

## NEWS DIGEST

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



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**NASD SANCTION UPHELD.** In a decision announced today (Release 34-7407), the SEC affirmed disciplinary action of the NASD against Samuel B. Franklin, doing business as Samuel B. Franklin & Company, 810 South Spring St., Los Angeles. The NASD had imposed a fine of \$1,000 against Franklin and assessed costs of \$435 for violations of its Rules of Fair Practice; and the Commission concurred in the NASD findings of violations, concluded that the penalties were not excessive or oppressive, and dismissed Franklin's appeal from the NASD action.

The NASD sanction was based upon sales of securities at unfair prices; excessive trading in the accounts of two customers; inadequate supervision of salesmen; and failure to preserve records. According to the Commission's decision, Franklin realized mark-ups in excess of 5% over the prevailing market price (based upon his same-day purchases or published quotations) in 150 or 50% of its sales between March 18 and April 29, 1960. Of these 150 sales, which were effected at prices ranging from 5¼¢ to \$310 per share, 36 were at mark-ups between 5% and 6%; 15 between 6% and 7%; 9 between 7% and 10%; and 90 over 10%. The latter 90 sales included four at mark-ups of 50%; seven at 42.8%, three at about 38%, 20 at about 28.5%, and nine at 25%. Franklin had contended that he maintained an inventory and made a primary market in most of these securities, that his normal practice was to sell stock to customers at the same price at which he sold to dealers and that, therefore, no mark-ups were involved. The Commission, however, agreed with the NASD that it would have been improper to use Franklin's own inside ask price to determine the fairness of the prices which he charged his customers in principal transactions.

The Commission also sustained the NASD's ruling that two salesmen of the firm induced trading activity in the accounts of two customers (both widows) which were excessive in volume and frequency; that transactions in the accounts of the two customers also involved unfair pricing; and that Franklin failed to exercise proper supervision over the salesmen. Transactions in one of the accounts over an 18-month period, which showed a turnover of 4.4 times on an initial investment of \$76,492, resulted in an over-all loss of \$11,069 to the customer while commissions and profits to the firm amounted to \$15,600. In the other, there was a turnover of 3.5 times during a 25-month period on an initial investment of \$118,098, the account showing a profit of only \$3,844 as against a profit to the firm of \$23,694. While Franklin urged that the accounts were not discretionary in nature and each transaction was approved by the customers, the Commission observed that the customers were unsophisticated investors and did not appreciate the depleting effect of too-frequent sales from their accounts.

**SIDNEY TAGER DENIED STAY.** The SEC today announced the issuance of an order (Release 34-7412) denying a request of Sidney Tager, 30 Broad St., New York, for a stay of a Commission order which revoked his broker-dealer registration and expelled him from NASD membership. Tager had requested the stay to permit his employment in the securities business by a former employer pending the determination of an appeal of the revocation order. The Commission's prior order of July 14 was based on findings that Tager had violated anti-fraud provisions of the Federal securities laws in the offer and sale of certain stock while engaged as an underwriter in distributing such stock. Tager has appealed the July 14th order, and the review proceedings have been expedited by the court.

**PROCEEDINGS AGAINST SMYTHE, BOWERS, HILLIARD CO. DISCONTINUED.** The SEC today announced the issuance of an order (Release 34-7413) discontinuing proceedings involving the broker-dealer firm of Smythe, Bowers, Hilliard & Co., Inc., 166 W. Washington St., Chicago. In its May 1964 decision in such proceedings, the Commission determined that although securities violations had occurred, the facts were not such as to require revocation of the firm's broker-dealer registration provided that, upon its resumption of business, appropriate safeguards are established and maintained to guard against further violations of the securities laws. George A. Smythe, now president and controlling stockholder, has filed an affidavit stating, among other things, that the firm has not engaged in any securities transactions during the pendency of these proceedings, that it has no liabilities, and that it is now represented by an accounting firm and a law firm and will regularly consult with such firms in order to comply fully with applicable securities laws.

**LLOYD, KELSO, OTHERS INDICTED.** The SEC Atlanta Regional Office announced September 2 (LR-3011) the return of an indictment (USDC Atlanta) charging William A. Lloyd, Elizabeth Baker Kelso, Carl Richard White, Harry Rufus Churchwell and Edwin Leon Collins, all of Atlanta, and Al Hatcher of Dublin, Ga., with violating the anti-fraud provisions of the Securities Act and the mail fraud and conspiracy statutes in the sale of securities of Colonial Discount Company, Inc.

**HARBIN, ZEIDWIG, HAIST AND DILLARD INDICTED.** The SEC Atlanta Regional Office announced September 4 (LR-3012) the return of a seven-count indictment by a Federal grand jury at Atlanta against Marion Lane Harbin, Atlanta; George Zeidwig, Spring Valley, New York; Richard W. Haist, Sr., Morrow, Ga.; and Jack Dillard, Cumming, Ga., charging them with violations of the anti-fraud provisions of the Securities Act and the mail fraud and conspiracy statutes in the sale of securities of Georgia Jewelers, Inc., an Atlanta corporation.

