

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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Washington 25, D.C.

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McPHAIL CANDY SEEKS EXEMPTION

The McPhail Candy Corporation, New York, has applied to the SEC for an order under the Investment Company Act terminating its registration as an investment company or, in the alternative, exempting it from all provisions of that Act; and the Commission has issued an order (Release 40-2923) giving interested persons until November 19, 1959, to request a hearing thereon.

Pursuant to a compromise settlement of an action filed by the Commission against Russell McPhail, president and controlling stockholder of the Candy Company, and certain other individuals, and a similar action on behalf of certain preferred and common stockholders of the Candy Company, McPhail offered to compromise all claims against him for \$325,000. The compromise offer, which was approved by the court as fair and equitable, also provided for (i) the entry of a consent decree by the court, enjoining McPhail and the Martins from serving as directors or officers of any registered investment company, and (ii) an offer to purchase the corporation's preferred and common stock. The price to be paid for the preferred stock was its par value of \$10 per share plus accumulated dividends (amounting to \$4.03-1/3 on July 31, 1959); and the price to be paid for the common was \$4.11 per share. The compromise was conditioned among other things on the entry of an order by the Commission terminating the Candy Corporation's registration as an investment company or exempting it from the Investment Company Act. A registered investment company is entitled to termination of its registration if its outstanding securities are beneficially owned by not more than 100 persons.

According to the application, holders of all but 1,730 preferred shares have elected to accept the offer; and the company will call all of such remaining stock for redemption, other than shares owned by McPhail. All common stockholders, with the exception of 120 holders of 14,309 shares, have deposited their shares in accordance with the offer. Of the 120 stockholders, eight have indicated an intention to accept the offer and the company has been unable to locate 24 holders.

REVISION OF INSIDER TRADING RULES PROPOSED

The SEC today announced a proposal for revision of its Rule 16b-3 under the Securities Exchange Act of 1934, governing the right of recovery of profits on short-swing transactions by officers, directors, and 10% holders of listed equity securities; and it has invited the submission of comments thereon not later than December 15, 1959.

The recovery provision of Section 16(b) of the Act was enacted for the purpose of preventing the unfair use of information in short-term trading by the persons referred to. However, it provides certain exemptions, including "any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended with the purpose of this subsection." Prior to September 1952 Rule 16b-3 provided an exemption for shares of stock acquired pursuant to bonus, profit sharing, retirement, thrift or similar plans meeting specified conditions; and the rule was broadened in 1952 to cover acquisitions of non-transferable options and stock acquired under such options pursuant to a stock option plan meeting similar conditions. The rule was reexamined by the Commission's Staff following the 1957 decision of the Court of Appeals for the Second Circuit in Greene v. Dietz, 247 F. 2d 689, in which a majority of the Court expressed doubt as to the validity of the rule in so far as it related to the acquisition of shares through the exercise of the restricted stock options involved in that case.

The Staff's proposal for modification of Rule 16b-3, now under consideration by the Commission and on which the comments of interested persons are invited, would limit the scope of the rule, as a matter of policy. Specifically, it would delete the exemption afforded for the acquisition of

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securities upon the exercise of non-transferable stock options; retain, subject to certain modifications, the exemption in so far as it relates to the acquisition of "restricted" options pursuant to a restricted option plan, or shares of stock (except stock acquired upon the exercise of an option, warrant or right) pursuant to a bonus, retirement, thrift, savings, profit sharing plan; and modify the rule to require that, if the selection of persons who are to receive stock or restricted stock options/or the determination of the amount to be received by any participant is discretionary, the selection and determination must be made by a board of directors or committee, a majority of whom are disinterested (unless the selection of participants and amounts is made in accordance with a formula approved by a vote of stockholders).

SECURITIES VIOLATIONS CHARGED TO BIESEL, WAY & CO.

The SEC has ordered proceedings under the Securities Exchange Act of 1934 to determine whether provisions of that Act and certain rules thereunder have been violated by Biesel, Way & Company ("Registrant"), 304 Allegheny Ave., Coudersport, Pa., and, if so, whether its broker-dealer registration should be revoked. The proceedings also involve the questions (1) whether the broker-dealer registration of William H. Biesel, doing business as William H. Biesel Company, 19 Benwood Avenue, Buffalo, New York, should be revoked and/or whether Biesel should be suspended or expelled from membership in the National Association of Securities Dealers, Inc., and (2) whether an application for broker-dealer registration filed on September 4, 1959, by Biesel & Co., Inc., 304 Allegheny Avenue, Coudersport, Pa., should be denied.

A consolidated hearing for the purpose of taking evidence on the foregoing matters is scheduled for November 9, 1959, in the Commission's Washington Office. According to the order, Registrant has been registered since March 20, 1955. It is a general partnership consisting of William H. Biesel and Eugene L. Way. The application filed by Biesel & Co., Inc., shows Biesel as president, a director, and owner of 10% or more of applicant's outstanding stock.

The Commission's order asserts that information developed in an investigation conducted by its staff tends if true to show that Registrant engaged in transactions involving the sale of securities to certain customers in violation of the margin requirements of Regulation T; that Registrant engaged in the conduct of a securities business when its aggregate indebtedness to all other persons exceeded 2,000% of its net capital, in violation of the Commission's net capital rule; that Registrant arranged for and permitted the continued hypothecation of certain securities carried for the accounts of certain customers under circumstances that permitted said securities to be commingled with the securities carried for the account of Registrant under a lien for a loan made to Registrant, in violation of the Commission's Rule 15c2-1; that Registrant failed to make and keep current certain books and records required by the Commission's Rule 17a-3, and failed to preserve certain records in violation of Rule 17a-4; that Registrant's financial report contained statements which were false and misleading with respect to the liabilities of William H. Biesel, in violation of Rule 17a-4; that Registrant failed to file a report of financial condition, as required by Rule 17a-5, for the year 1958; and that Registrant, in a document supplemental to his application for registration, made false and misleading statements with respect to material facts.

