of which National owns 585,079. The remaining 37,001 shares (5.95%) are held by about 225 stockholders. In its decision (written by Commissioner Cohen), the Commission ruled that the existence of such publicly-held minority interest "produces an inequitable distribution of voting power" inimical to the standards of Section 11(b)(2) of the Act. Accordingly, the Commission ordered the elimination of the said minority interest.

Under its exchange plan, National will issue 1.45 shares of its common stock in exchange for each share of the minority-held stock. Based upon its analysis of comparative earnings, assets and other data with respect to the two companies, the Commission concluded that the exchange plan is "fair and equitable" to the stockholders of Penn Gas in that the National stock to be received by them is the equitable equivalent of the Penn Gas stock which they now hold. In making this finding, the Commission rejected contentions of certain Penn Gas shareholders that the exchange ratio does not give adequate recognition to the value of Penn Gas stock.

Copies of the Commission's decision (Release 35-14575) are available upon request.

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**"UNCLAIMED SECURITIES" ENUMERATED.** The SEC today announced (for February 21st Newspapers) a list of 200 classes of outstanding securities of 125 corporations which have been reorganized within recent years; and investors are cautioned that, unless they take prompt action to assert their claims (as holders of these securities) to the new securities or cash distributable pursuant to the plans of reorganization of such corporations, they risk the loss of their investments. Copies of the list (Release 35-14578) have been distributed to all SEC offices and to registered broker-dealer and investment adviser firms, to which investors are requested to direct their inquiries.

**STANDARD GAS ORDER MODIFIED.** The SEC has issued an order under the Holding Company Act (Release 35-14579) amending a 1953 order so as to permit Standard Gas and Electric Company and Duquesne Light Company, a former subsidiary of Standard, to have Robert J. Levy as a common director. Standard has dissolved but continues in existence as a dissolved corporation solely for the purpose of distributing assets of about \$2,400,000 consisting almost entirely of cash and government bonds.

**RIDGEWAY CENTER SEEKS REPORTING EXEMPTION.** Ridgeway Center Associates, of New York City, has applied to the SEC pursuant to Rule 15d-20 under the Securities Exchange Act of 1934 for an exemption from the periodic reporting requirement of Section 13 of the Act; and the Commission has issued an order giving interested persons until March 9, 1962, to request a hearing thereon.

Associates, a New York partnership, made an undertaking to file periodic reports with the Commission in connection with its public offering of \$2,285,000 of limited partnership interests pursuant to a Securities Act registration statement which became effective in July 1960. It now represents that United Investors Corporation of Delaware owns all but \$25,000 of such interests, which are owned by seven other persons. United also owns indirectly all of the general partnership interests in Associates.

**SEC ORDER CITES BARUCH & CO., TWO OTHERS.** The SEC has ordered consolidated proceedings under the Securities Exchange Act of 1934 to determine whether the broker-dealer registrations of R. Baruch and Company, 1518 K Street, N. W., Washington, D. C., and two other firms should be revoked for alleged violations of the Federal securities laws. A hearing for the purpose of taking evidence with respect to the alleged violations is scheduled for March 19, 1962, in the Commission's Washington Office. The respondent firms, in addition to Baruch and Company, are A. T. Brod & Company, 120 Broadway, New York, and Sutro Bros. & Co., 80 Pine St., New York. The proceedings with respect to each of the firms also concern the question whether each should be suspended or expelled from membership in the National Association of Securities Dealers, Inc.; and the proceedings with respect to Brod & Company and Sutro Bros. concern the question whether they should be suspended or expelled from membership in the New York and other stock exchanges of which they are members.

