

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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NORMAN LEMMONS INC. REVOKED. The SEC today announced the issuance of an order under the Securities Exchange Act (Release 34-6725) revoking the broker-dealer registration of Norman Lemmons, Inc., 5404 Hohman Ave., Hammond, Ind., for violating certain provisions of that Act and Commission rules thereunder. Norman Levinson, president and controlling stockholder, was found to be a cause of the revocation order. Both the respondent company and Levinson consented to the action.

According to the Commission's order, for five months prior to September 7, 1961, the respondent violated the Commission's net capital rule. On various dates during that period it had deficiencies in net capital ranging up to \$5,173.69. Moreover, the respondent violated the financial reporting requirements of the Commission by filing a report of financial condition as of July 14, 1961, which was misleading in failing to disclose that Levinson's indebtedness to respondent had been reduced by \$2,000 on that date for the sole purpose of making respondent appear to be in compliance with the net capital rule and that Levinson then intended to, and on the next business day did, again immediately withdraw the said sum. Both before and after the transactions in question respondent had insufficient net capital to meet the requirements of the rule. In September 1961 the U. S. District Court (Hammond Division) permanently enjoined the respondent and Levinson from the further conduct of a securities business in violation of the net capital rule.

CARVALHO-CAPITAL INVESTMENT CITED. The SEC has ordered proceedings under the Securities Exchange Act of 1934 to determine whether Fred L. Carvalho, doing business as Capital Investment Co., 24 Commerce St., Newark, N. J., violated the Securities Act registration and anti-fraud provisions in the offer and sale of stock and, if so, whether its broker-dealer registration should be revoked. A hearing has been scheduled for February 19, 1962, in the Commission's New York Regional Office on the initial question whether Carvalho's registration should be suspended pending decision on the question of revocation.

Carvalho has been registered with the Commission as a broker-dealer since March 1959. During the period January to May 1961, Edward C. Pollock was a salesman for and public relations consultant to Carvalho. The Commission's order recites charges by its staff that information developed in an investigation "tends, if true, to show" (A) that from January to May 1961 Carvalho and Pollock offered and sold stock of Aquafilter Corporation in violation of the Securities Act registration requirement and (B) that during the period March 23 to June 16, 1961, in connection with the offer and sale of stock of Triumph Storecrafters Corporation, they engaged in acts and practices "which operated as a fraud and deceit" upon the purchasers of Triumph stock in that they made false and misleading representations with respect to the projected 1961 sales and earnings of Triumph, the potential market price of its stock, the cash balance and liabilities of Triumph and dividends to be paid on its stock.

VIOLATIONS CHARGED TO S. H. RIFKIN CO. INC. The Commission also has ordered proceedings under the Securities Exchange Act to determine whether S. H. Rifkin & Co., Inc., 175 W. 73rd Street, New York, violated the Securities Act registration and anti-fraud provisions in the offer and sale of stock of National Telepix (Canada) Ltd., and, if so, whether its broker-dealer registration should be revoked.

Rifkin & Co. became registered on September 16, 1961. Stephen H. Rifkin is president. The Commission's order recites charges by its staff that information developed in an investigation "tends, if true, to show" that on or about July 31 and August 1, 1961, Rifkin offered and sold stock of National Telepix (Canada) Ltd. ("National"), in violation of the Securities Act registration requirement and that, in connection with the offer and sale of such stock, Rifkin engaged in acts and practices which operated as "a fraud and deceit" upon purchasers of the stock, in that he made false and misleading representations with respect to (1) the dividends to be derived from an investment in National stock, (2) the extent and nature of assets owned by National, (3) the proposed registration of the stock with the Commission, and (4) the expected appreciation in the price of the stock. The staff further charges that the registration application of Rifkin & Co. is false and misleading with respect to its representation concerning Rifkin's connections with broker-dealer firms within the past 10 years and that a statement filed by Rifkin & Co. as to its financial condition as of August 11, 1961, is false and misleading with respect to the amount of its cash and paid-in capital.

A hearing with respect to the foregoing will be held later, at a time and place to be announced.

CARINTHIA SKI AREA OFFERING SUSPENDED. The SEC 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 stock by Carinthia Ski Area, Inc., of West Dover, Vermont.

