

UNITED STATES OF AMERICA  
 before the  
 SECURITIES AND EXCHANGE COMMISSION  
 October 30, 1970

_____ :	
In the Matter of :	
INTERNATIONAL AEROSPACE ASSOCIATES, INC. :	FINDINGS,
P.O. Box 172 :	OPINION
Lexington, Massachusetts :	AND ORDER
(24B-1625) :	PERMANENTLY
:	SUSPENDING
:	REGULATION A
Securities Act of 1933 - :	EXEMPTION
Section 3(b) and Regulation A :	
_____ :	

EXEMPTION FROM REGISTRATION

Grounds for Suspension of Exemption  
Opportunity to Correct Deficiencies

Where notification and statement in lieu of offering circular, filed pursuant to Regulation A for purpose of obtaining exemption from registration under Securities Act of 1933 with respect to offering not in excess of \$50,000, were materially deficient because of, among other things, unavailability to issuer of Rule 257 of Regulation which permits statements without inclusion of financials under certain conditions; misleading representations concerning issuer's assets, operating and earnings history and facilities, bankruptcy of affiliate and option to purchase stock by president of issuer; overstatement of number of shares sold in previous offering; and failure to disclose required information concerning that offering and rights of holders of securities offered, held, in view of serious deficiencies and lack of care to present adequate and accurate filings, temporary suspension of exemption without issuance by staff of deficiency letter was warranted in public interest, and exemption should be permanently suspended notwithstanding issuer's stated willingness to file correcting amendment.

APPEARANCES:

Willis Riccio and Arthur Carr, of the Boston Regional Office of the Commission, for the Division of Corporation Finance.

Robert V. Pace, president, for International Aerospace Associates, Inc.

-----

International Aerospace Associates, Inc. ("issuer") is a Massachusetts corporation organized in April 1969 to engage in research and development with respect to airport facilities for supersonic transport planes and selected supporting activities. On July 24, 1969, pursuant to Section 3(b) of the Securities Act of 1933 and Regulation A thereunder, it filed with us a notification and, pursuant to Rule 257 of the Regulation, a statement in lieu of an offering circular, for the purpose of obtaining an exemption from the registration requirements of the Act with respect to a proposed offering of 50,000 shares of its \$1 par value common stock at \$1 per share. <sup>1/</sup> On October 6, 1969, we issued an order pursuant to Rule 261 of Regulation A temporarily suspending the exemption, and the issuer thereafter requested a hearing to determine whether we should vacate the temporary suspension order or enter an order permanently suspending the exemption. Following a hearing, the hearing examiner issued an initial decision in which he concluded that the suspension should be made permanent. We granted the issuer's petition for review of the initial decision, the issuer and our Division of Corporation Finance ("Division") filed briefs, and we heard oral argument. Our findings are based upon an independent review of the record.

#### Deficiencies

The record establishes that the issuer failed to comply with the terms and conditions of Regulation A in that, among other things, it filed a statement instead of an offering circular containing financial statements; that such statement, hereinafter referred to as the offering circular, contained materially misleading representations concerning, among other things, the issuer's assets, operating and earnings history, and facilities; and that the use of such offering circular in connection with the offering would violate the antifraud provisions of Section 17(a) of the Act.

Rule 257 of Regulation A, which dispenses with the financial statement requirement for offerings not in excess of \$50,000, was expressly unavailable for the securities proposed to be offered since the issuer was incorporated within one year prior to the date of filing the notification and had not had a net income from operations and thus came within the terms of the exclusion specified in Rule 253(a) (1).

With the absence of financial statements, there was no disclosure in the offering circular that the issuer had little or no assets other than an office. The issuer had realized about \$3,000 from a prior stock offering to residents of Massachusetts, but those funds, together with about \$6,000 advanced by Robert V. Pace, president of the issuer, had been used for expenses of the issuer including the costs of an incomplete study by Pace of locations for a supersonic jet airport. No disclosure was made of Pace's loan or that he claimed an unwritten "debenture option" to acquire one share of the issuer's stock for each dollar advanced by him. The offering circular merely stated that 60% of all authorized shares were to be reserved for Pace with "options to buy."

---

<sup>1/</sup> Under Rule 257 of Regulation A, a statement containing the information required in an offering circular, except financials, may be filed where the offering does not exceed \$50,000 and certain other conditions are met.

The failure to file financial statements also rendered the information given in the offering circular misleading with respect to the location and general character of the properties held or intended to be acquired and the nature of the title under which such properties were held or proposed to be held. That information was that the issuer proposes to develop a landing facility for supersonic jet planes at a location not presently being disclosed in order to prevent speculation and competition, and that the issuer is negotiating for the acquisition at favorable prices of Bedford Aviation Inc., Acorn Development Inc., and Hookset Airport at Hookset, New Hampshire. The offering circular further stated that Bedford Aviation "is now in litigation in the federal courts relevant to a bankruptcy proceeding" and claims lease rights, which are in dispute, for the fueling of jet planes at the airport at Bedford, Massachusetts, and if the issuer acquired Bedford Aviation and those rights were returned to that company, the issuer would have "an extremely valuable asset"; that Acorn is a real estate holding company specializing in commercial properties and would provide low cost office space for the issuer; and that Hookset Airport had been "made available" to the issuer since April 1969 and the issuer expects to use part of it as a storage and maintenance base for its air taxi activities and to develop the remainder into a fly-in resort.

