

SECURITIES AND EXCHANGE COMMISSION NEWS DIGEST



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

(In ordering full text of Releases from Publications Unit, cite number)

FOR RELEASE December 9, 1959

COMMONWEALTH FUNDS SEEK TIME TO SELECT DIRECTOR. Commonwealth Income Fund, Inc., Commonwealth Investment Company, and Commonwealth Stock Fund, Inc., of San Francisco, Calif., have each filed applications with the SEC for additional time to select a successor to Philip A. Ray as one of their respective directors; and the Commission has issued an order (Release 40-2938) giving interested persons until December 28, 1959, to request a hearing thereon. Ray recently resigned to accept appointment as Under Secretary of Commerce, effective October 30, 1959. Pursuant to the Investment Company Act, under circumstances here involved, selection of a new director independent of the underwriter may be made within 30 days. Applicants seek an additional ninety days.

BANK OF BUFFALO SEEKS ORDER. The Bank of Buffalo (New York) has applied to the SEC for an exemption order under the Investment Company Act so as to permit the making of loans by the Bank to certain of its directors; and the Commission has issued an order (Release 40-2939) giving interested persons until December 22, 1959, to request a hearing thereon.

Such loan transactions are prohibited by the Act by reason of the Bank's affiliation with The Equity Corporation, which controls about 23% of the voting stock of Financial General Corporation, which owns all the stock of The Morris Plan Corporation, which owns all the stock of Empire Shares Corporation, which is owner of a majority of the voting stock of the Bank. As a consequence, the Bank finds itself compelled to direct its own Directors who may be desirous of borrowing money to other banks. If the exemption is granted any such loans to directors would be evidenced by a promissory note, at an interest rate currently charged for comparable loans to the general public, and in accordance with state law.

MCPHAIL CANDY CORPORATION GRANTED EXEMPTION. The SEC has issued an order (Release 40-2940) granting a conditional exemption to The McPhail Candy Corporation, New York, from all provisions of the Investment Company Act. The exemption will be effective when McPhail Candy files a further amendment reflecting (1) that it has repurchased or redeemed its preferred and common stocks (other than shares held by Russell McPhail and his family); (2) that Russell McPhail shall have paid to the company for distribution by it to the holders (other than Russell McPhail and his family) of the 15,146 common shares which have not been deposited for repurchase, the sum of 66.9¢ per share for each of said shares; and (3) that the company has made payment of said amount to said non-depositing stockholders.

As the result of a compromise settlement of a court action instituted by the Commission against Russell McPhail, G. Marion Martin, Dan McL. Martin and McPhail Candy Corporation, Russell McPhail made an offer to compromise all claims against him for \$325,000. The offer further provided for an offer to purchase the company's preferred and common stock, at a price of \$10 per share plus dividends on the preferred and \$4.11 per share on the common. Holders of all but 1,730 preferred shares have elected to accept the offer; and the company will call such remaining shares for redemption (other than shares owned by Russell McPhail). Holders of all but 15,146 common shares have deposited their shares in acceptance of such offer.

ORDER SOUGHT ON AMERICAN MFG. - SAFETY INDUSTRIES MERGER. Webster Investors, Inc., New York investment company, has joined with American Manufacturing Company, Inc., and Safety Industries, Inc., affiliates, in the filing of an application with the SEC for an exemption order under the Investment Company Act with respect to a merger of Safety and American; and the Commission has issued an order giving interested persons until 12:30 P. M. December 22, 1959, to request a hearing thereon.

Webster owns about 64% of the outstanding stock of American, and Webster and American own about 37% of the stock of Safety. American is engaged in the domestic cordage, oakum and packing businesses and has a substantial investment in Mergenthaler Linotype Company and in Safety. The

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latter, directly and through subsidiaries, manufactures and sells industrial scales and weighers, timers and controls, processing equipment for chemical milling and general process industries; and it holds a substantial interest in Vapor Heating Corporation.

Under the merger proposal, American will be the surviving company and will have outstanding Class A and common stocks. Safety stockholders will be offered one Class A share for each share of Safety common; and the stockholder of American will be offered one common share for each American common. The Class A stock will have certain preferences and will be convertible into common. Safety has outstanding 399,727 common shares and American 234,681 shares. Prior to the merger, American will split its shares 2 for 1.

THREE NAMES ADDED TO CANADIAN RESTRICTED LIST. The SEC today announced (Release 33-4164) the addition of Adonis Mines Limited, Red River Mining and Exploration Limited, and Seaboard Industries Limited to its Canadian Restricted List, comprising the names of Canadian companies whose securities have been or currently are being distributed in the United States in violation of the Securities Act registration requirement, thus depriving investors of the financial and other information which registration would provide. The list now comprises the names of 229 such companies.