Regulation A provides a conditional exemption from registration with respect to public offerings of securities not exceeding \$300,000 in amount. In a notification filed in July 1960 Carinthia proposed the public offering of 113 common shares at \$1,000 per share pursuant to such an exemption. The Commission asserts in its suspension order that it has "reasonable cause to believe" that Carinthia (1) did not comply with the Regulation by reason of its failure to furnish its offering circular to certain purchasers of the stock; and (2) violated Section 17(a) of the Act (the anti-fraud provision), in that it "guaranteed" a 6% return to purchasers of the stock and misrepresented Carinthia's capitalization and the number of shares outstanding. The order provides an opportunity for hearing, upon request, on the question whether the suspension should be vacated or made permanent.

OVER

COLORADO-CHEROKEE EXEMPTION SUSPENDED. The Commission has issued an order suspending a Regulation A exemption from registration with respect to a proposed stock offering by Colorado-Cherokee, Inc., 1507 Denver U.S. National Center, Denver, Colo. The order provides an opportunity for hearing on the question whether the suspension should be vacated or made permanent. In its notification, filed in August 1961, Colorado-Cherokee proposed the offering of 2,799,850 common shares (400,000 in exchange for Cherokee Uranium Mining Corp. stock and the balance for cash at 10¢ per share). The Commission's suspension order asserts that there is reason to believe that the company's offering circular is false and misleading in respect of various material facts and that the stock offering would violate Section 17 of the Act.

The alleged misrepresentations relate to the following: (1) estimations of recoverable crude oil reserves from properties under option; (2) the omission of cost data on the development and operation of the oil properties by secondary recovery methods; (3) failure to include a map of the properties showing the location, depth and present status of wells drilled; (4) failure to disclose the cost to Colorado-Cherokee's president of the Cherokee Uranium shares he proposes to exchange under this offering; (5) the representation that the exchange offer is in effect an attempted reorganization of Cherokee Uranium and that investors in the latter can elect to salvage their investment by investing in Colorado-Cherokee stock; and (6) the failure to disclose properly the basis for and effect of the temporary suspension order issued in May 1956 by the Commission with respect to Cherokee Uranium and the circumstances surrounding a \$120,000 loan to that company by Walter F. Tellier.

INDICTMENT NAMES BERGMAN, MYRICK AND MAYER. The SEC Fort Worth Regional Office announced February 6th (Lit-2191) the return of a Federal court indictment (USDC, Tyler, Tex.) charging Vernon Evans Bergman, a/k/a Soll Evans, Henry Madison Myrick, a/k/a Mike Myrick and Mike Mayer with fraud in the sale of stock of Legal Security Life Insurance Company, American Rare Metals Corp., and Motels Unlimited, Inc.

CREDIT RESTRICTIONS ON "EQUITY FUNDING" CLARIFIED. The SEC today released an opinion of the Director of its Division of Trading and Exchanges, Philip A. Loomis, Jr., discussing the application of the credit restrictions of Section 11(d)(1) of the Securities Exchange Act of 1934 to broker-dealers engaged in what has come to be known as "equity funding," "secured funding," or "life funding." In these situations the broker-dealer generally sells redeemable investment company shares (mutual funds) to a customer and then arranges a loan on such shares, the proceeds of the loan to be used to pay the premium on a life insurance policy which is usually sold to the customer at or about the same time. The opinion points out that this activity generally involves a violation of Section 11(d)(1) of the Act.

The substance of the opinion follows: "This will refer to your inquiry concerning the application of Section 11(d)(1) of the Securities Exchange Act of 1934 to the activities of your broker-dealer client in selling redeemable investment company shares (mutual funds) to customers and then arranging loans on such securities to pay the premium on life insurance which is generally sold to the customer at or about the same time. You state that the activity (sometimes referred to as "equity funding," "secured funding," or "life funding") ordinarily involves the sale of an insurance policy, which requires an annual or more frequent premium payment, a voluntary program for the purchase of mutual funds at stated intervals during each year, and a loan (collateralized by the securities) used to pay the life insurance premium. The customer is usually required to pledge mutual funds having a collateral value of about 200% of the proposed loan. Thus, if the customer purchases annually \$2,000 of mutual funds under the plan, life insurance premiums of \$1,000 per year will be financed for him. Frequently, the salesman acting for the broker-dealer in the sale of the mutual funds also acts as an agent for the insurance company in the sale of the insurance and arranges the loan for the customer.

