

SECURITIES AND EXCHANGE COMMISSION NEWS DIGEST

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

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FOR RELEASE November 29, 1962

SEC DECISION WARNS OF LAXITY IN BROKER-DEALER FILINGS. The SEC today announced the issuance of a decision under the Securities Exchange Act (Release 34-6956) in which it denied broker-dealer registrations to S.A.E. Corporation, Suite 10A, 60 Remsen Street, and Astor Securities Co., 1559 65th Street, both of Brooklyn, New York, and revoked the broker-dealer registration of R. J. Cunningham & Company, Inc., 24 Commerce Street, Newark, New Jersey. The Commission observed that these three cases present similar instances of incorrect applications for broker-dealer registration "which reflect an unwholesome and impermissible lack of appreciation" of the importance of such applications. Each case, the Commission stated, evidences "a loose and careless attention to the accuracy and completeness" of the applications.

The Commission (in a majority decision by Commissioners Woodside, Frear and Whitney) found that the statement of financial condition filed with the application of S.A.E. which was signed by Samuel E. Stone as president, stated that the firm's initial capitalization was \$10,000 "paid-in capital" which had been furnished by Edward Ehrlich (listed as secretary-treasurer), when in fact such capital was not to be provided until registration became effective and had not been paid in at the time of the filing of the application and the firm had no assets. In addition the application (which was executed by Stone) failed to disclose Stone's previous employment by three broker-dealers; and it listed Stone, Ehrlich and Allen Abelson (designated as vice president) as directors and beneficial owners of the firm's stock, although they had not been elected directors or appointed officers and no stock had been issued. The Commission found with respect to Astor Securities, that its application for registration was accompanied by a statement of financial condition, signed by Angelo J. Maraon and prepared with the assistance of Joseph Esposito, which represented that the firm had assets of \$7,500 in cash, \$6,205 in securities, and \$1,850 in furniture, fixtures and office machines. However, at the time of the filing of the application and financial statement, the firm did not in fact have any assets. Moreover, after an investigation had begun, it filed a new financial statement which showed cash assets of only \$1,000. With respect to R. J. Cunningham, the Commission found that its application stated that no person owned 10% or more of its stock, although admittedly Robert J. Cuneo, president and treasurer, and Jack S. Geraldo, Jr., vice president, each held 49 of its 100 outstanding shares. In addition it listed Geraldo's previous connection with a broker-dealer as bookkeeper, although he was in fact also a registered representative. The supplemental financial statement reported total assets of \$12,600 cash at a time when admittedly the firm only had cash assets of \$1,600.

The Commission concluded that under all the circumstances, including evidence that "they do not appear to have been motivated by any intent to deceive" and that, in two of the cases, their counsel's failure to give proper attention to the matters contributed to the violations, "we shall withhold making any findings that the individuals concerned were causes of such action." The Commission observed, however, that it would consider any future instances of inaccuracies or deficiencies in broker-dealer applications under similar circumstances in the light of the explicit admonitions in this opinion.

In a dissenting statement, Chairman Cary observed that, since the respondents apparently had no intention to deceive and since in two cases counsel seem to have heavily contributed to the errors committed, he would not impose even the denial and revocation sanctions "for mistakes which could have been swiftly remedied administratively. I would first give the parties an opportunity to amend or withdraw." Commissioner Cohen joined in this dissent.

REGISTRATION DENIED TO BURNEY C. PRIGGE. The SEC has issued an order under the Securities Exchange Act (Release 34-6960) denying broker-dealer registration to Burney Charles Prigge, doing business as Abbott-Harlan & Company, 16024 Ventura Blvd., Encino, Calif., for violations of the anti-fraud provisions of the Federal securities laws.