AMERICAN PETROFINA FILES FOR SECONDARY. American Petrofina, Incorporated, 50 Rockefeller Plaza, New York, filed a registration statement (File 2-15909) with the SEC on December 8, 1959, seeking registration of 512,500 outstanding shares of Class A common stock. According to the prospectus, these shares recently were acquired by Model, Roland & Stone from Atlas Corporation; and Model, Roland & Stone intends to offer the shares from time to time on the American Stock Exchange, or otherwise, at prevailing market prices, subject to the following limitations contained in an agreement between Model, Roland & Stone and Petrofina, S. A., namely: (a) none of such shares will be offered at prices less than \$9 per share; (b) not more than 15% of such shares will be offered at prices ranging from \$9 to less than \$10 per share; (c) not more than 30% of such shares (inclusive of sales under (b)) will be offered at prices ranging from \$10 to less than \$11 per share; and (d) any number of shares may be offered at \$11 or more per share.

American Petrofina and its subsidiaries are engaged within the United States in the acquisition, exploration and development of oil and gas properties and the production, purchase, transportation, refining and marketing of crude petroleum and products derived therefrom. A subsidiary in Venezuela is engaged in exploration for and production of crude oil. American Petrofina Holding Company, Wilmington, Del., holds all the authorized and outstanding shares of Class B common stock of the company, and all its directors are officers of the company. Petrofina, S. A., a Belgian company, owns all of the outstanding shares of American Petrofina Holding Company and at October 31, 1959, owned 73,547 shares (1.23%) of the outstanding Class A common stock of the company. Canadian Petrofina Limited, which is controlled by Petrofina, S. A., owned 211,150 shares (3.53%) of the outstanding Class A stock. On the same date, 1,737,928 shares (29.1%) of Class A common stock of the company were registered in the name of "Petrofina B.D.R. Account" against which there are outstanding bearer deposit receipts which are publicly held. The Atlas holdings of Class A shares of the company were acquired in connection with its sale in March 1958 of securities of Petro-Atlas Corporation, which was merged into the company in July 1958.

SOUTHEASTERN FACTORS FILES FOR DEBENTURE OFFERING. Southeastern Factors Corporation, 220 West Fourth Street, Charlotte, North Carolina, filed a registration statement (File 2-15910) with the SEC today seeking registration of \$500,000 of subordinated 6% capital debentures, due January 1, 1959, with warrants to purchase 100,000 shares of common stock. The debentures are to be offered to the public on the basis of \$1,000 principal amount, or multiples thereof, with attached warrants to purchase, at \$4.25 per share, 200 shares of common stock for each \$1,000 of debentures. Underwriters for the issue include Interstate Securities Corporation, McCarley & Company, Inc., and Citizens Trust Company. The public offering price and the underwriting terms are to be supplied by amendment.

The company is engaged in the purchasing of accounts receivable from clients without recourse to the clients for credit losses and with the customers of the clients making payment direct to the company. Proceeds from the sale of the debentures will be added to general funds and be available for general corporate purposes including the reduction of certain bank borrowings.

RADIATION INC. FILES FOR SECONDARY. Radiation, Incorporated, Melbourne, Fla., filed a registration statement (File 2-15902) with the SEC on December 4, 1959, seeking registration of Certificates of Interest evidencing options to purchase 27,000 shares of its Class A common stock, together with the underlying Class A shares.

According to the prospectus, Homer R. Denius, president, and George S. Shaw, vice president, in May 1957 sold to Kuhn, Loeb & Co. and Johnson, Lane, Space & Co., Inc., for an aggregate price of \$13,500, transferable options to purchase at \$15.50 per share, an aggregate of 27,000 common shares (subsequently converted into 27,000 Class A shares) of Radiation. Interests in the options are now evidenced only by Certificates of Interest, which are transferable. Kuhn, Loeb & Co. has transferred all its interest in the option to various of its partners and certain other persons. In view of the possibility that certain holders may sell the certificates or the Class A shares upon exercise thereof, Radiation has undertaken to register same.

The principal business of the company is the design, development and manufacture of advanced electronic equipment and systems. It has outstanding 915,622 common shares and certain indebtedness. The principal stockholder is Homer R. Denius, who owns 185,276 shares, or 20.2%. Members of his family own an additional 110,722 shares. These and other management holdings amount to 47.9% of the total shares outstanding.

ADDITIONAL VIOLATIONS CHARGED TO WILLIAMS & CO. In a further order announced today, the SEC charges that information developed in an investigation conducted by its staff tends if true to show that R. G. Williams & Co., Inc., 194 Broadway, New York, engaged in transactions which "would and did operate as a fraud and deceit" upon its customers, in that it effected securities transactions with such customers on or about November 13, 1959, without disclosure that its current liabilities exceeded its current assets and it was unable to meet its current liabilities in the ordinary course of business.

