

interest earned on such amounts) will be paid (a) to Dunedin only upon approval of the shareholders of the Equity Series or (b) in the absence of such approval, to the Fund.

3. The fund will hold a special meeting of shareholders to vote on the approval or disapproval of the New Sub-Advisory Contract, on or before the 120th day following March 19, 1996. It is expected that the special meeting will be held June 19, 1996, but it will be held no later than July 17, 1996.

4. Dunedin or Edinburg will bear the costs of preparing and filing this application and the costs of a special meeting relating to the solicitation of the approvals of the Fund's shareholders of the New Sub-Advisory Contract necessitated by the acquisition.

5. Dunedin will take all appropriate actions to ensure that the scope and quality of advisory and other services provided to the Equity Series under the New Sub-Advisory Contract will be at least equivalent, in the judgment of the Board, including the independent directors, to the scope and quality of services previously provided. In the event of any material change in personnel providing services pursuant to the New Sub-Advisory Contract, Dunedin will apprise and consult the Board to assure that the Board, including the independent directors, are satisfied that the services provided by Dunedin will not be diminished in scope and quality.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010-01-M

[Rel. No. IC-21979; 812-10074]

Stagecoach Funds, Inc., et al.; Notice of Application

May 23, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Stagecoach Funds, Inc. ("Stagecoach"), Life & Annuity Trust (collectively with Stagecoach, the "Companies"), and Wells Fargo Bank, N.A. ("Wells Fargo Bank").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 15(f)(1)(A) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit Stagecoach to retain its present directors following a reorganization involving other registered investment companies. Without the requested exemption, Stagecoach would have to reconstitute its board of directors after the reorganization to meet the 75 percent non-interested director requirement of section 15(f)(1)(A) in order to comply with the safe harbor provisions of section 15(f).

FLING DATES: The application was filed on April 3, 1996, and amended on May 21, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 17, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: the Companies, 111 Center Street, Little Rock, Arkansas 72201 and Wells Fargo, 420 Montgomery Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942-0572, or Alison E. Baur, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Companies is a registered open-end management investment company. Wells Fargo Bank, a wholly-owned subsidiary of Wells Fargo & Company ("Wells Fargo"), currently serves as investment adviser to each series of the Companies.

2. On April 1, 1996, Wells Fargo acquired First Interstate Bancorp ("Interstate") and its indirect wholly-owned subsidiary of Interstate, First Interstate Capital Management, Inc. ("FICM") (the "Holding Company Merger"). Interstate shareholders

received consideration in connection with the Holding Company Merger. The Holding Company Merger, whereby FICM became an indirect wholly-owned subsidiary of Wells Fargo, constituted a change in control of FICM.

3. FICM currently serves as investment adviser to the Pacifica Funds Trust and Pacifica Variable Trust (collectively, the "Pacifica Trusts"). The Holding Company Merger caused an automatic termination of FICM's then current advisory agreements with the Pacifica Trusts. At meetings in February and March 1996, the boards of trustees of the Pacifica Trusts approved the interim continuation of the Pacifica Trusts' advisory relationship with FICM following the Holding Company Merger, subject to shareholder ratification and approval.¹

4. Several new and existing series of Stagecoach propose to acquire the assets of each series of the Pacific Funds Trust (the "Reorganization"). The Reorganization is intended to consolidate the operations of separate mutual fund families into fewer separate companies. Among other things, it is believed that the Reorganization will improve efficiency, eliminate duplicate shareholder costs and market overlap, facilitate the consolidation of mutual fund investment advisory capabilities by Wells Fargo Bank, and provide potentially enhanced investment returns.

5. At meetings held in late April and mid-May, the Pacifica Funds Trust board of trustees and the Stagecoach board of directors (collectively, the "Boards"), determined, after reviewing and evaluating relevant information, that (a) participation in the Reorganization is in the best interest of the particular series and (b) the interests of existing shareholders will not be diluted as a result of participating in the Reorganization.

6. The Pacifica Funds Trust Board has called a special meeting of the Pacifica Funds Trust shareholders to be held in July 1996, for the purpose of considering the Reorganization. Approval of a particular series' participation in the Reorganization will require approval by a majority of the outstanding shares of such series entitled to vote at the meeting, voting separately on a series-by-series basis. If required by its declaration of trust or by state law, approval may also be required

¹ The Pacifica Trusts received an SEC exemptive order permitting them to implement interim advisory contracts with FICM without shareholder approval for up to 120 days following the consummation of the merger. Investment Company Act Release Nos. 21794 (March 1, 1996) (notice) and 21860 (March 27, 1996) (order).

by a majority of the outstanding shares of Pacifica Funds Trust entitled to vote at the meeting, voting in the aggregate and not by series or class. These special meetings also will be called for the purpose of ratifying and approving the Pacifica Funds Trust's interim investment advisory agreements with FICM.²

7. There are no plans currently to reorganize any of the series operating under Pacifica Variable Trust into corresponding series of Life & Annuity Trust, although such a transaction may be considered in the future. Accordingly, applicants request that the order extend to Life & Annuity Trust to the same extent as Stagecoach. Any such reorganization in the future will be the same, in all material respects, to the transactions described in the application with respect to Stagecoach.

