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# 24<sup>th</sup> Annual Report *22<sup>nd</sup>, 1958*

of the

## *U.S.* Securities and Exchange Commission

Fiscal Year Ended June 30, 1958



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**SECURITIES AND EXCHANGE COMMISSION**

**Headquarters Office**

**425 Second Street, N.W.**

**Washington 25, D. C.**

**COMMISSIONERS**

**January 5, 1959**

**EDWARD N. GADSBY, *Chairman***

**ANDREW DOWNEY ORRICK**

**HAROLD C. PATTERSON**

**EARL F. HASTINGS**

**JAMES C. SARGENT**

**ORVAL L. DuBois, *Secretary***

1

**LETTER OF TRANSMITTAL**

SECURITIES AND EXCHANGE COMMISSION, <sup>6</sup>  
*Washington, D. C., January 5, 1959.*

SIR: On behalf of the Securities and Exchange Commission, I have the honor to transmit to you the Twenty-Fourth Annual Report of the Commission covering the fiscal year July 1, 1957, to June 30, 1958, in accordance with the provisions of section 23 (b) of the Securities Exchange Act of 1934, approved June 6, 1934; section 23 of the Public Utility Holding Company Act of 1935, approved August 26, 1935; section 46 (a) of the Investment Company Act of 1940, approved August 22, 1940; section 216 of the Investment Advisers Act of 1940, approved August 22, 1940; and section 3 of the act of June 29, 1949, amending the Bretton Woods Agreements Act.

Respectfully,

EDWARD N. GADSBY,  
*Chairman.*

THE PRESIDENT OF THE SENATE,  
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,  
*Washington, D. C.*

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section 11...  
information...  
K...  
A...



## TABLE OF CONTENTS

	Page
Foreword.....	xi
Commissioners and staff officers.....	xii
Regional and branch offices.....	xiii
Biographies of commissioners.....	xiv
PART I	
CURRENT ENFORCEMENT PROBLEMS AND PROGRAM.....	1
The problem of "boiler rooms".....	2
Sales of unregistered securities based on claimed exemptions.....	3
Evasion of registration requirements through the "no sale" theory.....	5
Promotional stocks.....	5
Manipulation of the securities markets.....	6
Stop order and suspension proceedings for new issues.....	7
Broker-dealer inspections.....	7
Summary.....	8
PART II	
LEGISLATIVE ACTIVITIES.....	9
Statutory amendments proposed by the Commission.....	9
Other legislative proposals.....	10
Congressional hearings.....	11
PART III	
REVISION OF RULES AND FORMS.....	14
The Securities Act of 1933:	
Proposed revision of rule 133.....	14
Amendment of rules 134 and 433.....	15
Proposed rule changes relating to assessable stock.....	16
Amendment of rule 161.....	17
Amendments to Regulation A.....	17
Revision of Forms S-2 and S-3.....	18
Amendment of Forms S-4 and S-5.....	18
The Securities Exchange Act of 1934:	
Amendment of rule 15b-8.....	18
Adoption of rule 15d-20.....	18
Amendment of rule 17a-3.....	19
Amendment of rule 17a-5.....	19
Amendments to Form 8-C.....	20
Proposed amendments to Form 8-K.....	21
Amendment to Form X-17A-1.....	21
The Public Utility Holding Company Act of 1935:	
Rescission of rule 9.....	21
Amendment of rule 70.....	22
The Investment Company Act of 1940:	
Amendment of rule 5.....	22
Proposal to adopt rule 10F-3.....	23
Proposal to adopt rule 22D-1.....	23
Amendments to Form N-8B-1.....	26

REVISION OF RULES AND FORMS—Continued	Page
Other Matters:	
Amendments to statement of policy relating to investment company sales literature.....	26
Proposed amendment of rules regarding incorporation by reference.....	26

## PART IV

ADMINISTRATION OF THE SECURITIES ACT OF 1933.....	28
Description of the registration process:	
Registration statement and prospectus.....	28
Examination procedure.....	29
Time required to complete registration.....	29
Volume of securities registered.....	30
Registration statements filed.....	32
Results obtained by the registration process.....	34
Stop order proceedings.....	35
Examinations and investigations.....	41
Exemption from registration of small issues.....	41
Exempt offerings under Regulation A.....	42
Suspension of exemption.....	43
Exempt offerings under Regulation B.....	45
Litigation under the Securities Act of 1933.....	46
Litigation involving violations of registration and anti-fraud provisions.....	46
Subpoena enforcement.....	53
Other litigation.....	54

## PART V

ADMINISTRATION OF THE SECURITIES EXCHANGE ACT OF 1934.....	56
Regulation of exchanges and exchange trading.....	56
Registration and exemption of exchanges.....	56
Disciplinary actions.....	56
Commission rate study.....	57
Registration of securities on exchanges.....	57
Statistics Relating to Registration.....	58
Market value of securities traded on exchanges.....	59
Assets of companies with listed common stocks.....	60
Foreign stock.....	61
Comparative over-the-counter statistics.....	61
Delisting of securities from exchanges.....	62
Delisting proceedings under section 19 (a).....	64
Unlisted trading privileges on exchanges.....	71
Unlisted trading categories.....	71
Volume of unlisted trading in stocks on exchanges.....	72
Applications for unlisted trading privileges.....	72
Block distributions reported by exchanges.....	73
Manipulation and stabilization.....	74
Manipulation.....	74
Stabilization.....	76
Insiders' security transactions and holdings.....	76
Recovery of short swing trading profits by issuer.....	78

CONTENTS

VII

ADMINISTRATION OF THE SECURITIES EXCHANGE ACT OF 1934—Continued	Page
Regulation of proxies .....	79
Scope of proxy regulation .....	79
Statistics relating to proxy statements .....	79
Stockholder proposals .....	80
Ratio of soliciting to non-soliciting companies .....	80
Proxy contests .....	80
Regulation of broker-dealers and over-the-counter markets .....	81
Registration .....	81
Administrative proceedings .....	81
Net capital rule .....	90
Financial statements .....	91
Broker-dealer inspections .....	92
Supervision of activities of National Association of Securities Dealers, Inc. ....	94
Disciplinary actions .....	95
Commission review of NASD disciplinary action .....	96
Commission review of NASD action on membership .....	98
Litigation under the Securities Exchange Act of 1934 .....	99
Anti-fraud litigation .....	100
Cases involving the net capital rule .....	101
Delisting cases .....	102
Litigation involving broker-dealer registration and reporting requirements .....	103
Proxy litigation .....	104
Participation as amicus curiae .....	105

PART VI

ADMINISTRATION OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 .....	107
Composition of registered holding company systems—summary of changes .....	107
Developments in individual registered systems .....	110
Financing of registered public utility holding company systems— trends in electric and gas utility industries .....	124
Protective provisions of first mortgage bonds and preferred stocks of public utility companies .....	128

PART VII

PARTICIPATION OF THE COMMISSION IN CORPORATE RE- ORGANIZATIONS UNDER CHAPTER X OF THE BANKRUPTCY ACT, AS AMENDED .....	132
Summary of activities .....	133
The Commission as a party to proceedings .....	133
Procedural matters .....	134
Trustee's investigations .....	136
Problems regarding protective committees .....	137
Activities with regard to allowances .....	138
Advisory reports on plans of reorganization .....	141

	Page
PART VIII	
ADMINISTRATION OF THE TRUST INDENTURE ACT OF 1939..	145
PART IX	
ADMINISTRATION OF THE INVESTMENT COMPANY ACT OF 1940.....	146
Companies registered under the Act.....	146
New companies registered and registrations terminated.....	147
Growth of investment company assets.....	147
Study of size of investment companies.....	147
Inspection program.....	148
Current information.....	150
Applications and proceedings.....	150
Registration of foreign investment companies.....	155
Unregistered investment companies—securing compliance with the Investment Company Act.....	156
Litigation under the Investment Company Act of 1940.....	158
PART X	
ADMINISTRATION OF THE INVESTMENT ADVISERS ACT OF 1940.....	160
Administrative proceedings.....	161
Litigation under the Investment Advisers Act of 1940.....	161
PART XI	
OTHER ACTIVITIES OF THE COMMISSION.....	163
Court proceedings.....	163
Civil proceedings.....	163
Criminal proceedings.....	163
Disciplinary proceedings against persons practicing before the Commission.....	174
Complaints and investigations.....	175
Enforcement problems with respect to Canadian securities.....	177
Section of securities violations.....	180
Activities of the Commission in accounting and auditing.....	181
Opinions of the Commission.....	187
Applications for non-disclosure of certain information.....	188
Statistics and special studies.....	188
Public dissemination of information.....	191
Information available for public inspection.....	193
Publications.....	194
Organization.....	195
Personnel, Budget and Finance.....	195
Personnel program.....	196
Canons of ethics for members of the Commission.....	199



CONTENTS

IX

PART XII

APPENDIX—STATISTICAL TABLES

	Page
Table 1. A 24-year record of registrations fully effective under the Securities Act of 1933.....	203
Table 2. Registrations fully effective under the Securities Act of 1933, fiscal year 1958.....	204
Part 1. Distribution by months.....	204
Part 2. Purpose of registration and type of security.....	204
Part 3. Purpose of registration and industry of registrant.....	205
Part 4. Use of proceeds and industry of registrant.....	206
Table 3. New securities offered for cash sale in the United States.....	207
Part 1. Type of offering.....	207
Part 2. Type of security.....	208
Part 3. Type of issuer.....	209
Part 4. Private placement of corporate securities.....	210
Table 4. Proposed uses of net proceeds from the sale of new corporate securities offered for cash in the United States.....	211
Part 1. All corporate.....	211
Part 2. Manufacturing.....	211
Part 3. Mining.....	212
Part 4. Electric, gas, and water.....	212
Part 5. Railroad.....	213
Part 6. Other transportation.....	213
Part 7. Communication.....	214
Part 8. Financial and real estate.....	214
Part 9. Commercial and other.....	215
Table 5. Summary of corporate securities publicly offered and privately placed from 1934 through June 1958.....	216
Table 6. Suspension orders issued pursuant to Regulation A under the Securities Act of 1933 during the fiscal year 1958.....	217
Table 7. Brokers and dealers registered under the Securities Exchange Act of 1934—effective registrations as of June 30, 1958, classified by type of organization and by location of principal office....	221
Table 8. Number of issuers and security issues on exchanges, as of June 30, 1958.....	222
Part 1. Unduplicated number of stock and bond issues admitted to trading on all exchanges and number of issuers involved....	222
Part 2. Number of stock and bond issues on each exchange and number of issuers involved.....	222
Table 9. Unlisted stocks on securities exchanges.....	223
Part 1. Number of stocks as of June 30, 1958.....	223
Part 2. Volume of trading—calendar year 1957.....	223
Table 10. Market value and volume of sales effected on securities exchanges in the 12-month period ended December 31, 1957, and the 6-month period ended June 30, 1958.....	224
Table 11. Block distributions.....	225
Table 12. Comparative share sales and dollar volumes on exchanges.....	226
Table 13. Reorganization proceedings in which the Commission participated during the fiscal year 1958.....	227
Table 14. Summary of cases instituted in the courts by the Commission..	228

	Page
Table 15. Summary of cases instituted against the Commission, cases in which the Commission participated as intervenor or amicus curiae, and reorganization cases on appeal under Chapter X in which the Commission participated.....	228
Table 16. Injunctive proceedings brought by the Commission which were pending during the fiscal year 1958.....	229
Table 17. Indictments returned for violation of acts administered by the Commission and related Federal statutes which were pending during the fiscal year 1958.....	238
Table 18. Petitions for review of orders of the Commission which were pending in courts of appeals during the fiscal year 1958.....	243
Table 19. Contempt proceedings pending during the fiscal year 1958.....	245
Table 20. Cases in which the Commission participated as intervenor or as amicus curiae pending during the fiscal year 1958.....	246
Table 21. Proceedings by the Commission to enforce subpoenas pending during the fiscal year 1958.....	247
Table 22. Miscellaneous actions involving the Commission or its employees pending during the fiscal year 1958.....	248
Table 23. Actions to enforce voluntary plans under section 11 (e) of the Public Utility Holding Company Act pending during the fiscal year 1958.....	249
Table 24. Actions under section 11 (d) of the Public Utility Holding Company Act pending during the fiscal year 1958.....	251
Table 25. Reorganization cases under Chapter X of the Bankruptcy Act pending during the fiscal year 1958 in which the Commission participated when district court orders were challenged in appellate courts.....	252
Table 26. A 25-year summary of criminal cases developed by the Commission.....	253
Table 27. Summary of criminal cases developed by the Commission which were still pending on June 30, 1958.....	254
Table 28. A 25-year summary classifying all defendants in criminal cases developed by the Commission.....	254
Table 29. A 25-year summary of all injunction cases instituted by the Commission.....	255
Table 30. Canons of Ethics for Members of the Securities and Exchange Commission.....	256

## FOREWORD

This 24th Annual Report of the Securities and Exchange Commission to the Congress for the fiscal year July 1, 1957 to June 30, 1958 describes the Commission's activities during the year in discharging its duties under the statutes which it administers. These include supervision of the registration of securities for sale to the public by the use of the mails and in interstate commerce, enforcement of the anti-fraud provisions of the federal securities laws, surveillance of the exchange and over-the-counter markets in securities, regulation of the activities of brokers and dealers and investment advisers, and regulation of registered public utility holding company systems and investment companies.

In the fiscal year 1958 new issues of securities registered for public sale totalled \$16.5 billion, the largest amount in the Commission's history. The amount of such issues has increased at least \$1.5 billion in each year since 1953, when the total amount registered was \$7.5 billion, less than half the present amount.

With a continued high level of financial activity in the security markets, the Commission has continued an intensified enforcement program of discovering, preventing and punishing fraudulent and other illegal activities in securities transactions. An important aspect of this enforcement program during the fiscal year was an increase of approximately 20% in the number of inspections conducted of securities brokers and dealers registered with the Commission.

During the fiscal year the Commission submitted to the Congress proposals for a comprehensive revision of various of the acts which it administers. These proposals were described in the Commission's 23rd Annual Report. Additional legislative proposals of the Commission, as well as other bills affecting the Commission, are discussed in this report.

All phases of the Commission's activities have been under study during the fiscal year by the Special Subcommittee on Legislative Oversight of the House Committee on Interstate and Foreign Commerce. The Commission has endeavored to cooperate fully with the Subcommittee in its work. At its request, the Chairman, members of the Commission and members of the staff have appeared before it and a substantial amount of information requested by the Subcommittee has been supplied.

## COMMISSIONERS AND STAFF OFFICERS

(As of October 15, 1958)

### Commissioners

	<i>Term expires June 5</i>
EDWARD N. GADSBY of Massachusetts, <i>Chairman</i> .....	1963
ANDREW DOWNEY ORRICK of California.....	1962
HAROLD C. PATTERSON of Virginia.....	1960
EARL F. HASTINGS of Arizona.....	1959
JAMES C. SARGENT of New York.....	1961

Secretary: ORVAL L. DUBOIS

### Staff Officers

ALBERT K. SCHEIDENHELM, Executive Director.

CHARLES T. KAPPLER, Associate Executive Director.<sup>1</sup>

BYRON D. WOODSIDE, Director, Division of Corporation Finance.

SHARON C. RISK, Associate Director.

JOSEPH C. WOODLE, Director, Division of Corporate Regulation.

JOHN E. LOOMIS, Associate Director.

PHILIP A. LOOMIS, Jr., Director, Division of Trading and Exchanges.

RALPH S. SAUL, Associate Director.<sup>2</sup>

THOMAS G. MEEKER, General Counsel.

DANIEL J. MCCAULEY, Jr., Associate General Counsel.

ANDREW BARR, Chief Accountant.

LEONARD HELFENSTEIN, Director, Office of Opinion Writing.

W. VICTOR RODIN, Associate Director.

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<sup>1</sup> Designated Associate Executive Director, July 1, 1958.

<sup>2</sup> Designated August 4, 1958.

## REGIONAL AND BRANCH OFFICES

### Regional Administrators

- Region 1. New York, New Jersey.—Paul Windels, Jr.; Edward Schoen, Jr., Associate Regional Administrator, 225 Broadway, New York 7, New York.
- Region 2. Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine.—Philip E. Kendrick, United States Post Office and Courthouse, Post Office Square, Boston 9, Massachusetts.
- Region 3. Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Florida, and that part of Louisiana lying east of the Atchafalaya River.—William Green, Suite 138, 1371 Peachtree Street, NE., Atlanta 9, Georgia.
- Region 4. Illinois, Indiana, Iowa, Kansas City (Kansas), Kentucky, Michigan, Minnesota, Missouri, Ohio, Wisconsin.—Thomas B. Hart, Bankers Building (Room 630), 105 West Adams Street, Chicago 3, Illinois.
- Region 5. Oklahoma, Arkansas, Texas, that part of Louisiana lying west of the Atchafalaya River, and Kansas (except Kansas City).—Oran H. Alfred, United States Courthouse (Room 301), 10th and Lamar Streets, Fort Worth 2, Texas.
- Region 6. Wyoming, Colorado, New Mexico, Nebraska, North Dakota, South Dakota, Utah.—Milton J. Blake, 802 Midland Savings Building, 444 17th Street, Denver 2, Colorado.
- Region 7. California, Nevada, Arizona, Hawaii.—Arthur E. Pennekamp, Pacific Building (Room 339), Fourth and Market Streets, San Francisco 3, California.
- Region 8. Washington, Oregon, Idaho, Montana, Alaska.—James E. Newton, 905 Second Avenue Building (Room 304), Seattle 4, Washington.
- Region 9. Pennsylvania, Maryland, Virginia, West Virginia, Delaware, District of Columbia.—William J. Crow, Courts Building, 310 6th Street, NW., Washington 25, D. C.

### Branch Offices

- Cleveland, Ohio. Standard Building (Room 1628), 1370 Ontario Street.
- Detroit, Michigan. Federal Building (Room 1074).
- Houston, Texas. First National Bank Building (Room 324), 201 Main Street.
- Los Angeles, California. Guaranty Building (Room 309), 6331 Hollywood Boulevard.
- Miami, Florida. Plaza Building (Room 440), 245 South East First Street.
- St. Louis, Missouri. Arcade Building (Room 1025), 812 Olive Street.
- St. Paul, Minnesota. Main Post Office and Courthouse (Room 1027), 180 East Kellogg Boulevard.
- Salt Lake City, Utah. Newhouse Building (Room 1119), 10 Exchange Place.

## COMMISSIONERS

### Edward N. Gadsby, Chairman

Chairman Gadsby was born in North Adams, Mass., on April 11, 1900. He received an A. B. degree from Amherst College in 1923 and a J. D. degree from the New York University School of Law in 1928. From 1929 to 1937 he was associated with the law firm of Mudge, Stern, Williams & Tucker of New York City. From 1937 to 1947 he practiced law in North Adams, Mass. In 1947 he was appointed a Commissioner of the Massachusetts Department of Public Utilities and held that position until 1952, serving as Chairman from 1947 to 1949. From 1952 to 1956 he served as General Counsel of the Massachusetts Department of Public Utilities and thereafter was a member of the law firm of Sullivan & Worcester of Boston, Mass. On August 20, 1957, he took office as a member of the Securities and Exchange Commission for a term expiring June 5, 1958 and was designated Chairman of the Commission. He was reappointed effective June 5, 1958 for a term expiring June 5, 1963 and was again designated as Chairman.

### Andrew Downey Orrick

Commissioner Orrick was born in San Francisco, Calif., on October 18, 1917. He received his B. A. degree from Yale College in 1940 and an LL. B. degree from the University of California (Hastings College of Law) in 1947. From 1942 to 1946 he was on active duty with the United States Army and was separated from the service as a captain in the Transportation Corps. After being admitted to practice in California in 1947 he was associated with the law firm of Orrick, Dahlquist, Herrington & Sutcliffe, in San Francisco, until February 1954, when he became Regional Administrator of the San Francisco Regional Office of the Securities and Exchange Commission. He served in that capacity until May 25, 1955, when he was sworn in as a member of the Commission for a term of office expiring June 5, 1957. On June 12, 1957, he was reappointed as a member of the Commission for a term of office expiring June 5, 1962. During the periods from May 27, 1957 to June 6, 1957 and from June 12, 1957 to August 20, 1957 he was designated as Acting Chairman of the Commission.

**Harold C. Patterson**

Commissioner Patterson was born in Newport, R. I., on March 12, 1897, and attended public schools in Massachusetts and Maryland. He attended George Washington University after graduating from Randolph Macon Academy. In 1918 he enlisted in the United States Naval Reserve for service in World War I, was commissioned ensign, United States Naval Reserve, in 1918; in June 1919 commissioned ensign United States Navy; and resigned in 1923. Prior to 1954, he had for many years been a partner of Auchincloss, Parker & Redpath, members of the New York Stock Exchange, in Washington, D. C. He resigned from the firm June 1, 1954. He served as a Board Member of the National Association of Securities Dealers, Inc., and was active over the years in its securities industry policing work. On June 15, 1954, he was appointed Director of the Division of Trading and Exchanges of the Securities and Exchange Commission and served in that capacity until August 5, 1955, when he took office as a member of the Commission for a term of office expiring June 5, 1960.

**Earl F. Hastings**

Commissioner Hastings was born in Los Angeles, Calif., on April 27, 1908, and resides in Glendale, Ariz. He attended Texas Western University and the University of Denver. He is a registered professional engineer. During the years 1932 to 1941 he served as a consulting engineer with mining and industrial firms. From 1941 to 1942 he worked with Hawaiian constructors on a military installation on Oahu, T. H. From 1942 to 1947 he served in various engineering and managerial capacities. At that time he became a general partner of the firm, Darlington, Hastings & Thorne, which served as industrial consultants and managers. In 1949 he was appointed Director of Securities, Arizona Corporation Commission, Phoenix, and he served in that capacity until March 1, 1956, when he was appointed a member of the Securities and Exchange Commission for a term of office expiring June 5, 1959.

**James C. Sargent**

Commissioner Sargent was born in New Haven, Conn., on February 26, 1916, and holds degrees of B. A. and LL. B. from the University of Virginia. He was admitted to the New York Bar in 1940 and became associated with the firm of Clark & Baldwin, New York City. From January 1941 to July 1951, except for military service, he was employed as a trial attorney by Consolidated Edison Company of New York. He enlisted in the United States Army Air Force in 1942 and served in this country as an Air Intelligence school instructor and as a combat and special intelligence officer in the South-

west Pacific. He was separated to inactive duty in January 1946 with the rank of captain. In the fall of 1948, he served as an Assistant Attorney General of the State of New York in the Election Frauds Bureau in New York City. From July 1951 to August 1954 he was employed as law assistant to the Appellate Division, First Department, Supreme Court, State of New York. He was associated with the firm of Spence & Hotchkiss, New York City, from August 1954 until November 1955. In November 1955 he was appointed Administrator of the Commission's New York Regional Office. He served in that capacity until June 29, 1956, when he was sworn in as a member of the Commission for a term of office expiring June 5, 1961.



## PART I

### CURRENT ENFORCEMENT PROBLEMS AND PROGRAM

A stated purpose of Congress in enacting the Federal securities laws was to provide full and fair disclosure with respect to securities sold in interstate and foreign commerce and to prevent fraud and inequitable and unfair practices in the securities markets. Under present conditions, the enforcement program of the Commission is an essential instrument in attaining these objectives. That program has been carried out, under the day-to-day direction of the Commission, by its operating divisions in Washington and by its nine regional and eight branch offices in principal cities throughout the country.

Recent years have witnessed a continuing surge of interest and activity in the securities markets without parallel under the depressed conditions of the thirties or under the circumstances of war and re-conversion. Despite recent fluctuations in business volume, the dollar amount of new securities registered with the Commission in fiscal 1958 totaled \$16.5 billion—the largest amount in the history of the Commission. This compares with \$7.5 billion of new financing during fiscal 1953 and \$6.4 billion in fiscal 1948. The aggregate market value of all stock on all stock exchanges, which never exceeded \$100 billion between 1933 and 1945, was \$250 billion at June 30, 1956, \$262 billion at June 30, 1957 and \$258 billion at June 30, 1958.

The increased activity in the securities markets has reflected in part the extraordinary increase in the number of holders of shares in publicly owned corporations. The number of holders of shares of publicly owned corporations was estimated by the New York Stock Exchange to have increased from 6,490,000 in early 1952 to 8,650,000 at the end of 1955 and has further increased since then.

The size of the securities markets is reflected in the fact that there were on June 30, 1958, 4,752 broker-dealers and 1,562 investment advisers registered with the Commission, 2,997 stock issues traded on stock exchanges and approximately 4,500 stock issues (excluding investment company issues) each having more than 300 stockholders which are traded over-the-counter. There are also thousands of smaller issues which trade to some extent in the over-the-counter market.

Conditions such as these have now persisted for several years and produced enforcement problems of the first magnitude for the Com-

mission. These conditions have attracted into the securities field a fringe element of confidence men who are determined to take whatever advantage they can of the American public. The operations of these confidence men have been encouraged by the expectations of a substantial segment of the public that it is possible for the unsophisticated investor to reap large and quick profits in the securities markets. Uninformed investors are often willing to purchase unknown and speculative securities which are represented as offering unusual opportunities for gain.

Indeed, somewhat paradoxically, declines in the prices of seasoned securities may increase the public appetite for such speculative offerings. Conditions in the capital market have been favorable for mergers, acquisitions and programs of expansion, including not only the great majority which result from legitimate economic forces, but also a substantial number which appear to be designed largely to reap profits for promoters and speculators at the expense of the public. Opportunities for illicit profit by the illegal or fraudulent sale of securities have multiplied, and inevitably the number, resources and ingenuity of violators seeking to capitalize upon these opportunities have likewise multiplied.

Illustrative of the enforcement problems now confronting the Commission are the matters briefly summarized below:

#### **THE PROBLEM OF "BOILER ROOMS"**

The term "boiler room", which unfortunately has become quite familiar in the last few years, refers to an organization engaged in the sale of securities primarily over the telephone, particularly the long-distance telephone, by high pressure methods ordinarily accompanied by misrepresentation, deception and fraud. Such organizations generally concentrate on the distribution of one or a few issues of speculative securities at a time, seeking to sell these issues in quantity by whatever misrepresentations are necessary to make a sale.

The "boiler room" continues to raise difficult enforcement problems but these have recently taken a somewhat different form. Most of the larger "boiler rooms" have disappeared due to the vigorous enforcement program of the Commission and state agencies. In the place of the old-fashioned "boiler room" has appeared a group of small firms which spring up suddenly, sell one or two spurious issues quickly and then disperse, their fraudulent purpose accomplished. This method of operation has made speed and alertness on the part of the Commission and its staff essential to enforcement activities.

The operators of these small "boiler rooms" have recently shown a tendency to operate not only in the large financial centers but also in other locations around the country. There has been a noticeable

increase, for example, in migratory operators moving from state to state, particularly in the Western part of the country. Not infrequently, long-distance telephone salesmen work out of hotel rooms, apartments and alleged business offices. Extensive use is made of intermediaries, often in foreign countries, to conceal the nature of transactions and the identity of individuals. Payments are often made in cash rather than by check.

The Commission has utilized all available enforcement techniques to meet the problem. It has found, however, that resort to the civil injunction and administrative proceeding, no matter how vigorously employed, is not completely effective in halting the operation of "boiler rooms". The Commission believes that imposition of the sanctions resulting from a criminal prosecution is necessary to stop effectively this "cancerous diffusion". In carrying out its statutory duties, the Commission will continue to press for criminal prosecution of violators of the Federal securities laws where the facts warrant such prosecution.

In addition to its enforcement powers the Commission has sought through the dissemination of information to alert the investing public to the risks involved in the purchase of securities from unknown high-pressure telephone salesmen. In the last resort the problem of "boiler rooms" can be eliminated only if the investing public in dealing with unknown stock salesmen evaluate their representations with an attitude of hard-headed skepticism.

#### **SALES OF UNREGISTERED SECURITIES BASED ON CLAIMED EXEMPTIONS**

It appears that a substantial but undetermined number of securities have been sold in violation of the registration, prospectus and anti-fraud provisions of the Securities Act of 1933 pursuant to claimed exemptions from registration which in fact were not available. These sales have been made, in the main, under claims to exemption based upon the intrastate exemption of section 3 (a) (11) and the so-called "private offering" exemption of section 4 (1) of the Act. The improper use of these exemptions to evade registration requirements usually occurs where an issue, or the sales procedures to be employed, would not stand the light of the full disclosure requirements of registration. The Commission ordinarily learns of these offerings only after they have been commenced and has no means of ascertaining whether or not the exemption is available except by initiating an investigation. The staff of the Commission is now studying measures for remedying this situation, some of which may involve legislative proposals to the 86th Congress.

Various devices have been employed in an effort to evade registration by abuse of the intrastate exemption under section 3 (a) (11) of the Securities Act of 1933. The issuer may attempt to use a resident of the state as a nominee for non-resident beneficial owners, or the alleged sales to residents may be merely a step in a planned distribution in interstate commerce.

One of the most frequently used devices to bring a distribution within the "private offering" exemption is the use of the so-called "investment intent" letter given by purchasers. In some cases an attempt is made to evade the basic policy of registration under the Securities Act by the technique of mechanically obtaining "investment intent" letters from successive groups of purchasers when, in fact, these purchasers buy with a view to distribution.

Further complicating the Commission's problems in this area has been the fact that an increasingly large number of securities claimed to have been issued pursuant to these exemptions have been transferred to United States citizens through Canadian, Swiss, Lichtenstein and other foreign financial institutions. When this occurs the Commission has been handicapped in tracing transactions and determining the facts upon which the proof of availability or non-availability of the claimed exemption depends, particularly where the laws of a particular foreign country preclude disclosure of the pertinent information. There is reason to believe that in many instances these channels are utilized for the deliberate purpose of complicating or frustrating the Commission's enforcement effort although there is no evidence of complicity on the part of foreign banks which may be involved.

The Commission ordinarily receives no notice of a distribution for a foreign account unless and until the matter comes to its attention either as a result of a complaint from a public investor or in the course of its inspection or investigation work.

In order to cope with illegal distributions made through the use of such foreign devices, the Commission has recently proposed a rule requiring members of national securities exchanges and brokers and dealers to report to the Commission orders received from non-resident persons to purchase a significant amount of a security as well as purchases of a significant amount of a security from a foreign source, if the purchase is made for the account of the member, broker or dealer or is made for the account of any other person who, to the knowledge of the member, broker or dealer, proposes to sell or is selling the securities in the United States.<sup>1</sup> A rule of this nature would give the Commission prompt notice of significant transactions for foreign accounts, insofar as brokers and dealers in the United

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<sup>1</sup> Securities Exchange Act Release No. 5774.

States are involved in the transactions, and this in turn should facilitate the efforts of the Commission to deal more effectively with illegal distributions of securities through foreign sources.

#### **EVASION OF REGISTRATION REQUIREMENTS THROUGH THE "NO-SALE" THEORY**

Under Rule 133, which embodies an interpretation of long standing, the issue of securities in connection with certain types of corporate mergers, consolidations, reclassifications of securities and acquisitions of corporate assets is not deemed to constitute a "sale" of securities to stockholders of corporate parties to the transactions. This rule has the effect of exempting issues of securities in these transactions from the registration requirements of the Securities Act. It has been relied upon in a very large number of corporate transactions consummated without registration of the securities involved. A substantial number of transactions ostensibly entered into under the rule may, in fact, involve violations of the registration requirements.

The Commission considers that Rule 133 provides no exemption from the registration and prospectus requirements of the Securities Act with respect to any public distribution of securities received in such a transaction by a security holder who may be deemed to be a statutory underwriter. Recently the staff of the Commission proposed an amendment to Rule 133 designed to restate the purpose and effect of that rule and to clarify its application and limitations.<sup>2</sup> The Commission has published the proposed amendment for comment by all persons having an interest in the matter. The staff of the Commission also is preparing a proposed form for registration of securities publicly distributed following transactions of the character referred to in the rule, in order to simplify compliance with the registration requirements in such cases. Such a form may permit the use of a prospectus in the form of a proxy statement meeting the requirements of Regulation 14 under the Securities Exchange Act of 1934 where such proxy statement has been employed in connection with the transaction under Rule 133 supplemented by certain necessary additional information.

#### **PROMOTIONAL STOCKS**

Recent economic conditions have been relatively favorable for the sale of promotional stocks of new ventures, particularly in fields in which the securities of established enterprises have shown marked gains. For example, many new insurance and finance ventures have been promoted, particularly in the South Central, Southwestern, and Southeastern parts of the country, and their securities have been

<sup>2</sup> Securities Act Release No. 3965.

distributed interstate either through registration or under Regulation A or, more commonly, in reliance upon the intrastate exemption. Many of these issues and the sales techniques employed in their distribution appear to involve abuses and possible violations of the anti-fraud and other provisions of the Securities Act or the Securities Exchange Act, which require extensive investigation. The large number of these promotions and the rapidity with which they have increased has placed most serious burdens on the Commission's field enforcement personnel charged with the conduct of such investigations.

### MANIPULATION OF THE SECURITIES MARKETS

Increased activity on the Nation's securities markets has tempted some to engage in manipulation of these markets. Devious schemes may be employed to conceal both the fact of a manipulation and the identity of the persons actually responsible. These include schemes to increase the quoted over-the-counter prices for relatively obscure issues being distributed without registration in reliance upon some exemption, or the creation of fictitious markets for such issues. Such schemes are not uncommon in connection with distributions effected by "boiler rooms". These activities when conducted with ingenuity through numerous intermediaries are difficult to detect. Persons engaged in, or proposing, a distribution of a security not outstanding in the hands of the public may place orders for the purchase and sale of small amounts of a security with numerous brokers and dealers, or arrange to have others do this, with the result that such brokers and dealers will publish quotations for the security at prices specified in the orders, thus creating the appearance of an active over-the-counter market for the security, when in fact no such market exists except as generated by the distributors. When the distribution is completed the orders are withdrawn and the "market" disappears.

Other apparent manipulations have occurred in issues in which there is a substantial public stockholder interest, particularly issues of companies engaged in expansion and diversification programs designed largely to reap profits for promoters and speculators at the expense of the public. Here the motive is to facilitate the financing of such programs, or to make the issuer's stock more attractive as a mechanism of payment for other businesses, by creating the appearance of an active and rising market in such stock. The techniques employed are various, including the dissemination of favorable information, the placing of buy orders at strategic moments and prices so as to have the stock close each day with a rise, and encouraging others to buy by giving them assurances against loss or lending money to finance the purchase. Efforts are, of course, made to conceal the identity of the persons ultimately responsible for the activity.

The investigation and prosecution of a manipulation case requires careful and painstaking work usually over a period of many months. Investors must be identified and interviewed. Books and records of brokers, dealers and others must be examined and analyzed. The information thus obtained then has to be developed in a form which would permit its introduction in evidence in legal proceedings. That this is a difficult matter is illustrated by the fact that one of the Commission's experienced investigators has been engaged for almost a year in assisting the United States Attorney in preparing one of these cases for trial.

With the increasing tempo of activities in the securities markets, the Commission has noted a growing number of instances of unusual or unexplained market activity in particular securities. In some of these cases a preliminary investigation has revealed that no violations of law had occurred but in others the Commission has found it necessary to obtain an injunction or recommend criminal prosecution. The Commission is much concerned with the increase in manipulative activities and it is expected that it will be required to devote more of its enforcement effort to this area.

#### **STOP ORDER AND SUSPENSION PROCEEDINGS FOR NEW ISSUES**

There continue to be numerous instances where issuers filing either under the registration requirements of the Securities Act or under the Commission's exemptive Regulation A do not appear to be making an effort to comply in good faith with the disclosure and other standards required for such filings. Consequently, it is necessary that the Commission, for the protection of investors, institute stop order proceedings or suspension orders. Each of these has been preceded by an investigation and in many instances has required a formal administrative hearing. While the collection, presentation and analysis of evidence imposes a substantial burden on the Commission's enforcement staff, nevertheless it has been possible in this way to prevent the public sale of certain securities under circumstances likely to involve fraud upon the investing public.

#### **BROKER-DEALER INSPECTIONS**

Increased activity in the securities markets has also resulted in a significant increase in the number of brokers and dealers. There were 4,752 registered broker-dealers on June 30, 1958 and the Commission presently estimates that at the end of the fiscal year 1959 there will be 4,900 registered broker-dealers. It is estimated that this number will increase to 5,100 at the close of the fiscal year 1960. The Commission's concern with this increase in the number of registered brokers and dealers arises from the fact that many of them are inexperienced

and unfamiliar with the ethical and legal obligations owed to their customers and that, therefore, there is a greater risk that injury may result to public investors dealing with such persons. In order to protect investors against possible abuses the Commission has intensified its broker-dealer inspection program. In the fiscal year 1958, 1,452 inspections were completed—the greatest number since the Commission was organized.

#### SUMMARY

The Commission believes that an adequate and effective enforcement program is necessary not only to the discharge of its statutory responsibilities but also, and perhaps more important, to the preservation of that investor confidence in the capital formation process which is so necessary to the continued progress and prosperity of an economy based on the free enterprise system. To that end the Commission has vigorously employed, and will continue to employ, all of its enforcement weapons to protect the investing public.



## PART II

### LEGISLATIVE ACTIVITIES

#### **Statutory Amendments Proposed by the Commission**

In July and August 1957 the Commission submitted to the Congress its proposals to amend an aggregate of 87 provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 and the Investment Advisers Act of 1940. These proposals, together with requests for hearings thereon, were submitted to the Committee on Banking and Currency of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives, to which Committees was assigned the duty of exercising watchfulness over the execution of the securities laws by section 136 of the Legislative Reorganization Act of 1946. The proposals were introduced in the Senate by Senator Frank J. Lausche of Ohio, the then Chairman of the Subcommittee on Securities of the Committee on Banking and Currency, as S. 2544, S. 2545, S. 2546, S. 2547 and S. 2796. Subsequently, they were introduced in the House of Representatives by Representative Oren Harris of Arkansas, Chairman of the Committee on Interstate and Foreign Commerce, as H. R. 9326, H. R. 9327, H. R. 9328, H. R. 9329 and H. R. 9330. The Senate bills were referred to the Committee on Banking and Currency and the House bills to the Committee on Interstate and Foreign Commerce. No action was taken on these bills by either Committee.

The overall purpose of the Commission's proposals was to strengthen the safeguards and protections afforded the public by tightening the jurisdictional provisions, correcting certain inadequacies revealed through administrative experience and facilitating criminal prosecutions and other enforcement activities. A discussion of the more significant of these proposals is contained in the Commission's 23rd Annual Report, pp. 10-12.

On March 18, 1958, the Commission also submitted to Congress proposals to amend various sections of the Bankruptcy Act in the form of nine draft bills filed with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.<sup>1</sup> These proposals are concerned with Chapters X and XI

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<sup>1</sup> For a discussion of the Commission's duties under Chapter X of the Bankruptcy Act see Part VII of this report.

of the Bankruptcy Act. Chapter XI affords a means of effecting a composition of unsecured debts of debtors, including corporations. Chapter X, on the other hand, affords a means for the reorganization of corporations alone and has special safeguards to protect the interests of public security holders which are not provided in Chapter XI. The more significant of the proposed amendments would permit the Commission to appeal in a Chapter X proceeding if leave to appeal is granted by the appropriate Court of Appeals; make Chapter XI of the Bankruptcy Act unavailable to corporations whose outstanding securities are beneficially owned by more than 100 persons; permit the district judge to transfer proceedings brought under Chapter XI of the Bankruptcy Act to Chapter X upon application of a party in interest or the Commission, if the judge finds that the interest of creditors and stockholders would best be served by a Chapter X proceeding; and allow the judge in a Chapter X proceeding to approve a plan of reorganization which provides for less than full compensation to certain types of creditors, other than public investors, as is now permitted in a proceeding under Chapter XI.

These proposals were introduced in the House of Representatives by Representative Emanuel Celler of New York, Chairman of the Committee on the Judiciary as H. R. 11585, H. R. 11586, H. R. 11587, H. R. 11588, H. R. 11589, H. R. 11590, H. R. 11591, H. R. 11592, and H. R. 11593 and were referred to the Committee on the Judiciary. They were referred to the Judicial Council of the United States Courts for review and a conference was held by the Commission with the Council in August, 1958, at Denver, Colo. No further action was taken on these bills by the Congress.

The Commission expects to request further consideration of these or similar proposals during the 86th Congress.

#### **Other Legislative Proposals**

H. R. 11050, introduced by Representative Abraham Multer of New York, would remove the exemption provided by section 3 (a) (11) of the Securities Act for a security offering confined to the residents of the state within which the issuer is both incorporated and doing business. The Commission has not submitted its views on this proposal. No hearings have been held on the bill.

H. R. 7671, which was introduced by Representative John Flynt of Georgia and enacted into law, amends Section 116 (4) of Chapter X of the Bankruptcy Act by depriving the district judge of power to enjoin a lessor or conditional seller of aircraft equipment from commencing a foreclosure action against an air carrier operating pursuant to a certificate of convenience and necessity issued by the Civil Aeronautics Board. Since the assets of air lines consist principally of equipment, the practical effect of the bill is to make reorganization

under Chapter X unavailable to certified corporate airline carriers which lease their equipment or purchase it under conditional sales contract. The Commission therefore filed a comment with the Congress opposing this bill, as well as a companion bill, S. 2205, introduced in the Senate by Senator John Butler of Maryland. The Commission pointed out that the primary purpose of Chapter X is to maintain the debtor as a going concern in order to protect the public security holders, and that this is accomplished in part by empowering the judge to restrain efforts to dismember the business while the reorganization is in process.

The Commission devoted a substantial amount of time to matters pertaining to other legislative proposals referred to it for comment. During the fiscal year, a total of fifty-eight legislative proposals were analyzed, as compared with thirty-three during the preceding fiscal year. In addition, numerous congressional inquiries relating to matters other than specific legislative proposals were received and answered.<sup>2</sup>

#### Congressional Hearings

**Small Business Subcommittee of the Senate Committee on Banking and Currency.**—On April 28, 1958, Chairman Gadsby and other members of the Commission appeared before the Small Business Subcommittee of the Senate Committee on Banking and Currency which was considering a number of bills designed to furnish financial assistance to small business.<sup>3</sup> The Commission had previously furnished the Committee with comments on S. 2160, S. 2185, S. 2286 and S. 3191 and consequently the Chairman restricted his comments to S. 3643 and S. 3651 which were the focal point of the hearings. The latter bills provided for the establishment of small business investment companies for the purpose of providing financial assistance to small business concerns, and for the regulation of certain aspects of the organization and management of such proposed investment companies. Under both S. 3643 and S. 3651 the small business investment companies would be authorized to purchase convertible debentures of small business concerns and would obtain funds with which to make the purchase by issuing their own securities to the public and by borrowing funds from the Federal government.

S. 3643 provided an outright exemption from the Securities Act and the Investment Company Act for the proposed small business investment companies. S. 3651 granted the Commission authority to

<sup>2</sup>No action was taken in the second session of the 85th Congress with respect to the proposals to increase the registration fees under the Securities Exchange Act of 1934 and to increase to \$500,000 the exemptive limit of Section 3 (b) of the Securities Act of 1933 which were passed by the Senate and are discussed at pages 12-13 and 15 of the 23rd Annual Report.

<sup>3</sup>Hearings before a Subcommittee of the Committee on Banking and Currency, United States Senate, 85th Congress, 2d Session, April 21, 22, 23, 24, 25, 28, 29, 30; May 1, and 2, 1958, pp. 195-233.

exempt, by rule or regulation, from the provisions of the Securities Act and the Trust Indenture Act, securities issued by the small business investment companies. The Commission opposed the exemptions granted by S. 3643, pointing out the need for disclosure to investors of information necessary for the formulation of an informed judgment as to the investment merit of the securities of the small business investment companies offered to the public. With respect to S. 3651, it was pointed out that the bill did not establish any definitive standards to guide the Commission in the exercise of its discretionary exemptive powers. The Commission was of the further view that the proposed small business investment companies should be subject to the provisions of the Investment Company Act, which provides needed additional protections for investors (see Part IX *infra*). As S. 3651 was reported out by the Committee on Banking and Currency and later passed by the Congress, it made the small business investment companies subject to the provisions of the Investment Company Act, except for section 18 of that Act, relating to asset coverage for indebtedness. Authority to grant exemptions from the provisions of the Securities Act and the Trust Indenture Act remained unchanged in the final draft.

**Subcommittee on Legislative Oversight of the House Committee on Interstate and Foreign Commerce.**—Since June 1957, all phases of the Commission's activities have been under study and investigation by the Special Subcommittee on Legislative Oversight of the House Committee on Interstate and Foreign Commerce. The Subcommittee was organized in 1957, after Speaker Rayburn had recommended that the Committee on Interstate and Foreign Commerce set up a Subcommittee with authority to go into the administration of the laws by agencies subject to the oversight of the House Committee on Interstate and Foreign Commerce, "to see whether or not the law as we intended it is being carried out or whether a great many of these laws are being repealed or revamped by those who administer them."<sup>4</sup>

The Chairman and members of the Commission, as well as several members of the Commission's staff, appeared before the Subcommittee during January and June of 1958. In addition, the Commission has furnished the Subcommittee with answers to several detailed questionnaires. At least one attorney from the Subcommittee's staff has been working on matters involving this Commission on a full-time basis since September 1957, and the Commission has furnished working space to the Subcommittee for the convenience of its staff. The Commission has cooperated with the Subcommittee in every possible way, devoting approximately 10,000 man hours to the inquiry, which was still pending at the end of the fiscal year.

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<sup>4</sup> Congressional Record, February 5, 1957, p. 1383.

During its investigation the Subcommittee has inquired into various matters including questions whether certain inadequacies exist in the Acts administered by the Commission and budgetary limitations upon the Commission's ability to act, its conduct of particular cases, its internal administrative policies, and its relationships with other branches of government. During June and July of 1958, the Subcommittee conducted lengthy hearings on the conduct of the Commission in the case of *S. E. C. v. The East Boston Company* (reported at page 124 of the Twenty-Second Annual Report). The Commission appeared only once during these hearings.<sup>5</sup>

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<sup>5</sup>Since the end of the fiscal year the Commission made three additional appearances before the Subcommittee on September 16, 17 and 18 to complete its testimony in the *East Boston Company* case and to discuss other matters.

## **PART III**

### **REVISION OF RULES AND FORMS**

The Commission maintains a continuous program of reviewing its rules and forms under the various statutes administered by it in order to determine whether any changes are appropriate in the light of changes in techniques and conditions in the securities field. Certain members of the staff are assigned the task of maintaining an overall review of rules and forms, and the need for changes therein are brought to the attention of the Commission. Changes are also suggested, from time to time, by other members of the staff who are engaged in the examination of material filed with the Commission, as well as by persons outside of the Commission, such as issuers and underwriters and their attorneys, accountants or other representatives. With a few exceptions provided for by the Administrative Procedure Act, proposed new rules and forms and proposed changes in existing rules and forms, are published in preliminary form for the purpose of obtaining the views and comments of interested persons, including issuers and various industry groups. During the 1958 fiscal year, the Commission published a number of proposed changes for comment and adopted certain other changes in its rules and forms. These are described below.<sup>1</sup>

#### **THE SECURITIES ACT OF 1933**

##### **Proposed Revision of Rule 133**

Rule 133 provides in general that for the purpose of determining the application of the registration and prospectus provisions of Section 5 of the Securities Act, no "offer" or "sale" shall be deemed to be involved so far as stockholders of a corporation are concerned, where, pursuant to provisions of a statute or the certificate of incorporation there is submitted to the vote of such stockholders a plan involving a statutory merger, consolidation, reclassification of securities or

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<sup>1</sup>The rules and regulations of the Commission are published in the Code of Federal Regulations, the rules adopted under the various Acts administered by the Commission appearing in the following parts of Title 17 of that Code:

Securities Act of 1933, part 230.

Securities Exchange Act of 1934, part 240.

Public Utility Holding Company Act of 1935, part 250.

Trust Indenture Act of 1939, part 260.

Investment Company Act of 1940, part 270.

Investment Advisers Act of 1940, part 275.

transfer of assets of the corporation in consideration of the issuance of securities of another corporation.

On October 2, 1956, the Commission invited comments on a proposal, the effect of which would have been to rescind rule 133 and to provide that transactions of the character referred to in the rule involve an "offer" and "sale" of a security subject to the registration and prospectus provisions of the Act.<sup>2</sup> The Commission received numerous comments and a public hearing was held on January 17, 1957. On March 15, 1957, the Commission announced that it was deferring action on the proposal pending further study of the problem and questions raised and that any future modification of the rule would be undertaken only after opportunity for further public comment thereon.

On September 15, 1958 the Commission issued a release<sup>3</sup> which recited that its staff had been engaged in a comprehensive review of all relevant legislative and other statutory materials, prior Commission and staff actions, and the views expressed by those who appeared at the Commission's public hearing on the 1956 proposal or had otherwise commented on the question, and that on the basis of this study the staff had recommended that the Commission abandon the 1956 proposal for revision of Rule 133, restate the purpose and effect of Rule 133, and adopt rules designed to clarify the applications and limitations of the rule.

The release invited comment on a proposed amendment of the rule designed to implement the recommendations of the staff. This amendment would retain the existing rule but would incorporate into it certain additional provisions which would make clear that registration is required in certain cases where a public distribution of securities initially required in transactions exempted by the rule is subsequently made by a person defined as a statutory underwriter. The release stated that there was in preparation a proposed form which could be used for registration of securities issued in distribution transactions of the character referred to in the proposed amended rule.

#### **Amendment of Rules 134 and 433**

Rule 134 specifies the information required and the information permitted to be included in an advertisement which is not deemed to be a prospectus with respect to a security when published or transmitted to any person after a registration statement has been filed. Rule 433 relates to the use of preliminary prospectuses prior to the effective date of the registration statement. Both of these rules re-

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<sup>2</sup> Securities Act Release No. 3898.

<sup>3</sup> Securities Act Release No. 3965.

quire the inclusion of legends calling attention to the fact that a registration statement has been filed and cautioning the reader that offers or sales may not be made until there has been compliance with State and Federal requirements. These rules were amended during the fiscal year to make minor verbal changes in the required legend to avoid conflict with the wording of the legend required by State securities administrators and make possible the use in such advertisements and preliminary prospectuses of a single legend meeting both Federal and State requirements.<sup>4</sup>

#### **Proposed Rule Changes Relating to Assessable Stock**

During the fiscal year the Commission invited public comments on a proposed new Rule 136 and a proposed amendment of Rule 140 with respect to assessable stock and the levying of assessments thereon.<sup>5</sup> In connection with these proposals the Commission is also considering further changes in its exemption rules under the Act so that the levying of small amounts of assessments may be effected pursuant to an exemption, upon appropriate terms and conditions, from registration under the Act. Action on the proposed new Rule 136 and the proposed amendment of Rule 140 has been deferred pending the publication of proposed rule changes to provide such exemption and consideration of comments thereon.

The proposed new Rule 136 would operate to make the levying of assessments on assessable stock subject to the disclosure requirements of the Act, either by way of registration under the Act or through compliance with the terms and conditions of an appropriate exemption which is presently under study by the staff. The amendment to Rule 140 is intended to clarify its application and specifically define as an underwriter any company which is chiefly engaged in levying assessments on its assessable stock in order to purchase the securities of another issuer or of two or more affiliated issuers.

The above proposals are being considered because of continuing complaints received by the Commission from the public as to the existence of abuses in connection with the levying of assessments by various companies on their outstanding assessable stock. Certain companies having assessable stock outstanding continue to levy assessments against their stockholders without disclosing the status of the company or the purpose for which the proceeds are to be used. In some instances stockholders who seek to obtain information from their companies receive very little information or even meet with a flat refusal by company officials to furnish any information whatever. It appears that in some cases proceeds received from the assessments will not be

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<sup>4</sup> Securities Act Release No. 3885 (January 7, 1958).

<sup>5</sup> Securities Act Release No. 3903 (March 5, 1958).



productive of any present or potential benefit to the stockholders against whom they are levied. In fact, some such companies appear to be operated largely, if not solely, for the personal benefit of insiders. There are indications that some companies having assessable stock outstanding are being used as vehicles for raising funds for other companies which are unable or unwilling to seek funds directly from the public.

#### **Amendment of Rule 161**

Rule 161 provides that securities offered in conformity with the rules and regulations under section 3 (b) of the Act may continue to be offered in accordance with the rules and regulations in effect at the time the offering commenced, notwithstanding subsequent amendments to such rules and regulations. This rule was amended during the fiscal year to provide that it shall not apply to offers after January 1, 1959 of securities under Regulation D, which was rescinded July 23, 1956, or under Regulation A as in effect prior to its revision on July 23, 1956.<sup>6</sup> The purpose of the amendment was to require any offerings under the previously existing Regulation A or D to comply with the revised Regulation A if the offering is continued after January 1, 1959.

#### **Amendments to Regulation A**

Regulation A provides an exemption from registration for issues of securities not in excess of \$300,000 which are offered in accordance with the terms and conditions of the regulation. A number of amendments to this regulation were adopted during the fiscal year.<sup>7</sup> One of these amendments provides that where the securities to be offered are interests in an unincorporated real estate syndicate there need not be included in computing the amount of securities which may be offered, the amount of interests in other unincorporated real estate syndicates affiliated with the issuer. Another amendment to the regulation provides procedures for the filing of amendments to notifications and for the withdrawal of such notifications. There was also added a requirement that underwriters must furnish a certification that the information given in the notification and in the offering circular with respect to underwriters, their directors, officers or partners is accurate and complete and does not omit any required information or any information necessary to make the statements made not misleading. The remaining amendments were chiefly of a technical or clarifying nature.

<sup>6</sup> Securities Act Release No. 3935 (June 11, 1958).

<sup>7</sup> Securities Act Release No. 3935 (June 11, 1958).

**Revision of Forms S-2 and S-3**

During the fiscal year revisions of Forms S-2 and S-3 were adopted.<sup>8</sup> Form S-2 is used for registration under the Securities Act of securities of commercial and industrial companies in the promotional and development stage. Form S-3 is a similar form for mining companies in the exploratory or development stage. The revisions were for the purpose of bringing the forms up-to-date in the light of the Commission's experience and current administrative practice. Form S-11, another form for mining companies in the exploratory stage, was merged into Form S-3 so that there is now only one form for use by this type of mining company.

**Amendment of Forms S-4 and S-5**

These forms are used for registration under the Securities Act of securities of investment companies registered under the Investment Company Act of 1940. A registration statement on either of these forms includes certain of the information and documents which would be required in a registration statement under the Investment Company Act of 1940 if such a statement were currently being filed. Forms S-4 and S-5 were amended during the fiscal year to adapt the requirements of these forms to the Commission's amended Form N-8B-1, described below, which is the corresponding basic form for registration under the Investment Company Act.<sup>9</sup>

**THE SECURITIES EXCHANGE ACT OF 1934****Amendment of Rule 15b-8**

Rule 15b-8 requires every broker-dealer who files an application for registration to file with his application duplicate original statements of financial condition disclosing, as of a date within 30 days of such filing, the nature and amount of his assets, liabilities and net worth. The amendment, effective September 15, 1957, deleted from the rule an exemption from this requirement formerly available to a partnership succeeding to and continuing the business of another partnership registered as a broker-dealer at the time of such succession.<sup>10</sup>

**Adoption of Rule 15d-20**

During the fiscal year the Commission adopted a new rule, designated rule 15d-20, which provides for the granting of an exemption from the reporting requirements of section 15 (d) of the Act to certain issuers.<sup>11</sup>

<sup>8</sup> Securities Act Releases Nos. 3828 and 3829 (August 19, 1957).

<sup>9</sup> Securities Act Release No. 3854 (October 30, 1957).

<sup>10</sup> Securities Exchange Act Release No. 5560.

<sup>11</sup> Securities Exchange Act Release No. 5692 (May 6, 1958).

Section 15 (d) requires each issuer of securities registered under the Securities Act of 1933 to include in its registration statement an undertaking to file annual and other periodic reports corresponding to those required to be filed pursuant to section 13 by issuers having securities listed and registered on a national securities exchange, if the aggregate offering price of the issue covered by the registration statement plus all of the outstanding securities of the same class, computed on the basis of the offering price, amounts to \$2,000,000 or more. The obligation to file reports is suspended under certain conditions not pertinent here.

The new rule provides that the Commission may, upon application and subject to appropriate terms and conditions, exempt an issuer from the duty to file such reports if the Commission finds that all of the outstanding securities of the issuer are held of record, that the number of such record holders does not exceed 50 persons and that the filing of such reports is not necessary in the public interest or for the protection of investors.

The exemption expires if any of the issuer's securities cease to be held of record, if the number of record holders increases to more than 50 persons, or if the issuer fails to comply with any of the terms or conditions upon which the exemption was granted. Provision is also made for termination of the exemption by the Commission, after an opportunity for a hearing, if the Commission finds the termination to be necessary or appropriate in the public interest or for the protection of investors.

#### **Amendment of Rule 17a-3**

Rule 17a-3 specifies the books and records required to be maintained and kept current by certain members, brokers and dealers. The amendment, effective July 1, 1958,<sup>12</sup> requires such persons to prepare and maintain a record of the proof of money balances of all ledger accounts in the form of trial balances currently at least once a month.

#### **Amendment of Rule 17a-5**

Rule 17a-5 designates the members, brokers and dealers required to file reports of financial condition containing the information called for by Form X-17A-5, specifies the time when such reports must be filed, and provides certain other requirements with respect to such reports. Prior to the amendment, paragraph (a) required each member, broker and dealer subject to the rule to file the report within each calendar year, except that reports for any two consecutive years could

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<sup>12</sup> Securities Exchange Act Release No. 5705.

not be filed within less than four months of each other. As amended, this paragraph requires the report to be filed *as of a date* within each calendar year, except that the first report (by others than successors) must be as of a date not less than one nor more than five months after the member, broker or dealer becomes subject to the rule. It also provides that a member, broker or dealer who succeeds to and continues the business of a predecessor need not file a report as of that year if the predecessor has filed the required report as of that year.

Paragraph (b) (1) of the rule describes the circumstances under which a report must be certified. Prior to the amendment, there was an exemption from the certification requirements for a member, broker or dealer who was not required to file a certified financial statement with any State agency or any national securities exchange and who, during the preceding calendar year, had not made a practice of extending credit to or holding funds or securities for customers except as an incident to transactions promptly consummated by payment or delivery. The amendment to this paragraph provides that every Form X-17A-5 report must be certified by an independent accountant unless one of three limited exemptions is available. The first exemption is for a member of a national securities exchange who, from the date of his previous report, has not transacted business with the public, has not carried any margin account, credit balance or security for any person other than a general partner, and has not been required to file a certified financial statement with any national securities exchange. The second exemption is available to a broker whose securities business is so limited that he has been exempt from the Commission's aggregate-indebtedness-net-capital-ratio rule 15c3-1. The third exemption is for a broker or dealer whose securities business has been limited to buying and selling evidences of indebtedness secured by liens on real estate and who has not carried margin accounts, credit balances or securities for securities customers.<sup>13</sup>

#### **Amendments to Form 8-C**

Form 8-C is used for registration under the Act of a class of securities on a national securities exchange on which the registrant has no securities registered, if such class is already listed and registered on another national securities exchange. An application on Form 8-C consists chiefly of copies of applications, reports and proxy statements filed with the original exchange, together with copies of the required exhibits. This form was amended during the fiscal year to provide for a considerable reduction in the amount of material required to be filed in cases where the issuer intends to continue list-

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<sup>13</sup> Securities Exchange Act Release No. 5560.

ing and registration of the securities on the original exchange.<sup>14</sup> Certain other changes in wording were also made in the form in the interest of clarity.

#### **Proposed Amendments to Form 8-K**

During the fiscal year the Commission invited public comments on certain proposed amendments to Form 8-K which is the form prescribed for current reports filed pursuant to sections 13 and 15 (d) of the Act.<sup>15</sup> The proposed amendments relate to Item 11 of the form which requires information in regard to matters submitted to a vote of security holders either at a meeting of such security holders or otherwise. The purpose of the proposed amendments is to clarify the item and the instructions thereto in certain respects. The matter was still under consideration at the end of the fiscal year.<sup>16</sup>

#### **Amendment to Form X-17A-1**

Form X-17A-1 is the form required to be used under rule 17a-2 by a "manager" of a distribution of securities and by other persons subject to the rule who have a participation in an account for which stabilizing purchases are effected. The amendments to the form consist of a restatement of the instructions for use of the form, to simplify and clarify its use, and of a requirement that the totals of certain reported transactions be shown.<sup>17</sup>

### **THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935**

#### **Rescission of Rule 9**

On March 14, 1957 the Commission issued notice of a proposal to rescind rule 9, which provides for the exemption of holding company systems having gross utility revenues not over \$350,000 for the preceding calendar year or having net utility assets not over \$1,000,000 currently or at December 31, 1946.<sup>18</sup> After careful consideration of all the data, views and comments received in response to its notice, the Commission concluded that adequate legal basis for such exemption was lacking, and, on February 5, 1958, announced the rescission of the rule.<sup>19</sup> The effective date of the rescission, initially fixed at September 30, 1958, was postponed to December 31, 1958.<sup>20</sup>

<sup>14</sup> Securities Exchange Act Release No. 5701 (May 26, 1958).

<sup>15</sup> Securities Exchange Act Release No. 5699 (May 20, 1958).

<sup>16</sup> The amendments were adopted shortly after the end of the fiscal year. See Securities Exchange Act Release No. 5734 (July 16, 1958).

<sup>17</sup> Securities Exchange Act Release No. 5638.

<sup>18</sup> Holding Company Act Release No. 13414.

<sup>19</sup> Holding Company Act Release No. 13670.

<sup>20</sup> Holding Company Act Release No. 13833.

**Amendment of Rule 70**

During the fiscal year, the Commission amended rule 70 promulgated under the Public Utility Holding Company Act of 1935. Section 17 (c) of that Act prohibits any registered holding company or any subsidiary company thereof from having as an officer or director any executive officer, director, partner, appointee or representative of any bank, trust company, investment banker, or banking association or firm except as permitted by rules and regulations of the Commission as not adversely affecting the public interest or the interest of investors or consumers. Rule 70 defines those persons or situations to which the Commission has granted exception from section 17 (c). Prior to the adoption of the amendment the rule provided in effect that no holding company or subsidiary could have as many as one-half of its directors persons with financial connections within the scope of section 17 (c). After issuing a notice of proposal to amend the rule and requesting comments thereon,<sup>21</sup> the Commission adopted the amendment as circulated for comment.<sup>22</sup> As amended, the rule exempts from the "less than one-half" limitation a person whose only financial connection is that of a director, and who is not an officer or employee, of one or more commercial banks each having combined capital and surplus not in excess of \$2,500,000 and who proposes to act as a director, but not as an officer or employee, of a registered holding company or subsidiary which is a public utility company. In no event, however, may the number of directors with financial connections proscribed by section 17 (c) exceed two-thirds of the total.

**THE INVESTMENT COMPANY ACT OF 1940****Amendment of Rule 5**

On October 25, 1957, the Commission adopted a clarifying amendment to rule 5 under the Act.<sup>23</sup> This rule provides a simplified general procedure designed to expedite the disposition of proceedings, initiated by application or upon the Commission's own motion, pursuant to any section of the Act or any rule or regulation thereunder except in cases involving sections of the Act where specified rules prescribe a different procedure. Paragraph (c) of the rule prior to the amendment was subject to the interpretation that the Commission was required to order a hearing on a matter upon the request of any interested person whether or not it appeared that a hearing was necessary or appropriate. The amended rule makes it clear that the Commission will order a hearing only if it determines that such is

<sup>21</sup> Holding Company Act Release No. 13530 (August 19, 1957).

<sup>22</sup> Holding Company Act Release No. 13585 (November 4, 1957).

<sup>23</sup> Investment Company Act Release No. 2620.

necessary or appropriate in the public interest or for the protection of investors.

### **Proposal to Adopt Rule 10F-3**

In a proposed rule considered during the fiscal year the Commission sought, among other things, to alleviate the problems and administrative burdens involved in processing applications for exemptions under section 10 (f), particularly in view of the tight time schedules usually present in these cases. Notice of this proposal was issued on July 15, 1958.<sup>24</sup>

Section 10 (f) of the Act provides that an investment company, unless exempted by rule, regulation or order, is prohibited from purchasing a security during the existence of an underwriting syndicate, if any of the principal underwriters are affiliated persons of the investment company. As a consequence, in such cases investment companies must either first obtain an exemptive order of the Commission or purchase the securities conditioned on obtaining such exemptive order within such periods of time as a particular underwriter might be willing to grant even though extending beyond the date of the public offering. The proposed rule would permit the investment company to make such purchases under certain conditions without having to obtain an order of exemption.

The experience of the Commission in its consideration of requests for orders of exemption under its exemptive authority over the years indicates that the protection of investors in such situations may be adequately insured by the conditions and safeguards specified in the rule. These include limitations with respect to the consideration paid, as related both to the amount of the offering and the assets of the investment company, the amount of underwriters' commissions, purchases from an affiliated underwriter, and effective registration of the offering under the Securities Act of 1933. These conditions are designed to permit purchases where the circumstances are such as to make it unlikely that such purchases would not be consistent with the protection of investors.