Previously, under date of November 9, 1959, the Commission announced the institution of proceedings under the Securities Exchange Act of 1934 to determine whether Williams & Co. had violated rules under that Act governing the required net capital of and the maintenance of proper books and records by broker-dealer firms and, if so, whether its broker-dealer registration should be revoked. The Commission's supplemental order also recites that Williams & Co. and Robert G. Williams, its president, were enjoined on November 24, 1959, by Federal Court order from engaging in and continuing certain conduct and practices in connection with the purchase and sale of securities. The Commission's complaint in this action included similar charges of fraud and net capital rule violations.

A hearing for the purpose of taking evidence with respect to the foregoing matters will be held at a time and place to be announced later.

PROCEEDINGS CHALLENGE CONSOLIDATED DEVELOPMENT REGISTRATION. The Securities and Exchange Commission today announced the institution of "stop order" proceedings under the Securities Act of 1933 challenging the accuracy and adequacy of various representations contained in the registration statement filed by Consolidated Development Corporation, of Havana, Cuba, which proposed the public offering of 448,000 shares of common stock at \$1.625 per share. A hearing for the purpose of taking evidence with respect to the deficiencies cited by the Commission is scheduled for December 22, 1959, in the Commission's Washington Office.

According to the prospectus, Consolidated (formerly Consolidated Cuban Petroleum Corporation) was organized in June 1956 under Delaware law for the purpose of engaging in the exploration for, and the development and production of oil, gas and other hydrocarbons in the Republic of Cuba. The organizers were Clarence W. Moore (president) and Dr. Alberto Diaz Masvidal, both of Havana, and Peter H. Bergson of New York City. Consolidated's corporate powers were enlarged in June 1959 to permit it to diversify its activities and enter the real estate field in Florida; and in October it entered into an agreement to acquire real estate near Ft. Myers, Florida. In July 1959 capitalization listed \$148,500 of outstanding debentures and 3,363,318 common shares, of which management officials owned 15.3%. Of the additional shares being registered, 100,000 are issuable to and in repayment of a \$100,000 loan by the underwriter (H. Kook & Co., Inc., of New York, whose chief executive officer and principal stockholder is Peter H. Bergson, a director, vice president, and treasurer of Consolidated); 198,000 shares are issuable to debenture holders in retirement of the debentures at the conversion rate of 75¢ per share; and the net proceeds of the remaining 150,000 shares, estimated at \$163,000 upon the basis of the indicated offering price, will be available for Consolidated's business, including the acquisition of real estate properties in Florida.

Numerous informational disclosures in Consolidated's registration statement and prospectus are questioned by the Commission as to their accuracy and adequacy. Principal among these is a failure to disclose in a clear, concise manner in the fore part of the prospectus material facts regarding the history of Consolidated and the hazards of the enterprise, particularly with respect to the past and present financial results of the company's operations in the oil business.

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and the extent to which operating income failed to defray operating costs; the extent of Cuban oil operations and the effect thereon of recent Cuban government action; and indications that the present financing is primarily for the benefit of the underwriter and any funds which the company may receive may be insufficient to pay Consolidated's current liabilities, which are substantially in excess of current assets.

Furthermore, according to the Commission's order, the prospectus fails to set forth clearly the information with respect to the nature and terms of the stock offering, including the number of shares to be offered to the public, the underwriter, and the debenture holders, respectively, and the offering price thereof; the possibility that shares may be sold by the underwriter and debenture holders in competition with shares sold for the account of Consolidated, and the effect thereof upon Consolidated and its financing; and the proposed offering price of the shares, in view of the recent market prices for the stock and the failure to disclose the latest price range of the stock on the American Stock Exchange and the method and means by which the shares are to be offered for sale in view of such recent market prices.

In addition, the Commission questions the disclosures with respect to the proposed use of the proceeds of the stock sale, particularly with respect to the estimated net proceeds to the company based on "the current market price of \$1.625 per share" in view of recent market prices therefor, the failure to set forth the principal purposes for which the proceeds are to be used, and the failure to disclose the urgent need for funds to meet expenditures for the year 1959.

The Commission also questions, among other things, the failure to disclose possible profits to the underwriter and debenture holders upon any redistribution of shares they may receive in payment of indebtedness owing to them; the failure to disclose extent to which the Florida acreage is covered by lakes, cypress swamp areas and water traps; the failure to disclose that the proposed financing is not for the purpose of acquiring Florida real estate and that any funds so realized will be insufficient to acquire and develop real estate properties; and the adequacy and accuracy of disclosures with respect to the interests, direct and indirect, of promoters, management officials, the underwriter and persons associated with them in transactions to which Consolidated or its subsidiaries were parties, as well as recent sales of unregistered shares of Consolidated and the claimed exemption from the registration requirements of the Securities Act.

INDICTMENT CHARGES FRAUD IN SALE OF PERRY OIL STOCK. The SEC New York Regional Office announced December 7, 1959, the indictment of Kimball Securities, Inc., a New York broker-dealer, Frank S. Kimball, Milton R. Aronson and others on charges of fraud in the offer and sale of stock of Perry Oil Company, formerly Great Western Enterprises, Inc., and Mark, Inc. (Lit. Release 1531).

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