

PUBLISHED BY THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC., WASHINGTON, D. C.

"Rights" and Rights

First steps have been taken by the Board of Governors in a program to get some relief for members in the handling of "rights".

Two propositions were adopted at the Board's last meeting:

1. The Association to call upon the SEC, stock exchanges and State regulatory bodies to amend their books and records rules so as to exempt from the rules any transactions involving \$100 or less in "rights";
2. A resolution urging corporations to make provisions for "reasonable" compensation to brokers and dealers called upon to handle "rights" transactions.

The first of these would reduce the headaches in the bookkeeping department. One member told us of 22 "back office" steps required in a single "rights" transaction.

As the "NEWS" said the last time out, everybody's rights are considered in this "rights" business except the rights of the broker and dealer who convert them into something of value.

The second proposition is going to take some doing if it's to help get "practice" established. Members themselves will have to carry the ball with the issuers but they are now backed up by a national policy on the matter of compensation.

Insurance

The NASD Group Life Insurance plan now covers 766 firms for 5,633 lives and \$29,223,100 of insurance.

As of Oct. 1, 1952, death claims for the current policy year of \$92,500 had been paid and claims of \$20,000 were pending.

On July 3, last, Trustees paid a dividend to all participating firms equivalent to 16% of premiums paid. The dividend amounted to \$60,588.

As of October 1, 278 firms were enrolled in the Association's Group Hospital and Surgical Expense Plan and 2,487 employees were covered.

GOVERNOR



Harold C. Patterson

"Pat" Patterson was a cinch to get one particular assignment when he became a Governor. The job: chairman of the Uniform Practice Committee. That Committee has the task of deciding delivery rules, ex-dividend dates and a host of other "back-office" questions, the nature of which is unpredictable. "Pat" recently arbitrated a dispute between two members by listening to them recite their "facts" over the telephone. The technicalities of the business have never been boring to "Pat". He's one of the behind-the-scenes reasons why the over-the-counter business functions smoothly and has dependable machinery for turning out precise answers to members' business problems. His firm: Auchincloss, Parker & Redpath, Washington.

Supreme Court Order

The Supreme Court of the United States on October 20, 1952, denied the application of R. H. Johnson & Co. for a Writ of Certiorari to review the decision of the Court of Appeals for the Second Circuit. The decision of the Court of Appeals had affirmed the order of the Securities and Exchange Commission dismissing the application for a review of the order of expulsion from membership in the National Association of Securities Dealers, Inc., of R. H. Johnson & Co.

"Free-Riding"

Reconsidering a matter which had been placed "on the table" in 1946, the Board of Governors, early in 1950, released to the membership an interpretation of the Rules of Fair Practice on the subject of so-called "free-riding". The Board said it was contrary to high standards of commercial honor and just and equitable principles of trade for members not to make a bona fide public offering of new issues or to make allocations of new offerings to firm, partner or officer, employee or family accounts in excess of established investment practice.

At its recent meeting, the Board restated this position and has called upon District Business Conduct Committees to consider filing complaints against the members who failed to make a bona fide public offering of their allotments in the Owens-Corning Fiberglas issue last February.

The Association made a complete study of members' actions in the Owens-Corning offering. Examination of the facts surrounding the actions of some members suggested the need for further inquiry by District Committees. This done, the Board studied these supplemental reports from the District Committees and in September adopted resolutions advising Committees to proceed with complaint action where the facts warranted.

Said the Board in one of its covering resolutions:

"BE IT RESOLVED:

That all District Business Conduct Committees of the Association be advised that, in the opinion of the Board of Governors, instances in which shares of Owens-Corning Fiberglas were retained by a member of the underwriting or selling group for investment, or sold to officers, partners, and employees, or members of the families of such members, and sold within a relatively short period of time, at prices in excess of the initial public offering price, may constitute a violation of the Board's interpretation of Section 1 of Article III of the Association's Rules of Fair Prac-

tice; and District Committees are instructed to review the facts in such instances, and file complaints against members if the facts so justify."

