

# 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.

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

FOR RELEASE February 25, 1960

**SEC ISSUES "VARIABLE ANNUITY" DECISIONS.** The Securities and Exchange Commission today announced the issuance of its decisions upon applications of The Variable Annuity Life Insurance Company of America ("VALIC") and The Equity Annuity Life Insurance Company ("EALIC") registered open end investment companies, for exemption from certain provisions of the Investment Company Act of 1940 (the "act").

The variable annuity contracts which each of these companies issue provide that the purchasers' payments will be invested by the issuing company in a securities portfolio. In the case of periodic payment plans, the contract may be redeemed until the end of the pay-in period at its current value, which will depend upon the investment performance and then current value of the underlying portfolio.

At the end of the pay-in period the contract provides for variable monthly payments by the company to the holder for the remainder of his life or other elected pay-out period. These payments will be made on the basis of a fixed number of so called units which will vary in value in accordance with the value of the underlying portfolio; and the number of such units will depend upon the amount accumulated during the pay-in period and various other factors such as the age and sex of the contract holders and the type of pay-out elected.

The Commission's decision exempts these companies from the prohibitions of the Investment Company Act against the issuance of senior securities. Since these variable annuity contracts are senior securities in relation to the companies' capital stocks, an exemption was necessary to permit their issuance. The decision points out that the variable annuity contracts are designed to place on the contract holders the investment risks ordinarily associated with the common stock of an investment company, as distinguished from the usual type of fixed-obligation senior security. The exemption is based on this characteristic of the contracts as well as various protections for investors which are present in the insurance laws to which the companies are subject, undertakings by the companies as to maintenance of assets, and the fact that, under the Commission's order, the companies will be obligated to reinsure all risks on life and disability insurance which they write. These same factors were also the basis for a further exemption relieving the companies from the necessity of registering their life and disability insurance policies under the Securities Act of 1933.

Exemption was also granted the companies to permit them to collect the sales charges on their variable annuity contracts over an assumed pay-in period of 12 years in the Valic case and 10 years in the Ealic case. The Act requires that where, as here, an investment company's securities are sold on a periodic payment plan basis with a larger sales charge imposed in the first year than in later years, the sales charges must be spread over the life of the plan so as to average not in excess of 9% of all the payments. In the case of Valic, the sales charge is 50% of the first year's payments and 5% of the payments for the next eleven years; and in the case of Ealic 40% of the first year's payments and 5% of the payments for the next nine years.

Since the larger first year's sales charges are, in effect, prepayment for future purchases and services, the Act requires that the net proceeds of these periodic payment plans be placed in a separate trust with a bank, thus ensuring fulfillment of the plan in the event the sponsor should abandon it. The Commission exempted the applicants from this separate trust requirement in view of the protections provided by the insurance laws to which they are subject; but this exemption does not relieve them from the Act's requirement that the charges to be made by the companies for administering the contracts shall be in such reasonable amount as the Commission shall prescribe, and jurisdiction was reserved for this purpose. The administrative and other charges which the companies propose to deduct are, in the case of Valic, 5% of the payments in the first year, 9% in each of the next 11 years and 11% thereafter; and in the case of Ealic, 10% in the first year, 7% in each of the next 9 years and 8% thereafter. Valic proposes to deduct from the value of the contract holder's interests an annual administrative charge of 1.8% of such value, and Ealic proposes to deduct 1% of such value annually with the right to increase the deduction to 1.8%.

The Commission noted that in order to grant the requested exemptions it was required to find such exemptions in the public interest and consistent with the protection of investors, and that it could make such finding only upon the expectation that the companies will revise the insurance and other terminology of their contracts which impede, rather than foster, a clear understanding of their effect.

A request for exemption from prohibitions of the Act against transactions with affiliates to permit the companies to make advances or bonus payments in unlimited amounts to affiliated persons was denied by the

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Commission in view of the possible adverse effect of these "insider" transactions on the companies' common stockholders. The Commission indicated it would consider any modified request which appropriately limits the amounts of such advances or bonuses. The Commission refused to enter an order permitting the companies to limit their group variable annuity contract holders to one vote if the local insurance law does not so require. All other variable annuity contract holders and the common stockholders, as required by the Act, will be entitled to vote according to their financial interests in the company. The Commission also refused to relieve the companies from the prohibitions of the Act against postponing for more than seven days after a request for redemption is made, the payment of the redemption value of the variable annuity contracts.

In the Kalic case, an exemption was denied from the Act's requirement of a uniform public sales price for redeemable securities. Kalic sought this exemption to enable it to sell its variable annuity contracts to individuals who combine their separate purchases to obtain the more favorable group contract prices. In both the Valic and Kalic cases an exemption was granted, consistent with the Commission's presumptive Rule 224-1(e), to permit a lower public sales price on group contracts sold to pension or profit sharing plans qualified under the Internal Revenue Code.