Pace testified that after making a study of three possible sites for a jet port he had decided on one of them and wished to complete his study of it, but the record shows that neither he nor the issuer had any option to acquire that site. It further appears that Pace is also president of Bedford Aviation as well as of Acorn, that Bedford Aviation had been adjudicated a bankrupt in October 1968 and its assets sold at public auction in December 1968, and that Pace personally holds a lease on a portion of the Hookset Airport and an option to acquire the property for \$80,000 which expire on September 30, 1970. It is clear that the issuer had no legal claim to Bedford Aviation's asserted lease rights or to Pace's lease of the Hookset Airport. As Pace testified with respect to that airport, the issuer "would have an interest by me saying so and turning it over ... at any time it wanted it or needed it or could acquire it." None of these facts is disclosed in the filings. Nor is any disclosure made of the facts that the issuer did not have the necessary funds to exercise the option to acquire the airport, assuming Pace conveyed the option to the issuer, and that the airport's facilities were not then suitable for use as an air taxi storage and maintenance base in that the only hangar was in a state of disrepair, there were no repair facilities, and the runway had no lighting or navigational aids and was suitable only for small aircraft.

Contrary to a statement in the offering circular that the issuer had no expenses in connection with the proposed offering, Pace testified there was considerable expense in preparing for the Regulation A filing and that such expense would be defrayed in part from the proceeds of the offering. <sup>2/</sup> Absent such disclosure, investors could not determine the amount of the net proceeds to the issuer.

---

<sup>2/</sup> The offering circular states that \$25,000 of the proceeds would be used for "cost of administration," and the remaining \$25,000 for architectural, engineering and surveying costs.

Finally, the notification stated that 25,000 shares had been sold in the prior offering at \$1 per share when, in fact, only 3,030 shares had been sold; failed to disclose, as required, the names of the persons to whom the securities were issued or the basis under the Act for the exemption from registration claimed as to that offering; and failed to include, as exhibits, copies of the provisions of the governing instruments defining the rights of holders of the securities offered.

The issuer has directed its contentions on review primarily to an attack upon the integrity and motives of the Division for which there is no basis or support in the record. It also states that any deficiencies in its Regulation A filings were not intentional, that it believed that it would be given an opportunity to correct any deficiencies in its filings before a temporary suspension order issued, and that thereafter it had indicated a willingness to amend the filings to correct the alleged deficiencies.

The issuer was not entitled to a notice of the deficiencies as a matter of right. While section 202.3 of the Code of Federal Regulation (17 CFR 202.3) states that the usual practice is to bring deficiencies to the attention of the issuer, it further provides that "this informal procedure is not generally employed where the deficiencies appear to stem from careless disregard of the statutes and rules or a deliberate attempt to conceal or mislead or where the Commission deems formal proceedings necessary in the public interest." We consider that the public interest warranted issuance of the temporary suspension order without our staff first sending a deficiency letter in view of the serious questions as to the adequacy of the issuer's filings. 3/

It is equally clear that the issuer does not have an absolute right to amend its filings as an alternative to permanent suspension, and, in any event, no amendment has been submitted. Moreover, as found by the hearing examiner, the offering circular was inaccurate, confusing and misleading, and entirely lacking in the careful and organized description of the issuer's business which would permit a potential investor to assess intelligently the risk involved. Because of the nature and extent of these inadequacies, we find no such clear showing of good faith and of other mitigating factors in connection with the deficiencies as would warrant our consideration of any amendment. 4/ In Illowata Oil Company, where the issuer had submitted an amendment following our temporary suspension order, we stated:

---

3/ See Mutual Employees Trademart, Inc., 40 S.E.C. 1092, 1097-98 (1962); Jackpot Exploration Corp., Securities Act Release No. 5061, p. 5 (April 22, 1970).

4/ See Illowata Oil Company, 38 S.E.C. 720, 723-24 (1958); Hart Oil Corporation, 39 S.E.C. 427, 431-32 (1959); Jackpot Exploration Corp., Securities Act Release No. 5061, p. 5 (April 22, 1970).

"... in the case of a Regulation A offering, where suspension of the conditional exemption obtained under the Regulation does not bar the issuer from effecting a public offering if it complies with the registration requirements, we consider the opportunity to amend which should be accorded an issuer which has not properly met the simplified requirements provided by Regulation A to be more limited than the opportunity to amend in the case of a registration statement. The opportunity to amend cannot in any event be permitted to impair the required standards of careful and honest filings under the Regulation and encourage a practice of irresponsible or deliberate submission of inadequate or false material followed by correction by amendment of the deficiencies found by the staff in its examination." 5/

We conclude, as did the examiner, that the suspension should be made permanent. 6/

Accordingly, IT IS ORDERED, pursuant to Rule 261 of Regulation A under the Securities Act of 1933, that the exemption from registration with respect to the proposed public offering by International Aerospace Associates, Inc. be, and it hereby is, permanently suspended.

By the Commission (Chairman BUDGE and Commissioners OWENS, SMITH, NEEDHAM and HERLONG).

Orval L. DuBois  
Secretary

---

5/ Illowata Oil Company, supra, at p. 723. We there concluded that a sufficient showing to warrant consideration of the amendment had been made, but held that it contained material deficiencies and we permanently suspended the exemption. 39 S.E.C. 342 (1959).

6/ The exceptions to the initial decision of the hearing examiner are overruled or sustained to the extent they are inconsistent or in accord with our decision.