

NEWS DIGEST

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



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ACCOUNTANTS' CERTIFICATES DISCUSSED. The SEC today issued a statement with respect to accountants' opinions or certificates included in Securities Act registration statements which are qualified as to matters of such significance to the issuing company (registrant) that there is serious question as to whether the certificate meets the requirements of Rule 2-02 of the Commission's accounting Regulation S-X. The following is the pertinent part of an accountant's report presenting the type of situation to which reference is made:

"Substantial losses have been experienced during the past four years and nine months and continuation of the business is dependent upon the Company's attaining sufficiently profitable operations and/or additional capital to satisfy all of its liabilities as they become due.

"In our opinion, subject to the Company's ability to attain profitable operations and/or to successfully obtain additional capital, the accompanying financial statements . . ."

The Commission does not expect an accountant to express any opinion as to the future earnings of the registrant. However, where, as here, the financial statements are prepared on a "going concern" basis, while at the same time the accountant's opinion is so qualified as to indicate serious doubt as to whether or not the preparation of financial statements on that basis is warranted, then a significant question arises as to whether the financial statements are certified as required.

The Commission has concluded that a Securities Act registration statement will be considered defective when the accountant qualifies his opinion because of doubt as to whether the company will continue as a going concern. The Commission does not intend to preclude companies with pressing financial problems from raising funds by public offerings of securities. It does, however, believe it clear that an accountant's report cannot meet the certification requirements of the 1933 Act unless the registrant can arrange its financial affairs so that the immediate threat to continuation as a going business is removed. The independent accountant must be satisfied that it is appropriate to use conventional principles and practices for stating the accounts on a going concern basis before a registration statement under the 1933 Act can be declared effective. (Release 33-5049)

ORDER SUSPENDS CERTAIN ACTIVITIES OF NEWBURGER FIRM. The SEC today announced the issuance of an order (Release 34-8822) suspending Newburger and Company, of Philadelphia, from effecting transactions on the Philadelphia-Baltimore-Washington Stock Exchange for the ten business days from February 20 to March 6, inclusive, and from transacting institutional business for that period, provided however that the firm may execute unsolicited orders for any bank or trust company which had an established account prior to February 20 and may also execute unsolicited orders only in order to liquidate existing long positions or cover existing short positions. Newburger and Company will not retain any commissions realized from the aforesaid activities, but will dispose of same in accordance with a plan to be submitted to and approved by the Commission.

Newburger and Company, which consented to the ten-day suspension as part of its offer for settlement of these proceedings, also consented to the suspension of its investment adviser registration for the same period, except that it may continue to service existing advisory clients without any fee during such period. In addition to the foregoing Frank L. Newburger, Jr., Richard L. Newburger and Alfred A. S. Whitaker, all general partners of the Newburger firm, consented to their suspension from association with any broker, dealer or investment adviser for five business days. The firm and the individual respondents consented to the imposition of these sanctions without admitting the violations alleged by the Commission's staff, which related to the payment of compensation in the form of clearance commissions to Porteous & Co., a broker-dealer affiliate of a registered investment company (Provident Fund for Income, Inc.), in consideration for the receipt of investment company brokerage. The Commission's definitive findings and opinion will be issued later.

STEVE GORLIN BARRED. The SEC today announced a decision under the Securities Exchange Act (Release 34-8820) barring Steve Gorlin, of Atlanta, Ga., from further association with a broker-dealer for violations of the registration and anti-fraud provisions of the Federal securities laws in the 1968 offer and sale of stock of Lynbar Mining Corporation. Without admitting or denying the violations, Gorlin consented to issuance of the bar order, which provides that it shall not preclude his applying after six months for reentry into the securities business, upon an adequate showing that he will be properly supervised.

In its decision, the Commission ruled that Gorlin offered and sold Lynbar stock in violation of the Securities Act registration requirements; also, that in connection therewith, he made false and misleading representations concerning, among other things, the state of development of the "Kali" water solution potash mining process, the need for testing the process and the cost thereof, the cost of building an operational plant to utilize the process, Lynbar's contracts for the production and distribution of potash, the competition in the potash industry, Lynbar's financial condition and the speculative nature of its business operations, trading by insiders and control persons in Lynbar stock, including a distribution by them of such stock, the cost of such shares acquired by them and others, the need for registration with the Commission of such stock offered for sale by such persons, efforts to influence, control and manipulate the market price for such stock, and the use of the proceeds from sales of Lynbar stock.

