

# 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

July 31, 1957

## Investment Company Act Release No. 2563

The SEC today announced the issuance of an order granting an application of Mutual Investment Company of America, "MICA," a New York investment company, and J. Henry Helser & Co., of San Francisco, an investment adviser, for an exemption from the provisions of Section 22(d) of the Investment Company Act of 1940 with respect to the sale to certain clients of Helser of MICA shares at their net asset value. Commissioner Sargent dissented from this order.

According to the application, Helser manages a number of small investment accounts of less than \$2,500 which, because of their size, do not lend themselves to the Helser plan of operation, which involves an absolute discretionary power of attorney to Helser for the management of brokerage accounts established in the client's name. Such accounts, in many instances, are actively traded by Helser and are "margin accounts." No individual investment service is rendered; and an annual management fee of 4% is charged on the so-called "net equity" of accounts of \$10,000 or less.

The application states that, considering all the facts, it would be advantageous to Helser's small clients (whose accounts are less than \$2,500) to own investment company shares. Accordingly, it is proposed that Helser, who has entered into a distribution contract with MICA Fund Distributors, Inc., the principal underwriters for MICA, will offer MICA shares to these small clients. Such offering is to be made on the basis of MICA's prospectus; and, if the offer is accepted, the investment account of these clients will be liquidated and part or all of the proceeds applied to the purchase of MICA shares, at net asset value and without the imposition of a sales load. It is further intended that MICA will receive the full net asset value of the shares so sold, and the sale at that price will represent a concession of the sales load by MICA's principal underwriter and Helser.

Section 22(d) of the Act prohibits the sale of redeemable securities of a registered investment company below the current public offering price described in its prospectus, with certain exceptions. Section 6(c), however, authorizes the Commission, by order upon application, to exempt any transaction from any provision of the Act or Commission rules thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act. In support of its exemption, applicants asserted that it would be unfair to the small Helser clients who have already paid a management fee to have to pay a further fee for, in effect, transferring their investment. In addition, it is stated that the expected increase in growth of MICA from its present size of approximately \$250,000 would be advantageous to MICA in making it more stable and broadening the base of its potential distribution because of greater sales appeal. Under

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all the circumstances, the Commission concluded that it was appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act to grant the application.

In dissenting from the issuance of the exemption order, Commissioner Sargent stated that he was unable to make the statutory finding that the exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act. He pointed to the fact that the present holders of shares of MICA, as well as other future purchasers of such shares, have had to and will have to pay the sales load. Thus, the transactions here involved would offer to certain clients of Helser benefits not extended to other purchasers of MICA shares. The proposed transactions, he said, appear to be the result of an agreement by which Helser will become a distributor of MICA shares and this arrangement would constitute a purpose which the Investment Company Act intended to preclude.

Observing that the Act declares that the national public interest and the interest of investors are adversely affected "when investment companies are . . . managed in the interest of underwriters . . . or . . . in the interest of special classes of their security holders . . . rather than in the interest of all classes of such companies' security holders," Commissioner Sargent commented that it is unrealistic to say that the transactions sought to be exempted will in any way benefit the present holders of the company's shares. "It is quite clear," he said, "that the transaction is one of the dangers that the Act specifically sought to avoid, and I therefore must conclude that it is not in the public interest or for the protection of investors appropriate to grant the applicant its exemption from Section 22(d)."

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The Atlantic Refining Company (Philadelphia) filed a registration statement (File 2-13505) with the SEC on July 30, 1957, seeking registration of \$100,000,000 of Convertible Subordinated Debentures, due August 15, 1987, to be offered for public sale through an underwriting group headed by Smith, Barney & Co. The interest rate, public offering price and underwriting terms are to be supplied by amendment.

Of the net proceeds of this financing, \$81,000,000 is to be applied to the prepayment, without premium, of the company's outstanding bank loans, which were incurred principally in connection with the company's policy of increasing its crude oil and gas producing capacity, including the acquisition of oil and gas properties from Houston Oil Company of Texas and additional concessions in Venezuela. The balance of the net proceeds will be added to the general funds of the company. Such funds and additions thereto from operations will be used, among other things, for acquisition and development of production properties and for expansion and improvement of refining, marketing and transportation facilities.

