

# SECURITIES AND EXCHANGE COMMISSION NEWS DIGEST



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

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## SUSPENSION OF AIRCRAFT DYNAMICS INTERNATIONAL OFFERING MADE PERMANENT - REGISTRATION OF AVIATION INVESTORS OF AMERICA REVOKED.

In a decision announced today (Release 33-4629) the SEC made permanent its prior order temporarily suspending a Regulation A exemption from Securities Act registration with respect to a stock offering by Aircraft Dynamics International Corp. of 99,000 common shares at \$3 per share; and the Commission also revoked the broker-dealer registration of Aviation Investors of America, Inc., the underwriter of that offering (both companies of New York). Philip Bradford, president and board chairman of the issuer and principal stockholder of the underwriter, as well as Walter Fink, sales manager, and Ernest Massari and Benjamin Greene, salesmen of the underwriter, were each found a cause of the revocation and suspension order. The Commission also expelled the underwriter from membership in the National Association of Securities Dealers, Inc.

In its decision, the Commission found that in the offer and sale of issuer's stock, the underwriter and various of its salesmen, including Massari and Greene, employed boiler-room techniques and made false and misleading statements over the local and long-distance telephone in violation of the anti-fraud provisions of the Federal securities laws. Among other things, the Commission found that Massari represented to two customers that this was the "last opportunity to buy stock" at 3, that the stock would go up shortly, was going to increase in value remarkably within the next few weeks and may "triple or better," would be listed "within a matter of days" or within a month, and that dividends would be paid when the stock went "on the market" in a short time. Green represented to four customers that the stock might go as high as 6 or 12 within about six months and that he could "almost guarantee" an increase to between 7 and 8 and it might go to 12. Other salesmen represented that the stock "will be up to six points in a very short while," and "would pay good dividends." The Commission ruled that it was clear that the salesmen did not have adequate or reasonable basis for their optimistic representations. As disclosed in the offering circular, the issuer as of December 31, 1959 had a net capital deficiency of \$74,762 and a working capital deficit of \$91,492, and for the two and one-half year period ending on that date showed a net operating loss, on a consolidated basis, of \$57,623. Moreover, no application for listing the stock on any national exchange had been filed with the Commission as of November 4, 1960. The Commission rejected Massari's and Greene's assertions that most of their representations were mere statements of opinion and understandable as such by any reasonable person, with Massari characterizing his sales talk as the "puffing one expects from any salesman." The Commission noted that one who sells securities is not "any salesman," and that a salesman who expresses an opinion about future market prices, dividends, or exchange listing impliedly represents that he has an adequate basis for such opinion. Absent such basis, he violated his duty to deal fairly with customers and his implied representation is fraudulent.

The Commission also observed that while there is no evidence in the record that Fink directly offered or sold any of the stock, as sales manager he assumed responsibility for the supervision of the salesmen. "Misrepresentations were made to customers as a result of his failure reasonably to act upon the knowledge which he had or should have had and to exercise his responsibility to supervise, and to that extent he became a party to those misrepresentations. The record, moreover, reveals direct involvement in the activities of the salesmen." The Commission also found that the underwriter and Bradford violated the Securities Act registration requirements in that no exemption pursuant to Regulation A was available by virtue of their failure to comply with the Regulation and that the underwriter also violated the Commission's record-keeping rules.

FUTURA AIRLINES 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 stock offering by Futura Airlines, 5912 Avion Drive, Los Angeles.

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 on October 20, 1961, Futura proposed the public offering of 60,000 common shares for an aggregate of \$300,000. The securities were offered and sold through Raymond Moore & Co., of Los Angeles, as underwriter. The Commission asserts in its suspension order that it has reasonable cause to believe that the company's offering circular was false and misleading in respect of certain material facts, that certain terms and conditions of the Regulation were not complied with, and that the offering was made in violation of the Securities Act anti-fraud provisions. The order provides an opportunity for hearing, upon request, on the question whether the suspension should be vacated or made permanent.

According to the order, the offering circular was false and misleading in that the company failed to disclose that material adverse changes in its financial condition were taking place in May 1962 which would render inaccurate, not current and misleading to investors the financial statements included therein and the disclosures with respect to intended application of the proceeds of the stock sale. It is also alleged that terms and conditions of the Regulation were not complied with in that the company failed to file any report of stock sales as required.

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**ASSOCIATE UNDERWRITERS HEARING SCHEDULED.** Upon request of Associate Underwriters, Inc., 827 Stuart Bldg., Lincoln, Nebr., the Commission has scheduled a hearing for September 9, 1963, in its Denver Regional Office, to take evidence on the question whether an order of the Commission dated June 24, 1963, temporarily suspending a Regulation A exemption from registration with respect to a public offering of 254,850 common shares at \$1 per share, should be vacated or made permanent. The Commission's suspension order was based upon alleged false and misleading representations in the issuer's offering circular and report of stock sales, as well as non-compliance with certain terms and conditions of the Regulation.