Comments received on the proposal unanimously favored adoption of the rule although they included a number of suggestions for modification of the conditions and prerequisite contained therein.

The Commission has taken the various comments under advisement.<sup>25</sup>

### **Proposal to Adopt Rule 22D-1**

On May 28, 1958, the Commission issued notice of a proposal to adopt Rule 22D-1 relating to permissible variations in the sales charge

<sup>24</sup> Investment Company Act Release No. 2744.

<sup>25</sup> The Commission adopted Rule 10F-3 on December 2, 1958. Investment Company Act Release No. 2797.

made upon the sale of redeemable securities of registered investment companies.<sup>26</sup> This action followed a comprehensive review of the legislative history of section 22 (d) of the Act, and all past administrative interpretations and exemptive orders issued under that section.

Section 22 (d) prohibits a registered investment company, its principal underwriter or a dealer in its shares from selling such shares to any person except at a current public offering price described in the prospectus. Its purpose is to prevent discrimination among purchasers and to provide for the orderly distribution of such shares by preventing their sale at a price less than that fixed in the prospectus.

One objective of the proposed rule is to lessen the burden on the Commission and the industry of preparing and processing exemption applications under section 6 (c) in cases identical to those where such relief had been previously granted. An equally important objective of the rule is to codify and make public the Commission's interpretation of section 22 (d), made on a case-by-case basis over the past years, with such changes as believed necessary, and thus ensure uniform compliance with its provisions.

The proposed rule would require some changes in current industry practices, particularly with respect to the availability of so-called "quantity discounts" for group purchases. The Commission in 1941 determined that section 22 (d) permitted the sale of an investment company's redeemable securities to be made to "any person" on the basis of a scale of reducing prices dependent upon the quantity of shares purchased at a single time. Thereafter, the term "any person" was construed to include a trustee or other fiduciary, or a custodian or agent purchasing for more than one account. It was particularly noted that the prohibitions of the statute apply only to an investment company, its underwriters, and dealers in its shares, and not to individuals who might form a group, such as members of a medical society or college faculty, to purchase through an agent in a quantity sufficient to entitle them to a discount.

A review of industry practices and complaints, showed a growing tendency on the part of investment companies, underwriters and dealers to organize, promote or solicit the formation of such groups. Such activity raises a serious question as to whether these persons were not in fact creating a favored "class" of individuals to effect sales at a price less than that generally available to other members of the public purchasing a like number of shares, contrary to the purpose and intent of section 22 (d).

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<sup>26</sup> Investment Company Act Release No. 2718.



In addition, such sales made to the group's agent or representative, as opposed to a fiduciary with investment discretion, involve the danger that prospectuses will not be furnished to all members of the group, contrary to the requirements of the Investment Company Act of 1940 and the Securities Act of 1933.

The proposed rule would limit the granting of a quantity discount to (i) a single individual purchasing shares with his own funds for himself or as a gift to others, or (ii) a trustee or other fiduciary purchasing for a single trust estate, although there may be more than one beneficiary.

Another change in current practices which the proposed rule would require relates to the use of so-called "letters of intent" pursuant to which a purchaser is entitled to receive the discount applicable to the total quantity of shares purchased within a stated period, usually 13 months. The proposed rule does not sanction this method of pricing, and the Commission stated that it was tentatively of the opinion that the mere intent to purchase shares in the future would not be a sufficient basis for computing a quantity discount.

The proposed rule also does not include any provision permitting sales at reduced sales loads to officers and employees of an investment company, its principal underwriter, and its investment adviser. The Commission in the past has issued orders exempting such sales where made for investment purposes, on the ground that they promoted employee incentive and good will. The Commission's release announcing the proposed rule stated that upon reconsideration of this matter it was tentatively of the opinion that the business purposes to be served by reduced sales loads to such persons are insufficient to warrant continuation of this practice in the light of the policy and intent of section 22 (d).

Over forty-five comments were received in response to the Commission's notice. Most of the comments favored adoption of the rule, although there was strenuous objection to its failure to sanction use of letters of intent and a number of suggestions were made for changes in language. Some comments also contended that the Commission should continue to sanction sales to employees of investment companies at a reduced sales load.

The Commission heard oral argument on the proposed rule on July 23, 1958, and took the matter under advisement.<sup>27</sup>

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<sup>27</sup> Upon reconsideration, the Commission determined to include provisions in the rule permitting sales at a reduced sales load pursuant to letters of intention and to officers and employees of an investment company, its underwriter and investment adviser subject to appropriate safeguards. The Commission adopted Rule 22D-1 on December 2, 1958. Investment Company Act Release No. 2798.

**Amendments to Form N-8B-1**

Form N-8B-1 is prescribed for registration statements filed under the Act by all management investment companies except those which issue periodic payment plan certificates. This form was amended during the fiscal year to require the furnishing of a table which in effect shows on a per-share basis a ten-year comparative summary of earnings and capital changes together with certain ratios.<sup>28</sup> It is the purpose of the new requirement to provide for investors a more informative presentation of the operations of the registrant than was provided by the table required previously.

**OTHER MATTERS****Amendments to Statement of Policy Relating to Investment Company Sales Literature**

The Commission, during the 1958 fiscal year, adopted certain amendments to its Statement of Policy relating to sales literature used by investment companies registered under the Investment Company Act of 1940.<sup>29</sup> The Statement of Policy is designed to serve as a guide for issuers, underwriters and dealers in the preparation of such sales literature so as to avoid violation of the anti-fraud provisions of section 17 of the Securities Act of 1933. It was adopted in 1950 and was amended in 1955. The amendments adopted during the past fiscal year were published in preliminary form and a public hearing was held thereon. The amended Statement of Policy permits a more liberal use of charts and tables, provided they meet certain standards of disclosure and arrangement.

**Proposed Amendment of Rules Regarding Incorporation by Reference**

The rules of the Commission permit filings with the Commission to incorporate by reference rather freely papers and documents previously filed with the Commission under the same statute or under different statutes administered by the Commission. This practice, however, has interfered with the Commission's disposal of out-of-date records since many filings made in recent years incorporate by reference papers and documents filed in earlier years. As a necessary step to conforming the Commission's Records Program to the overall Federal Records Legislation, the Commission, during the 1958 fiscal year, published for comment certain proposed amendments to its rules regarding incorporation by reference.<sup>30</sup> The effect of the proposed amendments would be to limit incorporation by reference to documents which have been in the Commission's files not more than

<sup>28</sup> Investment Company Act Release No. 2618 (October 30, 1957):

<sup>29</sup> Securities Act Release No. 3856 (October 31, 1957):

<sup>30</sup> Securities Act Release No. 3867 (December 2, 1957).

10 years, and to require reference to specific prior filings. This time limit would remove one of the conditions which now prevent the final disposition of many original records, and the specific filing reference would substantially reduce the research now necessary to assemble previously filed documents for consideration in connection with current filings. A number of letters of comment were received in regard to the proposed amendments which pointed out certain practical difficulties which such amendments might create. At the end of the fiscal year, the staff was preparing for the Commission's consideration a revised proposal which would accomplish the objective desired and would also obviate the mechanical problems indicated in the comments.

## **PART IV**

### **ADMINISTRATION OF THE SECURITIES ACT OF 1933**

The Securities Act of 1933 is designed to provide disclosure to investors of material facts concerning securities publicly offered for sale by use of the mails or instrumentalities in interstate commerce, and to prevent misrepresentation, deceit, or other fraudulent practices in the sale of securities. Disclosure is obtained by requiring the issuer of such securities to file with the Commission a registration statement and related prospectus containing significant information about the issuer and the offering. These documents are available for public inspection as soon as they are filed. The registration statement must become "effective" before the securities may be sold to the public. In addition the prospectus must be furnished to the purchaser at or before the sale or delivery of the security. The registrant and the underwriter are responsible for the contents of the registration statement. The Commission has no authority to control the nature or quality of a security to be offered for public sale or to pass upon its merits or the terms of its distribution. Its action in permitting a registration statement to become effective does not constitute approval of the securities, and any representation to a prospective purchaser of securities to the contrary is made unlawful by Section 23 of the Act.

### **DESCRIPTION OF THE REGISTRATION PROCESS**

#### **Registration Statement and Prospectus**

Registration of any security proposed to be publicly offered may be effected by filing with the Commission a registration statement on the applicable form containing prescribed disclosures. When a registration statement relates, generally speaking, to a security issued, by a corporation or other private issuer, it must contain the information, and be accompanied by the documents, specified in Schedule A of the Act; when it relates to a security issued by a foreign government, the material specified in Schedule B must be supplied. Both schedules specify in considerable detail the disclosure which should be made available to an investor in order that he may make an informed decision whether to buy the security. In addition, the Act provides flexibility in its administration by empowering the Commission to classify issues, issuers and prospectuses, to prescribe ap-

appropriate forms, and to increase or in certain instances vary or diminish the particular items of information required to be disclosed in the registration statement as the Commission deems appropriate in the public interest or for the protection of investors.

In general the registration statement of an issuer other than a foreign government must describe such matters as the names of persons who participate in the direction, management, or control of the issuer's business; their security holdings and remuneration and options or bonus and profit-sharing privileges allotted to them; the character and size of the business enterprise, its capital structure, past history and earnings, and its financial statements, certified by independent accountants; underwriters' commissions; payments to promoters made within two years or intended to be made; acquisitions of property not in the ordinary course of business, and the interest of directors, officers, and principal stockholders therein; pending or threatened legal proceedings; and the purpose to which the proceeds of the offering are to be applied. The prospectus constitutes a part of the registration statement and presents the more important of the required disclosures.

#### **Examination Procedure**

The staff of the Division of Corporation Finance examines each registration statement for compliance with the standards of accurate and full disclosure and usually notifies the registrant by an informal letter of comment of any material respects in which the statement appears to fail to conform to those requirements. The registrant is thus afforded an opportunity to file a curative amendment. In addition, the Commission has power, after notice and opportunity for hearing, to issue an order suspending the effectiveness of a registration statement. In certain cases, such as where a registration statement is so deficient as to indicate a willful failure to make adequate disclosure, no letter of comment is sent and the Commission either institutes an investigation to determine whether stop-order proceedings should be instituted or immediately institutes stop-order proceedings. Information about the use of this "stop-order" power during 1958 appears below under "Stop Order Proceedings."

#### **Time Required to Complete Registration**

Because prompt examination of a registration statement is important to industry, the Commission completes its analysis in the shortest possible time. Congress provided for 20 days in the ordinary case between the filing date of a registration statement or of an amendment thereto and the time it may become effective. This waiting period is designed to provide investors with an opportunity to become familiar with the proposed offering. Information disclosed in the

registration statement is disseminated during the waiting period by means of the preliminary form of prospectus. The Commission is empowered to accelerate the effective date so as to shorten the 20-day waiting period where the facts justify such action. In exercising this power, the Commission is required to take into account the adequacy of the information respecting the issuer theretofore available to the public, the facility with which investors can understand the nature of and the rights conferred by the securities to be registered, and their relationship to the capital structure of the issuer, and the public interest and the protection of investors. The note to Rule 460 under the Act indicates, for the information of interested persons, some of the more common situations in which the Commission feels that the statute generally requires it to deny acceleration of the effective date of a registration statement.

The median time which elapsed between the date of filing and the effective date with respect to 685<sup>1</sup> registration statements that became effective during the 1958 fiscal year was 24 days, compared with 23 days for the 1957 and 1956 fiscal years. This time was divided among the three principal stages of the registration process, approximately as follows:

- (a) From the date of filing the registration statement to the date of the letter of comment, 14 days;
  - (b) From the date of the letter of comment to the date of filing the first material amendment, 6 days; and
  - (c) From the date of filing the first amendment to the date of filing the final amendment and effective date of registration, 4 days.
- All of these periods include Saturdays, Sundays and holidays.

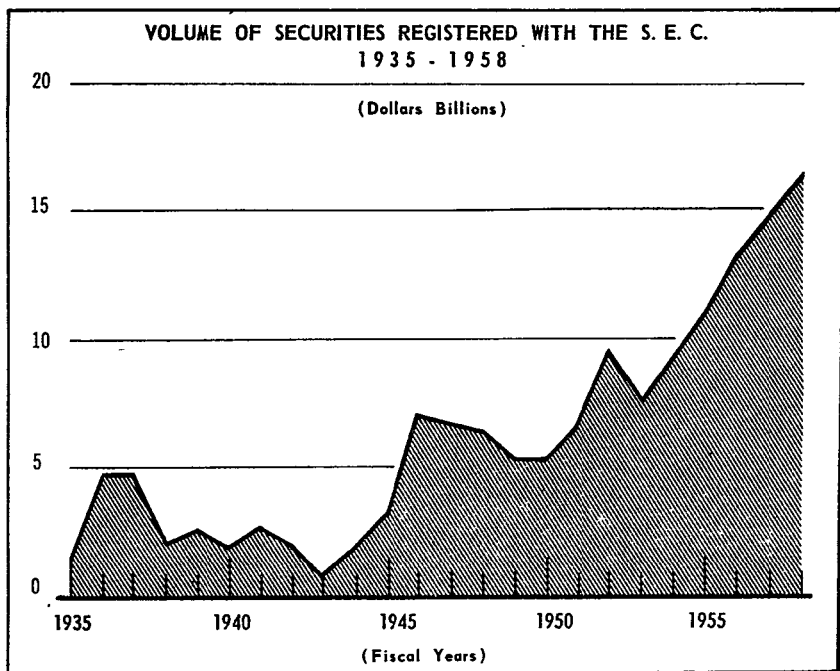
This increased average lapsed time is a matter of concern to the Commission. It is being carefully watched, and all appropriate steps are being taken to reduce the time lapse as much as possible, including steps to cure personnel shortages.

## VOLUME OF SECURITIES REGISTERED

Securities effectively registered under the Securities Act during fiscal 1958 totalled \$16.5 billion, the highest volume for any fiscal year in the 24-year history of the Commission. Registrations have more than doubled since 1953, when \$7.5 billion of securities were registered, reflecting annual increases of at least \$1.5 billion. The chart below shows the dollar amount of effective registrations from 1935 to 1958.

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<sup>1</sup> Does not include 130 registration statements of investment companies filed and effective as post-effective amendments to previously effective registration statements pursuant to section 24 (a) of the Investment Company Act of 1940. The median elapsed time for these 130 registration statements was 23 calendar days.



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These figures cover all securities effectively registered, including new issues sold for cash by the issuer, secondary distributions, and securities registered for other than cash sale, such as exchange transactions and issues reserved for conversion of other securities.

Of the dollar amount of securities registered in 1958, 80.5 percent was for the account of issuers for cash sale, 18.3 percent for account of issuers for other than cash sale and 1.2 percent was for account of others, as shown below :

*Account for which securities were registered under the Securities Act of 1933 during the fiscal year 1958 compared with the fiscal years 1957 and 1956*

	1958 in millions	Percent of total	1957 in millions	Percent of total	1956 in millions	Percent of total
Registered for account of issuers for cash sale.....	\$13,281	80.5	\$12,019	82.2	\$9,206	70.3
Registered for account of issuers for other than cash sale.....	3,008	18.3	2,225	15.2	2,819	21.5
Registered for account of others than the issuers.....	201	1.2	380	2.6	1,071	8.2
Total.....	16,490	100.0	14,624	100.0	13,096	100.0

The most important category of registrations, issues to be sold for cash for account of the issuer, amounted to \$13.3 billion in 1958, an increase of about 10 percent over the previous year. Most of the difference was due to the large volume of debt securities, \$6.9 billion as compared with \$5.7 billion in 1957. There was little change in the amount of either common or preferred stock registered. Of the

1958 volume, 52 percent was made up of debt securities, 45 percent common stock and 3 percent preferred stock. Close to half of the total for common stock represented securities of investment companies.

The number of statements, total amounts registered, and a classification by type of security for issues to be sold for cash for account of the issuing company in each of the fiscal years 1935 through 1958 are shown in appendix table 1. More detailed information for 1958 is given in appendix table 2.

The classification by industries of securities registered for cash sale for account of issuers in each of the last 3 fiscal years is as follows:

	1958 in millions	Percent of total	1957 in millions	Percent of total	1956 in millions	Percent of total
Manufacturing.....	\$2,239	16 9	\$2,674	22 2	\$1,788	19 4
Mining.....	110	8	283	2 4	148	1.6
Electric, gas and water.....	3,373	25 4	2,951	24.5	1,802	19 6
Transportation, other than railroads.....	52	.4	112	9	118	1 3
Communication.....	2,978	22 4	2,030	16 9	1,294	14 1
Investment companies.....	2,919	22.0	2,614	21 8	2,890	31 4
Other financial and real estate.....	1,109	8 4	952	7.9	852	9.2
Trade.....	34	.2	84	.7	73	.8
Service.....	29	.2	33	3	41	.4
Construction.....	25	2				
Total corporate.....	12,868	96 9	11,733	97.6	9,006	97.8
Foreign governments.....	412	3 1	286	2 4	200	2 2
Total.....	13,281	100 0	12,019	100.0	9,206	100.0

The investment company issues referred to in the table above were classified as follows:

	1958 in millions	1957 in millions	1956 in millions
Open-end companies <sup>1</sup> .....	\$2,784	\$2,361	\$2,675
Closed-end companies.....	12		42
Face amount certificate companies.....	123	253	173
Total.....	2,919	2,614	2,890

<sup>1</sup> Periodic payment plans or their underlying securities are included.

Of the net proceeds of the corporate securities registered for cash sale for the account of issuers in 1958, more than 70 percent was designated for new money purposes, including plant, equipment, and working capital, close to 3 percent for retirement of securities, and 27 percent for other purposes, principally the purchase of securities by investment companies.

### REGISTRATION STATEMENTS FILED

During the 1958 fiscal year, 913 registration statements were filed for offerings of securities aggregating \$16,913,744,964, compared with 943 registration statements filed during the 1957 fiscal year covering offerings amounting to \$14,667,282,319.



Of the 913 registration statements filed in 1958, 254, or 28 percent, were filed by companies that had not previously filed any registration statement under the Securities Act of 1933, compared with 305, or 32 percent, of the corresponding total during the 1957 fiscal year and 415, or 42 percent, for the 1956 fiscal year.

The growth in the volume of proposed financing under the registration provisions of the Securities Act of 1933 is shown by the following tabulation, which reflects a 4-year increase in 1958 of 88 percent over 1954 in the aggregate dollar amount of offerings as stated in the registration statements filed.

Fiscal year	Number of statements filed	Aggregate dollar amount	Fiscal year	Number of statements filed	Aggregate dollar amount
1954 .....	649	\$8,983,572,628	1957 .....	943	\$14,667,282,319
1955 .....	849	11,009,757,113	1958 .....	913	16,913,744,964
1956 .....	981	13,097,787,628			

A cumulative total of 14,704 registration statements has been filed under the Act by 6,925 different issuers covering proposed offerings of securities aggregating almost \$151 billion during the 25 years from the date of the enactment of the Securities Act of 1933 to June 30, 1958.

Particulars regarding the disposition of all registration statements filed under the Act to June 30, 1958 and the aggregate dollar amounts of securities proposed to be offered which were reflected in the registration statements both as filed and as effective, are summarized in the following table.

*Number and disposition of registration statements filed*

	Prior to July 1, 1957	July 1, 1957 to June 30, 1958	Total as of June 30, 1958
Registration statements.			
Filed .....	13,791	1,913	14,704
Disposition:			
Effective-net .....	12,024	2,810	12,823
Under stop or refusal order-net .....	193	3	196
Withdrawn .....	1,469	71	1,540
Pending at June 30, 1957 .....	105		
Pending at June 30, 1958 .....			145
Total .....	13,791		14,704
Aggregate dollar amount			
As filed .....	\$133,757,747,284	\$16,913,744,964	\$150,671,492,248
As effective .....	\$130,759,374,732	\$16,489,735,521	\$147,249,110,254

<sup>1</sup> Includes 134 registration statements covering proposed offerings totalling \$2,601,069,370 which were filed by investment companies under section 24 (e) of the Investment Company Act of 1940.

<sup>2</sup> Excludes 5 registration statements that became effective during the year but were withdrawn; these 5 statements are counted in the 71 statements withdrawn during the year.

<sup>3</sup> Excludes 11 statements that were effective prior to July 1, 1957 but were withdrawn; these 11 statements are counted in the 71 statements withdrawn during the year.

The reasons for requesting withdrawal of the 71 registration statements withdrawn during the 1958 fiscal year are shown in the following table:

Reason for registrant's withdrawal request	Number of statements withdrawn	Percent of total withdrawn
1. Withdrawal requested after receipt of staff's letter of comment.....	13	19
2. Registrant advised that statement should be withdrawn or stop order proceedings would be necessary.....	13	19
3. Change in financing plans.....	16	22
4. Change in market conditions.....	14	20
5. Financing was obtained elsewhere.....	3	4
6. Regulation A could be used.....	3	4
7. Insufficient funds raised under an escrow agreement.....	5	7
8. Registrant could not comply with the Trust Indenture Act of 1939.....	1	1
9. Registrant unable to negotiate acceptable underwriting agreement.....	3	4
Total.....	71	100

### RESULTS OBTAINED BY THE REGISTRATION PROCESS

As the result of the staff's examination of registration statements, numerous significant changes were effected in the disclosures made to the investing public. Among these results were changes in accounting presentation, as illustrated by the following examples:

**Stock Issued in Exchange for Partnership Assets.**—Several partners organized a corporation to which they transferred certain partnership assets in exchange for some 1,900,000 shares of \$1 par value common stock of the new company. The number of shares issued was based principally on appraised values assigned to the assets transferred.

A registration statement was filed by the new corporation in which its assets were stated at such appraised values. In view of the absence of an arm's length relationship between the partners and the corporation the registrant was requested to amend its financial statements so that the assets would be stated on the basis of the cost to the partners.

As a result of this request the assets were restated and the equity section of the balance sheet showed as a deduction from the aggregate par value of shares outstanding about \$1,400,000 representing the excess of par value of shares issued and other consideration over incorporators' cost of assets acquired at or since incorporation. This change reduced the total assets of the corporation from \$2,700,000 to \$1,300,000.

Subsequently the company was recapitalized, with the 1,900,000 shares of \$1 par value common stock being converted into 425,000 shares of \$1 par value Class A stock, a reduction in capital more than sufficient to eliminate the excess item from the equity section of the balance sheet.

**Pooling of Interests vs. Purchase Accounting.**—The principle of “pooling of interests” accounting permits the combining of the earned surplus accounts of companies involved in a merger or combination and avoids the recording of goodwill or an upward revaluation of other assets as would be required in many purchase or acquisition transactions under “acquisition” accounting.

In a recent registration statement in which an exchange offer was described, acquisition accounting was proposed for the combination of two companies, of which the proposed parent company was one-fifth the size of the company being acquired. The smaller company, which had some 400,000 shares of stock outstanding, was to issue 1,600,000 shares of its \$.25 par value common stock for the entire outstanding stock of the larger company, assigning to its own shares a value of \$2 per share. The prospectus also carried a public offering of 250,000 shares at a price to net the company \$2.10 per share.

As originally proposed in the registration statement, \$2,600,000 of the excess of the ascribed value of the new shares was to be assigned to certain undeveloped real estate owned by the larger company. After reviewing the terms of the proposed combination, our staff objected to the use of acquisition accounting and the resulting substantial write-up in the value of the land. Certain unusual features of the plan prompted this position. The registrant's previously outstanding common shares were redesignated as Class A convertible stock which was convertible into debentures until a specified date, after which it automatically became common stock. Both Class A stock and the debentures had voting rights for the election of five directors, and the new common stock to be issued under the plan of exchange was limited to the right to elect five directors, making a total of ten directors. Two members of the new group in the organization were to become president and secretary of the parent company.

After discussions, an amended registration statement was filed in which the pooling of interests concept was applied to the combination and the investment in the subsidiary was recorded on the books of the parent at the underlying book value based on cost, and hence no revaluation of the real estate emerged.

### STOP ORDER PROCEEDINGS

Section 8 (d) provides that, if it appears to the Commission at any time that a registration statement contains an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission may institute proceedings looking to the issuance of a stop order suspending the effectiveness of the registration statement. Where such an order is issued, the offering cannot lawfully be made,

or continued if it has already begun, until the registration statement has been amended to cure the deficiencies and the Commission has lifted the stop order. During the 1958 fiscal year, 8 new proceedings were authorized by the Commission under section 8 (d) of the Act and 7 such proceedings were continued from the preceding year. Two of such cases were thereafter consolidated. In connection with these 14 proceedings 5 stop orders were issued during the year, one of which was subsequently vacated when the registration statement was appropriately amended. In 2 other cases the registration statement was withdrawn. The remaining 7 cases were pending as of June 30, 1958.

A proceeding in which a stop order was issued with respect to a registration statement filed by Republic Cement Corporation was described in the 23rd Annual Report.<sup>2</sup> The other 4 proceedings which resulted in the issuance of stop orders during the fiscal year are described below as well as 1 proceeding in which a stop order was issued shortly after the end of the fiscal year.

**Horton Aircraft Corporation.**—This registrant, a Nevada corporation, was organized for the purpose of manufacturing and selling a so-called Horton Wingless Airplane. The company filed two registration statements with the Commission. The first statement, filed in 1955, covered a proposed offering of 500,000 shares of no par value common stock of which 400,000 shares were to be offered by the registrant and 100,000 shares by the president, William E. Horton, at \$1.00 per share or the market price, whichever was higher. The other registration statement, filed in 1956, covered 100,000 shares of common stock of the registrant held by Horton which was to be offered at \$25.00 per share. A consolidated hearing was held as to both registration statements and the Commission issued a stop order suspending the effectiveness of both statements.

The Commission found the registration statements false and misleading in the following material respects, among others.<sup>3</sup>

The representation in the registration statements that Horton had assigned to the registrant a patent with respect to the wingless airplane was materially misleading in view of the fact that Horton had previously assigned all of his right, title and interest in his "invention" to another person. The description in the registration statements of the Horton Wingless Airplane, the aeronautical principles involved, and the coverage of the patent obtained by Horton, was also materially false and misleading. False and misleading statements were also made with respect to the performance of Horton's model of the wingless plane. The registration statements also contained false and misleading statements with respect to the use of the proceeds from the

<sup>2</sup> Pp. 46-47.

<sup>3</sup> Securities Act Release No. 3855 (October 29, 1957).

previous sale of unregistered securities, the price of the securities being registered and the proposed use of the proceeds therefrom.

In addition, the Commission found that while the second registration statement disclosed the entry of an injunction against registrant and Horton based on false and misleading claims and the return of an indictment against Horton based on fraud, registrant nevertheless omitted to disclose the nature of the false and misleading statements and the fraud involved.

**Columbia General Investment Corporation.**—The registrant, a Texas corporation organized for the purpose of engaging in the investment business, filed a registration statement covering 100,000 shares of its common stock, \$1 par value, to be offered to its stockholders at \$4.50 per share. The Commission, finding that the registration statement contained materially misleading statements, denied a request for withdrawal of such statement and issued a stop order.

The registration statement stated, among other things, that 42,000 shares of the common stock of Columbia General Life Insurance Company, acquired from the promoters of the insurance company and registrant in exchange for 210,000 shares of registrant's common stock, and representing a substantial portion of registrant's assets, had an "estimated fair value" of \$420,000. The \$420,000 value was stated to be based on the fact that at and prior to such acquisition, shares of such stock had been sold at prices of \$10 and more by the insurance company in the course of a public offering and by one of the promoters through a company established for the purpose of maintaining and stabilizing the market in that stock. However, the Commission held that the prices paid in such sales could not be considered a true reflection of the market or fair value of the stock at such time in view of the materially misleading statements employed in connection with the sales. The Commission found that the failure to disclose the facts surrounding the insurance company offering rendered the statements regarding the value of the 42,000 shares misleading.

The Commission further found that registrant had sold 53,059 of its own shares to stockholders of the insurance company at \$9 per share, and 10,077 shares to the general public at \$12 per share, without disclosing that such prices had been arbitrarily determined, that there had been recent sales of such stock at \$2 per share to insiders and others, and that registrant's capital and surplus figures included the misleading \$420,000 valuation attributed to the 42,000 shares of insurance company stock. As a result of such sales, the Commission ruled, a contingent liability to the purchasers was created which should have been disclosed in the registration statement.<sup>4</sup>

<sup>4</sup> Securities Act Release No. 3901 (March 5, 1958). A petition for review of the Commission's order has been filed in the United States Court of Appeals for the Fifth Circuit.

**Lewisohn Copper Corporation.**—This registrant, a Delaware corporation, was organized for the purpose of exploring, developing and operating mining properties in Arizona. Prior to the filing of its registration statement, the company had, commencing in October 1955, sold 200,000 shares of its common stock at a stated public offering price of \$1.50 a share under claim of exemption from registration under Regulation A. The registration statement, filed in March 1956, covered a proposed offering of 100,000 shares at a price to be determined prior to the effective date of the registration statement and which had tentatively been estimated at at least \$10 a share. Stop order proceedings, instituted in August 1956, with respect to the registration statement were consolidated with proceedings under Regulation A, instituted in June 1956, with respect to suspension of the exemption thereunder of the earlier 200,000 share offering.

More than half of the 200,000 share offering was sold to a few broker-dealer firms, including one firm closely connected with the underwriter, for their own accounts, or for the accounts of members or their families, at the stated offering price of \$1.50 a share. Such firms and persons in turn resold a large part of the stock, mostly at prices in excess of \$1.50 and ranging as high as \$9.50 or more. The Commission found the offering circular used in connection with the offering false in stating that the public offering price was \$1.50 a share and deficient in failing to disclose that profits would be received by the various firms and individuals, upon the resale of the stock by them at higher prices. The Commission found that such resales constituted part of the public distribution of the stock. Since most of the resales were at prices in excess of \$1.50, the aggregate offering price to the public exceeded the \$300,000 maximum prescribed by section 3 (b) of the Act and Regulation A and accordingly no exemption under the regulation was available. On this and other grounds, including misleading publicity circulated by the issuer and underwriter in connection with the offering, the Commission permanently suspended the exemption of the offering under Regulation A.

With respect to the registration statement, the Commission issued a stop order, finding the prospectus deficient in failing to disclose the facts as to the 200,000 share offering referred to above and the contingent liability resulting from the sale of the 200,000 shares when no exemption from registration was available. The Commission further found the prospectus misleading in failing to disclose the activities of the issuer, the underwriter and others having a tendency to influence the market price of the company's stock. These activities included market activities by the underwriter and others and publicity circulated by the company and the underwriter, which

gave the misleading impression that there had been an immediate public demand for and acceptance of the stock and which contained optimistic and misleading statements about the company's drilling program, results of assays, possible tonnages of ore on its properties and an application for a certificate of tax necessity on a large concentrating mill, and did not disclose that the existence of a mineable ore body had not been established. Additional deficiencies found in the prospectus included the failure to disclose the underwriter's profit in the resale of 33,000 shares of the issuer's stock purportedly purchased by the underwriter for investment and the contingent liability of the issuer for the sale of these shares without registration.

In view of the serious nature of the deficiencies in the registration statement the Commission denied the registrant's request to be allowed to withdraw it. The Commission indicated that the fact that the company had a substantial amount of stock outstanding in the hands of investors distinguished the situation presented in this case from that involved in *Jones v. S. E. C.*, 298 U. S. 1 (1936) where withdrawal was required.<sup>5</sup>

**The Fall River Exploration and Mining Company.**—The registrant, a Colorado corporation, then named The Fall River Power Company, filed a registration statement covering a proposed public offering of 500,000 shares of its no par value common stock at \$2.00 per share. After hearings instituted pursuant to section 8 (d) of the Act, the Commission ordered suspension of the effectiveness of the registration statement. The company consented to the entry of the stop order.<sup>6</sup>

Among the deficiencies constituting the grounds for the issuance of the Commission's stop order were: (1) representations that the registrant's business was in part that of a public utility, notwithstanding the fact that there was no demand for power from the long-idle hydro-electric plant owned by the registrant, (2) the use of an appraisal of the hydro-electric plant, based on estimated replacement cost, where the appraisal was not prepared in accordance with accepted standards and failed, among other things, to consider the lack of demand for power, (3) the use of an appraisal of water rights not founded on a basis sufficient to sustain it, (4) the representation that a portion of the proceeds from the sale of the stock would be applied toward the purchase of milling facilities, without disclosing that there were no known ore bodies and no present need for milling facilities, and (5) the inclusion in the financial statements of an appraisal, at present day cost, of tunnels represented as development work on min-

<sup>5</sup> Securities Act Release No. 3907 (March 18, 1958). A petition for review of the Commission's order has been filed in the United States Court of Appeals for the Ninth Circuit.

<sup>6</sup> Securities Act Release No. 3932 (June 4, 1958).

ing claims, which were constructed by predecessors of the registrant in large part to transport ore from mines which were no longer being worked.

Shortly after the close of the fiscal year under review the registration statement was amended. In its amended form, the statement disclosed that the registrant's name, which in its original form suggested the company was an operating public utility, had been changed to indicate that the business was exploration and mining. Since the amended statement had been revised to meet the various objections previously cited, the Commission vacated the stop order, and the registration statement was ordered effective.<sup>7</sup>

**Woodland Oil & Gas Co., Inc.**—The registrant, a Delaware corporation, filed a registration statement covering a proposed public offering of 700,000 shares of its common stock at \$1.50 per share, of which 600,000 shares were to be offered on behalf of the registrant and 100,000 shares were to be offered on behalf of the principal promoter and general manager of the registrant. The company was organized for the purpose of exploring, developing and operating oil and gas properties. Its assets consisted of interests in certain partially developed Pennsylvania properties, and an interest in some wildcat acreage in Western Kentucky. The proceeds of the issue were intended for drilling and testing on both properties.

After examination of the registration statement and hearings, pursuant to section 8 (d) of the Securities Act, the Commission found that the registrant had failed to make adequate disclosures with respect to (1) its poor production record which had resulted in sustained operating losses, (2) its recoverable reserves and the extent to which they could be produced profitably, (3) the remote possibilities of investors realizing income from or a return of their investment, (4) unsuccessful drilling tests on the Kentucky property, and (5) certain underwriting agreements. The Commission found that misleading statements were contained in (1) the statements regarding use of the proceeds, (2) references to large quantities of oil in the Western Kentucky general area, and (3) the geologist's report. The Commission found that in order to make the speculative features of the enterprise "plainly evident" to the ordinary investor, they had to be set forth in summary fashion in one place in the early part of the prospectus under an appropriate heading.

A stop order was issued by the Commission shortly after the close of the fiscal year under review.<sup>8</sup>

<sup>7</sup> Securities Act Release No. 3957 (August 15, 1958).

<sup>8</sup> Securities Act Release No. 3942 (July 11, 1958).



## EXAMINATIONS AND INVESTIGATIONS

The Commission is authorized by section 8 (e) of the Act to make an examination in order to determine whether a stop order proceeding should be instituted under section 8 (d). For this purpose the Commission is empowered to subpoena witnesses and require the production of pertinent documents. Four such examinations were initiated during the 1958 fiscal year and one examination was pending from the previous fiscal year. In two cases the examination led to proceedings under section 8 (d) of the Act, in two others the registration statements were withdrawn and in the fifth the registration statement was amended and the examination closed. No examinations under section 8 (e) of the Act were pending at the end of the fiscal year.

The Commission is also authorized by section 20 (a) of the Act to make an investigation to determine whether any provisions of the Act or any rule or regulation prescribed thereunder have been or are about to be violated. The Commission has instituted investigations under this section as an expeditious means of determining whether a registration statement is false or misleading or omits to state any material fact. During the 1958 fiscal year 16 such investigations were instituted. Eight such investigations were pending from the previous fiscal year. Five investigations resulted in the institution of stop order proceedings under section 8 (d) of the Act, five were closed, in one the registration statement was withdrawn and in the remaining case a permanent suspension order was entered under Regulation A. Twelve investigations were pending at the end of the 1958 fiscal year.

## EXEMPTION FROM REGISTRATION OF SMALL ISSUES

Under section 3 (b) of the Securities Act, the Commission is empowered to exempt, by its rules and regulations and subject to such terms and conditions as it may prescribe therein, any class of securities from registration under the Act, if it finds that the enforcement of the registration provisions of the Act with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering. The statute imposes a maximum limitation of \$300,000 upon the size of the issues which may be exempted by the Commission in the exercise of this power.

Acting under this authority the Commission has adopted the following exemptive regulations:

**Regulation A :**

General exemption for United States and Canadian issues up to \$300,000.

**Regulation A-M :**

Special exemption for assessable shares of stock of mining companies up to \$100,000.

**Regulation A-R:**

Special exemption for first lien notes up to \$100,000.

**Regulation B:**

Exemption for fractional undivided interests in oil or gas rights up to \$100,000.

**Regulation B-T:**

Exemption for interests in oil royalty trusts or similar types of trusts or unincorporated association up to \$100,000.

Exemption from registration under section 3 (b) of the Act does not carry exemption from the civil liabilities for false and misleading statements imposed upon any person by section 12 (2) or from the criminal liabilities for fraud imposed upon any person by section 17 of the Act.

**Exempt Offerings Under Regulation A**

The Commission's Regulation A permits a company to obtain not exceeding \$300,000 (including underwriting commissions) of needed capital in any one year from a public offering of its securities without registration if the company complies with the regulation. Regulation A requires the filing of a notification with the appropriate Regional Office of the Commission, supplying basic information about the company, certain exhibits, and except in the case of a company with an earnings history which is making an offering not in excess of \$50,000, an offering circular which is required to be used in offering the securities.

During the 1958 fiscal year, 732 notifications were filed under Regulation A, covering proposed offerings of \$133,889,109, compared with 919 notifications covering proposed offerings of \$167,269,900 in the 1957 fiscal year. Included in the 1958 total were 71 notifications covering stock offerings of \$14,433,379 with respect to companies engaged in the exploratory oil and gas business and 69 notifications covering offerings of \$14,257,615 by mining companies.

The following table sets forth various features of the Regulation A offerings during the past three fiscal years:

*Offerings under Regulation A*

	Fiscal year		
	1958	1957 -	1956
<b>Size:</b>			
\$100,000 or less.....	231	307	481
Over \$100,000 but not over \$200,000.....	165	163	246
Over \$200,000 but not over \$300,000.....	336	449	736
	732	919	1,463
<b>Underwriting:</b>			
Used.....	243	328	630
Not used.....	489	591	833
	732	919	1,463
<b>Offerors:</b>			
Issuing companies.....	704	865	1,389
Stockholders.....	28	52	62
Issuers and stockholders jointly.....	0	2	12
	732	919	1,463

Most of the offerings which were underwritten were undertaken by commercial underwriters, who participated in 185 offerings in 1958, 252 in 1957, and 528 in 1956. The remaining cases where commissions were paid were handled by officers, directors, or other persons not regularly engaged in the securities business.

#### **Suspension of Exemption**

Regulation A provides for the suspension of an exemption thereunder where, in general, the exemption is sought for securities for which the regulation provides no exemption or where the offering is not made in accordance with the terms and conditions of the regulation or in accordance with prescribed disclosure standards. Following the issuance of a temporary suspension order by the Commission, the respondents may request a hearing to determine whether the temporary suspension should be vacated or made permanent. In the case of filings made under Regulation A as revised in July 1956, if no hearing is requested within thirty days after the entry of the temporary suspension order, and none is ordered by the Commission on its own motion, the temporary suspension order becomes permanent.

During the 1958 fiscal year, temporary suspension orders were issued in 88 cases as compared with 132 in the 1957 fiscal year. Of the 88 orders, 3 were later vacated. Requests for hearing were made in 18 cases and in 7 of such cases the requests were later withdrawn; proceedings in the remaining 11 cases are pending. The names of the companies involved in the orders issued during the 1958 fiscal year are set forth in table (6) of the appendix. A few cases are summarized below to illustrate the misrepresentations and other noncompliance with the regulation which led to the issuance of suspension orders.

**Washington Planning Corporation of Maryland.**—In its order temporarily suspending the Regulation A exemption, the Commission alleged that the offering circular contained untrue statements of material facts and failed to disclose required information concerning the net loss sustained from the issuer's business operations. There was also a failure to disclose that the offering of securities was being made on an installment payment basis, that commissions were paid for the sale of the securities despite statements in the offering circular to the contrary, and that part of the proceeds from the offering were used to pay expenses and make advances to companies other than the issuer. The Commission's order further alleged that the use of the offering circular without appropriate disclosure had been and would be in violation of section 17 of the Securities Act of 1933. In addition, the terms and conditions of Regulation A were not complied with in that the issuer failed to file a complete and accurate report

of the sales of its securities. No hearing was requested and the suspension order became permanent.

**Seaboard Drug Company, Inc.**—The Commission temporarily suspended the exemption because the terms and conditions of Regulation A were not complied with since the aggregate offering price of shares sold by stockholders in the market and shares sold on behalf of the issuer exceeded the \$300,000 ceiling. The Commission also stated that the offering circular operated as a fraud and deceit upon the purchasers and contained untrue statements of material facts and omitted to state certain material facts with respect to the issuer's assumption of expenses of certain affiliates and predecessor companies, and the utilization of proceeds of the offering for a personal loan to an officer, director and principal security holder of the issuer. No hearing has been requested and the suspension order remains in effect.

**Tejanos Mining Corporation.**—In its order temporarily suspending the exemption, the Commission alleged that the notification failed to disclose the issuance of certain shares within one year prior to the subject filing, and failed to disclose the identity of the underwriter. The Commission further alleged that the Regulation A exemption was not available since the president of the issuer had been indicted for selling unlicensed securities and selling securities without registering as a dealer in the State of Texas. The order also alleged that misleading statements were made concerning the use of proceeds and the interests of the officers, directors and promoters in the issuer. No hearing was requested and the suspension order became permanent.

**Microveer, Incorporated.**—The Commission's temporary suspension order alleged that the offering circular was misleading and contained untrue statements of material facts with respect to statements made concerning the physical properties of the issuer's product, a thin wood veneer, the existence of potential purchasers of the company's product and the amount of funds needed to equip the issuer's plant adequately with machinery. No hearing was requested and the suspension order became permanent.

**Central Oils, Incorporated.**—The Commission suspended the Regulation A exemption for an offering of the above company because of misleading, inaccurate and incomplete statements in the offering circular concerning, among other matters, the interests of the directors and promoters in the company's properties, the past and prospective productivity of the company's oil properties, and the misleading nature of the geological materials. A request for hearing was filed and later withdrawn, and the suspension became permanent.

**Gem State Securities Corporation.**—In its order temporarily suspending the Regulation A exemption, the Commission alleged that the Regulation A exemption was unavailable because securities were

sold prior to the time permitted by the regulation, at a different price from that stated in the offering circular, and without delivery of an offering circular. No hearing was requested and the suspension order became permanent.

**Garner Aluminum Corporation.**—The Commission temporarily suspended the Regulation A exemption because it had reasonable cause to believe that oral misrepresentations were made in the sale of securities under the offering which operated as a fraud and deceit upon the purchasers, particularly with respect to statements made concerning the refunding of investors' money, the amount of securities already sold, and the use of proceeds received therefrom. No hearing has been requested and the suspension order remains in effect.

The Commission is given discretionary authority in rule 252 (f) of Regulation A to determine upon a showing of good cause that certain disabilities, arising in general from past conduct of the issuer, underwriter or others associated with them in the purchase or sale of securities, and which ordinarily have the effect of making the Regulation A exemption unavailable, shall not operate to bar an exemption under the regulation. During the 1958 fiscal year, 14 applications for relief from various disabilities were granted under rule 252 (f) by the Commission.

**Exempt Offerings Under Regulation B**

During the fiscal year ended June 30, 1958, 109 offering sheets were filed pursuant to Regulation B and were examined by the Oil and Gas Unit of the Commission's Division of Corporation Finance. During the 1957 fiscal year, 133 offering sheets were filed and during the 1956 fiscal year, 114 were filed. The following table indicates the nature and number of Commission orders issued in connection with such filings during each of the fiscal years referred to:

*Action taken on offering sheets filed under Regulation B*

	Fiscal years		
	1958	1957	1956
Temporary suspension orders.....	9	12	5
Permanent suspension orders.....			1
Orders terminating proceeding after amendment.....	1	7	5
Orders accepting amendment of offering sheet (no proceeding pending).....	60	72	60
Orders consenting to withdrawal of offering sheet (no proceeding pending).....	3	3	4
Orders consenting to withdrawal of offering sheet and terminating proceeding.....	2		
Order terminating effectiveness of offering sheet.....			1
<b>Total number of orders.....</b>	<b>75</b>	<b>94</b>	<b>76</b>

**Reports of sales.**—The Commission requires persons who make offerings under Regulation B to file reports of the actual sales made pursuant to that regulation. The purpose of these reports is to aid

the Commission in determining whether violations of law have occurred in the marketing of securities offered under the regulation. The following table shows the number of sales reports filed under Regulation B during the past three fiscal years and the aggregate dollar amount of sales during each of such fiscal years:

*Reports of sales under Regulation B*

	Fiscal years		
	1958	1957	1956
Number of sales reports filed.....	1,712	1,318	1,419
Aggregate dollar amount of sales reported.....	\$1,093,362	\$1,154,792	\$1,234,541

### LITIGATION UNDER THE SECURITIES ACT OF 1933

The Commission is authorized by the Securities Act to seek injunctions in cases where the continued or threatened violations of the Act may result in damage to members of the public. Many such actions were brought by the Commission during the year in cases involving violations of the registration and anti-fraud provisions of the Act.

#### Litigation Involving Violations of Registration and Anti-fraud Provisions

The Commission obtained injunctions against further violations of the registration provisions in actions in which it was found that the defendants were selling fractional interests in oil leases or in oil and gas properties without registration. Permanent injunctions were obtained in *S. E. C. v. Gerald L. Reasor and John O. Karstrom, Jr.*,<sup>9</sup> *S. E. C. v. Horace E. Watkins, doing business as Watkins Oil Co. et al.*,<sup>10</sup> both referred to in the 23rd Annual Report,<sup>11</sup> and *S. E. C. v. Edward J. Preston*.<sup>12</sup> In *S. E. C. v. Ben Franklin Oil and Gas Corporation, et al.*,<sup>14</sup> a preliminary injunction was obtained prohibiting the sale of shares of Ben Franklin Oil and Gas Corporation without registration.

Sales of unregistered securities in mining companies also required Commission action within the year. In *S. E. C. v. Tannen and Co., Inc., et al.*<sup>15</sup> a permanent injunction was obtained against 8 defendants to prevent further sales of unregistered stock. Similar injunctions were obtained in *S. E. C. v. Cataract Mining Corporation, et al.*,<sup>16</sup>

<sup>9</sup> N. D. Illinois, No. 56-C-2038 (December 4, 1956).

<sup>10</sup> D. Colorado No. 5533 (November 9, 1956).

<sup>11</sup> P. 54.

<sup>12</sup> D. Montana No. 765 (December 20, 1957).

<sup>14</sup> D. New Jersey, No. 601-57 (June 19, 1957).

<sup>15</sup> S. D. New York No. 123-115 (August 2, 1957).

<sup>16</sup> S. D. New York No. 126-173 (October 30, 1957).

*S. E. C. v. Columbus-Rexall Oil Company, et al.*,<sup>17</sup> *S. E. C. v. Creswell-Keith Mining Trust, et al.*,<sup>18</sup> *S. E. C. v. Dawn Uranium and Oil Company, et al.*,<sup>19</sup> *S. E. C. v. William J. Owen and Leonard S. Fow, doing business as Uinta Basin Oil and Gas Leasing Company, et al.*,<sup>20</sup> and *S. E. C. v. Strategic Minerals Corporation of America, et al.*<sup>21</sup> Injunctions were entered by consent in the last four of the above cases. A preliminary injunction was obtained in *S. E. C. v. Royal Drift Mining Company, et al.*<sup>22</sup>

Final judgments were also entered in *S. E. C. v. Arkansas Securities Corp. et al.*,<sup>23</sup> *S. E. C. v. Great Fidelity Life Insurance Co., et al.*,<sup>24</sup> *S. E. C. v. Oregon Timber Products Co., Inc., et al.*,<sup>25</sup> *S. E. C. v. Farm and Home Agency, Inc., et al.*,<sup>26</sup> *S. E. C. v. Television and Radio Broadcasting Corporation and James D. Asher*<sup>27</sup> and *S. E. C. v. Francis Distributing Co., Inc., et al.*,<sup>28</sup> enjoining further sales of unregistered shares. The injunctions were entered by consent in the *Farm and Home, Great Fidelity Life* and *Television and Radio* cases.

In *S. E. C. v. Backers Discount and Finance Company and James Sorce, Jr.*<sup>29</sup> the defendant, who was in the business of purchasing installment notes received by contractors, offered to investors participating certificates in these installment notes guaranteeing 12% net return on the investment and purportedly assigning a mortgage to the investor. The amount invested had in fact no relation to the face amount of the mortgage assigned, and if the mortgagor defaulted, another mortgage was substituted. In some instances no mortgage was assigned to the investor but rather a participation in general portfolio holdings of Backers. These "guarantee saving certificates" were found not to be guaranteed by any outside independent guarantor, but merely secured by Backers. Notwithstanding assurances by Backers that it would discontinue interstate sales until such time as it had complied with the registration requirements of the Act, over \$10,000 of the certificates were sold to residents of 6 states. A final injunction was entered by the Court to enjoin further sales of these securities.

<sup>17</sup> D. Utah, No. C-167-57 (October 9, 1957).

<sup>18</sup> W. D. Arkansas No. 733 (January 9, 1958).

<sup>19</sup> E. D. Washington No. 1395 (June 1, 1956).

<sup>20</sup> D. Colorado No. 5749 (July 24, 1957).

<sup>21</sup> N. D. Texas No. 7889 (June 6, 1958).

<sup>22</sup> N. D. California No. 7706 (March 5, 1958).

<sup>23</sup> W. D. Arkansas No. 734 (January 9, 1958).

<sup>24</sup> S. D. Indiana No. IP-58-C19 (January 16, 1958).

<sup>25</sup> D. Nevada No. 1280 (October 3, 1956).

<sup>26</sup> S. D. Indiana No. IP 58 C83 (April 16, 1958).

<sup>27</sup> D. Massachusetts No. 57-640 A (July 1, 1957).

<sup>28</sup> D. Massachusetts No. 58-424-S (April 22, 1958).

<sup>29</sup> D. New Jersey No. 14-58 (January 7, 1958).

In *S. E. C. v. Micro-Moisture Controls, et al.*<sup>30</sup> 16 defendants, including 7 registered broker-dealer firms, were permanently enjoined from further violations of the registration requirements of the Act in the offer and sale of common stock of Micro-Moisture Controls, Inc. This action, which was also referred to in the 23rd Annual Report,<sup>31</sup> involved an increased number of outstanding shares resulting from an exchange of assets of Converters Acceptance Corporation of Canada for stock of Micro-Moisture. A subsequent public distribution by certain controlling stockholders of Micro-Moisture was made through the defendant broker-dealer firms and 2 residents of Canada, also named as defendants.

In *S. E. C. v. Land Development Company of Nevada, et al.*,<sup>32</sup> the complaint charged, among other things, that the defendants had been offering and selling the capital stock of Land Development Company of Nevada and certain evidences of indebtedness, investment contracts and profit sharing agreements when no registration statement was in effect as to such securities. The defendants consented to the entry of a preliminary injunction.

Violations of the registration provisions of the Securities Act were also charged in *S. E. C. v. Roy B. Kelly, et al.*,<sup>33</sup> *S. E. C. v. Truckee Showboat, Inc.*,<sup>34</sup> and *S. E. C. v. Doctors' Motels, Inc.*<sup>35</sup> In the *Kelly* case the complaint was dismissed by agreement of the parties, subject to a stipulation effectively preventing sale of the stock without registration. In the *Truckee Showboat* case the application for a preliminary injunction was denied, the court indicating that it was convinced that the defendant was not threatening to violate the law and that an injunction was therefore unnecessary. In the *Doctors' Motels* case the complaint was dismissed by stipulation of the parties subsequent to the filing of a registration statement.

A final injunction was obtained by consent in *S. E. C. v. Edward L. Elliott, et al.*<sup>36</sup> to prevent distribution of unregistered securities of Crowell-Collier Publishing Company. The related administrative proceedings are discussed in this report under the Securities Exchange Act of 1934.<sup>37</sup>

Sales of unregistered mining stock, which also violated the anti-fraud provisions of Section 17 of the Securities Act in that false and misleading statements were used in such sales, brought about the entry

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<sup>30</sup> S. D. New York No. 116-190 (January 9, 1957). Notice of appeal from this injunction was filed by four corporate defendants and five individual defendants before the end of the fiscal year.

<sup>31</sup> P. 54.

<sup>32</sup> D. Nevada, No. 224 (September 27, 1957).

<sup>33</sup> District of Columbia, No. 2635-57 (October 18, 1957).

<sup>34</sup> S. D. California, No. 901-57 WB (July 23, 1957).

<sup>35</sup> D. Kansas, No. KC907 (June 27, 1957):

<sup>36</sup> S. D. New York No. 123-234 (August 12, 1957):

<sup>37</sup> *Infra*, page 83.



of a final injunction in *S. E. C. v. Triumph Mines, Ltd., et al.*<sup>38</sup> and resulted in a preliminary injunction in *S. E. C. v. Alan Russell Securities, Incorporated, et al.*<sup>39</sup> Preliminary injunctions to prevent further violations of Section 5 and 17 of the Securities Act were also entered in *S. E. C. v. Franklin Atlas Corp., et al.*,<sup>40</sup> and *S. E. C. v. American Founders Life Insurance Company of Denver, Colorado, et al.*<sup>41</sup> In the latter case an injunction was entered against the corporate defendants, American Founders Life Insurance Company of Denver, Colorado and Colorado Management Corporation. Among other statements found to be misleading by the Court were the omission to disclose the intercorporate relationships existing between the corporate defendants; for example, that Colorado Management Corporation entered into a management contract with American Founders for a consideration equal to at least 5% of the gross income of the insurance company for a 10-year period.

A permanent injunction was entered against Judson I. Taggart in *S. E. C. v. Adams Bond and Share, Inc. and Judson I. Taggart.*<sup>42</sup> The complaint alleged that Taggart as vice president of defendant company had, in the sale of stock in that company, made false and misleading statements by, among other things, omitting to state to purchasers that another company, whose business his company was purchasing, had been continually operating at substantial losses, amounting to over \$46,000 within a specified six-month period. In *S. E. C. v. Evergreen Memorial Park Association, et al.*,<sup>43</sup> the defendants consented to the entry of an injunction restraining further violations of Section 17 of the Securities Act.

False and misleading statements in violation of Section 17 of the Securities Act as well as sales in violation of the registration provisions were alleged in the Commission's complaint in *S. E. C. v. Crusader Oil and Uranium Company, et al.*<sup>44</sup> In that case, the Commission alleged that in connection with the offer and sale of unregistered common stock of the Wyoming Oil Company (Delaware) the defendants had represented that the selling price of 20¢ to 50¢ per share was a special price offered to a few stockholders, whereas in fact it was far in excess of the market price, and the offering was not limited to a few stockholders. A final judgment was entered by consent permanently enjoining Crusader Oil and Uranium Company and James R. Macon, president and controlling person, from further vio-

<sup>38</sup> W. D. Washington No. 4555 (March 18, 1958).

<sup>39</sup> S. D. New York No. 130-358 (March 7, 1958).

<sup>40</sup> S. D. New York No. 120-172 (September 4, 1957).

<sup>41</sup> D. Colorado No. 6021 (April 1, 1958):

<sup>42</sup> D. Idaho No. 3413 (January 11, 1958):

<sup>43</sup> E. D. Pennsylvania No. 24, 424 (April 3, 1958):

<sup>44</sup> D. Colorado No. 5769 (August 19, 1957).

lations of Sections 5 (a) and (c) and 17 (a) of the Act, and Robert W. Wilson, a broker-dealer, from further violating Section 17 (a) of the Act.

In *S. E. C. v. Southwest Securities, Inc., et al.*<sup>45</sup> a permanent injunction was entered enjoining General Insurance Investment Company, Harvey E. Smith, Margaret Brand Smith, and Bennie L. Dean from further violations of the registration provisions of the Securities Act. At the same time the Court entered an order extending until further order the effectiveness of a temporary restraining order which had been previously entered against Southwest Securities, Inc., Allen Goldsmith and Faye Goldsmith, restraining them from further violations of the registration and anti-fraud provisions of the Securities Act, as well as of the broker-dealer registration requirements of the Securities Exchange Act of 1934.

*S. E. C. v. Robinson Development Corporation, Skid Control Corporation, et al.*<sup>46</sup> also involved violations of Section 5 (a) and (c) and Section 17 (a) of the Securities Act. The Commission's complaint alleged, in addition to the fact that the securities being offered and sold were unregistered, that the defendants employed a scheme to defraud by means of displaying a false and misleading motion picture and made false and misleading statements regarding, among other things, the identity of the inventor, the guarantee against competition, acceptance of the skid-control device by trucking and taxicab companies, profits to result, success of tests and future value of dividends. The court granted a final injunction against the defendants, Robinson Development Corporation, Louis M. Robinson, Skid-Control Purchasing, Inc., Robinson Skid-Control Associates, Inc. and Cedar-Vale Development Corporation.

Universal Service Corporation had been the subject of a Commission stop order issued February 5, 1957 following the filing of a false and misleading registration statement and prospectus. The stop order was lifted when Universal filed amendments purportedly correcting the original filings. However, the Commission found it necessary to institute action to enjoin Universal Service Corporation and its officers from proceeding to sell under the amended filing. The Commission's complaint in *S. E. C. v. Universal Service Corporation, et al.*<sup>47</sup> alleged that the registration statement and prospectus of the defendant contained untrue statements of material facts and that they omitted to state facts required to be stated, in violation of the anti-fraud and registration provisions of the Act. As an example, Universal had asserted ownership of 253 mining claims in the State of Texas, when in fact the claims had been forfeited to the State of Texas

<sup>45</sup> E. D. Arkansas No. 3566 (May 19, 1958).

<sup>46</sup> W. D. Pennsylvania No. 16203 (September 11, 1957).

<sup>47</sup> S. D. Texas No. 11608 (March 6, 1956).

for failure to pay rentals. A final injunction was entered against Universal and its board chairman Bert Thompson, and the temporary restraining order already in effect was continued against the remaining defendants.

In *S. E. C. v. Mississippi Valley Portland Cement*,<sup>48</sup> the defendant was permanently enjoined from further violation of Sections 17 and 23 of the Securities Act. One of the allegations of the Commission's complaint was that the defendant had falsely stated that the fact that a registration statement had become effective meant that the Commission and its "cement consultant" had determined that cement could be economically produced from materials owned by the defendant near Vicksburg, Mississippi.

The defendant was also enjoined in *S. E. C. v. James C. Graye, doing business as J. C. Graye Co.*,<sup>49</sup> from further violations of Section 17 of the Securities Act. He had been selling stock of Atlas Gypsum Corporation, Ltd. largely on the strength of an untrue and misleading statement announcing a proposed merger between Atlas Gypsum Corporation, Ltd. and Johns-Manville. Another permanent injunction was obtained at about the same time against the same defendant as a broker-dealer in an earlier action charging violation of the Commission's net capital rule.<sup>50</sup>

In *S. E. C. v. Los Angeles Trust Deed and Mortgage Exchange, et al.*<sup>51</sup> the defendants sold securities described in the complaint as evidences of indebtedness, investment contracts, and receipts for or guarantees of such securities arising out of the sale of promissory notes secured by deeds of trust covering real estate in California. The complaint alleged violations of the registration provisions of the Securities Act as well as violations of the anti-fraud provisions of that Act and of the Securities Exchange Act of 1934. Charges were made in the complaint that the advertising and selling literature contained incomplete, ambiguous, flamboyant, misleading, untrue and deceptive statements of material facts, such as a statement to the effect that the plan affords investors an opportunity to buy an income for life without reducing their principal and that the plan constitutes a safe and secure method of realizing rapid capital appreciation through the "magic of compound interest", omitting to disclose, among other things, the speculative nature of investments in second trust notes, and the differences between trading securities listed and registered on national securities exchanges and the open-market trading in deeds of trust conducted by the defendants. After the close of the fiscal year a temporary injunction was obtained against all but one of the

<sup>48</sup> D. C. No. 3187-57 (December 20, 1957).

<sup>49</sup> S. D. New York No. 129-145 (January 23, 1958).

<sup>50</sup> S. D. New York No. 126-144 (October 29, 1957).

<sup>51</sup> S. D. California No. 261-58 TC (March 24, 1958).

defendants and a receiver appointed. The Court of Appeals for the Ninth Circuit subsequently granted a stay pending appeal.

The Commission has been very much concerned in recent years with the high-pressure tactics of broker-dealer firms which use long distance telephone calls to prospective investors to sell unregistered securities. The salesmen for these securities firms frequently make claims of a spectacular future for the security they are attempting to sell.

During the fiscal year, the Commission secured preliminary injunctions in *S. E. C. v. Globe Securities Corporation, et al.*<sup>52</sup> and in *S. E. C. v. Herbert Rapp, doing business as Webster Securities Corporation, et al.*<sup>53</sup> These broker-dealer firms were offering and selling unregistered common stock of Taylorcraft, Inc. to United States residents by means of long distance telephone calls. They made many misleading and extravagant claims as to the present and future merits of an investment in Taylorcraft, Inc. stock; among them, (1) that Taylorcraft, Inc. had received a multi-million dollar government contract for guided missiles research, (2) that Taylorcraft, Inc. had enough government contracts to keep them busy three to five years, (3) that they anticipated an annual volume for Taylorcraft, Inc. in excess of \$5 million and (4) that Taylorcraft, Inc. stock, at the time selling for \$1 a share would rise to \$3, \$4, \$8 or \$15 per share in short periods of time.

The defendants in *S. E. C. v. J. H. Lederer Co., Inc., et al.*<sup>54</sup> consented to the entry of a permanent injunction restraining them from further violations of the registration provisions of the Securities Act in the offer and sale of unregistered common stock of Continental Mining Exploration, Ltd., a Canadian corporation. The Commission had alleged that practically all of the shares of Continental acquired by J. H. Lederer Co., Inc. were sold by means of long distance telephone calls to thousands of residents of the United States.

In *S. E. C. v. Mono-Kearsarge Consolidated Mining Company, Jean R. Veditz Co., Inc., et al.*<sup>55</sup> the Commission's complaint alleged that the individual defendants, who were persons closely connected with the corporate defendants, acted as conduits to facilitate the public distribution of nearly a million unregistered shares of Mono-Kearsarge stock. It was further alleged that 380,000 of such shares had already been offered and sold to U. S. residents by means of long distance telephone calls and the United States mails. After the close of the fiscal year certain of the defendants consented to the entry of a

<sup>52</sup> S. D. New York No. 132-343 (April 29, 1958):

<sup>53</sup> S. D. New York No. 132-344 (April 29, 1958):

<sup>54</sup> S. D. New York No. 135-81 (June 25, 1958).

<sup>55</sup> D. Utah No. C-58-58 (June 2, 1958).

permanent injunction, and permanent injunctions were entered against other defendants, including the companies named above.

The Commission filed a complaint near the close of the fiscal year in *S. E. C. v. Lincoln Securities Corporation, et al.*<sup>56</sup> charging that defendants had been offering and selling by means of long distance telephone solicitations unregistered shares of Shoreland Mines, Ltd. The complaint further charged that the defendants in order to induce sales of Shoreland Mines, Ltd. used false and misleading statements, among others, (1) that the company had iron ore claims adjacent to iron mines actually in operation by one or more large steel corporations (2) that Shoreland Mines, Ltd. was engaged in the exploration and development of newly discovered resources, and (3) that the price of Shoreland Mines, Ltd. would substantially increase in the near future. The affidavits filed in support of the Commission's motion for preliminary injunction stated that there had been no exploration work on the claims allegedly owned by Shoreland Mines, Ltd.; that Shoreland Mines, Ltd. had no working capital; that no mines are in operation adjacent to Shoreland Mines property; and that the claims of Shoreland Mines, Ltd. were not owned outright but subject to a payment of \$15,000 to the president of the company. A temporary restraining order was entered and the action is still pending.

The Commission's complaint and supporting affidavits in *S. E. C. v. Alan Russell Securities, Inc.*<sup>57</sup> charged that the defendants had been offering International Ceramics Mining, Limited stock, which is listed on the Canadian Stock Exchange in Montreal, to residents of the United States by means of long-distance telephone calls. The defendants in these telephone calls had falsely represented to prospective investors that International Ceramics had large government contracts; that it was producing a product for use in the guided missile and rocket field; and that individuals associated with the Office of the President of the United States had invested in the stock. In addition to asserting the falsehood of such representations and others, the affidavits averred that International Ceramics for the past ten years had been a pilot operation and operated at a deficit. A permanent injunction was entered restraining the defendants from further anti-fraud violations.

#### **Subpoena Enforcement**

During the past fiscal year the Commission on several occasions was obliged to resort to the courts to seek enforcement of subpoenas issued in connection with investigations of violations of the Securities

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<sup>56</sup> S. D. New York No. 135-79 (June 25, 1958).

