

SECURITIES AND EXCHANGE COMMISSION NEWS DIGEST

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



Washington, D.C. 20549

(In ordering full text of Releases from SEC Publications Unit cite number)

(Issue No. 70-176)

FOR RELEASE September 10, 1970

DECISIONS IN ADMINISTRATIVE PROCEEDINGS

NASD RULING ON UNDERWRITING COMPENSATION SUSTAINED. In a decision under the Securities Exchange Act announced today (Release 34-8975), the Commission sustained disciplinary action of the NASD against May & Co., Inc., of Portland, Oregon, for excessive underwriting compensation in a 1968 public offering of stock of Fibers, Incorporated.

By reason of its concern with the reasonableness of underwriting compensation in the public offering of securities of unseasoned companies, the NASD had issued an interpretation of its Rules of Fair Practice entitled "Review of Underwriting Agreements;" and it appointed a Committee on Underwriting Arrangements to review offering proposals to determine in each case whether the underwriting arrangements as a whole appear to be unfair or unreasonable. The guidelines provided that in determining the amount of underwriters' compensation, the Committee would include the gross amount of the underwriter's discount and that stock acquired or to be acquired by the underwriter, finder or related parties in connection with the offering is to be valued on the basis of the difference between the cost of such stock and the offering price of the shares to be publicly offered. The stock of Fibers was offered at \$2 per share with an underwriting commission of 25¢ per share. However, prior to the offering, 40,000 shares had been issued at 50¢ per share to Meredith K. M. Smith, a vice president of May & Co. He acquired the 40,000 shares when it was known that Fibers contemplated a public offering for which his firm would serve as managing underwriter; and he later signed the underwriting agreement for May & Co. By including his potential profit on the 40,000 shares as part of the total underwriting compensation, such compensation would be increased from \$36,875 or 12.5% of the aggregate offering price, to \$84,875 or 28.8% of the offering price.

The Commission sustained the NASD ruling that the total underwriting compensation under the circumstances of this case was unfair and unreasonable and in violation of the NASD Rules of Fair Practice as well as its finding that May & Co. had failed to file a timely report of the proposed underwriting terms with the NASD. The Commission also upheld the sanction of a censure, a \$2,000 fine and a two-day suspension of May & Co. from NASD membership.

RICHARD KAMEN SUSPENDED. The SEC today announced a decision under the Securities Exchange Act (Release 34-8976) in which it ordered the 30-day suspension of the broker-dealer registration of Richard L. Kamen, of Chicago, commencing September 14, for violations of the anti-fraud and other provisions of the Federal securities laws. Kamen consented to imposition of the sanction without admitting or denying the violations.

According to the decision, during the period January-November 1969 Kamen violated the fraud prohibitions of the securities laws in connection with transactions in various securities in that he charged prices not reasonably related to the prevailing market price and obtained unreasonable commissions and markups. He also sold stock of Security Options Corporation in violation of the Securities Act registration requirements, and violated the Commission's confirmation rules in connection therewith. Moreover, he violated the Commission's record-keeping and financial reporting rules as well as the margin regulations of the Federal Reserve Board.

OHIO POWER HOUSING PROPOSAL DISAPPROVED. The SEC today announced a decision under the Holding Company Act (Release 35-16825) in which it disapproved a proposal of Ohio Power Company, Canton subsidiary of American Electric Power Company, Inc., to purchase stock of and otherwise assist in the financing by a subsidiary, Cambridge Housing, Inc., of low and moderate income housing projects under Section 236 of the National Housing Act in Cambridge, Ohio. As in two previous cases (Michigan Consolidated Homes Corp. and Mississippi Power & Light Co.), the Commission ruled that the housing project lacks the operating or functional relationship required by the Act between such a nonutility business and the operations of an integrated public-utility system, and that the acquisition may not be exempted from such requirements. Commissioner Owens filed a statement concurring in the "functional relationship" ruling but dissenting from the denial of an exemption. Commissioner Smith dissented, on the ground the proposal could be approved under either standard.

COURT ENFORCEMENT ACTION

SEC COMPLAINT NAMES BANGOR PUNTA. The SEC announced September 9 (LR-4747) the filing of an action in the Federal court in New York seeking to enjoin Bangor Punta Corporation, of New York City, from violations of the anti-fraud provisions of the Securities Act and Securities Exchange Act. The complaint alleges that Bangor Punta failed to disclose in a registration statement and prospectus used in its July 1969 offer to exchange a package of its securities for common stock of Piper Aircraft Corporation, that the management of Bangor Punta had reached a decision to sell one of the company's subsidiaries, the Bangor and Aroostook Railroad, which sale would result in a substantial loss based on the carrying value of the Railroad on Bangor Punta's financial statements. In addition to a court order of injunction, the Commission requests the court to order Bangor Punta to make an offer of rescission to all Piper shareholders who exchanged their Piper stock with Bangor Punta pursuant to the exchange offer.

