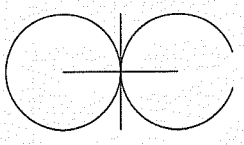

OPPENHEIMER + CLOSE, INC.

June 8, 2005

Via E-Mail

Mr. Jonathan Katz
Secretary
United States Securities and Exchange Commission
450 5th Street, N.W.
Washington, DC 20549

Re: File No. 265-23
June 16 and 17, 2005 Meeting of SEC Advisory Committee on Smaller Public Companies in New York

Dear Mr. Katz:

As the SEC Advisory Committee on Smaller Public Companies looks for ways to scale federal regulations to assure that the costs and burdens of the regulations are commensurate with the benefits to investors and the public, I urge the Committee to consider a plea from a long-time investor in small public companies. Please remember the words of Justice Brandeis: "Sunlight is the best disinfectant; electric light the most efficient policeman."

I have been in the investment business since the mid 1960s. My firm, a dual registrant, (both a broker dealer and an investment advisor) was established in 1984. We spend a great deal of our time looking for value in Pink Sheets, Bulletin Board and other illiquid and inefficient regions of the markets on behalf of our clients. These are the regions where smaller public companies live and thrive. In addition to the pursuit of riches, I have served on the District 10 Committee of the NASD, the District 10 Nominating Committee and the National Adjudicatory Council. I currently serve on the NASD Chairman's Advisory Council, the NASD Small Firm Advisory Board and the Small Firms Committee of the Securities Industry Association.

In recent years, some small public companies have discovered a new way to avoid sunlight.

As the members of the Committee undoubtedly know, Section 12(g)(5) of the Securities Exchange Act of 1934 requires an issuer with more than 500 shareholders to register; if it has less than 300 shareholders, it can deregister.

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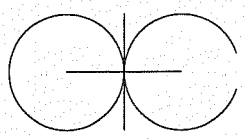

These numbers, as I understand them, represent a line drawn in the sand to distinguish private from public companies. Private companies have less than 300 shareholders; public companies more than 500 shareholders; between 300 and 500, it could go either way.

A registered company is required to file annual, quarterly, proxy and current reports – the Forms 10K, 10Q, 14A and 8K that make such good reading for people in the investment business. Shareholders in public companies need these disclosures; they are usually not necessary in private companies where investors likely know each other and management personally. These terse documents contain the disclosures with the disinfecting effect that inspired Justice Brandeis.

In 1965, the Commission created Rule 12g5-1, which allows an issuer to count only the shareholders on its books to determine whether it is required to register under the Exchange Act. Let me share with you my recollection of the 1965 environment. DTC did not exist then. Runners delivered physical stock certificates among the investment houses. Back office supervisors maintained boards where certificates were pinned for delivery and receipt. Just about every investor held a stock certificate with his or her name on it and was duly recorded on the issuer's books as a holder of record. Before SIPC many investors would not think of leaving securities with their broker.

How things have changed. A few years later, the New York Clearing Corporation was formed, later to be called DTC. Over the last 35 years, we have witnessed any number of Commission and industry initiatives designed to convince shareholders to relinquish their stock certificates and hold their shares in street name. The runners are gone. Now, everything is transferred in book-entry, by computers.

However, Rule 12g5-1 did not change. Issuers only have to count as holders of record persons with a stock certificate listed in their name. Merrill Lynch may have 10,000 shareholders of an issuer listed on its books, but they only count as one holder of record for purposes of Exchange Act registration.

As a result, many smaller public companies are avoiding the sunlight by counting the noses of their holders of record and deregistering, even though in reality these issuers are public companies with publicly traded stock that have beneficial owners numbering in the thousands.

This is ethically wrong. Public companies have an ethical duty to provide disclosures to shareholders. Rule 12g5-1 is obsolete. I urge the Committee to take action.

In July 2003, a group of institutional investors sent a petition to the Commission asking them to repair Rule 12g5-1. I am embarrassed to say that the Commission has not acted on this petition, which is a shame because the principle is unassailable. When Congress drew the line at 300 shareholders, it was never contemplated that thousands of shareholders would be counted as one. No one imagined that there would be securities depositories, such as DTC, when the statute was drafted in 1964 and Rule 12g5-1 was promulgated in 1965. I am convinced that if you consider this issue, you will readily agree that this is a rule that needs to be fixed for the protection of investors.

Now I know that many smaller companies are complaining about the burdens of Sarbanes-Oxley. And, I know that one of the primary aims of the Committee is to find ways to lessen that burden on smaller companies. I agree with that goal. However, the remedy is not to cast investors of smaller public companies into the dark.

Section 404 of Sarbanes Oxley seems to create the most grief. I would support a rule that lessened this burden somehow, or even eliminated it altogether for smaller companies, provided that investors continued to receive their proxies, annual, quarterly and periodic reports on Forms 10K, 10Q, 14A and 8K.

In closing, I wish to thank the members of the Committee for volunteering to spend time considering issues involving smaller public companies. I am thankful that qualified, busy professionals volunteer their time and energy to improve our nation's markets. I am willing to help you in any way that I can.

Sincerely,

Philip V. Oppenheimer