"Assuming the presence of the necessary jurisdictional elements, Section 11(d)(1) of the Securities Exchange Act makes it unlawful for any person who transacts business both as a broker and as a dealer to effect any transaction in connection with which, directly or indirectly, he extends, maintains or arranges for the extension or maintenance of credit to or for a customer or any non-exempt security which was part of a new issue in the distribution of which he participated within 30 days prior to such transaction. Since, because of the manner in which mutual funds are sold, both the underwriter and the retailing broker-dealer are generally participating in the distribution of a "new issue" within the meaning of Section 11(d)(1), any such broker-dealer may not extend credit or arrange for the extension of credit on these securities, even though the proceeds of the loan are to be used to pay the insurance premium. You have indicated that your client has now organized a wholly-owned subsidiary which would limit its activities to acting solely as a dealer in the sale of mutual funds, and you inquire whether this would eliminate the problem under Section 11(d)(1). I doubt that it would; it is difficult for me to see how we could fail to look through the form to the substance of this arrangement.

"The credit arrangement referred to above may also pose problems under the provisions of Section 7(c)(2) of the Act and Regulation T promulgated by the Board of Governors of the Federal Reserve System. These provisions are applicable to a member of a national securities exchange and any broker or dealer who transacts a business in securities through the medium of any such member. You are aware, however, that any interpretive problems under these provisions would have to be presented directly to the Board of Governors of the Federal Reserve System since they interpret their own regulations. Since, as you indicated, there may be broker-dealers who may not be aware of the prohibitions applicable to this type of activity, we have recommended to the Commission that it make the substance of this communication the subject of a public release."

UNITED FUNDS DEPOSIT AGREEMENT APPROVED. The SEC has issued an order under the Investment Company Act (Release IC-3417) approving deposit agreements dated September 20, 1961, between Unified Funds, Inc., Indianapolis, face-amount certificate company and Merchants National Bank and Trust Company, wherein Unified Funds undertakes to deposit and maintain with Bank qualified investments and reserves as required by Section 28 of the Act with respect to its Series G and H certificates upon the terms and conditions specified in said agreements.

CONTINUED

EMPIRE FUND RECEIVES ORDER. The SEC has issued an exemption order under the Investment Company Act (Release IC-3418) permitting Empire Fund, Inc., Boston investment company, to offer its shares to investors in exchange for their holdings of securities without first obtaining the initial net worth of at least \$100,000 required by Section 14(a) of the Act.

PLASTICON CHEMICALS FILES FOR STOCK OFFERING. Plasticon Chemicals, Inc., 507 Fifth Avenue, New York, filed a registration statement (File 2-19754) with the SEC on February 7th seeking registration of 150,000 shares of Class A capital stock, to be offered for public sale at \$3.50 per share. The offering will be made on an all or none basis by Arden Perin & Co., Inc., which will receive a 42¢ per share commission and \$15,000 for expenses. The statement also includes (1) 7,500 Class A shares sold to the underwriter at 5¢ per share and (2) 15,000 Class A shares underlying 5-year warrants sold to the underwriter at 5¢ per warrant and 10,000 Class A shares underlying like warrants issued to L. Harrison Thayer and Hudgins Associates Small Business Investment Corp., all exercisable at \$3.50 per share.

The company (formerly Plasticon Inc.) was organized under New York law in April 1961 for the purpose of manufacturing and distributing a line of products under the name "Plasticon," the company's tradename for a series of formulations that provide a plastic protective coating to various surfaces to which they are applied. It also intends to manufacture and distribute a water proofing solution designated "X33." The company's efforts have been limited to a pilot plant operation used to provide technical information for the production of the basic Plasticon formulation and as a guide to organizing the processes necessary for mass production of its products. Of the \$430,000 estimated net proceeds from the stock sale, \$125,000 will be used to purchase raw materials, inventory and supplies and the balance for machinery and equipment for mass production, for promotion and advertising, for salaries, to repay loans and for working capital and other general corporate purposes.

In addition to certain indebtedness, the company has outstanding 12,500 Class A and 220,500 Class B capital shares (after giving effect to a recent recapitalization). Jay S. Wyner, president and board chairman, owns 99.8% of the Class B stock. Wyner acquired his shares in November 1961 in exchange for the formulations and process used in the production of Plasticon products, certain assets which had a book value of \$1,836 at the time of transfer, cash in the amount of \$2,609 and certain other expenses incurred by Wyner for the benefit of the company aggregating \$7,219. Sale of stock to the public at \$3.50 per share will result in an increase in the book value of stock now outstanding from 15¢ to \$1.44 per share and a corresponding dilution of \$2.06 per share in the book equity of stock purchased by the public. Of the Class A stock 2,500 shares each are owned by Joseph S. Klehman and William Crown and a like amount by Mrs. Wyner as custodian for Shari and Janis Wyner.