N. Y. Transfer Tax

The Association is placing before issuers of securities objections of dealers to "unfair" interpretations of the New York State stock transfer tax under which the tax can be imposed on transactions not made within the State.

In a letter to corporations on this matter, Clarence A. Bickel, Chairman of the Board of Governors, says:

"The State of New York has, for many years, imposed a transfer tax on the sale of securities taking place in that state. To this we, as securities dealers, have no objection. However, the statute has been interpreted by tax authorities to apply to the physical transfer of stock certificates when this transfer takes place in the State of New York even though the purchaser and seller are non-residents of the State. This, we consider, an unfair tax imposition by one State upon transactions taking place in other states. Whether the tax is paid by the selling stockholder or by the securities dealer handling the transaction is unimportant because, in either event, it is a burden upon the free market for the security. It has been estimated that this tax amounts to over \$1,500,000 annually."

The letter goes on to recommend that issuers "establish sub-transfer agencies in States which do not impose the tax." The cost of doing so is nominal, it is pointed out. A considerable saving in transfer time will result if such transfer facilities are employed, it is further pointed out.

Issuers are called upon, in the interests of fostering stockholder relations, to appoint dual transfer agencies.

Trouble-Shooter

A good trouble-shooter will try to see to it that trouble is avoided as well as eliminate trouble at hand.

With that thought in mind, the Association has compiled a ready-reference booklet on the do's and don'ts connected with the rules of the business. The booklet is called:

"What You Should Know
About the NASD"

It covers By-Laws, Rules of Fair Practice and other provisions of Association codes and regulations. It was designed for those who read as they run. Every salesman, trader, cashier — and partner, for that matter — would profit by familiarizing himself with this highlighting of the off-side and on-side rules.

A copy is being sent to all members.

GOVERNOR



Gerald P. Peters

"Jerry" Peters is president of Peters, Writer & Christensen, Inc., of Denver. Prior to going into the securities business he was manager of the United States National Company of Denver. Jerry was born in St. John, N. B., and is a graduate of University of Denver. Had vast experience in industrial and commercial enterprises before entering the securities field. Former Governor of the IBA.

Additional copies can be obtained for a few cents each by applying to the Executive Office.

Bum Securities

The National Uniform Practice Committee was called upon recently to make a ruling in a case where a member tendered a fraudulent security as delivery in a transaction. The ruling required the member to make a "good" delivery.

The member who delivered the fraudulent security had acted in good faith. It had been turned over to him by a customer of the local bank and the latter had guaranteed the signature and said the individual was "an old and valued customer."

This experience points up the need for members to be certain that they are protected against this kind of thing. It is the recommendation of the NUPC that members re-examine their insurance protection (particularly with respect to so-called Rider "E") to be certain that they are covered against losses should they unwittingly introduce a spurious certificate into the market.

NASD News

Published periodically by the Board of Governors under the supervision of the Member Relations Committee,

HARPER JOY, *Chairman*
Editor, JAMES P. CONWAY

Rule 132

Distributing dealers have long desired the use of a short form document relating to proposed new registered offerings of securities. Under the rules of the SEC the use of such a document prior to the effective date of a registration statement (other than the red herring) has been prohibited. This question has on many occasions been the subject of discussion between representatives of the business and the Commission.

The Commission has now released a rule, effective on October 27, 1952, permitting the use of a so-called "identifying statement" which distributing dealers may use after processing by the Commission during the pre-effective period. The use of this document will aid many dealers in screening their customers to determine interest in the proposed offering and in determining whether they desire a prospectus relating to the issue itself.

The Commission has stated that the rule "is designed to permit the use of a brief 'identifying statement' which is intended for use as a screening device to locate persons who might be interested in receiving the proposed form of prospectus pursuant to Rule 131 (the 'red herring prospectus') or the final prospectus. The identifying statement is not intended to be a selling document.

"The rule is in the form of a definition of the terms 'sale' and 'offer' for the purpose of Section 5 only. The anti-fraud provisions are not affected."