<sup>57</sup> *Supra*, p. 49.

Act. In *S. E. C. v. Linda Lord*<sup>58</sup> the Commission applied for an order to require obedience to the subpoena issued in an investigation of defendant's activities in the sale, by telephone, of the stock of Shoreland Mines, Ltd. An order to show cause was issued on June 2, 1958 to which defendant failed to respond. On July 30, 1958 a criminal information was filed against the defendant for violation of Section 19 (b) of the Securities Act and Section 21 (b) of the Exchange Act for willful failure to respond to the subpoena. She is presently a fugitive and a bench warrant has been issued for her arrest. The injunctive action initiated subsequent to the investigation is described at page 53, *supra*.<sup>59</sup>

In *S. E. C. v. Doeskin Products, Inc., et al.*,<sup>60</sup> the Commission sought court enforcement of a subpoena duces tecum calling for the production of certain records of Doeskin Products, Inc., charging that the refusal to produce the information was impeding the Commission's investigation of whether the Securities Act had been violated in the issuance and sale of securities of Swan-Finch Oil Corporation and Doeskin Products, Inc. This action was subsequently dismissed by consent, the records having been produced after the action was commenced. For an account of related litigation, see pp. 54-55, *infra*. In *S. E. C. v. Dudley P. South*,<sup>61</sup> the District Court ordered the production of certain books and records of the Surinam Corporation in obedience to the Commission's subpoena duces tecum.

#### Other Litigation

In *S. E. C. v. Doeskin Products, Inc.*,<sup>62</sup> the Commission's complaint was dismissed against two of the seven defendants, final judgment having been entered by consent against the other five. This litigation, which involved violations of Section 5 of the Securities Act, is discussed, together with the related proceedings in *S. E. C. v. Swan-Finch Oil Corporation, et al.*, on pages 52-3 of the 23rd Annual Report. In addition to the subpoena enforcement proceedings discussed above on this page, there arose, in connection with the proceedings, a civil suit against the Commission and various members of the Commission's staff. In that action Doeskin Products, Inc., filed a complaint in the New York Supreme Court,<sup>63</sup> claiming damages of \$1,000,000 as a consequence of the alleged unwarranted interference by the Commission and its staff with the sale and transfer of plaintiff's common stock in connection with the Commission's investigation in this case and the related *Swan-Finch* case.

<sup>58</sup> S. D. New York No. M-18-304 (May 28, 1958).

<sup>59</sup> *S. E. C. v. Lincoln Securities Corporation, et al.*

<sup>60</sup> S. D. New York (March 18, 1958).

<sup>61</sup> S. D. Texas No. 11, 517 (February 5, 1958).

<sup>62</sup> S. D. New York, No. 119-301 (April 11, 1957).

<sup>63</sup> *Doeskin Products, Inc. v. Windels, et al.*, New York Supreme Court, New York County, (December 17, 1957).

Upon petition by the Commission and individual defendants the case was removed to the Federal District Court for the Southern District of New York.<sup>64</sup> Defendants subsequently filed a motion to dismiss, on the ground that the complaint failed to state a claim upon which relief could be granted as against the individual defendants, in that the acts complained of were performed in discharge of their duties as governmental officials and consequently no liability attached, and further as against the Commission, in that the Court lacked jurisdiction over the subject matter. The motion to dismiss was granted and a notice of appeal was filed but subsequently withdrawn.

The Commission has been alert to the need to use all possible means to protect investors from fraudulent promotions originating in foreign countries. To this end a Foreign Fraud Order was obtained against several companies and individuals engaged in a fraudulent distribution from Cuba into the United States of Latin American Exploration Company stock. The fraud order was based upon evidence supplied by the Commission that the United States mails were being used in the conduct of the scheme to obtain money by means of false and fraudulent representations concerning the geological nature of the area in which the companies' property was located; the likelihood of bringing in profitable oil production from wells to be drilled on such properties; anticipated increases in the value of stock; the probability of a big strike in oil on the property of the company and various other similar representations. The fraud order, which is directed to all postmasters authorized to dispatch mail to Cuba, instructs them to stamp "FRAUDULENT" on all mail directed to any of the companies or persons listed in the order, and to return the same to the sender.

In *Comico Corporation v. S. E. C.*,<sup>65</sup> a petition was filed for review of the Commission's order denying petitioner's application for withdrawal of the registration statement. The Commission moved to dismiss the petition on the ground that the court lacked jurisdiction. A *per curiam* order was subsequently entered dismissing the petition.

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<sup>64</sup> *Doeskin Products, Inc. v. Windels, et al.*, S. D. New York, No. 128-271.

<sup>65</sup> C. A. D. C. No. 14,344.

## PART V

### ADMINISTRATION OF THE SECURITIES EXCHANGE ACT OF 1934

The Securities Exchange Act of 1934 provides for the registration and regulation of securities exchanges, and the registration of securities listed on such exchanges and it establishes, for issuers of securities so registered, financial and other reporting requirements, regulation of proxy solicitations and requirements with respect to trading by directors, officers and principal security holders. The Act also provides for the registration and regulation of brokers and dealers doing business in the over-the-counter market, contains provisions designed to prevent fraudulent, deceptive and manipulative acts and practices on the exchanges and in the over-the-counter markets and authorizes the Federal Reserve Board to regulate the use of credit in securities transactions. The purpose of these statutory requirements is to ensure the maintenance of fair and honest markets in securities.

#### REGULATION OF EXCHANGES AND EXCHANGE TRADING

##### Registration and Exemption of Exchanges

At the close of 1958, 14 stock exchanges were registered under the Exchange Act as national securities exchanges:

American Stock Exchange	Pacific Coast Stock Exchange
Boston Stock Exchange	Philadelphia-Baltimore Stock Exchange
Chicago Board of Trade	Pittsburgh Stock Exchange
Cincinnati Stock Exchange	Salt Lake Stock Exchange
Detroit Stock Exchange	San Francisco Mining Exchange
Midwest Stock Exchange	Spokane Stock Exchange
New Orleans Stock Exchange	
New York Stock Exchange	

The following 4 exchanges have been exempted from registration by the Commission pursuant to section 5 of the Act:

Colorado Springs Stock Exchange	Richmond Stock Exchange
Honolulu Stock Exchange	Wheeling Stock Exchange

##### Disciplinary Actions

Each national securities exchange reports to the Commission disciplinary actions taken against their members for violation of the Securities Exchange Act of 1934 or of exchange rules. During the year



7 exchanges reported 44 cases of such disciplinary action. The actions taken included the imposition of fines aggregating \$18,430 in 10 cases; the suspension of 1 individual and 2 firms from exchange membership; cancellation of the registration of 1 individual as a specialist; and censure of a number of individuals and firms.

#### **Commission Rate Study**

Section 19 (b) of the Exchange Act imposes on the Commission certain responsibilities and duties with respect to the rules of national securities exchanges including rules in respect of such matters as the fixing of reasonable rates of commission and other charges. Under an amendment to its Constitution, effective May 1, 1958, the New York Stock Exchange provided for an increase in the minimum commission rates to be charged by members and member firms. On April 14, 1958, the Commission announced that it had directed its staff to conduct a study of such commission rates and to report to the Commission whether such commission rates and other charges are reasonable and in accord with the standards contemplated by applicable provisions of the Exchange Act.<sup>1</sup> Pursuant to the directive of the Commission the staff is now making a comprehensive study of commission rates on the New York Stock Exchange.

Nine other registered national securities exchanges, including the American Stock Exchange, have recently adopted schedules of commission rates identical with that of the New York Stock Exchange.

#### **REGISTRATION OF SECURITIES ON EXCHANGES**

It is unlawful for a member of a national securities exchange or a broker or dealer to effect any transaction in a security on such exchange unless the security is registered on that exchange under the Securities Exchange Act or is exempt from such registration. In general, the Act exempts from registration obligations issued or guaranteed by a State or the Federal Government or by certain subdivisions or agencies thereof and authorizes the Commission to adopt rules and regulations exempting such other securities as the Commission may find necessary or appropriate to exempt in the public interest or for the protection of investors. Under this authority the Commission has exempted securities of certain banks, certain securities secured by property or leasehold interests, certain warrants and, on a temporary basis, certain securities issued in substitution for or in addition to listed securities.

Section 12 of the Exchange Act provides that an issuer may register a class of securities on an exchange by filing with the Commission and

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<sup>1</sup> Securities Exchange Act Release No. 5678.

the exchange an application which discloses pertinent information concerning the issuer and its affairs. An application requires the furnishing of information in regard to the issuer's business, capital structure, the terms of its securities, the persons who manage or control its affairs, the remuneration paid to its officers and directors, the allotment of options, bonuses and profit-sharing plans, and financial statements certified by independent accountants.

Form 10 is the form used for registration by most commercial and industrial companies. There are specialized forms for certain types of securities, such as voting trust certificates, certificates of deposit and securities of foreign governments.

Section 13 requires issuers having securities registered on an exchange to file periodic reports keeping current the information furnished in the application for registration. These periodic reports include annual reports, semi-annual reports, and current reports. The principal annual report form is Form 10-K which is designed to keep up-to-date the information furnished in Form 10. Semi-annual reports required to be furnished on Form 9-K are devoted chiefly to furnishing mid-year financial data. Current reports on Form 8-K are required to be filed for each month in which any of certain specified events have occurred. A report on this form deals with matters such as changes in control of the registrant, important acquisitions or dispositions of assets, the institution or termination of important legal proceedings and important changes in the issuer's capital securities or in the amount thereof outstanding.

#### **Statistics Relating to Registration**

As of June 30, 1958, a total of 2,236 issuers had 3,795 classes of securities listed and registered on national securities exchanges of which 2,663 were classified as stocks and 1,132 as bonds. Of the total 2,236 issuers, 1,282 had 1,526 stock issues and 1,087 bond issues listed and registered on the New York Stock Exchange. On a percentage basis, the New York Stock Exchange had listed 57% of the issuers, 57% of the stock issues and 96% of the bond issues.

During the 1958 fiscal year, a total of 54 issuers listed and registered securities for the first time on a national securities exchange and the listing and registration of all securities of 74 issuers was terminated during the year. The number of applications filed during the fiscal year for registration of classes of securities on national securities exchanges was 207.

The following table shows the number of annual, semi-annual and current reports filed during the year by issuers having securities listed and registered on national securities exchanges. The table also shows the number of such reports filed under section 15 (d) of the Securities

Exchange Act of 1934 by issuers obligated to file such reports by reason of their undertaking contained in one or more registration statements filed and effective under the Securities Act of 1933 for the public offering of securities. As of June 30, 1958, there were 1,365 such issuers, including 184 also registered under the Investment Company Act of 1940.

*Number of annual and other periodic reports filed by issuers under the Securities Exchange Act of 1934 during the fiscal year ended June 30, 1958*

Type of report	Number of reports filed by—		Total reports filed
	Listed issuers filing reports under sec. 13	Over-the-counter issuers filing reports under sec. 15 (d)	
Annual reports on Form 10-K, etc.....	2,269	1,270	3,539
Semiannual reports on Form 9-K.....	1,884	886	2,770
Current reports on Form 8-K.....	3,427	1,405	4,832
Total reports filed.....	7,580	3,561	11,141

**MARKET VALUE OF SECURITIES TRADED ON EXCHANGES**

The market value on December 31, 1957, of all stocks and bonds admitted to trading on one or more stock exchanges in the United States was approximately \$331,277,155,000 as reported below.

	Number of issues	Market value Dec. 31, 1957
<b>Stocks:</b>		
New York Stock Exchange.....	1,522	\$195,570,176,000
American Stock Exchange.....	855	25,545,238,000
Exclusively on other exchanges.....	584	3,097,925,000
Total stocks.....	2,961	224,213,339,000
<b>Bonds:</b>		
New York Stock Exchange.....	1,106	106,071,744,000
American Stock Exchange.....	59	860,410,000
Exclusively on other exchanges.....	28	131,662,000
Total bonds.....	1,193	107,063,816,000
Total stocks and bonds.....	4,154	331,277,155,000

<sup>1</sup> Bonds on the New York Stock Exchange included 54 U.S. Government and New York State and City issues with \$80,795,454,000 aggregate market value.

The New York Stock Exchange and American Stock Exchange figures were reported by those exchanges. There is no duplication of issues between them. The figures for all other exchanges are for the net number of issues appearing only on such exchanges, excluding the many issues on them which were also traded on one or the other of the New York exchanges. The number of issues as shown excludes

those suspended from trading and a few others for which quotations were not available. The number and market value as of December 31, 1957, of stock issues alone are shown below :

	Preferred stock issues		Common stock issues	
	Number	Market value	Number	Market value
Listed on registered exchanges.....	580	\$7,948,896,000	2,053	\$197,177,312,000
Unlisted on all exchanges.....	50	542,204,000	207	18,133,145,000
Listed on exempted exchanges <sup>1</sup> .....	13	16,975,000	58	394,807,000
Total stocks.....	643	8,508,075,000	2,318	215,705,264,000

<sup>1</sup> Excluding issues also traded on registered exchanges.

Reported market values for all stocks on the New York Stock Exchange and estimated unduplicated market values for all stocks on the other exchanges on June 30 of each year commencing in 1949, in billions of dollars, have been as follows :

June 30 each year	New York Stock Exchange	American Stock Exchange	All other exchanges	Total
1949.....	\$63.9	\$12.0	\$3.0	\$78.9
1950.....	80.7	13.0	3.2	96.9
1951.....	97.9	15.2	3.2	116.3
1952.....	114.5	16.7	3.1	134.3
1953.....	113.3	16.1	3.0	132.4
1954.....	139.2	18.7	3.2	161.1
1955.....	194.4	24.6	3.8	222.8
1956.....	218.6	27.6	3.8	250.0
1957.....	227.9	30.5	3.6	262.0
1958.....	224.9	30.0	3.0	257.9

No deductions have been made from the market values in the three preceding tables for intercompany investments tending toward duplication of values. The leading example of this duplication is the Standard Oil (New Jersey) ownership of more than \$10 billion market value of shares of Creole Petroleum Corp., Humble Oil & Refining Co., Imperial Oil Ltd., and International Petroleum Co., Ltd. This ownership comprises well over half of the total value of all unlisted shares admitted to trading on the American Stock Exchange. It is reflected, of course, in the market value of the Standard Oil shares on the New York Stock Exchange.

The number of shares admitted to trading on the stock exchanges on December 31, 1957, was approximately 6,773,000,000, compared with 6,334,500,000 on December 31, 1956. Some 6,246,900,000 shares, or 92.2% of the total, were listed on registered exchanges, and included 170,500,000 preferred and 6,076,400,000 common shares.

#### Assets of Companies With Listed Common Stocks

As shown above, there were 2,053 common stock issues with an aggregate market value of about \$197 billion listed on registered

exchanges as of December 31, 1957. The assets of the issuers involved were about \$273 billion, based on a showing of \$255.2 billion by the New York Stock Exchange and an estimate as to issuers represented on other exchanges. The figures represent a conglomerate of individual and consolidated company reports and various treatments of such matters as reserves for depreciation.

#### **Foreign Stock**

The market value on December 31, 1957, of all shares and certificates representing foreign stocks on the stock exchanges was reported at about \$9.7 billion, of which \$8.9 billion represented Canadian and \$0.8 billion represented other foreign stocks. The market values of the entire Canadian stock issues were included in these aggregates. Most of the other foreign stocks were represented by American Depositary Receipts or American Shares, only the outstanding amounts of which were used in determining market values.

#### **Comparative Over-the-Counter Statistics**

Section 15 (d) of the Securities Exchange Act of 1934 requires that registration statements filed pursuant to the Securities Act of 1933 contain undertakings by the issuers to file the reports required by section 13 of the Securities Exchange Act when the class of securities offered and outstanding exceeds \$2,000,000. The number of issuers required to file these reports increased from 1,086 to 1,151 during the fiscal year, excluding issuers also filing under the Investment Company Act of 1940. These issuers had securities outstanding with a market value in excess of \$20 billion on June 30, 1958.

The number of issuers registered under the Investment Company Act of 1940 increased from 432 to 453, and their aggregate assets increased roughly from \$15 billion to \$17 billion during the fiscal year. Of the 453 issuers, 37, having assets totalling about \$1.8 billion, had their stocks listed on an exchange and the stocks of 3 whose assets totalled about \$56 million, were traded on an exchange on an unlisted basis. The securities of the remaining 413 issuers were traded exclusively in the over-the-counter market.

The number of active domestic issuers of over-the-counter stocks (exclusive of registered investment companies) reporting 300 or more holders appears not to have changed materially in recent years from the estimated total of 3,500 mentioned in previous annual reports. The numerous annual additions have been substantially offset by removals due to listing, merger or other causes. The growth in issuers of over-the-counter stocks appears more with respect to assets, market values and number of shares outstanding and shareholders, than in number of companies. In this respect they resemble issuers having securities listed and registered on exchanges, whose number was 2,210

on June 30, 1953 and 2,236 on June 30, 1958, but whose aggregate assets, market values, shares outstanding and shareholders have greatly increased. The aggregate market value on December 31, 1957 of the over-the-counter domestic stocks with 300 or more reported holders, was about \$44 billion or about 20% of the \$224.2 billion market value for all stocks on the exchanges on that date. The approximate number of issuers and the aggregate market values of their over-the-counter stocks were: for 700 bank issuers, \$12 billion; for 275 insurance issuers, \$8 billion; for 300 utility issuers, \$6 billion; and for 2,225 industrial and miscellaneous issuers, \$18 billion. The principal estimate in the above amounts is the inclusion of about \$1 billion in stock values for 500 issuers not found in the standard securities manuals nor reporting to the Commission. The data are exclusive of issuers registered under the Investment Company Act of 1940 and of foreign issuers.

The principal dollar volume in bonds of the United States and its political subdivisions, in high-grade corporate bonds and preferred stocks, and in bank, insurance, and investment trust shares is consummated in the over-the-counter market. The principal dollar volume in stocks, other than those noted above, is consummated on the exchanges.

#### DELISTING OF SECURITIES FROM EXCHANGES

Pursuant to Section 12 (d) of the Securities Exchange Act a security registered on a national securities exchange may be withdrawn or stricken from listing and registration in accordance with the rules of the exchange and, upon such terms as the Commission may deem necessary to impose for the protection of investors, upon application by the issuer or the exchange to the Commission.

During the fiscal year 1958, the Commission granted applications by exchanges and issuers to remove 42 securities from listing and registration pursuant to section 12 (d) and rule 12d2-1(b) thereunder, as follows:

Applications filed by:	<i>Stock issues</i>	<i>Bond issues</i>
New York Stock Exchange.....	10	2
American Stock Exchange.....	8	0
Midwest Stock Exchange.....	1*	0
Pacific Coast Stock Exchange.....	2	0
Philadelphia-Baltimore Stock Exchange.....	5	0
Salt Lake Stock Exchange.....	2	0
San Francisco Mining Exchange.....	3	0
Issuers .....	10	0
	—	—
<b>Total removals.....</b>	<b>41</b>	<b>2</b>

\*This stock was also delisted by New York Stock Exchange.

The New York Stock Exchange has adopted a revised policy with respect to delisting. It has stated that it will consider initiation of a

delisting application where the size of a company has been reduced to \$2,000,000 or less in aggregate market value of the common stock outstanding or net tangible assets applicable to common stock and the average net earnings after taxes for the last three years is below \$200,000; or where distribution of the listed issue is limited to such an extent that, in the case of common stock, there are 250 or fewer stockholders of record discounting holders of odd lots, or the stock outstanding exclusive of concentrated holdings amounts to 30,000 shares or less or has a market value of \$500,000 or less, or, in the case of other listed securities, the issue outstanding exclusive of concentrated holdings has a market value of \$200,000 or less or totals 2,000 shares or less in the case of stock or \$200,000 or less of principal amount in the case of bonds. The exchange has also stated that it will consider initiation of a delisting application in instances, among others, where stockholders have authorized liquidation or where sale of assets has been made without authorizing liquidation. All of the delisting applications filed by the New York Stock Exchange were initiated in accordance with this policy. The revised policy with respect to delisting of securities on the New York Stock Exchange was at issue in two cases described on p. 96 of last year's Annual Report.<sup>2</sup>

The 8 delistings by the American Stock Exchange included 4 closely-held stocks, 3 stocks suspended for failure to meet reporting requirements among other reasons, and 1 stock following upon distribution of the company's principal assets. The 13 delistings by the regional exchanges included 6 stocks with small volumes on the exchanges, and 7 stocks of issuers (including 5 mining companies) failing to meet reporting requirements among other things.

Of the 10 delistings upon applications by issuers, 5 were for the purpose of reducing multiple listings, 3 were by mining companies of uncertain financial condition, 1 was for long absence of exchange transactions, and 1 followed a stockholder vote heavily in favor of delisting.

During the fiscal year 1958 the Salt Lake Stock Exchange and the San Francisco Mining Exchange adopted rules providing for suspension of trading in issues of companies which have not filed the annual reports required under section 13 of the Securities Exchange Act within 60 days after such reports are required to be filed, and for the filing of delisting applications with the Commission if the failure is not cured within 90 days after suspension. There were 8 delistings upon application of these exchanges and issuers of securities listed thereon during fiscal 1958, based principally on failure or

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<sup>2</sup> *Exchange Buffet Corporation v. New York Stock Exchange, and S. E. C.*, 244 F. 2d 507 (C. A. 2, 1957); *Atlas Tack Corp. v. New York Stock Exchange, et al.*, 246 F. 2d 311 (C. A. 1, 1957).

inability to comply with the new rule. The Spokane Stock Exchange also adopted a similar rule during the fiscal year.

The Philadelphia-Baltimore Stock Exchange on April 9, 1958, established a rule similar to that of the New York Stock Exchange and several other exchanges, providing that, in the absence of special circumstances, there must be a vote of security holders on delisting proposals by issuers. In such cases, proxy statements must be cleared through the Commission in accordance with its proxy rules. The Salt Lake Stock Exchange adopted a substantially similar rule on August 2, 1957.

#### **Delisting Proceedings Under Section 19 (a)**

Section 19 (a) (2) authorizes the Commission to suspend for a period not exceeding twelve months, or to withdraw, the registration of a security on a national securities exchange if, in its opinion, such action is necessary or appropriate for the protection of investors and, after notice and opportunity for hearing, the Commission finds that the issuer of the security has failed to comply with any provision of the Act or the rules and regulations thereunder. Section 19 (a) (4) authorizes the Commission summarily to suspend trading in any registered security on any national securities exchange for a period not exceeding ten days if in its opinion such action is necessary or appropriate for the protection of investors and the public interest so requires.

Seven cases were pending under section 19 (a) (2) at the beginning of the fiscal year and two cases were initiated during the fiscal year. One case was closed during the fiscal year and eight cases were pending at the end of the year. The case which was closed during the year and six cases which were closed shortly after the end of the year are described below.

In the past the Commission has used the power under section 19 (a) (4) infrequently. However, during the year it found it necessary and appropriate in connection with proceedings under section 19 (a) (2) involving Bellanca Corporation to use its authority summarily to suspend trading in that corporation's securities registered on the American Stock Exchange.

**Bellanca Corporation.**—Bellanca Corporation, a Delaware corporation, was a small manufacturer of aircraft parts until February 1955 when Sydney L. Albert, a buyer and liquidator of failing businesses, acquired over 80% of its stock. Soon after Albert's acquisition the market price of Bellanca stock rose to a peak of 30½, but in early June, 1956, the market price of the stock broke sharply and continued to decline through 1956 to about \$2.00 per share. The Commission instituted proceedings under section 19 (a) (2) of the



Act to determine whether the common stock of Bellanca should be suspended or withdrawn from registration on the American Stock Exchange.

In ordering the withdrawal of the registration of the common stock of Bellanca on the American Stock Exchange, the Commission found that the company violated sections 13 and 14 of the Act which require, respectively, the filing of reports with the Commission and the exchange, and the filing of preliminary proxy soliciting material with the Commission.<sup>3</sup> The Commission ruled that Bellanca's failure to file certain required information as well as its filing of false information with respect to a number of securities transactions reflected a "flagrant disregard for its responsibilities to public investors."

The Commission found that beginning in March, 1955, and continuing until June, 1956, Bellanca through Albert, who had become its president, and others engaged in a program of acquiring interests in other companies by means of a series of complex transactions many of which resulted in benefits to the insiders rather than to Bellanca. It was held that the reports that were filed through June, 1956, served only to mislead the public and obscure the facts by failing to disclose unfavorable aspects of Bellanca's transactions and related financing arrangements.

Among the reporting deficiencies discussed by the Commission were those relating to N. O. Nelson Company and Automatic Washer Company. According to the decision, Bellanca failed to report that its purchase of N. O. Nelson Company in 1955 was accomplished by means of a \$4,000,000 loan for which a premium of \$500,000 was paid in addition to interest of 6%, nor was the subsequent refinancing of the Nelson purchase disclosed. Bellanca exchanged its Nelson stock for a controlling block of stock of Automatic Washer Company, at a time when Bellanca's president was in a controlling position with respect to Automatic. The Commission found that Bellanca should have filed a current report to disclose the agreement with Automatic, and that a subsequently filed current report was misleading and inadequate in failing to disclose the interest of Bellanca's president and others in the transactions. In addition, the Commission found that the financial statements in the annual report for 1956 and in preliminary proxy soliciting material filed with the Commission in 1957 were misleading and inadequate with respect to the value placed on Bellanca's shares of Automatic stock.

The Commission further found that securities owned or held by Bellanca or a subsidiary were used by the president for his own personal benefit and that such information should have been disclosed

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<sup>3</sup> Securities Exchange Act Release No. 5706 (June 2, 1958).

in the company's annual report for 1956 and in the preliminary proxy soliciting material, as required under the Commission's rules. Although all such shares were eventually returned or replaced, it was noted that in some instances the market value of the shares when they were returned was considerably lower than at the time they were taken.

The Commission held that the evidence showed a "course of conduct over an extended period involving flagrant violations of the reporting and proxy provisions of the Act. The purpose of the reporting provision is to inform existing and potential investors of material corporate activities as they occur and the purpose of the proxy provisions is to enable stockholders to exercise their voting rights upon the basis of an informed judgment." The Commission concluded that the record established that the protection of investors required the withdrawal of the registration of Bellanca's securities on the Exchange and pointed out that such withdrawal would conform with the Congressional intent reflected in section 19 (a) (2) as well as the Commission's previous decision in the *Great Sweet Grass Oils* case.<sup>4</sup>

**Eureka Company.**—In the *Eureka Company* case, the Commission found that reports filed by the company with the San Francisco Mining Exchange and the Commission during 1956 and 1957 pursuant to section 13 of the Securities Exchange Act were false and misleading. In addition, the company failed to file an annual report for 1955 and semi-annual reports for the periods ending June 30, 1955 and June 30, 1956, and filed a false and misleading proxy statement with respect to its annual meeting of stockholders for November 14, 1955.

The reports filed, some of which were filed late, were found to contain false and misleading statements concerning the acquisition of significant amounts of oil, gas and mining properties and other physical assets. Moreover, the reports misrepresented that certain securities sold and issued by the company in exchange for various assets were exempt from the registration requirements of the Securities Act of 1933 pursuant to the provision of section 4 (1) of the Act which exempts "transactions by an issuer not involving any public offering."

The Commission found that in a series of transactions from January to February, 1957, the company issued a substantial amount of its common stock in exchange for various interests in oil, gas and mining properties and related machinery and equipment. Current reports required to be filed to reflect these transactions were filed late, and no reports were filed with respect to certain acquisitions of assets. Fur-

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<sup>4</sup> Securities Exchange Act Release No. 5483 (April 8, 1957).

thermore, the reports which were filed did not furnish required information regarding the date and manner of acquisition, a description of the assets involved, the nature and amount of consideration given therefor, the identity of the persons from whom the assets were acquired and the nature of the material relationships which existed between such persons and the company, its directors and officers, and associates thereof.

Each of the current reports filed concerning the issuance of common stock in exchange for assets stated that such securities were not registered under the Securities Act and that such "securities were taken for investment by the purchaser." In this connection, the Commission held that representations by a purchaser that he is acquiring securities for investment or that he will not transfer them for a certain period are not of themselves sufficient to establish a private offering exemption pursuant to section 4 (1) of the Securities Act. In this case the Commission found that the number and nature of the purchasers and the manner of distribution were such as to clearly involve a public offering. The stock issued by the company in 1956 for properties and services were distributed to about 35 original purchasers. By February 1957, a large number of shares issued to the original recipients were transferred to 70 other persons or firms, including more than 15 broker-dealer firms. A substantial number of such shares eventually were widely distributed to the public.

The Commission found that the transfers and distributions were known or should have been known to Eureka, and held that the current reports were false and misleading in representing that the shares listed in such reports were exempt from registration under the Securities Act and were taken for investment by the purchasers. Such reports should have disclosed that the shares were sold in violation of section 5 of the Act.

The Commission stated that use of the facilities of a national securities exchange by an issuer is a privilege involving important responsibilities under the Securities Exchange Act, including compliance with the reporting and proxy solicitation requirements. It pointed out that Congress has specified that when violations occur, such privilege may be withdrawn if necessary or appropriate for the protection of investors, and decided that under the circumstances of the case, the protection of investors required that the registration of the common stock of Eureka on the San Francisco Mining Exchange be withdrawn.<sup>5</sup>

**Nev-Tah Oil and Mining Company.**—In the case of Nev-Tah Oil and Mining Company the Commission found that the company had failed to file current reports giving information as to acquisition of

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<sup>5</sup> Securities Exchange Act Release No. 5729 (July 7, 1958).

certain interests and the subsequent loss thereof and also as to a judgment for \$100,000 in connection with one of the transactions. Moreover certain current reports represented that large issues of stocks were registered under the Securities Act of 1933 whereas, in fact, such shares were not registered and were offered to the public in violation of the Act. Neither the sales of such shares nor an injunction obtained by the Commission by consent in the United States District Court for the District of Nevada enjoining the registrant and certain officers from further sales, were disclosed in current reports. A vigorously contested issue in this case was whether control was exercised by the principal promoter who was the manager and generally the largest single stockholder, who selected the president, two directors and the general counsel, who controlled the finances and operations, negotiated most of the acquisitions and dispositions and determined the prices and participated in a substantial way at board meetings although not a director. The Commission found that such person in fact controlled and was the parent of the registrant and that the required reports not only failed to disclose such control but also falsely denied it existed. The registrant asked for a 90-day delay of the Commission's determination so as to permit it to submit a plan of rehabilitation, but the Commission found that the record did not indicate any basis on which such a plan could be achieved and ordered that the registration of the common stock on the Salt Lake Stock Exchange be withdrawn.<sup>6</sup>

**Nevada Monarch Consolidated Mines Corporation.**—In the Nevada Monarch case, the company had not filed annual reports for the years 1951 through 1956. Its report for 1956 was ultimately filed some five months after it was due. In addition, the company failed to file until March, 1958, (after institution of delisting proceedings by the Commission) a current report due in July, 1957, reporting that in June, 1957, it had executed a three-year lease on all its properties coupled with an option to the lessee to purchase the properties. Moreover, the annual report finally filed for 1956 contained a balance sheet which stated that proceeds of \$50,000 from a government loan had been expended by the lessee for the development of a tungsten ore body, when as a matter of fact the lessee received only \$4,875 from such a loan and in addition expended a maximum of \$18,000 "in connection with" such loan.

In reaching the conclusion that the protection of investors required the withdrawal of registration from the Salt Lake Stock Exchange, the Commission pointed out that the purpose of the reporting provisions of the Act is to inform existing and potential investors of ma-

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<sup>6</sup> Securities Exchange Act Release No. 5738 (July 22, 1958).

terial corporate activities and the corporation's financial condition, and found that the registrant had ignored its obligations under these provisions. The Commission also pointed out that the company's asserted belief that the loan had been granted in its full amount could not absolve the company of responsibility for the substantial overstatement of assets in its financial statement.<sup>7</sup>

**Intermountain Petroleum, Inc.**—In the Intermountain Petroleum, Inc. case the Commission found that reports filed by the company with the Salt Lake Stock Exchange and the Commission pursuant to section 13 of the Securities Exchange Act were not filed within the prescribed time and, when filed, were false and misleading. These reports were found to contain false and misleading statements regarding the availability of exemptions from registration under the Securities Act, the recipients of stock issues and the value of mining and oil claims.

The Commission in its opinion held that the record did not establish that the claimed exemption under section 4 (1) of the Securities Act was available for the issuance of about 1,400,000 shares to approximately 90 persons in one transaction and the issuance of 274,500 shares to about 58 persons in another transaction. The opinion points out that in the proceedings, and in amended reports for the months in question, the company abandoned its contention that private offering exemptions under section 4 (1) of the Securities Act were available and instead urged that registration was not required because no sale of the securities occurred within the meaning of Rule 133 under the Securities Act. The Commission, in holding that this position was without substance, stated that the theory of Rule 133 is that no sale of securities to stockholders is involved where the distribution of securities to them results from the authorization by them, voting as a group, of a corporate act such as a transfer of assets for stock of another corporation, a merger or a consolidation, because in such situations there is not present the element of individual consent ordinarily required for a "sale" of securities in the contractual sense. However, it was found in this case that the conditions of Rule 133, including the requirement of a vote of stockholders, were not met. It was further stated that, even if the terms and conditions of that rule had been literally met, no exemption would have been available under that rule if a vote by the shareholders of the acquired company would have been merely a formal act due to its affairs being controlled by a single individual who negotiated the exchange.

The Commission also found that the reports in question were misleading with respect to mining and oil claims which had not been the

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<sup>7</sup> Securities Exchange Act Release No. 5746 (July 30, 1958).

subject of geological appraisals or exploratory drillings. The Commission stated that the use of the terms "appraised value" and "valued" in connection with unexplored and undeveloped mining and oil prospects was misleading since such terms carried with them an implication that value had been determined by a scientific method. Moreover, it was especially important that there be no misleading implications as to the "value" of the claims covered by one of the reports, since those claims were sold to the company by an officer and controlling person of the company.

The company asserted that there was no intent to mislead or withhold information and that the deficiencies were the result of a lack of understanding of the requirements and the failure to consult counsel. The Commission concluded that while the company's asserted lack of understanding of applicable law and regulations and its lack of legal counsel did not condone the violations which it had found, it appeared that such violations did not stem from any plan or intent to defraud investors and that the company now fully appreciates its obligations and exhibited a willingness to file accurate information. Under all the circumstances, the Commission concluded, the protection of investors would be satisfied without withdrawal of the registration of the company's stock on the exchange if complete and accurate reports were filed. Accordingly, the registration of the company's stock on the exchange was suspended shortly after the end of the fiscal year for a period of 60 days, with the provision that if within such time the company filed corrected current reports, an order terminating the suspension and discontinuing the proceedings would be entered. If no such reports were filed within the stated period, an order withdrawing the registration on the exchange of the company's stock would be entered.<sup>8</sup>

**Verdi Development Company.**—The Commission found that the company had failed to file current reports required to be filed pursuant to section 13 of the Act and the rules and regulations thereunder and to report material dispositions of the company's assets, defaults on its debt securities, the institution and termination of material litigation and the granting by the company of stock options. In addition, the Commission found that annual reports filed by the company after the institution of proceedings against the company failed to include required financial statements, and concluded that the company's stock should be withdrawn from registration on the San Francisco Mining Exchange.<sup>9</sup>

**North American Resources Corp.**—The North American Resources Corp. case involved the question of misrepresentations in a proxy

<sup>8</sup> Securities Exchange Act Release No. 5753 (August 11, 1958). Subsequently in October, 1958, the company filed corrected reports and the suspension proceedings were discontinued.

<sup>9</sup> Securities Exchange Act Release No. 5754 (August 14, 1958).

statement. The company filed a proxy statement with the Commission, which was mailed to stockholders, indicating that one of the matters to be acted on at the meeting was a proposal to increase the amount of authorized common stock from 2,000,000 shares to 10,000,000 shares and that a portion of the new shares would be traded or exchanged for oil and gas leases, royalties and mining properties. In this connection it stated: "However no negotiations in this respect have been undertaken and the Board of Directors does not presently have in mind any specific properties for acquisition. In addition, there have been no plans, agreements or discussions concerning the present program of expansion or acquisitions in which the company or its officers and directors or any prospective officer or director have been or are now engaged."

The Commission found, however, that the evidence adduced at the hearing established that at the time the proxy statement was issued, the company's controlling person did in fact have in mind specific properties for acquisition, and that there had been plans and negotiations with respect thereto. The Commission concluded that the proxy statement was materially false and misleading and that the company in its use of such proxy material violated section 14 (a) of the Act and rule X-14a-9 thereunder. This fact, plus the failure to file a current report on Form 8-K in connection with the issuance of 6,750,000 shares of the company's stock for assets acquired, led the Commission to find that it was necessary and appropriate for the protection of investors to withdraw the registration of the company's common stock on the Salt Lake Stock Exchange.<sup>10</sup>

## UNLISTED TRADING PRIVILEGES ON EXCHANGES

### Unlisted Trading Categories

Under the provisions of section 12 (f) of the Securities Exchange Act of 1934, the Commission may approve applications by national securities exchanges to admit securities to unlisted trading privileges without action on the part of the issuers, if it finds such admissions are necessary or appropriate in the public interest or for the protection of investors. Such admissions impose no duties on issuers beyond any they may already have under the Act. Section 12 (f) provides for three categories of unlisted trading privileges.

Clause (1) of section 12 (f) provides for continuation of unlisted trading privileges existing on the exchanges prior to March 1, 1934. The number of unlisted trading privileges under Clause (1) in issues listed on other exchanges has declined from 75 bond and 991 stock admissions on December 31, 1935, to 2 bond and 536 stock admissions on June 30, 1958. The number of unlisted trading privileges in

<sup>10</sup> Securities Exchange Act Release No. 5756 (August 20, 1958).

issues not listed on other exchanges has declined from 496 bond and 817 stock admissions to 20 bond and 246 stock admissions during the same period.<sup>11</sup>

Clause (2) of section 12 (f) provides for granting by the Commission of applications by exchanges for unlisted trading privileges in securities listed on other exchanges. There were 926 unlisted trading privileges in effect under Clause (2) on June 30, 1958, of which 925 involved stocks and 1 a bond issue.

Clause (3) of section 12 (f) provides for granting by the Commission of applications for unlisted trading privileges conditioned, among other things, upon the availability of information substantially equivalent to that required to be filed by listed issuers. On June 30, 1958, unlisted trading privileges existed pursuant to clause (3) in only 12 bond and 4 stock issues, and 2 of the stock issues have also become listed on other exchanges. There have been no applications under clause (3) since 1949.

#### Volume of Unlisted Trading in Stocks on Exchanges

The reported volume of shares traded on an unlisted basis on the stock exchanges during the calendar year 1957 included approximately 28.8 million shares in stocks admitted to unlisted trading only and 29.2 million shares in stocks listed on exchanges other than where unlisted trading occurred. These amounts were respectively about 2.69 and 2.73 percent of the total share volume reported on all exchanges. Appendix table 9 shows the distribution of share volume among the various categories of unlisted trading privileges on exchanges.

#### Applications for Unlisted Trading Privileges

Pursuant to applications filed by exchanges with respect to stock listed on other exchanges, unlisted trading privileges were extended during the year ended June 30, 1958, as follows:

Stock Exchange:	<i>Number of stocks</i>
Boston .....	19
Detroit .....	2
Philadelphia-Baltimore .....	13
Pacific Coast .....	3
<b>Total .....</b>	<b>37</b>

The Commission's rule 12f-2 provides that when a security admitted to unlisted trading privileges is changed in certain minor respects it shall be deemed to be the security previously admitted to

<sup>11</sup> Trading privileges may exist in the same issue on numerous stock exchanges. Accordingly, the number of trading privileges is greater than the net number of issues concerned. Exempted exchanges are excluded.



unlisted trading privileges, and, if it is changed in other respects, the exchange may file an application requesting the Commission to determine that, notwithstanding such change, the security is substantially equivalent to the security theretofore admitted to unlisted trading privileges. During the fiscal year, the Commission granted an application by the Pacific Coast Stock Exchange for continuance of unlisted trading in a stock under this rule.

#### BLOCK DISTRIBUTIONS REPORTED BY EXCHANGES

Rule 10b-2 under the Securities Exchange Act of 1934 in substance prohibits any person participating or otherwise financially interested in the primary or secondary distribution of a security from paying any other person for soliciting a third person to buy any security of the same issuer on a national securities exchange. This rule is an anti-manipulative rule adopted under section 10 (b) of the Act which makes it unlawful for any person to use any manipulative or deceptive device or contrivance in contravention of Commission rules prescribed in the public interest or for the protection of investors. Paragraph (d) of rule 10b-2 exempts transactions where compensation is paid pursuant to the terms of a plan, filed by a national securities exchange and declared effective by the Commission, authorizing the payment of such compensation in connection with the distribution. The Commission in its declaration may impose such terms and conditions upon such plan as it deems necessary or appropriate in the public interest or for the protection of investors.

At the present time two types of plans are in effect to permit a block of securities to be distributed through the facilities of a national securities exchange when it has been determined by the exchange that the regular market on the floor of the exchange cannot absorb the particular block within a reasonable time and at a reasonable price or prices. These plans have been designated the "Special Offering Plan," essentially a fixed-price offering based on the market price, and the "Exchange Distribution Plan," which is a distribution "at the market". Both plans contemplate that orders will be solicited off the floor but executed on the floor. Each of such plans contains certain anti-manipulative controls and requires specified disclosures concerning the distribution to be made to prospective purchasers.

In addition to these two methods of distributing large blocks of securities on national securities exchanges, a third method is commonly employed whereby blocks of listed securities may be distributed to the public on the over-the-counter market. This method is commonly referred to as a "Secondary Distribution" and such a distribution usually takes place after the close of exchange trading. It is generally the practice of exchanges to require members to obtain the

approval of the exchange before participating in such secondary distributions.

The following table shows the number and volume of special offerings and exchange distributions reported by the exchanges having such plans in effect, as well as similar figures for secondary distributions which exchanges have approved for member participation and reported to the Commission.

*Total sales—12 months ended December 31, 1957<sup>1</sup>*

	Number	Shares in offer	Shares sold	Value (thousands of dollars)
Special offerings.....	5	68, 016	63, 408	1, 845
Exchange distributions.....	33	448, 394	390, 832	15, 855
Secondary distributions.....	99	9, 327, 228	9, 324, 599	339, 062
6 months ended June 30, 1958 <sup>1</sup>				
Special offerings.....	5	93, 445	88, 152	3, 286
Exchange distributions.....	15	347, 605	347, 315	10, 686
Secondary distributions.....	60	4, 464, 850	4, 544, 297	199, 592

<sup>1</sup> Details of these distributions appear in the Commission's monthly Statistical Bulletin. For data for prior years see appendix table.

## MANIPULATION AND STABILIZATION

### Manipulation

The Exchange Act describes and prohibits certain forms of manipulative activity in any security registered on a national securities exchange. The prohibited activities include wash sales and matched orders effected for the purpose of creating a false or misleading appearance of trading activity in, or with respect to the market for, any such security; a series of transactions in which the price of such security is raised or depressed, or in which actual or apparent active trading is created for the purpose of inducing purchases or sales of such security by others; circulation by a broker, dealer, seller, or buyer, or by a person who receives consideration from a broker, dealer, seller or buyer, of information concerning market operations conducted for a rise or a decline in the price of such security; and the making of any false and misleading statement of material information by a broker, dealer, seller, or buyer regarding such security for the purpose of inducing purchases or sales. The Act also empowers the Commission to adopt rules and regulations to define and prohibit the use of these and other forms of manipulative activity in any security registered on an exchange or traded over the counter.

The Commission's market surveillance staff in its Division of Trading and Exchanges in Washington and in its New York Regional Office and other field offices observes the tickertape quotations of securities listed on the New York Stock Exchange and on the Ameri-

can Stock Exchange, the sales and quotation sheets of the various regional exchanges, and the bid and asked prices published by the National Daily Quotation Service for about 6,000 unlisted securities to observe any unusual or unexplained price variations or market activity. The financial news ticker, leading newspapers, and various financial publications and statistical services are also closely followed.

When unusual or unexplained market activity in a security is observed, all known information regarding the security is examined and a decision made as to the necessity for an investigation. Most investigations are not made public so that no unfair reflection will be cast on any persons or securities and the trading markets will not be upset. These investigations, which are conducted by the Commission's regional offices, take two forms. A preliminary investigation or "quiz" is designed to discover rapidly evidence of unlawful activity. If no violations are found, the preliminary investigation is closed. If it appears that more intensive investigation is necessary, a formal order of investigation, which carries with it the right to issue subpoenas and to take testimony under oath, is issued by the Commission. If violations by a broker-dealer are discovered, the Commission may institute administrative proceedings to determine whether or not to revoke his registration or to suspend or expel him from membership in the National Association of Securities Dealers, Inc., or from a national securities exchange. The Commission may also seek an injunction against any person violating the Act and it may refer information obtained in its investigation to the Department of Justice recommending that persons violating the Act be criminally prosecuted. In some cases, where State action seems likely to bring quick results in preventing fraud or where Federal jurisdiction may be doubtful, the information obtained may be referred to State agencies for State injunction or criminal prosecution.

The following table shows the number of quizzes and formal investigations pending at the beginning of fiscal 1958, the number initiated in fiscal 1958, the number closed or completed during the same period, and the number pending at the end of the fiscal year :

*Trading investigations*

	Quizzes	Formal investigations
Pending June 30, 1957.....	66	9
Initiated during fiscal year.....	66	1
<b>Total</b> .....	<b>132</b>	<b>10</b>
Closed or completed during fiscal year.....	85	2
Changed to formal during fiscal year.....	1	.....
<b>Total</b> .....	<b>86</b>	<b>2</b>
Pending at end of fiscal year.....	46	8

When securities are to be offered to the public, their markets are watched very closely to make sure that the price is not unlawfully raised prior to or during the distribution. Eight hundred and nine registered offerings having a value of \$16,489,700,000 and 732 offerings exempt under section 3 (b) of the Securities Act, having a value of about \$134 million were so observed during the fiscal year. One hundred and ninety seven other offerings, such as secondary distributions and distributions of securities under special plans filed by the exchanges, having a total value of \$446 million, were also kept under surveillance.

### **Stabilization**

Stabilization involves open-market purchases of securities to prevent or retard a decline in the market price in order to facilitate a distribution. It is permitted by the Exchange Act subject to the restrictions provided by the Commission's rules 10b-6, 7 and 8. These rules are designed to confine stabilizing activity to that necessary for the above purpose, to require proper disclosure and to prevent unlawful manipulation.

During 1958 stabilizing was effected in connection with stock offerings aggregating 18,221,647 shares having an aggregate public offering price of \$453,580,132 and bond offerings having a total offering price of \$201,138,350. In these offerings, stabilizing transactions resulted in the purchase of 316,945 shares of stock at a cost of \$8,335,724 and bonds at a cost of \$3,755,794. In connection with these stabilizing transactions, 4,445 stabilizing reports showing purchases and sales of securities effected by persons conducting the distribution were received and examined during the fiscal year.

### **INSIDERS' SECURITY TRANSACTIONS AND HOLDINGS**

A corporate "insider," by virtue of his position, may have knowledge of the company's condition and prospects which is not available to the general public and may be able to use such information to advantage in transactions in the company's securities. Section 16 of the Securities Exchange Act of 1934 and similar provisions contained in section 17 of the Public Utility Holding Company Act of 1935 and section 30 of the Investment Company Act of 1940 were designed to provide other stockholders and investors with information as to the transactions and holdings of insiders and to prevent the unfair use of confidential information by insiders to profit from in-and-out trading in a company's securities.

Section 16 (a) of the Securities Exchange Act requires every person who is a direct or indirect beneficial owner of more than 10 percent of any class of equity securities (other than exempted securities) which is registered on a national securities exchange, or who is a director or officer of the issuer of such securities, to file reports with the Commission and the exchange disclosing his ownership of the issuer's equity securities. This information must be kept current by filing subsequent reports for any month in which a change in his ownership occurs. Similar reports are required by section 17 (a) of the Public Utility Holding Company Act of officers and directors of public utility holding companies and by section 30 (f) of the Investment Company Act of officers, directors, principal security holders, members of advisory boards and investment advisers or affiliated persons of investment advisers of registered closed-end investment companies.

All ownership reports are available for public inspection as soon as they are filed at the Commission's office in Washington and reports filed pursuant to section 16 (a) of the Securities Exchange Act may also be inspected at the exchanges where copies of such reports are filed. In addition, for the purpose of making the reported information available to interested persons who may not be able to inspect the reports in person, the Commission summarizes and publishes such information in a monthly "Official Summary of Security Transactions and Holdings," which is distributed by the Government Printing Office on a subscription basis. The increasing interest in this publication is evidenced by the increase of more than 1,000 in subscriptions during the past year. The total circulation is now nearly 6,000.

The number of ownership reports filed continued at a high level—33,126 for the fiscal year. This is a decline from the record high of 34,443 reports filed during the 1957 fiscal year. The following table shows the number of such reports filed during each of the last five fiscal years.

*Number of ownership reports filed during the last five fiscal years*

Fiscal year:	<i>Number of reports filed</i>
1958.....	33, 126
1957.....	34, 443
1956.....	32, 001
1955.....	28, 975
1954.....	23, 199

The following table shows details concerning reports filed during the fiscal year ended June 30, 1958.

*Number of reports filed during fiscal year 1958*

Securities Exchange Act of 1934: <sup>1</sup>	
Form 4.....	28, 524
Form 5.....	633
Form 6.....	3, 133
Total.....	<u>32, 290</u>
Public Utility Holding Company Act of 1935: <sup>2</sup>	
Form U-17-1.....	29
Form U-17-2.....	332
Total.....	<u>361</u>
Investment Company Act of 1940: <sup>3</sup>	
Form N-30F-1.....	159
Form N-30F-2.....	316
Total.....	<u>475</u>
Grand Total.....	<u><u>33, 126</u></u>

<sup>1</sup> Form 4 is used to report changes in ownership; Form 5 to report ownership at the time an equity security of an issuer is first registered on a national securities exchange; and Form 6 to report ownership of persons who subsequently become officers, directors or principal stockholders of the issuer.

<sup>2</sup> Form U-17-1 is used for initial reports and Form U-17-2 for reports of changes of ownership.

<sup>3</sup> Form N-30F-1 is used for initial reports and Form N-30F-2 for reports of changes of ownership.

#### Recovery of Short-Swing Trading Profits by Issuer

In order to prevent insiders from making unfair use of information which may have been obtained by reason of their relationship with a company, section 16 (b) of the Securities Exchange Act, section 17 (b) of the Public Utility Holding Company Act, and section 30 (f) of the Investment Company Act provide for the recovery by or on behalf of the issuer of any profit realized by insiders from certain purchases and sales, or sales and purchases, of securities of the company within any period of less than six months. The Commission has certain exemptive powers with respect to transactions not comprehended within the purpose of these provisions, but is not charged with the enforcement of the civil remedies created thereby. The Commission has, however, filed briefs as *amicus curiae* in several suits instituted by private parties where the construction of applicable statutory provisions or rules was involved.

**REGULATION OF PROXIES**

**Scope of Proxy Regulation**

Under sections 14 (a) of the Securities Exchange Act, 12 (e) of the Public Utility Holding Company Act of 1935, and 20 (a) of the Investment Company Act of 1940 the Commission has adopted Regulation 14 requiring the disclosure in a proxy statement of pertinent information in connection with the solicitation of proxies, consents and authorizations in respect of securities of companies subject to those statutes. The regulation also provides means whereby any security holders so desiring may communicate with other security holders when management is soliciting proxies, either by distributing their own proxy statements or by including their proposals in the proxy statements sent out by management.

Copies of proposed proxy material must be filed with the Commission in preliminary form prior to the date of the proposed solicitation. Where preliminary material fails to meet the prescribed disclosure standards, the management or other group responsible for its preparation is notified informally and given an opportunity to avoid such defects in the preparation of the proxy material in the definitive form in which it is furnished to stockholders.

**Statistics Relating to Proxy Statements**

During the 1958 fiscal year a total of 1,929 proxy statements in definitive form were filed under the Commission's Regulation 14 for the solicitation of the proxies of security holders; 1,897 of these were filed by management and 32 by non-management groups or individual stockholders. These 1,929 solicitations related to 1,769 companies, some 110 of which had more than one solicitation during the year, generally for a special meeting not involving the election of directors.

Of the 1,929 proxy statements filed during the 1958 fiscal year, 1,780 involved the solicitation of proxies for the election of directors, 134 were for special meetings not involving the election of directors and 15 solicited assents and authorizations for actions not involving a meeting of security holders or the election of directors.

In addition to the election of directors, stockholders' decisions were sought in the 1958 fiscal year with respect to the following types of matters:

Mergers, consolidations, acquisitions of businesses, purchases and sales of property and dissolutions of companies.....	107
Authorizations of new or additional securities, modifications of existing securities and recapitalization plans (other than mergers, consolidations, etc).....	208
Employee pension and retirement plans (including amendments to existing plans).....	79

Bonus, profit-sharing plans and deferred compensation arrangements (including amendments to existing plans and arrangements)-----	30
Stock option plans (including amendments to existing plans)-----	183
Stockholder approval of the selection by management of independent auditors -----	574
Miscellaneous amendments to charters and by-laws and other matters (excluding those involved in the preceding matters)-----	402

### Stockholder Proposals

During the 1958 fiscal year, 39 stockholders submitted a total of 165 proposals which were included in the 95 proxy statements of 95 companies under rule 14a-8 of Regulation 14.

Typical of such stockholder proposals submitted to a vote of security holders were resolutions relating to amendments to charters or by-laws to provide for cumulative voting for the election of directors, limitations on the granting of options to and their exercise by key employees and the management group and limitations on salaries and pensions. Other resolutions related to such matters as the sending of a post-meeting report to all stockholders and the approval by stockholders of the selection by management of the independent accountants.

The management of 24 companies omitted from their proxy statements, under the conditions specified in rule 14a-8, a total of 51 additional proposals submitted by 32 individual stockholders. The principal reasons for such omission and the number of times each such reason was involved were as follows: (a) eight proposals were not a proper subject matter under state law; (b) twelve proposals related to the ordinary conduct of the company's business; (c) twelve proposals involved a personal grievance; (d) six proposals were not timely submitted to the company; (e) three proposals did not receive sufficient votes at the previous stockholders' meeting; (f) two proposals involved the nomination of particular candidates for election as directors; (g) two proposals were based on reasons considered to be misleading; (h) the company determined not to solicit proxies after receipt of one proposal; and (i) five proposals were withdrawn by the stockholder.

### Ratio of Soliciting to Non-soliciting Companies

Of the 2,236 issuers which had securities listed as of June 30, 1958, 2,001 had voting securities so listed. Of these 2,001 issuers, 1,551 or 78 per cent solicited proxies under the Commission's proxy rules for the election of directors during the 1958 fiscal year.

### Proxy Contests

During the 1958 fiscal year, 34 companies were involved in proxy contests for the election of directors, 22 of which contests were for



control of the company and 12 for representation on the board of directors. In these contests a total of 968 persons filed detailed statements as participants, or proposed participants, under the requirements of rule 14a-11.

Of the 22 contests where control was involved, the management won control in 14, the opposition in 3, 3 were settled prior to the meeting of stockholders, and 2 were pending at June 30, 1958. Of the 12 contests where representation on the board of directors was involved, the management won control in 8, the opposition in 1, 1 was settled, and 2 were pending at June 30, 1958.

**REGULATION OF BROKER-DEALERS AND OVER-THE-COUNTER MARKETS**

**Registration**

Section 15 (a) of the Securities Exchange Act of 1934 requires registration of brokers and dealers using the mails or instrumentalities of interstate commerce to effect transactions in securities on the over-the-counter market, except those brokers and dealers whose business is exclusively intrastate or exclusively in exempt securities. Set forth below are certain data with respect to registration of brokers and dealers and applications for such registration during the fiscal year 1958:

Effective registrations at close of preceding fiscal year.....	4, 771
Applications pending at close of preceding fiscal year.....	69
Applications filed during fiscal year.....	704
Total.....	5, 544
Applications denied.....	5
Applications withdrawn.....	15
Applications cancelled.....	0
Registrations withdrawn.....	609
Registrations cancelled.....	65
Registrations revoked.....	38
Registrations effective at end of year.....	4, 752
Applications pending at end of year.....	60
Total.....	5, 544

**Administrative Proceedings**

Under section 15 (b) of the Securities Exchange Act of 1934, the Commission shall deny broker-dealer registration to an applicant or revoke such registration if, after appropriate notice and opportunity for hearing, it finds that such action is in the public interest and that the applicant or registrant or any partner, officer, director or other person directly or indirectly controlling or controlled by such

applicant or broker-dealer is subject to one or more of the disqualifications set forth in the Act. These disqualifications, in general, are (1) willful false or misleading statements in the application or documents supplemental thereto, (2) conviction within ten years of a felony or misdemeanor involving the purchase or sale of securities or any conduct arising out of the business as a broker-dealer, (3) injunction by a court of competent jurisdiction from engaging in any practices in connection with the purchase or sale of securities and (4) willful violation of the Securities Act of 1933 or the Securities Exchange Act of 1934 or any of the Commission's rules or regulations thereunder. In addition, brokers and dealers may be suspended or expelled by the Commission from membership in the National Association of Securities Dealers, Inc. and national securities exchanges for participating in violations of the various federal securities laws or the regulations thereunder. The Commission may not deny registration to any person who applies therefor absent evidence of misconduct of the specified types enumerated in the Act. Bad reputation or character, lack of experience in the securities business or even conviction of the registrant of a felony not involving the sale of securities do not constitute statutory bars to registration as a broker-dealer.

Below are set forth statistics respecting administrative proceedings to deny and revoke registration and to suspend and expel from membership in a national securities association or an exchange.

Proceedings pending at start of fiscal year :	
Proceedings to revoke registration.....	22
Proceedings to revoke registration and suspend or expel from NASD or exchanges.....	25
Proceedings to deny registration to applicants.....	9
<b>Total proceedings pending.....</b>	<b>56</b>
Proceedings instituted during fiscal year :	
Proceedings to revoke registration.....	33
Proceedings to revoke registration and suspend or expel from NASD or exchanges.....	20
Proceedings to deny registration to applicants.....	4
<b>Total proceedings instituted.....</b>	<b>57</b>
<b>Total proceedings current during fiscal year.....</b>	<b>113</b>
Proceedings disposed of :	
Proceedings to revoke registration :	
Registration revoked.....	23
Dismissed on withdrawal of registration.....	8
Registration cancelled, proceedings discontinued.....	3
Dismissed—registration permitted to continue in effect.....	1
<b>Total.....</b>	<b>35</b>

**Proceedings disposed of—Continued**

<b>Proceedings to revoke registration and suspend or expel from NASD or exchanges:</b>	
Registration revoked and firm expelled from NASD.....	15
Dismissed on withdrawal of registration.....	1
Dismissed—registration and membership permitted to continue in effect.....	1
Suspended for a period of time from NASD.....	3
<b>Total.....</b>	<b>20</b>

<b>Proceedings to deny registration to applicant:</b>	
Registration denied.....	5
Dismissed on withdrawal of application.....	1
Dismissed—application permitted to become effective.....	2
<b>Total.....</b>	<b>8</b>

<b>Proceedings pending at end of fiscal year:</b>	
Proceedings to revoke registration.....	20
Proceedings to revoke registration and suspend or expel from NASD or exchanges.....	25
Proceedings to deny registration to applicants.....	5
<b>Total proceedings pending at end of fiscal year.....</b>	<b>50</b>
<b>Total proceedings accounted for.....</b>	<b>113</b>

Proceedings in which action was taken during the year included the following:

The distribution to the public of unregistered securities of Crowell-Collier Publishing Company led to proceedings by the Commission in which the broker-dealer firm of Elliott & Company was suspended from the National Association of Securities Dealers, Inc. for a period of twenty days,<sup>12</sup> and the firms of Gilligan Will & Co.<sup>13</sup> and Dempsey & Company<sup>14</sup> were similarly suspended for periods of five days each. Elliott & Company had sold convertible debentures on behalf of Crowell-Collier to a small group, including Gilligan, Will & Co. and Dempsey & Company, and had obtained from these purchasers statements of intention to hold the securities for investment. However, a number of the original purchasers, including those two firms, shortly thereafter resold portions of their purchases to additional persons, who also furnished statements of investment intent. Elliott & Company claimed the exemption from registration provided by the Securities Act of 1933 for private offerings, and the other two firms in addition claimed that they were not underwriters and were

<sup>12</sup> Securities Exchange Act Release No. 5638 (May 7, 1958).

<sup>13</sup> Securities Exchange Act Release No. 5689 (May 7, 1958); petition for review of Commission Order filed May 14, 1958, CA-2 No. 25, 171; pending at close of fiscal year.

<sup>14</sup> Securities Exchange Act Release No. 5690 (May 7, 1958).

therefore exempt. The Commission ruled that these exemptions were not available. Although Elliott & Company denied that it had had knowledge of the resales, the Commission stated that actual knowledge of resale was not essential to a finding of violation of section 5 of the Securities Act, there being many factors sufficient to put persons experienced in securities matters on notice of the probability of further sales, including the speculative nature of the securities, the fact that the debentures were issued in bearer form and in small denominations, the establishment of a conversion price below the market price of the common stock and the listing of the common stock on the American Stock Exchange. The Commission also held that the basic policy of registration under the Securities Act could not be frustrated by the technique of mechanically obtaining so-called "investment intent" letters from successive groups of purchasers.

The firm of *Batkin & Co.*<sup>15</sup> was found by the Commission to have practiced fraud in the purchase and sale of securities, failed to comply with bookkeeping and net capital requirements, and sold unregistered securities. The registration of Batkin & Co. as a broker-dealer was revoked and it was expelled from the National Association of Securities Dealers, Inc.

The application of *Gregory & Company, Inc.*,<sup>16</sup> a Canadian broker-dealer, for registration as a broker-dealer was denied by the Commission and Kenneth H. Gregory, president, director and controlling stockholder, was found to be the cause of the denial. The Commission found that Gregory & Company, Inc. had made false and misleading statements in its application for registration and had been effecting transactions in interstate commerce in unregistered securities while it was not registered as a broker-dealer. The Commission also found a violation of the anti-fraud provisions of section 17 of the Securities Act of 1933 in that the applicant and Gregory offered securities to customers at prices substantially higher than, and bearing no reasonable relationship to, the market price.

The application for broker-dealer registration of *P. J. Gruber & Co., Inc.*<sup>17</sup> was denied where it was found that the applicant used the mails and interstate facilities in the sale of 49,500 shares of Acoustica Associates, Inc. stock when no registration statement was in effect. In addition, false and misleading entries were found in the blotters and ledgers maintained by the Gruber office. The Com-

<sup>15</sup> Securities Exchange Act Release No. 5709 (June 9, 1958).

<sup>16</sup> Securities Exchange Act Release No. 5680 (April 18, 1958).

<sup>17</sup> Securities Exchange Act Release No. 5627 (January 15, 1958); petition for review of Commission order filed March 17, 1958, C. A. D. C. No. 14,381; pending at close of fiscal year.

mission found Peter J. Gruber, controlling stockholder, and Phil Sacks, president, to be the cause of such denial.

The registrations of four broker-dealer firms were revoked by the Commission on the basis of injunctions issued against each of these firms for selling unregistered securities. The broker-dealers so revoked were *Harold L. Nielsen*, doing business as *Nielsen Investment Co.*,<sup>18</sup> *Battery Securities Corporation*,<sup>19</sup> *W. & M. Oil Company*,<sup>20</sup> and *Percy Dale Lanphere*, doing business as *Dale Lanphere*.<sup>21</sup> *Battery Securities Corporation* was also expelled from the National Association of Securities Dealers, Inc.

In a number of cases the Commission revoked broker-dealer registrations on the basis of injunctions against further violations of the Commission's net capital rule which requires that a broker-dealer maintain for the protection of customers a prescribed ratio between aggregate indebtedness and net capital. Revocations were based on such injunctions in the following cases: *Milton J. Shuck*, doing business as *M. J. Shuck Company*,<sup>22</sup> *Quintin Securities, Inc.*,<sup>23</sup> *A. J. Gould & Co., Inc.*,<sup>24</sup> *Foster-Mann, Inc.*,<sup>25</sup> and *W. L. Mast & Co.*<sup>26</sup> The last named broker-dealer firm was also expelled from the National Association of Securities Dealers, Inc. The broker-dealer registration of *Stein, Botwinick & Company, Inc.*<sup>27</sup> was revoked by the Commission on a finding that the broker-dealer firm was enjoined from engaging in the securities business for effecting securities transactions while insolvent and making false statements in the purchase and sale of securities.

The broker-dealer registration of *Wendell Elmer Kindley*, doing business as *Wendell E. Kindley Co.*<sup>28</sup> was revoked for failure to keep books and records and to comply with the net capital requirements, as well as for doing business while insolvent. It was found by the Commission that in eight transactions in one month the registrant had purchased securities from broker-dealers through the use of the mails and other means of interstate commerce when he was not in a position to

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<sup>18</sup> Securities Exchange Act Release No. 5545 (July 10, 1957).

