

NEWS DIGEST

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

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CHAIRMAN CARY DISCUSSES SECONDARIES. In a speech before the Practicing Law Institute today, Chairman Cary discussed the problem of uncontrolled distributions of stock, a problem which the Commission believes should be brought to the attention of the bar. Chairman Cary stated as follows: "The Commission is currently faced with a problem arising out of the distribution of large amounts of registered securities by numerous stockholders over a period of time without the use of an underwriter. This type of distribution generally arises out of two situations. First, in a merger transaction, the shares to be issued to all the stockholders of the acquired corporation may be registered. Second, an issuer may register shares previously issued to diverse groups in allegedly private offerings or other exempt transactions. Distribution of the registered shares will then occur without utilization of an underwriting firm and by sales executed from time to time at prevailing prices on an exchange or in the over-the-counter market. This type of uncoordinated distribution should be compared with the usual offering of securities, where agreements among underwriters and selling group members establish procedures designed to result in an orderly marketing of the securities being offered.

"If you read the Commission opinion in the Hazel Bishop case, Securities Act Release No. 4371, you will note its concern that parties involved in an uncoordinated distribution may not be aware of their responsibilities under the Securities Act and the Securities Exchange Act. In certain cases, sales by these parties may involve a distribution within the meaning of Rule 10b-6, promulgated under Section 10 of the Securities Exchange Act of 1934, which prohibits an issuer, any person on whose behalf a distribution is being made, or any person participating in the distribution, from bidding for or purchasing any security of the same class until after he has completed his participation in the distribution. The rule itself has specified exemptions and the Commission may grant an exemption pursuant to an application. Furthermore, since these offerings are usually at the market, no stabilization is permitted by Rule 10b-7. Moreover, under Rule 10b-2 if the securities are traded on an exchange, no person who participates in, or is otherwise financially interested in, the distribution may pay or offer to pay any person for soliciting another to purchase on the exchange the security being distributed or any security of the same class. In addition, as the Commission stated in the Hazel Bishop case: '[A]ny representation that a security is being offered "at the market" implies the existence of a free and open market which is not made, controlled or artificially influenced by any person participating in the offering. Any activity which constitutes a violation of the antimanipulative provisions mentioned or which is otherwise intended to stabilize, stimulate or condition the market would be inconsistent with this representation and would render the registration statement false and misleading.'

"It must also be pointed out that these offerings involve registered distributions of securities which must be made in accordance with the prospectus requirements of the Securities Act of 1933. Therefore, the use by any participants in the distribution of written communications which offer the securities will be subject to the prohibitions of Section 5(b)(1) of the Securities Act. Consequently, any such communications would be unlawful unless in the form of a statutory prospectus or accompanied by, or preceded by, a statutory prospectus. In a distribution through the facilities of an exchange, prior delivery of prospectuses to an exchange in accordance with Rule 153, pursuant to which the conditions of Section 5(b)(2) are deemed fulfilled, would not satisfy this requirement of Section 5(b)(1).

"The Commission has developed administrative procedures to be utilized in handling situations involving uncontrolled distributions. It has categorized these transactions into three different types. It must be understood that these categories are neither fixed, nor definitively defined. More experience with this relatively new problem and further exposure to its variegated factual settings may result in the formulation of more precise standards.

"In the first category, the stockholders whose securities are being registered own a significant percentage of the company's stock, are several in number and represent an interrelated group either through a family, business or contractual nexus. In this type of case, the Commission believes it appropriate that procedures designed to avoid violations of the Federal securities laws be employed by the selling stockholders. These procedures may be embodied in agreements between the issuer and selling stockholders. Moreover, the issuer may represent that it will not honor any request for the transfer of its securities by any selling stockholder who does not become a party to these agreements.