The Commission's orders with respect to the three firms recite allegations of its staff that information developed in an investigation tends to show that they violated the Securities Act registration and anti-fraud provisions in the offer and sale of stock of Agricultural Research and Development, Inc. ("AGR"), during the period January 1 to July 1, 1961 (and thereafter as to Baruch & Co.). With respect to Brod & Company and Sutro Bros., the alleged violations are attributable primarily to their Washington Branch Offices. The Commission's order concerning Baruch & Co. also contains allegations by its staff that fraudulent representations were made by that firm in its offer and sale of stock of Micro Electronics Corporation during the period September and October 1961; the stock of Government Personnel Savings and Loan Association, Inc., during the period November 1960 through March 1961; and the stock of Baruch & Co. itself during the period January-October 1961.

With respect to the AGR stock, the Commission's files reflect a public offering of 120,000 shares of AGR stock at \$2.50 per share pursuant to a Regulation A exemption from registration, commencing in August 1960. AGR was organized in December 1959 with its principal office in Wiggins, Colo., to engage in farming and related activities, but particularly to "produce, raise, and market a quality pork product under controlled sanitary conditions" (quoting its offering circular). Its principal asset consisted of an equity in a 520-acre farm near Wiggins, purchased from Eugene Petersen (controlling stockholder and later president) for \$2,500 cash, 64,400 common shares, and the assumption of the \$96,621 indebtedness, represented by two promissory notes secured by first and second deeds of trust. The offering circular further listed current assets of the issuing company amounting to \$9.15 and current liabilities of \$16,389; and it stated that a portion of the proceeds of the offering "must be used to pay these liabilities." In the event that a "substantial portion" of the shares are not sold, the circular continued, then the principal assets of the company, consisting of real estate, may be lost through foreclosure sale and the company "will not be able to engage in the proposed business." In a report filed by AGR on February 17, 1961, it stated that 39,685 shares had been sold for \$99,212 (\$82,330 net to AGR) and that the offering "has been discontinued due to lack of acceptance of the offering." The Commission on April 19, 1961, issued an order suspending the Regulation A exemption with respect to the AGR stock offering. Of the 39,685 AGR shares purportedly sold pursuant to the Regulation A offering prior to February 17th, the staff alleges that 30,000 shares were placed in nominee accounts and were thereafter distributed through the three firms. The market for AGR stock subsequently rose to \$22 $\frac{1}{2}$  per share on April 10, 1961. Later in 1961, the shares were quoted at 3/4 bid and 1-1/4 asked, but more recently Baruch & Co. raised its quotations to 4 $\frac{1}{4}$  bid and 5 $\frac{1}{2}$  asked.

The Commission's staff asserts that, in the offer and sale of AGR stock, Baruch & Co., Brod & Co. and Sutro Bros. "engaged in transactions, acts, practices and a course of business which would and did operate as a fraud and deceit" upon the purchasers of the stock, in that they made various false and misleading representations with respect, among other things, to the source of the AGR stock; the existence, terms and potential value of certain AGR franchises; the financial condition, earnings and profit potential of AGR; and the results of, reports concerning and events surrounding AGR's public offering of securities. Baruch & Co. and Brod & Co. also are charged with misrepresentations with respect to AGR's process for pork production as well as the market price of AGR stock, the shares of AGR outstanding, a split of AGR stock, and the market price of and a price increase in AGR stock. The three firms also are alleged by the staff to have

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violated the anti-manipulative provisions of the Securities Exchange Act by bidding for and purchasing AGR stock, for accounts in which they had a beneficial interest, while engaged in its distribution. In addition, the Baruch and Brod firms are charged with engaging in a telephone solicitation campaign for the purpose of publicly distributing AGR stock, including the stock of a controlling person and promoter of AGR and certain persons acting in concert with him, for the purpose of creating a market demand and appearance of demand for the stock and to increase its market price, and otherwise to create a false and misleading appearance as to the market price for and to induce purchases of AGR stock.