<sup>19</sup> Securities Exchange Act Release No. 5592 (October 25, 1957).

<sup>20</sup> Securities Exchange Act Release No. 5622 (January 13, 1958).

<sup>21</sup> Securities Exchange Act Release No. 5546 (July 10, 1957).

<sup>22</sup> Securities Exchange Act Release No. 5574 (September 13, 1957); petition for review of Commission order filed November 12, 1957, C. A. D. C. No. 14,208; pending at close of fiscal year.

<sup>23</sup> Securities Exchange Act Release No. 5654 (March 13, 1958).

<sup>24</sup> Securities Exchange Act Release No. 5606 (November 25, 1957); petition by William Fisher to review Commission order in which petitioner was found to be a cause of the revocation of broker-dealer registration of *A. J. Gould & Co., Inc.*, filed December 26, 1957, CA-2 No. 24957; pending at close of fiscal year.

<sup>25</sup> Securities Exchange Act Release No. 5613 (December 12, 1957).

<sup>26</sup> Securities Exchange Act Release No. 5632 (January 27, 1958).

<sup>27</sup> Securities Exchange Act Release No. 5542 (July 8, 1957).

<sup>28</sup> Securities Exchange Act Release No. 5559 (August 7, 1957).

pay for such securities, that he was unable to pay for them upon delivery, and that some sellers suffered losses because of his failure to consummate the purchases.

The broker-dealer registration of *Roberts Securities Corporation*<sup>29</sup> was revoked on the grounds that its president and controlling stockholder had been enjoined by the Supreme Court of the State of New York from engaging in the securities business in that state, and that the firm had failed to disclose the issuance of the injunction by amendment to its application.

The Commission revoked the registration of *Branch Carden & Co., Inc.*<sup>30</sup> and found Branch J. Carden, Jr., its president, to be the cause of such revocation. The firm and its president had been permanently enjoined by the U. S. District Court for the Western District of Virginia from engaging in and continuing certain conduct in connection with the purchase and sale of securities. The decree entered with the consent of both defendants enjoined violations of the anti-fraud, net capital, and bookkeeping provisions of the Act. Following pleas of guilty, both defendants had been convicted by the same court of violations of these provisions of the Act.

*C. J. Montague, Inc.*<sup>31</sup> was enjoined by the Supreme Court of the State of New York from engaging in the securities business in that state, on the basis of a complaint alleging the firm's insolvency, fraudulent concealment of such insolvency, and misappropriation of customer's funds and securities. The Commission revoked the firm's registration as a broker-dealer on the basis of the injunction, false and misleading statements in the application for registration, fraud in the purchase and sale of securities, and failure to comply with the net capital and bookkeeping rules under the Securities Exchange Act.

Revocations of the broker-dealer registrations of *Harry B. Simon*, doing business as *H. B. Simon Co.*,<sup>32</sup> *William T. Bowler*, doing business as *William T. Bowler & Company*,<sup>33</sup> a sole proprietorship, *William T. Bowler and Company*,<sup>34</sup> a partnership, and *Christopoulos & Nichols Brokerage Company, Inc.*<sup>35</sup> were based on convictions in connection with securities transactions. Simon had been convicted on April 30, 1957 in the Federal District Court for the Southern District of New York on his plea of guilty of violating section 17 (a) of the Securities Act of 1933 and the mail fraud and conspiracy provisions of the United States Criminal Code by making fraudulent representa-

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<sup>29</sup> Securities Exchange Act Release No. 5569 (August 27, 1957).

<sup>30</sup> Securities Exchange Act Release No. 5722 (June 26, 1958).

<sup>31</sup> Securities Exchange Act Release No. 5717 (June 17, 1958).

<sup>32</sup> Securities Exchange Act Release No. 5614 (December 12, 1957):

<sup>33</sup> Securities Exchange Act Release No. 5675 (April 11, 1958).

<sup>34</sup> Securities Exchange Act Release No. 5675 (April 11, 1958):

<sup>35</sup> Securities Exchange Act Release No. 5703 (May 27, 1958).

tions in connection with the sale of common stock of Bostona Mines Company between January 1, 1952 and October 1, 1956.

On September 4, 1957 William T. Bowler had pleaded guilty and was convicted in the Court of Quarter Sessions of McKean County, Pennsylvania, of (1) embezzlement of a customer's securities; (2) larceny in failing to return securities held by him as bailee; (3) fraudulent failure to disclose to the Pennsylvania Securities Commission that he sold certain securities without informing purchasers that neither he nor the issuer had any authorization from that Commission to sell them; (4) sale of certain securities without filing a notice of intention to sell such securities with that Commission; and (5) participation and assistance in the sale of certain securities by salesmen who were not registered with that Commission. It was also found that both the sole proprietorship and the partnership had violated the record-keeping requirements of the Securities Exchange Act of 1934 and the rules thereunder.

Christopulos & Nichols Brokerage Company, Inc., had been enjoined from improperly extending credit, failing to send confirmations of transactions to customers and failing properly to record transactions, in violation of sections 7, 15, and 17 of the Securities Exchange Act of 1934, and had also been convicted of criminal contempt of that injunction.

The revocations of the broker-dealer registrations of *Horace Linson Michener*<sup>36</sup> and *Cobb and Company, Inc.*,<sup>37</sup> were based on findings of misappropriation of customers' funds and the Commission found that Michener had bought and sold securities without delivering the securities sold or paying for the securities purchased, in violation of sections 10 (b) and 15 (c) (1) of the Securities Exchange Act and the rules thereunder. Cobb and Company, Inc., induced certain persons in 68 transactions to order securities and to make payment therefor, but, instead of purchasing the securities ordered, appropriated such payments to its own use. In connection with six of these transactions Cobb and Company falsely represented that it had purchased the securities ordered. 21 of the 68 transactions took place when the firm was insolvent. In these transactions, registrant accepted monies and securities upon the false representation that it was able to execute the orders and appropriated such monies and securities to its own use.

*McInnes & Co., Inc.*,<sup>38</sup> a registered broker-dealer, was also found to have accepted customers' funds and securities without disclosing its insolvency. The Commission also found, among other things, that in the sale of securities of Alabama General Insurance Co., the firm made

<sup>36</sup> Securities Exchange Act Release No. 5605 (November 25, 1957).

<sup>37</sup> Securities Exchange Act Release No. 5621 (January 7, 1958).

<sup>38</sup> Securities Exchange Act Release No. 5552 (July 23, 1957).

false and misleading statements, with respect to the return on the investment in such securities and the government contracts of a subsidiary of that company, and that it sold unregistered securities of that company. The Commission revoked the broker-dealer registration of McInnes & Co., Inc. expelled it from the National Association of Securities Dealers, Inc. and further found Raymond McInnes to be a cause of such revocation and expulsion.

The Commission denied the application of *F. W. Horne & Co., Inc.*<sup>39</sup> for registration as a broker-dealer because of the methods it utilized to effect purchases and sales of securities of First New Hampshire Corporation. The Commission found that violations of the anti-fraud provisions had been committed and that the firm had effected securities transactions while not registered.

*Looper and Company*<sup>40</sup> was found to have induced customer transactions which were excessive in volume and frequency in view of the character of the accounts, and took secret profits and improperly extended and arranged for credit in cash accounts, in willful violation of the Securities Act and Securities Exchange Act and the rules thereunder. Its broker-dealer registration was revoked.

The application of *Indiana State Securities Corporation*,<sup>41</sup> for registration as a broker-dealer was denied by the Commission upon a finding that applicant had willfully violated the anti-fraud provisions of the Securities Exchange Act and the Securities Act in sales of stock of Insurance Corporation of America. Applicant's sales were made with the use of a prospectus which indicated that the stock was offered by the issuer at a public offering price of \$6.00 per share, but applicant failed to disclose that there was an over-the-counter market for the stock at a substantially lower price and that some of the stock so offered was owned by the applicant and the proceeds of its sale would not be received by the issuer. The Commission further found Charles E. Johnson, Marvin H. Weisman, and Rudy Klapper, officers and directors of subject corporation, to be the causes of the denial.

The application of *The Whitehall Corporation*<sup>42</sup> for registration as a broker-dealer was also denied by the Commission upon a finding that the applicant had been selling unregistered securities, had used false and misleading statements in connection with such sales, had submitted as part of its application a misleading financial statement and had engaged in interstate transactions in securities without being registered. A petition for rehearing filed by The Whitehall Corporation was denied.

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<sup>39</sup> Securities Exchange Act Release No. 5597 (November 7, 1957).

<sup>40</sup> Securities Exchange Act Release No. 5676 (April 15, 1958).

<sup>41</sup> Securities Exchange Act Release No. 5602 (November 18, 1957).

<sup>42</sup> Securities Exchange Act Release No. 5667 (April 2, 1958).



False and misleading statements on the part of a broker-dealer representing the prices charged for certain securities to be the market price and failure to disclose that the market for the securities was maintained and dominated by it was the basis for the revocation of the broker-dealer registration of *Daniel & Co., Ltd.*<sup>43</sup> and its expulsion from the National Association of Securities Dealers, Inc.

The registration of *Allen E. Beers Company*<sup>44</sup> was revoked and Allen E. Beers, the controlling partner, was found to be a cause of the revocation. The Commission found in part that the company's salesmen sold stock of Minerals Processing Company to customers by means of false and misleading representations that, among other things, the company's profits would be substantial because of the discovery of rich mica and beryl, there would be increases in the company's production, profits and earnings, and the value of its stock and that the company and its stock would be the object of favorable magazine and television publicity. Registrant was also found to have unlawfully extended credit in violation of section 7 (c) (1) of the Securities Exchange Act and Regulation T adopted thereunder.

The broker-dealer registrations of *Alfred D. Lawrence & Co.*,<sup>45</sup> *Kenneth E. Goodman & Co.*,<sup>46</sup> *Cornelis de Vroedt*, doing business as *Cornelis de Vroedt Company*<sup>47</sup> and *Cornelis de Vroedt, Inc.*<sup>48</sup> were revoked and the broker-dealers were expelled from the National Association of Securities Dealers, Inc. for failure to comply with the Commission's net capital rule and because of false entries or omissions of material facts in records or in papers filed with the Commission.

The broker-dealer registration of *Charles R. Morgan*<sup>49</sup> was revoked for failure to file financial reports with the Commission as required under section 17 (a) of the Securities Exchange Act.

The broker-dealer registrations of *Utah Uranium Brokers, Inc.*<sup>50</sup> and *Joseph Ernest Murray*, doing business as *Murray & Company*,<sup>51</sup> were revoked and they were expelled from the National Association of Securities Dealers, Inc. for failure to make and keep current books and records.

The broker-dealer registration of *Bryan Halbert Kyger, Jr.*, doing business as *Kyger & Co.*,<sup>52</sup> was revoked upon findings that it had filed

<sup>43</sup> Securities Exchange Act Release No. 5549 (July 18, 1957).

<sup>44</sup> Securities Exchange Act Release No. 5558 (August 7, 1957).

<sup>45</sup> Securities Exchange Act Release No. 5655 (March 14, 1958).

<sup>46</sup> Securities Exchange Act Release No. 5684 (April 23, 1958).

<sup>47</sup> Securities Exchange Act Release No. 5628 (January 17, 1958).

<sup>48</sup> Securities Exchange Act Release No. 5628 (January 17, 1958).

<sup>49</sup> Securities Exchange Act Release No. 5565 (August 13, 1957).

<sup>50</sup> Securities Exchange Act Release No. 5579 (September 23, 1957).

<sup>51</sup> Securities Exchange Act Release No. 5717 (June 13, 1958).

<sup>52</sup> Securities Exchange Act Release No. 5712 (June 6, 1958).

a false financial report and had failed to deliver securities for which customers had paid, to comply with net capital requirements and to maintain required books and records.

The Commission also found it to be in the public interest to revoke the broker-dealer registration of *Harold L. Nielsen*, doing business as *Nielsen Investment Co.*<sup>53</sup> on the basis of an injunction entered against the registrant prohibiting him from further net capital and bookkeeping violations as well as from selling unregistered securities and engaging in business while insolvent. The broker-dealer registration of *Michael Raymond Co., Inc.*<sup>54</sup> was revoked following a New York State injunction restraining it from further engaging in security transactions while insolvent, making fraudulent representations and defrauding customers.

During the year, the broker-dealer registrations of *William Malcolm Ellsworth*,<sup>55</sup> *Elmer Allen Haley*, doing business as *Elmer A. Haley*,<sup>56</sup> *Maxwell M. Sacks*, doing business as *Maxwell Brokerage Co.*,<sup>57</sup> and *Tasch & Co., Inc.*<sup>58</sup> were revoked for failure to file the annual reports of financial condition required by rule 17a-5.

#### Net Capital Rule

Rule 15c3-1 adopted under section 15 (c) (3) of the Securities Exchange Act, commonly known as the net capital rule, provides safeguards for funds and securities of customers dealing with broker-dealers. This rule restricts the amount of indebtedness which may be incurred by a broker-dealer in relation to his capital. Under the rule, no broker-dealer subject thereto may permit his "aggregate indebtedness" to exceed 20 times his "net capital" as those terms are defined in the rule.

Prompt action is taken by the Commission whenever it appears that any broker-dealer fails to meet the capital requirements prescribed by the rule. Unless the broker-dealer takes necessary steps forthwith to correct any capital deficiency found to exist either by inspection or by reports filed with the Commission, injunctive action may be taken and proceedings instituted to determine whether or not the broker-dealer registration should be revoked. During the fiscal year, violations of the net capital rule were alleged in injunctive actions filed against 15 broker-dealers and in revocation proceedings instituted against 12.

Where a broker-dealer participates in "firm commitment" underwritings, a careful check, based upon latest available information, is

<sup>53</sup> Securities Exchange Act Release No. 5545 (July 10, 1957):

<sup>54</sup> Securities Exchange Act Release No. 5543 (July 9, 1957).

<sup>55</sup> Securities Exchange Act Release No. 5719 (June 19, 1958).

<sup>56</sup> Securities Exchange Act Release No. 5719 (June 19, 1958).

<sup>57</sup> Securities Exchange Act Release No. 5719 (June 19, 1958):

<sup>58</sup> Securities Exchange Act Release No. 5719 (June 19, 1958).

made to determine whether he has adequate net capital to be in compliance with the rule. Acceleration of effectiveness of registration statements under the Securities Act is not permitted if it appears that any underwriter would as a result of his commitment be in violation of the net capital rule. In a number of instances during the past year, broker-dealers who were named as underwriters appeared to be inadequately capitalized to take down their commitments in conformity with the rule. The broker-dealers were informed of the situation and the effect it would have on a pending registration statement, and they thereupon obtained sufficient capital so that full compliance with the rule could be had, reduced their commitments to the extent to which they could be undertaken without violating the rule or withdrew entirely as underwriters.

#### Financial Statements

During the year the Commission adopted an amendment to rule 17a-5 under the Securities Exchange Act requiring brokers and dealers to file reports of financial condition. The amendment became effective on November 15, 1957 and was deemed necessary (1) to eliminate administrative difficulties which arose from the requirement that a report be filed *within each calendar year*, but that reports for two consecutive years could not be filed within less than 4 months of each other and (2) to provide more protection to customers by requiring that more reports be certified. As amended, the rule now requires a report to be filed as follows: (A) as of a date within each calendar year, except that the first report (other than in the case of successors) must be as of a date not less than one, nor more than five months after the broker or dealer becomes subject to the rule, and a broker or dealer who succeeds to and continues the business of a predecessor is not required to file a report if the predecessor has filed one as of that year; (B) reports may not be as of dates within four months of each other; and (C) a report must be filed not more than 45 days after the date of the report.

Under the amended rule, every report must be certified by a certified public accountant or a public accountant who is in fact independent except a report filed by (1) a member of a national securities exchange who, from the date of his previous report, has not transacted business in securities directly with or for others than members, has not carried any margin account, credit balance or security for any person other than a general partner and has not been required to file a certified financial statement with any national securities exchange; (2) a broker who, from the date of his previous report, has limited his securities business to soliciting subscriptions as an agent for issuers, has transmitted funds and securities promptly and has not otherwise held

funds or securities for or owed monies or securities to customers; and (3) a broker or dealer who, from the date of his last report, has limited his securities business to buying and selling evidences of indebtedness secured by liens on real estate and has not carried margin accounts, credit balances or securities for securities customers.

The reports of financial condition filed under rule 17a-5 serve to inform the Commission and the public as to the financial responsibility of broker-dealers and they are analyzed by the staff to determine whether the registrant is in compliance with the Commission's net capital rule. Revocation proceedings are brought against registrants who fail to make the necessary filing. During the year 4,473 reports of financial condition were filed, representing an increase of 145 over fiscal 1957.

### **Broker-Dealer Inspections**

During 1958, the Commission continued to place increased emphasis upon its inspection program. Regular and periodic inspections of registered broker-dealers as provided for in section 17 (a) of the Securities Exchange Act are a vital part of the Commission's activities for the protection of investors. The purpose of these inspections is to assure compliance by broker-dealers with the Federal securities acts and the rules and regulations promulgated by the Commission and to detect and prevent violations.

An inspection ordinarily includes, among other things, (1) a determination of the financial condition of the broker-dealer; (2) review of pricing practices; (3) review of the treatment of customers' funds and securities; and (4) a determination whether adequate disclosures are made to customers. The inspectors also determine whether the required books and records of the broker-dealers are adequate and currently maintained, and whether broker-dealers are conforming with the margin and other requirements of Regulation T, as prescribed by the Federal Reserve Board. They also check for excessive trading in customers' accounts involving "churning" and "switching," sale of unregistered securities, use of improper sales literature or sales methods and other fraudulent practices. Inspections frequently discover situations which, if not corrected, might result in losses to customers.

The policy inaugurated in fiscal year 1956 of increasing the number of inspections was continued in fiscal year 1958. Inspections completed during the year numbered 1,452, an increase of more than 19% over the previous year.

While an inspection may disclose violations of the Commission's statutes or rules, formal action is not taken against every broker-

dealer found to be in violation. In determining whether to institute action against a broker-dealer found as a result of an inspection to be in violation, consideration is given to the nature of the violation and to the effect it has upon members of the public. Inspections usually reveal a number of inadvertent violations which are discovered before they become serious and before they jeopardize the rights of customers. In such situations, where no harm has come to the public, the matter is usually called to the attention of the registrant and arrangements made to correct the improper practices. Where, however, the violation appears to be willful and the public interest or the protection of investors is best served by instituting proceedings against the broker-dealer, such action is promptly taken.

The following table shows the various types of violations disclosed as a result of the inspection program during the fiscal year 1958:

<i>Type</i>	<i>Number</i>
Financial difficulties.....	130
Hypothecation rules.....	108
Unreasonable prices for securities purchases.....	226
Regulation T of the Federal Reserve Board.....	163
Secret profits.....	8
Confirmation and bookkeeping rules.....	1, 016
Miscellaneous .....	86
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Total indicated violations.....	1, 737
Total number of inspections.....	1, 452

In addition to the Commission's inspection program, the National Association of Securities Dealers, Inc. and the principal stock exchanges also conduct inspections of their members and some of the States also have inspection programs. Each inspecting agency conducts inspections in accordance with its own procedures and with particular reference to its own regulations and jurisdiction. Consequently, inspections by other agencies are not an adequate substitute for Commission inspections since the inspector will not be primarily concerned with the detection and prevention of violations of the Federal securities laws and the Commission's regulations thereunder. The Commission and certain other inspecting agencies, however, maintain a program of coordinating inspection activities for the purpose of avoiding unnecessary duplication of inspections and to obtain the widest possible coverage of brokers and dealers. This seems appropriate in view of the limited number of inspections which it is possible for the Commission to make. The program does not prevent the Commission from inspecting any person recently inspected by another agency, and such an inspection by the Commission is made whenever reason therefor exists, but it has been necessary because of budget limitations for the Commission to rely to a considerable extent

upon the inspection programs of the major exchanges, such as the New York Stock Exchange.

Inspecting agencies now participating in the coordination program include the New York Stock Exchange, the American Stock Exchange, the Boston Stock Exchange, the Midwest Stock Exchange, the Pacific Coast Stock Exchange, the Philadelphia-Baltimore Stock Exchange, the Pittsburgh Stock Exchange and the National Association of Securities Dealers, Inc.

#### **SUPERVISION OF ACTIVITIES OF NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

Section 15A of the Securities Exchange Act of 1934 ("the Maloney Act") provides for registration with the Commission of national securities associations. The statute requires that the rules of such associations must be designed, among other things, to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market. Such associations serve as a medium for the cooperative self-regulation of over-the-counter brokers and dealers. They operate under the general supervision of this Commission, which is authorized to review disciplinary actions and decisions which affect the membership of members or applicants for membership and to consider all changes in the rules of associations. The National Association of Securities Dealers, Inc. (NASD) is the only association registered with the Commission under the Act.

In adopting legislation to authorize the formation and registration of such associations, Congress provided an incentive to membership by permitting such associations to adopt, and the NASD has adopted, rules which preclude a member from dealing with a non-member, except on the same terms and conditions as the member affords the general public. As a consequence, membership is necessary to the profitable participation in underwritings and over-the-counter trading in general and for price concessions. Discounts and similar allowances may properly be granted by members only to other members.

On June 30, 1958, there were 3,820 NASD members, a decrease of 36 during the year as a result of 419 admissions to and 455 terminations of membership. There were also registered with the NASD as registered representatives on that same date, 65,314 individuals, including all partners, officers, traders, salesmen and other persons employed by or affiliated with member firms in a capacity which involve their doing business directly with the public. The number of registered representatives increased by 8,211 during the year as a result of 15,278 initial registrations, 7,246 re-registrations and 14,313 terminations of registrations.

### Disciplinary Actions

The Commission receives from the NASD summaries of decisions on all disciplinary actions against members and registered representatives of members. Each such decision is reviewed by the Commission's staff to determine whether the underlying facts indicate conduct violative of the statutes administered by the Commission or the rules adopted thereunder. This consideration often includes an examination of the Association's files on particular cases. Where the facts appear to indicate actionable violations of the Commission's rules or statutes, independent Commission enforcement inquiry or action is initiated through the appropriate Regional Office.

During the fiscal year the Association reported to the Commission final action on 116 formal complaint cases. Each such action involved charges that a member firm had violated specified rules of fair practice. In addition, however, 48 of these complaints included charges that 75 different registered representatives had also violated one or more such rules.

Of the 116 complaints on which final Association action was taken, 10 were withdrawn or dismissed on findings that the allegations in the complaints had not been sustained. In the remaining cases, one or more violations were found as alleged in the complaint and the members and registered representatives found to have committed the violations were subjected to penalty. The penalties imposed covered a wide range of available sanctions and in many cases more than a single penalty was imposed on a firm or registered representative. Thus, 32 firms were expelled and six were suspended for periods ranging from 30 days to 3 years; 48 firms were fined amounts ranging from \$50 to \$8,240 and aggregating \$28,765; and 13 were censured. Moreover, the registrations of 37 registered representatives were revoked; one representative was suspended for six months; nine representatives were fined sums ranging from \$50 to \$5,000 and aggregating \$9,400; and 16 representatives were censured. In 56 of the complaints, costs were assessed in amounts aggregating \$16,349.61 during the year.

In addition to disciplinary action by formal complaint procedure as described above, action was also taken against members pursuant to a minor violation procedure as specified in the NASD Code of Procedure and as described in the last annual report. Under this procedure, in a disciplinary action where the facts are not disputed and the matter involves only minor or technical violations of the rules and no significant damage to customers, other parties or the public interest, the member may waive a hearing and accept a penalty not to exceed censure and a fine of \$100. The respondent is not required to accept this procedure and may elect to have a hearing as in the case of a complaint involving more serious violations.

In all, reports were received from the Association descriptive of 47 cases handled by the minor violation procedure. One case was subsequently remanded by the Board of Governors to the District Business Conduct Committee of initial jurisdiction for consideration pursuant to the ordinary complaint procedure. The remaining 46 cases resulted in censure in 29 instances, fines in 2 instances, and censure and fines in 15 instances. The fines ranged from \$25 to \$100 and aggregated \$1,175.

#### **Commission Review of NASD Disciplinary Action**

Section 15A (g) of the Act provides that disciplinary actions of the NASD are subject to review by the Commission on its own motion or on the timely application of any aggrieved party. The effectiveness of any penalty imposed by the Association is automatically stayed pending determination of any matter before the Commission on review. At the beginning of the fiscal year, three such review cases were pending before the Commission, and during the year three other applications for review were filed. One such application, filed by G. Wayne Gibbs, doing business as Gibbs & Company, was withdrawn prior to determination. Another application, filed by Daniel M. Sheehan, Jr., doing business as Sheehan & Company, was considered unacceptable by the Commission as it had not been filed within sixty days of the date the action was taken and because there were then pending against the firm administrative proceedings under section 15 (b) of the Act to determine whether the Commission should find it in the public interest to revoke the firm's registration as a broker-dealer. In rejecting this application the Commission advised the firm that it would reconsider accepting the case for review after completion of the section 15 (b) proceedings should the firm then decide to file a new petition. Two review cases were decided by the Commission during the year and two were pending at the end of the fiscal year.<sup>59</sup>

The Commission set aside disciplinary action taken by the Board of Governors of the Association against Samuel B. Franklin & Co. for alleged violation of the NASD rule of fair practice that requires a member to observe high standards of commercial honor and just and equitable principles of trade in the conduct of his business.<sup>60</sup> The case was an outgrowth of a dispute between Franklin & Co. and Pledger & Co., Inc., the complainant, and involved a transaction in stock of Western Oil Fields sold by Franklin & Co. to Pledger & Co.,

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<sup>59</sup> The pending cases concerned applications filed by Batkin & Co. (File 16-1A67) and Churchill Securities Corp. (File 16-1A71). The Batkin appeal was dismissed as moot shortly after the close of the fiscal year. Securities Exchange Act Release No. 5763 (August 22, 1958).

<sup>60</sup> Securities Exchange Act Release No. 5603 (November 18, 1957) and File 16-1A65.



Inc. at \$2.70 per share. After delivery and payment, Pledger returned the shares on the grounds that the shares delivered were certificates which had been the subject of a 1 for 4 reverse stock split. Pledger refused to cancel the original transaction since the price of the stock had advanced to  $3\frac{1}{8}$  per share. Franklin suggested the purchase of new shares and agreed to pay the attendant loss of about \$225, but Pledger advised against such a purchase at that time since it believed the price would go down. However, the price of the stock continued to advance. Pledger subsequently bought the stock in at  $4\frac{7}{8}$  and requested that Franklin make good an asserted loss to Pledger of \$1,282.50. Pledger first accepted the suggestion of Franklin that the matter be arbitrated, but then withdrew its consent and filed a complaint before the NASD. The Board of Governors affirmed a decision of the District Business Conduct Committee that Franklin had violated the NASD rule by failing to make a good delivery of the stock and failing to reimburse the buyer for damages. The Board of Governors censured Franklin, assessed costs in the amount of \$441.22 and directed the firm to make good the loss sustained by Pledger.

In its opinion the Commission observed that it was not its function, nor that of the NASD, in applying the rule, to decide private contract rights between the parties, and that "not every failure to perform a contract violates the NASD rule; it must appear that such failure was unethical or dishonorable." The Commission concluded that the facts here present did not justify a finding that Franklin had violated the NASD rule. In support of this conclusion, it pointed out that there was no evidence of an intention to mislead Pledger or that the delivery of the old certificates was anything but an unintentional error. Nor could the Commission find that Franklin sought to evade responsibility arising from the delivery of the old certificates, as evidenced by its immediate acceptance of the return of the old certificates and its refund to Pledger of the purchase price, its prompt offer to buy in shares of the new stock and accept the \$225 loss resulting from the increase in the market price thereof, its reliance on Pledger's advice in not making delivery of new stock at that time, and its offer to submit to arbitration after Pledger had bought in new stock at a much higher price some six months after the return of the old certificates. The Commission noted that its action reversing the NASD action was in no way a determination regarding the validity or the amount of Pledger's claim against Franklin.

In the other decided case, the Commission affirmed a six-month suspension, \$3,000 fine and censure imposed by the National Association of Securities Dealers, Inc., upon Graham & Co., of Pittsburgh,

Pennsylvania, and the censure of E. W. Sterling Graham, its only active partner, for violation of NASD rules requiring the maintenance of high standards of commercial honor and just and equitable principles of trade.<sup>61</sup>

The NASD's disciplinary action was based largely upon sales of securities of Texas Adams Oil Co. by Graham & Co. to its customers at a price which was "unfair and not reasonably related to the current market price." The Commission also sustained the additional rulings of the NASD that Graham & Co. have violated its rules (1) by failure to register salesmen employed at its Birmingham, Alabama branch office in 1955, (2) by failure to disclose, in the sale of Bassett Press & Mailing Co. stock, that that company and Graham & Co. were under common control and (3) by failure to endorse the records of salesmen's transactions to show approval of such transactions.

#### **Commission Review of NASD Action on Membership**

Section 15A (b) of the Act provides that, except where the Commission finds it appropriate in the public interest to approve or direct to the contrary, no broker or dealer may be admitted to or continued in Association membership if he, or any controlling or controlled person, is under any of the several disabilities specified in the statute. The disqualifications included in the statute are repeated in the Association's by-laws which, however, also include other disqualifications permitted by, but not explicitly set out in, the statute. Among other things, the statutory disabilities include an outstanding order of revocation by the Commission of a broker-dealer registration and the Association's by-laws include conviction within the preceding 10 years of a felony found by the Association to have involved abuse or misuse of a fiduciary relationship.

A Commission order approving or directing admission to or continuance in Association membership, notwithstanding a disqualification under section 15A (b) (4) of the Act or under an effective Association rule adopted under that section or section 15A (b) (3), is generally entered only after the matter has been submitted by the member of, or applicant for membership to, the Association. Where, after consideration, the Association is favorably inclined, it ordinarily files with the Commission an application on behalf of the petitioner. A broker-dealer refused Association sponsorship, however, may file an application directly with the Commission. The Commission carefully reviews the record and documents filed in support of the application and, if considered necessary, obtains additional evidence bearing on the matter. At the beginning of the fiscal year, three such petitions were pending before the Commission; during the year one was filed

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<sup>61</sup> Securities Exchange Act Release No. 5687 (May 1, 1958) and File 16-1A66.

and three were disposed of; and one was pending at the year end.

The Commission approved an application filed by the NASD permitting the continuance of Clayton Securities Corporation in Association membership with Harold S. Goldberg as an employee and registered representative.<sup>62</sup> Goldberg had been convicted on May 3, 1955, following a plea of guilty, of violations of the anti-fraud provisions of the Securities Act of 1933 and the mail fraud statute based on failure adequately to supervise the activities of salesmen who had induced excessive trading in the accounts of customers to obtain excessive commissions. In granting the approval requested by the Association, the Commission recognized that none of the charges concerned Goldberg's own dealings with customers, that he would not be employed in a supervisory capacity and that he would be subject to close supervision by officers of the employing firm.

The Commission also approved applications sponsored by the NASD for the continuation in the Association membership of two firms each with a revoked person employed as a registered representative. In approving the employment of Leonard H. Whitaker by an NASD member firm, the Commission stated: "While the misconduct which led to revocation of Whitaker's registration was serious in nature, we do not think it should constitute a permanent bar from the securities business. Upon the basis of our review of the entire record and giving due consideration to the lapse of time since the revocation, the close supervision to be exercised over him, and the favorable recommendation of the NASD, we conclude that we may approve the application of the NASD in the public interest provided that Whitaker is bonded so as to afford additional investor protection against possible loss as a result of any misconduct by him."<sup>63</sup>

In granting similar approval for the employment of David Gordon, the Commission observed that Gordon's conduct resulting in the revocation and expulsion of Gordon & Company did not involve his conduct as a salesman but his activities in directing the affairs of his firm, and that in his employment as a salesman of the member firm he will be under close supervision, including supervision of the type of security he sells, that he will not have custody of funds or securities of customers and that he will be bonded.<sup>64</sup>

#### LITIGATION UNDER THE SECURITIES EXCHANGE ACT OF 1934

As a protective measure for the public, the Commission is authorized to institute actions to enjoin broker-dealers and other persons from

<sup>62</sup> Securities Exchange Act Release No. 5554 (July 26, 1957) and File 16-1A63.

<sup>63</sup> Securities Exchange Act Release No. 5581 (September 23, 1957) and File 16-1A64.

<sup>64</sup> Securities Exchange Act Release No. 5698 (May 19, 1958) and File 16-1A69.

engaging in conduct which violates the provisions of the Securities Exchange Act of 1934. Some of the actions brought as a result of such violations also alleged violations of other statutes administered by the Commission.

#### Anti-Fraud Litigation

In discharging its responsibility to protect the investing public by preventing frauds by broker-dealers, the Commission, during the fiscal year, obtained injunctions in *S. E. C. v. T. G. Anderson, Inc.*,<sup>65</sup> *S. E. C. v. J. Arthur Warner & Co., Inc., et al.*<sup>66</sup> and *S. E. C. v. Louis E. Wolfson*.<sup>67</sup> In the *Anderson* case the complaint alleged, among other things, that the defendants induced customers, by false representations and omissions of material facts, to sell securities of one mining company and buy securities of another, and at the same time induced other customers to effect contra transactions in the same securities. In the *Warner* case, an injunction was obtained against violations of the anti-fraud provisions of the Securities Exchange Act, as well as violations of numerous other sections of that Act and various provisions of the Securities Act of 1933. Its dominant aspect was the overtrading or "churning" of customers' accounts. The criminal prosecution arising out of the transactions is described in detail at page 109 of the 21st Annual Report.

In the *Wolfson* case, a temporary restraining order was obtained to enjoin further violation of the anti-fraud and anti-manipulative provisions of the Securities Exchange Act in the purchase and sale of common capital stock of American Motors Corporation, listed on the New York Stock Exchange. The Commission's complaint alleged that Louis E. Wolfson and other persons whose identities are unknown to the Commission, engaged in acts, practices and courses of business which operated and would operate as a fraud and deceit upon the public. The complaint and underlying affidavits allege and state, among other things, that Wolfson had sold over 200,000 shares of American Motors stock at a time when an article in a widely circulated financial newspaper quoted him to the effect that he and his associates owned about 460,000 shares of that stock and were "perfectly satisfied" with the company's progress. Wolfson and his agents were also alleged to have later caused a statement to be published, in a widely circulated newspaper, to the effect that the stock of American Motors looked fully priced on the basis of the immediate outlook and that he (Wolfson) was "about one-quarter of the way

<sup>65</sup> E. D. Washington No. 1517 (April 8, 1957):

<sup>66</sup> D. Massachusetts No. 51-1036. (A final injunction against the last remaining defendant was obtained on February 20, 1958.)

<sup>67</sup> S. D. New York No. 135-30 (June 24, 1958). Subsequent to the end of the fiscal year a permanent injunction was obtained on consent.

home" in disposing of the 400,000 shares of American Motors stock that he and his immediate family owned, and that the remaining shares would be disposed of probably in the open market and "should be cleaned up completely well before the end of the summer." The complaint further charged that in connection with the last mentioned statement Wolfson omitted to disclose that he had sold or otherwise disposed of all of his holdings in American Motors, and that he, together with his associates, had a very substantial short position in the stock and was, at the time of the publication of the newspaper article, engaged in purchasing stock of American Motors to cover the short position. The complaint also charged that the anti-manipulative provision of the Act was violated in that the statements made were false and misleading and Wolfson knew or had reasonable grounds to believe that such statements were false and misleading.

#### Cases Involving the Net Capital Rule

As indicated earlier, section 15 (c) (3) of the Securities Exchange Act and rule 15c3-1 thereunder are designed to provide protection against loss of customers' securities and monies by reason of financial difficulties broker-dealers may encounter by requiring registered broker-dealers to maintain a prescribed ratio between net capital and aggregate indebtedness.

In numerous cases the Commission resorts to injunctive relief when broker-dealers are conducting their business in violation of this financial requirement. During the fiscal year injunctions were sought by the Commission to enjoin broker-dealers from further violations of this net capital rule in *S. E. C. v. J. D. Creger and Co.*;<sup>68</sup> *S. E. C. v. Tadao I. Watanabe, doing business as Honolulu Securities & Investment Co.*;<sup>69</sup> *S. E. C. v. Sanders Investment Company*;<sup>70</sup> *S. E. C. v. Owens and Company*;<sup>71</sup> *S. E. C. v. Joseph J. Wilensky & Co.*;<sup>72</sup> *S. E. C. v. William H. Keller, Jr., doing business as W. H. Keller, Stockbroker*;<sup>73</sup> *S. E. C. v. A. J. Gould & Co., Inc., et al.*;<sup>74</sup> *S. E. C. v. Lynne B. Fenner and The Fenner Corporation*;<sup>75</sup> *S. E. C. v. First Jersey Securities Corp. and Mortimer L. Schultz*;<sup>76</sup> *S. E. C. v. William Whitehead*;<sup>77</sup> *S. E. C. v. Tanya Kaye, doing business as The Kaye*

<sup>68</sup> S. D. California No. 369-57 WB (March 21, 1957).

<sup>69</sup> D. Hawaii No. 1585 (October 15, 1957).

<sup>70</sup> D. New Mexico No. 3685 (December 12, 1957).

<sup>71</sup> D. Colorado No. 5935 (January 21, 1958).

<sup>72</sup> S. D. Florida No. 8559-M (June 13, 1958).

<sup>73</sup> S. D. Indiana No. IP-58-C-46 (March 30, 1958).

<sup>74</sup> S. D. New York No. 113-87 (September 18, 1956).

<sup>75</sup> S. D. New York No. 128-355 (January 8, 1958).

<sup>76</sup> D. New Jersey No. 979-56 (December 21, 1956).

<sup>77</sup> D. New Jersey No. 1255-57 (December 31, 1957).

*Investing Co.*; <sup>78</sup> *S. E. C. v. Peerless-New York, Inc.*; <sup>79</sup> *S. E. C. v. Securities Distributors, Inc. and Rolf Wurtz*; <sup>80</sup> *S. E. C. v. Alfred D. Laurence & Co.*,<sup>81</sup> and *S. E. C. v. Jean R. Veditz Co., Inc.*<sup>82</sup> In the first eleven named cases the appropriate district court in each instance granted a permanent injunction. The remaining cases were pending at the close of the fiscal year with preliminary injunctions granted against Peerless-New York, Inc. and Securities Distributors, Inc.

Operations of broker-dealers while in violation of the net capital rule, and while insolvent without disclosing such insolvency to customers, thus representing that they were ready and able to execute customers' orders and to meet their liabilities in connection therewith, were the basis for the actions in *SEC v. Laurence W. L. Barrington, doing business as Barrington Investments*,<sup>83</sup> *SEC v. F. R. Chatfield Company, Inc.*,<sup>84</sup> *S. E. C. v. Thompson and Sloan, Inc., et al.*<sup>85</sup> and *SEC v. George T. Argeros, et al.*<sup>86</sup> The complaints in the latter two cases also included allegations that the defendants had failed to make and keep the books and records required under section 17 (a) of the Act and rule 17a-3 thereunder. Permanent injunctions were granted in all of these cases.

#### Delisting Cases

In *Great Sweet Grass Oils, Ltd. v. S. E. C.*<sup>87</sup> the Court of Appeals for the District of Columbia Circuit, in a *per curiam* opinion, affirmed an order of the Commission withdrawing the registration on the American Stock Exchange of the capital stock of the petitioner, Great Sweet Grass Oils, Ltd. The Commission "delisted" the securities under section 19 (a) (2) of the Securities Exchange Act of 1934 because it found that petitioner had made false and misleading statements in reports required to be filed pursuant to section 13 of that Act. The Commission found the reports to be deficient *inter alia* in that they overstated oil and gas reserves, falsely claimed exemption from the registration requirements of the Securities Act of 1933 in purported reliance upon rule 133 and failed to indicate contingent liabilities resulting from the sales of unregistered securities. Petitioner contended unsuccessfully that the Commission had abused its discretion in delisting the securities without setting forth conditions upon which listing could be regained, and had erred in holding that

<sup>78</sup> E. D. New York No. 18,445 (February 6, 1958).

<sup>79</sup> S. D. New York No. 126-292 (November 7, 1957):

<sup>80</sup> S. D. New York No. 127-136 (November 25, 1957).

<sup>81</sup> S. D. Florida No. 7780-M (August 5, 1957).

<sup>82</sup> S. D. New York No. 125-393 (October 18, 1957):

<sup>83</sup> D. Massachusetts No. 57-1010 (October 17, 1957).

<sup>84</sup> D. Massachusetts No. 57-945-S (September 25, 1957).

<sup>85</sup> S. D. California No. 192-58Y (March 3, 1958).

<sup>86</sup> W. D. New York No. 7892 (June 20, 1958).

<sup>87</sup> 256 F. 2d 898 (C. A. D. C., 1958).

petitioner's transactions were not entitled to the exemption provided by rule 133. The Court of Appeals found no error in the Commission's opinion.

The Commission delisted the securities of Kroy Oils Limited in the same proceeding in which it delisted those of Great Sweet Grass. Kroy brought a separate petition for review of the Commission's order and withdrew its petition on December 10, 1958, just before oral argument.<sup>88</sup> The issues involved in both cases were substantially identical.

#### Litigation Involving Broker-Dealer Registration and Reporting Requirements

In *Peoples Securities Company v. Gadsby, et al.*,<sup>89</sup> the plaintiff sought a preliminary and permanent injunction restraining the members of the Commission from conducting a hearing to determine whether Peoples' application for registration as a broker-dealer should be denied or permitted to become effective, and a permanent injunction requiring the defendants to enter an order cancelling Peoples' application for registration on the ground that it has ceased to do business. Upon denial of the preliminary injunction, plaintiff applied to the Court of Appeals for the District of Columbia Circuit for an injunction pending appeal, which application was denied.<sup>90</sup> The complaint was ultimately dismissed on defendant's motion, the District Court finding that it had no jurisdiction.

A petition for review of the Commission's order revoking petitioner's registration as a broker-dealer was filed in *M. J. Shuck Co. v. S. E. C.*,<sup>91</sup> claiming that the Commission erred in finding that petitioner's violations of the net capital rule were wilful and that the Commission failed to comply with the requirements of section 9 (b) of the Administrative Procedure Act. The case was argued before the Court of Appeals and that Court affirmed the Commission's decision on December 4, 1958.

Section 17 (a), and Rule 17a-3 adopted thereunder, require the keeping of books and records by registered broker-dealers and others. Failure to comply with these requirements led to permanent injunctions being entered, upon the Commission's application, in *S. E. C. v. Perkins & Company, Inc.*,<sup>92</sup> *S. E. C. v. Sherwood & Company, et al.*,<sup>93</sup> and *S. E. C. v. William Rex Cromwell, doing business as Cromwell & Company*.<sup>94</sup> In a similar action, *S. E. C. v. William Douglas Bradford*,<sup>95</sup> a preliminary injunction was entered during the year.

<sup>88</sup> *Kroy Oils, Limited v. Securities and Exchange Commission*, C. A. D. C. No. 13920.

<sup>89</sup> District of Columbia No. 574-58 (March 5, 1958).

<sup>90</sup> *Peoples Securities Company v. Gadsby et al.*, CA DC No. 14380.

<sup>91</sup> CA DC No. 14208.

<sup>92</sup> D. Massachusetts No. 57-1164A (December 3, 1957).

<sup>93</sup> N. D. California No. 37-116 (March 18, 1958).

<sup>94</sup> N. D. Texas No. 7798 (April 4, 1958).

<sup>95</sup> S. D. California No. 179-58 PH (February 26, 1958).

**Proxy Litigation**

The Commission intervened as a plaintiff in *Barker v. McPhail*,<sup>96</sup> and filed a complaint against the defendants McPhail and certain other officers and directors of Transue & Williams Steel Forging Corporation. The Commission's complaint alleged in essence that defendants in violation of the proxy rules engaged in the solicitation of proxies without having previously or concurrently furnished the stockholders with a proxy statement, without having filed prior thereto certain information with respect to the identity, background and interest of the participants in the solicitation and without identifying on the forms of proxies the persons on whose behalf they were to be used. Further, the complaint charged that McPhail in violation of the proxy rules had sent out soliciting material without having first filed preliminary copies with the Commission and that such material contained false and misleading statements and omissions. The Court granted a temporary restraining order, to which the parties consented, enjoining the defendants from voting proxies already obtained and directing that the stockholders' meeting be adjourned, to give opportunity for a proper resolicitation to be made, including material correcting misrepresentations in previous soliciting material. At the adjourned meeting McPhail and other management nominees were elected directors over the slate of Harold O. Barker, President and Chairman of the Board, and the Stockholders' Committee Against Control of Transue & Williams Steel Forging Corporation by Russell McPhail.

Subsequent to the end of the fiscal year a motion for summary judgment was filed by the Commission requesting that defendants be permanently enjoined from further violations of the proxy rules. Argument was had and the Court has not as of December 1st rendered an opinion.

In *Hott et al. v. Ostergren et al.*<sup>97</sup> an appeal was taken from the judgment of the District Court enjoining appellants and one Josiah Kirby from soliciting and voting proxies with respect to the common stock of Lakey Foundry Corporation.<sup>98</sup> The District Court had found, *inter alia*, that Kirby was a "participant" in the solicitation by the defendants, whose proxy statement had not included the required information with respect to Kirby, and that Kirby had not filed with the Commission the information required by Schedule 14B. The appeal from the District Court's judgment was subsequently dismissed upon stipulation of the parties, the Commission agreeing to the dismissal since the injunction issued by the District Court remained in full effect.

<sup>96</sup> S. D. New York No. 131-139 (March 19, 1958).

<sup>97</sup> C. A. 6, No. 13310.

<sup>98</sup> N. D. Ohio 33393 (February 15, 1957).



In *S. E. C. v. Sidney Gondekman, et al.*,<sup>99</sup> the Commission took action to enjoin Gondekman and other shareholders of the Central Foundry Company from voting proxies at the annual meeting of shareholders of the Corporation unless they furnished the shareholders an opportunity to revoke their proxies after furnishing information needed to correct misstatements which had been made in previous proxy soliciting material. The Commission's complaint alleged that the defendants had made misrepresentations about the status of efforts by Gondekman, a disbarred lawyer, to obtain reinstatement to the New York Bar. The Commission's action was joined, for purposes of trial, with a suit brought by the Management of the Central Foundry Company alleging several violations of the proxy rules and requesting the complete invalidation of all proxies obtained by Gondekman prior to the suit. Since the close of the fiscal year, the United States District Court for the Southern District of New York held that the defendant stockholders had violated the proxy rules and invalidated the proxies which they had obtained. The Court also ordered the correction of misleading statements.

For proxy litigation under the Public Utility Holding Company Act of 1935 involving Union Electric Co., see p. 119, *infra*.

#### Participation as Amicus Curiae

In *Greene, et al. v. Dietz, et al.*<sup>100</sup> the United States Court of Appeals for the Second Circuit in June, 1957, handed down a decision in which it expressed doubt as to the Commission's power to promulgate Rule X-16B-3, which exempts certain bonus, profit sharing, retirement and similar plans from the provisions of section 16 (b) allowing recovery by the issuer of profits realized by officers, directors and controlling persons in transactions in the securities of the issuer. The Commission promptly moved for leave to file a brief *amicus curiae* and for a clarification of the opinion and a rehearing. In a *per curiam* decision, one of the three judges dissenting, the Court denied the petition for rehearing, stating that ". . . [the] Commission understands, without further clarification, the content of our opinion . . ." and that pending modification of the rule, any reliance upon it by persons entitled to exercise options under plans substantially similar to the one in issue "would be ill-advised."<sup>101</sup>

<sup>99</sup> S. D. New York No. 133-314 (May 19, 1958).

<sup>100</sup> 247 F. 2d 689 (C. A. 2, 1957).

<sup>101</sup> In *Emerson Electric Manufacturing Company v. O'Neill, et al.* (E. D. Mo. No. 58C 307 (2)), the Court held, on November 10, 1958; that officers and directors who relied on the Rule after the *per curiam* decision in *Greene v. Dietz* could do so without liability. The case involved officers who were not familiar with the decision in *Greene v. Dietz*, and the Court did not consider the question of the validity of the Rule or liability of persons familiar with the *Greene v. Dietz* opinion.

Since the end of the fiscal year, the Commission has filed briefs *amicus curiae* in support of the validity of Rule X-16B-3 in *Van Aalten v. Hurley, et al.* and *Perlman v. Timberlake, et al.*, both arising in the United States District Court for the Southern District of New York. Both cases are presently under consideration by the Court.

In addition, since the end of the fiscal year the Commission has obtained permission to participate *amicus curiae* in *Ellerin v. Massachusetts Mutual Life Insurance Company, et al.* (C. A. 2 No. 25352), a case arising under section 16, and its office of the General Counsel is studying the record in *Ferraiolo v. Ashland Oil Company*, 259 F. 2d 342 (C. A. 6, 1958) to determine whether to recommend participation in the plaintiff's petition for *certiorari* to the Supreme Court.

## PART VI

### ADMINISTRATION OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Public Utility Holding Company Act of 1935 provides for the regulation by the Commission of interstate public-utility holding company systems engaged in the electric utility business or in the retail distribution of gas. The matters dealt with embrace intricate and complex questions of law and fact, and generally involve one or more of three major areas of regulation. The first embraces those provisions of the Act, contained principally in Section 11 (b) (1), which require the physical integration of public-utility companies and functionally related properties of holding company systems, and those provisions, contained principally in Section 11 (b) (2), which require the simplification of intercorporate relationships and financial structures of holding company systems. The second area of regulation covers the financing operations of registered holding companies and their subsidiaries, the acquisition and disposition of securities and properties, and certain accounting practices, servicing arrangements and intercompany transactions. The third area of regulation includes the exemptive provisions of the Act, the provisions covering the status under the Act of persons and companies, and those regulating the right of a person affiliated with a public-utility company to acquire securities resulting in a second such affiliation.

The staff functions under the Act are performed in the Branch of Public Utility Regulation of the Division of Corporate Regulation.

#### COMPOSITION OF REGISTERED HOLDING COMPANY SYSTEMS— SUMMARY OF CHANGES

On June 30, 1958, there were 22 registered holding company systems subject to the regulatory provisions of the Act. Of these 22, four systems, namely, (1) Central Public Utility Corporation, (2) Cities Service Company, (3) Electric Bond and Share Co., and (4) Standard Shares, Inc., do not own as much as 10 percent of the voting securities of any public-utility company operating within the United States. The remaining 18 systems are referred to herein as "active registered systems."

Included in the 18 active registered systems there were 19 registered holding companies of which 13 function solely as holding companies and 6 function as operating companies as well as holding companies.<sup>1</sup> In addition, in these systems there are 100 electric and gas utility sub-

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<sup>1</sup> In one of these systems there are two companies each of which is a registered holding company.

subsidiaries, 42 non-utility subsidiaries, and 15 inactive companies, totaling 176 system companies.

The following tabulation shows the number of holding companies, electric and gas utility companies and non-utility companies in each of the 18 active registered systems as at June 30, 1958, and their aggregate assets, less valuation reserves, as of December 31, 1957:

*Classification of companies as of June 30, 1958*

System	Solely registered holding companies	Registered holding operating companies	Electric and gas utility subsidiaries	Non-utility subsidiaries	In-active companies	Total companies	Aggregate system <sup>1</sup> assets, less valuation reserves at Dec. 31, 1957
1. American Electric Power Co., Inc.	1		13	10	1	25	\$1,283,250,199
2. American Natural Gas Co.	1		2	5	0	8	689,784,979
3. Central and South West Corp.	1		6	0	1	8	* 585,059,686
4. Columbia Gas System, Inc. The	1		9	8	0	18	852,342,000
5. Consolidated Natural Gas Co.	1		4	2	0	7	614,499,242
6. Delaware Power & Light Co.		1	2	0	0	3	180,200,857
7. Eastern Utilities Associates.	1		5	0	2	8	89,892,898
8. General Public Utilities Corp.	1		7	2	0	10	789,297,209
9. Granite City Generating Co. (Voting Trust)	1		1	0	0	2	<sup>2</sup> 459,672
10. Middle South Utilities, Inc.	1		6	0	5	12	669,301,581
11. National Fuel Gas Co.	1		3	6	0	10	183,336,148
12. New England Electric System	1		23	1	4	29	576,354,206
13. Ohio Edison Co.		1	3	0	0	4	532,815,000
14. Philadelphia Electric Power Co.		1	1	0	1	3	43,107,292
15. Southern Company, The	1		5	2	1	9	1,037,407,021
16. Union Electric Co.		1	3	1	0	5	524,864,889
17. Utah Power & Light Co.		1	2	0	0	3	213,939,205
18. West Penn Electric Co., The	1	1	12	6	1	21	519,667,697
Subtotals	13	6	107	43	16	185	9,385,579,781
Less: Adjustment to eliminate duplication in count resulting from 5 companies being subsidiaries in 2 systems and 2 companies being subsidiaries in 3 systems.*			-7	-1	-1	-9	
Add: Adjustment to include the assets of these 7 jointly owned subsidiaries and to remove the parent companies' investments therein which are included in the system assets above.							562,057,598
Total companies and assets in active systems	13	6	100	42	15	176	9,947,637,379

<sup>1</sup> Represents the consolidated assets, less valuation reserves, of each system as reported to the Commission on Form U5S, except as otherwise noted.

<sup>2</sup> Does not include Compania Electrica de Matamoros, S. A. which, as at December 31, 1957, had assets, less valuation reserves, amounting to 13,754,490 Mexican Pesos (equivalent to approximately 1,100,359 United States dollars at the official exchange rate). Central and South West's investment in this company is carried at one dollar.

<sup>3</sup> Represents the corporate assets of Granite City Generating Co. at March 31, 1958. Assets of the Voting Trustees of Granite City Generating Co., the holding company parent of the Generating Co., have not been reported.

<sup>4</sup> These 7 companies are Beech Bottom Power Co., Inc. and Windsor Power House Coal Co., which are indirect subsidiaries of American Electric Power Co. and The West Penn Electric Co.; Ohio Valley Electric Corp. and its subsidiary, Indiana-Kentucky Electric Corp., which are owned 37.8 percent by American Electric Power Co., 16.5 percent by Ohio Edison Co., 12.5 percent by The West Penn Electric Co., and 33.2 percent by other companies; Electric Energy Inc. which is owned 10 percent by Middle South Utilities, Inc., 40 percent by Union Electric Co., and 50 percent by 3 other companies; Mississippi Valley Generating Co. which is owned 79 percent by Middle South Utilities, Inc., and 21 percent by The Southern Co.; and Arklaohoma Corp. which is owned 32 percent by Central and South West Corp. system, 34 percent by Middle South Utilities, Inc. system and 34 percent by a third company.

In the active systems four new corporations were organized during the fiscal year of which one was a gas utility company and three were non-utility companies. In addition, two going concerns were acquired one of which was an electric utility company and one of which was a non-utility company. One non-utility subsidiary was dissolved and two electric utility companies were merged. These changes resulted in a net increase of three in the total number of companies comprising the active systems. While there were net decreases during fiscal 1956 and 1957 of 32 and 11, respectively, in the number of companies comprising the active systems, certain systems are carrying out realignment programs and it is too early to state whether a leveling off has occurred in the total number of companies subject to regulation under the Act.

While most of the Section 11 problems existing at the time of the passage of the Act have been resolved, there still remain a number of issues which have not as yet been determined. Examples are: In its order under Section 11 (b) (1) with respect to The Columbia Gas System, Inc., the Commission reserved jurisdiction concerning the retainability in the system of the properties of ten companies (subsequently reduced to six) and in this connection there is a proceeding pending before the Commission which is discussed at page 114 of this Report. In addition, this registered holding company has an overall plan for the realignment of its properties which likewise is discussed at page 114. There is a problem under Section 11 (b) (1) of the Act with respect to Consolidated Natural Gas Co. relating principally to the retainability of non-utility pipe line properties. With respect to Delaware Power & Light Co. there exists the question of whether the gas and electric facilities are retainable under common control. The Commission, by order dated April 14, 1950, directed the disposition of the gas properties of Blackstone Valley Gas & Electric Co., a subsidiary of Eastern Utilities Associates. This system has pending before the Commission an application-declaration covering several transactions designed to accomplish the disposition of the gas properties required to be divested. That matter is discussed at page 114 of this Report. National Fuel Gas Co. system has oil, real estate, and gas transmission businesses, the retention of which has not been determined. With respect to New England Electric System there is pending before the Commission a proceeding under Section 11 (b) (1) of the Act to determine whether the gas properties of the subsidiary companies are retainable. That proceeding is discussed at page 116 of this report. In its application pursuant to Section 3 (a) (2) of the Act requesting an exemption from all of the provisions of the Act, Union Electric Co. also requested that the Commission release jurisdiction previously reserved

by the Commission over the retainability of the gas properties owned by system companies. There is also a problem under Section 11 (b) (1) of the Act whether Utah Power & Light Co. may retain its subsidiary, The Western Colorado Power Co. Those problems have not as yet been resolved.

The maximum number of companies subject to the Act as components of registered holding company systems at any one point of time was 1,620 in 1938. Since that time additional systems have registered and certain systems have organized or acquired additional subsidiaries, with the result that 2,385 companies have been subject to the Act as registered holding companies or subsidiaries thereof during the period from June 15, 1938, to June 30, 1958. Included in this total were 216 holding companies (holding companies and operating-holding companies), 1,021 electric and gas utility companies and 1,148 non-utility enterprises. From June 15, 1938 to June 30, 1958, 2,046 of these companies have been released from the active regulatory jurisdiction of the Act or have ceased to exist as separate corporate entities. Of this number 922 companies with assets aggregating approximately \$13 billion as at their respective dates of divestment have been divested by their respective parents and are no longer subject to the Act as components of registered systems. The balance of 1,124 companies includes 776 which were released from the regulatory jurisdiction of the Act as a result of dissolutions, mergers and consolidations and 348 companies which ceased to be subject to the Act as components of registered systems as a result of exemptions granted under Sections 2 and 3 of the Act and deregistrations pursuant to Section 5 (d) of the Act.

#### DEVELOPMENTS IN INDIVIDUAL REGISTERED SYSTEMS

There is discussed below each of the active registered systems and the other systems in which there occurred during the fiscal year 1958 significant developments other than financing transactions. The financing activities of registered holding companies and their subsidiaries are treated below in a separate section of this report.

##### A. DEVELOPMENTS IN ACTIVE REGISTERED SYSTEMS

###### **American Electric Power Company**

During the fiscal year American Gas and Electric Co. changed its corporate name to American Electric Power Co. At December 31, 1957, the system had consolidated assets, less valuation reserves, of some \$1,283,000,000 and net dependable generating capacity of 4,585,000 Kw. The system had consolidated operating revenues of about \$283,755,000 for the calendar year 1957.

Although no significant corporate changes took place in the system during the fiscal year, there was substantial activity with respect to its expansion program and the financing arrangements therefor, new developments in respect of a service agreement and the acquisition of additional utility assets. This system is the largest holding company system subject to the Act. Six additional generating units of 225,000 Kw each or a total of 1,350,000 Kw are expected to be completed during the calendar year 1958.

The system carries on research along many avenues of technology and, during the fiscal year, continued to concentrate on nuclear research and development with a view to providing power at a cost competitive with that of a conventional power plant. Three system companies are members of the East Central Nuclear Group which consists of 14 utility companies in the general Ohio Valley area. This group is in the process of developing a program involving research and development of a high-temperature, gas-cooled, heavy water-moderated, pressure-tube reactor of 50,000 Kw capacity. American Electric Power Co. is also a member of Nuclear Power Group, Inc. and, as such, continues to derive technological and practical experience from the research and design activities in Commonwealth Edison Company's 180,000 Kw boiling water reactor being installed at Dresden, Ill.

The system's service corporation, which during the fiscal year changed its name to American Electric Service Corp., designed and engineered the power plants of Ohio Valley Electric Corp. American Electric owns 37.8% of the voting securities of OVEC which, with its wholly-owned subsidiary, Indiana-Kentucky Electric Corp., furnishes electric power to an installation of the Atomic Energy Commission near Portsmouth, Ohio. There is pending before the Commission the issue of whether the acquisition of OVEC's stock by American Electric and other sponsoring companies meets the standards of Section 10 of the Act. This issue and the organization and financing of OVEC and Indiana-Kentucky Electric Corp. are discussed on page 126 of the Commission's 23rd Annual Report.

#### **American Natural Gas Co.**

This registered holding company and its subsidiary companies, as at December 31, 1957, had consolidated assets, less valuation reserves, of \$689,780,000. The system had consolidated operating revenues of \$192,036,000 for the calendar year 1957. In the latter part of 1957, American Natural Gas Production Co. was organized as a subsidiary of this registered holding company for the purpose of exploring for gas and acquiring and operating gas-producing properties.

In September 1957, American Natural filed a declaration requesting permission to acquire from time to time additional shares of its 6% non-redeemable preferred stock without regard to the limitations imposed by Rule 42 under the Act and at such prices as might be considered by the company's management to be reasonable.<sup>2</sup> In November 1957, the Commission instituted a proceeding under Section 11 (b) (2) of the Act to determine whether the continued existence of such stock in this holding company system's corporate structure unduly and unnecessarily complicates such structure or unfairly and inequitably distributes voting power among the security holders of such system.<sup>3</sup> The proceedings were consolidated and, in April 1958, the Commission issued its Findings and Opinion denying effectiveness to American Natural's declaration seeking to purchase its non-redeemable preferred stock and ordered the company to take appropriate steps to eliminate such preferred stock from the holding company system.<sup>4</sup> Subsequent to the close of the fiscal year American Natural filed a plan to eliminate the preferred stock by a payment of \$32.50 per share to the holders thereof. Before the plan can be effectuated it must be found by the Commission to be fair and equitable to all affected persons.

In June, 1958, hearings began on a declaration filed by Milwaukee Gas Light Co. This subsidiary proposed to issue and sell promissory notes to banks in an aggregate principal amount not exceeding \$15 million. After hearing, the Commission issued its Findings and Opinion and Order permitting the Company's declaration to become effective.<sup>5</sup>

#### **Central and South West Corp.**

This registered holding company and its subsidiaries, as at December 31, 1957, had 1,850,900 Kw of effective generating capability and its consolidated assets, less valuation reserves, amounted to \$585,000,000. The system had total consolidated electric operating revenues of \$137,300,000 for the calendar year 1957.

During the fiscal year Southwestern Gas and Electric Co., a system subsidiary, was authorized, after hearing, to acquire, at a cost of \$36,000, shares of the preferred stock of First Arkansas Development Finance Corporation, a non-profit company organized under the laws of Arkansas for the purpose of promoting the location of new businesses and new industries in the State of Arkansas.<sup>6</sup>

<sup>2</sup> Holding Company Act Release No. 13565 (October 18, 1957).

<sup>3</sup> Holding Company Act Release No. 13600 (November 18, 1957).

<sup>4</sup> Holding Company Act Release No. 13726 (April 7, 1958).

<sup>5</sup> Holding Company Act Release Nos. 13813 (August 29, 1958) and 13828 (September 22, 1958).

<sup>6</sup> Holding Company Act Release No. 13777 (June 12, 1958).



Three system subsidiaries are members of Texas Atomic Energy Research Foundation which consists of a group of 11 electric utility companies in Texas. The Foundation was organized early in the year 1957 for the purpose of engaging in research in the atomic energy field as applied to the generation of electric power. These system subsidiaries are committed to contribute a total of about \$1 million, of a combined total of \$10 million, for the four-year research program which has for its object studying heavy hydrogen or fusion reactions at high temperature under controlled conditions. Two system subsidiaries have joined with 13 other electric utility companies in the formation of Southwest Atomic Energy Associates which, over the next four years, will contribute a total of \$5,354,000, including about \$800,000 by the two system subsidiaries, for research and development of an epithermal thorium power reactor undertaken by Atomics International, a subsidiary of North American Aviation, Inc.

#### **The Columbia Gas System**

This registered holding company and its subsidiaries, at December 31, 1957, had consolidated assets, less valuation reserves, of about \$852½ million. The consolidated gross operating revenues for the calendar year 1957 were approximately \$376 million. The total sales of gas by the system during the calendar year 1957 amounted to 646,402 million cubic feet. Of this total 268,383 million cubic feet (41.5%) were sold at wholesale to 112 non-affiliated companies for resale.

Since the close of the last fiscal year there has been an increase of 3 in the number of the system's operating subsidiaries. The first additional company, Columbia Hydrocarbon Corp., was incorporated in Delaware on August 20, 1957, for the purpose of owning and operating a fractionating plant at Siloam, Ky., including a 35-mile pipeline to transport a mixed stream of hydrocarbons from which ethane, propane, butane and natural gasoline will be processed and marketed. On November 27, 1957, the Commission granted the company's application to sell its stock and promissory notes to its parent and authorized the parent to acquire such securities.<sup>7</sup>

The second company, Columbia Gulf Transmission Co., was incorporated on May 28, 1958, for the purpose of acquiring substantially all of the assets of Gulf Interstate Gas Co. which until recently was a non-affiliated company owning and operating a pipeline which transports gas purchased and used by system companies. Columbia has entered into an agreement for the acquisition by Transmission Company of the assets of Gulf Interstate in exchange for shares of common

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<sup>7</sup> Holding Company Act Release No. 13610 (November 27, 1957).

stock of Columbia and the assumption by Transmission Co. of the liabilities of Gulf. In June, 1958, the Commission authorized Columbia to acquire shares of preferred and common stock of Gulf Interstate.<sup>8</sup> There was pending at the close of the fiscal year an application of Transmission Company to acquire the assets of Gulf Interstate.