Applicants' Legal Analysis

1. Section 15(f) of the Act is a safe harbor that permits an investment adviser to a registered investment company (or an affiliated person of the investment adviser) to realize a profit upon the sale of its business if certain conditions are met. One of these conditions is set forth in section 15(f)(1)(A). This condition provides that, for a period of three years after such a sale, at least 75% of the board of an investment company may not be "interested persons" with respect to either the predecessor or successor adviser of the investment company. Section 2(a)(19)(B)(v) of the Act defines an interested person of an investment adviser to include any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer. In addition, section 2(a)(19)(B)(iii) defines an interested person of an investment adviser to include anyone who has any interest in any security issued by the investment adviser or by a controlling person thereof.

2. The restrictions of section 15(f)(1)(A) do not currently apply to the Companies as a result of the Holding Company Merger because there was no change in control of Wells Fargo Bank. Because Interstate shareholders received consideration in connection with the Holding Company Merger, however, the restrictions of section 15(f)(1)(A) currently apply to the Pacifica Trusts. The Reorganization may, therefore, have the effect of subjecting Stagecoach (which will then be offering series that are successors to the Pacifica Funds

Trust³), to the restrictions of section 15(f)(1)(A). In particular, Stagecoach will be subject to the requirement that, for at least three years following a change in control of an investment adviser, at least 75% of the directors of a successor investment company not be "interested persons" of the predecessor or successor adviser.

3. The board of directors of each Company is comprised of the same seven individuals. Currently, four of the seven directors of each Company may be considered interested persons of Wells Fargo Bank. Two of these directors are officers of a registered broker-dealer, and another is a limited partner of a government securities dealer. As such, these three directors are affiliated persons of a registered broker or dealer (the "Broker-Affiliated Directors"), and interested persons of Wells Fargo Bank.⁴ Another director is a shareholder of Wells Fargo, the parent of Wells Fargo Bank, and therefore is an interested person of Wells Fargo Bank. The three remaining directors are not interested persons of either the Companies or the predecessor or successor adviser.

4. One of the Broker-Affiliated Directors has tendered her resignation, effective upon consummation of the Reorganization. The remaining Stagecoach directors have voted to add one of the individuals currently serving as a non-interested trustee of the Pacifica Trusts as a non-interested director of Stagecoach. This will result in four of the seven Stagecoach directors being non-interested following the consummation of the Reorganization. Because, after the Reorganization, three of the seven directors of the Companies will be interested persons of the predecessor and successor advisers, absent an exemption, applicants would be unable to comply with the requirements of section 15(f)(1)(A).

5. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is

³ None of the trustees of the Pacifica Trusts is an interested person of FICM or Wells Fargo Bank for the purposes of section 15(f)(1)(A).

⁴ The exemption provided by rule 2a19-1 is not available with respect to the two directors who are officers of a broker-dealer because the broker-dealer serves as placement agent or distributor to the Companies (the "Distributor"). The exemption provided by rule 2a19-1 is not available with respect to the director who is a limited partner of a government securities dealer because the dealer engages in government securities transactions with the broker-dealer, as well as the Wells Fargo Bank, all of which fall within the definition of "complex" in the rule. Accordingly, this director does not meet the condition specified in the rule.

necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

6. Applicants believe that the requested exemption is necessary or appropriate in the public interest. Applicants submit that section 15(f)(1)(A) was designed primarily to address the types of biases and conflicts of interest that might exist where a fund's board of directors is influenced by a substantial number of interested directors to approve a transaction because the interested directors have an economic interest in the adviser or another party to the transaction, and the adviser has a material economic motivation to influence the interested directors. Applicants argue that no such circumstances exist with respect to the Broker-Affiliated Directors and the Holding Company Merger and the Reorganization. Although the Broker-Affiliated Directors are technically interested persons of Wells Fargo Bank and FICM (the "Advisers"), these directors and the broker-dealers with which they are affiliated are not affiliated persons of the Advisers within the meaning of section 2(a)(3) of the Act, nor are they controlled by or under common control with the Advisers. Moreover, none of these directors is an officer, director, partner, co-partner, or employee of any Adviser. The broker-dealers with which the Broker-Affiliated Directors are affiliated do not share any common directors, officers, or employees with the Advisers and do not control, are not controlled by, and are not under common control with the Advisers. Applicants also state that the Distributor is retained directly by the Companies. Accordingly, the Companies' retention of the Distributor is not dependent on the identity of, or transactions involving, the Adviser. The Distributor's compensation for its services is based on asset levels and/or the receipt of sales loads, and it therefore has a direct economic interest in having the Companies prosper and grow. In this respect, the Distributor's interests are consistent with the interests of the shareholders of the Companies.