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Coastal States Gas Producing Company, Corpus Christi, Texas, filed a registration statement (File 2-13506) with the SEC on July 30, 1957 seeking registration of 150,000 shares of its \$1 par Common Stock, to be offered for public sale through

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an underwriting group headed by Paine, Webber, Jackson & Curtis and Blair & Co. Inc. The public offering price and underwriting terms are to be supplied by amendment.

Coastal States was organized in November, 1955, to provide a corporate organization to acquire, further develop and operate interests in gas gathering systems and oil and gas properties owned by O. S. Wyatt, Jr. of Corpus Christi, board chairman and others. The principal properties acquired by Coastal States had been developed and operated by Wymore Oil Company, a partnership composed of Mr. Wyatt and A. A. Moore which was organized in 1951, under joint venture arrangements with others. As of November 1, 1955 Mr. Wyatt and several other persons transferred properties to Coastal States in exchange for shares of its capital stock and the assumption and incurrence by Coastal States of indebtedness and obligations.

Coastal States operates directly and through subsidiary corporations 19 gas gathering systems (not including three systems under construction) and also produces and sells natural gas, crude oil and condensate from properties located principally in southern Texas.

On July 23, 1957 the company entered into two contracts, one with National Bank of Commerce of San Antonio as Independent Executor and Trustee under the will of Abe Epstein, deceased, and Mrs. Beverly R. Epstein, and the other with National Bank of Commerce of San Antonio, as Receiver of the Estate of Kaye Lynn Epstein, a minor, pursuant to which the company has agreed to purchase from the Epstein family by September 30, 1957 voting trust certificates for 145,159 shares of the common stock of the company, together with an additional 5,500 shares of the common stock of the company (free from voting trust). The voting trustees have agreed to dissolve the voting trust as of the date that transfer of said voting trust certificates is made to the company, so that the company will thereupon hold all of said common shares free from said voting trust.

The company has agreed to pay an aggregate amount of \$1,054,613 to the Epstein family as the net purchase price of the said voting trust certificates and common stock; in addition, the company has agreed to bear all expenses incurred by or chargeable to the Epstein family in connection with the sale, including attorneys' fees and transfer stamps.

The Epstein family has informed the company that the family's stockholdings in the company represented almost 90% in value of all of the assets of the Estate of Abe Epstein, and that they are selling the above described shares at the present time to achieve greater liquidity and diversification of the family's holdings.

The 150,000 shares of common stock offered hereby are authorized and unissued shares of common stock of the company. The 150,659 shares of common stock being acquired by the company from the Epstein family will be held by the company as treasury stock. The net effect, therefore, of both transactions will be a reduction in the number of outstanding shares of common stock of the company by 659 shares.

A portion of the net proceeds of the sale of the 150,000 shares will be used to reimburse the company for the cost of acquiring the 150,659 shares from the Epstein family. The balance of the net proceeds has not been allocated to particular purposes, and will be added to the general funds of the company to be available for working capital and other corporate purposes.

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Edson B. Smith Fund, of Boston, Mass., filed an amendment on July 30, 1957 to its registration statement (File 2-10680) seeking registration of an additional 200,000 shares of Beneficial Interest.

Securities Act Release No. 3818

The Securities and Exchange Commission has issued an order temporarily suspending a Regulation A exemption from registration under the Securities Act of 1933 with respect to a public offering of 240,000 shares of common stock of Gob Shops of America, Inc., of Providence, R. I. The order provides an opportunity for hearing, upon request, on the question whether the suspension should be vacated or made permanent.

Regulation A provides a conditional exemption from registration under the Securities Act with respect to public offerings of securities not exceeding \$300,000 in amount. Gob Shops filed its Regulation A notification with the Commission on January 21, 1957, proposing the public offering of the 240,000 common shares "at the market," on its behalf and on behalf of Ernest Nathan, Theodore Schoenfeld, Joseph S. Porr, Laurence H. Lubin, J. Bowling Bruns, Jr., and Harold S. Coleman, pursuant to such an exemption. A request for withdrawal of the notification was filed by Gob Shops on May 22, 1957.

In its suspension order, the Commission asserts that the terms and conditions of Regulation A have not been complied with; that the notification and offering circular filed by Gob Shops contain untrue statements of material facts and omit to state material facts required to be stated; and that use of said offering circular in the offering and sale of Gob Shops stock would violate Section 17 of the Act.