The third new operating subsidiary is The Ohio Valley Gas Co. which was organized on August 28, 1956. In June, 1958, the Commission approved the transfer to Valley of nearly all of the assets and properties of United Fuel Gas Co. in the State of Ohio which it uses in connection with the retail distribution of natural gas.<sup>9</sup> This proposal is part of and was in furtherance of the system's realignment program discussed at page 109 in the 23rd Annual Report. During the fiscal year the Commission approved another proposal whereby United Fuel Gas Co., a subsidiary, transferred all of its retail distribution properties in Kentucky to Central Kentucky Natural Gas Co.<sup>10</sup> This is also in furtherance of the system's realignment program.

As indicated at page 132 of the 22nd Annual Report there is pending before the Commission a motion filed by Columbia requesting the release of jurisdiction with respect to the retainability of certain properties controlled by the system. During this fiscal year both the Division of Corporate Regulation and Columbia filed proposed findings of fact and conclusions of law. The Division recommended that the Commission should not, on the basis of the record so far made in the proceeding, find the properties involved are retainable. Columbia submitted that the properties involved are properly a part of its integrated gas system or are reasonably incidental thereto and are retainable. The matter is pending.

#### **Eastern Utilities Associates**

This registered holding company and its subsidiary companies, as at December 31, 1957, had consolidated assets, less valuation reserves, of \$89,900,000 and its consolidated operating revenues for that year were \$32,230,000.

In February 1957, EUA and its subsidiary, Blackstone Valley Gas and Electric Co., filed with the Commission an application-declaration covering several transactions, including the issuance of 25 year debt securities by EUA, designed to effectuate the Commission's order of April 4, 1950, directing EUA to sever its relationship with the gas properties of Blackstone.<sup>11</sup> Valley Gas Co. was incorporated as a subsidiary of Blackstone for the purpose of acquiring and operating such gas properties. Public hearings have been held and the Division

<sup>8</sup> Holding Company Act Release No. 13781 (June 26, 1958).

<sup>9</sup> Holding Company Act Release No. 13779 (June 18, 1958).

<sup>10</sup> Holding Company Act Release No. 13607 (November 22, 1957).

<sup>11</sup> 31 S. E. C. 329 (1950).

of Corporate Regulation has opposed the issuance of the debt securities. Briefs and reply briefs have been filed and the Commission has heard oral argument. The matter is now under advisement for decision.

#### **General Public Utilities Corp.**

This registered holding company and its subsidiary companies, as at December 31, 1957, had consolidated assets, less valuation reserves, of \$789,297,209. For the calendar year 1957 the system's total consolidated operating revenues amounted to \$202,445,930.

During the fiscal year Manila Electric Co., an electric subsidiary operating in the Republic of the Philippines, increased the number of shares of its authorized common stock from 1,000,000 shares of 40 pesos par value per share to 10 million shares of 10 pesos par value per share and reclassified its outstanding common stock from 1 million shares to 4 million shares. In addition, a common stock dividend of 2 million shares was declared and paid to GPU.<sup>12</sup> At December 31, 1957, all of Manila's outstanding debentures were called for redemption and a new series of first mortgage bonds was authorized. The holders of the debentures were offered new bonds in exchange for their debentures and GPU acquired 8 million pesos principal amount of the new issue and contributed cash to cover the cost of the adjustment in the interest differential.<sup>13</sup>

Also during the fiscal year GPU amended its certificate of incorporation regarding the preemptive rights of its shareholders in connection with the issuance of additional shares of common stock.<sup>14</sup>

The system has abandoned its contemplated project of constructing and operating an atomic power plant in the Philippines where the cost of conventional fuel is twice the average for the domestic subsidiaries. At present, the system is exploring the feasibility of adding a small water-type reactor at one of the generating stations of Pennsylvania Electric Co., one of the system's domestic subsidiaries.

#### **Middle South Utilities, Inc.**

This registered holding company and its subsidiaries, as of December 31, 1957, had 2,281,000 Kw effective generating capability and its consolidated assets, less valuation reserves, amounted to \$669,301,581. The system had total consolidated operating revenues for the year 1957 of \$171,573,439.

Middle South owns 10 percent of the voting securities of Electric Energy, Inc., an electric generating company which has a long-term contract for the sale of firm power to an installation of the Atomic

<sup>12</sup> Holding Company Act Release No. 13538 (September 4, 1957).

<sup>13</sup> Holding Company Act Release No. 13641 (December 27, 1957).

<sup>14</sup> Holding Company Act Release No. 13639 (February 21, 1958).

Energy Commission. There is pending before the Commission a consolidated proceeding with respect to a contract between Middle South and Kentucky Utilities Co. for the sale of Middle South's 10 percent interest in EEI and with respect to previously reserved issues under Section 10 of the Act which prescribes standards applicable to the acquisition of securities by companies subject to the Act. This consolidated proceeding is discussed at pages 126-128 of the 23rd Annual Report and was pending at the close of the fiscal year.

In 1953 the Commission ordered Louisiana Power & Light Co., a system subsidiary, to dispose of its non-electric properties. The proposal of Middle South and this subsidiary to effectuate compliance with this order and Court actions in connection therewith are discussed at page 116 of the 22nd Annual Report. On November 22, 1957, the Commission approved a plan filed under section 11 (e) of the Act for the disposition of such property,<sup>15</sup> and on January 14, 1958, the United States District Court for the Eastern District of Louisiana issued an order enforcing the provisions of the plan.<sup>16</sup>

In 1955 the system's four major operating subsidiaries became members of Southwest Atomic Energy Associates, a non-profit organization which has embarked upon a four-year \$5.5 million research and development program with respect to an advanced design power reactor, the construction of which has been undertaken under contract by North American Aviation, Inc.

#### **New England Electric System**

This registered holding company and its subsidiaries, as at December 31, 1957, had consolidated assets, less valuation reserves, of \$576,354,206 and, for that year the consolidated operating revenues amounted to \$158,934,305.

During the fiscal year, the Commission instituted a proceeding in respect of NEES and its subsidiaries for the purpose of determining the extent to which the electric, gas, and other business operations of the NEES holding company system satisfied the integration standards of section 11 (b) (1) of the Act.<sup>17</sup> The hearing was initially devoted exclusively to the issue of whether or not the electric operations of the NEES system constitute those of a single integrated public-utility system as permitted by section 11 (b) (1). On February 20, 1958, the Commission issued its findings and opinion and order in which it held that the electric properties of the NEES holding company system satisfied the standards delineating an integrated public-utility system.<sup>18</sup> There is pending for further hearings and determination the

<sup>15</sup> Holding Company Act Release No. 13606 (November 22, 1957).

<sup>16</sup> *Louisiana Gas Service Co., et al.*, Civ. No. 7316.

<sup>17</sup> Holding Company Act Release No. 13525 (August 5, 1957).

<sup>18</sup> Holding Company Act Release No. 13688 (February 20, 1958).

question of whether the NEES system may retain all or any of its gas properties.

In July, 1958, NEES filed a plan under section 11 (e) of the Act to eliminate the minority interests in the common stocks of its subsidiaries engaged solely in the electric business. Subsequent to the close of the fiscal year, the Commission issued an order for hearing on NEES' plan and also instituted a proceeding under section 11 (b) (2) for the purpose of determining whether the existence of the public minority interests in the System's electric subsidiaries constitute an unfair and inequitable distribution of voting power. The two proceedings were consolidated for hearing and determination.<sup>19</sup>

The system holds a 30% stock interest in Yankee Atomic Electric Company, which is constructing an atomic electric plant. The organization of Yankee and its initial financing transactions are discussed at pages 162-164 of the 22nd Annual Report, and discussions and transactions regarding the formulation of Yankee's overall financing program are discussed on page 131 of the 23rd Annual Report. The Atomic Energy Commission has issued a construction permit for Yankee's power plant and the plant is scheduled for completion in 1960. Yankee has secured Commission approval to issue and sell to its stockholder companies additional common stock and non-interest bearing promissory notes making its total capitalization \$13 million, consisting of \$8 million par value of capital stock and \$5 million of such notes.<sup>20</sup>

#### Ohio Edison Co.

Ohio Edison is a registered holding company and an operating electric utility company. The system consists of 1 holding-operating company and 3 electric utility subsidiaries. Included in the 3 electric utility subsidiaries are Ohio Valley Electric Corp.<sup>21</sup> and its wholly-owned subsidiary, Indiana-Kentucky Electric Corp., which are discussed at pages 126-128 of the 23rd Annual Report. The other subsidiary is Pennsylvania Power Co., all of the common stock of which is owned by Ohio Edison.

Ohio Edison and its subsidiary, Pennsylvania Power Co., had consolidated assets, less valuation reserves, of \$532,815,000 at December 31, 1957, and their consolidated operating revenues for the year 1957 amounted to \$135,862,000.

Ohio Edison and Pennsylvania Power are two of the 15 electric utility companies that sponsored the organization of Ohio Valley Electric Corp. which supplies the power requirements of a gaseous diffusion plant of the Atomic Energy Commission located near

<sup>19</sup> Holding Company Act Release No. 13799 (August 1, 1958).

<sup>20</sup> Holding Company Act Release Nos. 13580 (November 1, 1957), 13740 (April 29, 1958), and 13811 (August 26, 1958).

<sup>21</sup> Ohio Edison owns 16.5% equity interest in Ohio Valley Electric Corp.

Portsmouth, Ohio, and their power participation ratios are 16.2% and 2.2%, respectively. Further details with respect to OVEC are set forth at pages 126-8 of the 23rd Annual Report. In the Commission's order authorizing the acquisition of OVEC's securities, jurisdiction was expressly reserved to determine at an appropriate future time whether the companies subject to the Act could retain such securities.<sup>22</sup> On November 19, 1956, the Commission reopened the proceeding and ordered a hearing in respect of the reserved issues.<sup>23</sup> Hearings have been completed and the matter is in process of preparation for submission to the Commission.

Ohio Edison and Pennsylvania Power and 12 other electric utility companies are members of East Central Nuclear Group formed about a year ago to formulate plans for undertaking a program of nuclear research and development. In December 1957, this group and Florida West Coast Nuclear Group presented a proposal to the Atomic Energy Commission for research and development on a partnership basis with that agency of a 50,000 Kw prototype high temperature, gas-cooled, heavy-water-moderated reactor of the pressure-tube type. It will be designed as a prototype of a natural uranium 200,000 Kw reactor. Subject to necessary regulatory approvals, Ohio Edison and Pennsylvania Power may be obligated to expend approximately \$425,000 per year over the 1958-62 period in connection with pre-operational research and development.

#### **The Southern Company**

This registered holding company and its subsidiaries had, at December 31, 1957, consolidated assets, less valuation reserves, of \$1,037,407,021 and for that year the consolidated operating revenues totaled \$254,535,680.

Southern and its subsidiaries have continued their participation in research and development of nuclear power through Power Reactor Development Co., a non-profit corporation in the process of constructing an experimental fast breeder atomic reactor in Michigan. The system's service company is one of the 21 member companies which formed PRDC. Further details with respect to it are set forth at pages 164-166 of the 22nd Annual Report and at pages 129-30 of the 23rd Annual Report. The four direct subsidiaries of Southern have agreed to contribute \$2.4 million over a six-year period toward the construction of this atomic reactor and Southern has guaranteed the payment of 8 percent of the principal and interest of the borrowings made from various banks by PRDC under a loan agreement providing for such borrowings of \$15 million by the end of 1958.<sup>24</sup>

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<sup>22</sup> Holding Company Act Release No. 11578 (November 7, 1952).

<sup>23</sup> Holding Company Act Release No. 13313 (November 19, 1956):

<sup>24</sup> Holding Company Act Release No. 13383 (February 12, 1957).

**Union Electric Co.**

Union Electric Co. is a registered holding company and an operating electric utility company. As at December 31, 1957, the consolidated assets, less valuations reserves, of Union and its subsidiaries amounted to \$524,865,000 and their consolidated operating revenues for 1957 totaled \$129,178,000.

Union owns 40 per cent of the capital stock of Electric Energy, Inc. There is pending for decision by the Commission the question of the retainability by Union and the other sponsoring companies subject to the Act of their stock interest in Electric Energy, Inc. Further details in connection with this proceeding are discussed at page 102 of the 17th Annual Report and at page 128 of the 23rd Annual Report.

During the fiscal year Union filed a declaration and amendments thereto pursuant to Section 12 (e) of the Act and Rules 62 and 65 thereunder, in which it proposed to solicit proxies from its preferred and common stockholders for use at the regular annual stockholders meeting for the year 1958. The declaration was filed pursuant to a Commission order issued on October 25, 1957, which prohibited Union and all other persons from soliciting proxies or other forms of authorization in connection with this meeting unless authorized by the Commission to do so.<sup>25</sup> J. Raymond Dyer, a stockholder of Union, in response to the Commission's notice,<sup>26</sup> requested a hearing thereon. A hearing was held in March, 1958,<sup>27</sup> and thereafter the Commission permitted Union's declaration to become effective upon the filing of an amendment making certain changes in the company management's solicitation material.<sup>28</sup> The stockholders' motion for rehearing was denied.<sup>29</sup> The stockholder has filed a petition to review the action of the Commission in the Court of Appeals for the Eighth Circuit, where the matter is now pending.

Dyer had similarly sought review of a Commission order under Section 12 (e) of the Act authorizing Union Electric to solicit proxies in connection with its 1957 annual meeting of stockholders. In that case, *Dyer v. S. E. C.*, 251 F. 2d 512 (C. A. 8, 1958), although the Commission and the other parties had briefed and argued the case on the merits, the Court of Appeals on its own motion dismissed the case as moot, since the stockholders' meeting had been held and the proxies voted.<sup>30</sup> Dyer filed a petition for a writ of certiorari in the United States Supreme Court. In its memorandum the Commission

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<sup>25</sup> Holding Company Act Release No. 13575 (October 25, 1957).

<sup>26</sup> Holding Company Act Release No. 13671 (February 7, 1958).

<sup>27</sup> Holding Company Act Release No. 13696 (February 25, 1958).

<sup>28</sup> Holding Company Act Release No. 13710 (March 21, 1958).

<sup>29</sup> Holding Company Act Release No. 13712 (March 25, 1958).

<sup>30</sup> Petition for rehearing was denied on February 25, 1958.

agreed that the case was not moot but recommended that the Supreme Court defer action on the petition until the Court of Appeals for the Eighth Circuit had an opportunity to rule on Dyer's petition seeking review of the Commission's March 21 and 25, 1958, orders permitting Union Electric Company to solicit proxy votes for its 1958 stockholders' meeting. By order entered on April 18, 1958, the Court of Appeals denied Dyer's request for a stay pending review of the Commission's March 1958 orders, but granted "leave to brief and argue the question of mootness" of the review as related to the Court's holding with respect to the same issue in *Dyer v. S. E. C.*, 251 F. 2d 512.

A related lawsuit was involved in *S. E. C. v. Dyer*.<sup>31</sup> In this case the Commission brought suit on April 9, 1957, to restrain Dyer from violating Section 12 (e) and the order of the Commission which prohibited Union Electric and all other persons from soliciting proxies for the 1957 annual meeting of stockholders except pursuant to a declaration which the Commission permitted to become effective. The basis of the Commission's complaint was the mailing of a postcard which, under the circumstances, the Commission believed constituted soliciting material. After the 1957 meeting was held, the Commission sought a voluntary dismissal of the case, but its notice of dismissal was vacated by the court on Dyer's motion.<sup>32</sup>

#### **Utah Power & Light Co.**

Utah Power & Light Co., a Maine corporation, is a registered holding company and an electric utility company.

As of December 31, 1957, Utah Power and Western Colorado Power Company, then its only subsidiary, had consolidated assets, less valuation reserves, of \$213,939,205. For the year ending that date their consolidated operating revenues amounted to \$43,320,377.

On May 6, 1958 the Commission authorized Utah Power & Light to acquire the common stock of Telluride Power Company, a neighboring non-affiliated electric utility company, by exchange of one share of Utah common stock for eleven shares of Telluride common stock.<sup>33</sup> In addition Utah was authorized to acquire for cash the second preferred stock of Telluride at its redemption price of \$1 per share plus accrued dividends. Telluride's net utility assets aggregated approximately \$3,595,000. Utah issued 52,940 shares of its common stock in exchange for the common stock of Telluride.

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<sup>31</sup> E. D. Missouri, Civil Action No. 57 C 201 (1).

<sup>32</sup> On July 28, 1958, after a trial on the merits, the District Court dismissed the case as moot on the authority of *Dyer v. S. E. C.*, 251 F. 2d 512 (C. A. 8, 1958). Dyer's petition to vacate and for a new trial is pending.

<sup>33</sup> Holding Company Act Release No. 13748.



**B. DEVELOPMENTS IN OTHER SYSTEMS****Central Public Utility Corp.**

Central Public Utility Corp. ("Cenpuc") is solely a holding company and is registered as such under the Act. As indicated above, it no longer has any public utility subsidiaries operating in the United States. As at December 31, 1957, the consolidated assets of the system, less valuation reserves, amounted to \$25,495,211 and for the year 1957 the system's consolidated operating revenues totaled \$10,659,854.<sup>34</sup>

By order dated June 13, 1952, the Commission directed, among other things, that Cenpuc, under section 11 (b) (2) of the Act, take appropriate steps to terminate the existence of its subsidiary, The Islands Gas and Electric Co., which was found by the Commission to serve no useful purpose.<sup>35</sup> On June 1, 1955, Cenpuc filed an application requesting modification of this order and further requesting an order of exemption pursuant to section 3 (a) (5) of the Act. Shortly thereafter a large block (about 30 percent) of Cenpuc's capital stock was acquired by certain new investors, thereby creating several additional tiers of holding companies in the system's structure. This complication delayed the Commission's determination of Cenpuc's application for an exemption.

On May 2, 1957, Cenpuc filed an amendment to its application renewing its request for an exemption and stating, upon information and belief, that N. V. Amsterdamsche Bankierskantoor V/H Mendes Gans Co., through Burnham and Co., as agent, purchased 259,492 shares of Cenpuc's capital stock and that Burnham and Co. is the holder of record of 431,924 shares all of which, except 1,000 shares, are subject to commitments of sale to approximately 33 Dutch and Belgian investors. Accordingly, a large block of Cenpuc's stock has been or is in the process of being transferred from domestic to foreign investors. On July 15, 1958 Cenpuc filed a further amendment to its application. Hearings on the amended application were commenced on September 10, 1958.<sup>36</sup>

**Cities Service Co.**

At the beginning of the fiscal year there was a total of 79<sup>37</sup> companies in this system and its only remaining public-utility subsidiary,

<sup>34</sup> Cenpuc owns, directly and indirectly, 100 percent of the voting securities of 8 of its subsidiaries and 92.9 percent of another, all of which are included in consolidation except 3 which are carried on the consolidating balance sheet as investments. Of the remaining 5 companies in the system, Cenpuc's indirect interest therein is 50 percent or less.

<sup>35</sup> Holding Company Act Release No. 11311 (June 13, 1952).

<sup>36</sup> Holding Company Act Release No. 13803 (August 5, 1958).

<sup>37</sup> The total of 79 companies includes 10 companies reported as inactive. The system's mutual service company is not included; nor is West Texas Gulf Pipe Line Co. in which a system subsidiary owns an 11.34 percent voting interest. Holding Company Act Release No. 11215 (May 1, 1952).

as defined by the Act, was Dominion Natural Gas Co., Ltd. During the fiscal year Dominion sold substantially all of its assets, including all of its utility assets, to a non-affiliate<sup>38</sup> and thereby completed Cities' liquidation of its investments in public-utility companies in compliance with the Commission's order of May 5, 1944.<sup>39</sup>

A consolidated proceeding involving an exemption application by Cities pursuant to section 3 (a) (5) of the Act and a section 11 (b) (2) proceeding instituted by the Commission pertaining to the existence of a publicly held 48.5 percent minority interest in Cities' subsidiary, Arkansas Fuel Oil Corp. ("Ark Fuel"), is described at pages 108-109 of the 23rd Annual Report. With respect to such consolidated proceeding, the United States Court of Appeals for the Second Circuit on July 15, 1957 affirmed the Commission's denial of Cities' application for exemption from the Act, 247 F. 2d 646 (C. A. 2, 1957), and the Supreme Court on January 6, 1958 denied certiorari. Thereafter the Commission, by order, directed Cities and Ark Fuel to comply with section 11 (b) (2) of the Act by eliminating the public minority interest in Ark Fuel, or by disposing of the 51.5 percent stock interest held by Cities in Ark Fuel.<sup>40</sup> Both companies and a stockholder of Ark Fuel appealed the Commission's order to the United States Court of Appeals for the Third Circuit, which, on July 22, 1958, affirmed the order of the Commission.<sup>40a</sup> Cities on March 28, 1958 filed an application pursuant to section 5 (d) for an order declaring it not to be a holding company.<sup>41</sup> A hearing on this application was held on May 13, 1958, and oral argument was heard by the Commission on June 5, 1958. However, thereafter Cities withdrew its application requesting the section 5 (d) order and the Commission, by order, discontinued the proceeding.<sup>42</sup>

#### **Electric Bond and Share Company**

Electric Bond and Share Company, which no longer holds as much as 5 percent of the outstanding voting securities of any domestic public utility company, has pending before the Commission an application for exemption from all provisions of the Act except section 9 (a) (2) thereof, pursuant to section 3 (a) (5) of the Act. In the event such exemption is granted, it is the intention of the company to convert its status to that of an investment company and register under the

<sup>38</sup> Notice of sale filed April 16, 1958.

<sup>39</sup> Holding Company Act Release No. 5028 (May 5, 1944):

<sup>40</sup> Holding Company Act Release No. 13549 (September 20, 1957). After the close of the fiscal year Cities filed a plan pursuant to section 11 (e) of the Act for the purpose of eliminating the minority interest in Ark Fuel. Briefly, the plan provides for the division of the assets of Ark Fuel into two new companies, one to be owned by Cities and the other to be owned by the minority interest. Hearings on this plan commenced on December 2, 1958. Holding Company Act Release No. 13840 (October 6, 1958):

<sup>40a</sup> *Cities Service Co. v. S. E. O., et al.*, 257 F. (2d) 926.

<sup>41</sup> Holding Company Act Release No. 13736 (April 21, 1958).

<sup>42</sup> Holding Company Act Release No. 13836 (September 29, 1958).

Investment Company Act of 1940. This proceeding involves a number of very difficult and complex issues, among which are the questions whether Bond and Share, through its wholly-owned engineering and consulting service company subsidiary, Ebasco Services, Incorporated, exercises controlling influence over, or is affiliated with, certain public utility and holding company clients of Ebasco which formerly were controlled by Bond and Share. Further hearings are scheduled for the purpose of developing a more complete record with respect to these matters.

#### **Standard Shares, Inc.**

At the beginning of the fiscal year Standard Shares, Inc., formerly known as Standard Power and Light Corp., was a registered holding company and had outstanding only one class of stock, namely, common stock. It then owned and still owns 45.6 percent of the common stock of Standard Gas and Electric Co., a registered holding company, which, in turn, owns 100 percent of the common stock of Philadelphia Co., also a registered holding company. Both of these subsidiary registered companies are required by orders issued under section 11 (b) (2) of the Act to liquidate and dissolve<sup>43</sup> and each is in a position to effectuate dissolution except that there exist undetermined questions relating to Federal income taxes for the years 1942 through 1950.

During the fiscal year Standard Shares filed an application under section 5 (d) of the Act for an order declaring it not be a holding company and its registration as such under the Act not be in effect. After public hearings, the Commission, by order, on September 23, 1958, granted the application.<sup>44</sup> The order became effective upon issuance and, thereupon, the company's registration under the Act ceased to be in effect. Immediately after the issuance of this order, the company completed its registration under the Investment Company Act of 1940 and, as an investment company, is subject to the requirements of that Act and to the Commission's jurisdiction thereunder.

#### **Other Matters**

As previously reported at pages 114-115 of the 23rd Annual Report, International Hydro-Electric System ("IHES") was reorganized pursuant to section 11 (d) of the Act and IHES is now registered as an investment company under the Investment Company Act of 1940 and subject to the Commission's jurisdiction thereunder. The only remaining matters under the Holding Company Act are fees and expenses to be awarded in connection with the reorganization. Final applications are on file for fees aggregating \$1,211,000 and \$28,805

<sup>43</sup> 28 S. E. C. 35 (1948); 28 S. E. C. 944 (1948); and 32 S. E. C. 545 (1951).

<sup>44</sup> Holding Company Act Release No. 13824.

for expenses. In December, 1957, the Commission approved interim payments of \$241,200 for fees and \$14,645 for expenses.<sup>45</sup> Hearings have been concluded on the applications and the Commission has under consideration the final amounts to be awarded.<sup>46</sup>

There are also pending before the Commission supplemental and final applications for the allowance of fees and expenses in connection with a plan filed and consummated by the United Corporation pursuant to section 11 (e) of the Act for its conversion into an investment company. Applications for fees aggregate \$159,000 and for expenses \$42,800. Hearings on this matter were held at various times and were concluded on September 10, 1958.<sup>47</sup> The case is in the process of preparation for presentation to the Commission for ultimate disposition. United is now registered as an investment company under the Investment Company Act of 1940 and subject to the Commission's jurisdiction thereunder.

#### **FINANCING OF REGISTERED PUBLIC UTILITY HOLDING COMPANY SYSTEMS—TRENDS IN ELECTRIC AND GAS UTILITY INDUSTRIES**

During the fiscal year 1958, registered holding companies and their subsidiaries issued and sold to the public and to financial institutions, pursuant to authorizations granted by the Commission under Sections 6 and 7 of the 1935 Act, 36 issues of their stock and long term debt securities with aggregate gross sales value of \$583 million. Of this amount two issues totaling \$36 million were issued for the purpose of refunding outstanding debt securities carrying higher rates of interest. In the fiscal year 1957, registered systems issued and sold 39 issues of such securities with total gross sales value of \$637 million. All of the proceeds of these securities were used to provide new capital. Table I shows the amounts of various types of securities sold by registered systems in the fiscal years 1958 and 1957 and the percentages

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<sup>45</sup> Holding Company Act Release No. 13637 (December 20, 1957).

<sup>46</sup> Holding Company Act Release No. 13691 (February 21, 1958).

<sup>47</sup> Findings of the Commission and litigation resulting therefrom with respect to previous fee applications by Randolph Phillips and others are described in the Twenty-third Annual Report, page 125. On May 19, 1958, Phillips filed a petition in the United States District Court for the District of Delaware, seeking an order adjudging the Commission in civil and criminal contempt for an alleged willful violation of the order of the District Court, entered after remand by the Court of Appeals, which had reversed in part the order of the District Court affirming and enforcing the Commission's order with respect to fees. The District Court order on the remand had contained a provision directing the Commission to modify its previous findings, opinion and order as to fees in accordance with the determination of the Court of Appeals. The Commission had not done this until May 7, 1958, after the matter had been called to its attention by Phillips (who had received his full compensation as soon as the District Court's order on the remand had been entered). In the interim, certain portions of the Commission's opinion had been used in a proxy contest in which Phillips was engaged respecting another company. On motion of the Commission, Phillips' petition was dismissed by order dated September 19, 1958, the Court finding that there was "no basis for civil contempt" nor any "showing of probable cause" warranting criminal contempt proceedings.

of increase or decrease in volume of each type of security during the period.

TABLE I.—*Securities sold for cash and issued in connection with refunding exchanges to the public and financial institutions by registered holding companies and subsidiaries, fiscal years 1958 and 1957*

[Millions of dollars]

	1958	1957	Percent increase or (decrease) in 1958
Bonds.....	\$448	\$335	33.7
Debentures.....	85	86	(1.2)
Notes (5 years or longer).....	—	26	(100.0)
Preferred Stocks.....	9	11	(18.2)
Common Stocks.....	41	179	(77.1)
Totals.....	583	637	(8.5)

The decline of \$54 million, or 8.5 percent, in the volume of external financing completed by registered holding company systems in fiscal 1958 as compared with fiscal 1957 can be attributed to two factors. In the first place, the installment issuances of securities by subsidiaries of registered holding companies pursuant to long term construction loan commitments, which had figured significantly in the totals for earlier years, were completed in 1957. These installment borrowing arrangements were authorized by the Commission several years ago and resulted in substantial amounts of private placements of debt securities directly with institutional investors each year through 1957.<sup>48</sup>

Another development which contributed to the decline in volume of registered system financing was the sharp drop in the volume of common stock financing completed by these systems from \$179 million in the fiscal year 1957 to \$41 million in 1958. This represented a decline of 77.1% and marked the lowest level of common stock financing by registered holding company systems under the 1935 Act in 6 years. Declines also were recorded in debenture, note, and preferred stock financing during the year. Sales of mortgage bonds increased \$113 million or 33.7% in 1958.

The decline in registered system financing in fiscal 1958 does not reflect the impact of any divestments of non-retainable subsidiaries by registered holding companies in recent years. No sales of long-

<sup>48</sup> In the fiscal year 1957, Ohio Valley Electric Corporation issued and sold \$498,669 of notes and American Louisiana Pipe Line Company issued and sold \$26 million of notes and \$20.5 million of pipeline mortgage bonds pursuant to such construction loan commitments. The financing plans of Ohio Valley Electric and American Louisiana Pipe Line are described at page 86 of the 20th Annual Report and page 54 of the 21st Annual Report, respectively.

term securities by companies subsequently divested out of holding company systems are included in the total volume of external financing recorded for registered holding company systems in the fiscal years 1956, 1957 or 1958.

In addition to passing upon the 36 issues of long term securities totaling \$583 million which were issued and sold by registered systems in the fiscal year 1958, the Commission in that year also authorized the issuance and sale of 67 issues of securities aggregating \$210 million by subsidiaries of registered holding companies to their parents. In fiscal 1957 subsidiaries sold 78 issues of securities with dollar volume of \$219 million to their parents.

All other companies in the electric and gas utility industries, (exclusive of companies associated with registered holding company systems), issued and sold \$3,447 million of long-term securities to the public and to financial institutions in the fiscal year 1958. This represented an increase of \$524 million, or 17.9%, over the totals recorded by these companies in 1957. All but \$27 million of the permanent financing completed by these companies in 1958 was for new money purposes. Table II shows the amounts of bonds, debentures, notes, preferred stocks and common stocks sold by such companies in the fiscal years 1958 and 1957.

TABLE II.—*Securities sold for cash and issued in connection with refunding exchanges to the public and to financial institutions by companies in the electric and gas utility industries, not associated with registered holding company systems; fiscal years 1958 and 1957*

[Millions of dollars]

	1958	1957	Percent increase or (decrease) in 1958
Bonds.....	\$2,135	\$1,582	35.0
Debentures.....	505	460	9.8
Notes.....	108	40	170.0
Preferred Stocks.....	354	344	2.9
Common Stocks.....	345	497	(30.6)
Totals.....	3,447	2,923	17.9

In contrast with the pattern of financing of registered holding company systems, other companies in the electric and gas utility industries sold increasing amounts of all types of securities except common stocks in 1958. Bond financing increased 35% as compared with the 33.7% increase reported by registered systems. The common stock financing completed by these companies in 1958 totaled \$345 million, reflecting a decline from 1957 of 30.6%. This decline was not nearly as great proportionately, however, as the 77.1% de-

cline in common stock financing reported by registered systems in 1958.

The volume of external financing of registered systems in fiscal 1958 accounted for 14.5% of the total volume of permanent financing by the entire electric and gas utility industries. The corresponding percentage for fiscal 1957 is 17.9%. Table III compares the amounts of various types of securities issued and sold in fiscal 1958 by registered systems with the amounts issued and sold by all companies in the electric and gas utility industries (including registered systems).

TABLE III.—*Securities sold for cash and issued in connection with refunding exchanges to the public and to financial institutions by registered holding companies and subsidiaries, and by all other companies in the electric and gas utility industries;<sup>1</sup> fiscal years 1958 and 1957*

[Millions of dollars]

Fiscal year	All companies electric and gas utility industries	Registered holding company systems	Percent registered system financing to industry totals
<i>1958</i>			
Bonds.....	\$2, 583	\$448	17. 3
Debentures.....	590	85	14. 4
Notes.....	108	—	—
Preferred Stocks.....	363	9	2. 5
Common Stocks.....	386	41	10. 6
	4, 030	583	14. 5
<i>1957</i>			
Bonds.....	1, 917	335	17. 5
Debentures.....	546	86	15. 8
Notes.....	66	26	39. 4
Preferred Stocks.....	355	11	3. 1
Common Stocks.....	676	179	26. 5
	3, 560	637	17. 9

<sup>1</sup> Includes electric utility companies, gas distribution companies, natural gas transmission companies and holding companies.

The decline in the proportion of total industry permanent financing accounted for by registered holding company systems in fiscal 1958 reflects the decline in debenture, note, and preferred stock issues by registered systems in contrast with the increases in sales of such securities by all other companies in the electric and gas utility industries. The proportionately greater decline in common stock financing by registered systems in fiscal 1958 were also a factor.

All but 2 of the 36 issues of long term securities totaling \$583 million which were sold externally by registered systems in 1958 were offered for sale at competitive bidding pursuant to the requirements of Rule 50. Brockton Edison Company, a public utility subsidiary of Eastern Utilities Associates, a registered holding company, issued and sold 30,000 shares of its \$100 par value cumulative preferred stock by means of a negotiated underwritten public offering on December 2, 1957. Brockton had publicly invited bids for the purchase

of this issue in October, 1957. Two groups of underwriters qualified but no bids were received. The negotiated public offering was made pursuant to an exemption from the competitive bidding requirements of Rule 50 granted by the Commission on November 29, 1957.<sup>49</sup>

The second issue not sold through competitive bidding channels was a private sale of common stock by Yankee-Atomic Electric Company, a subsidiary of New England Power Company, which in turn is a public utility subsidiary of New England Electric System, a registered holding company. The balance of \$1,965,000 was sold to the remaining 10 sponsor companies, no one of which is associated with a regulated holding company system. This sale of stock by Yankee was automatically exempt from the competitive bidding requirements of Rule 50 pursuant to paragraph (a) (1) thereof, because it was a pro rata issuance of securities to existing security holders of Yankee.

The \$1,035,000 of stock sold to New England Power and to Montaup Electric is included in the 67 issues of securities totaling \$210 million sold by subsidiaries to their registered holding company parents, as described more fully at page 126 above. The balance of \$1,965,000 sold to the other 10 sponsoring public utility companies is included in the totals of external financing by registered systems.<sup>50</sup>

The amounts of external financing completed by registered systems in 1958 as described above do not include the issuance in 1958 by Utah Power & Light Company, a registered holding company, of 52,940 shares of its common stock with an approximate market value of \$1.7 million in exchange on the outstanding common stock of Telluride Power Company, as referred to at page 120, supra.

#### **PROTECTIVE PROVISIONS OF FIRST MORTGAGE BONDS AND PREFERRED STOCKS OF PUBLIC UTILITY COMPANIES**

In passing upon issuances of first mortgage bonds and preferred stocks of public utility companies, the Commission examines the mortgage indenture and charter provisions to determine whether or not there is substantial conformity with the applicable Statements of Policy which were adopted by it in 1956.<sup>51</sup> These Statements of Policy represent substantially a codification of certain principles or policies prescribed for the protective provisions of these securities announced on a case-by-case basis over a period of years, as modified

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<sup>49</sup> Holding Company Act Release No. 13613.

<sup>50</sup> For statistical purposes in compiling the tables used in this report, the \$1,035,000 of Yankee common stock sold to New England Power Co. and Montaup Electric Co. is treated as one issue; and the \$1,965,000 of Yankee common stock sold to the other 10 sponsor companies is treated as another issue.

<sup>51</sup> Holding Company Act Release No. 13105 (February 16, 1956) as to first mortgage bonds and Holding Company Act Release No. 13106 (February 16, 1956) as to preferred stock.



in the light of experience and comments received from interested persons who had been invited to submit their views. During fiscal year 1958, applications or declarations were filed by public utility companies under the Act with respect to 27 first mortgage bond issues aggregating \$459,700,000 principal amount and two preferred stock issues with a total par value of \$9,000,000.<sup>52</sup>

Of the 27 first mortgage bond issues, 14 issues, with a total principal amount of \$236,500,000, included provisions, as set forth in the Statement of Policy, imposing additional restrictions on the distribution of earned surplus to the common stockholders, thereby assuring the investing bondholders of a greater degree of safety of their investment through the maintenance of an appropriate common stock equity. In respect of the other 13 issues with a total principal amount of \$223,200,000, no additional restrictions were required since the indentures already conformed in this regard to the Statement of Policy. The additional restrictions on earned surplus distributions were proposed by the companies themselves or were inserted as a result of informal discussions between the staff of the Commission and representatives of the issuing companies. In the interest of flexibility, the restriction on earned surplus distributions was generally coupled with a further provision to the effect that additional amounts of earned surplus could be distributed upon application of the issuer to, and approval by, the Commission.

A further provision contained in the Statement of Policy regarding first mortgage bonds relates to the renewal and replacement of depreciable utility property which is subject to the lien of the mortgage. It requires, in essence, that the issuer construct additions to its property, or else deposit cash or bonds with the indenture trustee, in an amount which on a cumulative basis will provide for the replacement in cash or property of the dollar equivalent of the cost of the depreciable mortgaged property during its estimated useful life. The Statement of Policy provides that the requirement be expressed as a percentage of the book cost of depreciable property, except that if the existing indenture provision expresses the requirement on a different basis, as, for example, in terms of operating revenues, no change will be required if the company can demonstrate that the existing provision provides an amount at least equal to a requirement based on the book cost of depreciable property. As in the case of earned surplus restrictions, the Commission, in the interest of flexibility, has permitted the issuer to insert a provision under which the issuer, upon application to, and approval by, the Commission may modify the percent of depreciable property requirement.

<sup>52</sup> For a discussion of the application of the Statement of Policy to filings from the effective date thereof to June 30, 1957, see pages 141-143 of the Twenty-Third Annual Report.

Of the 27 issues of first mortgage bonds, the indentures of 22, having an aggregate principal amount of \$384,700,000, expressed the renewal and replacement fund requirement as a percent of depreciable property, while the indentures in the remaining 5 issues, having a principal amount of \$75,000,000, expressed the requirement as a percent of revenues. The renewal and replacement fund requirements in the indentures of these latter 5 issues were not required to be restated in terms of a percent of depreciable property since they appeared substantially to afford no less protection to the bondholders than would be afforded by an appropriate percentage of property formula.

Another provision contained in both the bond and the preferred stock Statements of Policy requires that the securities be redeemable at the option of the issuer at any time upon reasonable notice upon the payment of a reasonable redemption premium, if any. The intent of this provision is to ensure that public utility companies subject to the Act shall not be prevented, if money rates decrease materially, from refunding their bonds or preferred stock. This is in keeping with the intent of the Act as expressed in Section 1 (b) (5) to ensure economies in the raising of capital. While no formula is set forth in the Statements of Policy as to what constitutes a reasonable redemption premium, the working policy of the Commission has been that the initial redemption price shall not exceed the initial public offering price plus the interest rate on the bonds or the dividend rate on the preferred stock. For example, in the case of bonds, if the initial public offering price is at 101% of principal amount and the bonds bear a 4½% interest rate, the initial redemption price may not exceed 105½% of the principal amount, and the 5½ point premium must thereafter be reduced pro rata to maturity.

The Commission has continued to receive informally a number of requests from issuing companies to relax its requirements so as to permit bonds to be nonrefundable for a period after issuance, generally five years, or to permit the initial redemption price to be higher than that provided by the working formula. No showing was made that nonrefundability or a requirement to pay higher premiums on refunding would reduce the interest cost sufficiently to warrant the loss of future refunding flexibility. On the contrary, studies made by the staff of the Commission, at the direction of the Commission, indicate that there does not appear to be any especially significant, let alone a controlling, influence of restriction on refundability upon the interest cost, or the number of bids received at competitive bidding by the issuer or the retail marketability of the bonds. Accordingly, the Commission considers its present working policy on refundability to be justified on the basis of available data.

In connection with this policy on refundability, it is to be noted that during fiscal year 1958 two public utility companies subject to the Act refunded an aggregate of \$35,000,000 principal amount of first mortgage bonds, of which \$20,000,000 principal amount had been issued during the same fiscal year and \$15,000,000 had been issued during the immediately preceding fiscal year. The refunding of the \$20,000,000 issue resulted in an annual saving in interest cost (before deducting expenses) of 0.73%, or \$146,000 per annum, while the annual interest cost saving (also before deducting expenses) from the \$15,000,000 refunding was 0.72%, or \$108,000 per annum.

By reason of the great importance of the question of refundability to investors and consumers and the general public in periods of high interest rates, the Commission in fiscal year 1957 authorized a member of the staff of its Division of Corporate Regulation to serve as a member of a committee organized by the Wharton School of Finance and Commerce of the University of Pennsylvania, which is conducting a broad study of redemption provisions. The study is under the sponsorship of the Life Insurance Association of America and is expected to be concluded during fiscal year 1959.

In the two issues of preferred stock having an aggregate par value of \$9,000,000, one, involving \$3,000,000 par value, had charter provisions conforming substantially to the provisions of the Statement of Policy; in the other, involving an issue of \$6,000,000 par value, the Commission, with the consent of the issuer, conditioned its order permitting the issue to provide, among other things, for limitations on dividends on junior classes of stock, on issuances of additional shares of preferred stock, on mergers or consolidations that might be effectuated without the consent of preferred stockholders, on the acquisition of its outstanding preferred stock which may fall into arrears and on the authorization or issuance of any prior preferred stock. These conditions supplanted conditions contained in a previous order of the Commission and supplemented the company's preferred stock charter provisions.

## PART VII

### PARTICIPATION OF THE COMMISSION IN CORPORATE REORGANIZATIONS UNDER CHAPTER X OF THE BANKRUPTCY ACT, AS AMENDED

Chapter X of the Bankruptcy Act provides a procedure for reorganizing corporations in the United States District Courts. At the request of the judge or on the Commission's own motion, if approved by the judge, the Commission participates in the proceedings in order to provide independent, expert assistance to the court and investors on matters arising in such proceedings and, where the Commission considers it appropriate, files advisory reports on reorganization plans. The role of the Commission under Chapter X differs from that under the various statutes which it administers in that the Commission does not initiate the proceedings or hold its own hearings. It has no authority to determine any of the issues in a proceeding. The facilities of its technical staff and its disinterested recommendations are simply placed at the service of the judge and the parties, affording them the views of disinterested experts in a highly complex area of corporate law and finance, and the Commission pays especial attention to the interests of public security holders, who may not otherwise be effectively represented.

Section 172 of Chapter X provides that if the scheduled indebtedness of a debtor corporation does not exceed \$3 million, the judge may, before approving any plan of reorganization, submit such plan to the Commission for its examination and report. However, if the indebtedness exceeds \$3 million, the judge must submit the plan to the Commission before he may approve it. The Commission has no authority to veto or require the adoption of a plan of reorganization and is not obligated to file a formal advisory report on a plan. Where the Commission does file a report, copies of it, or a summary thereof, must be sent to all security holders and creditors when they are asked to vote on the plan.

While the Commission's advisory reports on plans of reorganizations are usually widely distributed and serve an important function, they represent only one aspect of the Commission's activities in cases in which it participates. As a party to a Chapter X proceeding, the Commission is actively interested in the solution of every major issue arising therein and has found that adequate performance of

its duties requires that it undertake in most cases intensive legal and financial studies. Even in cases where the plans are not submitted to the Commission and no report is filed, it is necessary that the Commission consider and discuss various reorganization proposals of interested parties while plans are being formulated, and be prepared to comment fully upon all plans that are the subject of hearings for approval or confirmation.

In the exercise of its functions under Chapter X the Commission has endeavored to assist the courts in achieving equitable, financially sound, expeditious, and economical readjustments of the affairs of corporations in financial distress. To aid in attaining these objectives the Commission has stationed lawyers, accountants, and financial analysts in its New York, Chicago, and San Francisco regional offices who keep in close touch with all hearings and issues in the proceedings and with the parties and are readily available to the courts. Supervision and review of the regional offices' Chapter X work is the responsibility of the Division of Corporate Regulation of the Commission, which also handles the actual trial work in cases arising in the Atlanta and Washington, D. C., regional areas.

#### SUMMARY OF ACTIVITIES

During the past fiscal year the Commission actively participated in 39 reorganization proceedings involving 58 companies (39 principal debtor corporations and 19 subsidiaries of those debtors).<sup>1</sup> The stated assets of the 58 companies involved in these proceedings totaled approximately \$561,794,000 and their indebtedness totaled approximately \$536,509,000. The proceedings were scattered among district courts in 19 states. During the year the Commission entered its appearance in 9 new proceedings, which involved the rehabilitation of companies engaged in such varied businesses as industrial loans, steel manufacturing, horse racing, drugs, investments, oil and gas production, and breweries. Proceedings involving 4 principal debtor corporations were closed during the year. At the end of the fiscal year the Commission was actively participating in 35 reorganization proceedings.

#### THE COMMISSION AS A PARTY TO PROCEEDINGS

The Commission has not considered it necessary or appropriate that it participate in every Chapter X case. Apart from the fact that the administrative burden of participating in every one of the over 80 cases instituted during the fiscal year would be unsurmountable with our present staff, many of the cases involve only trade or bank creditors

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<sup>1</sup> The appendix contains a complete list of reorganization proceedings in which the Commission participated as a party during the fiscal year ended June 30, 1958.

and a few stockholders. As a general matter, the Commission has sought to participate principally in those proceedings in which a substantial public investor interest is involved. This is not the only criterion, however, and in some cases involving only limited public investor interest, the Commission has participated because an unfair plan had been or was about to be proposed, the public security holders were not adequately represented, the reorganization proceedings were being conducted in violation of important provisions of the Act, other facts indicated that the Commission could perform a useful service or the judge requested the Commission to participate.

### PROCEDURAL MATTERS

Usually the Commission does not enter a case until the court has approved the petition for reorganization. However, developments in a particular case may impel the Commission to move to appear as soon as practicable, without awaiting approval of the petition. During 1958 there were a number of such cases.

An involuntary petition was filed by creditors in the United District Court for the Southern District of California at Los Angeles for the reorganization of the Equitable Plan Company,<sup>2</sup> an industrial loan company having approximately \$10,000,000 in Thrift Certificates outstanding. The affairs of the company had previously been taken over by the California Commissioner of Corporations and were being administered by a Conservator under the jurisdiction of the state court pursuant to the provisions of the California Industrial Loan Company Act. The State and the Conservator opposed the petition contending, among other things, that the pending proceedings in the state court provided adequate relief. The Commission filed its appearance and urged that the District Court approve the petition because Chapter X and the machinery available under the Bankruptcy Act provided superior facilities for the administration of the assets, a large part of which consisted of loans and receivables owed by non-residents of California, and because Chapter X provides superior facilities for the evolution of a plan of reorganization. On May 29, 1958, after extended hearings, the judge approved the petition.

Another case which required the Commission's participation prior to approval of the petition for reorganization involved Magnolia Park, Inc.<sup>3</sup> Magnolia is a race track operator which leases land upon which its race track and improvements are located. The lease contained a forfeiture clause which provided that upon default by Magnolia, title to the race track and the improvements passed to the landlords. When Magnolia was in arrears on its rent payments to the extent of

<sup>2</sup> *In the Matter of Equitable Plan Co.*, S. D. Cal., Cen. Div., No. 86,096—B. H.

<sup>3</sup> *In the Matter of Magnolia Park, Inc.*, E. D. La., New Orleans Div., No. 9010.

about \$35,000, the landlords attempted to evict Magnolia in the Louisiana state court suit and thus obtain possession of Magnolia's property which had cost over \$2,000,000. However, a voluntary petition for reorganization was filed under Chapter X and the District Court issued an order restraining the proceedings in the state court. The landlords objected to approval of the petition and hearings were held before a Referee in Bankruptcy acting as Special Master. The Commission participated in the hearings as the sole representative of the substantial number of public security holders and filed a memorandum supporting approval of the petition.

The Special Master in a report filed on January 17, 1958, recommended that the petition be disapproved because it was not filed in good faith in that it was unreasonable to expect that a fair and feasible plan of reorganization could be effected within the framework of the corporation itself. The Commission filed objections to the Special Master's report and on February 12, 1958, participated in oral argument before the judge at which time the Commission pointed out that good faith of a petition does not require the expectation of an internal reorganization but that a merger, consolidation or an investment of new capital from an outside source are other acceptable forms that a reorganization can take. The judge denied a motion by the landlords to adopt the report of the Special Master and instead followed the Commission's advice and approved Magnolia's petition.<sup>4</sup> An appeal by the landlords was pending in the United States Court of Appeals for the Fifth Circuit at the close of the fiscal year.<sup>5</sup>

The Commission has at all times sought to be of assistance to the disinterested trustee appointed by the district court in carrying out his responsibilities and to make available to him the fund of experience and information accumulated by the Commission through its participation in hundreds of cases. Throughout the proceedings the staff consults with the trustee and his counsel as to the steps to be taken in the reorganization, the timing of those steps and the appropriate method of taking them. This often results in substantial savings of time and expense to the estate. The Commission, however, has been alert to protect against attempts at encroachments by parties or even the trustee upon the orderly operation of the statute. Typical of the Commission's approach is a situation which arose in the reorganization proceedings involving General Stores Corporation.<sup>6</sup>

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<sup>4</sup> A similar problem existed in South Texas Oil and Gas Company—USDC, S. D., Tex. No. 607, where the Commission took substantially the same position as in the *Magnolia* case. The judge followed the Commission's recommendation and denied the motions of the secured creditors to discuss the debtor's petition.

<sup>5</sup> *In re Magnolia Park Inc.*, No. 17,312.

<sup>6</sup> *In the Matter of General Stores Corp.*, S. D. N. Y., No. 90954. See Twenty-third Annual Report, pp. 150-151.

After the reorganization trustee prepared a Section 167 report and transmitted it to the creditors and stockholders, the trustee received a plan proposal from a substantial stockholder of the debtor. The major secured creditor of the debtor, dissatisfied with the treatment which the proposal provided, moved the district court to vacate the injunctive provisions of the order approving the petition for reorganization in order to allow him to sell securities pledged by General Stores under a trust agreement as collateral to secure the debtor's obligations to him.

At about the same time questions had been raised with respect to the secured creditor's handling of the collateral under the trust agreement.<sup>7</sup> The Commission opposed the secured creditor's motion to vacate the injunction and the judge entered an order denying the motion on the ground that plan proceedings were pending and the application was premature. In addition the district court entered an order requiring that the secured creditor give the Reorganization Trustee ten days' notice of transactions not in the ordinary course of business which involved substantial amounts of money and providing that upon objection by the Reorganization Trustee the transaction would not proceed without leave of the court.

The collateral trustee and the secured creditor appealed from both orders. The Commission supported the district court's determinations. The Court of Appeals in a per curiam opinion affirmed, holding that ". . . the petitioner's attempt to end the reorganization by foreclosing the lien is premature. Until the district court has had an opportunity to evaluate these assets, it can be in no position to judge the propriety of any contemplated plan of reorganization." As to the order respecting the conduct of the subsidiaries' business, the Court of Appeals held that the district court had the power to issue the order, stating that "The court simply took qualified possession of the stock pledged in order to preserve the debtor's possible equity in it."<sup>8</sup>

#### TRUSTEE'S INVESTIGATIONS

One of the primary duties of the trustee is to make a thorough study of the debtor to assure the discovery and collection of all assets of the estate, including claims against directors, officers, or controlling persons who may have mismanaged the company's affairs, diverted its funds to their own use or benefit, or been guilty of other misconduct. A complete accounting for the stewardship of corporate affairs by the old management is a requisite under the Bankruptcy Act and Chapter X. The staff of the Commission participates in the trustee's investi-

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<sup>7</sup> The collateral was all the stock of the debtor's subsidiaries, two drug chains in the Chicago area the businesses of which under the trust agreement were in the control of the secured creditor.

<sup>8</sup> *Ruskin v. Griffiths*, 250 F. 2d 875, 877 (C. A. 2, 1958).



gation so that it may be fully informed as to all details of the financial history and business practice of the debtor. The Commission views its duty under Chapter X as requiring it to call the attention of the trustee, or the court if necessary, to any matters which should be acted upon. Thus, during the course of the trustee's investigation in the reorganization proceedings involving Automatic Washer Company,<sup>9</sup> the staff of the Commission found that there had been certain insiders who appeared to have profited from the purchase and sale of the stock of the debtor which was listed on the Midwest Stock Exchange. These transactions appeared to be subject to the provisions of Section 16 (b) of the Securities Exchange Act of 1934 which provides that under certain circumstances such profits of insiders shall inure to the benefit of the corporation. This information was called to the attention of the trustee. Thereafter the trustee filed civil actions against these insiders seeking recovery of more than \$1,500,000.

The trustee in the *Automatic Washer* proceedings in the District Court for the District of Iowa after his investigation reported that those who had been in control prior to his appointment had mismanaged the debtor. Many of those persons subject to the charge of mismanagement were also stockholders of the debtor. In view of these facts the Commission advised the trustee that it would not be equitable if the insiders were allowed to participate in the estate on a ratable basis with public stockholders, and that the stock of insiders guilty of mismanagement should therefore be subordinated or disallowed. To prevent the stock of those insiders from being sold before appropriate action could be taken by the court, the Commission filed a motion to enjoin all of these insiders from selling or transferring their stock. The court granted the motion, thus halting transfers of approximately one half of the 2,000,000 outstanding shares of the debtor's stock. Shortly thereafter the trustee filed a motion to subordinate or disallow the stock of these insiders. This motion was pending at the close of the fiscal year.

#### PROBLEMS REGARDING PROTECTIVE COMMITTEES

The Commission has constantly been alert to insist upon the honesty of fiduciaries in their relationship to the estate and to investors, and has always sought to disqualify security holder committees subject to a conflict of interest from acting in Chapter X proceedings. During 1958 in the *Automatic Washer Company* proceedings the Commission moved to disqualify a committee attempting to represent stockholders, because the committee members were almost wholly former insiders of the debtor who had been charged by the trustee

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<sup>9</sup> *In the Matter of Automatic Washer Company*, S. D. Iowa, Cen. Div., No. 5-426.

with mismanagement. The court granted the motion of the Commission.

The Commission scrutinizes material mailed out to security holders by other security holders, their representatives and other persons, and, where such material appears to be misleading, undertakes to obtain curative and preventive relief. In the *Stardust* case<sup>10</sup> the Commission obtained an order to show cause why a security holder of the debtor should not be required to distribute a communication retracting misleading statements sent out in a general communication to stockholders. The district court required that this be done and enjoined him from sending further misleading communications.

In the *Selected Investments Corporation* proceedings,<sup>11</sup> pending in the United States District Court for the Western District of Oklahoma, the Commission brought information to the attention of the court which indicated that two committees, both of which were in the process of being formed, had mailed soliciting material containing misleading information to 10,000 security holders of the debtor. The court enjoined further solicitation of authorizations pending compliance with the provisions of Chapter X governing the formation of committees and caused the committees to retract or clarify their previous statements. In addition, one of the committees had solicited contributions from individual security holders for representing them. The Commission urged the court to order that the money collected be returned and that future collections be enjoined on the ground that the solicitation of funds violated the spirit of committee representation since the committee had a duty to represent all security holders and not only those making contributions. Moreover, since the monies had been solicited for the purpose of paying a fee to an attorney, the solicitation infringed on the reorganization court's discretion to allow reasonable compensation for services and reimbursement for costs and expenses incurred by the committee and its attorney. The judge ordered the committee to return the monies to the contributors.

#### ACTIVITIES WITH REGARD TO ALLOWANCES

Every reorganization case ultimately presents the difficult problem of determining the allowance of compensation to be paid out of the debtor's estate to the various parties for services rendered and expenses incurred in the proceeding. The Commission, which under Section 242 of the Bankruptcy Act may not receive any allowance from the estate for the services it renders, has sought to assist the courts in protecting reorganized companies from excessive charges and at the same time equitably allocating compensation on the basis of the

<sup>10</sup> *In the Matter of Stardust, Inc.*, D. Nev. No. 955 (September 16, 1957).

<sup>11</sup> *In the Matter of Selected Investments Trust Fund and Selected Investments Corporation*, W. D. Okla., No. 10680.

claimants' contribution to the administration of the estate and the formulation of a plan.

During the fiscal year important determinations respecting the granting or withholding of allowances were made by the District Court for the Southern District of New York in the reorganization proceedings involving Third Avenue Transit Corporation.<sup>12</sup> During the course of the proceedings an attorney for a committee of bondholders pledged with a bank as collateral for a loan \$25,000 of bonds of the same class as represented by his committee, together with other securities. Approximately eight months later when the market value of the collateral, including the \$25,000 of Third Avenue bonds, had declined, the bank communicated with the attorney and advised that some steps would be required to rectify the situation. The attorney directed his broker to sell the Third Avenue bonds. The bonds were released from the collateral to effect the transaction and substantially all of the proceeds of the sale were used to reduce the loan. When the attorney applied to the court for an allowance, the Commission urged that the transaction constituted a sale of securities by the attorney within the contemplation of Section 249 of the Bankruptcy Act, thus disqualifying him from receiving a fee. It was noted that there were other substantial securities in the collateral account which could have been sold in order to correct the situation without necessitating the sale of the Third Avenue bonds. The district court held that the attorney was disqualified from receiving a fee, notwithstanding the fact that both the Commission and the court recognized that substantial services had been rendered.<sup>13</sup>

In another phase of the same proceeding it developed that the wife of co-counsel for a committee had during the course of the proceeding sold \$5,000 of Third Avenue Bonds of the same class represented by the committee. It was clear that the attorney had knowledge of the transaction by his wife and had in fact participated in its mechanics, and benefitted thereby through the filing of a joint tax return with his wife. The Commission advised the court that Section 249 of the Act barred compensation to an attorney where a sale of securities was made by his wife with his knowledge and to his benefit. The Commission relied upon cases in the Court of Appeals for the First and Fourth Circuits.<sup>14</sup> The district court disagreed with the Commission, feeling constrained by certain decisions of the Court of Appeals for the Second Circuit which the Commission had contended were distinguishable on their facts.

<sup>12</sup> *In the Matter of Third Avenue Transit Corp.*, S. D. N. Y., Nos. 85851, 86410, 86413, 86412, 86537.

<sup>13</sup> *In the Matter of Third Avenue Transit Corp.*, 159 F. Supp. 440 (1958).

<sup>14</sup> *SEC v. Dumaine*, 218 F. 2d 380, 315 (C. A. 1, 1954); *In re Central States Electric Corp.*, 206 F. 2d 70, 71 (C. A. 4, 1953).

Yet another determination of significance was made in connection with the allowances in the Third Avenue proceeding. This involved the court's power to review arrangements for allocations of fees made among attorney applicants. The Commission urged that the broad powers to supervise allowances granted by the Bankruptcy Act included the power to review allocations of fees in appropriate circumstances in order to prevent an attorney from receiving excessive or inadequate compensation. The Commission relied upon Canon 34 of the Canons of Professional Ethics, which provides in substance that allocation of fees by attorneys shall be based on a division of service or responsibility, and Section 62 (c) of the Bankruptcy Act which prohibits the sharing of compensation "for . . . services with any person not contributing thereto . . ." The district court agreed. It found that in the particular instance the parties had agreed that their arrangement for equal division of compensation was based upon a contemplated equal contribution of services and that it would be subject to court approval. The court held that even in the absence of such agreement "The broad supervisory powers accorded the court under those provisions [Sections 241-250 of The Bankruptcy Act] necessarily include the power to disregard the terms of attorneys' agreements which are contrary to the terms and policy of the Act."<sup>15</sup> Respecting Section 62 (c) of the Bankruptcy Act the court held that "It would be a clear evasion of the intent of this section if the court were to sanction a fee-sharing arrangement whereby an attorney having performed some service, received an allowance far in excess of that to which his contribution to the estate entitled him."<sup>16</sup>

As to still another request for compensation, the court followed the Commission's recommendation in denying an application by a potential underwriter of an unsuccessful plan of reorganization. The Court expressed serious doubt as to whether the allowance provisions of Chapter X were intended to cover as a possible applicant one "whose interest in the debtor was solely to obtain the profits from underwriting a plan of reorganization."<sup>17</sup> Even assuming that the applicant did qualify as "a party in interest", the district court found that there was no basis for a finding that any of the services rendered contributed to a plan approved by the judge.

As for the allowances generally, the Commission had recommended an aggregate of approximately \$1,818,000. The court found that the reorganized company could afford to and should pay allowances approximately \$250,000 greater than the aggregate recommended by the Commission. In making the individual awards, the district court

<sup>15</sup> *In the Matter of Third Avenue Transit Corporation*, — F. Supp. — (S. D. N. Y., 1958). CCH paragraph 59,259, page 65,873.

<sup>16</sup> *Ibid.*, p. 65,874.

<sup>17</sup> *Ibid.*, p. 65,882.

substantially increased the allowances recommended to certain applicants, reduced somewhat certain of the recommendations and left the balance unchanged.<sup>18</sup> Several petitions for leave to appeal have been filed in the United States Court of Appeal for the Second Circuit and the matters were pending at the close of the fiscal year.<sup>19</sup> The Commission has taken the position that certain of these petitions should be granted and that it would not oppose the granting of the other petitions.

### ADVISORY REPORTS ON PLANS OF REORGANIZATION

An advisory report of the Commission provides the district court with an expert independent appraisal of a plan indicating the extent to which, in the opinion of the Commission, the plan meets or fails to meet the standards of fairness and feasibility. After the report is filed, the judge considers whether the plan should be approved or disapproved. If the judge approves the plan, it is sent to the affected security holders for acceptance or rejection accompanied by a copy of the judge's opinion and a copy or summary of the report of the Commission.

Since 1938 the Commission has issued 38 advisory reports and 36 supplemental advisory reports. They represent the principal means by which the Commission has recorded its views publicly. Generally speaking, an advisory report is prepared only in a case involving a large public investor interest and in which significant problems exist. However, there have been occasions where even though a case is of significant size and importance, because of the exigencies of time or for other reasons, no written report has been filed but instead, Commission counsel has made a detailed oral presentation of the Commission's views and the reasons therefor. Customarily, in the smaller cases the Commission's views are presented orally by counsel.

An example of a case in which the Commission participated during 1958 where the Commission's views were presented orally instead of by written report was the reorganization proceeding involving *Star-*

<sup>18</sup> In commenting upon the role of the Commission in the allowance proceeding and in the proceeding generally, the court stated:

"Though I have been forced to differ from the recommendations of the SEC in many of the instances, I wish to pay tribute to the careful and helpful analysis that the Commission made of the claims. Indeed, I take this opportunity to express my gratitude for the active and intimate participation of the Commission and its counsel in the reorganization proceedings. If any proof were needed of the wisdom of Congress in providing for representation of the public by the Securities and Exchange Commission in reorganization proceedings, it has been furnished in this case. I would have felt helpless without the aid given, unstintingly by . . . counsel for the Commission. Each has cheerfully rendered, at the usual modest salary of a public servant, services equal in value to those of any to whom awards are made by this decision." *In the Matter of Third Avenue Transit Corporation* — F. Supp. — (S. D. N. Y. 1958).

<sup>19</sup> *In the Matter of Third Avenue Transit Corporation*, Nos. 85851, 85410, 86413, 86412, 86537. Consolidated.

*dust, Inc.* in the United States District Court for Nevada. In that case the Commission reviewed five proposed plans of reorganization and offered comments and criticisms to the court. The Commission contended that an essential element of feasibility in a plan of reorganization which contemplates the purchase of all the debtor's assets or the investment of new capital in the debtor is the firm assurance that the money will be forthcoming when the plan is consummated. The Commission recommended that before any plan was approved by the judge the plans should be amended to make provision for a substantial deposit by proponent of the plan, forfeitable if the plan was confirmed and the new money was not paid. Only one plan with firm provisions for the new financing was forthcoming. It was approved by the judge and after acceptance by the creditors and the preferred stockholders of the debtor was confirmed.

During the fiscal year the Commission submitted formal advisory reports in two proceedings. A brief summary of these proceedings follows:

**Northeastern Steel Corporation**—The debtor was a non-integrated steel producer with its plant located in Bridgeport, Connecticut. Since it commenced operations in 1955 the company had had substantial losses. At the time of filing a voluntary petition for reorganization in the United States District Court for the District of Connecticut, the company's working capital was less than the amount required by its first mortgage indenture and the company had failed to pay the interest due on its first mortgage bonds. Operations were continued by the trustees after their appointment in the belief that maximum realization would come only by continued operation and that cessation would result in a loss of the labor force and generally in greater depreciation of the assets.