7. Applicants believe that the requested exemption is consistent with the protection of investors. Applicants state that all the directors, with the exception of the new non-interested director, have served on the Boards of the Companies since their inception. In addition, applicants state that compelling one or more of the Broker-Affiliated Directors to resign from the Stagecoach Board in connection with

² FICM has been renamed Wells Fargo Investment Management, Inc.

the Reorganization would deprive Stagecoach and its shareholders of the services of skilled individuals possessing considerable experience and financial and business acumen at a time when their experience may be most needed. Adding a substantial number of disinterested directors to the Board would require a lengthy interview and selection process, which could delay and increase the cost of the Reorganization, and could make the Board unwieldy. Further, applicants state that the three interested directors remaining after the Reorganization will continue to be treated as interested persons of Stagecoach and of Wells Fargo Bank for all purposes other than section 15(f)(1)(A).

8. Applicants also believe that the requested exemption is consistent with the purposes fairly intended by the policies and provisions of the Act. Applicants submit that section 15(f) is intended to permit the SEC to deal flexibly with situations where the imposition of the 75% requirement might pose an unnecessary obstacle or burden on a fund. Further, applicants state that section 15(f) was intended to ensure that, where there is a change in control of an investment adviser, the interests of the investment company shareholders will be protected and they will not be subject to any unfair burden as a result of such transaction. Applicants argue that the proposed Reorganization is structured to protect the interests of the shareholders of the Pacifica Funds Trust and Stagecoach and that shareholders will benefit from the requested exemption.

Applicants' Condition

Applicants agree as conditions to the issuance of the requested exemptive order that:

If within three years of the consummation of the Holding Company Merger (assuming the Reorganization is also consummated), it becomes necessary to replace any director, that director will be replaced by a director who is not an "interested person" of Wells Fargo Bank or FICM within the meaning of section 2(a)(19)(B) of the Act, unless at least 75% of the directors at that time are not interested persons of Wells Fargo Bank or FICM.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-13545 Filed 5-29-96; 8:45 am]

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[Rel. No. IC-21980; 812-10104]

THC Partners; Notice of Application

May 23, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: THC Partners.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant requests an exemption from all provisions of the Act. Applicant is a private family-controlled special purpose investment vehicle whose interests are owned by the family and certain other persons.

FLING DATES: The application was filed on April 23, 1996 and amended on May 23, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 17, 1996, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant: 4200 Texas Commerce Tower, 600 Travis, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942-0562, or Alison E. Baur, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Texas general partnership organized in 1977. Applicant's partners consist of the maternal heirs of Howard R. Hughes, Jr. ("Howard Hughes"), including trusts

established for family members of maternal heirs and estates of deceased maternal heirs (collectively, the "Hughes Maternal Heirs") and partners and former partners of Andrews & Kurth, L.L.P. ("Andrews & Kurth"), a Houston law firm, including trusts established for Andrews & Kurth family members and heirs of deceased Andrews & Kurth partners (collectively, "A&K"). Applicant's assets presently consist of common stock of The Hughes Corporation ("THC") and limited partnership interests in Howard Hughes Properties, L.P. ("HHPLP") (collectively, "Hughes"). Hughes was formed to hold, manage, and develop the assets of the estate of Howard Hughes (the "Hughes Estate") including casinos, a large military aircraft manufacturer, and widespread real estate holdings.

2. Howard Hughes dies in April 1976 unmarried and childless. A complex estate battle began when 32 wills were offered for probate, and California, Nevada, and Texas each claimed domicile for purposes of subjecting Howard Hughes' assets to death taxes. Andrews & Kurth represented Howard Hughes and various of his companies for over 50 years. William R. Lummis, son of Annette Gano Lummis, Howard Hughes' aunt, and a senior partner at Andrews & Kurth, left the firm shortly after Howard Hughes' death to undertake management of the Hughes Estate and serve as executive officer of Hughes.

3. The Hughes Maternal Heirs, claiming through Annette Gano Lummis, the beneficiary holding the largest single interest in the Hughes Estate, did not possess the resources to finance the long, complicated, multi-jurisdictional legal defense of their claim. The Hughes Maternal Heirs and A&K formed applicant to prosecute and defend the claims of the Hughes Maternal Heirs. In return for the contribution of their interests in the Hughes Estate, the Hughes Maternal Heirs collectively received 66% of the interests in applicant. In return for undertaking to defend, or cause to be defended, and otherwise to provide the financial resources to further applicant's purposes, A&K received a 33 $\frac{1}{3}$ % interest in applicant. In 1983, the last of the final, non-appealable orders establishing ownership of the Hughes Estate was issued that decreed that applicant was the beneficiary of approximately 71% of the Hughes Estate's assets. Other than through gifts and testamentary dispositions, applicant has not changed composition since its inception. As of the date of the filing of this application, the Hughes Maternal Heirs owned 67.279% of the interests in