

# SECURITIES AND EXCHANGE COMMISSION NEWS DIGEST



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

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**FREE CREDIT BALANCE RULE ADOPTED.** The SEC today announced the adoption of a new Rule 15c3-2 under the Securities Exchange Act (Release 34-7325) with respect to free credit balances held by brokers and dealers (funds which the customer has an unrestricted right to withdraw). The rule is effective August 3, 1964.

The new rule prohibits any broker or dealer from using in his business any funds arising out of any free credit balance carried for the account of any customer unless he has established adequate procedures pursuant to which each such customer will be given or sent, together with or as a part of the customer's statement of account, whenever sent, but not less frequently than once every three months, a written statement informing the customer of the amount due, and containing a written notice that such funds are not segregated and may be used in the operation of the business of the broker-dealer, and that such funds are payable on demand. The rule provides an exemption for a banking institution supervised and examined by State or Federal authority having supervision over banks.

Many customers of broker-dealers are not aware (1) that when they leave free credit balances with a broker-dealer the funds generally are not segregated and held for the customer, but are commingled with other assets of the broker-dealer and used in the operation of the business, and (2) that the relationship between the broker-dealer and the customer as a result thereof is that of creditor-debtor. The Report of the Special Study of the Securities Markets recommended that such broker-dealers be required to give such customers notice that their funds are not segregated and may be used in the firm's business; that the customer may request repayment without prior notice; and that interest will (or will not) be paid, and if so, the rate or basis of computation.

Rule 15c3-2 is intended to implement such recommendation. It does not specifically provide that the customer be given notice as to whether interest will or will not be paid on free credit balances because, as was pointed out by many persons who submitted comments on the original proposal, this information is not directly pertinent to the purpose of the rule, i.e., to put customers on notice that free credit balances left with the broker-dealer may be used in the business and therefore may be at risk. It also appeared from the comments that emphasis on this fact would introduce into the broker-customer relationship an artificial competitive factor which might lead customers to choose their brokers on the basis of this factor rather than on the basis of the kind of service to be rendered, the reliability and integrity of the firm, and other more fundamental factors which should be considered by a customer in choosing a broker.

**ASSOCIATE UNDERWRITERS REVOKED.** The SEC today announced a decision under the Securities Exchange Act (Release 34-7323) revoking the broker-dealer registration of Associate Underwriters, Inc. ("A.U.I."), of 826 Stuart Bldg., Lincoln, Nebr., for violations of the Securities Act registration and anti-fraud provisions in the 1962-63 sale of A.U.I. common stock. Joseph B. Bovey, Darwin C. Fallis and Melvin D. Gulley, president, secretary-treasurer and vice-president, respectively, were each found to be a cause of the revocation order. Each of the four respondents consented to the action.

According to the Commission's decision, A.U.I.'s offering circular used in its Regulation A offering of stock in late 1962 contained a financial statement which did not reflect the true financial condition of the company; and investors were not informed that part of the proceeds would be loaned or otherwise paid over to General Manufacturing Corporation (Bovey helped form the latter, and he and Fallis were officers and major stockholders thereof). Nor were investors informed that A.U.I.'s license to sell securities was limited to the sale of its own securities in Nebraska; and although its shares were not registered with the SEC, investors were told that A.U.I. had been approved by the Commission.

Moreover, the financial statement included in A.U.I.'s application for registration as a broker-dealer was false and misleading with respect to the amount of notes and accounts receivable, the amount of stock issued for property, the acquisition of Lincoln Casualty Company stock, and the amount of cash on hand and on deposit; and its financial report was not certified, as required.

**CERAMICS CO. OF AMERICA 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 proposed public offering of stock by Ceramics Company of America, 109 South Third St., Las Vegas, Nev. 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 with respect to public offerings of securities not exceeding \$300,000 in amount. In a notification filed March 25, 1964, the respondent company ("Ceramics") proposed the public offering of 300,000 shares of common capital stock at \$1 per share. The Commission asserts in its suspension order that it has "reasonable cause to believe" that Ceramics failed to comply with certain terms and conditions of Regulation A, in that its offering circular failed to name Gilbert Monk as a promoter and included false and misleading information. The alleged misrepresentations relate, among other things, to the extent of the development and testing of Ceramics' process and its readiness for commercial exploitation on a competitive basis; the existence of an adequate ready market for its product; and the historical information concerning Ceramics' properties and the reference to one million tons of proven ore and several million tons of probable ore on the properties.

OVER

**SEC ORDER CITES WEIL & CO.** The SEC has ordered administrative proceedings under the Securities Exchange Act of 1934 involving the broker-dealer firm of Weil and Company, Inc., of 733 15th St., N. W., Washington, D. C. The Weil firm has been registered since April 1959. Richard S. Weil is president and Samuel P. Grubb, Jr., secretary-treasurer. A Federal court order was issued in April 1963 preliminarily enjoining Weil and Grubb from engaging in or continuing certain conduct and practices in connection with the purchase and sale of securities. The two individuals are also named as respondents in this action, as are Robert N. Smith, William J. Luttamus and Alvin Lempke, who served as salesmen (Smith as sales manager) from November 1959 to March 6, 1963.