OVER

DISBRO & CO. CENSURED. The SEC today announced a decision under the Securities Exchange Act (Release 34-8821) in which it censured the Cleveland firm of Disbro & Co., Inc., and its president, Robert M. Disbro, for violations of the Commission's record-keeping rules during the period September 30, 1968 to July 2, 1969. In a settlement offer, which the Commission accepted, the firm and Disbro, without admitting or denying the alleged violations of such rules, consented to findings that the rules had been violated and to the imposition of the censure. They also represented that the firm's books and records are now fully posted and will be maintained hereafter in compliance with the rules; and they undertook to submit a financial report for each of the 12 months commencing December 1, 1969, together with an affidavit of compliance.

LOMASNEY CO. CITED IN SEC PROCEEDING. The SEC has ordered administrative proceedings under the Securities Exchange Act of 1934 involving the broker-dealer firm of Lomasney & Company, of New York City. Also named as a respondent is Myron A. Lomasney, general partner of the firm.

The proceedings are based upon allegations of the Commission's staff that during June-August 1969 the Lomasney firm engaged in the conduct of a securities business in violation of the Commission's net capital rule; violated Rule 10b-5 by engaging as underwriter in the distribution of common stocks of Consolidated Educational Publishing, Inc. ("Consolidated"), and Image Optics Corp. ("Image") on a firm-commitment basis, when it had insufficient capital to permit the firm to honor its commitments, failed to disclose its adverse financial situation and, when it was unable to sell all of the securities, reneged on its firm commitments and refused to honor its underwriting agreements; violated Rule 10b-6 by bidding for and purchasing shares of Consolidated and of Image prior to completion of their distribution; and violated the Commission's record-keeping rules.

A hearing will be scheduled by future order to take evidence on the staff allegations and afford the respondents an opportunity to offer any defenses thereto, for the purpose of determining whether the allegations are true and, if so, whether some action of a remedial nature should be ordered by the Commission.

CONRAD CO. NAMED IN SEC ACTION. The SEC has ordered administrative proceedings under the Securities Exchange Act of 1934 involving the broker-dealer firm of Conrad & Co., Inc., of Hyattsville, Md. Also named as respondents are Thomas D. Conrad, Jr., the firm's president, Margaret J. Conrad (Mrs. Conrad), executive vice president, Roland L. Gonzales, Jr., salesman and branch office manager from 1958 to January 1969, and Gary G. Booker, salesman and assistant manager from 1966 to August 1969.

The proceedings are based upon allegations of the Commission's staff that the Conrad firm, Conrad and Mrs. Conrad violated the margin provisions of Regulation T as well as provisions of the Commission's record keeping, financial reporting, net capital and confirmation rules; that Gonzales violated the anti-fraud provisions of the Federal securities laws by appropriating and converting the funds of customers and the Conrad firm to his own personal use; that the Conrad firm, Conrad and Booker offered and sold bonds of Svanholm Research Laboratories ("SRL") in violation of the Securities Act registration provisions; and that in the offer and sale of SRL bonds the firm and Booker made misrepresentations in violation of the anti-fraud provisions of the securities laws.

A hearing will be scheduled by further order to take evidence on the staff allegations and afford the respondents an opportunity to offer any defenses thereto, for the purpose of determining whether the allegations are true and, if so, whether any action of a remedial nature should be ordered by the Commission.

CREATIVE FINANCING STATEMENT SUSPENDED. The SEC today announced the issuance of a "stop order" decision under the Securities Act (Release 33-5048) suspending a registration statement filed by Creative Financing, Inc. ("CFI"), of Baltimore, which proposed the public offering of 150,000 common shares at \$10 per share. The Commission ruled that the registration statement failed adequately and accurately to disclose executive functions of Nathan H. Cohen, who was not named as an officer; interests of management in certain loans made by Creative Financing; and the circumstances surrounding its sale of unregistered securities. The company consented to issuance of the stop order.