The Association's Board of Governors discussed these proposals at its recent meeting and is of the opinion that the new rule is a step toward the solution of providing needed information, not only to dealers, but to customers, with respect to intended offerings.

The spirit in which the Securities and Exchange Commission has approached this problem and the opportunity afforded representatives of the business to discuss the matter with the Commission is, in the opinion of the Board of Governors, deserving of commendation.

Membership

Membership of the Association stood at 2,964 on September 30, a net gain of 5 for the month and a rise of 101 over the figure on the comparable date in 1951.

Highest level for membership was set in 1941 at 2,977. Members have 33,372 individuals enrolled as "registered representatives".

Examinations

In the first eight months of 1952, 525 members were examined by examiners of the Association against 490 in the same period last year.

No Surprise

Texans will not be surprised with the news that their State has been the fastest-growing in the securities business since the war. NASD member-firms have increased 25 per cent in number over the past six years to nearly 100 today. Meantime, Texas dealers have nearly quadrupled the amount of underwritings handled in the same period, with employment more than double at 720.

"This healthy growth," says Earl Fridley, Chairman of District Committee #6, "has kept pace with the progress of industrial and commercial expansion in our State. There is every reason to believe the securities business will continue to prosper here."

As a result of the growth of NASD membership in Texas, the District Committee opened a branch office of the Association on October 1 in Dallas with a full-time secretary. He is Paul J. Fagan who went to Texas after serving in the New York and Washington offices of the Association.

Salesmen Compensation

A Cleveland member (name on request) reports satisfactory introduction of a new method of compensating "junior" salesmen. Here is the member's own story:

"Our junior salesmen will be paid partly in commission and partly salary. They will be removed from drawing account against profits, although their profits will be recorded just as before. Their commissions will be half what their regular share of gross profits would be. Their salary is what is new in the system.

"Salary (as distinguished from "commission") for each salesman is set every 90 days based on the number of calls reported-in during the preceding 90 days. This permits setting a salary level that can be achieved by the amount of work one wants his salesmen to accomplish.

"If, for instance, you want to pay your salesmen a salary of \$300 per month for the hardest kind of work, and you assume that he can make a maximum of ten calls a day (that is, interviews, not "attempts") then figuring 22 working days a month, it would be indicated that he should receive \$1.40 per call.

"In our own shop we pay for personal interviews and telephone calls alike, with the understanding that telephone calls may not exceed 25% of the total. We do not expect to differentiate between old calls and new ones.

"The result of this system should be that the young salesman just starting out will be paid for what we urge him to do — make calls. He can see the justification for his salary; he can know the

basis for it; he can pretty much determine it himself.

"Gradually, as he begins to get results, his income will come, in greater-and-greater proportion, from his production, and, finally, when he is ready to swing over to a full drawing account against his percentage of profits, that can be done. By that time, presumably, he will be able to determine his own rate of work."

"Ladies and Gentlemen"

The Public Relations Committee has prepared material which members can use for speeches on the securities business and the NASD. Announcement of the availability of this material in the last issue of the NEWS resulted in many requests for copies of the material.

It was particularly interesting to the Committee that at least half of the requests came from branch offices of larger wire houses. The inference may be that the personnel in these offices are a bit more alert to opportunities to promote the business than are smaller members.

What the Committee is offering is not a "canned" product. The material includes topical outlines and short discussions of a few general subjects. From this material, it is felt, members could readily prepare the kind of speech most likely to fit their own communities' interest.

Copies of the speech file can be obtained from the Executive Office in Washington.

"Now, Look"

Sight may sometimes be lost by members of the fact that Governors of the Association are available to them for discussion of NASD affairs. Your Governor may be no farther away from you than the office across the corridor or two floors down. Certainly, he is as near to you as the telephone within your reach. Why not get in touch with him — be he in Hartford, Denver or Birmingham — on things you may want to hear about from the horse's mouth.

