SECURITIES AND EXCHANGE COMMISSION

NEWS DIGEST

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

Washington 25, D.C.

FOR RELEASE November 19, 1957

INDIANA STATE SECURITIES BROKER-DEALER REGISTRATION DENIED

The Securities and Exchange Commission today announced the issuance of a decision denying an application for broker-dealer registration filed by Indiana State Securities Corporation ("applicant"), of Indianapolis, Ind., because of stock sales in violation of the anti-fraud provisions of the Federal Securities Laws (Securities Exchange Act Release No. 5602).

Applicant was incorporated under Indiana law on March 14, 1956, and is controlled by Charles E. Johnson, Marvin H. Weisman and Rudy Klapper, officers and directors, each of whom owns a one-third interest in the company. According to the Commission's decision, during the period April 20, 1956 to July 10, 1956, applicant effected transactions in the common stock of Insurance Corporation of America ("ICA") and in connection therewith made false and misleading statements in violation of law with respect to the prevailing market for the ICA stock and the receipt of the proceeds thereof.

During the period in question, applicant sold 3,635 shares of ICA stock as agent for ICA in connection with an offering by that company of 243,000 shares at $6 per share. According to the Commission's decision, ICA stock was freely traded in the over-the-counter market during the period February 29 to July 10, 1956, at prices ranging from 3-5/8 to 4-1/2 and could have been purchased at such prices. In its sales of ICA stock for the account of the issuer at $6 per share, applicant used a prospectus supplied by the issuer which specified the $6 per share offering price. However, applicant did not disclose to those purchasers that there was an over-the-counter market for the stock in which the stock was currently traded and available at a substantially lower price.

The existence of such market, according to the decision, was known to applicant from at least May 15, 1956. However, applicant continued its sales at $6 despite knowledge of such lower market prices and despite the fact that beginning on May 31, 1956, applicant itself purchased and sold ICA shares at lower prices. A total of 4,050 shares were so acquired during the period May 31 to July 10, 1956, at prices ranging from 4 to 4-3/8; and during the period June 12-18, 1956, applicant sold 1,184 of its own shares at $5 while it was selling shares as agent for ICA at $6. "Implicit in the offering and selling of the ICA stock by the applicant," the Commission stated, "was the representation that such price was reasonably related to the market price, and applicant expressly represented to customers to whom it offered ICA stock at $6 per share that it was a good investment or that it was a good investment at the price. These representations were false and misleading in view of the availability of the stock at a substantially lower price, and applicant's omission to inform customers of such lower market price was the omission of a material fact," and were violative of the laws.

Furthermore, according to the Commission's decision, although ICA had withdrawn its stock offering on June 19, 1956, applicant from that date through July 9, 1956, sold a total of 431 shares from its own account at $6 per share to persons from whom it received subscriptions both before and after the receipt of notice of withdrawal of the ICA offering. Although applicant had given such purchasers a subscription agreement which indicated that the stock was being sold for the issuer and a prospectus which described the public offering and stated that the net proceeds would be credited to the issuer's capital and surplus, applicant did not inform them that the stock sold to them was its own and not the issuer's and the purchasers understood that ICA was to receive such proceeds. This, the Commission ruled, involved a misrepresentation to purchasers that the proceeds would be received by ICA as part of its capital and constituted a violation of the fraud prohibitions of the laws.

SEC REVERSES NASD DISCIPLINE OF FRANKLIN & COMPANY

In a decision announced today, the Securities and Exchange Commission set aside disciplinary action taken against Samuel B. Franklin & Company, of Los Angeles, by the National Association of Securities Dealers, Inc. (Securities Exchange Act Release No. 5603) for alleged violation of the NASD's Rules of Fair Practice.

The case was an outgrowth of a dispute between Franklin & Company and Pledger & Company, Inc. involving a contract for the sale by the former to the latter of stock of Western Oil Fields.

Although observing that an NASD member's failure to live up to contractual obligation, "in the absence of justifying or extenuating circumstances," would constitute dishonorable and inequitable conduct not consistent with "just and equitable principles of trade," within the meaning of the NASD Rule, the Commission ruled that the facts in this case, which are not in dispute, "negative a finding of unethical or dishonorable conduct" on the part of Franklin & Company and that the firm's conduct was not inconsistent with just and equitable principles of trade.

