

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 RULE RE UNDERWRITING PROCEEDS. The SEC today announced the adoption of new Rule 15c2-4 under the Securities Exchange Act, effective March 30, 1962, which seeks to prohibit certain fraudulent acts or practices in the underwriting of securities by requiring that the payment received by the underwriter and any broker-dealer participating in a distribution of securities (other than a "firm-commitment underwriting") shall be promptly transmitted to the issuer or placed in safekeeping.

"There have been instances," the Commission stated, "where underwriters and other broker-dealers participating in distributions have sold securities, collected the amount due, and then failed to remit it to the issuer or other person entitled thereto. In some of these situations insolvency of the broker-dealer made it impossible for the issuer to receive the proceeds of the sale. Sometimes the issuer on whose behalf a distribution is being made is a comparatively new company, is making the public offering to raise the capital necessary to begin or expand its activities, and the failure to receive it will substantially impair its ability to continue in business or to conduct necessary operations. In some cases the sale becomes final only if all the securities are sold within a specified period of time; and the arrangement contemplates that the payments made by customers will be returned to them if the distribution is not completed in the required time. The failure of the underwriter or a participating broker-dealer to transmit the funds, or to maintain them so that they will be insulated from and not be jeopardized by his unlawful activities or financial reverses, could involve a fraud either upon the person on whose behalf the distribution is being made or upon the customer to whom the payment is to be returned if the distribution is not completed.

The new rule makes it unlawful for any broker or dealer participating in any distribution (other than a firm-commitment underwriting) to accept any part of the sale price of any security being distributed unless (1) it is promptly transmitted to the persons entitled thereto, or (2) if the distribution is being made on an "all or none" basis, or on any other contingent basis, the money is put into a trust or agency account, or delivered to an escrow bank, until the event or contingency has occurred, and it is then promptly transmitted or returned to the persons entitled thereto.

BORROWINGS PROPOSED BY G. P. U. General Public Utilities Corporation, New York holding company, has filed a proposal with the SEC under the Holding Company Act for bank borrowings during 1962 of not to exceed \$50,000,000; and the Commission has issued an order (Release 35-14580) giving interested persons until March 8th to request a hearing thereon. The funds will be used by GPU (1) to pay the tax liability arising from the sale by GPU of its investment in Manila Electric Company, (2) for investment from time to time in its subsidiary companies, and/or (3) to reimburse its treasury for such investments theretofore made.

CONSOLIDATED NATURAL GAS DEBENTURE OFFERING CLEARED. Consolidated Natural Gas Company, New York holding company, has received SEC authorization under the Holding Company Act (Release 35-14581) for the issuance and sale of \$25,000,000 of debentures due 1987 at competitive bidding. Proceeds will provide the long-term financing required for the 1962 construction program of Consolidated's subsidiaries.

PROFESSIONAL RESEARCH FUND EXEMPTED. The SEC has issued an order under the Investment Company Act (Release IC-3428) declaring that Professional Research Fund, Inc., of St. Louis has ceased to be an investment company.

DETROIT & CLEVELAND NAVIGATION EXEMPTED. The SEC has issued an order under the Investment Company Act (Release IC-3429) declaring that Detroit and Cleveland Navigation Company, Detroit, has ceased to be an investment company.

SEC ORDER CITES ALLYN, CARR & CO. The SEC has ordered proceedings under the Securities Exchange Act of 1934 to determine whether the broker-dealer registration of Allyn, Carr & Co., Inc., 79 Wall Street, New York, should be revoked.

The said Carr & Co.'s registration as a broker-dealer became effective January 20, 1962. Thomas M. Kelleher is president and James G. Harbilas is secretary-treasurer. The Commission's order recites charges by its staff that information developed in an investigation tends to show that Carr & Co., Harbilas and Kelleher made false and misleading representations in the Carr & Co. registration application concerning Kelleher's connections with other broker-dealer firms within the past ten years; that Carr & Co. made (and Harbilas caused it to make) false and misleading statements with respect to Carr & Co.'s assets and cash on hand in a report of financial condition as of November 30, 1961, filed on December 21, 1961; and that Carr & Co. failed to file (and Kelleher and Harbilas caused it so to do) amendments to its registration application and financial report to correct such inaccuracies.

A hearing for the purpose of taking evidence on the foregoing will be held later, at a time and place to be announced.