The plan of reorganization proposed by the trustees was based on an offer by Carpenter Steel Company, a New Jersey corporation which manufactures specialty steel products. In general, the plan provided for the recapitalization of Northeastern so that it would still have outstanding \$6,000,000 principal amount of First Mortgage Bonds with defaults cured and 1,000,000 shares of new common stock. The 1,000,000 shares of stock were to be issued to Carpenter in exchange for not less than 40,000 shares of Carpenter's own common stock, the specific number to be determined by formula. The Carpenter stock was to be distributed, also on the basis of a formula, to a bank holding a claim of \$250,000, to holders of general unsecured claims, and to debenture holders, in satisfaction of their claims. To the extent cash was available after satisfaction of prior claims, it was to be used to discharge a note held by the bank. The plan did not provide for the participation by stockholders, warrant holders or option holders.

The Commission's report concluded that the plan or reorganization was unfair in that the formula for determining the allocation of the Carpenter stock was discriminatory and the stock did not represent fair compensation for the interest in the assets and facilities being acquired by Carpenter.<sup>20</sup> However, the Commission considered the exclusion of stockholders, warrant holders and option holders from participation to be fair since the indicated value of the debtor was less than the full claim of the creditors. The Commission's report further concluded the plan was feasible in view of Carpenter's debt-free capitalization and working capital position. The plan was amended to eliminate the discriminatory formula, but not to increase the amount of Carpenter stock to be issued to the trustees. As thus amended, the plan was approved by the court.

**Inland Gas Corp., Kentucky Fuel Gas Corp., and American Fuel & Power Co.**<sup>21</sup>—Inland Gas Corporation, which was in equity receivership from 1930 to 1935 and has been in reorganization under Section 77B and Chapter X since 1935, produces, transmits, and sells natural gas principally to industrial customers in Kentucky.

The plan of reorganization proposed by the Trustees of Inland Gas Corporation and its non-operating parents, Kentucky Fuel Gas Corporation and American Fuel & Power Company, provided for payment in cash of all priority and administrative claims and of the claims to principal and full interest of public creditors of American Fuel & Power Company. The Trustees' plan further provided for payment in cash to the public holders of Kentucky Fuel bonds and debentures of principal, but not of interest except for a single interest coupon on the debentures which was in default prior to receivership. The plan also provided for the reorganized company to borrow an estimated \$4,000,000 from a bank and to use the proceeds for payment of a portion of the claims of the public creditors. All the new common stock of the reorganized company was to be issued to The Columbia Gas System, Inc., as holder of subordinated claims against Inland.

The Commission's Third Advisory Report concluded that the Trustees' Plan was fair to the public creditors of American Fuel in according them the full amount of their claims including interest.<sup>22</sup> However, the Commission considered the plan to be unfair to the public holders of Kentucky Fuel bonds and debentures because the plan gave no recognition to the interest which accrued on their claims between December 1, 1930, when the equity receivership proceeding com-

<sup>20</sup> Corporate Reorganization Release No. 107, August 26, 1957.

<sup>21</sup> See the Twenty-First Annual Report, pp. 174-175, and the Twenty-Third Annual Report, p. 155.

<sup>22</sup> Corporate Reorganization Release No. 109, May 1, 1958.

menced, and October 15, 1935, when the bankruptcy proceeding was instituted; and because the plan would give compensation to Columbia for post-bankruptcy interest on the subordinated claims of Columbia before post-bankruptcy interest was paid on the publicly held claims against Kentucky Fuel.

The Commission concluded that the plan was feasible but pointed out that if the plan was amended to make it fair, in accordance with the principles enunciated in the Report, the proposed capital structure of the reorganized company would have to be further modified to make the plan feasible.

The district judge did not accept the Commission's conclusion and approved the plan. Several appeals from the judge's ruling were pending in the United States Court of Appeals for the Sixth Circuit at the close of the fiscal year.<sup>23</sup>

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<sup>23</sup> *In the Matter of Inland Gas Corporation, Kentucky Fuel Gas Corporation, American Fuel & Power Company*, Nos. 13,657-13,664.



## PART VIII

### ADMINISTRATION OF THE TRUST INDENTURE ACT OF 1939

The Trust Indenture Act of 1939 requires that bonds, notes, debentures and similar securities publicly offered for sale, except as specifically exempted by the Act, be issued under an indenture which meets the requirements of the Act and has been duly qualified with the Commission. The Act requires that indentures to be qualified include specified provisions which provide means by which the rights of holders of securities issued under such indentures may be protected and enforced. These provisions relate to designated standards of eligibility and qualification of the corporate trustee to provide reasonable financial responsibility and to minimize conflicting interests. The Act outlaws exculpatory provisions formerly used to eliminate all liability of the indenture trustee and imposes on the trustee, after default, the duty to use the same degree of care and skill "in the exercise of the rights and powers invested in it by the indenture" as a prudent man would use in the conduct of his own affairs.

The provisions of the Trust Indenture Act are closely integrated with the requirements of the Securities Act. Registration pursuant to the Securities Act of securities to be issued under a trust indenture subject to the Trust Indenture Act is not permitted to become effective unless the indenture conforms to the requirements of the latter Act, and necessary information as to the trustee and the indenture must be contained in the registration statement. In the case of securities issued in exchange for other securities of the same issuer and securities issued under a plan approved by a court or other proper authority which, although exempted from the registration requirements of the Securities Act, are not exempted from the requirements of the Trust Indenture Act, the obligor must file an application for the qualification of the indenture, including a statement of the required information concerning the eligibility and qualification of the trustee.

*Indentures filed under the Trust Indenture Act of 1939 during the fiscal year ended June 30, 1958*

	Number of indentures	Aggregate dollar amount
Indentures pending June 30, 1957.....	17	\$386,420,000
Indentures filed during fiscal year.....	252	7,066,157,386
Total.....	269	7,452,577,386
Disposition during fiscal year:		
Indentures qualified.....	237	6,413,997,586
Indentures deleted by amendment or withdrawn.....	2	36,315,200
Indentures pending June 30, 1958.....	30	1,002,264,600
Total.....	269	7,452,577,386

**PART IX**  
**ADMINISTRATION OF THE INVESTMENT COMPANY**  
**ACT OF 1940**

The Investment Company Act of 1940 provides for the registration and regulation of companies engaged primarily in the business of investing, reinvesting, holding and trading in securities. The Act requires, among other things, disclosure of the finances and investment policies of these companies, prohibits such companies from changing the nature of their business or their investment policies without the approval of their stockholders, regulates the means of custody of the companies' assets, prohibits underwriters, investment bankers and brokers from constituting more than a minority of the directors of such companies, requires management contracts to be submitted to security holders for their approval, prohibits transactions between such companies and their officers, directors and affiliates except with the approval of the Commission and regulates the issuance of senior securities. The Act requires face-amount certificate companies to maintain reserves adequate to meet maturity payments upon their certificates.

The securities of investment companies which are offered to the public are also required to be registered under the Securities Act, and the companies must file periodic reports. Such companies are also subject to the Commission's "proxy" and "insider" trading rules. The Division of Corporation Finance and the Division of Corporate Regulation both assist the Commission in the administration of the statute, the former being concerned with the disclosure provisions and the latter with the regulatory provisions.

**COMPANIES REGISTERED UNDER THE ACT**

As of June 30, 1958, there were 453 investment companies registered under the Act, and it is estimated that on that date the aggregate market value of their assets was \$17 billion. These figures represent an increase of 21 registered companies and an increase of roughly \$2 billion in the market value of assets over the corresponding totals at June 30, 1957. These companies were classified as follows:

Management open-end.....	238
Management closed-end.....	111
Unit investment trust.....	92
Face-amount certificate.....	12
<b>Total.....</b>	<b>453</b>

**NEW COMPANIES REGISTERED AND REGISTRATIONS TERMINATED**

During the fiscal year ending June 30, 1958, 42 new companies registered under the Act while the registrations of 21 companies were terminated. These companies were classified as follows :

	Registered during the fiscal year	Registration terminated during the fiscal year
Management open-end.....	20	4
Management closed-end.....	11	10
Unit investment trust.....	11	6
Face-amount certificate companies.....	0	1
Total.....	42	21

Of the 42 new registrations, three were deregistered during the year. All of the unit investment trusts registered were organized to furnish periodic payment plans for the accumulation of shares of open-end funds.

**GROWTH OF INVESTMENT COMPANY ASSETS**

The striking growth of investment company assets during the past seventeen years, particularly in the most recent years, is shown in the following table :

*Number of investment companies registered under the Investment Company Act and the estimated aggregate assets at the end of each fiscal year, 1941 through 1958*

Fiscal year ended June 30	Number of companies				Estimated aggregate market value of assets at end of year (in millions)
	Registered at beginning of year	Registered during year	Registration terminated during year	Registered at end of year	
1941.....	0	450	14	436	\$2,500
1942.....	436	17	46	407	2,400
1943.....	407	14	31	390	2,300
1944.....	390	8	27	371	2,200
1945.....	371	14	19	366	3,250
1946.....	366	13	18	361	3,750
1947.....	361	12	21	352	3,600
1948.....	352	18	11	359	3,825
1949.....	359	12	13	358	3,700
1950.....	358	26	18	366	4,700
1951.....	366	12	10	368	5,600
1952.....	368	13	14	367	6,800
1953.....	367	17	15	369	7,000
1954.....	369	20	5	384	8,700
1955.....	384	37	34	387	12,000
1956.....	387	46	34	399	14,000
1957.....	399	49	16	432	15,000
1958.....	432	42	21	453	17,000
Total.....		820	367		

**STUDY OF SIZE OF INVESTMENT COMPANIES**

In the preceding fiscal year the Commission pursuant to section 14 (b) of the Investment Company Act instituted an inquiry into the

problems created by the growth in size of investment companies and, as part of this inquiry, received a preliminary report containing a general research plan for the study of the effects of investment company growth (23rd Annual Report, p. 159). In furtherance of this study the Commission in the past fiscal year retained the Securities Research Unit of the Wharton School of Finance and Commerce, University of Pennsylvania, to make a fact-finding survey and report on certain aspects and practices of registered investment companies. This survey is under the supervision of Dean Willis J. Winn of the Wharton School.<sup>1</sup>

The general problems which will be examined are: (a) The manner and extent to which investment policies may be affected by the size of investment companies; (b) the relationship between the size of investment companies on the one hand and the character of management, cost of operation, and performance of investment companies on the other; (c) the relationship between the size of the investment companies and the manner in which blocks of securities are purchased and sold and the effects of such purchase and sales on the security markets and the marketing channels for securities; and (d) the extent to which large companies control or influence the policies and decisions of portfolio companies. The immediate inquiry of the study will be primarily directed to the question of the effects of size on investment policies and comparative performance of investment companies, although other aspects of the inquiry will be developed to the extent possible.

It is expected that the report of the Wharton School will enable the Commission to determine whether the increased size of investment companies has created any problems which require specific remedial legislative recommendations by the Commission to the Congress.

#### INSPECTION PROGRAM

As indicated in the 23rd Annual Report, the Commission has initiated a regular program for the periodic inspection of investment companies pursuant to its statutory authority under section 31 of the Investment Company Act. In pilot operations under this program, nine companies were inspected during fiscal year 1957,<sup>2</sup> and seven in fiscal year 1958. These inspections were undertaken by staff teams consisting of one attorney or analyst from the Division of Corporate Regulation and one securities investigator from the appropriate field office. In this way, the specialized training and knowledge of the

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<sup>1</sup> The Wharton School will limit the scope and manner of conducting the study to accord with the Commission's determinations with respect thereto. A preliminary questionnaire has been prepared by the staff of the Wharton School and has been transmitted to selected investment companies for test checking.

<sup>2</sup> At page 160 of the 23rd Annual Report it was erroneously stated that only six inspections were completed in fiscal year 1957.

staff concerning the regulatory requirements of the Investment Company Act has been combined with the field experience and investigative expertness of field office personnel for more expeditious and thorough review of the investment company.

These inspections, although involving only a very small fraction of the total number of registered investment companies, have revealed the need for continuous field supervision. The Commission's studies ascertained that in several cases there was non-compliance with regulatory provisions of the Investment Company Act with respect to such matters as (1) the affiliations of directors in violation of section 10 of the Act; (2) security purchases by registered investment company during an underwriting where an affiliate relationship exists between the underwriter of such security and the company in violation of section 10 (f) of the Act; (3) receipt of a commission for the sale of property by an affiliated person contrary to section 17 (e) of the Act; and (4) the failure to file an appropriate fidelity bond covering an officer having access to portfolio securities pursuant to the requirements of rules under section 17 (g) of the Act.

In addition to non-compliance with various regulations and standards under the Act, some situations where books and records were inadequate or lacking were noted by the staff. Thus, there were instances where a company failed to record the date and time of requests for redemption which resulted in an inability to determine whether the investors had received their correct net asset value. In other instances a company failed to maintain journals reflecting purchases and sales of securities, to maintain ledger accounts for broker-dealers used by the company for its portfolio security transactions and to keep proper vouchers for out-of-pocket expenses. In one case, an inspection revealed that the custodian did not adhere to the terms of the custodianship agreement and that there was a failure to comply with the Commission's regulations regarding the safekeeping of portfolio securities.

In several cases the staff observed that there was considerable delay by dealers selling investment company shares in the transmission of funds received by them to the investment companies or their custodians. It also creates a risk for the purchasers who have paid dealers for their shares but to whom shares of stock are not delivered until funds are actually received by the companies. This practice is undesirable because investment companies are deprived of the use of such funds even though the sales of securities have already been recorded on the books of the companies.

During the course of one inspection, in examining certain transactions of the investment company, the staff discovered the existence of another investment company which had not registered under the

Act. As a result of further inquiry, this company was compelled to register.

In cases where deficiencies are noted, they are brought to the attention of the investment companies involved so that corrective action may be taken. The Commission's experience to date indicates that this aspect of the inspection program will prove to be particularly helpful to the newly organized or the smaller investment company, and of benefit to the investing public.

#### CURRENT INFORMATION

The basic information contained in notifications of registration and in registration statements of investment companies is required by rules promulgated under the Act to be kept up-to-date, except in cases of certain inactive unit trusts and face-amount companies. During the 1958 fiscal year the following current reports and documents were filed:

Annual reports.....	305
Quarterly reports.....	163
Periodic reports to stockholders (containing financial statements).....	887
Copies of sales literature.....	2, 416

While not reflected in the foregoing statistics, in the course of every fiscal year, open-end mutual funds making a continuous offering of their securities make frequent filings of revised prospectuses showing material changes which have occurred in the operations of such companies since the effective date of the prospectuses on file. In this respect the registration of the securities of such companies is essentially different from the registration of the usual corporate securities.

#### APPLICATIONS AND PROCEEDINGS

Processing applications for exemptions constitutes one of the principal regulatory activities of the Commission under the Act. Under Section 6 (c) the Commission is empowered, either upon its own motion or by order upon application, to exempt any person, security or transaction from any provision of the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Various other sections, such as 6 (d), 9 (b), 10 (f), 11 (a), 17 (b), and 23 (c) contain specific provisions and standards pursuant to which the Commission may grant exemptions from particular sections of the Act or may approve certain types of transactions. Under certain provisions of Sections 2, 3 and 8 the Commission may also determine the status of persons and companies under the Act.

During the 1958 fiscal year 159 applications on various matters under the Act were pending before the Commission. Of these, 115

were disposed of leaving 44 pending on June 30, 1958. The various sections of the Act with which these applications were concerned and their disposition during the fiscal year are shown in the following table:

*Applications filed with and acted upon by the Commission under the Investment Company Act of 1940 during the fiscal year ended June 30, 1958*

Sections	Subject involved	Pending July 1, 1957	Filed	Closed	Pending June 30, 1958
3 and/or 6.....	Status and Exemption*.....	8	13	17	4
7 (d).....	Registration of foreign investment companies.....	1	2	1	2
8 (f).....	Termination of registration.....	23	18	21	20
10, 16.....	Regulation of affiliations of directors, officers, employees, investment advisers, underwriters and others.....	2	25	24	3
11.....	Regulation of security exchange offers and reorganization matters.....	0	1	1	0
12, 15.....	Regulation of functions and activities of investment companies.....	0	10	9	1
17.....	Regulation of transactions with affiliated persons.....	8	15	15	8
18, 22, 23.....	Requirements as to capital structures, loans, security sales and redemptions, and related matters.....	5	24	24	5
28.....	Regulation of face-amount certificate companies.....	1	1	1	1
32.....	Accounting supervision.....	0	2	2	0
Totals.....	.....	48	111	115	44

\*Includes only those section 6 (c) cases in which exemption is requested from all provisions of the Act

Applications for exemption or exception from the various provisions of the Act and other proceedings for relief are for the most part processed without the aid of formal hearings. In the past year, however, hearings were held in 9 cases. Four of these involved exemptions from the Act pursuant to section 6 (c);<sup>3</sup> two involved exceptions under section 3 (b) (2);<sup>4</sup> one involved a deregistration order pursuant to section 8 (f);<sup>5</sup> one involved an order under section 7 (d) permitting a foreign company to register under the Act;<sup>6</sup> and one, instituted by the Commission pursuant to section 35 (d) of the Act, involved the use of a name.<sup>7</sup> In two of these cases the applicants requested in the alternative general exemptions from all the provisions of the Act pursuant to sections 6 (c) or 6 (d). Six of the cases are described below.

<sup>3</sup> *Insured Accounts Fund*, Investment Company Act Release No. 2539 (May 27, 1957); *Ira Haupt & Co.*, Investment Company Act Release No. 2559 (July 17, 1957); *Dow Theory Investment Fund, Inc.*, Investment Company Act Release No. 2627 (Nov. 14, 1957); *Inter-Canadian Corp.* (Name changed to *Great Northern Investments, Inc.*), Investment Company Act Release No. 2735 (June 25, 1958).

<sup>4</sup> *National Department Stores*, Investment Company Act Release No. 2708 (April 30, 1958) and *McPhail Candy Corp.*, Investment Company Act Release No. 2644 (Dec. 18, 1957);

<sup>5</sup> *The Great American Life Underwriters, Inc.*, Investment Company Act Release Nos. 2542 (June 10, 1957), 2561 (July 22, 1957), and 2607 (Sept. 27, 1957).

<sup>6</sup> *American-South African Investment Company, Ltd.*, Investment Company Act Release No. 2739 (July 3, 1958).

<sup>7</sup> *Civil & Military Investors Mutual Fund, Inc.*, Investment Company Act Release No. 2593 (Sept. 9, 1957).

In *Dow Theory Investment Fund, Inc.*, the applicant was granted an order exempting it from the requirements of section 22 (d) of the Act so as to permit it to continue to sell redeemable securities to existing subscribers under an accumulation plan at a price including a sales load of 5%, which was at variance with a 7½% sales load proposed to be charged to new shareholders. In a divided opinion, the Commission pointed out that its decision to grant the application was based on the specific facts in the case and that the type of exemption granted would at most have only a very limited application in other situations. It declared that the decision "is not intended as an adoption of a general policy of approving differing sales loads based on differences in selling costs, or to restrict our discretion to further define or revise our policy concerning exemptions from section 22 (d) if our continuing study should indicate that to be necessary."<sup>8</sup>

In *Insured Accounts Fund*,<sup>9</sup> the Commission denied an application for an exemption pursuant to section 6 (c) from the requirements of sections 16 (a) and 18 (i) of the Act. Section 16 (a) provides that the directors (defined by section 2 (a) (12) of the Act to include trustees) of a registered investment company be elected by the holders of the outstanding voting securities, and section 18 (i) provides that every share of stock issued by a registered management company shall be a voting stock having equal voting rights with every other outstanding voting stock.

The Company proposed to invest 80% of its funds in insured accounts of savings and loan institutions and its remaining assets in federally insured bank accounts, government securities, and cash. To have the benefit of this insurance to the extent contemplated, applicant represented that its trust form of organization was necessary and that to grant its security holders voting rights would destroy its status as a trust for this purpose. It further contended that there was no need for the control over the trustees which would flow from voting rights since their discretion was limited to investments among insured institutions.

The Commission refused to grant the exemption, stating that it would be inconsistent with the policy of the Act that the owners of investment companies have the power to elect the management to the end that such companies are operated in the investors' interests and not in the interests of other persons. The Commission found that the discretion to invest among various savings and loan companies with differing risk factors and earnings was an important area of management discretion. The Commission further found that since sub-

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<sup>8</sup> Investment Company Act Release No. 2694 (April 14, 1958). Subsequently the company decided not to avail itself of the exemption.

<sup>9</sup> Investment Company Act Release No. 2630 (November 22, 1957).



stantially all such investments would be made in savings and loan institutions which were members of the organization which promoted the investment company, there would be a potential conflict of interest between the management and investors.

In *Ira Haupt & Co.*, the applicant as sponsor and depositor of a unit investment trust, requested an exemption from sections 2 (a) (3), 4 (2) and 22 (e) of the Act to the extent that those sections require the securities issued by a unit trust to be redeemable either by the trust or its agent. Upon the conclusion of the hearings on the application which were held during the fiscal year, the applicant requested that the matter be temporarily held in abeyance and the case has therefore not yet come before the Commission for disposition.<sup>10</sup>

*Great Northern Investments, Inc.* (formerly Inter-Canadian Corporation), a closed-end investment company, filed an application pursuant to section 6 (c) to permit it to acquire all the voting stock of Northwestern Fire and Marine Insurance Company and to finance such acquisition by the issuance of up to \$3,200,000 of bank notes. The stock was to be acquired pursuant to a general offer to Northwestern's stockholders at a price of \$41 per share. It was contemplated that after the acquisition Northwestern would be caused to be liquidated promptly. The exemption was required because section 12 (d) (2) makes it unlawful for a registered investment company to acquire more than 10% of the total outstanding voting stock of an insurance company and section 18 (a) (1) makes it unlawful for a registered closed-end investment company to issue debt obligations, with certain exceptions, unless the asset coverage for the debt immediately after such issuance is equal to at least 300%, and Great Northern's assets could not meet this 300% test after it borrowed \$3,200,000. In addition, since the proposal also involved transactions between affiliates an exemption from the provisions of section 17 (a) pursuant to section 17 (b) was requested. The Commission granted the requested exemption,<sup>11</sup> finding among other things that the purpose of the acquisition of the insurance company's stock was to obtain the assets of a corporation to be liquidated and not to control a going insurance company, and that the asset coverage requirements of the Act would be complied with through repayment of the note as a result of the liquidation of Northwestern, or the distribution by it of substantial dividends. It also found that the transactions between affiliates were fair and reasonable and involved no overreaching.<sup>12</sup>

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<sup>10</sup> Investment Company Act, File No. 812-1091.

<sup>11</sup> Investment Company Act Release No. 2751 (July 28, 1958).

<sup>12</sup> Notice of appeal from the Commission's order was filed in the United States Court of Appeals for the Eighth Circuit on August 16, 1958, by an insurance company stockholder who had opposed the application but was subsequently withdrawn by the appellant. *Schmit v. S. E. C.*, Civil No. 16072.

In *The Great American Life Underwriters, Inc.*, applicant, a registered face-amount certificate company, sought an order pursuant to section 6 (c) of the Act exempting it from the Act from and after January 1, 1941. In the alternative, it requested an order pursuant to sections 8 (f) and 6 (c) of the Act declaring that applicant is not or has ceased to be an investment company and exempting from the provisions of the Act transactions since January 1941 to which it or any person controlled by it was a party.<sup>13</sup> Applicant's request for an exemption is based on the contention that it discontinued the sale of face-amount certificates in the latter part of 1940, and that since its inception in 1929 it has been primarily and continuously engaged in the life insurance business through various controlled subsidiaries, including, since 1939, Franklin Life Insurance Company, presently its only life insurance subsidiary. The request for an order under section 8 (f) of the Act is based on the contention that since 1953 more than 90% of the value of its investment securities has been represented by its investment in the stock of Franklin Life Insurance Company and that, accordingly, it is entitled to the exception from the definition of an investment company contained in section 3 (c) (8) of the Act.<sup>14</sup>

The transactions for which exemption has been sought under section 6 (c) involved applicant or its controlled companies and their affiliates and, although subject to the prohibitions of section 17 (a) of the Act, were carried out without prior Commission approval under section 17 (b) of the Act. The various questions involved in this case were explored during hearings which resulted in over 3,200 pages of testimony and the introduction in evidence of 300 exhibits. The parties in the case were engaged in completing the post-hearing procedures after the close of the fiscal year.

In *Civil and Military Investors Mutual Fund, Inc.*, the Commission decided that the name of a registered investment company "Civil and Military Investors Mutual Fund, Inc.", inherently implies that such company's securities have special investment and other advantages for the civil and military government personnel to whom it was intended to offer such securities, that such advantages do not in fact exist, and that therefore the name was deceptive and misleading under section 35 (d) of the Act. The Commission found, however, that the name

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<sup>13</sup> Investment Company Act Release No. 2607.

<sup>14</sup> Section 3 (c) (8) of the Act excepts from the definition of an investment company any company, 90% or more of the investment securities of which are represented by securities of a single issuer included within a class of persons enumerated in sections 3 (c) (5), (6) or (7). The persons enumerated in section 3 (c) (7) include any company primarily engaged, directly or through majority-owned subsidiaries, in one or more businesses described in sections 3 (c) (3), (5) and (6) of the Act. Section 3 (c) (3) excepts insurance companies from the definition of an investment company.

did not violate section 35 (a) of the Act<sup>15</sup> since it was not likely to carry an implication that the company or its securities were sponsored, recommended or approved by the United States.<sup>16</sup>

### REGISTRATION OF FOREIGN INVESTMENT COMPANIES

An application filed during the past fiscal year by American-South Africa Investment Company, Ltd. for an order under Section 7 (d) of the Act permitting its registration under the Act and for the sale of its securities in the United States was the first such application presented to the Commission by a non-Canadian, foreign investment company. The company was organized as a closed-end investment company, chartered under the Companies Act of 1926 of the Union of South Africa.

Section 7 (d) of the Act, among other things, prohibits a foreign investment company from selling its securities to the public by use of the mails or any means or instrumentalities of interstate commerce unless the Commission, upon application, issues a conditional or unconditional order permitting such company to register under the Act and to make a public offering of its securities in the United States. To issue such an order the Commission must find that, by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the Act against such company and that the issuance of such order is otherwise consistent with the public interest and protection of investors.

Rule N-7D-1 under the Act sets forth the specifications, conditions and arrangements for Canadian management investment companies requesting orders for registration,<sup>17</sup> but makes no provision for en-

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<sup>15</sup> This section provides that "It shall be unlawful for any person, in issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company has been guaranteed, sponsored, recommended, or approved by the United States or any agency or officer thereof."

<sup>16</sup> Investment Company Act Release No. 2723 (June 9, 1958). On August 5, 1958, the Fund filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit, which was dismissed upon agreement of the parties on September 19, 1958.

<sup>17</sup> Since the rule was adopted on April 27, 1954 and up to June 30, 1958, ten Canadian companies have obtained orders granting permission to register. These include: Resources of Canada Investment Fund, Ltd., Investment Company Act Release No. 1974 (April 27, 1954); Scudder Fund of Canada, Ltd., Investment Company Act Release No. 1975 (April 27, 1954); United Funds Canada, Ltd., Investment Company Act Release No. 2003 (August 4, 1954); New York Capital Fund of Canada, Ltd., Investment Company Act Release No. 2006 (August 11, 1954); Canada General Fund (1954) Ltd., Investment Company Act Release No. 2007 (August 16, 1954); Keystone Fund of Canada, Ltd., Investment Company Act Release No. 2008 (August 18, 1954); Templeton Growth Fund of Canada, Ltd., Investment Company Act Release No. 2020 (October 7, 1954); Investors Group Canadian Fund, Ltd., Investment Company Act Release No. 2124 (March 30, 1955); Canadian International Growth Fund, Ltd., Investment Company Act Release No. 2386 (July 6, 1956); and Multnomah Canadian Fund, Ltd., Investment Company Act Release No. 2641 (December 10, 1957). One of these companies, Resources of Canada Investment Fund, Ltd., did not register under the Act. Templeton Growth Fund of Canada, Ltd. subsequently changed its name to Axe-Templeton Growth Fund of Canada, Ltd.

abling investment companies organized in other foreign countries to register. Processing the application in this case, therefore, required extensive research into South African corporate law to determine whether it would be legally feasible to apply and enforce the standards of the Act with respect to this company.

In support of its request, applicant agreed to abide by the undertakings and agreements provided for by rule N-7D-1 applicable to Canadian investment companies as well as numerous additional undertakings and agreements to give assurance of the enforceability of the Act. A hearing on the application was held in July, 1958, shortly after the close of the fiscal year, and the Commission's Findings and Opinion and Order approving the application was issued on August 13, 1958.<sup>18</sup>

#### **UNREGISTERED INVESTMENT COMPANIES—SECURING COMPLIANCE WITH THE INVESTMENT COMPANY ACT**

In the course of administering the Investment Company Act, the Commission must frequently take steps to require the registration of companies. Such instances often arise with respect to companies which have been engaged in industrial or other activities and which over periods of time substantially reduce their regular business activities and sell large portions of their assets and invest the proceeds in securities. Thus, these companies bring themselves within the purview of section 3 (a) (3) of the Act, which defines an investment company, among others, as one which is engaged in the business of owning or holding, or proposing to own or hold, investment securities having a value exceeding 40 per centum of the value of their total assets. Companies which fall within this definition must register under section 8 (a) of the Act, or they may, before or after such registration, apply for an order under section 3 (b) (2) declaring that they are primarily engaged in a business or businesses other than the investment business.

In the usual case, companies which find themselves in, or approaching an investment company status seek the advice of the Commission's staff as to the application of the Act. Others, however, through inadvertence or erroneous interpretation of the Act fail to register until notified by the Commission to do so. The discovery of such situations presents a serious administrative problem. It is obviously impossible and undesirable to attempt to scrutinize the operations of the myriad of business enterprises in this country to determine their status under the Act. The Commission and its staff are dependent for information upon newspapers and other reportorial services, complaints of stockholders or other interested persons and examination of reports or

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<sup>18</sup> Investment Company Act Release No. 2756.

other documents required to be filed with the Commission under other Acts which it administers.

Companies which the staff and the Commission dealt with during the past fiscal year involving registration and status problems under the Act included the following: National Department Stores Corporation, McPhail Candy Corporation, New York Dock Company, Portsmouth Steel Corporation, Dempster Investment Company, Real Silk Hosiery Mills, Inc., American-Hawaiian Steamship Company and Bankers Southern, Inc. All of these companies, with the exception of Bankers Southern, Inc., which is a newly organized company, had in recent years disposed of substantial portions or all of their other business assets and purchased securities with the proceeds, with the result that they fell within the presumptive test of an investment company contained in section 3 (a) (3). Prior to, or shortly after, the close of the fiscal year all of these companies, with the exception of National Department Stores and American-Hawaiian Steamship, had registered under the Act. Hearings on National Department Stores application under section 3 (b) (2) had not been concluded at the year's end. American-Hawaiian Steamship, upon being advised by the Commission that its operations were subject to the Investment Company Act, refused to register, claiming, among other things, that it was not an investment company nor subject to the Act. Thereupon, after the close of the fiscal year, the Commission initiated proceedings in the United States District Court to enforce compliance with the Act.

The problems of administration and enforcement encountered in this type of case are illustrated by the McPhail Candy Corporation matter. In early 1955 the staff learned, through a newspaper account, that a derivative stockholder's action had been instituted against McPhail Candy Corporation in which it was alleged, among other things, that the company was an investment company and that its officers had, in effect, been guilty of a breach of trust. Reports filed by the company with the Commission pursuant to the Securities Exchange Act indicated that over a period of years the company's candy operations had been declining, that assets had been liquidated and the cash, together with borrowings, had been invested in securities and that candy operations had been conducted at a loss while security transactions and dividend receipts were providing an increasingly important source of income. Security holdings constituted a substantial portion of the company's total assets. Because of these and other facts, it appeared that the company might have already undertaken to be an investment company and that further inquiry was warranted.

Informal investigation of the affairs of McPhail Candy Corporation proceeded during the spring of 1955. Examination of the annual

audited report of the company's operations, which was filed on August 15, 1955, served to strengthen the earlier tentative conclusion of the company's status as an investment company and the company was advised of this conclusion and further factual information was sought from the company on a voluntary basis. By the end of the year it became apparent that the company would not voluntarily register under the Act and that an investigation of its affairs would have to be conducted to determine its status and if necessary, to compel registration. As a result of further investigation it appeared that the company was and had been an investment company and should register as such and that it had engaged in a series of transactions with its principal officer and stockholder and otherwise used its assets for his personal benefit under circumstances which, it appeared, might involve fraud and gross abuse of trust. Ultimately, on October 28, 1957, the company registered but concurrently filed an application under section 3 (b) (2) to be declared excepted from the definition of an investment company, or in the alternative to be exempted pursuant to section 6 (c). During the hearing on this application the company requested its withdrawal and this request was granted on April 24, 1958.<sup>19</sup>

#### LITIGATION UNDER THE INVESTMENT COMPANY ACT OF 1940

During the fiscal year the Court of Appeals for the District of Columbia Circuit, in *S. E. C. v. Variable Annuity Life Insurance Company of America et al.*,<sup>20</sup> affirmed the dismissal by the district court of the Commission's complaint charging violations of the registration provisions of the Investment Company Act and the Securities Act of 1933. As noted on page 164 of the 23rd Annual Report, the district court had dismissed the Commission's complaint after trial on the ground that the McCarran Act placed exclusive regulatory jurisdiction over the defendants in the insurance authorities of the States and the District of Columbia. The Court of Appeals based its decision on different grounds, holding that the variable annuity contracts sold by defendants are exempt from registration pursuant to section 3 (a) (8) of the Securities Act and that the defendants are insurance companies falling within the provisions of section 3 (c) (3) of the Investment Company Act.

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<sup>19</sup> On July 7, 1958, the Commission filed a complaint in the United States District Court for the Southern District of New York against the directors of the company for gross abuse of trust under section 36 of the Investment Company Act. The complaint alleges, among other things, that the corporation was an investment company on or before April 1, 1953; that between 1953 and 1957, the corporation, under the control and direction of its officers and directors carried on its activities in violation of Section 7 of the Investment Company Act and that Russell McPhail fraudulently diverted the corporation's assets to himself at prices substantially below their market value. *S. E. C. v. Russell McPhail, et al.*, S. D. N. Y., Civil Action No. 135-203:

<sup>20</sup> 257 F. 2d 201 (C. A. D. C. 1958). A petition for certiorari was granted on October 13, 1958.

In *S. E. C. v. Cryan*,<sup>21</sup> the Commission is seeking an injunction pursuant to section 36 of the Investment Company Act permanently barring Frank M. Cryan, former president and director, and John Setrian and Joseph Aversa, purported to be the new president and secretary-treasurer, respectively, from acting as directors and officers of Jefferson Custodian Fund, Inc., an open-end registered investment company, the appointment of a receiver, and other relief. The Commission's complaint alleges that Cryan sold to Setrian and his associates the stock of Jefferson Research Foundation, Inc., the Fund's investment adviser, at an aggregate price of \$261,000, its net book value being about \$2,300. The assets of the Fund at about that time were approximately \$1,270,000.

The complaint further alleges that the price agreed upon was "for the surrender of the fiduciary and management positions with respect to the Fund in favor of the defendant, John Setrian and his associates," and that "the purchasers of the stock did not have funds to pay the price and that the intention was to use the Fund's resources to finance the purchase." A receiver was appointed, and the receiver and the Fund's custodian were directed by the Court to honor redemptions at net asset value less 5% of the redemption price which was to be credited to a contingent reserve for receivership expenses.<sup>22</sup> During the course of the proceedings, upon the recommendation of the receiver and a vote of the stockholders, the Court approved a transfer of the assets of the company to another mutual fund.

In *S. E. C. v. Insurance Securities, Inc.*,<sup>23</sup> the Court of Appeals affirmed the district court's dismissal of the Commission's complaint which alleged that the defendants were guilty of gross abuse of trust within the meaning of section 36 of the Investment Company Act because they, as directors, officers and controlling stockholders, had sold stock control of an investment adviser for a registered investment company at about 25 times the net asset value of the stock.<sup>24</sup> The Court of Appeals held that there was no breach of trust because no funds of the investment company were involved and Congress provided a remedy in section 15 of the Act under which an investment advisory contract is terminated when stock control of the investment adviser is sold.<sup>25</sup>

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<sup>21</sup> S. D. New York, No. 131-57 (March 13, 1958).

<sup>22</sup> A stockholder action against Cryan and others is also pending in the same Court. *Floerke v. Cryan*, S. D. N. Y., Civil Action No. 133-331.

<sup>23</sup> 254 F. 2d 642 (C. A. 9, 1958).

<sup>24</sup> A more detailed description of the allegations of the complaint and the litigation in the district court appears at pages 164-165 of the 23rd Annual Report.

<sup>25</sup> A petition for a writ of certiorari was denied on October 13, 1958.

## PART X

### ADMINISTRATION OF THE INVESTMENT ADVISERS ACT OF 1940

A person engaged for compensation in the business of advising others with respect to securities is required by the Investment Advisers Act of 1940 to register as an investment adviser. There are certain exemptions from the requirement of registration such as in the case of an investment adviser all of whose clients are residents of the state of his principal business office and whose activities do not include advice or analysis with respect to securities listed or admitted to unlisted trading privileges on any national securities exchange. The Act makes it unlawful for investment advisers to engage in practices which constitute fraud or deceit. The Act also requires investment advisers to disclose the nature of their interest in transactions which they may effect for their clients, prohibits profit-sharing arrangements and, for all practical purposes, prevents the assignment of any investment advisory contract without the consent of the interested client.

The Commission is not empowered by the Investment Advisers Act to inspect the books and records of an investment adviser nor to deny or revoke the registration of an investment adviser unless he has been convicted of certain offenses involving securities or arising out of his conduct as an investment adviser or in certain other specified capacities, or has been enjoined by a court of competent jurisdiction on the same grounds or has falsified his application.

The number of registered investment advisers continued to increase and at the end of the fiscal year the total was 1,562, representing an increase of nearly 10% over the previous year. The following tabulation reflects certain data with respect to registration of investment advisers and applications for such registration during fiscal year 1958:

<i>Investment adviser registrations and applications</i>	
Effective registrations at close of preceding fiscal year.....	1, 431
Applications pending at close of preceding fiscal year.....	22
Applications filed during fiscal year.....	212
<b>Total.....</b>	<b>1, 665</b>
Registrations cancelled or withdrawn during year.....	77
Registrations denied or revoked during year.....	2
Applications withdrawn during year.....	2
Registrations effective at end of year.....	1, 562
Applications pending at end of year.....	22
<b>Total.....</b>	<b>1, 665</b>



**ADMINISTRATIVE PROCEEDINGS**

The Commission revoked the investment adviser registration of *Ralph Seipel, doing business as Investors Surety Company*,<sup>1</sup> on the ground that the registrant had been permanently enjoined by a United States District Court, in an action instituted by the Commission, from employing any device, scheme or artifice to defraud a client or prospective client or from engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon any client or prospective client in violation of Section 206 of the Act.<sup>2</sup> The injunction was based on findings by the court that Seipel had violated that section by falsely representing to persons responding to his newspaper advertisements inviting requests for stock market information, that he absolutely guaranteed clients against loss in the stock market, that he maintained branch offices and a foreign exchange department, and that he had twenty-five years of trading experience and many clients, when in fact he had no office, organization, associates or customers. Seipel contended that the injunction did not constitute a basis for revocation, since he had no clients and was enjoined only from making misrepresentations in an effort to attract clients and not from engaging in any conduct connected with investment advisory activities. This contention was rejected by the Commission.

*James Cordas, doing business as The Canadian Stock Letter*,<sup>3</sup> a registered investment adviser, filed an amendment to his registration application with the Commission which wilfully misstated his business address as being in one state when in fact it was located in another state, where he was enjoined from acting as an investment adviser. The Commission held it to be in the public interest to revoke his registration as an investment adviser.

**LITIGATION UNDER THE INVESTMENT ADVISERS ACT OF 1940**

The Commission is authorized by the Investment Advisers Act to obtain an injunction where violations of the Act have occurred or appear to be imminent.

Pursuant to that authority the Commission secured a permanent injunction in *S. E. C. v. Security Forecaster Co., Inc. and Melvin A. Johnson*<sup>4</sup> restraining further violations of the anti-fraud provisions of the Investment Advisers Act. The Commission charged that Security Forecaster Co., Inc., Melvin A. Johnson, its president, and James M. Barnes, a Canadian resident, in a paper called "The Finan-

<sup>1</sup> Investment Advisers Act Release No. 93 (March 31, 1958).

<sup>2</sup> S. D. N. Y., No. 120-364 (May 24, 1957).

<sup>3</sup> Investment Advisers Act Release No. 90 (October 21, 1957).

<sup>4</sup> S. D. N. Y., No. 130-239 (February 28, 1958).

cial Forecaster", which the company published and distributed, urged clients and prospective clients to buy shares of Anacon Lead Mines, Ltd., by means of the following misleading and fraudulent statements, among others: (1) the projected recovery by Anacon of an estimated \$50,000 per acre from certain of its gold mining holdings would result in a recovery potential to Anacon of \$50 million; (2) the value of each outstanding share of Anacon was approximately \$3 per share, when in fact it was approximately 40 cents per share; (3) millions of dollars were realized within days by traders, speculators and investors in other stocks managed by Johnson; (4) large and extremely quick profits would be made as a result of a purchase of Anacon stock; and (5) dividends had been paid in the past by Anacon, without disclosing that no dividends have been paid since 1952.

The Commission filed memoranda *amicus curiae* and presented oral argument in *Hull v. Newman, Kennedy & Co.*,<sup>5</sup> an action to declare an investment contract void, and for damages for violations of the Investment Advisers Act. The Commission, addressing itself solely to the questions of law involved, contended that a private civil action may be brought for violation of the Act, regardless of the non-existence of any express statutory provision authorizing it. The case was subsequently settled.

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<sup>5</sup>S. D. N. Y., No. 118-283.

**PART XI**  
**OTHER ACTIVITIES OF THE COMMISSION**  
**COURT PROCEEDINGS**

**Civil Proceedings**

At the beginning of the fiscal year 1958 there were pending in the courts 43 injunctive and related enforcement proceedings instituted by the Commission to prevent fraudulent and other illegal practices in the sale or purchase of securities. During the year 65 additional proceedings were instituted and 54 cases were disposed of, leaving 54 such proceedings pending at the end of the year. In addition the Commission participated in a number of corporate reorganization cases under Chapter X of the Bankruptcy Act, in 7 proceedings in the district courts under section 11 (e) of the Public Utility Holding Company Act and in 14 miscellaneous actions. The Commission also participated in 35 civil appeals in the United States Courts of Appeals. Of these, 17 came before the courts on petition for review of an administrative order, 6 arose out of corporate reorganizations in which the Commission had taken an active part, 9 were appeals in actions brought by or against the Commission, 1 was an appeal from an order entered pursuant to section 11 (e) of the Public Utility Holding Company Act and 2 were appeals in cases in which the Commission appeared as *amicus curiae*. The Commission also participated in 4 appeals or petitions for certiorari before the United States Supreme Court resulting from these or similar actions.

Complete lists of all cases in which the Commission appeared before a Federal or State court, either as a party or as *amicus curiae*, during the fiscal year, and the status of such cases at the close of the year, are contained in the appendix tables.

Certain significant aspects of the Commission's litigation during the year are discussed in the sections of this report relating to the statutes under which the litigation arose.

**Criminal Proceedings**

Fifteen new cases were referred to the Department of Justice for prosecution during the past fiscal year. From 1934 to June 30, 1958, 2,376 defendants have been indicted in United States district courts in 575 cases developed by the Commission. These figures include 14 indictments returned during the past fiscal year against 42

defendants. Also during the fiscal year there were 30 convictions in 14 cases, making the total 1,295 convictions in 546 cases. There were 6 appeals in criminal cases. In 3 of these cases the defendants unsuccessfully attempted to have their convictions set aside and the remaining cases were pending on appeal at the end of the year. There were 4 criminal contempt proceedings during 1958, 2 of which were instituted during the fiscal year. In 1 of these cases 3 defendants were convicted, leaving 3 cases pending at the end of the year.

As in the past, defendants in the criminal cases developed and prosecuted during the year contrived a variety of fraudulent schemes, including broker-dealer frauds and fraudulent promotions involving inventions, mining and oil and gas ventures, finance and insurance companies and various other types of businesses. The defendants in some of the cases were also charged with violations of the registration provisions of the Securities Act of 1933 and violations of other non-fraud provisions.

A seven-year prison term was imposed on *Eldridge S. Price* (N. D. Ga.) following his conviction on all 14 counts of an indictment charging violations of the anti-fraud and registration provisions of the Securities Act and the Mail Fraud Statute in connection with the sale of oil and gas interests and stock of the Dark Canyon Uranium Corporation and other securities. The indictment charged, among other things, that the defendant knowingly made false promises of great wealth to prospective investors, including misrepresentations that the lands covered by the oil leases had already been proven for oil and were highly productive; that there was no risk; and that the defendant Price was a highly qualified and successful oil operator who had never drilled for oil without bringing in a producing well when, in fact, wells drilled by Price were dry holes or yielded no oil in commercial quantities. It was further charged that the defendant falsely represented that the land covered by the leases was the best oil land in Texas and that the defendant owned large interests in the leases and drilling equipment having a value of hundreds of thousands of dollars. The indictment also alleged that the defendant concealed from prospective investors the fact that he was in bankruptcy; that he had never been successful as an oil operator; and that his profits had been made wholly as a result of promotional activities. Mrs. Edith Wynne Price, a co-defendant, was acquitted by the court prior to the submission of the case to the jury and Price was released on \$10,000 bail pending appeal.

Mining and oil and gas ventures were also involved in the indictments pending in *U. S. v. U. S. Manganese Corporation et al.* (S. D. N. Y.); *U. S. v. Stratoray Oil, Inc. et al.* (S. D. Tex.); and *U. S. v. Silas M. Newton et al.* (D. Colo.). In the *U. S. Manganese* case the in-

dictment charges that the corporation and defendants Commodore Dewey Brock and Maurice A. Schuster conspired together and with others to employ a scheme and artifice to defraud in the sale of the corporation stock which resulted in substantial losses to investors. The indictment alleges that the defendants caused to be printed and issued a false and misleading offering circular which included misrepresentations that the corporation had acquired certain designated mining properties and that one property contained 350,000 tons of definite blocked out ore. It is further alleged that among the material facts omitted from the offering circular were that the corporation was obliged to pay approximately \$700 a month on certain properties; that the Defense Minerals Administration had refused to loan the corporation \$50,000 on the ground that its properties did not contain sufficient ore to justify such loan; that substantially all the ore which had been shipped by the corporation had been purchased from other mines; that the total revenue received from the sales of the ore was greatly exceeded by the cost of such sales and the corporation was operating at a loss.

In the *Stratoray* case the indictment, in addition to charging failure to comply with the registration provisions of the Securities Act, alleges that the defendants effected sales of investment contracts evidenced by oil and gas leases by means of untrue and misleading statements of material facts. Included among the misrepresentations, according to the indictment, were statements that the drilling of a certain oil well would most likely result in the discovery of one of the largest oil fields in the United States and that persons purchasing leases in the area from the defendants were being afforded an opportunity of acquiring great wealth; that the defendants were convinced they had a scientific oil hunting instrument, called a "scintillator," capable of detecting virgin oil fields with near 100% dependability; that the defendants, by means of their scintillator, had located what they believed to be a vast accumulation of oil, perhaps as large as the prolific Yates field in Pecos County, Texas; and that one of the defendants was a research scientist trained and experienced in the application of electronic nuclear scientific principles.

The indictment in the *Newton* case alleges, among other things, that the defendants, by means of false and misleading statements, induced investors to purchase participating certificates in the Yellow Cat Royalty Trust, the Tennessee Queen Royalty Trust, and fractional undivided interests in mining claims held by the Tennessee Queen Mining Co. The alleged statements include misrepresentations concerning the value of the properties, the experience of the mining operators, the shipping of ore, and the certainty of royalty returns on the investments.

In *U. S. v. Francis E. Getchell et al.* (S. D. Fla.), the defendants were sentenced to terms ranging from 1 to 5 years following their convictions after a trial extending over 11 weeks. The indictment charged that the defendants engaged in a scheme to sell stock of Florida Palms, Inc., and other securities, by falsely representing that defendants Francis E. and Harry S. Getchell had developed a secret and commercially feasible process whereby pulp could be manufactured from cabbage palms; that several large companies had offered to buy this process for millions of dollars; that all money invested would be used to build a plant and buy equipment and that all funds received from the sale of the securities would be held in trust for this purpose. It was further charged that false financial statements prepared by defendant William F. Powers, a certified public accountant, were used to deceive investors and to conceal the misappropriation of their funds. The fourth defendant, Hollis Rinehart, an attorney, was alleged to have been an officer of Florida Palms, Inc. and to have assisted in these promotions.

In *U. S. v. Clinton R. Rupp et al.* (D. Idaho), the defendants Clinton R. Rupp and Intermountain Development Company, Inc. were found guilty of violating and conspiring to violate the anti-fraud provisions of the Securities Act and the Mail Fraud Statute in connection with the sale of Intermountain stock. The indictment charged that the defendants misrepresented to investors that the funds received from the sale of the Intermountain stock would be deposited with the Idaho Insurance Commissioner and would be used in compliance with the Idaho Insurance law; that 75% of the funds so received would be deposited in escrow for use in purchasing controlling interests in small life insurance companies; that, as a result of the purchase of National Security Life Insurance Company, the Intermountain stock would, and did, increase in value; that none of the proceeds would be used in carrying on any mining and exploration work; that the defendants had invested substantially in Intermountain securities; and that the son of the Commissioner of Finance of the State of Idaho had purchased \$10,000 worth of Intermountain stock. The indictment further charged that the defendants concealed from investors the fact that Intermountain had purchased National Security Life Insurance Company for \$270; that Intermountain had never obtained an insurance permit from the State of Idaho; that Intermountain's assets had been frozen and receivership proceedings were pending in the state courts and that the securities being offered were the personally owned stock of certain individuals who were receiving the benefits of the proceeds of the sale. Six of the defendants received sentences ranging from a \$1000 fine to a \$1000 fine and a year's imprisonment following pleas of guilty or *nolo con-*

*tendere* to various counts. Defendant Rupp, who after trial was found guilty of securities fraud, mail fraud and conspiracy, was sentenced to a 5-year prison term and a \$10,000 fine. Intermountain was fined \$5,000. A remaining defendant, who had been a fugitive, was recently apprehended.

Another indictment charging fraud in an insurance company promotion, *U. S. v. National Union Life Insurance Company et al.* (S. D. Fla.), alleges, among other things, that Basil P. Autrey and the other defendants devised a scheme to defraud investors by means of false and misleading statements; that the defendants bought the capital stock of National Union at prices ranging from \$2 to \$40 per share and thereafter by means of manipulative and other fraudulent practices resold the stock to investors at prices ranging from \$5 to \$63.50 per share; that the defendants caused the company to issue 10,000 shares of its stock allegedly in exchange for an office building, knowing that the stock was to be acquired by one of the defendants rather than the vendor, the purpose of such transaction being to defeat the preemptive rights of the stockholders and also to enable the defendants to acquire a large block of stock for resale; that the defendants caused the company to issue 5,000 shares of its stock ostensibly for seasoned first mortgages, knowing that the mortgages never would be received by the company; that the defendants artificially caused the market price of the stock to rise by effecting a series of transactions among themselves, with investors and with brokers and dealers, by placing and giving scale-up orders for the stock, by causing the company to declare a 25% stock dividend and by circulating fraudulent misrepresentations concerning the company and its affairs. The indictment further charged that the defendants kept false, inaccurate and incomplete books and records in order to conceal the company's true financial condition. A motion by certain defendants for transfer of the trial to the Northern District of Alabama was granted. A motion by the Department of Justice for retransfer to the Southern District of Florida is pending.

A 12-count indictment was returned charging *Carl D. Schaeffer* (N. D. Ill.) with devising a scheme and artifice to defraud investors in the sale of investment contracts and evidences of indebtedness relating to the development of a machine for generating steam through hydraulic forces. According to the indictment Schaeffer made numerous fraudulent statements to investors, including statements that Schaeffer had a written contract with a syndicate of companies comprised of Dow Chemical Company, the duPont Company, Chrysler Corporation, General Motors and others, whereby these companies had agreed to purchase the rights to Schaeffer's steam machine and had put \$10,000,000 in escrow with the Chase National Bank; that General Motors was interested in buying Schaeffer's

machine; that Fairbanks-Morse and Co. had offered to buy Schaeffer's machine for a million dollars and that he could pick up a million dollar check from that company any time he wished, although he had turned down this offer; that Crane Company had offered to buy the rights to Schaeffer's machine for a million dollars and that Schaeffer had turned down this offer; that the United States Navy and a big chemical company were bidding against each other for the right to purchase Schaeffer's machine and that whichever purchased it would pay in the vicinity of \$30,000,000; that the United States Navy was interested in Schaeffer's machine for use in submarines and was experimenting with the machine in extracting ocean minerals; that monies invested with Schaeffer were placed by him in the Northern Trust Co. in Chicago and that if an investor ever wanted his money back he would get it because it was on deposit with that institution; and that all investors would realize \$10 for every \$1 invested.

Another scheme to defraud investors which involved an invention was alleged in an indictment charging *William L. Dorsey, Sr.* (W. D. Mo.) with fraud in the sale of the common stock of Southwestern Industries, Inc., a corporation which he controlled. In connection with the sale of this stock Dorsey made numerous false and misleading statements to investors, including representations that the company owned the patent to an irrigation pump known as the Cochran Power Unit; that an investment in the company would yield dividends as high as 100% a year; and that Dorsey would not receive any salary, commissions or expenses from the company until such time as the pumps were manufactured and sold. It was further charged that Dorsey concealed from investors the fact that Southwestern Industries owed royalties to the owner of the patent on the irrigation pump; that the company had no orders for and had sold no pumps; that the company had a continually increasing deficit and that Dorsey was using the funds of the company for his personal expenses. Dorsey pleaded guilty to 4 counts charging him with violations of the anti-fraud provisions of the Securities Act and 4 counts charging him with violations of the registration requirements of that Act. He was sentenced to a term of a year and a day on each of the fraud counts. The sentences are to run concurrently and he is to be placed on probation for five years upon release from confinement.

In *U. S. v. Hugh Van Valkenburgh et al.* (D. Neb.), one of the defendants, Abraham Schapiro, was placed on probation for 30 months and fined \$2,000 following his plea of *nolo contendere* to 8 counts of an indictment charging him and his co-defendant with having engaged in a scheme to defraud in connection with the sale of stock of Instant Beverage, Inc., a corporation organized and



promoted by the defendants to manufacture an instant powder product which, when mixed with water, was stated to produce a carbonated beverage. Misrepresentations were alleged to include assertions that several large companies would be interested in buying or handling the formula and that the United States Government would take the entire output of the powder for the first six months of its production. The indictment further charged that the defendants failed to disclose the number of shares of Instant Beverage stock issued to promoters and the prices paid for such shares; that Instant Beverage did not own the formula for the powder, but only held a franchise for its use; and that the United States Army had previously rejected samples of the powder as being unfit for use by the Army.<sup>1</sup>

Fraudulent promotions involving finance company ventures were alleged in the indictments in *U. S. v. A. B. Shoemaker et al.* (S. D. Tex.); *U. S. v. Consul Mayo Forsyth et al.* (E. D. Tex.); and *U. S. v. Hilding L. Jacobson* (D. Neb.). In the *Forsyth* case the indictment charged, among other things, that the defendants, in the sale of stock of Central Finance Service, Inc., falsely represented to investors that the stock being offered was unissued stock of Central and the money received from the sale of such stock would be used by Central in its business operations; that Central was realizing substantial profits from its business operations; that Central would pay substantial dividends; and that investors would receive a return of all the money they invested in Central stock upon request. The indictment further charged that the Central stock offered and sold to investors was personally owned stock and not the unissued stock of Central; that Central had operated at a substantial loss throughout its existence and that it had no surplus and, therefore was not in a position to pay any dividends. Defendant Forsyth entered a plea of guilty to 2 counts of the indictment and was sentenced to 2 years' imprisonment and a suspended sentence of 5 years; the other defendant, Roy W. Adams, has entered a plea of not guilty.<sup>1a</sup>

In the *Jacobson* case the defendant was sentenced to a suspended term of 2 years and 3 years' probation on each of 17 counts, the sentences to run concurrently, upon his conviction of charges in an information that he violated the anti-fraud provisions of the Securities Act and the Mail Fraud Statute and filed false statements with the Securities and Exchange Commission.<sup>2</sup>

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<sup>1</sup> Subsequent to the end of the fiscal year the remaining defendant, Hugh Van Valkenburgh, entered a plea of *nolo contendere* to four counts of indictment and was fined \$11,500 plus costs and was sentenced to three years' imprisonment on each count, the sentences to run concurrently. Execution of the sentence was suspended and the defendant was placed on probation for three years.

<sup>1a</sup> Subsequent to the end of the fiscal year Adams was convicted on one count of the indictment and sentenced to a term of 18 months.

<sup>2</sup> 18 U. S. C. § 1001.

In the *Shoemaker* case the indictment charges that the defendants misrepresented that funds deposited with the U. S. Trust and Guaranty Company were insured and guaranteed up to \$10,000 by 100% reserves and that financial statements supplied to customers and prospective customers contained a true and correct statement of the financial condition of the company. The indictment further charged that the defendants made false statements concerning the use to be made of funds deposited with the company, made false and misleading entries in the books of the company, and obtained false appraisals of real estate owned by the company.

Frauds by broker-dealers were charged in the indictments in *U. S. v. Charles M. Graves* (D. Alaska) and *U. S. v. Branch J. Carden, Jr.* (W. D. Va.). In the *Graves* case the defendants Graves and The Locators, Inc. pleaded guilty to various counts of an indictment charging violations of the broker-dealer registration requirements of the Securities Exchange Act and violations of the anti-fraud provisions of that Act. Both the Locators, Inc. and Graves were fined \$250 and, in addition, Graves received a 6-month suspended sentence.

In the *Carden* case the defendant pleaded guilty to an indictment that charged him, among other things, with accepting payment for securities and, by written confirmation, representing to customers that the securities had been purchased and would be delivered to them in accordance with customs and practices of the business when, in fact, the defendant converted the customers' funds to his own use. The indictment also charged the defendant with accepting securities from customers to be sold for the customers' accounts and with converting such securities to his own use. The indictment charged further that, for the purpose of deceiving the customers and concealing from them the scheme to defraud, the defendant intentionally refrained from recording certain transactions in his books and records. The defendant was sentenced to two years' imprisonment.

Sentences ranging from 2 years' probation to 12 months' imprisonment were imposed upon *Sidney Barclay* (E. D. Mich.) and six other defendants following their pleas of guilty to one count of an indictment charging violations of the broker-dealer registration provisions of the Securities Exchange Act. According to the indictment, investors in the United States were solicited by the defendants through the mails and by long distance telephone from Montreal, Canada, to purchase from T. M. Parker, Inc., shares of stock of various Canadian corporations, at a time when T. M. Parker, Inc. was not registered as a broker-dealer with the Commission in accordance with the requirements of the Securities Exchange Act.<sup>3</sup>

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<sup>3</sup>The enforcement problems arising in connection with fraudulent promotions originating in Canada are discussed in detail in previous annual reports. See, for example,

In *U. S. v. Jesse S. Gill, et al.* (N. D. Georgia), convictions were obtained against two of the defendants on all counts of an indictment charging that the defendants induced Paleo Oil & Gas Corp. to retain their firm as an underwriter for an offering of shares of the corporation, and the defendants converted to their own use a sum of money advanced for expenses and maintained fraudulent records to conceal their actual disbursements in connection with the offering of the Paleo stock. Sentences of imprisonment for a term of one year were imposed, but execution of the sentences was suspended and the defendants were placed on probation for five years on condition that restitution be made in the sum of \$2,000 for each defendant. The case was dismissed as to the one remaining defendant.

In *U. S. v. David L. Shindler et al.* (S. D. N. Y.), the indictment charges that the defendants conspired to defraud purchasers of stock of Jerry O'Mahoney, Inc. by manipulative practices which artificially raised the market price of the stock and maintained the artificial price. The practices alleged include the buying of large amounts of stock through dummy accounts, inducing others to buy on the American Stock Exchange by promises to sell additional shares off the exchange at a price below the exchange price, and by purchasing large amounts of stock off the exchange to prevent such stocks being sold on the exchange and thereby depressing the price. In addition, the indictment charges that the defendants engaged in a scheme to defraud purchasers of the stock by omitting to state that the exchange price had been artificially raised and maintained by the manipulative practices of the defendants.

An indictment was returned charging *Edward J. Vitale* (E. D. Mich.) with violating the anti-fraud provisions of the Securities Act and the Mail Fraud Statute in connection with his activities as manager of a branch office of a Boston broker-dealer firm registered with the Commission. The indictment alleges that the defendant, after gaining the trust and confidence of certain customers, induced them to sell their holdings of investment company securities and turn the proceeds over to him by falsely representing that such funds would be invested in various profit-sharing ventures, such as the purchase, renovation and resale of houses, and the development of residential building projects and other business enterprises in which the defendant was engaged when, in fact, such projects were either not in existence or the defendant was not a participant therein.

In *U. S. v. Paul H. Collins* (S. D. Ill.), the indictment charged that the defendant, while acting as a branch manager for a broker-dealer, not only defrauded customers of the company, but also defrauded the company itself. The indictment alleged that Collins

engaged in fraudulent and fictitious transactions in securities with customers and made fraudulent representations and promises concerning such transactions and the handling of customers' funds. Shortly after the end of the fiscal year Collins pleaded guilty to ten counts of the indictment. The imposition of sentence was suspended and Collins was placed on probation for three years.

Fraud in connection with the delivery of forged and counterfeit securities was charged in the indictment in *U. S. v. Albert Hefferan* (W. D. Mich.). The indictment alleged that, as a part of a scheme to defraud, the defendant placed a series of newspaper advertisements soliciting investors to advance sums of money. It was alleged that these advertisements represented that the defendant would furnish collateral described as "listed, high-grade securities" and "grade-A negotiable listed securities" having values substantially in excess of the amounts of the investments solicited and that the defendant did not intend to and did not pledge genuine securities as collateral but, on the contrary, delivered forged securities which he falsely represented to be genuine. Hefferan pleaded guilty to five counts of the indictment and, shortly after the close of the fiscal year, was sentenced to three years' imprisonment.

In *United States v. Edgar Robert Errion et al.* (D. Oregon), sentences were imposed on the defendants who had previously pleaded guilty or had been convicted on an indictment charging violations of the anti-fraud provisions of the Securities Act, as well as the Mail Fraud and Conspiracy statutes. Errion, who pleaded guilty to two counts of the indictment, received a sentence of three years' imprisonment on each count. He also entered a guilty plea to two counts of another indictment charging violations of the same statutes in the sale of membership certificates of Beaver Plywood Cooperative and Co-op Loggers, and was sentenced to a term of three years on each of those counts. All the sentences are to run consecutively, making Errion's sentence a total of 12 years. Five other defendants, who had previously been convicted after a trial lasting three weeks, were sentenced to terms ranging from one year to seven years. One of these defendants, Helen A. Davenport, filed an appeal and subsequent to the end of the fiscal year her conviction was affirmed by the Court of Appeals for the Ninth Circuit.

A fine of \$1,000 was imposed upon *Christopulos & Nichols Brokerage Company* and fines of \$500 each were imposed upon Plato G. Christopulos and Louis P. Nichols upon their being adjudged in criminal contempt for violation of an injunction prohibiting, among other things, the defendant brokerage company, its officers, agents, employees and assigns from further violating the provisions of Sections 7 (a) and 17 (a) of the Securities Exchange Act, Section 4 (c) of Regulation T adopted by the Federal Reserve Board, and Rules 15C1-4 and 17A-3 adopted by the Commission under the Secu-

urities Exchange Act.<sup>4</sup> These provisions prohibit the extension of credit, without an authorized extension, by a brokerage firm for more than seven days from the date of a transaction; the use of the mails in connection with an over-the-counter securities transaction unless, in confirmation thereof, there has been a disclosure by the broker of his role with respect to all the parties; and the over-the-counter sale of securities while the broker is not in compliance with the Commission's bookkeeping and record requirements.

An indictment for "bail jumping"<sup>5</sup> was returned against *Donald F. Thayer* (D. Mass.), who has been a fugitive since his release in July 1953 on \$10,000 bail following an indictment charging him and others with violating the anti-fraud provisions of the Securities Act, as well as the Mail Fraud and Conspiracy Statutes. This is reported to be the first indictment of this type returned in the District of Massachusetts.

The United States Court of Appeals for the Second Circuit affirmed a conviction for securities fraud, mail fraud and conspiracy of *Walter F. Tellier*, head of Tellier and Company, formerly a New York securities dealer (255 F. 2d 441 (1958)). Tellier and his co-defendants Elton B. Jones and Albert Joseph Proctor had been found guilty of all 36 counts of an indictment following a trial lasting seven weeks in the United States District Court in Brooklyn, New York. The charges related to fraud in connection with the sale of 4 series of debentures of the Alaska Telephone Corporation, totalling approximately \$900,000. The evidence had disclosed that under Tellier's direction and supervision Tellier and Company engaged in a boiler-room securities sales operation, employing a large number of high-pressure telephone salesmen and deceptive printed material. Tellier had been sentenced to four and one-half years' imprisonment and fined a total of \$18,000.<sup>6</sup> Still pending against Tellier are two indictments charging fraud in the sale of more than 19,000,000 shares of stock of a number of uranium mining corporations.