The lineup:

Clarence A. Bickel
Ewing T. Boles
John F. Bunn, Jr.
Walter I. Cole
Charles P. Cooley
Claude T. Crockett
Paul Devlin
Edward C. George
George Geyer
W. Fenton Johnston
Harper Joy
John D. McCutcheon
Ira D. Owen
Harold C. Patterson
Gerald P. Peters
William C. Roney
H. P. Schlemmer
Carl Stolle
George H. Stubbs, Jr.
Albert W. Tweedy
Murray Ward

Robert W. Baird & Co.
The Ohio Company
Bioren & Co.
Beecroft, Cole & Co.
Cooley & Co.
Crockett & Co.
Blyth & Co., Inc.
Harriman Ripley & Co., Inc.
Geyer & Co., Incorporated
Smith, Barney & Co.
Pacific Northwest Company
John D. McCutcheon and Co., Inc.
Allison-Williams Co.
Auchincloss, Parker & Redpath
Peters, Writer & Christensen, Inc.
Wm. C. Roney & Co.
Schwabacher & Co.
G. A. Saxton & Co., Inc.
Stubbs, Smith & Lombardo, Inc.
H. C. Wainwright & Co.
Hill Richards & Co.

Milwaukee
Columbus
Philadelphia
Topeka
Hartford
Houston
New York
Chicago
New York
New York
Spokane
St. Louis
Minneapolis
Washington
Denver
Detroit
San Francisco
New York
Birmingham
Boston
Los Angeles

Sir! You Cur! Dept.

If, in this business, you give a plug to one financial service, you are certain to be called a sucker by the guy's competitors who, of course, say they do it better.

Some editions back we had a squib about a new service that covered transfers and par value matters. Now the "Financial Information Company" advises us that they publish the "Financial Stock Guide Service" covering classes of stock, par values and transfer agents plus condensed histories of split-ups, stock dividends, capital changes, reorganizations and "lost" companies. They've sent us their book as proof and it sure is impressive. Address inquiries to: Financial Information Company, 92 Liberty St., New York 6, N. Y.

Comes too, an announcement of a new service being introduced by Fund Services of Washington. The address—1015 Woodward Building. The service provides dealers a series of aptitude tests to be given prospective salesmen which, when completed, is sent to Fund Services' offices for analysis, findings and recommendations for the dealer-subscriber by a qualified university research group. The dealer takes no part in the "laborious" examination process.

In this case, also, we have been supplied with copies of questionnaires, vocational interest test-blanks and the like. If applicants filling these out can keep their minds off your blonde receptionist . . .

Complaints

Sixteen complaints were filed against members in the first eight months of 1952. During the same period of time, 17 complaints were disposed of, involving 25 penalties of which 3 were expulsions from the Association. Forty-eight registered representatives were included with members in the complaints handled this year. Since January 1, 1952, fines and costs of \$22,770 were imposed.

Funds Conference

SEC Chairman Donald C. Cook told the Investment Dealers Digest's Fourth Annual Mutual Fund Conference in New York that the securities industry has made "a sincere effort to bring its sales literature into line with the Statement of Policy," and that, far from hindering the expansion of investment companies, administration of the new sales literature standards has been accompanied by an increase of \$1,400,000,000 in assets of mutual funds, primarily due to the sale of additional shares.

In reviewing the two years of administration of the "Statement of Policy" by the NASD and the Commission, Mr. Cook noted that the new literature standards have had "the real effect, not of stifling the use of legitimate sales literature, but rather of elevating it to a higher level of accuracy and effectiveness." "By and large," Mr. Cook said, "the sales literature presently used is free of the more flagrant misstatements . . ."

However, he warned that in spite of the progress that has been made there still is misleading material in some sales literature, which he believes the Association and the Commission's joint program ultimately will largely eliminate. He warned further that the Commission intends to "deal very firmly with any future violations (of the Statement of Policy) so that the temptation to both mislead investors and to steal a march on competitors will be greatly minimized."

Mutual Fund Dealers

A panel to which members of the Association can present their questions or problems relating to the sale of investment company shares has been provided through the formation of a new standing committee of the Board of Governors, designated as the Investment Companies Dealers Committee.