The decision recognizes that, apart from the corporations themselves, the variable annuity arrangement involves separate investment companies either as a "fund" or "trust", comprised of the variable annuity contract holders and the proceeds of their payments. The Commission exempted these separate investment companies from registration under the Act since Valic and Kalic are both registered under the Act and the contract holders thus receive its protections.

**STO ORDER HEARING CONTINUED.** The consolidated hearing in "stop order" proceedings pending in respect of the registration statements under the Securities Act of 1933 filed by Oil, Gas & Minerals, Inc. and American Investors Syndicate, Inc., both of New Orleans, La., has been continued from February 25 to March 22, 1960, on request of counsel for the companies in order to provide additional time for discussions and negotiations looking to a stipulation of the facts which would obviate the necessity for an evidentiary hearing.

**TRADING SUSPENDED IN SKIATRON STOCK.** The SEC today announced the further suspension of trading in the common stock of Skiatron Electronics and Television Corporation, 180 Varick Street, New York, on the American Stock Exchange during the period February 26 to March 6, 1960, inclusive. The suspension order, which was issued pursuant to Section 19(a)(4) of the Securities Exchange Act of 1934, states that the suspension is necessary to prevent fraudulent, deceptive or manipulative acts or practices in Skiatron stock, thus prohibiting trading in such stock by brokers and dealers in the over-the-counter market during the period of the suspension by virtue of the Commission's Rule 15c2-2.

Administrative proceedings involving questions as to the accuracy and adequacy of factual disclosures contained in a registration statement filed by Skiatron under the Securities Act of 1933 and whether a stop order should be issued suspending the said statement (See Release 33-4174) are currently in progress. Suspension of trading is considered necessary by the Commission in view of the serious nature of the deficiencies in said registration statement and the inability of investors to make an informed analysis and evaluation of the worth of Skiatron stock upon the basis of published information.

**HEARING SCHEDULED IN R. V. KLEIN CO. CASE.** The SEC has scheduled a hearing for March 7, 1960, in its New York Regional Office in proceedings under the Securities Exchange Act of 1934 to determine whether the broker-dealer registration of Rudolph V. Klein, doing business as R. V. Klein Company, 170 Broadway, New York, should be revoked.

In its order authorizing such proceedings (Release 34-5760), the Commission charged that the respondent offered and sold common stock of Micro-Moisture Controls, Inc., in violation of the registration requirements of the Securities Act of 1933. In a related action filed by the Commission, respondent was permanently enjoined by Federal court order from further offering and sale of Micro-Moisture Controls stock in violation of said registration requirements.

**CONSOLIDATED OIL & GAS FILES FOR RIGHTS OFFERING.** Consolidated Oil & Gas, Inc., 2112 Tower Bldg., Denver, filed a registration statement (File 2-16166) with the SEC on February 24, 1960, seeking registration of 140,748 shares of common stock and warrants for the purchase of 422,234 shares of common stock. The company proposes to offer its common stockholders of record March 25, 1960, the right to subscribe for one common share and warrants for the purchase of three common shares for each ten common shares then held. The subscription price, as well as the exercise price of the warrants, is to be supplied by amendment. No underwriting is involved.

The registration statement also includes an additional 205,277 of outstanding shares which may be offered for sale by the present holders thereof, and 100,000 shares to be offered by the company for properties.

The company's business consists of the acquisition of leaseholds and other interests in oil and gas properties, including in some instances producing properties, exploration and development thereof and production and sale of crude oil, condensate and natural gas. The company now has outstanding 1,402,482 common shares and certain mortgage and other indebtedness. Of the net proceeds of the cash sale of additional stock, \$150,000 will be applied to the reduction of current indebtedness, \$250,000 for drilling and completion, if warranted, of development wells, \$40,000 to rework, deepen and complete, if warranted, exploratory wells, and the balance for general corporate purposes.

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The company's prospectus lists Harry A. Trueblood, Jr., as president and owner of 12.55% of the outstanding stock. Officers and directors as a group, together with members of their families, own 33.82% of the outstanding stock. The additional 100,000 common shares may be issued in negotiated transactions for property acquisitions; but no such negotiations are currently in progress.

**TOOL RESEARCH FILES FOR STOCK OFFERING AND SECONDARY.** Tool Research and Engineering Corporation, Union Bank Building, Beverly Hills, Calif., filed a registration statement (File 2-16165) with the SEC on February 24, 1960, seeking registration of 350,000 shares of common stock, to be offered for public sale through underwriters headed by Shields & Company. The offering price and underwriting terms will be supplied by amendment.

