

CHAIRMAN'S OFFICE
MAILED

APR 18 1961

The Honorable Gordon Allott
The United States Senate
Washington 25, D.C.

Signed by: _____

Re: General Aeronation, Inc.
File No. 24C-2227

Dear Senator Allott:

This is in reference to your letter of March 27, 1961, concerning an inquiry you received from Mr. Henry Wiebe which relates to the above-named company. Mr. Wiebe sent a similar letter to Representative Chenoweth.

I am enclosing a memorandum prepared by the Division of Corporation Finance of this Commission concerning the subject matter of your inquiry. I am also returning the material which Mr. Wiebe sent to you.

I appreciate your interest in this matter and will be glad to answer any further questions which you may have.

Sincerely yours,

William L. Cary
Chairman

Enclosure

PJGriffin/aam

**MEMORANDUM PREPARED BY THE DIVISION OF CORPORATION FINANCE OF THE
SECURITIES AND EXCHANGE COMMISSION IN CONNECTION WITH THE INQUIRY
OF MARCH 27, 1961, FROM THE HONORABLE GORDON ALLOTT**

General Aeronation, Inc. (an Ohio corporation), filed with the Commission on May 3, 1960 a notification on Form 1-A, an offering circular, and other material pertaining to a proposed offering of 84,450 shares of the company's common stock, no par value, at \$3.00 per share for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of Section 3(b) and Regulation A promulgated under that Act. The exemption provided by this Regulation is available only upon compliance with the terms and conditions specified in the Regulation.

The filing was examined by the Chicago Regional Office of the Commission. It appeared to that office that the issuer had not complied with the terms and conditions of Regulation A and that the offering circular contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. Therefore, the Chicago Regional Administrator and the Division of Corporation Finance decided to contact the U.S. Air Force, Federal Aviation Agency, Air Transport Association and several civilian airlines with respect to certain statements made in the offering circular, their evaluation of the issuer's towing machine for aircraft, and the status of their negotiations with respect to, or their interest in, the device. Thereafter, the Regional Administrator recommended to the Commission that the filing be temporarily suspended pursuant to Rule 261(a) of the General Rules and Regulations under the Securities Act of 1933, as amended. The Division of Corporation Finance reviewed the filing and concurred in the recommendation for suspension.

The Commission, on May 6, 1960, issued an order temporarily suspending the exemption for the issuer's proposed offering of securities. A copy of the Commission's order is attached. It should be noted that, in addition to the matters mentioned above, the order charges that the offering has been and would be made in violation of Section 17 of the Securities Act, which section is applicable in cases of fraudulent offerings.

The Commission, at the time it issued its temporary order of suspension, considered and denied a request by the Company that action on the staff's recommendation be held in abeyance until the Company had an opportunity to appear, explain its position, and obtain information concerning the basis on which the staff was recommending suspension. Mr. Wiebe complained to the staff that the staff had not sent a letter of comments or afforded the issuer an opportunity to amend the filing. He asked that he be permitted to withdraw the filing, that the suspension order be vacated, and that the Company be permitted to re-file so that they could proceed with the offering. Insofar as the failure to send a letter of comments or afford the issuer an opportunity to amend the notification are concerned, he was advised that it is not our policy to send a letter of comments or discuss a filing with an issuer where fraud is suspected. Mr. Wiebe was advised that: the filing could not be withdrawn, such action being prohibited under Rule 295(e), because of the suspension; only the Commission could vacate the suspension order; his remedy lay in a hearing if he felt he could controvert the allegations in the suspension order; and he could immediately file a registration statement under the Act whether or not the Regulation A exemption is suspended.

Thereafter, the Company requested a hearing on this matter and the Commission, on May 19, 1960, ordered a hearing to be held in the matter to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption. A copy of the notice and order for hearing is attached. The hearing has been held and counsel for the Company and counsel for the Commission have already filed proposed findings of fact and conclusions of law and briefs in support of their positions. The record in the matter, together with the recommended decision by the hearing examiner, will be presented for decision by the Commission.

The actions taken in this matter have been objectively considered by the Chicago Regional Office, the Division of Corporation Finance, the hearing examiner, and the Commission itself. At no time has any individual attorney for the Commission determined the position to be taken by the staff of the Commission in this matter.

In regard to the statements, conduct and attitude which Mr. Wiebe, in the second, third and fourth paragraphs of his letters to Senator Elliott and Representative Chenoweth, attributes to James

Flynn of the Commission's Chicago Regional Office, it may be significant that he testified at length at the hearing concerning the two conferences he had with Mr. Flynn, both of which were prior to the issuance of the suspension order, without adverting to any such statements, threats, conduct or attitude on the part of Mr. Flynn. At all conferences with representatives of the Company, except the first, and throughout the hearing, one or more staff members were present at all times with Mr. Flynn and at no time did a staff member hear any statement by Mr. Flynn or note any conduct or attitude on his part which would give substance to the charges now made by Mr. Wiebe. Mr. Flynn, on being advised of the contents of Mr. Wiebe's letters, characterized the charges as untrue and unfounded.

On March 20, 1961, counsel for the Company submitted a proposed Offer of Stipulation and Consent. The Chicago Regional Administrator declined to enter into the proposed stipulation, which generally admitted the allegations contained in the Commission's orders in the proceedings but contained an exculpation as to any wilfulness on the part of the issuer with respect to the violations alleged. The Company has been advised that the staff is reluctant to recommend to the Commission at this stage of the proceedings that the case be settled unless the stipulation clearly comprehends all facts which were adduced at the hearing to establish the falsity of portions of the offering circular. The counsel for the Company is aware that it may appeal and request that the Offer of Stipulation and Consent be presented for consideration by the Commission. To date counsel has not made such a request.

Counsel for the Company, in conference with the staff regarding the proposed stipulation, was advised that the Company could proceed immediately to file a registration statement covering a public offering of its securities even though the Regulation A proceeding is still pending. Counsel was aware that the suspension did not constitute a bar to the filing of a registration statement but said, "We can't sell stock unless we get this suspension off the books."

Attachments:

1. Order of May 6, 1960.
2. Notice & Order for Hearing.

PJGriffin/aam