This committee is under the chairmanship of H. P. Schlemmer, Schwabacher & Co., San Francisco. It is an outgrowth of the Investment Companies Committee, which originally was made up of both underwriters and dealers. The new committee was formed to study the effect of the Statement of Policy governing investment company sales literature as it is administered by the Investment Companies Committee, with particular reference to the individual problems of dealers who specialize in the sale of shares of investment companies. It is authorized to consult and advise the Investment Companies Committee on all problems arising under this program, and it will report to the Board of Governors on any problems it has not been able to solve as such problems relate to individual dealers, as

TEXAS SECRETARY



Paul J. Fagan

distinguished from underwriters and sponsors of investment company shares.

As described by Chairman Schlemmer, it was felt that the dealers should have their own committee as well as the companies, because "investment dealers and investment companies can arrive at sounder conclusions if their discussions are separate." "Our intent," Mr. Schlemmer emphasizes, "is to safeguard the interests of the dealers which, of course, cannot be, in the long run, at variance with the goals of the sponsoring organizations."

The principal activity of the committee to date has been cooperation with the Investment Companies Committee in helping to develop a new SEC rule to govern general literature and advertising relating to investment company shares.

"It is my belief," Mr. Schlemmer told the Board of Governors at the September meeting, "That this committee will become very helpful to the many dealers in our Association who handle investment funds, as it is through this committee they can make their wishes known and we in turn can submit them to the Investment Companies Committee, or the Association office direct, or, if advisable, directly to the SEC."

In addition to Mr. Schlemmer, current members of the committee are: J. Lester Erickson, Wm. R. Staats Co., Incorporated, Los Angeles; Hugh A. Johnson, Hugh Johnson & Company, Inc., Buffalo; Anthony M. Reinach, Ira Haupt & Co., New York; Adolph Woolner, Bache & Co., New York.

All inquiries and suggestions for this Committee should be addressed to the Executive Office, Washington, % Ray Moulden.

"Reasonable Diligence"

The SEC has upheld the NASD in a disciplinary action suspending a member for 30 days and fining him \$500 for selling to a customer certain bonds "without exercising reasonable diligence to ascertain the significant current facts relating to the bonds and the issuer thereof." The case was covered in "Securities Exchange Act Release No. 4761".

Involved was a sale to the customer of bonds of an issuer whose principal source of income was from a lease on an electric generating plant which was due to expire. Facts surrounding this matter had for a number of years been disclosed in annual reports of the Company. The member, it was found, did not disclose this information to the customer, a widow who bought two \$1,000 bonds upon the recommendation of the member.

"It is clear," said the SEC, "that [the member] should have ascertained and disclosed the facts . . . indicating the limited income and payment prospects of the bonds, particularly the impending termination of the lease which was the sole source of income. The member, it was pointed out, had used "out of date information" which "itself showed the issuer's dependence on the lease . . ."

"The customer . . . was entitled to a disclosure of the material facts necessary to determine whether the bonds were a suitable investment for her," the SEC said.

"Joy is Here"

Harper Joy, from out Spokane way via Sedalia, Mo., and Ringling Bros., is pretty vocal on the subject of the securities business' profit-shyness and its willingness to take the short end on a deal where there's some money to be made.

Reminds the Chairman of the Public and Member Relations Committee of Zeb who had to pasture a horse for the winter. Went down the road a piece and talked to a farmer who said he'd pasture "Ol' Dobbin" for \$15. "How much'll you allow me for the manure?" Zeb wanted to know. "Oh! Five dollars, I guess," said the farmer.

The next farmer Zeb talked to, learning his neighbor's price was \$15, said he'd pasture "Ol' Dobbin" for \$10. "How much'll you allow me for the manure?" Zeb asked. "Oh! Five dollars," said the second farmer.

Zeb found another farmer farther down the road who, learning his neighbor's price was \$10, said he'd pasture "Ol' Dobbin" for \$5. "How much'll you allow me for the manure?" Zeb asked.

"Well, sir," said the farmer, "at that price there ain't gonna be none."