According to the order, Prigge organized Republic Cement Corporation in 1955 and became its president, board chairman and principal stockholder. In 1957, the Commission issued a stop order suspending the effectiveness of a registration statement previously filed by Republic under the Securities Act of 1933, on the ground that it contained false and misleading representations. In 1957, a Federal court in Arizona approved a voluntary petition for reorganization under Chapter X of the Bankruptcy Act signed by Prigge on behalf of Republic; and subsequently the Court authorized the company to issue certificates of indebtedness for the payment of certain expenses and indebtedness, the exploration and development of Republic's mining claims, and for the preparation of preliminary engineering estimates for its proposed plant.

The Commission found that Prigge violated the anti-fraud provisions of the Federal securities laws in the offer and sale of Republic's certificates of indebtedness in that he used material and made oral representations which contained false and misleading statements concerning the assets, financial condition, operations, and future prospects of Republic, the nature of the authorization for issuance of the certificates by the Court and the use of the proceeds of their sale, the status of the certificates as a first lien on all the property owned or to be acquired by Republic, and the ownership of some of the certificates sold. It was also found that Prigge failed to disclose Republic's insolvency and the events leading to authorization of the certificates, that the debtor had no operating experience, that none of its officers or directors had experience in the cement industry, that construction of a plant could not start until and unless several million dollars were obtained from sources other than the sale of the certificates, and that certain of the certificates being sold had been already issued to Prigge and his brother. Prigge entered into a stipulation of facts and consented to the denial order.

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REGISTRATION OF RALPH MINEO REVOKED. The SEC has issued an order under the Securities Exchange Act (Release 34-6955) revoking the broker-dealer registration of Ralph Mineo, 615 Myrtle Avenue, Brooklyn, N.Y. The Commission found (1) that in October 1960 Mineo was permanently enjoined (upon SEC complaint) by a Federal court order (USDC, SDNY) from further violations of the net capital and anti-fraud provisions of that Act, (2) that in May 1961 Mineo pleaded guilty in a New York Court to selling securities while insolvent and received a one year suspended sentence and was placed on probation to make restitution, and (3) that at the same time the New York Supreme Court (with Mineo's consent) permanently enjoined him from engaging in the securities business in the State of New York. Furthermore, the Commission found that in December 1961, Mineo established an office in Washington, D. C. under the name of Kent Securities and engaged in the securities business at such location; and he failed to file an amendment to his registration to show this change in business address until after he had been served with an amended Commission order for proceedings. The Commission noted that although there was some misunderstanding between Mineo and a Washington attorney with reference to the preparation of such an amendment, Mineo failed to take reasonable and adequate steps to insure that such an amendment was prepared and filed promptly.

SEC DENIES RECONSIDERATION OF SCHLESINGER REVOCATIONS. The SEC has issued an order under the Securities Exchange Act (Release 34-6957) denying a petition filed by Seymour J. Schlesinger, doing business as First Continental Co., 159 Hempstead Avenue, West Hempstead, Nassau County, New York, for reconsideration of the Commission's order dated October 4, 1962 revoking his registrations as a broker-dealer and investment adviser. The revocation order was based upon Schlesinger's failure to file reports of his financial condition for 1958, 1959 and 1960 (notwithstanding the fact that on several occasions he was advised of such requirement). In denying the petition, the Commission held that the violations found were supported by the record and that it was in the public interest to revoke Schlesinger's registrations despite his assertion that he was not engaged in transactions with the public. The Commission noted that disclosure of financial position is required of all registered broker-dealers as a basis for the Commission's surveillance of their activities and enforcement of their statutory obligations, and that Schlesinger repeatedly failed to comply with this requirement.

SUSPENSION OF SABER BOATS OFFERING MADE PERMANENT. The SEC has issued an order under the Securities Act (Release 33-4558) making permanent its November 1960 order temporarily suspending a Regulation A exemption from Securities Act registration with respect to a proposed public offering by Saber Boats, Inc., formerly of Accokeek, Md. of 2,500 shares of Class A voting common stock and 106,875 shares of Class B non-voting common stock, all at \$2 per share. In its order, the Commission sustained the findings of its Hearing Examiner that the company's offering circular contained untrue and misleading statements concerning the lack of full legal title of the issuer to the property of which it claimed ownership, and the method of distribution and the prices at which the stock would be offered to the public; that the report of completion of distribution filed with the Commission was incorrect and misleading; that certain sales were made without use of an offering circular; and that the offering was made in violation of the anti-fraud provisions of the Federal securities laws.