The proceedings are based upon staff charges that the Weil firm and the five individuals engaged in activities violative of the anti-fraud provisions of the Federal securities laws, particularly in relation to transactions in speculative securities effected for the account of customers, and that the firm also violated certain provisions of Regulation T as well as the Commission's record-keeping and financial reporting requirements. A hearing will be held, at a time and place to be announced, to take evidence on the staff charges and afford the respondents an opportunity to establish any defenses thereto, for the purpose of determining whether the alleged violations occurred and, if so, whether any administrative action of a remedial nature is appropriate in the public interest.

**PACIFIC GAS PROPOSES RIGHTS OFFERING.** Pacific Gas and Electric Company, 245 Market St., San Francisco, today filed a registration statement (File 2-22456) with the SEC seeking registration of 2,259,103 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 25 common shares held on June 16, 1964. Blyth & Co., Inc., 14 Wall St., New York, is listed as principal underwriter. The subscription price (\$33 per share maximum\*) and underwriting terms are to be supplied by amendment.

The company is an operating public utility engaged principally in the business of furnishing electric and gas service throughout most of northern and central California. Net proceeds from the stock sale will be applied toward the cost of additions to its utility plant (\$60,000,000 will be used to retire short-term bank loans obtained for such purpose). The company's construction program for 1964 is estimated at \$255,000,000. In addition to indebtedness and preferred stock, the company has outstanding 56,477,559 shares of common stock. The prospectus lists James B. Black as board chairman and Robert H. Gerdes as president.

**SEC ENTERS ARIZONA LUTHERAN HOSPITAL CASE.** The SEC today announced that, at the request of the Court, it has filed a notice of appearance in the Chapter X proceeding for the reorganization of Arizona Lutheran Hospital pending in the Federal District Court at Phoenix, Ariz. The Debtor, a non-profit corporation, operates a hospital in Mesa, Ariz., which is within the Phoenix metropolitan area. Its balance sheet, as at September 30, 1963, lists assets and liabilities of about \$3,375,000 and \$3,415,000, respectively. The assets include cash of \$33,269 and plant and equipment of \$2,980,000. The liabilities include \$2,750,000 principal amount of 8% first mortgage bonds held by approximately 1,000 public investors. Operations for the 4-1/2 month period May 13, 1963 through September 30, 1963 resulted in a loss of \$216,442.

**SEC COMPLAINT NAMES S E JONAH & CO.** The SEC San Francisco Regional Office announced May 21 (LR-2943) the filing of action in Federal court (USDC San Francisco) seeking to enjoin violations of its net capital rule by S. E. Jonah & Co., Inc., and its president, Stanley E. Jonah, of San Francisco.

**RE PROXY RULE AMENDMENT.** The amendment to Rule 14a-3 referred to in the SEC News Digest of May 26th provides as follows as to the effective date: "The foregoing amendments . . . shall apply to annual reports to security holders covering fiscal years ending on or after June 30, 1964."

**CARBORUNDUM CO. FILES FOR SECONDARY.** The Carborundum Company, Buffalo Ave., Niagara Falls, N. Y., filed a registration statement (File 2-22447) with the SEC on May 26 seeking registration of 262,681 outstanding shares of common stock, to be offered for public sale by the present holders thereof. The offering is to be made through an underwriting group headed by The First Boston Corporation, 20 Exchange Place, New York. The public offering price (\$60 per share maximum\*) and underwriting terms are to be supplied by amendment.

The company is engaged primarily in the production and sale of fabricated abrasive products and abrasive crudes and grains which are used by industries in the shaping and finishing of metals, stone wood and other materials. In addition to indebtedness, the company has outstanding 1,817,102 common shares, of which management officials as a group own 1.26%. The prospectus lists three selling stockholders, as follows: Richard K. Mellon, offering his entire holding of 192,681 common shares; Wilmington Trust Company and D. D. Shepard (trustees under an agreement with Ailsa M. Bruce for David K. E. Bruce), offering 50,000 of 75,000 common shares held; and Wilmington Trust Company, D. D. Shepard and George Wyckoff (trustees under an agreement with Paul Mellon for Timothy Mellon), offering 20,000 of 30,000 common shares held. Upon completion of the proposed offering, holdings by certain members of the Mellon family will be reduced from 44% to 29% of the company's outstanding stock. William H. Wendel is listed as president.

**LACLEDE GAS PROPOSES BOND OFFERING.** Laclede Gas Company, 1017 Olive St., St. Louis, filed a registration statement (File 2-22448) with the SEC on May 26 seeking registration of \$20,000,000 of first mortgage bonds, due 1989, to be offered for public sale at competitive bidding. The company is an operating gas utility engaged in the distribution and sale of natural gas in the State of Missouri. Net proceeds from its bond sale will be initially applied to the repayment of outstanding bank loans in the amount of \$3,800,000 and the balance will be available to satisfy the company's 1964 cash requirements. Its construction program through September 1968 is estimated at \$50,300,000.

**SECURITIES ACT REGISTRATIONS.** Effective May 26: Beech-Nut Life Savers, Inc. (File 2-22409); Gardner-Denver Co. (File 2-22418); The Singer Co. (File 2-22388); Texas Eastern Transmission Corp. (File 2-22401).

\*As estimated for purposes of computing the registration fee.

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