SCHOOL PICTURES FILES FOR OFFERING AND SECONDARY. School Pictures, Inc., 1610 North Mill Street, Jackson, Miss., filed a registration statement (File 2-19755) with the SEC on February 7th seeking registration of 60,000 shares of common stock and 40,000 shares of Class A common stock (Series 1), of which 41,864 common shares are to be offered for public sale by the company and all of the Class A and the remaining 18,136 common shares, being outstanding stock, by the holders thereof. The offering will be made on an all or none basis through underwriters headed by Equitable Securities Corp. and Kroeze, McLarty & Duddleston. The public offering price (maximum \$35, each class*) and underwriting terms are to be supplied by amendment.

The company is engaged, directly and through subsidiaries, in the business of developing, printing and finishing "school pictures" taken by independent photographers throughout the country. "School pictures" are primarily individual photographs taken of pupils and teachers under the auspices of their schools. Of the net proceeds from the company's sale of additional common shares, together with the net proceeds from the company's proposed sale of \$1,250,000 of 5½% convertible debentures, \$1,000,000 will be used for additional plant and equipment over the next two years, \$1,500,000 for acquisitions during the same period, and the balance for working capital.

In addition to various indebtedness, the company has outstanding 200,000 Class A and 160,950 common shares, of which management officials as a group own 62½% and 15.7%, respectively. The prospectus lists nine selling stockholders (including six management officials), eight of whom own 1,642 common and 25,000 Class A shares each and propose to sell all of such common and 5,000 Class A shares each. T. Carter Harmon is president. The two series of stock are identical in all respects except that the Class A stock is not entitled to receive cash dividends. It is convertible share for share into common after October 1962.

PROSPER-WAY FILES FOR STOCK OFFERING. Prosper-Way, Inc., 2484 West Washington Blvd., Los Angeles, filed a registration statement (File 2-19752) with the SEC on February 7th seeking registration of 85,500 shares of common stock, to be offered for public sale at \$3 per share. The offering will be made on an all or none basis, the company having the option, if all shares are not sold within 90 days, to accept that part of the offering which has been sold, or to terminate the offering and in that event no shares will be issued and the full proceeds from any shares sold will be returned to the purchasers. The underwriters, Grosse & Company Inc., V. S. Wickett & Company, Inc. and Thomas, Williams & Lee, Inc. will receive a 36¢ per share commission and \$10,000 for expenses. The statement also includes (1) 12,000 outstanding shares to be sold to the underwriters by principal stockholders and 3,000 shares to Sam Gruen, the finder, all at 10¢ per share, and (2) 9,000 shares underlying 5-year warrants to be sold by the company to the underwriters at 1¢ each, exercisable at \$3 per share.

Organized under Nevada law in January 1962, the company is engaged in the development and promotion of the "one stop dry cleaning and laundry" concept, as well as selling, distribution and maintenance of equipment for dry cleaning and laundry establishments. Through a subsidiary, Prosper-Development, Inc., the company has the exclusive right to develop and establish the "House of Kleen" in 11 western states. The "House of Kleen" concept contemplates a uniform chain of one stop laundry and dry cleaning establishments, providing both self service coin operated units, in addition to professional services and featuring the names "Rapid Kleen," "Rapid Wash" and "Gold Crown Service." These names, like "House of Kleen," are registered trademarks of House of Kleen Development Corporation, a wholly owned subsidiary of Ward Industries Corporation.

Such "House of Kleen" establishments will be constructed by the company under a lease and development agreement with the House of Kleen Development Corp., which will lease the building and also purchase from the company all equipment and machines installed in such establishments. The net proceeds from the stock sale will be used to promote and develop the "House of Kleen" business, to acquire real estate sites to be leased for their operation (either through franchisees or direct operation by the company), for acquisitions to be made of existing operations of substantial dry cleaning and laundry establishments within the area of the company's operations in Southern California, and for working capital.