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BRENEK & CO. REGISTRATION REVOKED. The SEC today announced the issuance of an order under the Securities Exchange Act (Release 34-6735) revoking the broker-dealer registration of Francis J. Brenek & Co., Inc., 1904 - 3d Ave., Seattle, for false and misleading representations in the sale of its stock from August 1960 to January 1961 in violation of the Securities Act anti-fraud provisions. The misrepresentations related to the growth and safety of an investment in the stock, earnings, future dividends, plans of Brenek & Co. for membership on a national securities exchange and source of the stock. No disclosure was made to customers of Brenek & Co.'s operating losses of over \$12,000 for the first six months of 1960 and over \$32,000 for the year 1960, and that a portion of the stock sold to customers by Brenek & Co. was personally owned by Brenek and the proceeds of the sale would go to Brenek instead of to the company.

The Commission also ruled that Brenek & Co. had engaged in the conduct of its securities business in violation of the Commission's net capital rule, and violated its record-keeping and confirmation rules. Moreover, Brenek & Co., Francis J. Brenek, its president, and Clinton F. Crow, vice president, were permanently enjoined (with their consent) in August 1961 from violations of the anti-fraud, net capital and record provisions of the Securities Exchange Act. The two individuals, together with Patrick L. Calligan, a salesman, were each found to be a cause of the revocation order.

SEC COMPLAINT NAMES FALLON KELLY CO. INC. The SEC San Francisco Regional Office announced February 16th (Lit-2196) the filing of a complaint (USDC, Los Angeles) charging violations of the Commission's net capital rule by Fallon, Kelly and Company, Inc., of Los Angeles, and James A. Fallon and Herbert H. Meyer.

HE.LEUM 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 proposed public stock offering by HE.LEUM Co., Inc., of 8900 North Central Ave., Phoenix, Arizona.

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 in November 1961, HE.LEUM proposed the public offering of 2,400,000 common shares in units of 100 shares at \$12.50 per unit, or an aggregate of \$300,000. The Commission asserts in its suspension order that it has reasonable cause to believe that certain terms and conditions of the said regulation have not been complied with; that a Regulation A exemption is not available by reason of the fact that the amount of securities proposed to be offered, computed in accordance with the regulation, exceeds the \$300,000 limitation; that the HE.LEUM offering circular is false and misleading in respect of certain material facts; and that the stock offering would violate the anti-fraud provisions of the Securities Act.

According to its offering circular, HE.LEUM owns oil and gas properties and equipment in Bourbon County, Kansas, which it proposes to explore and develop and for which it issued 2,400,000 common shares to management officials and promoters. Of such stock, 1,362,722 shares were issued to Robert Whisenant and 521,278 to Robert C. Preston (president), both of Phoenix. The misrepresentations alleged in the Commission's suspension order relate, among other things, to the failure to include a reliable estimation of profitably recoverable reserves from the properties involved and past production history of wells and other related geological information, including a discussion of the hazards involved in the company's proposed operations; the failure to describe clearly and adequately the proposed plan of stock distribution, the expenses of the offering, and the effect upon purchasers if not all shares are sold; the representations with respect to core analyses showing gross oil in place; and the extension of dollar amounts in the financial statements, for other than cash transactions, on the basis of an estimated or appraised valuation of assets in excess of identifiable cash cost of such assets to promoters. The Commission also challenges the arbitrary valuation of \$240,000 assigned to certain properties and services received by the company in exchange for stock.

ALLIED METALS HEARING SCHEDULED. On request of Allied Metals Company, Albuquerque, N. Mex., the Commission has scheduled a hearing for March 12, 1962, in its Denver Regional Office to determine whether to vacate or make permanent a prior Regulation A suspension order with respect to a proposed public stock offering by Allied Metals. In a notification filed in September 1961, as amended, Allied Metals proposed the public offering of 50,000 common shares at \$1 per share. The Commission's suspension order alleged, among other things, that its offering circular was false and misleading in respect of certain material facts.

WESTERN PIONEER FILES FOR OFFERING AND SECONDARY. Western Pioneer Company, 3243 Wilshire Blvd., Los Angeles, filed a registration statement (File 2-19799) with the SEC on February 19th seeking registration of 371,750 shares of capital stock, of which 175,000 shares are to be offered for public sale by the company and 196,750 shares, being outstanding stock, by the holders thereof. The offering will be made on an all or none basis through underwriters headed by Kidder, Peabody & Co., 20 Exchange Place, N. Y. The public offering price (maximum \$42 per share*) and underwriting terms are to be supplied by amendment.