Convictions for violations of the anti-fraud provisions of the Securities Act were affirmed in *Wilson H. Walters, et al. v. United States*, 256 F. 2d 840 (C. A. 9, 1958), *Arthur V. Donaldson v. United States*, 248 F. 2d 364 (C. A. 9, 1957),<sup>7</sup> and *Richard W. Bowler v. United States*, 249 F. 2d 806 (C. A. 9, 1957). In both the *Donaldson* case and the *Walters* case the appellants had been convicted in connection with insurance company promotions. In the *Bowler* case

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<sup>4</sup> The broker-dealer registration of *Christopoulos & Nichols Brokerage Company* was subsequently revoked by the Commission. Securities Exchange Act Release No. 5703 (May 27, 1958).

<sup>5</sup> 18 U. S. C. Sec. 3246.

<sup>6</sup> After the close of the fiscal year the Supreme Court denied a petition for certiorari filed by Tellier in this case.

<sup>7</sup> Petitions for certiorari were denied in each of these cases.

the appellant had sold stock of a warehouse and storage company.<sup>8</sup>

The appeal of Homer W. Snowden from his conviction for fraud (E. D. Ill.) in the sale of oil and gas interests was dismissed on the motion of his counsel. Additional details concerning this case are contained on pages 172-73 of the 23rd Annual Report.

#### DISCIPLINARY PROCEEDINGS AGAINST PERSONS PRACTICING BEFORE THE COMMISSION

In a private investigation to determine whether Union Electric Company and certain other persons directly or indirectly made political contributions in violation of section 12 (h) of the Public Utility Holding Company Act of 1935, William A. Dougherty, an attorney, testified under oath with respect to the circumstances relating to a check for \$5,000 which was drawn by him to his order and endorsed by him and was deposited in a private bank account of Orville E. Hodge, then Auditor of Public Accounts of the State of Illinois. Dougherty at first testified that the check represented a loan to a "friend" who was not a public official and whom he refused to identify, and indicated that he did not know how the check had reached Hodge's account. Later he was recalled and he again refused to identify the recipient of the check, claiming his privilege against self-incrimination. He was directed to answer pursuant to the immunity provision of section 18 (e) of the Act, whereupon he identified the person for whom he issued the check as Hodge and disclosed other information which directly contradicted his prior sworn testimony.

Private proceedings were instituted pursuant to rule II (e) of the Commission's Rules of Practice to determine whether Dougherty should be temporarily or permanently denied the privilege of practicing before the Commission. After a private hearing the Commission issued its opinion<sup>9</sup> in which it found that Dougherty's sworn testimony contained false and misleading statements and that in giving such testimony he had engaged in improper professional conduct. It ordered that Dougherty be denied the privilege of practicing before the Commission until he obtained the Commission's approval. Subsequently, Dougherty filed an application for reinstatement, and the Commission, giving consideration to his age, the fact that he had engaged in active and substantial practice for 38 years without having been involved in any other case of improper professional conduct, the serious financial loss resulting from his disqualification, his

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<sup>8</sup> For additional details concerning the *Walters* case see page 173 of the 23rd Annual Report; for additional details concerning the *Donaldson* and *Bowler* cases see page 198 of the 22nd Annual Report.

<sup>9</sup> Holding Company Act Release No. 13567 (October 18, 1957).

expression of contrition and his representation that his future professional conduct would be beyond question, readmitted him to practice before it.<sup>10</sup>

On May 5, 1957, the Commission pursuant to rule II (e) of its Rules of Practice instituted private proceedings against Morris Mac Schwebel, a New York attorney, to determine whether he should be temporarily or permanently denied the privilege of practicing before the Commission because of unethical and improper professional conduct in connection with his representation of clients before the Commission.

Schwebel filed a complaint in the District Court for the District of Columbia for a preliminary injunction and temporary restraining order enjoining the members of the Commission from prosecuting disciplinary proceedings against him. In granting the Commission's motion to dismiss the complaint, the District Court held that, because of the particular delicacy of an attorney's good reputation, it had jurisdiction to determine whether the Commission had authority to maintain the rule II (e) proceeding without first requiring Schwebel to exhaust his administrative remedies, but that under the Commission's general statutory powers to prescribe rules necessary for the execution of its functions the Commission has implied authority to establish qualifications for attorneys practicing before it and to take disciplinary action against those found guilty of unethical professional conduct. The Court further held that the Commission had not violated section 9 (b) of the Administrative Procedure Act in instituting the proceeding without first giving Schwebel an opportunity to demonstrate or achieve compliance.<sup>11</sup>

An appeal was taken by Schwebel to the Court of Appeals for the District of Columbia Circuit which, in a *per curiam* decision, affirmed the decision of the District Court, stating, "though we think the District Court was right in dismissing the complaint, we think the plaintiff failed to exhaust his administrative remedy and the court therefore erred in ruling on the Commission's authority to disbar attorneys."<sup>12</sup> Schwebel filed a petition for writ of certiorari which was denied on April 7, 1958.<sup>13</sup>

The Commission's administrative proceeding under rule II (e) was pending at the close of the fiscal year.

### COMPLAINTS AND INVESTIGATIONS

The statutes administered by the Commission specifically authorize investigations to determine whether violations of their provisions

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<sup>10</sup> Holding Company Act Release No. 13716 (April 2, 1958).

<sup>11</sup> *Schwebel v. Orrick et al.*, 153 F. Supp. 701 (1957).

<sup>12</sup> *Schwebel v. Orrick et al.*, 251 F. 2d 919 (C.A. D.C. 1958).

<sup>13</sup> *Schwebel v. Orrick et al.*, 356 U.S. 927.

have occurred. The nine regional offices, with the assistance of their branch offices, are chiefly responsible for the conduct of such investigations. The Division of Trading and Exchanges, which exercises general supervision over, and coordination of, regional office investigative activities, examines and analyzes the results of investigations periodically and recommends appropriate action to the Commission, giving serious consideration in each case to the recommendation of the regional office.

Complaints or inquiries from the investing public are a major source of information leading to investigations. If, after careful consideration of the information received from these or other sources, it appears that violations may have occurred, a preliminary investigation may be made. In some cases the preliminary investigation will disclose a violation due to ignorance of the law or some misunderstanding and, where no serious harm to the public is involved, no further action is ordinarily taken, except to inform the offender of the violation and to insure that steps are taken for future compliance.

However, if the preliminary investigation indicates a more serious violation or the need to acquire more facts, the case is docketed and a full investigation is made, sometimes involving the issuance by the Commission of a formal order of investigation appointing members of its staff as officers to issue subpoenas and take testimony under oath. During the year, seventy-six formal orders of investigation were issued. Care is exercised by the Commission and its staff to keep investigations private until some official action is taken by the Commission. The non-public nature of the investigation serves to protect innocent parties who may be involved and contributes largely to the effectiveness of such investigations.

After an investigation has been completed and reviewed by both the regional office concerned and the Division of Trading and Exchanges, a report of the investigation prepared by the regional office is submitted to the Commission for decision together with the recommendations of the regional and principal office. The Commission then has several courses of action available to it.

If it decides the public interest requires criminal action be taken, the Commission may refer the evidence to the Department of Justice. In such a case members of the staff most familiar with the situation assist the Department of Justice and the United States Attorney assigned to the matter in presentation of the case to the Grand Jury and, where an indictment is returned, with the prosecution of the case. At other times the Commission may, when such action is warranted, authorize institution of a civil proceeding for injunctive relief or institute administrative proceedings.



The Commission may, if it considers it appropriate, close the investigation. A case may be closed when all possible legal steps have been taken or when any action taken would be ineffective; for example, when the subject has fled the country with little chance of his return or when the damage is so slight that further action is not warranted. Before a case is closed, however, it is carefully examined by both the staff of the regional office concerned and the staff of the principal office to determine if any other course of action is practical or warranted before closing is recommended to the Commission.

The following table reflects in summarized form the investigative activities of the Commission during the fiscal year:

*Investigations of possible violations of the Acts administered by the Commission*

	Preliminary	Docketed	Total
Pending June 30, 1957.....	250	736	986
New cases.....	157	290	447
Transferred from preliminary.....		35	35
Total.....	407	1,061	1,468
Closed.....	181	293	474
Transferred to docketed.....	35		35
Pending at June 30, 1958.....	191	768	959

**ENFORCEMENT PROBLEMS WITH RESPECT TO CANADIAN SECURITIES**

The Commission continues to be confronted with serious enforcement problems arising from the offer and sale of securities by Canadian issuers and broker-dealers in violation of the registration provisions of the Securities Act. Solution of these problems remains difficult since the Commission is without authority to conduct investigations outside the United States and the evidence necessary to establish proof of such violations in most of these cases, as well as the violators, are usually located in a foreign country, beyond our subpoena power. However, action is taken by the Commission to prohibit such violations in cases where personal service can be obtained in the United States.

The problems arising under the Supplementary Extradition Convention between the United States and Canada and the narrow construction placed on this agreement by Canadian courts were discussed in the 22nd Annual Report. Negotiations seeking to solve this problem are continuing through appropriate diplomatic channels.

In the meantime, effective enforcement work in this area is dependent almost wholly upon cooperation between this Commission and the Canadian provincial enforcement authorities. There is no Do-

minion securities legislation, but each Province has its own legislation. In general excellent cooperation has been obtained during the fiscal year from the Provinces in the enforcement work of the Commission. Upon being supplied by this Commission with evidence that Canadian residents were engaged in violating the laws of the United States some of the Provinces have taken action under their respective statutes. The Canadian registrations of six broker-dealers were canceled or suspended by provincial authorities during the past fiscal year following receipt of information supplied by this Commission.

With the cooperation of Canadian authorities this Commission brought three injunctive actions during the past fiscal year based upon the illegal sale of Canadian securities in the United States. Additional details concerning these actions, in *S. E. C. v. James C. Graye, doing business as J. C. Graye Co. et al.*, *S. E. C. v. Alan Russell Securities, Inc.*, and *S. E. C. v. J. H. Lederer Co., Inc.*, are described above in the section on Litigation under the Securities Act of 1933.<sup>14</sup> Further proceedings were also had in the case of *S. E. C. v. Kaiser Development Corporation Limited and E. David Novelle*, referred to in the 23rd Annual Report.<sup>15</sup> Permanent injunctions were issued by the court, restraining the defendants from further violations of the registration and anti-fraud provisions of the Securities Act.

The Commission continues to maintain its "Canadian Restricted List," which is a list of the names of Canadian issuers whose securities the Commission has reason to believe recently have been, or currently are being, offered and sold in the United States in violation of the Securities Act of 1933. The list is designed to warn investors of the possible risks involved in their purchase of unregistered Canadian securities and to alert broker-dealers to possible illegal distributions of Canadian securities so they may avoid participation in such distributions.

Names are added to and deleted from this list as circumstances warrant. During the fiscal year 1958, fourteen supplements were issued which added fifty names to the list and deleted two others. On May 5, 1958, the Canadian Restricted List was revised and consolidated, resulting in the deletion of the names of seventy-nine companies concerning whose securities the Commission had no evidence of a public offering and sale in the United States during the last five years.<sup>16</sup> In many instances, the companies were no longer in existence. This list as presently constituted, totals 201 names.

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<sup>14</sup> Pp. 51-53, *supra*.

<sup>15</sup> P. 56.

<sup>16</sup> Securities Act Release No. 3924.

The current list, reflecting additions and deletions to December 1, 1958, follows:

**CANADIAN RESTRICTED LIST**

Aero Mining Corporation	DeVille Copper Mines Limited
Alba Explorations Limited	Diadem Mines Limited
Aldor Exploration and Development Company Limited	Dolmac Mines Limited
Algro Uranium Mines Limited	Dolsan Mines Limited
A. L. Johnson Grubstake	Dubar Exploration Limited
Alouette Mines Limited	Dupont Mining Company Limited
Alscope Explorations, Inc.	Eagle Plains Explorations Limited
Amican Petroleum and Natural Gas Corporation Limited	East Trinity Mining Corporation
Anthony Gas and Oil Explorations Limited	Eastern-Northern Explorations Limited
Apollo Mineral Developers Inc.	Embassy Mines Limited
Atlas Gypsum Corporation Limited	Explorers Alliance Limited
Augdome Exploration Limited	Export Nickel Corporation of Canada Limited
Barite Gold Mines Ltd.	Falgar Mining Corporation Limited
Basbary Gold Mines Limited	Famous Gus Uranium Mines Limited
Basic Minerals Limited	Fleetwood Yellowknife Mines Limited
Beaucoeur Yellowknife Mines Limited	Forbes Lake Mining Corporation Limited
Bellechasse Mining Corporation Limited	Glacier Explorers Ltd.
Black Crow Mines Limited	Golden Hope Mines Limited
Bli-Riv Uranium and Copper Corporation Limited	Granwick Mines Limited
Blumont Mines Limited	Great Valley Exploration and Mining Limited
Britco Oils Limited	Halstead Prospecting Syndicate
Cabanga Developments Limited	Harvard Mines Limited
Calumet Uranium Mines Limited	Hercules Uranium Mines Limited
Cameron Copper Mines Limited	Hoover Mining and Exploration Limited
Camoose Mines Limited	Huddersfield Uranium and Minerals Limited
Canada Radium Corporation Limited	International Ceramic Mining Limited
Canadian Alumina Corporation Limited	Irando Oil and Exploration Limited
Canadian Natural Resources Limited	Jacobus Mining Corporation, Ltd.
Can American Copper Limited	Jilbie Mining Company Limited
Canso Mining Corporation Limited	Judella Uranium Mines Limited
Casa Loma Uranium Mines Limited	Kaiser Development Corporation Limited
Cavalcade Petroleums Limited	Kamis Uranium Mines Limited
Cavalier Mining Corporation Limited	Key West Exploration Company Limited
Centurion Mines Limited	Kirk-Hudson Mines Limited
Cessland Gas and Oil Corporation Limited	Lake Kingston Mines Limited
Colonial Asbestos Corporation Limited	Lake Otter Uranium Mines Limited
Comet Petroleums Limited	Lake Superior Iron Limited
Concor-Chibougamau Mines Limited	Lama Exploration and Mining Company Limited
Consolidated Easter Island Mines Limited	Lambton Copper Mines Limited
Consolidated Quebec Yellowknife Mines Limited	Landolac Mines Limited
Consolidated Thor Mines Limited	Langis Silver and Cobalt Mining Company Limited
Continental Consolidated Mines and Oils Corporation Limited	Lavandin Mining Company
Continental Mining Exploration Ltd.	Lee Gordon Mines Limited
Continental Uranium Corporation Limited	Lindsay Explorations Limited
Copper Island Mining Company Limited	Lithium Corporation of Canada Limited
Copper Prince Mines Limited	Loranda Uranium Mines Limited
Cordon Cobalt Mines Limited	Lucky Creek Mining Company Limited
Courageous Gold Mines Limited	Lynwatin Nickel Copper Limited
Cove Uranium Mines Limited	Madison Mining Corporation Limited
Cree Mining Corporation Limited	Mallen Red Lake Gold Mines Limited
David Copperfield Explorations Limited	Marian Lake Mines Limited
Demers Chibougamau Mines Limited	Marpic Explorations Limited
Dencroft Mines Limited	Marvel Uranium Mines Limited (formerly Marvel Rouyn Mines Limited)
Derogant Asbestos Corporation Limited	Masters Oil and Gas Limited
Desmont Mining Corporation Limited	Mercedes Exploration Company Limited
	Mexicana Explorations Limited

Mexuscan Development Corporation	Rockcroft Explorations Limited
Mid-West Mining Corporation Limited	Rouandah Oils and Mines Limited
Min-Ore Mines Limited (formerly Ryan Lake Mines Limited)	Saskalon Uranium & Oils Limited
Monpre Mining Company Limited	Sastex Oil and Gas Limited
Monpre Uranium Exploration Limited	Sentry Petroleums Limited
Montclair Mining Corporation Limited	Sheba Mines Limited
Montco Copper Corporation Limited	Sheraton Uranium Mines Limited
Nationwide Minerals Limited	Shoreland Mines, Ltd.
Nealon Mines Limited	Skyline Uranium and Minerals Corporation Limited
New Campbell Island Mines Limited	St. Pierre & Miquelon Explorations Inc.
New Faulkenham Mines Limited	St. Stephen Nickel Mines Limited
New Goldvue Mines Limited	Stackpool Mining Company Limited
New Hamil Silver-Lead Mines Limited	Sudbay Explorations and Mining Limited
New Jack Lake Uranium Mines Limited	Surety Oils and Minerals Limited
New Lafayette Asbestos Company Limited	Tamara Mining Limited
New Metalore Mining Company Limited	Tamicon Iron Mines Limited
New Spring Coulee Oil and Minerals Limited	Taurcanis Mines Limited
New Vinray Mines Limited	Temanda Mines Limited
Norcopper and Metals Corporation	Three Arrows Mining Explorations Limited
Normalloy Explorations Limited	Titan Petroleum Corporation Limited
Normingo Mines Limited	Torbrook Iron Ore Mines Limited
Norseman Nickel Corporation Limited	Trenton Mines Limited
North American Asbestos Co. Limited	Trio Mining Exploration Limited
North Gaspé Mines Limited	Trio Uranium Mines Limited
Northwind Explorations Limited	Triton Mines and Metals Corporation Limited
Nortoba Mines Limited	Triton Uranium Mines Limited
Nortoba Nickel Explorations Limited	Trojan Consolidated Mines Limited
Nu-Reality Oils Limited	United Copper and Mining Limited
Nu-World Uranium Mines Limited	United Uranium Corporation Limited
Oakridge Mining Corporation Limited	Val Jon Exploration Limited
Obabika Mines Limited	Valray Explorations Limited
Ordala Mines Limited	Vanguard Exploration Ltd.
Pantan Mines Limited	Venus Chibougamau Mines Limited
Paramount Petroleum and Mineral Corporation Limited	Vico Explorations Limited
Plexterre Mining Corporation Limited	Virginia Mining Corp.
Principle Strategic Minerals Limited	Viscount Oil & Gas Limited
Purdex Minerals Limited	Wakefield Uranium Mines Limited
Quebank Uranium Copper Corporation	Wayne Petroleums Limited
Quebec Developers and Smelters Limited	Webbwood Exploration Company Limited
Quebec Graphite Corporation	Westore Mines Limited
Quinalta Petroleum Limited	West Plains Oil Resources Limited
Regal Minerals Limited	Westville Mines Limited
Resolute Oil and Gas Company Limited	Whitney Uranium Mines Limited
Ridgefield Uranium Mining Corporation Limited	Winston Mining Corporation Limited
Riobec Mines Limited	Woodgreen Copper Mines Limited

### SECTION OF SECURITIES VIOLATIONS

A Section of Securities Violations is maintained by the Commission as a part of its enforcement program to provide a further means of detecting and preventing fraud in securities transactions. The Section maintains files providing a clearing house for other enforcement agencies for information concerning persons who have been charged with violations of various Federal and State securities statutes. Considerable information is also available concerning violators resident in the provinces of Canada. The specialized information in these files

is kept current through the cooperation of the United States Post Office Department, the Federal Bureau of Investigation, parole and probation officials, State securities authorities, Federal and State prosecuting attorneys, police officers, better business bureaus, chambers of commerce and other agencies. At the end of the fiscal year these records contained information concerning 65,563 persons against whom Federal or State action had been taken in connection with securities violations. In keeping these records current, there were added during the fiscal year items of information concerning 8,942 persons, including 2,959 persons not previously identified in these records.

The Section issues and distributes quarterly a Securities Violations Bulletin containing information received during the period concerning violators and showing new charges and developments in pending cases. The Bulletin includes a "Wanted" section listing the names and references to bulletins containing descriptive information as to persons wanted on securities violations charges. The Bulletin is distributed to a limited number of cooperating law enforcement officials in the United States and Canada.

Extensive use is made of the information available in these records by regulatory and law enforcing officials. During the past year the Commission received 3,475 "securities violations" letters or reports and dispatched 1,633 communications to cooperating agencies.

#### **ACTIVITIES OF THE COMMISSION IN ACCOUNTING AND AUDITING**

Successive reports of the Commission have called attention to the fact that the detailed provisions of the several acts administered by the Commission recognize the importance of dependable informative financial statements which disclose the financial status and earnings history of a corporation or other commercial entity. These statements, whether filed in compliance with the statutes administered by the Commission or included in other material available to stockholders or prospective investors, are indispensable to investors as a basis for investment decisions.

The Congress recognized the importance of these statements and that they lend themselves readily to misleading inferences or even deception, whether or not intended. It accordingly dealt extensively in the several statutes administered by the Commission with financial statement presentation and the disclosure requirements necessary to set forth fairly the financial condition of the company. Thus, for example, the Securities Act requires the inclusion in the prospectus of balance sheets and profit and loss statements "in such form as the Commission shall prescribe"<sup>17</sup> and authorizes the Commission to pre-

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<sup>17</sup> Section 10(a)(1). (Schedule A, pars. 25, 26).

scribe the "items or details to be shown in the balance sheet and earnings statement, and the methods to be followed in the preparation of accounts \* \* \*." <sup>18</sup> Similar authority is contained in the Securities Exchange Act,<sup>19</sup> and more comprehensive power is embodied in the Investment Company Act<sup>20</sup> and the Holding Company Act.<sup>21</sup>

The Securities Act provides that the financial statements required to be made available to the public through filing with the Commission shall be certified by "an independent public or certified accountant."<sup>22</sup> The other three statutes permit the Commission to require that such statements be accompanied by a certificate of an independent public accountant,<sup>23</sup> and the Commission's rules require, with minor exceptions, that they be so certified. The value of certification by qualified accountants has been conceded for many years, but the requirement as to independence, long recognized and adhered to by some individual accountants, was for the first time authoritatively and explicitly introduced into law in 1933. Out of this initial provision in the Securities Act and the rules promulgated by the Commission,<sup>24</sup> and the action taken by the Commission in certain cases,<sup>25</sup> have grown concepts of accountant-client relationships that have strengthened the protection given to investors.

The Commission's standards of independence are stated in rule 2-01, paragraphs (b) and (c), of Regulation S-X which provides among other things that "an accountant will be considered not independent with respect to any person or any of its parents or subsidiaries in whom he has, or had during the period of report, any direct financial interest or any material indirect financial interest; or with whom he is, or was during such period, connected as a promoter, underwriter, voting trustee, director, officer or employee."<sup>26</sup> In determining whether an accountant may in fact be not independent with respect to a particular person, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliate thereof.

In the recent revision of this rule the Commission has recognized the impact of mergers and the growth of corporations through widespread affiliations. The emphasis in the rule has been changed to

<sup>18</sup> Section 19 (a).

<sup>19</sup> Section 13 (b).

<sup>20</sup> Sections 30, 31.

<sup>21</sup> Sections 14, 15.

<sup>22</sup> Section 10 (a) (1) (Schedule A, paragraphs 25, 26).

<sup>23</sup> Securities Exchange Act, section 13 (a) (2); Investment Company Act, Section 30 (e); Holding Company Act, section 14.

<sup>24</sup> See, for example, rule 2-01 of Regulation S-X.

<sup>25</sup> See, for example, Securities Exchange Act Release No. 3073 (1941); 10 S. E. C. 982 (1942); and Accounting Series Release No. 68 (1949).

<sup>26</sup> Rule 2-01 of Regulation S-X as amended April 8, 1958. See Accounting Series Release No. 79.

make it clear that where the relationships described in the rule exist the Commission will find that an accountant is in fact not independent with respect to the company involved, but in those instances where lack of independence is not established the Commission will make no finding with respect to the accountant's independence.

Several situations, described in the 22nd and 23rd Annual Reports, in which accountants were not eligible under our rules to certify financial statements because they were lacking in independence continue to cause difficulty. In many of these instances the accountants and their clients were coming in contact with the Commission's filing requirements for the first time and the reason for the lack of independence was ownership by a member of the accounting firm of stock of the client company during some of the periods certified. In other cases the accountant or his firm may have been interested in serving the client's management, or in some cases large stockholders, in several capacities and in doing so had not taken care to maintain a clear distinction between giving advice to management and serving as personal representatives of management or owners in making business decisions for them. Many of these problems could be avoided if the accountants would look forward to the day when the public interest in their clients would require certification of financial statements by independent public accountants.

As shown above, the statutes administered by the Commission give it broad rule-making power with respect to the preparation and presentation of financial statements. Pursuant to authority contained in the statutes the Commission has prescribed uniform systems of accounts for companies subject to the Holding Company Act;<sup>27</sup> has adopted rules under the Securities Exchange Act governing accounting and auditing of securities brokers and dealers; and has promulgated rules contained in a single, comprehensive regulation, identified as Regulation S-X,<sup>28</sup> which govern the form and content of financial statements filed in compliance with the several acts. This regulation is implemented by the Commission's Accounting Series releases, of which 80 have so far been issued. These releases were inaugurated in 1937, and were designed as a program for making public, from time to time, opinions and accounting principles, for the purpose of contributing to the development of uniform standards and practice in major accounting questions. The rules and regulations thus established, except for the uniform systems of accounts, prescribe accounting to be followed only in certain basic respects.

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<sup>27</sup> *Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies* (effective August 1, 1936); *Uniform System of Accounts for Public Utility Holding Companies* (effective January 1, 1937; amended effective January 1, 1943).

<sup>28</sup> Adopted February 21, 1940 (Accounting Series Release No. 12); revised December 20, 1950 (Accounting Series Release No. 70).

In the large area not covered by such rules, the Commission's principal reliance for the protection of investors is on the determination and application of accounting principles and auditing standards which are recognized as sound and which have attained general acceptance.

Since changes and new developments in financial and economic conditions affect the operations and financial status of the several thousand commercial and industrial companies required to file statements with the Commission, accounting and auditing procedures cannot remain static and continue to serve well a dynamic economy. It is necessary for the Commission to be informed of the changes and new developments in these fields and to make certain that the effects thereof are properly reported to investors. The Commission's accounting staff, therefore, engages in studies of the changes and new developments for the purpose of establishing and maintaining appropriate accounting and auditing policies, procedures and practices for the protection of investors. The primary responsibility for this program rests with the chief accountant of the Commission who has general supervision with respect to accounting and auditing policies and their application.

Progress in these activities requires constant contact and cooperation between the staff and accountants both individually and through such representative groups as, among others, the American Accounting Association, the American Institute of Certified Public Accountants, the American Petroleum Institute, the Controllers Institute of America, the National Association of Railroad and Utilities Commissioners, the National Federation of Financial Analysts Societies, as well as other government agencies. Recognizing the importance of cooperation in the formulation of accounting principles and practices, adequate disclosure and auditing procedures which will best serve the interests of investors, the American Institute of Certified Public Accountants, the Controllers Institute of America, and the National Federation of Financial Analysts Societies regularly appoint committees which maintain liaison with the Commission's staff.

The many daily decisions of the Commission require the almost constant attention of some of the chief accountant's staff. These include questions raised by each of the operating divisions of the Commission, the regional offices and the Commission. This day-to-day activity of the Commission and the need to keep abreast of current accounting problems cause the chief accountant's staff to spend much time in the examination and re-examination of sound and generally accepted accounting and auditing principles and practices. From time to time members of this staff are called upon to assist in field investigations, to participate in hearings and to review opinions, insofar as they pertain to accounting matters.



Profiling and other conferences, in person or by telephone, with officials of corporations, practicing accountants and others, occupy a considerable amount of the available time of the staff. This procedure, which has proven to be one of the most important functions of the office of the chief accountant, and of the chief accountant of the Division of Corporation Finance and his staff, saves registrants and their representatives both time and expense.

Many specific accounting and auditing problems arise as a result of the examination of financial statements required to be filed with the Commission. Where examination reveals that the rules and regulations of the Commission have not been complied with or that applicable generally accepted accounting principles have not been adhered to, the examining division usually notifies the registrant by an informal letter of comment. These letters of comment and the correspondence or conferences that follow continue to be a most convenient and satisfactory method of effecting corrections and improvements in financial statements, both to registrants and to the Commission's staff. Where particularly difficult or novel questions arise which cannot be settled by the accounting staff of the divisions and by the chief accountant, they are referred to the Commission for consideration and decision. By these administrative procedures the Commission deals with many accounting questions.

Inquiries in ever-increasing volume as to the propriety of particular accounting practices come from accountants and from companies not presently subject to any of the acts administered by the Commission who wish to have the benefit of the Commission's views and thus utilize and apply the Commission's experience to the facts of their own case. Teachers of accounting and their students also use the public files and confer with the staff in the study of accounting problems.

Cooperation between the Commission and professional groups interested in improving financial reporting has been mentioned. An example is the publication in April, 1958, by the Committee on Accounting Procedure of the American Institute of Certified Public Accountants of its Accounting Research Bulletin No. 49 dealing with a number of the problems arising in connection with the computation of earnings per share and the presentation of such statistics in prospectuses, proxy material and annual reports to shareholders and in the compilation of business earnings statistics for the press, statistical services and other publications.

Appropriate determination of earnings per share has been a frequent subject for comment by the staff in connection with filings with the Commission. A decrease in improper presentations since publication of the bulletin may fairly be credited in part to the wide

distribution of the bulletin. Such literature contributes to greater uniformity in financial reporting, improves investor understanding, and decreases staff time spent in processing material filed with the Commission.

A further example of the importance of cooperation between the staff and professional accounting organizations is found in the Commission's authorization for its chief accountant to serve as a member of the American Institute of Certified Public Accountants' Special Committee on Research Program. This committee, the other members of which are leaders of the accounting profession in public and private practice and in teaching, was appointed to consider a new approach to accounting research. Since investors in securities depend upon the results of the accounting process, it is appropriate that the Commission be represented in this endeavor to find a better means for the development of generally accepted accounting principles which serve as a guide for independent accountants practicing before the Commission.

Some significant characteristics of the past year in the accounting field may be mentioned. As in the prior two years, accounting for mergers has again required much staff time in conferences with registrants and their accountants. Usually the problem has been to determine the propriety of applying the pooling of interests concept which avoids the booking of goodwill by using the accounting basis of the constituent companies and permits the carrying forward of the earned surplus of the parties to the merger.

In contrast to this desire of established companies to avoid the recognition of intangibles is the insistence by promoters of new ventures to place excessive valuations on the books for both tangible and intangible properties. Examples during the past year have been reminiscent of the early days of the Commission when it was found necessary to deal vigorously with promotional ventures in which shares of the issuer's stock were exchanged for assets of doubtful value but were recorded at the par value of the shares issued. For an example of this kind see the discussion of the Commission's decision *In the Matter of the Fall River Power Company*<sup>29</sup> at page 39 of this report.

Another characteristic of the past year has been the number of cases coming to the attention of our accountants in which a change in accounting policy has been adopted or desired. Where a change has appeared to be motivated by a desire to improve current earnings by deferring the expensing of incurred costs, we have objected unless it could be shown that the new method was clearly in the interest of improved financial reporting in the long run. Accounting for

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<sup>29</sup> Securities Act Release No. 3932 (June 4, 1958).

research and development costs for new products or expansion into new sales territories are examples of this problem which require further study.

Of a somewhat different order but a problem requiring further study is the matter of accounting for pensions and other forms of deferred compensation. There are so many difficulties in the way of determining the amounts involved and the proper allocation of such costs to accounting periods that a considerable lack of uniformity in accounting treatment persists between companies and between periods in the same company. Improvement in reported earnings resulting from omission of any charge for pensions is an extreme example of the problem which seems to be vulnerable to severe criticisms but which has been defended when pensions have been overfunded in prior years. These and other problems in the reporting of corporate income are receiving active consideration by the accounting profession and by the Commission's accounting staff.

#### OPINIONS OF THE COMMISSION

Opinions are issued by the Commission in contested and other cases arising under the statutes administered by it and under the Commission's Rules of Practice, where the nature of the matter to be decided, whether substantive or procedural, is of sufficient importance to warrant a formal expression of views. These opinions include detailed findings of fact and conclusions of law based on evidentiary records taken before a hearing examiner who serves independently of the operating divisions, or, in an occasional case, before a single Commissioner or the entire Commission. In some cases, formal hearings are waived by the parties and the findings and conclusions are based on stipulated facts or admissions.

The Commission is assisted in the preparation of findings and opinions by its Office of Opinion Writing, a staff office completely independent of the operating divisions of the Commission and directly responsible to the Commission itself. The independence of the staff members of this office reflects the principle, embodied in the Administrative Procedure Act, of a separation between staff members performing investigatory or prosecutory functions and those performing quasi-judicial functions. In some cases, with the consent of all parties, the interested operating division participates in the drafting of opinions.

Opinions are publicly released and distributed to representatives of the press and to persons on the Commission's mailing list. In addition, the opinions are printed and published by the Government Printing Office in bound volumes entitled "Securities and Exchange Commission Decisions and Reports."

During the fiscal year 1958, the Commission issued findings and opinions and other rulings in 121 cases of an adversary nature.

## APPLICATIONS FOR NON-DISCLOSURE OF CERTAIN INFORMATION

The Commission is authorized under the various Acts administered by it to grant requests for non-disclosure of certain types of information which would otherwise be disclosed to the public in applications, reports or other documents filed pursuant to these statutes. Thus, under paragraph (30) of Schedule A of the Securities Act of 1933, disclosure of any portion of a material contract is not required if the Commission determines that such disclosure would impair the value of the contract and is not necessary for the protection of the investors. Under section 24 (a) of the Securities Exchange Act of 1934, trade secrets or processes need not be disclosed in any material filed with the Commission, and under section 24 (b) of that Act written objection to public disclosure of information contained in any such material may be made to the Commission which is then authorized to make public disclosure of such information only if in its judgment such disclosure is in the public interest. Similar provisions are contained in section 22 of the Public Utility Holding Company Act of 1935 and in section 45 of the Investment Company Act of 1940. These statutory provisions have been implemented by rules outlining the procedure to be followed by persons applying to the Commission for a determination that public disclosure is not necessary in a particular case.

The number of applications granted, denied or otherwise acted upon during the year are set forth in the following table :

*Applications for non-disclosure during 1958 fiscal year*

	Number pending July 1, 1957	Number received	Number granted	Number denied or withdrawn	Number pending June 30, 1958
Securities Act of 1933 <sup>1</sup> .....	2	20	16	4	2
Securities Exchange Act of 1934 <sup>2</sup> .....	3	16	7	8	4
Investment Company Act of 1940 <sup>3</sup> .....	0	6	6	0	0
Totals.....	5	42	29	12	6

<sup>1</sup> Filed under rule 485.

<sup>2</sup> Filed under rule 24b-2.

<sup>3</sup> Filed under rule 45a-1.

## STATISTICS AND SPECIAL STUDIES

The Section of Economic Research provides the Commission with statistical information needed in the administration of the Securities Acts and furnishes financial data to the Congress and other government agencies as part of the overall Government Statistical Program under the direction of the Bureau of the Budget.

The regular statistical series which are prepared include data on securities effectively registered under the Securities Act of 1933, offerings of securities by all corporations in the United States (including issues not registered with the Commission, such as privately placed issues and railroad securities), retirements of corporate securi-

ties, net change in corporate securities outstanding, stock prices and trading. The research and statistical activity carried out under the direction of the Bureau of the Budget includes individuals' saving in the United States, income flow and investments of private pension funds of United States corporations, current liquid position of United States corporations, sources and uses of corporate funds, anticipated expenditures for plant and equipment by United States businesses, and a quarterly financial report for all United States manufacturing concerns.

During the past year special effort was devoted to improvement in methodology and source data for several of these series. A special project was undertaken to re-examine the industrial classification of all listed companies to comply with the revised Standard Industrial Code of the Government, the revised codes for each company to be published during the 1959 fiscal year. Plans were also laid for a detailed survey of the assets and liabilities of all registered brokers and dealers in the United States. During the year data were prepared for two papers, the first of which was entitled "Implications of Pension Fund Accumulations" delivered in September, 1957, before the American Statistical Association, and the second of which was "The Structure and Realization of Business Investment Anticipations" presented in November, 1957, at the Conference on the Quality and Economic Significance of Anticipation Data, National Bureau of Economic Research. There was also participation during the year in plans of the National Bureau of Economic Research for a major study of the Nation's pension funds. Certain basic data derived from the Commission's surveys of corporate pension funds are to be provided in this study.

The statistical series described below are published in the Commission's Statistical Bulletin and in addition, except for data on registered issues, current figures and analyses of the data are published in quarterly press releases. The Commission's stock price index is released weekly, together with the data on round-lot and odd-lot trading on the two New York stock exchanges.

The various statistical series are as follows:

#### **Issues Registered Under the Securities Act of 1933**

Monthly and quarterly statistics are compiled on the number and volume of registered securities, classified by industry of issuer, type of security, and use of proceeds. Data for the 1958 fiscal year appear on page 30-32 and in appendix tables 1 and 2.

#### **New Securities Offerings**

This is a monthly and quarterly series covering all new corporate and non-corporate issues offered for cash sale in the United

States. The series includes not only issues publicly offered but also issues privately placed, as well as other issues exempt from registration under the Securities Act such as intrastate offerings and railroad securities. The offerings series includes only securities actually offered for cash sale, and only issues offered for account of issuers. Annual statistics on new offerings since 1953, as well as monthly figures from January 1957 through June 1958, are given in appendix tables 3 and 4. A summary of the data is shown annually from 1934 through June 1958 in appendix table 5.

#### **Corporate Securities Outstanding**

Estimates of the net cash flow through securities transactions are prepared quarterly and are derived by deducting from the amount of estimated gross proceeds received by corporations through the sale of securities the amount of estimated gross payments by corporations to investors for securities retired. Data on gross issues, retirements and net change in securities outstanding are presented for all corporations and for the principal industry groups.

#### **Stock Market Data**

Statistics are regularly compiled on the market value and volume of sales on registered and exempted securities exchanges, round-lot stock transactions of the New York exchanges for accounts of members and non-members, odd-lot stock transactions on the New York exchanges, special offerings and secondary distributions. Indexes of stock market prices are compiled, based upon the weekly closing market prices of 265 common stocks listed on the New York Stock Exchange. The indexes are composed of 7 major industry groups, 29 subordinated groups, and a composite group.

#### **Saving Study**

The Commission compiles quarterly estimates of the volume and composition of individuals' saving in the United States. The series represent net increases in individuals' financial assets less net increases in debt. The study shows the aggregate amount of saving and the form in which the saving occurred, such as investment in securities, expansion of bank deposits, increase in insurance and pension reserves, etc. The Commission has been cooperating in a program on national saving covering government, business and individuals' saving, and several changes and improvements have been made in the saving series in the course of the last fiscal year. A reconciliation of the Commission's estimates with the personal saving estimates of the Department of Commerce, derived in connection with its national income series, is published annually by the Commerce Department as well as in the Securities and Exchange Commission Statistical Bulletin.

**Corporate Pension Funds**

An annual survey is made of pension plans of all United States corporations where funds are administered by corporations themselves, or through trustees. The survey shows the flow of money into these funds, the types of assets in which the funds are invested and the principal items of income and expenditures.

**Financial Position of Corporations**

The series on working capital position of all United States corporations, excluding banks, insurance companies and savings and loan associations, shows the principal components of current assets and liabilities, and also contains an abbreviated analysis of the sources and uses of corporate funds.

The Commission, jointly with the Federal Trade Commission, compiles a quarterly financial report for all United States manufacturing concerns. This report gives complete balance sheet data and an abbreviated income account, data being classified by industry and size of company.

**Plant and Equipment Expenditures**

The Commission, together with the Department of Commerce, conducts quarterly and annual surveys of actual and anticipated plant and equipment expenditures of all United States business, exclusive of agriculture. Shortly after the close of each quarter, data are released on actual capital expenditures of that quarter and anticipated expenditures for the next two quarters. In addition, a survey is made at the beginning of each year of the plans for business expansion during that year.

**PUBLIC DISSEMINATION OF INFORMATION**

As indicated, one of the basic objectives of the Federal securities laws is the public disclosure of financial and other information with respect to securities so that they may be realistically appraised by the investing public. Not only is the Commission a repository for a vast amount of such information concerning several thousand companies which are subject to the Commission's registration and reporting requirements, but the data receive widespread circulation among members of the investing public through the medium of the prospectus on new issues, through the financial press and through various securities manuals and statistical services used extensively by securities firms, investment advisers, investment companies, trust departments, insurance companies and others. Thus, the analysis and evaluation of their securities by a broad segment of investors is made possible.

To facilitate public dissemination of financial and other proposals filed with and actions by the Commission, a daily News Digest is issued to the press containing a résumé of these filings and actions. For example, the News Digest contained a synopsis of each financing proposal reflected in the 779 registration statements filed during the year, as well as the 134 filings by investment companies increasing the amount of securities previously registered. Much of this information is published in the daily newspapers and in financial and other periodicals. Furthermore, most of the Commission's official pronouncements take the form of orders, decisions and rules, copies of which are issued in "release" form to mailing lists comprising the names of persons who have requested particular types of releases. During the year, a total of 800 such releases were issued and distributed to these lists; and a resume of each was included in the News Digest. Another 77 releases were issued announcing the results of the Commission's regular statistical studies referred to at page 188 hereof. An additional 173 releases were issued announcing actions with respect to court injunctions and criminal prosecutions, plus 33 miscellaneous releases.

In order that the investing public may better understand the Commission's role of investor protection, the Chairman, other members of the Commission and staff officials frequently deliver addresses before local groups or participate in radio or television discussions of the Commission's functions and activities. They also address professional and trade bodies to discuss particular aspects of the Commission's law enforcement activities or its general policies and practices. In addition, they make themselves available for interview by representatives of the press, individually or collectively, particularly when visiting financial centers throughout the country.

To alert the public to the risks involved in buying securities from unknown sources, such as the "boiler room" operators discussed in Part I of this report, the Commission has distributed more than 60,000 copies of an "Investors Beware" poster setting forth a 10-point guide for prospective purchasers of securities.<sup>1</sup> With the cooperation

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<sup>1</sup>The poster warns investors to observe the following ten-point guide to safer investments:

1. Before buying . . . Think!
2. Don't deal with strange securities firms. (Consult your broker!)
3. Beware of securities offered over the telephone by strangers.
4. Don't listen to high-pressure sales talk.
5. Beware of promises of spectacular profits.
6. Be sure you understand the risks of loss.
7. Don't buy on tips and rumors . . . Get all the facts!
8. Tell the salesman to: Put all the information and advice in writing and mail it to you . . . Save it!
9. If you don't understand all the written information . . . Consult a person who does.
10. Give at least as much consideration to buying securities as you would the purchase of any valuable property.



of the Post Office Department copies of the poster have been placed on the bulletin boards of all post offices in the United States and the Federal Deposit Insurance Corporation has assisted the Commission in distributing copies of the poster to all insured banks. In addition, copies have also been distributed to state securities commissioners, securities exchanges, brokers and dealers, better business bureaus, chambers of commerce and other organizations interested in the prevention of fraud in the offer and sale of securities.

#### **Information Available for Public Inspection**

During every fiscal year thousands of requests for information are received by mail and through telephone calls and personal visits. Most of these requests are answered by employees in the Commission's public reference rooms in Washington, Chicago, and New York City.

The files of the Commission provide information of interest to a large cross section of the public. Numerous people visit the public reference rooms seeking information on which to base decisions to buy or sell securities; they are furnished the files which contain financial and other information about the issuers of the securities. Many visitors, on the other hand, consult Commission records. They may be representatives of business or financial journals, or students doing research for theses or other projects. Research of a slightly different nature is carried on by representatives of legal and accounting firms, corporations and labor unions; they are interested largely in gathering information to be used as specimens, as precedent material, or for other specialized purposes. The inquiries received through the mails and over the telephone follow the same pattern.

Copies of any public information filed with the Commission may be examined at the principal office in Washington, D. C. Such information includes registration statements, applications and declarations filed under the various statutes administered by the Commission, together with the records of agency action. In Washington, as in the regional offices, space considerations have necessitated the transfer of some of this material to warehouse-type space in nearby federal records centers. Files from these centers are usually available within twenty-four hours.

The New York Regional Office has copies of recent filings made by companies having securities listed on exchanges other than the New York Stock Exchange and the American Stock Exchange,<sup>30</sup> and copies of current filings of many companies which have effective reg-

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<sup>30</sup> Reports of listed companies on the New York and American stock exchanges may be seen at the exchange offices.

istration statements under the Securities Act of 1933. The Chicago Regional Office has copies of recent reports of companies which have securities listed on the New York and American stock exchanges.

All regional offices have copies of prospectuses used in recent public offerings of securities registered under the Securities Act, of active broker-dealer and investment adviser registration applications originating in their respective regions and of Regulation A letters of notification filed in their respective regions.

The public reference room in Washington had about 3,400 visitors during the fiscal year. Requests were filled for an additional 28,500 persons who were sent almost 660,000 copies of Commission publications. More than 112,000 photocopy pages of information were sold pursuant to over 2,000 orders.

Additional thousands of persons made use of the facilities provided by the New York and Chicago public reference rooms.

#### PUBLICATIONS

Publications issued during the fiscal year included:

Monthly:

Statistical Bulletin.

Official Summary of Security Transactions and Holdings of Officers, Directors, and Principal Stockholders.

Quarterly:

Financial Reports, U. S. Manufacturing Corporations  
(Jointly with the Federal Trade Commission).

Plant and Equipment Expenditures of U. S. Corporations  
(Jointly with the Department of Commerce).

New Securities Offered for Cash.

Volume and Composition of Individual's Saving.

Working Capital of U. S. Corporations.

Annually:

Securities Traded on Exchanges under the Securities Exchange Act of 1934, as of December 31, 1957.

Companies Registered under the Investment Company Act of 1940, as of December 31, 1957.

Twenty-Third Annual Report of the Commission.

Other publications:

Volume 37 of the Decisions and Reports of the Commission,  
(to June 30, 1957).

The Work of the Securities and Exchange Commission (edition of August 20, 1957).

Amendment, dated November 5, 1957, to Statement of Policy under the Investment Company Act of 1940.

**ORGANIZATION**

The staff of the Commission is composed of lawyers, accountants, engineers, security analysts and examiners, and administrative and clerical employees. It is divided into divisions and offices, including nine regional offices and eight branch offices.

Under the Commission's program of continuing review of its organization and functions, a number of changes were made during the fiscal year in the interest of increased efficiency.

On December 15, 1957, the New York Regional Office was realigned to provide for a more functional organization. Corporate reorganization work under Chapter X of the Bankruptcy Act was transferred from the Branch of Operations to a new Branch of Reorganization. The remaining functions of the former Branch of Operations, i. e., interpretative work and the administration of Regulation A, were assigned to a new Branch of Interpretations and Small Issues.

In December 1957, a Branch of Examination and Training was established in the Division of Corporation Finance for the purpose of initiating, developing and executing a training program for professional employees assigned to the Division. The training activities of this Branch supplement those conducted in the various Branches of Corporate Analysis and Examination as part of the day-to-day employee development resulting from work assignments. All new employees are assigned to the Branch of Examination and Training for intensive job instruction, as are middle-level employees who have demonstrated the growth potential for supervisory positions.

The Commission established a Branch Office of the Atlanta Regional Office in Miami, Florida, on March 3, 1958, and a Branch Office of the Fort Worth Regional Office in Houston, Texas, on April 14, 1958.<sup>31</sup> The establishment of these Branch Offices will not increase overall personnel requirements but will enable the Commission to increase the effectiveness of its investigative activities and its broker-dealer inspection program in those areas in the public interest.

**PERSONNEL, BUDGET AND FINANCE**

The following comparative table shows the personnel strength of the Commission as of June 30, 1957 and 1958:

	June 30, 1958		June 30, 1957	
Commissioners.....		5		4
Staff:				
Headquarters Office.....	543		480	
Regional Offices.....	331	874	300	780
Total.....		879		784

<sup>31</sup> On October 21, 1958, the Commission announced the establishment of a Branch Office of the Chicago Regional Office in St. Louis, Missouri.

The table on the opposite page shows the budget estimates of the Commission, the recommendations of the President, the appropriation actions of the House of Representatives, the Senate and the House-Senate conferees and the appropriations (including supplementary appropriations for statutory pay increases) made for the Commission by the Congress for the fiscal years 1949-1959.

The Commission is required by law to collect fees for registration of securities issued, qualification of trust indentures, registration of exchanges, and sale of copies of documents filed with the Commission.<sup>32</sup>

The following table shows the Commission's appropriations, total fees collected, percentage of fees collected to total appropriation, and the net cost to the taxpayers of Commission operations for the fiscal years 1956, 1957, and 1958:

Year	Appropriation	Fees collected	Percentage of fees collected to total appropriation (percent)	Net cost of Commission operations <sup>1</sup>
1956.....	\$5,278,000	\$2,074,211	39	\$3,203,789
1957.....	5,749,000	2,243,580	39	3,505,420
1958.....	6,935,000	2,334,370	34	4,600,630

<sup>1</sup> Includes \$235,000 to cover statutory pay increases.

<sup>2</sup> Fees are deposited in the general fund of the Treasury and are not available for expenditure by the Commission.

In furtherance of the objectives of the Joint Accounting Improvement Program, an Imprest Fund was established in Headquarters as well as in the New York Regional Office for the purpose of simplifying the procurement and payment procedures of the Commission.

#### Personnel Program

During fiscal 1958 the Commission continued to give special emphasis to its recruitment program designed to attract outstanding college and law school graduates for starting professional level positions such as financial analyst, attorney, and investigator. Through on-campus interviews and contacts with the placement offices of various colleges and universities, the Commission was successful in appointing to its staff a substantial number of well qualified applicants of college caliber.

On March 31, 1958 the Commission approved a Promotion Program Policy and Guidelines statement as required by the Civil Service Commission's new government-wide Merit Promotion Program. The program statement was developed with the active assistance of Division and Office Heads and the views and comments of employees also

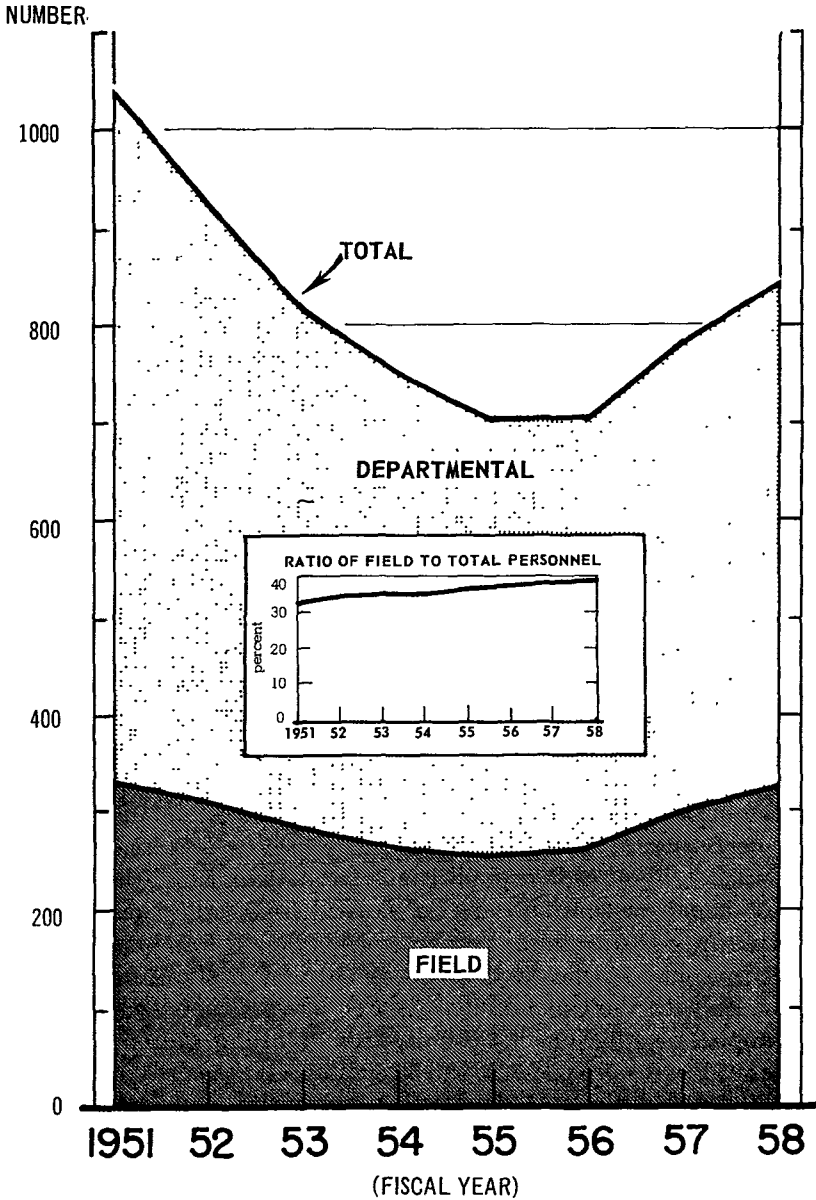
<sup>32</sup> Principal rates are (1) 1/100 of 1 percent of the maximum aggregate price of securities proposed to be offered but not less than \$25; (2) 1/500 of 1 percent of the aggregate dollar amount of stock exchange transactions. Fees for other services are only nominal.

*Action taken on budget estimates and appropriations from fiscal 1949 through fiscal 1959*

Action	Fiscal 1949		Fiscal 1950		Fiscal 1951		Fiscal 1952		Fiscal 1953		Fiscal 1954		Fiscal 1955		Fiscal 1956		Fiscal 1957		Fiscal 1958		Fiscal 1959	
	Average employment	Money	Average employment	Money	Average employment	Money	Average employment	Money	Average employment	Money	Average employment	Money	Average employment	Money	Average employment	Money	Average employment	Money	Average employment	Money	Average employment	Money
Commission's estimate to the Bureau of the Budget.....	1,400	\$6,684,800	1,307	\$6,789,400	1,175	\$6,675,000	1,127	\$6,605,000	1,092	\$6,360,000	1,080	\$6,810,000	780	\$5,124,760	734	\$4,997,000	794	\$5,749,000	935	\$7,178,000	974	\$7,500,000
Excess over President's Budget::.....	-155	-684,800	-177	-819,400	-40	-250,000	-77	-681,000	-157	-410,000	-142	-810,000	-63	-299,760							-58	-400,000
Amount recommended in President's Budget.	1,245	6,000,000	1,130	5,970,000	1,135	6,425,000	1,050	5,924,000	935	5,950,000	938	6,000,000	717	4,825,000	734	4,997,000	794	5,749,000	935	7,178,000	916	7,100,000
Action by the House of Representatives..:	-89	-173,860	-70	-220,000	-95	-295,000	-50	-225,000	-125	-704,920	-152	-754,920	-26	-125,000	-9	-122,000	-8	-49,000	-80	-478,000	-46	-300,000
Subtotal.....	1,156	5,826,140	1,060	5,750,000	1,040	6,130,000	1,000	5,699,000	810	5,245,080	786	5,245,080	691	4,700,000	725	4,875,000	786	5,700,000	855	6,700,000	870	6,800,000
Action by the Senate.....					+44	+200,000	-93	-320,520			-42	-245,080	+14	+75,000	+9	+122,000	+8	+49,000		+46	+300,000	
Subtotal.....	1,156	5,826,140	1,060	5,750,000	1,084	6,330,000	907	5,378,480	810	5,245,080	744	5,000,000	705	4,775,000	734	4,997,000	794	5,749,000	855	6,700,000	916	7,100,000
Action by conferees.....					-22	-100,000					-6	-25,000	-4	-42,000								
Annual appropriation.....	1,156	5,826,140	1,060	5,750,000	1,062	6,230,000	907	5,378,480	810	5,245,080	744	5,000,000	699	4,750,000	730	4,955,000	794	5,749,000	855	6,700,000	916	7,100,000
Supplemental appropriation for statutory pay increases.....		295,000		128,250				435,000						93,180		323,000						
Total appropriation.....	1,156	6,121,140	1,060	5,878,250	1,062	6,230,000	907	5,813,480	810	5,245,080	744	5,000,000	699	4,843,180	730	5,278,000	794	5,749,000	855	6,935,000	916	7,100,000
Mandatory reserve required in 1951.....					-32	-150,000																
					1,030	6,080,000																

<sup>1</sup> Does not include funds for statutory pay increases.

# S. E. C. PERSONNEL <sup>1/</sup>



<sup>1/</sup> Average Employment

were solicited. Merit Promotion Plans which implement these policies and guidelines systematically in specific groups of positions are being developed and will be adopted by January 1, 1959.

The proper allocation of top level positions continues to be of utmost importance to the Commission for the effective execution of its programs. In the interest of attracting and retaining highly qualified persons for these positions, recommendations for the allocation of additional positions to grades GS-16, GS-17 and GS-18 were presented to the Civil Service Commission.

The passage of the Government Employees Training Act on July 7, 1958 for the first time provides the Commission with general training authority. As required under this Act, a complete review of the needs and requirements of the Commission for the training of its employees will be made and a suitable program providing for in-service, inter-agency or out-service training to meet identified needs and requirements will be established.

During fiscal 1958, special health programs for the benefit of the staff were undertaken in the Commission. On November 6, 1957, 140 members of the staff in Washington were inoculated against Asian influenza. Sixty-four employees in the regional offices also received this inoculation under programs arranged by Regional Administrators.

The first and second of a series of three inoculations of anti-polio vaccine were administered under the direction of a private physician on March 3 and March 25, 1958, respectively. A total of 121 employees participated in this program which was sponsored by the Commission's Employee Recreation and Welfare Association.

Recognition of career service with the Commission, meritorious work performance awards and public recognition in the form of awards made by outside organizations for outstanding achievements by staff members continued to be stressed under the Commission's incentive awards program. In September 1957, ten- and twenty-year service pins and certificates were presented to a total of 51 employees for service with the Commission. Six employees were awarded \$195 for adopted suggestions. Cash awards totalling \$5,805 and certificates of merit were presented to 66 employees.

Mr. Robert S. Wood of the Budget and Finance office was one of 120 successful candidates out of a total of 236 nominations submitted by government agencies for participation in the Civil Service Commission's 1958 Management Intern Program. In May 1958, a Certificate of Merit was awarded to Jule B. Greene, Attorney-in-Charge of the Commission's Miami Branch Office, by the William A. Jump Memorial Foundation. In June 1958, the National Civil Service League awarded certificates of merit to four Commission employees—

John T. Callahan, Special Counsel in the Division of Trading and Exchanges, Amerst E. Huson, Chief of the Office of Research and Service Company Regulation in the Division of Corporate Regulation, Franklin E. Kennamer, Jr., Chief Enforcement Attorney in the San Francisco Regional Office, and Edward H. Rakow, Assistant Regional Administrator in charge of the Detroit and Cleveland branch offices.

#### **Canons of Ethics for Members of the Commission**

The Commission for many years has had a Regulation regarding conduct of Members and Employees and Former Members and Employees of the Commission, which was codified in substantially its present form in 1953. This regulation prohibits any member or employee of the Commission from, among other things, acting in any official matter with respect to which there exists a personal interest incompatible with an unbiased exercise of official judgment; accepting, directly or indirectly, any valuable gift, favor, or service from any person with whom he transacts official business; and becoming unduly involved, through frequent or expensive social engagements or otherwise, with any person outside the Government with whom he transacts official business.

Supplementary to the overall Conduct Regulation, on July 22, 1958 the Commission adopted Canons of Ethics for Members of the Commission. These canons, which are presented in appendix table 30, set forth standards which the Commission has always believed are applicable to its executive, legislative and judicial responsibilities. They include statements of principle with respect to, among other things, Commission members' personal conduct, maintenance of independence, relationships with persons subject to agency regulation and avoidance of appearances of improper influence.





**PART XII**  
**APPENDIX**  
**STATISTICAL TABLES**



TABLE 1.—A 24 year record of registrations fully effective under the Securities Act of 1933

1935-1958

[Amounts in millions of dollars]

Fiscal year ended June 30	Number of statements	All registrations	For cash sale for account of issuers			
			Total	Bonds, debentures and notes	Preferred stock	Common stock
1935 <sup>1</sup> .....	284	\$913	\$686	\$490	\$28	\$168
1936.....	689	4,835	3,936	3,153	252	531
1937.....	840	4,851	3,635	2,426	406	802
1938.....	412	2,101	1,349	666	209	474
1939.....	344	2,579	2,020	1,593	109	318
1940.....	306	1,787	1,433	1,112	110	210
1941.....	313	2,611	2,081	1,721	164	196
1942.....	193	2,003	1,465	1,041	162	263
1943.....	123	659	486	316	32	137
1944.....	221	1,760	1,347	732	343	272
1945.....	340	3,225	2,715	1,851	407	456
1946.....	661	7,073	5,424	3,102	991	1,331
1947.....	493	6,732	4,874	2,937	787	1,150
1948.....	435	6,405	5,032	2,817	537	1,678
1949.....	429	5,333	4,204	2,795	326	1,083
1950.....	487	5,307	4,381	2,127	468	1,786
1951.....	487	6,459	5,169	2,838	427	1,904
1952.....	635	9,500	7,529	3,346	851	3,332
1953.....	593	7,507	6,326	3,093	424	2,808
1954.....	631	9,174	7,381	4,240	531	2,610
1955.....	779	10,960	8,277	3,951	462	3,864
1956.....	833	13,096	9,206	4,123	539	4,544
1957.....	860	14,624	12,019	5,689	472	5,858
1958.....	809	16,490	13,281	6,857	427	5,998

<sup>1</sup> For 10 months ended June 30, 1935.

<sup>2</sup> Statements registering American Depositary Receipts against outstanding foreign securities as provided by Form S-12 are not included.

TABLE 2.—Registrations fully effective under the Securities Act of 1933  
PART 1.—DISTRIBUTION BY MONTHS, FISCAL YEAR ENDED JUNE 30, 1958  
[Amounts in thousands of dollars ]

Year and month	All registrations			Proposed for sale for account of issuers		
	Number of statements	Number of issues	Amount	Number of statements	Number of issues	Amount
<i>1957</i>						
July.....	62	78	\$1,095,287	55	66	\$991,735
August.....	65	97	1,321,511	56	77	990,778
September.....	63	79	927,028	55	61	750,623
October.....	56	88	989,575	51	75	810,643
November.....	78	104	1,048,208	68	81	905,759
December.....	42	76	465,365	35	59	353,786
<i>1958</i>						
January.....	60	75	3,087,442	56	65	1,830,169
February.....	64	77	938,875	55	63	891,898
March.....	63	86	1,038,745	58	71	873,280
April.....	99	119	2,805,833	92	108	2,666,619
May.....	71	111	1,370,459	58	92	983,664
June.....	86	104	1,401,407	79	89	1,231,885
Total, fiscal year 1958.....	2,809	1,094	16,489,736	718	907	13,280,840

PART 2.—PURPOSE OF REGISTRATION AND TYPE OF SECURITY, FISCAL YEAR ENDED JUNE 30, 1958

[Amounts in thousands of dollars ]

Purpose of registration	Type of security			
	All types	Bonds, debentures, and notes <sup>1</sup>	Preferred stock	Common stock <sup>4</sup>
All registrations (estimated value).....	\$16,489,736	\$6,914,479	\$455,015	\$9,120,241
For account of issuers for cash sale.....	13,280,840	6,856,553	426,635	5,997,651
Corporate.....	12,868,369	6,444,083	426,635	5,997,651
Offered to:				
General public.....	9,058,605	5,449,718	404,072	3,204,815
Security holders.....	2,213,984	991,154	21,719	1,201,111
Other special groups.....	1,595,781	3,211	844	1,591,725
Foreign governments.....	412,471	412,471	-----	-----
For account of issuers for other than cash sale.....	3,007,993	54,540	11,234	2,942,219
For account of others than issuers.....	200,903	3,386	17,146	180,371

See footnotes at end of table.

TABLE 2.—Registrations fully effective under the Securities Act of 1933—Continued  
PART 3.—PURPOSES OF REGISTRATION AND INDUSTRY OF REGISTRANT, FISCAL YEAR ENDED JUNE 30, 1933

[Amounts in thousands of dollars]

Purpose of registration	Industry									
	All regis- trants	Manufac- turing	Mining	Electric, gas and water	Transpor- tation other than railroad	Communi- cation	Invest- ment com- panies	Other fi- nancial and real estate	Commer- cial and other	Foreign govern- ments
Number of statements.....	809	184	44	184	9	36	172	121	43	16
Number of issues.....	1,094	244	55	220	17	41	287	140	67	23
All registrations (estimated value).....	\$16,489,736	\$3,405,575	\$238,107	\$3,652,273	\$70,038	\$4,229,017	\$9,941,362	\$1,283,080	\$235,824	\$427,471
For account of issuers.....	16,288,832	3,240,693	231,442	3,645,218	72,481	4,229,017	2,941,362	1,282,759	218,491	427,471
For cash sale.....	13,280,840	2,238,741	109,874	3,373,459	52,493	2,977,991	2,918,950	1,109,308	87,553	412,471
Corporate.....	12,868,369	2,238,741	109,874	3,373,459	52,493	2,977,991	2,918,950	1,109,308	87,553	412,471
Non-corporate.....	412,471									
For other than cash sale.....	3,007,993	1,001,852	121,568	271,758	19,988	1,251,025	22,412	173,451	130,938	15,000
For exchange for other securities <sup>6</sup> .....	578,085	223,170	98,361	87,976		2,303	321	141,353	24,601	
Reserved for conversion.....	1,911,531	410,455	11,499	178,951	13,269	1,237,058		14,894	45,486	
For other purposes.....	1,518,377	368,228	11,798	4,821	6,719	11,665	22,091	17,205	60,851	15,000
For account of others than issuers.....	200,903	164,982	6,754	7,055	4,457			321	17,333	

See footnotes at end of table.