"The agreements may provide, among other things, that each selling security holder who is a party to such an agreement (a) will effect no stabilization transactions or engage in any stabilization activities in connection with the company's securities being offered; (b) will furnish each broker through whom he offers his securities such number of copies of the prospectus as the broker may require; (c) will report to the issuer all sales, pledges, and other dispositions of the issuer's stock made by them; (d) will not bid for or purchase any of the company's securities or will not attempt to induce any person to purchase any of the company's securities or will not pay anyone any compensation for soliciting purchases of the company's securities unless the purchase, inducement or payment is made in a transaction exempt from the provisions of Rule 10b-6 by one of its eleven exceptions. In each case, these restrictions may continue until the completion of the offering by all the stockholders, or only a selected group, depending on the relationships of the sellers. Examples of these agreements may be noted in the Hazel Bishop, Inc. prospectus, dated June 26, 1961, and the Dalto Electronics Corporation prospectus, dated July 20, 1961. In addition to the agreements, it may be appropriate for company counsel to remind officers and directors, who are in the selling group, of

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their particular responsibility not to take advantage of any inside information during the course of the distribution.

"The second classification involves situations where a substantial number of shares is registered by stockholders who are not in any way related to one another. In this case, it is thought appropriate only to notify the issuer which will in turn apprise such stockholders, of their responsibilities under the Commission's Acts as participants in a distribution.

"The final category is that composed of small stockholders, each owning an insignificant number of shares and having no affiliation with any large holders. A sale by such a stockholder of 100 shares may not be a distribution and thus in his case no particular precautions need be observed. In this connection, I note that, in Rule 133 transactions, the Commission does not require registration of shares acquired by persons not in control of the acquired corporation.

"It should be pointed out that all of these categories may coexist in the same distribution. Furthermore, there may be several groups in the same category, as where the selling stockholders include two family units and each will be considered to be engaged in a separate distribution under Rule 10b-6.

"In summary, I should like to repeat that the Commission has not fully defined the content of the several categories. The number of stockholders, the extent of their holdings, and the relationship among them, which will cause a particular offering to be classified in a certain manner, must of necessity be determined on a case by case basis. Moreover, as different fact patterns are presented, new procedures may be developed. This is an area in which counsel can be of assistance to the Commission by bringing the problem to the attention of the staff and by devising techniques tailored to meet the requirements of the particular case. In all cases, the fundamental inquiry will be whether the circumstances of the offering will result in an orderly distribution of the security, free of practices prohibited by the statutes or rules as manipulative, deceptive, fraudulent, or otherwise unlawful."

STERLING SEAL FILES FOR OFFERING AND SECONDARY. Sterling Seal Company, 316 West 16th Street, Erie, Pa., filed a registration statement (File 2-18623) with the SEC on August 2d seeking registration of 112,300 shares of common stock, of which 20,000 shares are to be offered for public sale by the company and 92,300 shares, being outstanding stock, by the present holders thereof. The offering will be made on an all or none basis through underwriters headed by Fulton, Reid & Co., Inc. and Walston & Co., Inc. The public offering price and underwriting terms are to be supplied by amendment.

The company designs, lithographs and stamps metal caps or closures for containers used in a variety of industries, including the cosmetic, polish, wax, drug, dairy and paint industries; and is a producer of closures for aerosol pressure spray containers. In addition the company stamps small metal parts for others. Net proceeds from the company's sale of additional stock will be added to working capital. In addition to certain indebtedness, the company has outstanding 204,575 shares of common stock, of which Franklin S. Patton, president, Esther L. Travis, executive vice president, and George C. Deike, Jr., a director, own 126,560, 53,130 and 8,750 shares, respectively, and propose to sell 58,300, 30,000 and 4,000 shares, respectively.

AMEREL MINING FILES FOR STOCK OFFERING. Amerel Mining Company Limited, 80 Richmond Street West, Toronto, Ontario, Canada, filed a registration statement (File 2-18611) with the SEC on July 31st seeking registration of 400,000 shares of common stock, to be offered for public sale at 50¢ per share. The offering will be made on a best efforts basis by E. A. Manning Limited, of Toronto, which will receive a 25% selling commission and an additional 15% to pay the cost of distribution. The registration statement also includes 50,000 shares sold to the underwriter for \$5,000.

The company was organized in 1960 to engage in the business of exploration, development and mining. By an agreement in 1960, the company acquired from Gerard Paquette, president, and Harold Paul Henderson and Edward Albert Manning, directors, 27 unpatented mining claims in the country of Abitibi in Quebec, containing about 467 acres. The consideration for the purchase was 900,000 capital shares of the company, 300,000 to each of the promoters, whose out-of-pocket expenses in acquiring the property approximated \$1,000. The prospectus states that "all of the work done on the Registrant's property was done by previous owners, that the property is without a known body of commercial ore, and that the proposed program is an exploratory search for ore." The net proceeds from the stock sale, estimated at \$112,750, will be used to do about 10,000 feet of diamond drilling, to erect a shack for storing core and an office to house personnel and records, to pay for engineering supervision of the exploratory program, and for running expenses to do further exploratory work on any favorable results of the present program.