The company was organized under Delaware law in April 1961 by Robert R. Sprague, president, and Kidder, Peabody. It owns all the guarantee stock of Pioneer Savings and Loan Association, which is engaged in the business of lending money, principally secured by first liens on real estate, to enable borrowers to purchase, construct, improve or refinance real property. In addition, the company acts as an insurance agent, principally for fire and extended coverage property insurance and mortgage life insurance, and serves as trustee under deeds of trust. The net proceeds from the company's sale of additional stock will be used to retire a portion of its outstanding \$8,600,000 bank loan incurred in connection with the company's purchase of the Association and affiliated insurance agency and trust deed businesses. The company raised its initial capital by the sale to Kidder, Peabody for \$50,000, 5-year warrants to purchase 50,000 capital shares at \$25 per share. In May 1961 the company obtained the \$8,500,000 bank loan and sold for \$13,187,500 (\$20 per share) 659,375 capital shares to institutional and other investors. Sprague purchased 50,000 of such shares, John McClintic Rely, a director, 50,000 shares, and Kidder, Peabody 79,375 shares. Kidder,

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Peabody received a fee of \$500,000 for its services in negotiating the said stock sale, and paid \$131,333 of such fee and sold 15,000 of such warrants to a finder. Concurrently, the company purchased for a total of \$21,000,000 the outstanding stock of the Association and the affiliated insurance agency and trust deed businesses. Of the purchase price, Robert R. Sprague, Norman F. Sprague, Jr., board chairman, and Ralph K. Noble, vice president and secretary-treasurer, received \$6,952,271, \$2,177,500 and \$37,500, respectively.

In addition to certain indebtedness, the company has outstanding 659,375 shares of capital stock, of which management officials as a group own 23.5%, Morgan Guaranty Trust Company of New York, as trustee of five pension trusts, holds 15.2%, and Kidder, Peabody and certain of its partners and their families own 12%. The prospectus lists 11 selling stockholders owning an aggregate of 317,500 shares, including Carnation Company, Scudder Special Fund, Inc., and Morgan Guaranty Trust, which own 50,000 shares, each and propose to sell 25,000, 35,000 and 50,000 shares, respectively. Others propose to sell amounts ranging from 3,000 to 18,750 shares.

INVESTORS FUNDING OF N.Y. PROPOSES DEBENTURE OFFERING. Investors Funding Corporation of New York, 630 Fifth Avenue, New York, filed a registration statement (File 2-19801) with the SEC on February 19th seeking registration of \$1,000,000 of 10% registered subordinated debentures due 1966. Also included in the statement are \$5,000,000 of 10% registered subordinated debentures due (in 5 series) from 1971 through 1975 (with attached 8-year warrants to purchase an aggregate of 75,000 Class A shares, at from \$25 to \$40 per share). All such debentures are to be offered for public sale in \$1,000 units at 100% of principal amount on a best efforts basis by IFC Securities Corporation (wholly owned subsidiary of the company), which will receive a \$50 per unit selling commission. In addition, the statement includes (1) 30,000 Class A shares underlying like warrants to be sold to the underwriter at \$.025 per warrant at the rate of 5 warrants for each \$1,000 of debentures sold, and (2) 25,000 Class A shares which the company intends to issue from time to time for the acquisition of interests in real estate or real estate corporations.

The business of the company is that of investing in, purchasing, developing, financing and selling real estate. The largest part of its business at present is the acquisition for investment purposes of apartment houses or real estate suitable for construction of apartment houses in the New York metropolitan area. The net proceeds from the debenture sale will be added to general funds and working capital and will be used primarily for the purchase, investment in and/or improvement of additional parcels of real estate (although, according to the prospectus, the company does not have any plans with regard to any particular parcels). In addition to various indebtedness and preferred stock, the company has outstanding 171,686 Class A and 17,582 Class B shares, of which Jerome Dansker, board chairman and president, owns 13.39% and 41.81%, respectively; Norman Dansker, executive vice president, 8.56% and 29.99%, respectively; and Raphael M. Dansker, a vice president, 3.02% and 10.47%, respectively.