SEC COMPLAINT V. PAN AMERICAN RESOURCES, OTHERS. The SEC New York Regional Office announced February 13 (LR-4544) the filing of a complaint in Federal court in New York City, seeking to enjoin violations of the Securities Act registration provisions in the offer and sale of stock of Pan American Resources Inc., of Albuquerque, N. Mex., by the issuing company and the following: Albert J. Buchbinder, West Covina, Calif.; Robert I. Buchbinder, West Covina, Calif.; Buchbinder & Co., Pomona, Calif.; Richard D. Schiering, West Los Angeles, Calif.; David Wooldridge, Covina, Calif.; Fred Martin, La Jolla, Calif.; Fred Martin & Co., La Jolla, Calif.; and Hyman Kopp, Westbury, New York.

BANKERS TRUST - MARINE MIDLAND RECEIVE ORDER. The SEC has issued an order under the Investment Company Act (Release IC-5981) exempting from all provisions of the Act common trust funds established by any bank controlled by one of the applicants and maintained by it exclusively for the collective investment and re-investment of moneys contributed thereto by the bank or one or more banks controlled by said applicant, provided (1) each bank contributing moneys to such common trust fund makes its contributions solely in its capacity as a trustee, executor, administrator or guardian within the meaning of the Act and (2) such common trust fund meets the requirements of Section 100-c(17) of the New York Banking Law.

DREYFUS LEVERAGE FUND RECEIVES ORDER. The SEC has issued an exemption order under the Investment Company Act (Release IC-5983) permitting The Dreyfus Leverage Fund, Inc., New York mutual fund, to purchase up to 80,000 shares of the common stock of Stirling Homex Corporation. The proposed purchase is a portion of a total proposed public offering of 1,175,000 shares of common stock by the issuer.

FIRST AMERICAN PROPOSES EXCHANGE OFFER. First American Corporation, 1430 W. Peachtree St., N. W., Atlanta, Ga. 30309, filed a registration statement (File 2-36286) with the SEC on February 13 seeking registration of 936,502 shares of Class A common stock. It is proposed to offer these shares in exchange for the common stock of Georgia Factors, Inc. ("Factors") and for common stock of Atlantic & Pacific Life Insurance Company of America ("A&P Life"), at the rate of one share for each 10 Factors shares and five shares for each A&P Life share. Shares not exchanged may be offered for public sale to stockholders of First American, Factors and A&P Life at \$1 per share. First American owns 61% of A&P Life and 13% of Factors common stock.

First American operates both as a holding and an operating company. Through a wholly-owned subsidiary, A&P Life Management Sales, Inc., it is engaged as a general agency for the sale of insurance and operates a non-exclusive agency contract for the sale of life, accident and health and hospitalization insurance for A&P Life, a legal reserve life insurance company. Factors is engaged primarily in the factoring of accounts receivable for manufacturers. Any net proceeds of the sale of common stock will be added to the company's general funds and used for general corporate purposes. The company has outstanding 743,718 Class A common shares and 173,000 Class B common shares. Of the Class A shares, management officials as a group own 10.2%; of the B shares, C. Ervin Waller, president, owns 92.7% and management officials as a group 100%.

BASIN FUNDS PROPOSES OFFERING. Basin Funds, Inc., 545 First National Bldg., Oklahoma City, Okla. 73102, filed a registration statement (File 2-36307) with the SEC on February 16 seeking registration of \$20,000,000 of units of participation in Basin Series A Drilling Program (a limited "Partnership"), to be offered for public sale at \$5,000 per unit. No underwriting is involved; participating NASD members will receive a 6% selling commission. The Partnership will engage in a continuing program of drilling for oil and gas, primarily on leases in semi-proven areas. Basin Funds, wholly-owned subsidiary of Basin Petroleum Corp., will serve as general partner and Basin Petroleum Corp. as special limited partner. Carl W. Swan is president of Basin Funds and of Basin Petroleum.