The company has outstanding 950,005 shares of capital stock, of which Paquette and Henderson own 31.5% each and Manning 27.36%. The latter is controlling stockholder of the underwriter.

JEFFERSON LAKE PETROCHEMICALS SECURITIES IN REGISTRATION. Jefferson Lake Petrochemicals of Canada Ltd., 1408 Whitney Bldg., New Orleans, La., filed a registration statement (File 2-18620) with the SEC on August 2d seeking registration of Series B Warrants to purchase 60,000 common shares and 560,000 common shares purchasable on exercise of Series B Warrants. According to the prospectus, Series B Warrants to purchase 500,000 shares were sold in Canada in April 1961; and Series B Warrants to purchase 60,000 shares are to be offered in exchange for outstanding Series A warrants to purchase 60,000 common shares. The 560,000 shares are offered by the company upon exercise of the Series B warrants, which are exercisable at a price beginning at \$7 per share.

The company was organized under Canadian law in 1957 on the initiative of Jefferson Lake Sulphur Company of New Orleans. In 1958 it acquired a sulphur inventory and all fixed assets, contract rights and undertaking, in Canada, of the Sulphur Company. The latter owns 1,400,018 (about 69%) of the company's common shares and furnishes certain executive management services to it. While the company is now engaged in the production in British Columbia of sulphur from purchased hydrogen sulphide gas, its principal assets is its natural gas reserve on the outskirts of Calgary. Here, the company, in conjunction with other gas owners in the Calgary Field, has organized Petrogas Processing Ltd. which is constructing facilities for treating the

field gas to recover pipeline gas (which it has contracted to sell), liquefiable petroleum gases, natural gasoline or stabilized condensate and elemental sulphur.

According to the prospectus, the outstanding Series A warrants to purchase 60,000 shares, exercisable at \$6.25 per share, were sold to underwriters of the company's first public offering of stock in June 1958, at 10¢ per underlying share. Gairdner & Company Limited was the underwriter (and sole purchaser) of the company's public offering in April 1961 of \$5,000,000 of 6½% debentures and Series B warrants for purchase of 500,000 common shares. J. Howard Hawke, a company director, is an executive officer of Gairdner & Co. Ltd.

MAGAZINES FOR INDUSTRY PROPOSES OFFERING. Magazines for Industry, Inc., 660 Madison Ave., New York, filed a registration statement (File 2-18624) with the SEC on August 2d seeking registration of 135,000 shares of common stock, to be offered for public sale on an all or none basis through underwriters headed by S. D. Fuller & Co. The public offering price and underwriting terms are to be supplied by amendment. The statement also includes an additional 33,750 shares underlying five-year warrants to be sold to the said underwriter for \$337.50, the exercise price of which is to be supplied by amendment.

The company (formerly Don Gussow Publications, Inc.) publishes the following business periodicals: Candy Industry and Confectioners Journal, Bottling Industry, and Food and Drug Packaging, and related technical books. Of the net proceeds of the sale of additional stock, \$100,000 will be applied towards the additional promotion of Food and Drug Packaging and the launching of a new publication to be called The Candy Marketer; a \$60,000 bank note will be retired; and the balance will be added to working capital and used, in whole or in part, to purchase existing trade publications (for which preliminary negotiations are now being conducted).

The company now has outstanding 225,000 common shares, of which Don Gussow, president, owns 77.8% and management officials as a group 98.7%.

CARESSA FILES FOR OFFERING AND SECONDARY. Caressa, Inc., 5300 N.W. 37th Street, Miami, filed a registration statement (File 2-18625) with the SEC on August 2d seeking registration of 150,000 shares of common stock, of which 75,000 are to be offered for public sale by the company and the balance by Leonard L. Taicher, president. The offering is to be made through underwriters headed by Shearson, Hammill & Co.; and the public offering price and underwriting terms are to be supplied by amendment.