PROM MOTOR HOTEL PROPOSES OFFERING. Prom Motor Hotel, Inc., 6th and Main Sts., Kansas City, Mo., filed a registration statement (File 2-19802) with the SEC on February 19th seeking registration of 50,000 shares of Class A common stock, to be offered for public sale through underwriters headed by Barret, Fitch, North & Co., Inc., of 111 West 10th St., Kansas City. The offering price (maximum \$10 per share*) and underwriting terms are to be supplied by amendment.

The company owns and operates the Prom Motor Hotel in Kansas City. Net proceeds of this financing will be used for expansion of present facilities and for the procurement of additional existing motels and motor hotels and the construction of new motor hotels. Part of the proceeds may be used to pay off short-term obligations until the funds are needed for such purposes. The company now has outstanding 90,259 Class A and 99,900 Class B shares, of which management officials own 79.1% and 99.9%, respectively. Abe Yeddis is president and board chairman.

BUCKINGHAM CORP. PROPOSES OFFERING. The Buckingham Corporation, 620 Fifth Ave., New York, filed a registration statement (File 2-19803) with the SEC on February 19th seeking registration of 500,000 Class A common stock, to be offered for public sale through underwriters headed by Lehman Brothers, One William St., New York. The public offering price (maximum \$25 per share*) and underwriting terms are to be supplied by amendment.

Substantially the entire business of the company consists of the import and sale of Cutty Sark Scotch Whisky, for which it has the sole import rights. Of the net proceeds of the stock sale, \$3,940,000 will be applied to repay all the company's outstanding indebtedness, incurred principally in connection with the company's purchases, for aging, of bulk whisky located in Scotland and for additional working capital. Some \$1,100,000 will be used to create a stabilizing inventory of whisky warehoused in the United States for use during periods of unforeseen fluctuation in supply or demand. A substantial portion of the balance will be used for additional purchases of bulk whisky in Scotland, and the remainder will be added to general funds and used for various corporate purposes, including working capital. The company now has outstanding 2,400,000 Class B shares, of which 75% is owned by James J. Culhane, board chairman, and 25% by James F. Schlesinger, president.

MARINE MIDLAND PROPOSES EXCHANGE OFFER. Marine Midland Corporation, 241 Main St., Buffalo, N. Y., filed a registration statement (File 2-19804) with the SEC on February 19th seeking registration of 1,724,167 shares of common stock. The company proposes to offer this stock in exchange for all the 1,090,555 issued and outstanding shares of capital stock of Security National Bank of Long Island, and for an additional 21,811 shares which the Bank may pay as a 2% stock dividend, on the basis of 1.55 shares of Marine Midland stock for each share of Bank stock, or if the Bank shall not have paid such 2% stock dividend then on the basis of 1.581 shares for each 1 share of Bank stock. The offer is subject to its acceptance by the holders of not less than 80% of the outstanding Bank stock. Marine Midland now has outstanding 11,187,311 shares of common stock. It now controls 11 banks or trust companies engaged in a general commercial banking business and serving 105 communities in the State of New York through 181 banking offices.

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About 2% of the outstanding stock is owned by management officials. Charles H. Diefendorf is board chairman and Baldwin Maull president.

LOCKWOOD GRADER FILES FOR OFFERING. Lockwood Grader Corporation, Seventh and S Streets, Gering, Nebr., filed a registration statement (File 2-19805) with the SEC on February 20th seeking registration of \$900,000 of 6% Sinking Fund Debentures Series B, with attached warrant entitling the purchaser of each \$1,000 debenture to purchase 30 shares of Class A common stock at \$11.25 per share through February 1965 (and at increasing prices for seven years thereafter). The debentures (with warrants) will be offered for sale at \$1,000 per debenture, with an \$80 commission to the underwriter, First Nebraska Securities Corp., 1001 "O" Street, Lincoln, Nebr.

The company is engaged in the design, manufacture, sale and repair of machinery and equipment used in planting, harvesting and handling potatoes and certain other vegetables and fruits. Net proceeds of this financing will be used to partially retire bank indebtedness of \$1,400,000 incurred to finance inventories of machinery, equipment and parts for distribution and sale during the 1962 season. The balance of the indebtedness, to be met out of current funds, will be due November 30, 1962. In addition to indebtedness, the company now has outstanding 40,030 Class A and 228,943 Class B shares. Margaret K. Lockwood, president and board chairman, owns 51.9% of the Class B stock and management officials as a group 54.5%. The latter own 4.6% of the Class A stock.