CHAPTER X URGED FOR DEJAY STORES. The SEC on May 28th filed a motion in the U. S. District Court (SDNY) seeking dismissal of the Chapter XI arrangement proceeding for Dejay Stores, Inc., of New York City, on the ground that the proceeding should be brought under the corporate reorganization provisions of Chapter X of the Bankruptcy Act. The motion, scheduled for court hearing on December 4th, urges that a Chapter X proceeding is needed to effectuate a thorough reorganization and rehabilitation of the debtor under direction of an independent trustee appointed by the court. (See Release CR-188)

WODE & CO. HEARING SCHEDULED. The SEC has scheduled a hearing for December 5, 1962 in its Denver Regional Office in the proceedings under the Securities Exchange Act of 1934 to determine whether Wode & Company, 1521 Cleveland Place, Denver, engaged in practices which operated as a "fraud and deceit" upon certain persons and, if so, whether its broker-dealer registration should be revoked. The Commission's order authorizing these proceedings recites charges of its staff that the firm, Edward Earl Wode, Jr., its president, and certain employees violated the anti-fraud provisions of the Federal securities laws in the offer and sale of stock of Green Shield Plan, Inc.

TRADING BAN IN THREE STOCKS CONTINUED. The SEC has issued orders under the Securities Exchange Act further suspending exchange and over-the-counter trading in the common stocks of the following companies for an additional ten-day period, November 30 to December 9, 1962, inclusive: Black Bear Industries, Inc., Precision Microwave Corp., and Prosper Oil and Mining Company.

MANCHESTER INSURANCE FILES FOR STOCK OFFERING. Manchester Insurance Management and Investment Corporation, 9929 Manchester Road, St. Louis, Mo., filed a registration statement (File 2-20918) with the SEC on November 28th seeking registration of 272,941 shares of common stock, to be offered for public sale at \$3.50 per share. The offering will be made on an all or none best efforts basis through underwriters headed by Troster, Singer & Co., 74 Trinity Place, New York, which will receive a 35¢ per share commission and \$12,500 for expenses.

The company is engaged in the business of writing casualty insurance, adjustment of claims, the financing of insurance premiums and in the investment and reinvestment of its assets. Of the net proceeds from the stock sale, \$345,000 will be invested in additional stock of a subsidiary so that additional casualty insurance may be written and maintained by the subsidiary, \$270,000 will be used to pay off bank indebtedness, and the balance to exercise an option to acquire a life insurance company (for \$85,000), to loan \$25,000 to another subsidiary so it may write additional casualty insurance, and for addition to general funds. The company has outstanding 427,059 shares of common stock, of which Ralph B. Hutchings, president,

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owns 12.59%, S. J. Goldenhersh, vice president, 12.41% and management officials as a group 56.37%. Sale of stock to the public at \$3.50 per share will result in an increase in the book value of stock now outstanding from \$1.14 to \$1.85 per share, with a resulting dilution of \$1.65 per share in the book equity of stock purchased by the public.

CIRCLE K FOOD STORES FILES FOR OFFERING AND SECONDARY. Circle K Food Stores, Inc., 904 Magoffin Ave., El Paso, Texas, filed a registration statement (File 2-20917) with the SEC on November 28th seeking registration of 96,000 shares of common stock, of which 64,000 shares are to be offered for public sale by the company and 32,000 shares, being outstanding stock, by the holders thereof. Eppler, Guerin & Turner, Inc., 1600 Fidelity Union Tower, Dallas, Texas, heads the list of underwriters. The public offering price (maximum \$6.25 per share*) and underwriting terms are to be supplied by amendment. The statement also includes 9,600 shares underlying 6-year warrants sold to the principal underwriter for \$96, exercisable at a price to be supplied by amendment.