PAN-ALASKA FISHERIES PROPOSES RIGHTS OFFERING. Pan-Alaska Fisheries, Inc., 1818 Westlake North, Seattle, Wash. 98109, filed a registration statement (File 2-36309) with the SEC on February 17 seeking registration of 682,578 shares of common stock, to be offered for subscription by holders of its common stock, its 6-3/4% convertible subordinated debentures and its common stock purchase warrants and options. The offering is to be made through underwriters headed by Robert L. Ferman & Company, Incorporated, 7630 Biscayne Blvd., Miami, Fla. The subscription rate, offering price (\$3.55 per share maximum*) and underwriting terms are to be supplied by amendment. Also included in this statement are 22,615 shares of common stock issuable upon exercise of common stock purchase warrants, 187,714 issuable upon conversion of 11,042 shares of Series A convertible preferred stock, and 146,652 outstanding common shares and 11,042 outstanding Series A convertible preferred shares. The outstanding common and preferred shares may be offered for sale from time to time by the present holders thereof at prices current at the time of sale (\$3.55 per common and \$60.35 per preferred share maximum*).

The company is engaged in the catching, processing and selling of Alaska king crab, shrimp and other seafood products and, through a subsidiary, in the retail sale of furniture, appliances and home furnishings through ten outlets in Florida. Of the net proceeds of its stock sale, \$650,000 will be used to pay certain past due accounts and the balance to reduce outstanding bank loans incurred by the company in 1969 to provide additional working capital. In addition to indebtedness and preferred stock, the company has outstanding 593,532 common shares, of which William A. Ritter, vice chairman, owns 10.1%. Robert L. Ferman is board chairman and Ronald R. Jensen president. Saukeld & Co. may sell all of 48,000 common and 1,042 preferred shares, Galley & Co. 12,000 common and 10,000 preferred and five others the remaining shares being registered.

SEABOARD PROPOSES EXCHANGE OFFER. The Seaboard Corporation, 9601 Wilshire Blvd., Beverly Hills, Calif. 90210, filed a registration statement (File 2-36311) with the SEC on February 17 seeking registration of 278,972 shares of common stock. Of this stock, it is proposed to offer (a) 176,157 shares in exchange for outstanding common shares of American Mayflower Life Insurance Company of New York (except those shares held by Seaboard), at the rate of one Seaboard share for each two Mayflower shares and (b) 102,815 shares in exchange for the outstanding common shares of Seaboard Life Insurance Company of America ("Life") (except those shares held by Seaboard), at the rate of 100 Seaboard shares for each 52 Life shares held. Also included in this statement are 32,286 shares of common stock which may be substituted for Life shares underlying stock options. Effectiveness of the Mayflower exchange offer is conditioned upon Seaboard's owning not less than 51% of Mayflower's outstanding shares. Directors of Mayflower, who own 11% of its outstanding shares, have agreed to accept the exchange offer. Pursuant to a previous exchange offer, Seaboard acquired 95% of the outstanding stock of Life. Since expiration of that exchange offer, the company has received numerous requests for exchanges from those stockholders of Life who did not exchange their shares pursuant to the original offer.

Seaboard is engaged in a variety of businesses in the financial services field, principally in activities relating to mutual funds and life insurance. Mayflower is licensed in New York state to engage in the business of life insurance, annuities and accident and health insurance. In addition to preferred stock, Seaboard has outstanding 3,278,191 common shares. Irwin Solomon is president of Seaboard.

ESTERLINE TO SELL DEBENTURES. Esterline Corporation, 280 Park Ave., New York, N. Y. 10017, filed a registration statement (File 2-36312) with the SEC on February 17 seeking registration of \$12,000,000 of convertible subordinated debentures, due 1995, to be offered for public sale through underwriters headed by Kidder, Peabody & Co., 20 Exchange Place, New York, N. Y. 10005. The interest rate, offering price and underwriting terms are to be supplied by amendment.

The company is engaged primarily in the fields of measurement sciences (which involve the measurement of various physical phenomena and the transmission and translation of such data into usable form), in the manufacture of high precision equipment used in the automation of industrial production and as components of

nuclear power reactors, and in health care. Of the net proceeds of its debenture sale, \$8,450,000 will be used to reduce bank indebtedness and the balance will be added to the company's general working capital. In addition to indebtedness and preferred stock, the company has outstanding 3,045,208 common shares, of which The Dyson-Kissner Corporation owns 21.8% and TOC, Inc., 11.6%. Charles H. Dyson (a company director) and family members own 95% of the voting stock of Dyson-Kissner. Gerhard R. Andlinger is board chairman and Maurice Eastin president.