The company has outstanding 112,500 shares of common stock (recently issued in exchange for subsidiaries), of which Norman Vineberg, president, Maxwell R. Harris, vice president, and Lawson M. Brown, secretary, own 60%, 32% and 8%, respectively.

MARSH & MCLENNAN FILES FOR OFFERING AND SECONDARY. Marsh & McLennan, Incorporated, 231 South LaSalle St., Chicago, filed a registration statement (File 2-19753) with the SEC on February 7th seeking registration of 673,215 shares of common stock, of which 225,000 shares are to be offered for public sale by the company and 448,215 shares, being outstanding stock, by the holders thereof. Morgan Stanley & Co., of 2 Wall Street, New York, heads the list of underwriters. The public offering price (maximum \$50 per share*) and underwriting terms are to be supplied by amendment.

The principal business of the company is that of an insurance broker for all types of insurance and re-insurance, its customers being principally industrial, mercantile, utility and transportation corporations and financial institutions. The net proceeds from the company's sale of additional stock will be applied to meet certain obligations of the company, estimated not to exceed \$8,700,000, under a Stockholders' Agreement whereby the company is obligated to repurchase outstanding stock from present stockholders if such stockholder should die, cease to be a director, officer or employee or reach 70 years of age. Such obligations under said Agreement have been terminated effective as of January 15, 1962. Certain persons who previously sold their shares to the company pursuant to the Agreement, and have not been fully paid therefor, have agreed to accept an aggregate of \$1,289,338 and the company will provide the \$8,700,000 as a reserve to meet that payment and its remaining obligations under the Agreements which are in the process of negotiations for final settlement. Any proceeds not so applied will be added to working capital and used for general corporate purposes.

The company has outstanding 2,277,455 shares of common stock (after giving effect to a recent 5-for-1 stock split), all of which have been held of record under a Voting Trust Agreement by Hermon D. Smith, president, John Holbrook, executive vice president, and Preston H. Kelsy and Walter A. Schwindt, directors. All voting trust certificates have been held by company officers or by or for the benefit of members of their families, and management officials as a group beneficially owned certificates representing about 65% of the outstanding common stock. The prospectus lists 61 selling stockholders owning an aggregate of 1,847,550 shares, including Smith (for himself and as a trustee), Holbrook, Kelsy and Schwindt who own 74,050, 100,000, 139,500 and 190,000 shares, respectively, and propose to sell 17,500, 20,000, 34,875 and 47,500 shares, respectively. Others propose to sell amounts ranging from 500 to 35,000 shares.

ADR'S FOR KONINKLIJKE ZOUT-KETJEN N.V. FILED. Morgan Guaranty Trust Company of New York, filed a registration statement (File 2-19756) with the SEC on February 7th seeking registration of American Depositary Receipts for 50,000 ordinary bearer shares of Koninklijke Zout-Ketjen N.V. (The Netherlands).

OKLAHOMA GAS AND ELECTRIC PROPOSES RIGHTS OFFERING. Oklahoma Gas and Electric Company, 321 North Harvey Street, Oklahoma City, Okla., today filed a registration statement (File 2-19757) with the SEC seeking registration of 328,912 shares of common stock. It is proposed to offer such stock for subscription by common stockholders at the rate of one new share for each 20 shares held. Merrill Lynch, Pierce, Fenner & Smith (70 Pine Street, N. Y.) heads the list of underwriters. The record date, subscription price (maximum \$41 per share*) and underwriting terms are to be supplied by amendment. Net proceeds from the stock sale will be used to pay part of current construction expenditures, including payment of any then existing bank loans (presently estimated at \$3,000,000) incurred to finance temporarily such construction expenditures. The company estimates that such expenditures will be about \$64,000,000 for the three year period 1962-64, including \$19,000,000 in 1962. In addition to various indebtedness and preferred stock, the company has outstanding 6,578,224 shares of common stock, of which management officials as a group own 39,576 shares. D. S. Kennedy is board chairman and president.

SECURITIES ACT REGISTRATIONS. Effective February 8: ADR's of Unilever Limited (Irving Trust Company) (File 2-19736); Caribbean Cement Company Ltd. (Files 2-19155 and 2-19156); Cheverly Terrace Ltd. Partnership (File 2-18962); Community Charge Plan (File 2-18947); The Perkin-Elmer Corp. (File 2-19473).

*As estimated for purposes of computing the registration fee.

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