The company is engaged directly and through its wholly-owned subsidiary, Caressa of Haiti Corporation, S.A., in the design and manufacture of women's shoes, principally a line of medium priced, unlined, lightweight shoes, which are sold primarily under the trademark, "Caressa" to department and specialty stores throughout the Country. Net proceeds of its sale of additional stock will be used in part (\$142,841) to retire outstanding notes, including, among others, two notes payable to Florence S. Markowitz and Morris Lomaskin having a total unpaid balance on July 1, 1961 of \$62,500, which notes were issued as part payment for their stock in Pan American Modes, Inc. and City Shoe Corporation S.A., and a note, having an unpaid balance on July 1, 1961 of \$66,997 payable to Taicher. The company intends to add the balance of the proceeds to working capital to be used for general corporate purposes including carrying its accounts receivable, which during seasonal peak periods will require additional financing, and for expansion of its business.

The company now has outstanding 75,000 shares of common stock and 450,000 shares of Class B common stock, all owned by Taicher.

AMERICAN MICRO DEVICES FILES FOR STOCK OFFERING. American Micro Devices, Inc., 444 West Camelback Road, Phoenix, Ariz., filed a registration statement (File 2-18626) with the SEC on August 2d seeking registration of 1,500,000 shares of Class A common stock, to be offered for public sale at \$1.15 per share by Naftalin & Co., Inc. The underwriter, which has guaranteed the sale of the first 500,000 shares and has agreed to exercise its best efforts to sell the balance will receive a 15¢ per share commission.

The company was organized under Minnesota law in May 1961. It proposes to engage in the solid state electronic component industry which includes the research and development, design, manufacturing and marketing of electronic devices and components. It intends to produce silicon semi-conductor devices which are used as components parts for computer systems in both the military and commercial fields. Of the estimated \$1,485,000 net proceeds from the stock sale, \$250,000 will be used for the purchase of capital equipment needed in a proposed plant; \$150,000 for materials for production and inventory; \$650,000 for expenses of operating the plant; and the balance for working capital and additional research.

The company has outstanding 512,000 Class A shares (sold to the incorporators at \$1 per share), of which management officials as a group own 26.2%. Joseph C. Worth, Jr. is listed as president.

ROYAL LAND & DEVELOPMENT FILES FOR STOCK OFFERING. Royal Land & Development Corp., 400 Stanley Avenue, Brooklyn, N. Y., filed a registration statement (File 2-18627) with the SEC on August 2d seeking registration of 2,000,000 shares of Class A common stock, to be offered for public sale at \$1 per share. The offering will be made on an all or none basis through underwriters headed by Lieberbaum & Co., which will receive a 10¢ per share commission and \$15,000 for expenses. The registration statement also includes (1) 250,000 Class A shares which underlie five-year warrants to be sold to the underwriters for \$250, exercisable at \$1 per share, and (2) 200,000 Class A shares reserved for issuance upon exercise of outstanding Restricted Stock Options.

The company was organized under Delaware law in June 1961 for the purpose of engaging in a general real estate and construction business in all of its phases. The 756,400 presently outstanding Class B shares were issued to Alex Eisenberg, board chairman, and two companies wholly owned by him, solely in exchange for certain unimproved real property owned by such stockholders. Of such shares, 50,000 were sold by him to Louis E. Sedrish, executive vice president, for an aggregate of \$50, and 100,000 were given to his son Stanley E. Eisenberg, president. Such properties had an aggregate cost to such transferors of \$335,311 inclusive of mortgages aggregating \$166,432 at the time of transfer. Of the net proceeds from the stock sale,

\$340,000 will be used to construct a one-story with mezzanine warehouse or factory building with an adjacent three-story office building, and the balance in the development of the business and for general corporate purposes.

The outstanding Class B shares had a June 30th book value of \$.225 per share. After the sale of new shares, present stockholders would have an equity as of such date of 27.44%, acquired for a property investment of \$168,879 over mortgages, and the public would have an equity of 72.56%, acquired for an investment of \$2,000,000. There are reserved for future issuance an aggregate of 450,000 Class A shares, of which 200,000 are being reserved pursuant to stock options granted to Eisenberg and Sedrish. Of such shares, 50,000 are exercisable at \$1 per share and the balance at \$1.10 per share.