OVER

SECURITIES ACT REGISTRATIONS

EMPCO OFFERING TO EMPIRE INTERNATIONAL HOLDERS. Empco, Inc., 1206 Perry Brooks Bldg., Austin, Texas, 78701, filed a registration statement (File 2-38328) with the SEC on September 8 seeking registration of 2,500,000 warrants to purchase a like number of its common shares. Organized in 1965, Empco was inactive until April 1970 when it entered into an agreement with Empire International, Inc. (formerly Empire Petroleum Company), and Eugene M. Stone, then board chairman of Empire, to acquire the rights to "PENEPRIME", a soil stabilizer and asphaltic pavement rehabilitator. As part of the agreement, Empco agreed to distribute to June 30th record holders of Empire common stock, warrants entitling such holders to purchase one share of Empco common for each two shares of Empire common then held, at the price of 10c per share. Of the net proceeds of its sale of stock upon exercise of the warrants, Empco will use \$50,000 to satisfy accounts payable, \$100,000 for working capital and general corporate purposes, and the balance to develop its marketing program. The company now has outstanding 661,160 common shares, of which Wroe Owens, president, owns 51.1% and management officials as a group own 88.4%.

AVERY PRODUCTS FILES FOR OFFERING AND SECONDARY. Avery Products Corporation, 415 Huntington Drive, San Marino, Calif. 91108, filed a registration statement (File 2-38330) with the SEC on September 8 seeking registration of 500,000 shares of common stock, of which 350,000 are to be offered for public sale by the company and 150,000 (being outstanding shares) by the holders thereof. The offering is to be made through underwriters headed by Kidder, Peabody & Co. Inc., 20 Exchange Pl., New York; the offering price (\$24.625 per share maximum*) and underwriting terms are to be supplied by amendment.

The company is engaged in the manufacture and distribution of self-adhesive labels and self-adhesive base materials. The net proceeds of its stock sale will be used in part to pay \$3,550,000 of short-term bank loans and the balance to reduce an outstanding \$12,000,000 term bank loan, which loans were incurred for capital expenditures and working capital purposes. In addition to indebtedness and preferred stock, the company has outstanding 8,441,879 common shares, of which R. Stanton Avery, board chairman and chief executive officer, owns 1,798,382 and H. Russell Smith, president, 996,284. Each proposes to sell 75,000 shares.

USAA CAPITAL GROWTH FUND PROPOSES OFFERING. USAA Capital Growth Fund Inc., 4119 Broadway, San Antonio, Tex. 78215, filed a registration statement (File 2-38336) with the SEC on September 8 seeking registration of 5,000,000 shares of common stock, to be offered for public sale at net asset value (\$10.00 per share maximum*) with no sales charge. USAA Fund Management Co. will serve as the Fund's Manager and Investment Adviser. The Fund was organized as an open-end diversified mutual fund with a primary investment objective of long-term growth of capital. Robert F. Mc Dermott (Brig. Gen. USAF Ret.) is president of the Fund and of the manager.

NORTHEAST UTILITIES PROPOSES OFFERING. Northeast Utilities, 174 Brush Hill Road, West Springfield, Mass. 01089, filed a registration statement (File 2-38337) with the SEC on September 9 seeking registration of 3,000,000 shares of common stock, to be offered for public sale at competitive bidding. A public utility holding company, the issuer will use the net proceeds of its stock sale to reduce short-term borrowings incurred to make investments in its subsidiaries and to pay \$15,000,000 of 2.8% secured notes which matured in 1969. The 1970-71 construction program of system companies is expected to total about \$455,800,000. The company now has outstanding 38,376,693 common shares.

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

Interdata, Incorporated, Oceanport, N. J. 07757 (File 2-38333) - 243,270 shares
The TDP&L Bond Fund, Boston, Mass. 02109 (File 2-38334) - 250,000 shares
Arctic Enterprises, Inc., Thief River Falls, Minn. 56701 (File 2-38335) - 160,000 shares

MISCELLANEOUS

TWO STOCKS DELISTED. The SEC has granted applications of the National Stock Exchange to strike from listing and registration the common shares of Whale, Inc. (formerly Whale Electronics, Inc.), and 60 Minutes Systems, Inc., effective at the opening of business September 9, because the financial and operating conditions of each company are such that the continued listing of its shares is not warranted (Release 34-8978).

SECURITIES ACT REGISTRATIONS. Effective September 9: Milton Bradley Co., 2-38218; Early California Industries, Inc., 2-35820 (90 days) and 2-38118; R. B. Jones Corp., 2-37603 (90 days); North Lime Corp., 2-36877 (90 days); United Bancorp of Maine, 2-37941 (90 days); United Cities Gas Co., 2-38243 (Oct 19); Westfield Income Fund, Inc., 2-35233.

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.