According to the decision, Franklin & Company sold to Pledger & Company 500 shares of Western stock at $2.70 per share on November 30, 1954. Pledger & Company returned the shares on December 17, 1954, and demanded the return of the purchase price ($1,350) on the ground that the shares delivered were certificates which had been the subject of a 1-for-4 reverse stock split about a year previously. Franklin & Company had not known of this stock split and immediately accepted the return of the stock and refunded Pledger's payment.

The customer from whom Franklin & Company had acquired the stock agreed to cancel the transaction with Franklin & Company, and it was suggested that Franklin & Company and Pledger & Company cancel their transaction also. The latter refused on the ground that the price of the stock had risen from 2.70 to 3-1/8, whereupon Franklin & Company suggested that new shares of Western stock be bought and agreed to pay the attendant loss of about $225.

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Believing that the price of the stock would go down, Pledger & Company advised against buying the stock at that time. Instead of going down, however, the price of the stock increased; and on June 6, 1955, after notice to Franklin & Company, Pledger & Company bought 540 shares of Western stock, which included an 8% stock dividend, at 4-7/8, paying $2,632.50; and it requested that Franklin & Company make good Pledger & Company's asserted loss of $1,282.50. Franklin & Company offered to submit the matter to arbitration and Pledger & Company, after first agreeing, withdrew its consent and filed a complaint with the NASD business conduct committee. The Committee ruled that the NASD rule had been violated and voted to censure Franklin & Company and assess it the costs of the proceedings, in the amount of $441.22. On appeal to the Board of Governors of the NASD, the latter affirmed the Committee's decision and, in addition, directed that Franklin & Company make good within 30 days the loss assertedly incurred by Pledger & Company.

Observing that "not every failure to perform a contract violates the NASD rule; it must appear that such failure was unethical or dishonorable," the Commission concluded that facts here present did not justify a finding that Franklin and Company had violated the NASD rule. In support of this conclusion, it pointed out that there was no evidence of an intention to mislead Pledger & Company or that the delivery of the old certificates was anything but an unintentional error. Nor was their any evidence, the Commission pointed out, that Franklin & Company sought to evade responsibility arising from the delivery of the old certificates, as evidenced by its immediate acceptance of the return of the old certificates and its refund to Pledger & Company of the purchase price, its prompt offer to buy in shares of the new stock and accept the $225 loss resulting from the increase in the market price thereof, its reliance on Pledger & Company's advice in not making delivery of new stock at that time, and its offer to submit to arbitration after Pledger & Company had bought in new stock at a much higher price some six months after the return of the old certificates. (The Commission noted that its action in reversing the NASD action "is, of course, in no way a determination regarding the validity or the amount of Pledger's claim against applicant.")

PREFERRED STOCK IN AMERICAN NATURAL GAS STRUCTURE QUESTIONED

The SEC has ordered a hearing for December 17, 1957, to determine whether the existence of preferred stock in the corporate structure of American Natural Gas Company, Detroit, constitutes an unfair or inequitable distribution of voting power among the security holders of the American Natural system or unduly and unnecessarily complicates said structure in violation of the provisions of Section 11(b)(2) of the Holding Company Act (Release No. 13600).

American Natural's corporate structure at June 30, 1957, consisted of $10,500,000 of promissory notes due serially to 1962 (5.4%); 27,481 shares of $25 par 6% Non-redeemable Cumulative Preferred Stock (0.3%); $121,581,150 (4,863,246 shares of $25 par) of common stock (62%); $32,978,914 of capital surplus (16.8%); and $30,380,428 of earned surplus (15.5%).

At the hearing, inquiry will be conducted into the question whether the continued existence of the preferred stock in the American Natural corporate structure contravenes the provisions of Section 11(b)(2) and what steps are

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necessary to ensure that the corporate structure is not unduly or unnecessarily complicated and voting power is not unfairly and inequitably distributed among the security holders of the American Natural system.

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Texas Fund Inc., Houston, Texas investment company, filed an amendment on November 18, 1957 to its registration statement (File 2-10156) seeking registration of an additional 1,000,000 shares of Common Stock $1 par value.

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