LORTOGS UNDERWRITER CLARIFIED. The SEC News Digest of July 27th, in its reference to a proposed public offering of stock by Lortogs, Inc., of New York, incorrectly identified the underwriter, Reich & Co., as "Teich & Co."

PARGAS FILES FOR OFFERING AND SECONDARY. Pargas, Inc., P. O. Box 67, Waldorf, Md., filed a registration statement (File 2-18628) with the SEC on August 2nd seeking registration of 150,000 shares of common stock, of which 75,000 shares are to be offered for public sale by the company and 75,000 shares, being outstanding stock, by the holders thereof. The offering will be made on an all or none basis through underwriters headed by Kidder, Peabody & Co. The public offering price and underwriting terms are to be supplied by amendment.

The company is engaged in the retail and wholesale distribution of liquefied petroleum gas and its utilization and storage equipment. Operations are conducted mainly in Maryland, Virginia, and the Canadian Provinces of Ontario and Quebec. On the effective date of the prospectus, the company will issue 141,800 common shares for the outstanding capital stock of St. Lawrence Gas Limited, an Ontario company which conducts the Canadian operations of the company. C. J. McAllister, president of the company, and his wife, own 62.5% of the common and 100% of the preferred shares of St. Lawrence and they will receive in exchange therefor 90,019 company shares. The net proceeds from the company's sale of additional stock will be temporarily invested in government securities and available for general corporate purposes, including possible use in the acquisition of liquefied petroleum gas distribution businesses. The proceeds from a \$400,000 loan in August 1961 have or will be used for the acquisition of liquefied petroleum gas assets of Charles D. Johnson & Son (\$106,000), of Bel Air, Md. and for the purchase of a new tank truck, replacement of six tank truck chassis and purchase of customer storage tanks and other capital assets and for working capital (\$100,000).

In addition to certain indebtedness, the company has outstanding 541,800 shares of common stock, of which the estate of Lawrence L. Parlett, C. J. and Marion L. McAllister, Holmes L. and Cecelia T. Fowler, and Henry J. Fowler, secretary, own 280,000, 170,019, 20,000 and 20,000 shares, respectively. They propose to sell 50,000, 10,000, 10,000 and 5,000 shares, respectively.

GUY'S FOODS FILES FOR STOCK OFFERING. Guy's Foods, Inc., 2215 Harrison, Kansas City, Mo., filed a registration statement (File 2-18629) with the SEC on August 2nd seeking registration of 97,000 shares of common stock, to be offered for public sale at \$10 per share. The offering will be made through underwriters headed by Allen & Company, which will receive an 80¢ per share commission. The registration statement also includes 3,000 common shares to be offered directly to employees at \$9.20 per share.

The company (formerly Guy's Nut and Potato Chip Co.) manufactures or processes and packages and sells potato chips, nuts and Cheez Stix, and sells many other food items, including pretzels, popcorn, pickles, ketchup, relishes and spices. The estimated \$874,140.24 net proceeds of this financing will be used as follows: \$244,674.86 as cash payments toward the purchase of the company's manufacturing plant and warehouse in Kansas City, and its sales warehouses in St. Joseph and Boonville, Mo. and in Topeka, Emporia and Pratt, Kansas. The company will assume the existing mortgages (\$231,175.14 as of May 31, 1961) on such properties. Such properties are presently owned by and leased under net leases from Guy L. Caldwell, president, and Frances A. Caldwell, his wife and company secretary-treasurer. In addition, \$50,000 of the net proceeds will be used to acquire new equipment for the Kansas City and Wichita plants, and the remainder to finance larger inventories and receivables and to acquire and equip a manufacturing plant and warehouse in Nebraska or Iowa and one in Oklahoma.

In addition to certain indebtedness, the company has outstanding 150,550 shares of common stock, of which the Caldwells own 48% each.

UNITED INDUSTRIAL TRADING BAN CONTINUED. The SEC has issued an order under the Securities Exchange Act suspending trading in securities of United Industrial Corporation (Del.) on various exchanges and the over-the-counter market, for a further ten-day period August 4 to August 13, 1961, inclusive.

SECURITIES ACT REGISTRATIONS. Effective August 3: Kimberly-Clark Corporation (File 2-18484); Ripley Company, Inc. (File 2-18143); Speed-O-Print Business Machines Corporation (File 2-18169); Transcontinent Television Corporation (File 2-18183).