GENERAL TELEPHONE PROPOSES BOND ISSUE

General Telephone Company of California, 2020 Santa Monica Blvd. Santa Monica, Calif., filed a registration statement (File 2-15803) with the SEC on November 4, 1959, seeking registration of \$30,000,000 of first mortgage bonds, series M, due 1989, to be offered for public sale at competitive bidding.

According to the prospectus the company's gross property additions for the nine months ended September 30, 1959, amounted to \$49,384,159 and for the years 1959 and 1960 will aggregate about \$123,400,000. Proceeds from the proposed bond sale are to become part of the company's treasury funds and are to be used in the company's construction program, including the possible payment of a maximum of \$18,000,000 of short term loans. It is anticipated that additional funds for the company's construction program will be obtained from internal sources, from short term loans, and from the sale of additional shares of common and/or preferred stock.

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GREATER WASHINGTON INDUSTRIAL INVESTMENTS PROPOSES OFFERING

Greater Washington Industrial Investments, Inc., 1625 Eye St., N. W., Washington, D. C., filed a registration statement (File 2-15804) with the SEC on November 4, 1959, seeking registration of 20,500 shares of common stock, \$1 par value. No underwriter is involved, the prospectus stating that the stock will be offered by the company on a best efforts basis directly to prospective investors, at a subscription price of \$8.50 per share.

The company, which has not yet commenced business operations, was incorporated in August 1959 and has applied to the Small Business Administration to become a Federal Licensee under the Small Business Investment Act of 1958. It proposes to participate in small business concerns by purchasing their convertible debentures and such other equity securities as future amendments to the Small Business Investment Act may permit, by making long-term loans to such concerns, and by furnishing consulting and advisory services. The company now has outstanding 18,626 shares of common stock which were issued for cash at \$8.50 per share in a private offering. The prospectus states that if the shares covered by the proposed offering are sold, the proceeds will, when added to the company's existing capitalization, provide the \$300,000 minimum paid-in capital and surplus required for qualification under the Small Business Investment Act.

The prospectus lists Arch C. Scurlock as president and director, Harold D. Kube as treasurer and director, Donald A. Christensen as secretary, and Eugene M. Zuckert as counsel and director. The following persons are named as directors: Daniel W. Bell, Everett J. Boothby, T. Howard Duckett, Henry Gichner, James M. Johnston, S. Ross Lipscomb, Richard A. Norris, Thornton W. Owen, Clarence J. Robinson, H. Holmes Vogel, and Ralph B. Williams. Jerome P. Pickard is named as a member of the technical advisory panel.

WESTERN CAROLINA FILES FOR RIGHTS OFFERING

Western Carolina Telephone Company, 15 South Main Street, Weaverville, N. Car., filed a registration statement (File 2-15805) with the SEC on November 4, 1959, seeking registration of 71,513 shares of common capital stock to be offered to stockholders at \$6.75 per share on the basis of one share for each five shares held. The record date for subscriptions is to be supplied by amendment, as are the underwriting terms.

During the past five years the company has been engaged in a program of converting from manual to dial telephones and in extending its service. Proceeds from the sale of the stock, together with the proposed sale in January, 1960, of \$400,000 of bonds to institutional investors, will be applied to outstanding bank indebtedness, and the balance will be used for general corporate purposes, including the continuation of the company's construction and improvement program.

DUTRON FILES FOR OFFERING AND SECONDARY

Dutron Corporation, 607 Irwin Street, San Rafael, Calif., today filed a registration statement (File 2-15806) with the SEC seeking registration of 118,030 shares of its common stock, no par value. J. Barth & Co. is named as underwriter. The offering price and underwriting terms are to be supplied by amendment.

Of the 118,030 shares covered by the registration statement, 100,000 shares are being offered by the company and 18,030 shares are being offered by the owners thereof, as follows: Robert M. Daiss, president and director, 11,250 shares of his holdings of 112,500 shares; William B. Layton, Jr., vice president, 2,900 shares of his holdings of 30,900 shares; and Alfred M. Esberg, 3,880 shares of his holdings of 31,160 shares.

The company's primary business is the fabrication of plastic insulating and ablation components for missiles. It now has outstanding 301,640 shares of common stock; 1,024 shares of 6% preferred stock, \$100 par, representing the preferred stock of a subsidiary; and outstanding bank loan indebtedness of \$82,000, payable in monthly installments until August 4, 1963 (in addition to sundry indebtedness of \$26,760). Of the net proceeds to be received by the company from the sale of the 100,000 shares of stock, \$350,000 will be used for the purchase of equipment and for improvements, \$350,000 will be used for working capital, \$102,400 for the redemption of preferred stock of a subsidiary, and the balance for general corporate purposes including possible expansion into diversified fields, plans for which have not yet been formalized.

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CATERPILLAR TRACTOR STOCK OPTION PLAN FILED

Caterpillar Tractor Co., East Peoria, Ill., today filed a registration statement (File 2-12007) with the SEC seeking registration of 48,920 shares of common stock, to be offered to officers and other key employees of the company and its subsidiaries under its 1959 Stock Option Plan.

W. J. CONRAD SENTENCED ON GUILTY PLEA

The SEC Chicago Regional Office announced October 29, 1959, that William J. Conrad of Toledo, Ohio, had entered a plea of guilty to an eleven count indictment charging fraud in the sale of stock of Condonna Uranium Mines, Limited, a Canadian company, and was sentenced to serve 18 months on each count, the sentences to run concurrently.

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