The company was organized in June 1959 and has its principal place of business in Compton, Calif. It is the successor, by statutory merger in August 1959, to three California corporations, two of which in turn succeeded in 1956 to the business of a partnership formed in 1946. The company is principally engaged in the design and fabrication of production tooling; in the development and construction of high precision machinery, automation machinery, ground support equipment and ground handling equipment; in project design and engineering; and in the production of stainless steel honeycomb core for use in the aircraft and missile programs.

On February 18, 1960, the company contracted to acquire all the outstanding stock of Hillgren Manufacturing Company and 76% of the outstanding stock of Western Lock Mfg. Co., together with such additional outstanding shares of the latter corporation as may be offered to the company. The aggregate price of the stock is \$5,014,035 (excluding a certain tax liability), of which \$3,635,000 is payable in cash and \$1,379,035 is payable in the company's notes. \$3,635,000 of the net proceeds of the proposed stock sale will be used to pay the cash portion of the purchase price. The remainder of the proceeds will be added to working capital. Sellers of the stock are G. & A. Management Co., Carl A. Hillgren, Alice R. Hillgren and Carl C. Hillgren, Trustee.

The prospectus lists Leopold S. Wyler, Jr., as president and owner of 104,242 shares (18.95%) of the outstanding stock.

**KING & HEYNE PROPOSE OFFERING.** King & Heyne 1960, Inc., 708 Main St., Houston, Texas, today filed a registration statement (File 2-16167) with the SEC seeking registration of \$1,500,000 of Exploration Agreements, to be offered for public sale in \$25,000 units. No underwriting is involved.

The agreements will provide for the making of advances against such commitments at specified times for Exploratory Costs and for additional costs. Of the proceeds, some 15% will be used for acquisition of property interests, 67.5% for drilling of exploratory wells, 7.5% for delay rentals, seismic and geophysical and other expenses, and 10% for general and administrative expenses.

The King & Heyne organization (composed of A. P. King, Jr., and Fred J. Heyne, Jr., and other associates), which is engaged in oil and gas exploration, primarily in the Upper Gulf Coast of Texas and southern Louisiana, will serve as managers. The two individuals serve as president and vice president, respectively.

**SEABOARD PLYWOOD FILES FOR DEBENTURE AND STOCK OFFERING.** Seaboard Plywood and Lumber Corporation, 17 Bridge Street, Watertown, Mass., today filed a registration statement (File 2-16168) with the SEC seeking registration of \$300,000 of 6% subordinated convertible debentures and 30,000 shares of common stock, to be offered for public sale on a best efforts basis by Peter Morgan & Company. The offering is to be made in units of \$500 principal amount of debentures and 50 shares of common stock. The public offering price and underwriting terms are to be supplied by amendment.

The company is engaged in the wholesale distribution of plywood, manufactured millwork, hardwood flooring, interior trim, and lumber specialties such as prefabricated door and frame units. Proceeds from the sale of the debentures and stock will be used to retire a 350,000 term bank loan, the provisions for which, among others, prohibit the payment of cash dividends. The balance of the proceeds will be added to working capital.

In addition to certain indebtedness, the company has outstanding 409,963 shares of common stock, 329 shares of 6% preferred (\$100 par value), 20,000 warrants (sold to Peter Morgan & Co. in connection with a previous offering of stock), and \$362,000 of 6% subordinated debentures. Officers and directors of the company hold an aggregate of 58% of the common stock including 102,262 shares (25%) held by Ralph D. Kennedy, president, and an equal amount owned by H. Burns Rafferty, vice president and treasurer. The Massachusetts Institute of Technology owns 34,087 shares (8%). All of the preferred stock is held by Helen Evans.

**UNITED INTERNATIONAL FUND FILES.** United International Fund, Ltd., c/o Bank of Bermuda, Ltd., Hamilton, Bermuda, has applied to the SEC for an order under the Investment Company Act of 1940 permitting it to register as an investment company under that Act and to make a public offering of its securities in the United States; and the Commission has issued an order giving interested persons until March 9, 1960, to request a hearing thereon.

The Fund was incorporated by a special act of the Bermuda Parliament entitled "The United International Fund Company Act, 1959" and proposes to engage in business as an open-end diversified management investment company investing in securities, among others, traded on the stock exchanges of Toronto, Montreal, London, Johannesburg, Amsterdam, Frankfurt and Paris. It contemplates a public offering in the United States of its common stock, through an underwriting group managed by Kidder, Peabody & Co., to obtain at least \$22,000,000 (net) for its investment purposes.

The application lists Cameron K. Reed and Chauncy Wadell as organizers; Wadell & Reed, Inc., Kansas City, as principal underwriter (after the initial offering); and the latter's subsidiary, United Intercontinental Research Ltd., 40 Wall St., New York, as investment adviser.

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