More particularly, the Commission's order charges that Gob Shops' Regulation A notification fails to contain information with respect to the sale of unregistered securities of the company, within one year of the filing of the notification, by or for the account of Laurence H. Lubin and Harold S. Coleman, then directors of the company. Moreover, according to the order, the notification and offering circular contain false and misleading information with respect to (1) unregistered securities of Gob Shops sold within one year by or for the account of certain directors; (2) the market for securities of Gob Shops; (3) the market price for securities of Gob Shops; (4) the activities of the underwriter, Bruns, Nordeman & Co., of New York, in the market for Gob Shops securities; and (5) the maintenance, dominance and control by the underwriter of the market for, and market price of, Gob Shops securities.

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Janaf, Incorporated, Washington, D. C., filed a registration statement (File 2-13507) with the SEC on July 30, 1957, seeking registration of \$10,000,000 of 5½%-8% Sinking Fund Debentures, due August 1, 1972, and 100,000 Common Shares, 20¢ par value. The company proposes to offer these securities for public sale in units, each consisting of 10 common shares with each \$1,000 Debenture or one share of common stock with each \$100 Debenture. The offering price is to be \$1,000 for one debenture and \$2 for ten common shares. No underwriting is involved.

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Organized in 1953, Janaf is engaged in the business of acquiring land and improving land with shopping centers, motor hotels, office buildings, and private dwellings. It may also acquire improved real estate. The company has already acquired a 152-acre tract and is currently engaged in its developments, which property is located in Princess Anne County almost adjacent to the city of Norfolk, Virginia. Six of these acres have been sold to two church groups.

Janaf has three subsidiaries, Janaf Shopping Center, Incorporated, Janaf Motor Hotels, Incorporated, and Janaf Homes, Incorporated. A total of 104 acres has been transferred to these subsidiaries. Of the proceeds of this financing, Janaf proposes to use \$6,000,000 for construction of a shopping center by the first subsidiary (and for related expenditures) and \$1,400,000 for construction of a motor hotel by the second (including \$100,000 for its working capital). The balance of the proceeds will be used for retirement of the present preferred shares of Janaf; to maintain the market in debentures during offering, construct medical-professional building, or for acquisition of land or for new developments and as a reserve for contingencies; for working capital; and for commissions on sale of debentures.

Holding Company Act Release No. 13522

The SEC has issued an order authorizing Missouri Edison Company (Louisiana, Mo.) to issue and sell an additional 71,429 shares of its common stock at \$20 per share, or \$1,428,580. Union Electric Company, which owns 166,495 of the 166,667 outstanding shares of Missouri Edison stock, proposes to acquire these shares less such number of shares as may be purchased by the seven minority stockholders. Stock is to be offered to these shareholders on the basis of 3 shares for each 7 shares held.

Proceeds of the sale of this stock will provide Missouri Edison with funds to repay some \$1,325,000 of bank notes and to finance, in part, its construction program.

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The Celotex Corporation, Chicago, today filed a registration statement (File 2-13508) with the SEC seeking registration of 150,000 shares of its \$1 par Common Stock. The company proposes to offer this stock for public sale through an underwriting group headed by Hornblower & Weeks and Eastman Dillon, Union Securities & Co. The initial public offering price will be a fixed price related to the then current market for the shares; and the underwriting terms are to be supplied by amendment.

Net proceeds of the sale of the additional stock will be added to the working capital of the company and used for general corporate purposes. Working capital requirements are expected to be substantially increased during the next two years in order to finance inventories, accounts receivable and operations of the newly completed acoustical mineral fiber tile plant at Pittston, Pennsylvania, the new gypsum board plant and plaster mill at Fort Dodge, Iowa, expected to be completed later in 1957, and the new fiberboard plant at L'Anse, Michigan, expected to be completed late in 1958. Recently, substantial funds have been used for the purchase of a developed site and facilities at Des Plaines, Illinois, for a new research center, costing \$600,000, and for additional machinery and equipment costing 1,500,000, consisting principally of equipment to produce a recently developed type of acoustical tile at the Port Clinton, Ohio, plant and equipment required for improved methods of processing bagasse and for the handling of this basic raw material used in manufacturing cane fiberboard at the Marrer, Louisiana, plant.