The company operates a chain of 70 retail drive-in grocery stores in Tucson and Phoenix, Ariz., and in El Paso, Texas. The net proceeds from the company's sale of additional stock will be used to finance the initial inventory requirements and opening costs of 22 additional stores in the Phoenix area and 10 stores in the Tucson area, and the balance will be added to general funds and used as working capital and to defray initial inventory and other opening costs of any further additional store units which the company may open from time to time in the future. The company has outstanding 32,000 common and 174,517 Class B common shares, after giving effect to a recent recapitalization whereby 206,517 Class B shares were issued in exchange for the 68,839 shares previously outstanding (and after 32,000 thereof were converted into common by the selling stockholders for purposes of this offering). Of such outstanding stock, Fred Hervey, president, owns 27,342 common and 146,283 Class B shares. He proposes to sell all of his common holdings and three other management officials own and propose to sell the balance. After the stock sale, Hervey will own 54.1% of the company's outstanding voting securities.

SOVEREIGN LIFE INSURANCE FILES FOR STOCK OFFERING. Sovereign Life Insurance of California, 510 South Spring St., Los Angeles, filed a registration statement (File 2-20919) with the SEC on November 28th seeking registration of 800 shares of capital stock, to be offered for public sale at \$2,500 per share. The offering will be made by McDonnell & Co., Inc., 120 Broadway, New York, which will receive an \$18.75 per share commission. The offering will terminate (and proceeds of sales refunded) if at least \$750,000 of net proceeds are not received from the stock sale. The statement also includes (1) 28 shares recently sold to the underwriter at \$925 per share, and (2) 25 shares underlying 5-year warrants to be sold to the underwriter at \$100 per warrant, exercisable at \$2,500 per share.

The company (formerly Brokers National Life Insurance Company of California) was organized under California law in May 1962 for the purpose of engaging in the business of writing, issuing and selling policies of life and disability insurance and generally transacting the business of a life insurer in California. It has not yet engaged in any business and cannot do so prior to its obtaining a Certificate of Authority to engage in such business from the Commissioner of Insurance in California, application for which has been filed by the company. The net proceeds from the stock sale will provide the company with the necessary capital and surplus (\$750,000) so that it will be qualified to receive said Certificate. Following reimbursement to the founders for certain expenses (not exceeding 10% of the proceeds from the stock sale), a portion of said funds will be invested in securities permitted for California life insurance companies, and the balance will be retained in cash. The company has outstanding 112 shares of capital stock, of which Victor T. Terry, president, and Leon Saliba and McDonnell & Co. own 28 shares each. Terry and Saliba and the holders of the remaining shares paid \$375 per share. According to the prospectus, the company plans to issue to Terry restricted stock options to purchase 78 shares at 95% of the fair market value thereof on the date of grant.

THREE FILE PLEA IN D.C. COURT. On November 27th Leonard A. Nickoloric (Washington, D.C.), Samuel L. Todd (Ennis, Texas, formerly of Washington, D.C.), and Richard Candelaria (Los Angeles, Calif) waived indictment and pleaded guilty to one count each of a 3-count information filed in the U. S. District Court, Washington, D. C., charging violations of the Securities Act registration requirement in the sale of stock of American Orbitronics Corporation. Sentencing deferred pending pre-sentencing report. These and other defendants previously were enjoined against sale of such stock in violation of the registration and anti-fraud provisions of the Act. (LR-2441)

SECURITIES ACT REGISTRATIONS. Effective November 28: General Motors Corp. (File 2-20872); Consolidated Edison Co. of New York, Inc. (File 2-20877). Effective November 29: American Flag and Banner Co. (File 2-20324); Gilfillan Corp. (File 2-20204); J. D. Jewel, Inc. (File 2-20737).

*As estimated for purposes of computing the registration fee.

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