**COMPLAINT CITES KAMEN & CO., OTHERS.** The SEC New York Regional Office announced August 5 (LR-2705) the filing of court action (USDC, SDNY) seeking to enjoin the following defendants from violations of the anti-fraud and anti-manipulative provisions of the Federal securities laws in the offer and sale of stock of Jerome, Richard & Co., Inc., a New York broker-dealer: Kamen & Company, a New York broker-dealer, Abraham Kamen, a general partner of Kamen & Co., Laurence H. Ross, Jerome Melvin Grossinger, Anthony Perotti and Frances Ginsburg, employees of Kamen & Co. (and all of New York), Jerome, Richard & Co., Richard Venticinque, president of Richard & Co., Jerome Perlongo, vice president of Richard & Co., Frederick Cirlin Associates, Inc., a New York broker-dealer, Frederick Cirlin, its president, and George Herman (of New York).

**COMPLAINT CITES AMERICAN HEALTH CREDIT PLAN, ET AL.** The SEC Denver Regional Office announced August 6 (LR-2706) the filing of court action (USDC, Cheyenne) seeking to enjoin American Health Credit Plan, Inc., a Wyoming company, William C. Joines and Douglas V. Halter, individually and doing business as American Health Securities, a partnership, Elvin Gull and C. Michael Daly from further violations of the Securities Act anti-fraud provisions in the offer and sale of stock and option-right certificates of American Health Credit Plan, Inc.

**JAMES S. RICHARDS AND TWO FIRMS ENJOINED.** The SEC Washington Regional Office announced August 7 (LR-2707) the entry of a Federal court order (USDC, DC) permanently enjoining (on default) James S. Richards, Petroleum Lease Corporation and Petroleum Properties Corporation, all of Washington, D. C., from further violations of the Securities Act registration and anti-fraud provisions in the offer and sale of stock of the said companies.

**SEC ENTERS CONTINENTAL VENDING MACHINE PROCEEDING.** The SEC announced today that it has entered an appearance in the proceedings under Chapter X of the Bankruptcy Act for the reorganization of Continental Vending Machine Corporation, of Westbury, L.I., N.Y., pending in the United States District Court in Brooklyn, New York. On April 8, 1963, a conservator was appointed by the United States District Court (S.D. N.Y.) in an action brought against the company by the Commission to enjoin the company from violation of the Securities Exchange Act of 1934. An involuntary petition for reorganization of the company was filed by creditors on July 10, 1963, and approved by Judge Joseph Mishler on July 12, 1963. John P. Campbell, the conservator in the Commission's action, and Irving L. Wharton were appointed as co-Trustees.

Continental Vending is engaged in the development, manufacturing and sale of vending machines; the installation and maintenance of industrial automatic cafeterias; and the sale of consumer products through the operation of vending machine routes. In recent years its sales volume has been in excess of \$20,000,000 a year. The company's consolidated balance sheet as of April 30, 1963 shows total assets of \$28,300,000, including \$8,300,000 of accounts receivable and \$3,300,000 of inventories. Liabilities at the same date totalled \$36,000,000, which included various borrowings aggregating \$26,000,000, accounts payable of \$3,800,000, and \$4,600,000 of publicly-held convertible debentures. The debentures and over \$4,000,000 shares of Debtor's common stock are held by approximately 5,000 public investors. The American Stock Exchange suspended trading in the Debtor's debentures and common stock on February 27, 1963. The Commission suspended trading on March 8, 1963, and the suspension is currently in effect.

**HAWTHORN-MELODY FILES FOR SECONDARY.** Hawthorn-Melody, Inc., 4224 West Chicago Ave., Chicago, filed a registration statement (File 2-21626) with the SEC on August 7 seeking registration of 497,500 outstanding shares of common stock, to be offered for public sale by its parent, Processing and Books, Inc., through underwriters headed by Hemphill, Noyes & Co., 8 Hanover St., New York. The public offering price (maximum \$25 per share\*) and underwriting terms are to be supplied by amendment. The statement also includes 25,000 shares to be offered pursuant to the company's Restricted Stock Option Plan. The company processes and distributes milk, ice cream and dairy foods in the Chicago area and in several other states. In addition to certain indebtedness, it has outstanding 1,000,000 shares of common stock, all of which are owned by Processing and Books, Inc. (which is controlled by John F. Cuneo). H. W. Peters is board chairman and B. R. Norton is president.

**SEARS, ROEBUCK FILES SAVINGS FUND.** Sears, Roebuck and Co., 925 Arthington St., Chicago, filed a registration statement (File 2-21628) with the SEC on August 7 seeking registration of 30,000 memberships in Savings and Profit Sharing Pension Fund, and 2,000,000 common shares which may be acquired pursuant thereto.

**SECURITIES ACT REGISTRATIONS.** Effective August 7: Minneapolis-Honeywell Regulator Co. (File 2-21580) Effective August 8: Carolina Telephone & Telegraph Co. (File 2-21578); The Cincinnati Milling Machine Co. (File 2-21579); George W. Helme Co. (File 2-21384); Northern States Life Insurance Corp. (File 2-21215); Travel Management Corp. (File 2-21118). Withdrawn August 7: Royaltone Photo Corp. (File 2-19378).

**ORAL ARGUMENT, COMING WEEK.** August 13, 2:30 P.M., Lawrence Securities, Inc.

\*As estimated for purposes of computing the registration fee.