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**AUTOMATA INTERNATIONAL TEMPORARY SUSPENSION VACATED.** The SEC has issued an order (Release 33-4719) vacating its January 1964 order temporarily suspending a Regulation A exemption from Securities Act registration with respect to a 1961 public offering by Automata International, Inc., 5369 West Pico, Los Angeles, of 300,000 common shares at \$1 per share. The temporary suspension order had cited certain omissions in the company's offering circular, which were found not to be improper. It also had asserted that the offering exceeded the \$300,000 limitation imposed by Regulation A and that a report of stock sales was filed which falsely represented that the offering had been completed on January 4, 1962. The Commission's staff contended that although the underwriter advised Automata that the offering had been completed for \$300,000, the underwriter publicly distributed some of the shares at prices higher than the \$1 stated offering price, thereby causing the aggregate amount of the offering to exceed the Regulation A limitation by \$5,036 and the termination date to extend beyond January 4, 1962 as stated in the report of sales. According to the Commission's decision, Automata neither knew nor had reason to know of the relatively small excess of the offering over the statutory maximum and the asserted inaccuracies in the report of stock sales, and there is no allegation or evidence that the issuer failed to exercise due diligence in selecting the underwriter or was otherwise guilty of any wrongdoing or misconduct. Proceedings are pending under the Securities Exchange Act of 1934 on whether the underwriter's broker-dealer registration should be revoked.

**CONTINENTAL VENDING, TASTEE FREEZ TRADING BAN CONTINUED.** The SEC has issued orders under the Securities Exchange Act suspending exchange and over-the-counter trading in securities of Continental Vending Machine Corporation and Tastee Freez Industries, Inc., for a further ten-day period, September 9-18, 1964, inclusive.

**JERSEY CENTRAL P & L SEEKS ORDER.** Jersey Central Power & Light Company, Morristown, N. J., has filed a proposal with the SEC under the Holding Company Act for the public offering, at competitive bidding, of \$18,000,000 of first mortgage bonds due 1994; and the Commission has issued an order (Release 35-15122) giving interested persons until October 6 to request a hearing thereon. As reported in the News Digest of August 31, net proceeds from the bond sale will be applied to the company's 1964 construction program (estimated at \$42,000,000) or used to partially reimburse its treasury for such expenditures.

**TRACOR, INC., PROPOSES OFFERING.** Tracor, Inc., 1701 Guadalupe St., Austin, Tex., filed a registration statement (File 2-22744) with the SEC on September 4 seeking registration of 110,000 shares of common stock, to be offered for public sale through underwriters headed by Rotan, Mosle & Co., 1510 Bank of Southwest Bldg., Houston. The public offering price (\$21 per share maximum\*) and underwriting terms are to be supplied by amendment.

The company performs research and development and systems engineering contracts for governmental and industrial customers in such fields as anti-submarine warfare, aerospace, time and frequency, chemistry and acoustics, and manufactures and sells time and frequency products and audiometric testing devices. Of the net proceeds from its stock sale, \$1,750,000 will be used to pay the balance of a \$2,000,000 cash obligation (together with 15,000 of the company's common shares) under a Purchase Agreement for the acquisition of Sulzer Laboratories, Inc., of Rockville, Md. The balance of the proceeds will be used for general corporate purposes. In addition to indebtedness, the company has outstanding 323,701 common shares, of which management officials as a group own 54%. Richard N. Lane is president and board chairman.

**AURORA PLASTICS FILES STOCK PLAN.** Aurora Plastics Corp., 44 Cherry Valley Rd., West Hempstead, L. I., N. Y., filed a registration statement (File 2-22745) with the SEC on September 3 seeking registration of 10,650 shares of common stock (subject to options heretofore granted) and 31,875 common shares (subject to future options), to be offered pursuant to its Employees' Stock Option Plan.

**KINNEY SERVICE CORP. FILES STOCK PLAN.** Kinney Service Corporation, 10 Rockefeller Plaza, New York, filed a registration statement (File 2-22746) with the SEC on September 4 seeking registration of 150,000 shares of common stock, to be offered under its Employees' Stock Option Plan.

**MOUNTAIN FUEL SUPPLY CO. FILES STOCK PLAN.** Mountain Fuel Supply Company, 180 E. First South St., Salt Lake City, filed a registration statement (File 2-22747) with the SEC on September 4 seeking registration of \$370,000 of interest in its Employee Savings and Stock Purchase Plan, together with 9,250 shares of capital stock which may be acquired pursuant thereto.

**SECURITIES ACT REGISTRATION STATEMENTS.** During the week ended September 3, 1964, 19 registration statements were filed, 15 became effective, 1 was withdrawn, and 260 were pending at the week-end.

**SECURITIES ACT REGISTRATIONS.** Effective September 4: The Kentucky Jockey Club, Inc. (File 2-22592); Levitt and Sons, Inc. (File 2-22631). Effective September 8: International Telephone and Telegraph Corp. (File 2-22681); Public Service Electric and Gas Co. (File 2-22702); Ralph Wilson Plastics, Inc. (File 2-22637); Rochester Gas and Electric Corp. (File 2-22651).

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