KAPOK TREE INNS TO SELL STOCK. Kapok Tree Inns Corporation, 923 Haines Road, Clearwater, Fla. 33515, filed a registration statement (File 2-36315) with the SEC on February 18 seeking registration of 100,000 shares of common stock, to be offered for public sale at \$7 per share. The offering is to be made through underwriters headed by Katz, Needelman & Co., Inc., 1776 K St., N. W., Washington, D. C. 20006, which will receive a 70¢ per share commission. On January 16, the Katz firm purchased 10,000 shares at 25¢ per share.

Organized in July 1969, the company is successor to four corporations which have been engaged in the restaurant business from various dates beginning in 1926. Of the net proceeds of its stock sale, \$350,000 will be used for the purchase of land, buildings and equipment for a new restaurant and \$150,000 for expanding the seating capacity of the Kapok Tree Inn in Clearwater; the balance will be added to the company's general funds and will be available for working capital. In addition to indebtedness, the company has outstanding 1,000,000 common shares, of which Richard B. Baumgardner, board chairman, owns 51.2% and management officials as a group 67%. June E. Baumgardner is president.

TRANSCIEVER TO SELL STOCK. The Transceiver Corporation of America, P. O. Box 508, 2309 Ave. K, Plano, Tex. 75074, filed a registration statement (File 2-36317) with the SEC on February 18 seeking registration of 130,000 shares of common stock, to be offered for public sale at \$8 per share. The offering is to be made on a best efforts, all or none basis through Kelly, Andrews & Bradley, Inc., 111 John St., New York, N. Y., which will receive an 80¢ per share selling commission plus \$15,000 for expenses. The company has agreed to sell 7,000 shares to the underwriter for \$700, nontransferable for 2½ years.

Organized in February 1968, the company is engaged in the establishment and operation of a national network of transceiver centers (operated by both licensees of the company and the company itself), for the sending and receiving of documents from one place to another by means of facsimile transceiver machines. Of the net proceeds of its stock sale, \$100,000 will be used to repay a bank note and the balance will be added to the company's working capital and used for general corporate purposes. The company has outstanding 1,057,931 common shares (with a 32.6¢ per share book value deficit), of which Michael Jacobson owns 14% and management officials as a group 9%. S. H. Fischer is board chairman and president. Purchasers of the shares being registered will acquire an 11.3% stock interest in the company for their investment of \$1,040,000; present shareholders will then own 88.7%, for which they will have paid \$183,117 or 17.9¢ per share.

STOCK PLANS FILED. The following have filed Form S-8 registration statements with the SEC seeking registration of securities to be offered under and pursuant to an employee stock plan:

Leasco Data Processing Equipment Corporation, New York, N. Y. 10017 (File 2-36314) - 625,000 shares
 Mark Systems, Inc., Cupertino, Calif. 95014 (File 2-36316) - 81,639 shares
 Management Recruiters International, Inc., Cleveland, Ohio 44115 (File 2-36318) - 60,118 shares
 Commercial Metals Company, Dallas, Tex. 75202 (File 2-36319) - 159,396 shares

CORRECTION RE ALASKA AIRLINES FILING. The address of First California Company Incorporated, underwriter for the proposed rights offering of Alaska Airlines, Inc., is 555 California St., San Francisco, Calif. 94104, not that given in the News Digest of February 9.

SECURITIES ACT REGISTRATIONS. Effective February 18: 399 Fund, 2-33828; Anixter Bros., Inc., 2-36258 (40 days); Bolt Beranek & Newman Inc., 2-35326; Certified Corp., 2-36211; Continental Mortgage Investors, 2-35911; Jason/Empire, Inc., 2-35158 (90 days); Kaiser Industries Corp., 2-35940 (40 days); Potomac Electric Power Co., 2-36094; Rockland Electric Co., 2-36005 (90 days); Scherr-Tumico, Inc., 2-34938; Suave Shoe Corp., 2-35794 (40 days); Tetrahedron Associates, Inc., 2-35411 (90 days); Tidewater Marine Services, Inc., 2-35728 (90 days); University Computing Co., 2-35246 (40 days).

NOTE TO DEALERS. The period of time dealers are required to use the prospectus in trading transactions is shown above in parentheses after the name of the issuer.

*As estimated for purposes of computing the registration fee.