With respect to Micro Electronics, the staff charges "fraud and deceit" by reason of misrepresentations by Baruch & Co. as to an increase in the market price of Micro Electronics stock and an arrangement whereby certain checks remitted to Micro Electronics representing the proceeds of the sale of its stock pursuant to an underwriting by Baruch & Co. were not to be deposited for collection until a mutually-agreeable date and whereby the issuer withheld such deposit for about six weeks, during a portion of which time Baruch & Co. was financially unable to completely cover the deposit of such checks, which consequently jeopardized its ability to do business as a broker-dealer. It is further alleged that, during a public offering of the Savings and Loan stock at \$2 per share, Baruch & Co. purchased a substantial block of that company's stock from certain insiders at from 96¢ to 98¢ per share and offered and sold such stock at \$2 per share and transmitted to customers the issuer's prospectus for the purpose of creating "the false and misleading impression" that the shares being offered by Baruch & Co. were part of the issuer's public offering and that the proceeds would accrue to the issuer. With respect to the purchase and sale of its own stock, Baruch & Co. and its president, Baruch Rabinowitz, are alleged by the staff to have offered to purchase and purchased such stock at \$4 and \$5 per share when prior to and contemporaneously with such purchase they were offering to sell and selling Baruch & Co. stock at prices varying between \$10 and \$15 per share and that, in such purchases, they represented that Baruch & Co. had suffered a loss from operations when such information did not accurately reflect the company's financial condition.

In addition to Rabinowitz, the Commission's orders name several other participants in the alleged violations, including Albert T. Brod, of New York, a general partner of Brod & Co., and Martin Lesser, former general partner, together with Irving Rudd, managing partner of Sutro Bros. Washington office.

At the March 19th hearing, evidence will be taken with respect to the foregoing for the purpose of determining whether the staff's allegations are true and, if so, whether revocation or other action should be taken in the public interest.

AMERICAN NATURAL GAS FILES STOCK PLAN. American Natural Gas Company, Detroit holding company, has made application to the SEC under the Holding Company Act for approval of a restricted stock option plan for key executive employees; and the Commission has issued an order (Release 35-14576) giving interested persons until March 6, 1962, to request a hearing thereon. Under the plan, a total of 147,112 shares of American are reserved for issuance upon the exercise of options which may be granted under the plan to regular full-time key executive employees of American and its subsidiary companies. This amounts to 1% of the 14,711,292 shares of American's outstanding stock.

UNION ELECTRIC PROPOSES STOCK PLAN. Union Electric Company, St. Louis, has applied to the SEC under the Holding Company Act for approval of an "Employees' Savings and Stock Subscription Plan;" and the Commission has issued an order (Release 35-14577) giving interested persons until March 6, 1962, to request a hearing thereon. The plan will apply to all regular full-time officers and employees of Union and of its participating subsidiary companies, Missouri Power & Light Company and Missouri Edison Company. The company will reserve 500,000 common shares for issuance under the plan, amounting to 4.38% of the 11,402,622 outstanding shares.

PACIFIC GAS AND ELECTRIC PROPOSES BOND OFFERING. Pacific Gas and Electric Company, 245 Market St., San Francisco, filed a registration statement (File 2-19800) with the SEC on February 19th seeking registration of \$65,000,000 of First and Refunding Mortgage Bonds, Series HH, due 1994, to be offered for public sale at competitive bidding. The net proceeds from the bond sale will become part of the treasury funds and will be applied toward the cost of additions to the company's utility plant. Gross expenditures for construction in 1961 amounted to \$228,000,000, and it is estimated that such expenditures in 1962 and 1963 will amount to a total of \$461,000,000.

SECURITIES ACT REGISTRATIONS. Effective February 19: Allied Chemical Corp. (File 2-19744). Effective February 20: American Building Maintenance Industries (File 2-19158); Gustin-Bacon Manufacturing Co. (File 2-19455); Hyatt Corporation of America (File 2-19171); National Rolling Mills Co. (File 2-19337); Standard Industries, Inc. (File 2-19133); Templeton, Damroth Security Managers, Inc. (File 2-19659); Van-Pack, Inc. (File 2-18905).

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