SPORTSWAYS FILES FOR OFFERING AND SECONDARY. Sportsways, Inc., 7701 E. Compton Blvd., Paramount, Calif., filed a registration statement (File 2-19806) with the SEC on February 20th seeking registration of 175,000 shares of common stock, of which 50,000 shares are to be offered for public sale by the company and 125,000 shares, being outstanding stock, by Shore-Calnevar, Inc. The public offering price (maximum \$7 per share*) and underwriting terms are to be supplied by amendment. The principal underwriters are Troster, Singer & Co., of 74 Trinity Place, and Federman, Stonehill & Co., of 70 Pine St., both of New York. The two firms have purchased for 5¢ per share common stock purchase warrants from Shore-Calnevar and from Sportsway entitling the holders to purchase from such corporations, respectively, 11,700 shares and 3,300 shares of additional stock for a five-year period, the exercise price of the warrants to be supplied by amendment.

The company manufactures and distributes skin-diving equipment and other articles and accessories of underwater and related sports. A subsidiary distributes physical exercise equipment. Net proceeds of the company's sale of additional stock will be added to working capital, to be used to increase inventories and develop new products. The company now has outstanding 450,000 common shares, of which Shore-Calnevar owns 410,011 shares. The sale by Shore-Calnevar of 125,000 shares will reduce its interest (assuming sale of the 50,000 company shares) from 91.9% to 57%. The prospectus lists Philip Shore as board chairman and Fred Plotkin as president.

NEW ORLEANS PUBLIC SERVICE PROPOSES BOND OFFERING. New Orleans Public Service Inc., 317 Baronne St., New Orleans, La., filed a registration statement (File 2-19807) with the SEC on February 20th seeking registration of \$8,000,000 of First Mortgage Bonds Series due 1992, to be offered for public sale at competitive bidding. Net proceeds of the bond sale will be applied to the company's construction program, involving expenditures estimated for 1962 at \$21,514,000.

BERKSHIRE GAS PROPOSES RIGHTS OFFERING. The Berkshire Gas Company, 20 Elm Street, Pittsfield, Mass., filed a registration statement (File 2-19808) with the SEC on February 20th seeking registration of 26,500 shares of common stock, to be offered for subscription by common stockholders. Smith, Barney & Co., 20 Broad Street, N. Y., heads the list of underwriters. The record date, rate of subscription, subscription price (maximum \$24.50 per share*) and underwriting terms are to be supplied by amendment. The net proceeds from the stock sale will be used to retire \$550,000 of an aggregate of \$1,150,000 short term bank loans incurred to finance in large part the company's construction program (the balance to be retired by the proposed private sale of \$600,000 of first mortgage bonds). The company's construction program for the year ending June 30, 1962, provides for cash expenditures of \$574,000 for property additions. In addition to certain indebtedness and preferred stock, the company has outstanding 137,161 shares of common stock, of which management officials as a group own 16%. Kenneth D. Knoblock is president.

SEC TO PARTICIPATE IN 20TH CENTURY FOODS CASE. The SEC has filed notice of appearance in the Chapter X proceedings for the reorganization of Twentieth Century Foods Corp. of Little Rock, Ark. Walter Nesbett serves as trustee. The debtor engaged in the processing of raw milk into cheese and related products. Assets of the Debtor as reported on its books approximate \$1,200,000. Liabilities total \$623,564, of which \$372,568 are reportedly secured by real estate and other assets. There are outstanding 134,700 shares of \$1 par value Class A common stock and 140,205 shares of \$1 par value Class B common stock. These shares are held by some 470 stockholders residing in 12 states.

SECURITIES ACT REGISTRATIONS. Effective February 21: Caribbean Shoe Corp. (File 2-19153); Consolidated Natural Gas Co. (File 2-19737); Graniteville Co. (File 2-19468); Inpak Systems, Inc. (File 2-19200). Knickerbocker Toy Co., Inc. (File 2-19008); E. J. Korvette, Inc. (File 2-19677); Lincoln Income Life Insurance Co. (File 2-19256); Mobile Rentals Corp. (File 2-19136); Sheraton Corporation of America (File 2-19249); Tandy Corp. (File 2-19606). Withdrawn February 21: Henry J. Green Instruments, Inc. (File 2-18744).

*As estimated for purposes of computing the registration fee.