TABLE 2.—Registrations fully effective under the Securities Act of 1933—Continued

PART 4.—USE OF PROCEEDS AND INDUSTRY OF REGISTRANT, FISCAL YEAR ENDED JUNE 30, 1938

[Amounts in thousands of dollars <sup>1</sup>]

Use of proceeds	Industry								
	All corporate	Manufacturing	Mining	Electric, gas and water	Transportation other than railroad	Communication	Investment companies	Other financial and real estate	Commercial and other
Corporate issues for cash sale for account of issuers (estimated gross proceeds).....	\$12,868,309	\$2,238,741	\$109,874	\$3,373,459	\$52,493	\$2,977,991	\$2,918,950	\$1,109,308	\$37,553
Cost of flotation.....	403,287	54,803	6,282	58,727	2,220	15,444	240,999	20,312	6,501
Commissions and discounts.....	338,492	37,142	3,652	40,503	1,784	8,006	227,155	16,499	3,840
Expenses.....	94,795	17,661	1,720	18,223	485	7,438	13,844	3,812	1,661
Expected net proceeds.....	12,465,081	2,183,938	104,692	3,314,733	50,273	2,962,547	2,677,951	1,088,996	82,051
New money purposes.....	8,792,422	1,955,455	93,882	3,130,295	50,273	2,845,345	---	647,402	69,710
Plant and equipment.....	7,666,009	1,594,946	35,966	3,119,971	40,253	2,845,345	---	47,383	42,145
Working capital.....	1,126,413	420,509	57,915	10,324	10,020	---	---	600,079	27,565
Retirement of securities.....	320,230	115,521	1,070	83,688	---	117,202	---	725	4,024
Other purposes <sup>2</sup> .....	3,352,430	112,962	9,641	100,760	---	---	2,677,951	440,810	10,317

<sup>1</sup> Dollar amounts are rounded and will not necessarily add to totals shown.<sup>2</sup> The 809 registrations differ from the 810 net registrations shown in the text table "Number and disposition of registration statements filed" by reason of (a) the exclusion of 4 registrations of American Depositary Receipts, (b) the exclusion of 3 statements subject to amendments which were not filed prior to the end of the fiscal year, (c) the inclusion of 3 statements which became effective during the 1937 fiscal year subject to amendments which were filed in fiscal year 1938 and (d) the inclusion of 3 statements which became effective during the fiscal year but were later withdrawn.<sup>3</sup> Includes face amount certificates.<sup>4</sup> Includes certificates of participation.<sup>5</sup> This total differs from the sum of the monthly figures (\$7,847,025,000) for offerings shown in table 3, part 1, under the heading "Registered Under 1933 Act", as follows:

Excluded from this table but included in offerings:

Offerings of issues effectively registered prior to July 1, 1937..... \$155,404,000

Portion of exchange issues sold for cash..... 1,088,000

Included in this table but excluded from offerings:

Investment companies..... 2,912,346,000

Employee purchase plans and other continuous offerings..... 1,583,795,000

Effectively registered issues not yet offered for sale..... 165,867,000

Issues sold outside the United States, intercorporate offerings, etc..... 515,857,000

<sup>6</sup> Includes voting trust certificates registered for issuance in exchange for original securities deposited.<sup>7</sup> Principally the purchase of securities.

TABLE 3.—New securities offered for cash sale in the United States 1

PART 1.—TYPE OF OFFERING  
 Estimated gross proceeds in thousands of dollars 2

Calendar year or month	CORPORATE										NON-CORPORATE
	All offerings (corporate and non-corporate)	Total corporate offerings	Classified by type of offering							Private placements 3	
			Registered under 1933 Act	Public offerings 4			Not registered under 1933 Act	Other exempt offerings 5			
				Total	Railroad Issues	Issues exempt because of size 6					
1951.....	21,264,507	7,741,099	4,328,407	3,084,286	642,121	331,097	133,272	177,751	3,414,692	13,523,408	
1952.....	27,209,159	9,594,162	5,532,616	4,807,929	724,690	473,227	169,484	82,070	4,011,543	17,674,968	
1953.....	28,824,485	8,897,966	5,680,424	5,004,782	575,642	285,913	159,846	119,883	3,317,572	19,926,489	
1954.....	29,764,843	9,516,168	5,847,743	4,959,641	888,102	440,152	194,550	253,400	3,698,425	20,248,475	
1955.....	26,772,349	10,240,155	6,763,161	5,752,604	1,010,549	532,040	299,050	209,450	3,476,964	16,532,105	
1956.....	22,405,413	10,938,718	7,052,574	6,138,792	1,013,782	370,362	176,096	367,324	3,866,144	11,465,695	
1957.....	30,570,624	12,883,533	8,968,974	8,171,410	787,564	343,647	114,433	329,464	3,924,559	17,687,080	
1957.....	2,425,690	1,088,225	805,109	731,250	73,859	51,298	7,614	14,948	283,116	1,337,365	
January.....	2,115,931	1,108,365	866,118	808,026	68,092	21,112	7,285	28,694	242,247	1,097,566	
February.....	3,222,870	1,360,939	954,630	893,845	60,785	39,432	13,431	7,921	408,197	1,861,931	
March.....	2,371,193	966,462	688,283	642,616	45,070	28,415	9,680	7,575	278,177	1,404,731	
April.....	1,777,123	795,814	543,790	470,044	73,745	54,284	11,008	8,363	252,074	981,309	
May.....	2,349,229	1,495,270	1,090,947	1,041,310	49,636	24,598	11,157	13,881	404,362	853,959	
June.....	1,861,821	1,027,527	706,060	699,620	170,065	115,466	8,660	137,815	321,467	934,299	
July.....	1,943,768	846,556	642,190	609,620	32,570	15,465	12,841	4,264	304,366	997,212	
August.....	3,974,807	1,023,218	665,400	649,497	45,903	23,049	7,218	14,626	327,728	2,981,589	
September.....	2,704,698	1,112,656	774,283	694,929	79,364	17,688	1,620	56,147	338,372	2,175,042	
October.....	3,022,346	844,303	657,647	620,171	37,476	16,347	10,022	11,106	186,656	2,175,042	
November.....	2,681,248	1,114,198	534,324	474,105	60,319	26,789	9,556	23,944	579,774	1,567,093	
December.....	3,472,699	815,745	575,224	491,003	84,221	68,562	7,821	7,839	240,590	2,666,954	
1958.....	2,487,845	874,625	660,087	625,000	35,087	17,252	7,704	10,131	215,537	2,121,737	
January.....	3,659,042	1,293,390	1,283,395	1,232,350	60,847	40,036	6,310	4,592	340,088	2,337,712	
February.....	6,962,616	1,931,956	1,031,663	995,372	36,291	19,549	6,047	7,695	200,293	5,730,609	
March.....	2,160,471	713,757	509,046	479,036	30,009	12,000	8,958	8,081	204,712	1,445,714	
April.....	3,015,905	962,640	456,130	439,800	16,230	0	8,458	7,771	508,510	2,085,294	

See footnotes at end of table.



TABLE 3.—New securities offered for cash sale in the United States—Continued

PART 2.—TYPE OF SECURITY

[Estimated gross proceeds in thousands of dollars \*]

Calendar year or month	All types of securities				Bonds, debentures, and notes		Preferred stock	Common stock	
	All types of securities		All Issuers	Corporate	Noncorporate	Corporate			Noncorporate
	All Issuers	Corporate							
1957									
1951	21,284,607	7,741,099	13,523,408	19,214,357	8,690,049	13,523,408	837,658	1,212,494	
1952	27,200,150	8,534,162	17,674,988	25,276,111	7,801,113	17,674,988	564,484	1,368,581	
1953	28,824,485	8,897,046	19,926,439	27,000,908	7,083,410	19,926,439	488,564	1,326,013	
1954	29,764,843	8,516,168	20,248,675	27,736,238	7,487,853	20,248,675	815,964	1,212,677	
1955	28,772,349	10,240,155	18,532,084	23,952,084	7,410,869	16,532,195	635,058	2,185,228	
1956	22,405,413	10,938,718	11,466,695	19,488,795	8,002,100	11,466,695	635,527	2,301,091	
1957	30,570,624	12,883,533	17,687,090	27,643,959	9,856,859	17,687,090	410,504	2,516,180	
1957									
January	2,425,590	1,088,225	1,337,365	2,249,308	911,043	1,337,365	33,806	142,476	
February	2,115,931	1,108,365	1,007,566	1,757,911	750,345	1,007,566	25,612	332,408	
March	3,222,870	1,890,939	1,861,931	2,905,664	1,043,734	1,861,931	58,697	278,507	
April	2,371,193	1,066,462	1,404,731	2,059,799	855,007	1,404,731	47,021	264,373	
May	1,771,123	795,814	981,309	1,666,719	685,410	981,309	25,367	85,937	
June	2,849,229	1,495,270	853,959	1,867,143	853,184	853,959	66,198	415,888	
July	1,981,821	1,027,527	954,263	1,729,547	1,775,254	954,263	21,460	230,813	
August	1,943,768	1,046,556	997,212	1,836,736	839,524	997,212	31,170	75,862	
September	3,974,807	1,023,218	2,951,589	3,858,277	906,088	2,951,589	19,003	97,437	
October	2,704,698	1,112,656	1,592,042	2,535,573	943,530	1,592,042	47,887	101,239	
November	3,022,346	1,844,303	2,178,043	2,849,278	671,235	2,178,043	23,533	149,534	
December	2,681,248	1,114,198	1,567,050	2,328,006	750,656	1,567,050	10,660	342,582	
1958									
January	3,472,699	815,745	2,656,954	3,400,529	743,575	2,656,954	28,389	48,781	
February	4,457,345	874,320	1,612,721	3,219,650	606,929	1,612,721	58,463	182,293	
March	3,959,042	1,623,360	2,335,712	3,829,929	1,494,217	2,335,712	68,587	60,525	
April	6,982,616	1,231,856	5,750,660	6,831,702	1,101,042	5,750,660	40,967	89,047	
May	2,180,471	1,713,257	1,446,714	2,040,763	594,049	1,446,714	35,875	83,833	
June	3,015,905	962,840	2,053,264	2,919,739	866,475	2,053,264	58,242	37,924	

See footnotes at end of table.

TABLE 3.—New securities offered for cash sale in the United States 1—Continued

PART 3.—TYPE OF ISSUER

[Estimated gross proceeds in thousands of dollars †]

Calendar year or month	Corporate										Noncorporate					Foreign government and international	Non-profit institutions
	Total corporate	Manufacturing	Mining	Electric, gas and water	Rail-road	Other transportation	Communication	Financial and real estate	Commercial and other	Total non-corporate	U. S. Government (including issues guaranteed)	Federal agency (not guaranteed)	State and municipal				
<i>1957</i>																	
1951.....	7,741,099	3,121,863	( <sup>c</sup> )	2,454,853	335,087	169,227	612,080	524,616	533,383	13,523,408	9,778,151	110,000	3,188,777	418,567	27,914		
1952.....	9,534,162	4,038,794	( <sup>c</sup> )	2,674,694	525,205	467,094	790,239	515,178	552,958	17,674,998	12,577,446	459,058	4,401,317	222,743	14,434		
1953.....	8,897,996	2,253,531	235,368	3,029,122	302,397	293,036	891,853	1,576,048	326,640	19,926,489	13,956,613	105,557	5,557,897	282,807	23,625		
1954.....	9,516,168	2,008,040	538,697	3,713,311	479,322	299,432	720,102	1,075,818	421,547	20,248,675	12,532,230	468,304	6,968,642	244,721	44,768		
1955.....	10,240,165	2,998,668	415,289	2,463,729	547,777	345,230	1,132,271	1,898,677	443,473	16,532,615	9,628,326	745,558	8,976,504	148,960	31,948		
1956.....	10,988,718	3,647,243	455,623	2,529,175	382,012	342,000	1,419,457	1,855,953	307,855	11,466,685	5,516,972	169,450	5,446,420	300,343	33,610		
1957.....	12,883,533	4,233,708	288,574	3,938,087	343,647	478,921	1,461,748	1,795,413	342,435	17,387,090	9,600,598	571,550	6,958,152	504,898	51,892		
<i>1957</i>																	
January.....	1,088,225	390,413	23,259	249,777	51,298	51,192	106,991	199,677	22,617	1,337,365	495,538	72,000	685,472	84,355	0		
February.....	1,108,365	574,412	47,426	262,938	22,112	8,366	17,012	114,694	51,453	1,097,966	383,987	0	698,928	49,375	3,675		
March.....	1,360,930	368,278	18,959	513,147	30,433	30,892	279,577	63,729	17,084	1,491,931	1,326,928	0	793,237	30,166	2,000		
April.....	1,906,482	337,770	10,323	246,719	28,413	49,364	86,573	89,628	58,223	1,804,731	389,384	125,000	763,411	122,366	4,580		
May.....	795,814	139,758	10,955	246,164	54,283	24,356	58,120	76,273	39,793	981,309	394,283	0	538,023	49,533	3,000		
June.....	640,516	140,538	10,538	439,106	24,368	37,624	135,084	139,565	31,620	859,359	302,674	60,000	387,682	49,333	1,800		
July.....	1,027,527	257,546	42,781	247,627	22,707	22,717	54,389	31,620	64,252	1,094,252	306,619	0	516,182	27,074	9,842		
August.....	946,558	216,938	16,401	254,307	15,468	14,740	66,396	227,800	41,074	2,292,445	214,550	214,550	437,749	7,400	2,525		
September.....	1,023,218	328,333	25,246	424,314	22,049	59,490	106,296	141,922	14,162	2,661,889	2,593,815	0	437,749	90,468	7,400		
October.....	1,112,656	133,414	36,826	338,729	17,688	37,499	372,271	194,632	19,081	1,692,042	1,593,815	100,000	639,355	11,000	11,000		
November.....	844,303	224,111	22,473	302,355	16,247	38,916	129,632	129,632	17,168	1,176,043	1,374,061	0	639,355	69,687	5,000		
December.....	1,114,198	592,221	14,387	174,799	26,789	111,469	41,455	93,168	69,912	1,667,050	924,552	0	940,418	1,106	1,000		
<i>1958</i>																	
January.....	815,745	155,342	14,225	326,299	68,562	38,816	85,664	111,324	15,614	2,656,954	510,647	1,163,240	782,437	196,680	3,950		
February.....	874,625	179,786	18,059	373,064	17,252	31,167	35,834	210,790	8,672	1,612,721	407,156	251,188	899,485	53,498	1,400		
March.....	1,623,330	240,480	22,406	415,220	40,036	29,081	800,418	50,032	25,647	2,335,712	1,801,906	0	524,355	3,400	9,450		
April.....	1,231,956	639,971	34,759	319,700	19,549	67,549	78,807	41,189	20,431	5,730,660	4,208,652	522,985	138,706	198,474	2,700		
May.....	1,713,757	192,933	6,836	345,306	12,000	11,896	41,417	79,388	23,982	1,446,714	3,368,297	0	876,838	138,474	3,104		
June.....	962,640	318,560	15,015	411,832	500	106,572	12,490	82,903	14,708	2,053,264	1,410,690	0	520,518	120,056	2,090		

See footnotes at end of table.

TABLE 3.—New securities offered for cash sale in the United States 1—Continued  
PART 4.—PRIVATE PLACEMENT OF CORPORATE SECURITIES 2  
[Estimated gross proceeds in thousands of dollars 3]

Calendar year or month	Type of security				Industry of issuer					Financial and real estate	Commercial and other
	All private placements	Bonds, debentures, and notes	Stocks	Mamufacturing	Mining 1	Electric, gas and water	Railroad	Other transportation	Communication		
1957											
1951	3,414,691	3,326,457	88,234	1,975,318	(C)	637,137	3,990	154,326	55,327	223,314	395,290
1952	3,071,543	3,050,410	46,016	2,240,788		665,115	62,973	71,464	71,464	331,580	395,092
1953	3,070,374	3,070,374	90,016	3,070,374		731,349	6,464	294,242	64,182	534,307	517,744
1954	3,683,076	3,484,344	187,719	1,290,892	108,716	870,157	32,179	301,130	64,456	534,307	232,472
1955	3,496,924	3,300,973	176,951	1,197,273	200,528	598,041	18,729	315,081	107,540	807,675	171,041
1956	3,598,144	3,778,963	106,181	1,612,952	134,812	618,319	11,650	215,494	91,539	1,028,338	171,041
1957	3,924,559	3,533,917	85,642	1,655,940	146,685	666,500	0	419,319	137,455	714,692	153,993
1958											
January	283,116	271,059	12,056	119,855	1,495	42,434	0	24,292	24,842	88,548	11,919
February	242,247	236,942	5,305	95,322	22,146	34,360	0	8,389	2,300	63,558	16,172
March	406,369	400,069	6,210	223,465	8,711	57,689	0	30,592	17,212	88,030	10,709
April	278,177	269,768	8,409	112,633	7,089	38,870	0	45,381	17,398	48,473	8,613
May	262,024	247,209	4,816	84,368	3,648	54,529	0	16,758	6,535	62,615	23,671
June	404,323	380,207	24,116	249,518	6,584	66,525	0	33,624	1,612	36,408	11,055
July	321,467	316,050	5,417	139,220	37,757	4,795	0	11,126	16,748	107,133	6,689
August	304,366	296,375	4,991	80,473	11,476	100,891	0	15,077	22,560	63,514	9,955
September	327,728	320,037	7,691	172,916	19,160	19,160	0	56,049	4,775	80,123	12,088
October	388,372	383,852	2,520	67,869	33,367	124,675	0	37,129	11,538	51,609	6,747
November	186,656	189,456	2,200	73,753	13,116	13,116	0	28,405	7,120	61,588	12,173
December	579,774	576,962	8,812	237,668	7,553	108,962	0	111,469	5,894	53,095	56,204
January	240,520	238,884	1,637	81,182	5,113	42,301	0	38,816	30,075	85,908	7,125
February	214,537	208,757	5,780	96,017	14,050	27,488	0	30,867	4,850	39,906	2,358
March	340,938	329,642	10,446	121,798	20,269	51,899	0	29,081	63,593	34,692	18,777
April	200,293	180,293	20,010	91,210	1,000	27,694	0	39,304	4,100	11,054	25,631
May	204,712	203,212	1,500	81,541	3,500	36,294	0	7,615	11,100	44,423	20,239
June	506,510	496,900	9,590	242,147	10,003	91,890	500	92,072	10,892	47,590	11,411

1 The data in these tables cover substantially all new issues of securities offered for cash sale in the United States in amounts over \$100,000 and with terms to maturity of more than one year. Included in the compilation are issues privately placed as well as issues publicly offered, and unregistered issues as well as those registered under the Securities Act of 1933. The figures on publicly offered issues include a small amount of unsold securities, chiefly nonunderwritten issues of small companies. The figures on privately placed issues include securities actually issued but which have not been taken up by subscribers. Also included are issues deposited with the Federal Reserve Bank for sale to the Government. Issues sold exclusively to commercial banks; issues of investment companies and issues to be sold over an extended period such as offerings under employee-purchase plans; and issues sold to the financial press and documents filed with the Commission. Data for offerings of state and municipal securities are from totals published by the *Commercial and Financial Chronicle* and the *Bond Buyer*; these represent principal amounts instead of gross proceeds. All figures are subject to revision as new data are received. For data for the years 1934-1950, see 15th Annual Report.

2 Gross proceeds are derived by multiplying principal amounts or numbers of units by offering prices, except for state and municipal issues where principal amount is used. Slight discrepancies between the sum of figures in the tables and the totals shown are due to rounding.

3 Issues sold by competitive bidding directly to ultimate investors are classified as publicly offered issues.

4 Chiefly bank stock issues A and D of the Securities Act of 1933.

5 Excluding issues of investment companies.

6 Excluding issues sold by competitive bidding directly to ultimate investors.

TABLE 4.—Proposed uses of net proceeds from the sale of new corporate securities offered for cash in the United States

PART 1.—ALL CORPORATE

[Amounts in thousands of dollars ]

Calendar year or month <sup>1</sup>	Proceeds		New money			Retirement of securities	Other purposes
	Total gross proceeds <sup>2</sup>	Total net proceeds <sup>3</sup>	Total new money	Plant and equipment	Working capital		
1951.....	7,741,099	7,606,520	6,531,403 <sup>4</sup>	5,110,105	1,421,298	486,413	588,703
1952.....	9,534,162	9,380,302	8,179,548	6,311,802	1,867,746	664,056	536,698
1953.....	8,897,996	8,754,721	7,959,966	5,646,840	2,313,126	260,023	534,733
1954.....	9,516,168	9,365,090	6,780,196	5,110,389	1,669,806	1,875,398	709,496
1955.....	10,240,155	10,048,855	7,957,394	5,333,328	2,624,066	1,227,494	863,967
1956.....	10,938,718	10,748,836	9,662,952	6,709,126	2,953,826	364,459	721,424
1957.....	12,883,533	12,661,300	11,783,879	9,039,778	2,744,101	214,294	663,127
<i>1967</i>							
January.....	1,088,225	1,068,333	1,023,270	797,840	225,431	8,818	36,245
February.....	1,108,365	1,084,892	912,947	705,110	207,836	19,433	162,513
March.....	1,360,939	1,340,096	1,244,148	1,088,274	155,874	20,274	75,674
April.....	966,462	946,815	871,321	663,192	208,129	16,068	59,425
May.....	795,814	780,318	703,134	545,954	157,180	15,235	61,049
June.....	1,495,270	1,467,280	1,373,311	1,028,925	344,386	14,572	79,397
July.....	1,027,527	1,011,020	941,467	534,023	407,444	8,353	61,200
August.....	946,556	932,346	915,639	621,152	294,487	8,514	8,194
September.....	1,023,218	1,006,855	951,638	800,274	151,363	34,105	21,112
October.....	1,112,656	1,098,504	1,060,000	882,391	177,609	8,885	20,619
November.....	844,303	828,051	763,915	559,074	204,841	39,229	24,907
December.....	1,114,198	1,096,789	1,023,089	813,570	209,519	20,809	62,892
<i>1958</i>							
January.....	815,745	804,996	711,218	592,582	118,636	82,414	11,364
February.....	874,625	856,333	832,306	577,440	254,867	5,229	18,798
March.....	1,623,330	1,607,646	1,525,228	1,390,176	135,052	47,044	35,374
April.....	1,231,956	1,213,303	1,037,122	885,181	151,940	71,939	104,242
May.....	713,757	698,830	532,089	438,649	93,440	99,081	67,661
June.....	962,640	947,994	709,020	572,156	136,864	67,166	171,808

PART 2.—MANUFACTURING

1951.....	3,121,853	3,066,352	2,617,233	1,832,777	784,456	220,828	228,291
1952.....	4,038,794	3,973,363	3,421,892	2,179,563	1,242,329	260,850	290,621
1953.....	2,253,531	2,217,721	1,914,853	1,324,675	590,178	90,115	212,753
1954.....	2,268,040	2,234,016	1,838,907	1,009,495	829,413	189,537	205,571
1955.....	2,993,658	2,929,734	2,020,952	1,265,272	765,680	532,571	376,210
1956.....	3,647,243	3,578,502	2,944,378	1,928,034	1,016,344	242,684	391,440
1957.....	4,233,708	4,153,534	3,764,423	2,644,460	1,119,963	49,131	339,980
<i>1967</i>							
January.....	390,413	383,519	377,121	306,176	70,945	4,653	1,745
February.....	574,412	561,384	440,475	361,369	79,106	3,787	117,122
March.....	368,228	361,794	329,209	264,446	64,853	1,014	31,480
April.....	337,779	330,915	278,554	173,848	104,706	8,522	43,840
May.....	139,758	136,215	101,484	32,916	68,568	6,269	28,463
June.....	640,516	627,974	573,145	398,949	174,196	4,768	50,061
July.....	257,546	253,053	238,889	129,052	109,336	5,382	9,283
August.....	246,928	243,122	240,636	180,880	59,756	354	2,132
September.....	328,383	323,812	316,706	212,303	104,403	3,782	3,325
October.....	133,414	130,795	121,619	68,847	52,772	2,174	7,002
November.....	224,111	220,296	206,988	119,849	87,138	253	13,056
December.....	592,221	580,655	540,009	395,824	144,185	8,174	32,472
<i>1958</i>							
January.....	155,342	153,586	139,550	120,171	19,379	6,753	7,283
February.....	179,786	173,471	164,789	116,365	48,394	2,803	5,879
March.....	240,940	236,844	192,807	121,829	70,978	41,186	2,851
April.....	639,971	631,616	542,448	434,843	107,605	11,577	77,591
May.....	192,933	189,825	123,439	92,460	30,978	26,418	39,968
June.....	318,560	315,543	231,328	165,580	65,748	49,015	35,200

See footnotes at end of table.

TABLE 4.—Proposed uses of net proceeds from the sale of new corporate securities offered for cash in the United States—Continued

## PART 3.—MINING

[Amounts in thousands of dollars <sup>1</sup>]

Calendar year or month <sup>2</sup>	Proceeds		New money			Retirement of securities	Other purposes
	Total gross proceeds <sup>3</sup>	Total net proceeds <sup>4</sup>	Total new money	Plant and equipment	Working capital		
1951.....	( <sup>5</sup> )	( <sup>6</sup> )	( <sup>7</sup> )	( <sup>8</sup> )	( <sup>9</sup> )	( <sup>10</sup> )	( <sup>11</sup> )
1952.....							
1953.....	235,368	222,051	199,151	113,104	86,048	1,912	20,988
1954.....	538,597	513,596	334,704	215,788	118,946	45,624	133,266
1955.....	415,289	390,758	325,490	197,394	128,066	3,921	61,347
1956.....	455,523	435,691	304,909	211,029	93,880	37,849	92,934
1957.....	288,574	276,809	242,826	159,783	83,042	6,838	27,145
<i>1957</i>							
January.....	23,259	22,007	18,024	11,165	6,859	1,416	2,567
February.....	47,426	45,390	42,751	28,777	13,973	0	2,639
March.....	18,959	17,421	10,208	4,753	5,455	0	7,212
April.....	10,323	10,145	9,944	9,343	602	0	201
May.....	10,955	10,421	6,234	3,212	3,022	32	4,155
June.....	19,538	18,001	13,863	7,048	6,815	274	3,864
July.....	42,781	41,742	40,443	25,122	15,321	0	1,299
August.....	16,401	15,904	11,087	7,605	3,482	4,570	2,948
September.....	25,246	24,116	22,472	14,321	8,151	0	1,644
October.....	36,826	36,167	35,523	33,862	1,661	200	4,424
November.....	22,473	21,701	20,523	10,787	9,737	0	1,178
December.....	14,357	13,796	11,753	3,790	7,964	347	1,695
<i>1958</i>							
January.....	14,225	13,520	13,194	8,017	5,177	0	326
February.....	18,059	17,694	13,455	9,874	3,582	0	4,239
March.....	22,406	22,094	21,603	20,461	1,139	67	4,224
April.....	34,759	33,569	25,677	12,756	12,921	50	7,842
May.....	6,836	6,539	4,119	1,180	2,938	1,996	4,224
June.....	15,015	14,453	14,253	8,774	5,479	0	200

## PART 4.—ELECTRIC, GAS AND WATER

1951.....	2,454,853	2,411,714	2,186,248	2,158,823	27,425	85,439	140,027
1952.....	2,674,694	2,626,377	2,457,823	2,441,862	15,961	87,726	80,827
1953.....	3,029,122	2,971,911	2,755,852	2,737,082	18,770	67,034	149,025
1954.....	3,713,311	3,664,922	2,597,651	2,582,306	15,285	989,799	77,473
1955.....	2,463,729	2,428,158	2,218,094	2,203,655	12,439	174,015	36,049
1956.....	2,529,175	2,487,493	2,409,885	2,394,928	14,957	13,794	63,814
1957.....	3,938,087	3,871,939	3,659,189	3,645,919	13,271	51,280	161,430
<i>1957</i>							
January.....	249,777	245,662	226,550	226,440	110	0	19,111
February.....	262,938	258,460	230,669	222,901	7,768	12,892	14,898
March.....	513,147	505,431	457,882	457,882	0	15,685	31,864
April.....	366,719	359,553	349,724	349,158	566	5,595	4,284
May.....	364,164	357,908	331,858	331,473	385	7,499	18,551
June.....	439,106	430,739	418,801	418,741	59	0	11,938
July.....	247,675	244,014	210,231	210,099	132	365	33,418
August.....	254,367	251,145	249,751	249,458	294	0	1,394
September.....	424,314	416,875	414,243	413,763	481	390	2,629
October.....	338,729	333,353	312,848	311,971	877	390	20,175
November.....	302,353	295,692	284,598	282,038	2,560	8,750	2,344
December.....	174,799	173,067	172,033	171,995	38	161	873
<i>1958</i>							
January.....	326,299	322,039	320,340	320,269	71	649	1,049
February.....	373,064	365,528	365,528	357,981	7,547	0	0
March.....	415,220	409,943	386,124	386,124	0	0	23,219
April.....	319,700	315,489	293,108	286,111	6,997	22,264	117
May.....	345,306	339,781	303,037	299,529	3,508	36,649	95
June.....	411,832	405,748	325,467	325,467	0	16,219	64,062

See footnotes at end of table.

TABLE 4.—Proposed uses of net proceeds from the sale of new corporate securities offered for cash in the United States—Continued

PART 5.—RAILROAD

[Amounts in thousands of dollars 1]

Calendar year or month 1	Proceeds		New money			Retirement of securities	Other purposes
	Total gross proceeds 2	Total net proceeds 3	Total new money	Plant and equipment	Working capital		
1951.....	335,087	331,864	296,917	291,886	5,030	34,214	733
1952.....	525,205	520,817	286,526	286,476	50	223,532	10,758
1953.....	302,397	298,904	267,024	244,254	22,770	31,879	0
1954.....	479,322	474,180	209,585	202,441	7,144	261,345	3,250
1955.....	547,777	540,345	215,702	214,411	1,291	318,965	5,679
1956.....	382,012	378,159	365,447	365,447	0	12,713	0
1957.....	343,647	340,244	326,409	326,409	0	13,835	0
<i>1957</i>							
January.....	51,298	50,731	50,731	50,731	0	0	0
February.....	22,112	21,902	21,902	21,902	0	0	0
March.....	39,433	39,115	39,115	39,115	0	0	0
April.....	28,415	28,129	28,129	28,129	0	0	0
May.....	54,284	53,774	53,774	53,774	0	0	0
June.....	24,598	24,291	16,361	16,361	0	7,930	0
July.....	23,269	23,029	23,029	23,029	0	0	0
August.....	15,465	15,337	15,337	15,337	0	0	0
September.....	23,949	23,741	23,741	23,741	0	0	0
October.....	17,688	17,491	11,586	11,586	0	5,905	0
November.....	16,347	16,196	16,196	16,196	0	0	0
December.....	26,789	26,508	26,508	26,508	0	0	0
<i>1958</i>							
January.....	68,562	67,810	43,559	43,559	0	24,251	0
February.....	17,252	17,074	17,074	17,074	0	0	0
March.....	40,036	39,410	34,500	18,858	15,641	4,910	0
April.....	19,549	19,393	19,393	19,393	0	0	0
May.....	12,000	11,845	11,845	9,889	1,956	0	0
June.....	500	487	487	487	0	0	0

PART 6.—OTHER TRANSPORTATION

1951.....	159,227	158,240	131,009	123,217	7,792	18,478	8,763
1952.....	467,094	462,006	410,778	377,064	33,713	1,119	50,109
1953.....	293,036	289,859	264,880	260,568	4,312	3,949	21,031
1954.....	299,432	296,907	270,342	267,042	3,300	9,073	17,493
1955.....	345,280	341,717	237,366	220,971	16,395	18,769	85,582
1956.....	342,000	335,772	322,855	298,537	24,318	7,147	5,770
1957.....	479,921	475,421	465,095	456,665	8,430	204	10,122
<i>1957</i>							
January.....	51,192	50,568	50,044	49,781	262	0	525
February.....	8,389	8,346	8,157	8,062	95	0	189
March.....	30,892	30,778	30,679	30,585	94	0	99
April.....	45,501	45,246	44,597	43,430	1,167	0	649
May.....	27,456	26,213	26,138	21,399	4,739	0	75
June.....	33,624	33,461	32,559	32,185	374	0	921
July.....	22,687	22,353	22,185	21,604	580	0	168
August.....	15,717	15,597	15,366	15,307	59	204	28
September.....	56,649	56,414	56,080	55,746	334	0	334
October.....	37,429	37,262	37,175	37,043	132	0	87
November.....	38,916	38,035	34,068	33,476	592	0	3,967
December.....	111,469	111,127	108,047	108,047	0	0	3,080
<i>1958</i>							
January.....	38,816	38,705	38,591	38,478	114	0	114
February.....	31,167	31,092	29,962	28,786	1,175	0	1,130
March.....	29,081	28,960	27,922	27,384	538	0	1,038
April.....	67,549	66,569	66,525	66,132	393	0	44
May.....	11,896	11,591	11,591	7,549	4,043	0	0
June.....	106,572	105,534	42,864	36,674	6,190	0	62,670

See footnotes at end of table.

TABLE 4.—Proposed uses of net proceeds from the sale of new corporate securities offered for cash in the United States—Continued

## PART 7.—COMMUNICATION

[Amounts in thousands of dollars <sup>1</sup>]

Calendar year or month <sup>2</sup>	Proceeds		New money			Retirement of securities	Other purposes
	Total gross proceeds <sup>3</sup>	Total net proceeds <sup>3</sup>	Total new money	Plant and equipment	Working capital		
1951.....	612,080	605,995	594,324	574,417	19,907	5,231	5,540
1952.....	760,239	753,169	738,924	736,996	1,928	6,095	8,151
1953.....	881,853	873,726	860,967	841,600	19,367	3,164	9,596
1954.....	720,102	710,819	641,487	639,376	2,111	60,089	9,243
1955.....	1,132,271	1,121,408	1,039,611	1,038,092	1,520	76,567	5,230
1956.....	1,419,457	1,405,006	1,371,471	1,369,832	1,639	20,674	12,861
1957.....	1,461,748	1,444,446	1,427,977	1,425,696	2,281	3,904	12,566
<i>1957</i>							
January.....	106,991	105,420	103,822	103,822	0	917	680
February.....	47,012	46,261	46,261	46,177	84	0	0
March.....	279,477	276,823	274,719	272,950	1,769	0	2,104
April.....	50,873	50,225	47,185	47,142	52	0	3,030
May.....	83,126	81,705	78,925	78,890	35	0	2,781
June.....	138,064	136,161	136,161	136,128	33	0	0
July.....	54,385	53,866	53,270	53,225	45	0	597
August.....	128,795	126,975	123,354	123,248	106	2,612	1,009
September.....	66,296	65,241	64,088	64,061	27	198	956
October.....	372,271	369,238	368,146	368,081	65	176	915
November.....	93,006	91,707	91,491	91,446	45	0	216
December.....	41,453	40,825	40,546	40,527	20	0	278
<i>1958</i>							
January.....	85,564	84,469	84,469	84,384	85	50,000	0
February.....	35,834	35,481	35,481	35,436	45	0	0
March.....	800,418	796,773	796,773	796,773	0	0	0
April.....	78,807	77,207	39,971	39,909	62	37,236	0
May.....	41,417	40,956	10,989	10,989	0	29,966	0
June.....	12,490	12,333	12,333	12,257	76	0	0

## PART 8.—FINANCIAL AND REAL ESTATE

1951.....	524,616	515,267	368,485	15,686	352,800	66,030	80,761
1952.....	615,178	508,184	409,630	14,243	395,387	60,498	38,056
1953.....	1,876,048	1,660,672	1,452,279	32,116	1,420,162	24,225	84,168
1954.....	1,075,818	1,061,015	619,155	29,547	589,608	273,043	168,871
1955.....	1,898,677	1,867,887	1,606,145	33,472	1,672,672	56,010	205,731
1956.....	1,855,953	1,831,650	1,703,487	39,038	1,664,449	16,947	111,116
1957.....	1,795,413	1,768,353	1,635,740	241,464	1,394,276	67,314	65,298
<i>1957</i>							
January.....	192,677	188,930	178,311	39,775	138,535	348	10,272
February.....	114,624	112,440	99,485	10,566	88,919	2,400	10,555
March.....	93,720	92,359	87,425	9,298	78,127	3,575	1,359
April.....	93,628	91,438	89,562	7,032	82,530	23	1,853
May.....	76,278	75,380	71,162	2,628	68,534	0	4,218
June.....	180,574	177,933	170,673	13,192	157,481	0	7,260
July.....	347,565	342,818	334,481	64,236	270,245	0	8,337
August.....	227,809	225,017	222,926	1,984	220,942	775	1,315
September.....	84,220	83,125	43,960	10,454	33,506	30,033	9,131
October.....	161,217	159,361	158,861	43,815	115,046	0	500
November.....	129,932	127,793	95,916	586	95,330	30,161	1,715
December.....	93,168	91,760	82,978	37,897	45,080	0	8,782
<i>1958</i>							
January.....	111,324	109,979	107,068	16,506	90,562	723	2,188
February.....	210,790	207,678	197,948	5,777	192,172	2,389	7,340
March.....	50,032	49,287	42,864	6,846	36,019	478	5,944
April.....	42,189	40,374	24,266	6,002	18,264	160	15,949
May.....	79,388	74,992	51,469	7,360	44,108	615	22,908
June.....	82,903	79,426	68,466	14,322	54,144	1,752	9,208

See footnotes at end of table.

TABLE 4.—Proposed uses of net proceeds from the sale of new corporate securities offered for cash in the United States—Continued

PART 9.—COMMERCIAL AND OTHER

[Amounts in thousands of dollars.]

Calendar year or month <sup>1</sup>	Proceeds		New money			Retirement of securities	Other purposes
	Total gross proceeds <sup>2</sup>	Total net proceeds <sup>3</sup>	Total new money	Plant and equipment	Working capital		
1951.....	533,383	517,988	337,187	113,299	223,888	56,194	124,607
1952.....	552,958	536,386	453,975	275,598	178,377	24,235	53,176
1953.....	323,640	319,877	244,960	93,441	151,510	37,745	37,172
1954.....	421,647	409,635	268,364	164,365	104,000	46,889	94,382
1955.....	443,473	428,848	294,035	158,061	135,974	46,676	88,138
1956.....	307,359	296,063	240,521	102,281	138,239	12,652	43,491
1957.....	342,436	330,593	262,220	139,382	122,838	21,783	46,685
<i>1957</i>							
January.....	22,617	21,497	18,667	9,949	8,719	1,484	1,345
February.....	31,453	30,710	23,246	5,356	17,891	353	7,110
March.....	17,084	16,376	14,820	9,245	5,575	0	1,555
April.....	33,223	31,165	23,617	5,111	18,507	1,929	5,619
May.....	39,793	38,701	33,500	21,663	11,898	1,435	3,707
June.....	19,251	18,702	11,749	6,321	5,428	1,600	5,353
July.....	31,620	30,145	19,440	7,656	11,784	2,606	8,099
August.....	41,074	39,250	37,132	27,334	9,848	0	2,068
September.....	14,162	13,530	10,347	5,886	4,461	90	3,053
October.....	15,081	14,837	14,245	7,187	7,056	100	495
November.....	17,165	16,690	14,134	4,695	9,439	65	2,431
December.....	59,912	59,051	41,215	28,982	12,233	12,126	5,711
<i>1958</i>							
January.....	15,614	14,889	14,447	11,200	3,247	37	405
February.....	8,672	8,316	8,069	6,117	1,952	37	210
March.....	25,647	24,984	22,635	11,897	10,738	402	1,897
April.....	29,431	29,085	25,733	20,035	5,698	652	2,699
May.....	23,982	23,302	15,600	9,692	5,909	3,436	4,266
June.....	14,768	14,469	13,822	8,596	5,226	180	468

<sup>1</sup> Slight discrepancies between the sum of figures in the tables and the totals shown are due to rounding.

<sup>2</sup> For earlier data see 18th Annual Report.

<sup>3</sup> Total estimated gross proceeds represent the amount paid for the securities by investors, while total estimated net proceeds represent the amount received by the issuer after payment of compensation to distributors and other costs of flotation.

<sup>4</sup> Included with "Commercial and other."



TABLE 5.—A summary of corporate securities publicly offered and privately placed in each year from 1934 through June 1968  
 [Amounts in millions of dollars]

Calendar year	Total			Public offerings			Private placements			Private placements as percent of total		
	All Issues	Debt Issues	Equity Issues	All Issues	Debt Issues	Equity Issues	All Issues	Debt Issues	Equity Issues	All Issues	Debt Issues	
1934	397	372	25	305	290	25	92	92	0	23	2	24.7
1935	2,332	2,225	108	1,945	1,840	106	387	385	2	16	6	17.3
1936	4,572	4,026	543	4,199	3,660	539	373	369	4	8	2	9.2
1937	2,309	1,618	691	1,979	1,291	688	330	327	3	14.3	30.2	20.2
1938	2,165	2,044	111	1,353	1,276	110	692	691	1	32.1	33.8	33.8
1939	2,164	1,979	185	1,453	1,276	181	706	703	4	32	6	35.5
1940	2,677	2,386	291	1,912	1,628	284	765	758	7	28	6	31.8
1941	2,667	2,389	277	1,854	1,678	276	813	811	2	30.5	31.8	31.8
1942	1,052	917	146	854	706	148	420	411	9	39.5	44.8	44.8
1943	1,170	990	180	798	621	178	372	369	3	31.8	37.3	37.3
1944	3,202	2,670	532	2,415	1,892	524	787	778	9	24	6	26.1
1945	6,011	4,855	1,155	4,939	3,851	1,088	1,022	1,004	18	17	0	20.7
1946	6,900	4,882	2,018	4,933	3,019	1,913	1,917	1,863	54	27	8	38.2
1947	6,578	5,035	1,541	4,342	2,889	1,452	2,235	2,147	88	34	0	42.6
1948	7,078	5,973	1,106	3,991	2,965	1,028	3,087	3,008	79	43	6	50.2
1949	6,052	4,890	1,161	3,550	2,437	1,112	2,502	2,453	49	41	3	50.2
1950	6,362	4,920	1,442	3,681	2,360	1,321	2,680	2,560	120	42	1	52.0
1951	7,741	5,691	2,050	4,326	3,044	1,282	3,415	3,326	88	44	1	58.4
1952	9,534	7,601	1,933	5,533	3,645	1,888	4,002	3,957	45	42	0	52.1
1953	8,808	7,083	1,815	5,580	3,856	1,725	3,318	3,228	90	37	3	45.6
1954	9,516	7,488	2,029	5,848	4,003	1,844	3,668	3,484	184	38	0	46.5
1955	10,240	7,420	2,820	6,763	4,119	2,644	3,477	3,301	176	34	0	44.5
1956	10,639	8,002	2,637	7,053	4,225	2,827	3,886	3,777	109	35	5	47.2
1957	12,884	9,957	2,927	8,959	6,118	2,841	3,925	3,839	86	30	5	38.6
1958 (Jan.-June)	6,222	5,406	816	4,515	3,749	767	1,707	1,658	49	27	4	30.7

TABLE 6.—*Suspension orders issued pursuant to regulation A under the Securities Act of 1933 during the fiscal year 1958*

## Temporary Suspension Orders—

## Regulation A:

- Albuquerque Exploration, Inc., Albuquerque, N. Mex.; Securities Act Release No. 3880 (December 20, 1957).
- Al-Kem Mines, Inc., Austin, Nev.; Securities Act Release No. 3811 (July 15, 1957).
- Alunite Corp. of Utah, Salt Lake City, Utah; Securities Act Release No. 3921 (April 22, 1958).
- American Development Corp., Dover, Del.; Securities Act Release No. 3876 (December 13, 1957).
- American Reserve Oil & Mining Corp., Reno, Nev.; Securities Act Release No. 3881 (December 23, 1957).
- Michael Laurence and Stephen Richards as the "Amish Company", New York, N. Y.; Securities Act Release No. 3936 (June 10, 1958). Order vacated, Securities Act Release No. 3944 (July 8, 1958).
- Appell Oil & Gas Corp., Alice, Tex.; Securities Act Release No. 3820 (August 1, 1957). Order vacated, Securities Act Release No. 3920 (April 16, 1958).
- Australus Corp. of America, Jersey City, N. J.; Securities Act Release No. 3874 (December 11, 1957).
- Beckjord Manufacturing Corp., Toms River, N. J.; Securities Act Release No. 3936 (June 10, 1958).
- Ben Franklin Oil & Gas Corp., Franklin, N. J.; Securities Act Release No. 3823 (August 6, 1957).
- Big Ute Uranium Corp., Reno, Nev.; Securities Act Release No. 3862 (November 15, 1957).
- Blue Bird Mines, Inc., Pinal County, Ariz.; Securities Act Release No. 3933 (June 4, 1958).
- Brevilana, Inc., Hollywood, Calif.; Securities Act Release No. 3933 (June 4, 1958).
- James Preston and Charles Olsen as the "Career Co.", New York, N. Y.; Securities Act Release No. 3940 (June 20, 1958).
- Carver House, Inc., Las Vegas, Nev.; Securities Act Release No. 3899 (February 19, 1958).
- Central Oils, Inc., Seattle, Wash.; Securities Act Release No. 3902 (March 3, 1958).
- Col-Ny Uranium, Inc., Cortez, Colo.; Securities Act Release No. 3878 (December 18, 1957).
- Confidential Finance Corp., Omaha, Nebr.; Securities Act Release No. 3878 (December 18, 1957).
- Cottonwood Uranium Corp., Reno, Nev.; Securities Act Release No. 3911 (March 20, 1958).
- Digit-Ometer Co., Denver, Colo.; Securities Act Release No. 3913 (March 27, 1958). Order vacated, Securities Act Release No. 3930 (May 22, 1958).
- Douglass Muffler Manufacturing Corp., Alhambra, Calif.; Securities Act Release No. 3865 (November 26, 1957).
- Eagle Oil & Supply Co., Inc., Brockton, Mass.; Securities Act Release No. 3878 (December 18, 1957).

TABLE 6.—*Suspension orders issued pursuant to regulation A under the Securities Act of 1933 during the fiscal year 1958—Continued*

Temporary Suspension Orders—Continued

Regulation A—Continued

- Escalante Garlic Corp., Caliente, Nev.; Securities Act Release No. 3847 (October 10, 1957).
- Fidelity Trust of America, Dallas, Tex.; Securities Act Release No. 3812 (July 17, 1957).
- Fireball Uranium Mines, Inc., Moab, Utah; Securities Act Release No. 3895 (January 31, 1958).
- Florida Real Estate Investors Syndicate, Dania, Fla.; Securities Act Release No. 3905 (March 6, 1958).
- Franklin Atlas Corp., New York, N. Y.; Securities Act Release No. 3857 (October 30, 1957). Proceedings pending at end of fiscal year.
- Russell Janney as "Frontier Co.", New York, N. Y.; Securities Act Release No. 3874 (December 11, 1957).
- Garner Aluminum Corp., Washington, D. C.; Securities Act Release No. 3913 (March 27, 1958).
- Gem States Securities Corp., Boise, Idaho; Securities Act Release No. 3923 (May 5, 1958).
- George L. Headley Associates, Inc., New York, N. Y.; Securities Act Release No. 3874 (December 11, 1957).
- Giant Petroleum Corp., New York, N. Y.; Securities Act Release No. 3850 (October 22, 1957). Proceedings pending at end of fiscal year.
- Gob Shops of America, Inc., Providence, R. I.; Securities Act Release No. 3818 (July 31, 1957). Proceedings pending at end of fiscal year.
- Gold Crown Mining Corp., Allegheny, Calif.; Securities Act Release No. 3940 (June 20, 1958). Proceedings pending at end of fiscal year.
- Great Bear Lake Uranium Mines, Ltd., Regina, Saskatchewan, Canada; Securities Act Release No. 3940 (June 20, 1958).
- Gunn and McCrary, Inc., Shreveport, La.; Securities Act Release No. 3819 (August 1, 1957).
- Half Moon Uranium Corp., Ogden, Utah; Securities Act Release No. 3899 (February 19, 1958).
- Hardrock Mining Syndicate, Las Vegas, Nev.; Securities Act Release No. 3895 (January 31, 1958).
- Hart Oil Corp., Seattle, Wash.; Securities Act Release No. 3926 (May 15, 1958). Proceedings pending at end of fiscal year.
- H. F. Rieser's Sons, Inc., West Leesport, Pa.; Securities Act Release No. 3874 (December 11, 1957).
- Holiday Lake, Inc., Camden, N. J.; Securities Act Release No. 3936 (June 10, 1958).
- Illowata Oil Corp., Denver, Colo.; Securities Act Release No. 3866 (November 26, 1957). Proceedings pending at end of fiscal year.
- Index Corp., Glenns Ferry, Idaho; Securities Act Release No. 3848 (October 11, 1957).
- Inspiration Lead Co., Inc., Spokane, Wash.; Securities Act Release No. 3929 (May 26, 1958). Proceedings pending at end of fiscal year.
- International Telo-Service Corp., New York, N. Y.; Securities Act Release No. 3874 (December 11, 1957).
- Interstate Holding Corp., Memphis, Tenn.; Securities Act Release No. 3809 (July 9, 1957).

TABLE 6.—*Suspension orders issued pursuant to regulation A under the Securities Act of 1933 during the fiscal year 1958—Continued*

## Temporary Suspension Orders—Continued

## Regulation A—Continued

- John Paul Enterprises, Inc., New York, N. Y.; Securities Act Release No. 3874 (December 11, 1957).
- Jontex, Inc., Reno, Nev.; Securities Act Release No. 3860 (November 13, 1957).
- Jurassic Minerals, Inc., Cortez, Colo.; Securities Act Release No. 3891 (January 23, 1958).
- Lake Champlain Associates, Inc., Wellsboro, N. Y.; Securities Act Release No. 3874 (December 11, 1957).
- McCullough Motors Corp., Philadelphia, Pa.; Securities Act Release No. 3835 (September 3, 1957).
- Mia Nina Mining Corp., Salt Lake City, Utah; Securities Act Release No. 3847 (October 10, 1957).
- Microveer, Inc., Santurce, Puerto Rico; Securities Act Release No. 3928 (May 19, 1958).
- Monarch Laundry Machine Corp., Fort Lauderdale, Fla.; Securities Act Release No. 3869 (December 2, 1957).
- Mutual Investors Corp. of New York, New York, N. Y.; Securities Act Release No. 3936 (June 10, 1958).
- Oliver Products, Inc., New York, N. Y.; Securities Act Release No. 3936 (June 10, 1958).
- Pawnee Oil Co., Los Angeles, Calif.; Securities Act Release No. 3891 (January 23, 1958).
- Pixie Beverage Corp., Reno, Nev.; Securities Act Release No. 3871 (December 5, 1957).
- James Spicer as "Porcelain Clay Co.", New York, N. Y.; Securities Act Release No. 3936 (June 10, 1958).
- Profile Mines, Inc., Boise, Idaho; Securities Act Release No. 3814 (July 22, 1957).
- Pyramid Mining and Metal Corp., Lubbock, Tex.; Securities Act Release No. 3870 (December 5, 1957).
- Rainbow Uranium Corp., Tonopah, Nev.; Securities Act Release No. 3848 (October 11, 1957).
- Rancho Club Cabazon Corp., Las Vegas, Nev.; Securities Act Release No. 3858 (November 4, 1957).
- Real Estate Clearing House, Inc., New York, N. Y.; Securities Act Release No. 3874 (December 11, 1957).
- Red Rock Oil & Gas Co., Las Vegas, Nev.; Securities Act Release No. 3883 (December 30, 1957).
- Reliance Uranium Corp., Reno, Nev.; Securities Act Release No. 3910 (March 18, 1958).
- Salesology, Inc., Phoenix, Ariz.; Securities Act Release No. 3889 (January 20, 1958). Proceedings pending at end of fiscal year.
- Seaboard Drug Co., Inc., New York, N. Y.; Securities Act Release No. 3931 (May 28, 1958).
- Peter Lawrence as "Shinbone Alley Co.", New York, N. Y.; Securities Act Release No. 3940 (June 20, 1958).
- Simplex Precast Industries, Inc., Norristown, Pa.; Securities Act Release No. 3824 (August 7, 1957).

TABLE 6.—*Suspension orders issued pursuant to regulation A under the Securities Act of 1933 during the fiscal year 1958—Continued*

Temporary Suspension Orders—Continued

Regulation A—Continued

- S & M Mining & Exploration, Worland, Wyo.; Securities Act Release No. 3915 (April 7, 1958).
- Southwestern Chemical & Mineral Corp., New York, N. Y.; Securities Act Release No. 3849 (October 21, 1957).
- Howard Hoyt as "Strip for Action Co.", New York, N. Y.; Securities Act Release No. 3877 (December 13, 1957).
- Tejanos Mining Corp., El Reno, Okla.; Securities Act Release No. 3930 (May 27, 1958).
- Texas-Angello Petroleum Exploration Co., Anchorage, Alaska; Securities Act Release No. 3904 (March 5, 1958). Proceedings pending at end of fiscal year.
- Truly Nolen Products, Inc., Miami, Fla.; Securities Act Release No. 3841 (September 24, 1957). Proceedings pending at end of fiscal year.
- Turbo Corp. of America, Philadelphia, Pa.; Securities Act Release No. 3874 (December 11, 1957).
- United Production Co., Inc., New York, N. Y.; Securities Act Release No. 3921 (April 22, 1958).
- Universal Life and Accident Insurance Co., Duncan, Okla.; Securities Act Release No. 3921 (April 22, 1958).
- Universal Metals Corp. of Nevada, Reno, Nev.; Securities Act Release No. 3880 (December 20, 1957).
- Universal Mining and Milling Co., Albuquerque, N. Mex.; Securities Act Release No. 3915 (April 7, 1958).
- Universal Oil Recovery Corp., Chicago, Ill.; Securities Act Release No. 3862 (November 15, 1957). Proceedings pending at end of fiscal year.
- Urania, Inc., Las Vegas, Nev.; Securities Act Release No. 3895 (January 31, 1958).
- Uranium Exploration and Copper Co. of Nevada, Las Vegas, Nev.; Securities Act Release No. 3887 (January 13, 1958).
- Uranium Queen Exploration Co., Greeley, Colo.; Securities Act Release No. 3913 (March 27, 1958).
- Voltar Electronics, Inc., Brooklyn, N. Y.; Securities Act Release No. 3936 (June 10, 1958).
- Washington Planning Corp. of Maryland, Washington, D. C.; Securities Act Release No. 3925 (May 8, 1958).

Findings, opinions and orders permanently suspending the exemption after hearing were issued in the following three cases under Regulation A:

- Apache Uranium Company; Securities Act Release No. 3830 (August 15, 1957).
- Interstate Holding Corporation; Securities Act Release No. 3831 (August 19, 1957).
- Idea, Inc.; Securities Act Release No. 3837 (September 5, 1957).

TABLE 7.—Brokers and dealers registered under the Securities Exchange Act of 1934<sup>1</sup>—effective registrations as of June 30, 1958, classified by type of organization and by location of principal office

Location of principal office	Number of registrants				Number of proprietors, partners, officers, etc. <sup>2,3</sup>			
	Total	Sole proprietors-ships	Partnerships	Corporations <sup>4</sup>	Total	Sole proprietors-ships	Partnerships	Corporations <sup>4</sup>
Alabama	36	13	7	16	107	13	22	72
Arizona	30	5	9	16	129	5	21	103
Arkansas	22	9	3	10	52	9	6	37
California	332	133	85	114	1,161	133	445	583
Colorado	99	36	6	58	346	36	30	280
Connecticut	42	18	11	13	175	18	59	98
Delaware	9	1	2	6	61	1	15	35
District of Columbia	92	32	22	38	356	32	94	230
Florida	89	37	14	38	246	37	34	175
Georgia	43	12	6	25	184	12	24	148
Idaho	16	9	2	5	33	9	5	19
Illinois	182	41	62	79	879	41	296	542
Indiana	54	23	6	25	162	23	11	128
Iowa	34	14	4	16	97	14	8	75
Kansas	31	10	6	15	126	10	18	98
Kentucky	18	7	6	6	64	7	18	38
Louisiana	53	32	13	8	100	32	40	28
Maine	31	11	2	18	88	11	8	69
Maryland	45	11	14	10	145	21	85	39
Massachusetts	196	83	31	82	882	83	217	582
Michigan	58	13	19	26	262	13	95	154
Minnesota	51	7	9	35	254	7	32	215
Mississippi	24	11	7	6	50	11	17	22
Missouri	93	25	20	48	473	25	134	314
Montana	10	7	1	2	16	7	2	7
Nebraska	28	10	2	16	119	10	5	104
Nevada	7	5	0	2	9	5	0	4
New Hampshire	11	9	0	2	18	9	0	9
New Jersey	207	119	34	54	444	119	92	233
New Mexico	13	7	3	3	29	7	8	14
New York State (excluding New York City)	344	231	37	76	652	231	118	303
North Carolina	36	14	5	17	147	14	13	120
North Dakota	4	3	0	1	8	3	0	5
Ohio	131	26	41	64	550	26	188	336
Oklahoma	45	29	7	10	79	29	12	38
Oregon	26	6	13	82	55	6	18	58
Pennsylvania	199	55	81	63	845	55	392	398
Rhode Island	18	4	4	4	43	4	29	10
South Carolina	26	12	4	12	84	12	9	63
South Dakota	11	7	0	4	21	7	0	14
Tennessee	38	10	10	18	149	10	27	112
Texas	257	126	30	101	696	126	85	485
Utah	45	11	6	28	146	11	25	110
Vermont	3	2	0	1	11	2	0	9
Virginia	46	19	14	13	150	19	60	71
Washington	89	48	7	34	248	48	16	184
West Virginia	12	7	3	2	26	7	9	10
Wisconsin	45	10	5	30	204	10	26	168
Wyoming	6	5	0	1	12	5	0	7
Total (excluding New York City)	3,339	1,385	670	1,284	11,210	1,385	2,869	6,956
New York City	1,325	364	596	365	5,945	364	3,680	1,901
	4,664	1,749	1,266	1,649	17,155	1,749	6,549	8,857

<sup>1</sup> Domestic registrants only, excludes 83 outside continental limits of the United States.

<sup>2</sup> Includes directors, officers, trustees, and all other persons occupying similar status or performing similar functions.

<sup>3</sup> Allocations made among States on the basis of location of principal offices of registrants, not actual location of persons. Information taken from latest reports filed prior to June 30, 1958.

<sup>4</sup> Includes all forms of organizations other than sole proprietorships and partnerships.

TABLE 8.—Number of issuers and security issues on exchanges

PART 1.—UNDUPLICATED NUMBER OF STOCK AND BOND ISSUES ADMITTED TO TRADING ON ALL EXCHANGES AND NUMBER OF ISSUERS INVOLVED, AS OF JUNE 30, 1958.

Status under the Securities Exchange Act of 1934	Stocks	Bonds	Total stocks and bonds	Issuers involved
Registered pursuant to Sections 12 (b), (c) and (d).....	2, 663	1, 132	3, 795	2, 236
Temporarily exempted from registration by Commission Rule.....	7	2	9	7
Admitted to unlisted trading privileges on registered exchanges pursuant to Section 12 (f).....	240	32	272	218
Listed on exempted exchanges under exemption orders of the Commission.....	72	8	80	59
Admitted to unlisted trading privileges on exempted exchanges under exemption orders of the Commission.....	15	0	15	15
Total.....	2, 997	1, 174	4, 171	2, 535

PART 2.—NUMBER OF STOCK AND BOND ISSUES ON EACH EXCHANGE AND NUMBER OF ISSUERS INVOLVED AS OF JUNE 30, 1958.

Exchanges	Issuers	Stocks					Total	Bonds					Total
		R	X	U	XL	XU		R	X	U	XL		
American.....	802	615	1	243	-----	859	23	-----	34	-----	57		
Boston.....	423	74	-----	363	-----	437	16	-----	-----	-----	16		
Chicago Board of Trade.....	12	7	-----	5	-----	12	-----	-----	-----	-----	-----		
Cincinnati.....	133	47	-----	95	-----	142	7	1	-----	-----	8		
Colorado Springs.....	12	-----	-----	-----	13	13	-----	-----	-----	-----	-----		
Detroit.....	217	107	1	117	-----	225	-----	-----	-----	-----	-----		
Honolulu.....	59	-----	-----	-----	53	16	69	-----	-----	8	8		
Midwest.....	455	398	3	114	-----	515	14	-----	-----	-----	14		
New Orleans.....	14	4	-----	14	-----	18	1	-----	1	-----	2		
New York Stock.....	1, 282	1, 526	-----	-----	-----	1, 526	1, 087	2	-----	-----	1, 089		
Pacific Coast.....	479	300	1	249	-----	550	20	-----	-----	-----	20		
Philadelphia- Baltimore.....	519	161	7	427	-----	595	52	-----	-----	-----	52		
Pittsburgh.....	115	48	-----	74	-----	122	1	-----	-----	-----	1		
Richmond.....	18	-----	-----	-----	27	27	-----	-----	-----	-----	-----		
Salt Lake.....	93	92	-----	4	-----	96	-----	-----	-----	-----	-----		
San Francisco Mining.....	48	49	-----	-----	-----	49	-----	-----	-----	-----	-----		
Spokane.....	28	25	-----	6	-----	31	-----	-----	-----	-----	-----		
Wheeling.....	13	-----	-----	-----	12	3	15	-----	-----	-----	-----		

Symbols: R—registered; X—temporarily exempted; U—admitted to unlisted trading privileges; XL—listed on an exempted exchange; XU—admitted to unlisted trading privileges on an exempted exchange

NOTE.—Issues exempted under Section 3 (a) (12) of the Act, such as obligations of the United States Government, the States and cities, are not included in this table.

TABLE 9.—Unlisted stocks on securities exchanges <sup>1</sup>

PART 1.—NUMBER OF STOCKS ON THE EXCHANGES IN THE VARIOUS UNLISTED CATEGORIES <sup>2</sup> AS OF JUNE 30, 1958

Exchanges	Unlisted only <sup>3</sup>		Listed and registered on another exchange		
	Clause 1	Clause 3	Clause 1	Clause 2	Clause 3 <sup>4</sup>
American.....	900	2	38	2	1
Boston.....	1	0	154	208	0
Chicago Board of Trade.....	3	0	2	0	0
Cincinnati.....	0	0	0	95	0
Detroit.....	0	0	14	103	0
Honolulu.....	16	0	0	0	0
Midwest.....	0	0	0	114	0
New Orleans.....	8	0	4	2	0
Pacific Coast.....	26	0	61	162	0
Philadelphia-Baltimore.....	4	0	246	177	0
Pittsburgh.....	0	0	16	58	0
Salt Lake.....	3	0	0	0	1
Spokane.....	4	0	1	1	0
Wheeling.....	0	0	0	3	0
Total <sup>5</sup> .....	265	2	536	925	2

PART 2.—UNLISTED SHARE VOLUME ON THE EXCHANGES—CALENDAR YEAR 1957

Exchanges	Unlisted only		Listed and registered on another exchange		
	Clause 1	Clause 3	Clause 1	Clause 2	Clause 3
American.....	26,418,870	18,120	3,277,360	369,200	15,020
Boston.....	8,046	0	2,201,382	1,948,501	0
Chicago Board of Trade.....	0	0	0	0	0
Cincinnati.....	0	0	0	299,891	0
Detroit.....	0	0	185,745	1,591,034	0
Honolulu.....	37,341	0	0	0	0
Midwest.....	0	0	0	6,515,680	0
New Orleans.....	69,509	0	0	548	0
Pacific Coast.....	2,201,174	0	2,818,199	4,279,028	0
Philadelphia-Baltimore.....	2,263	0	2,972,816	2,214,279	0
Pittsburgh.....	0	0	266,069	232,540	0
Salt Lake.....	248	0	0	0	573
Spokane.....	87,888	0	0	0	0
Wheeling.....	0	0	0	1,252	0
Total.....	28,825,339	18,120	11,721,571	17,451,962	15,593

<sup>1</sup> Refer to text under heading "Unlisted Trading Privileges on Exchanges." Volumes are as reported by the stock exchanges or other reporting agencies and are exclusive of those in short-term rights.

<sup>2</sup> The categories are according to clauses 1, 2, and 3 of sec. 12 (f) of the Securities Exchange Act.

<sup>3</sup> None of these issues has any listed status on any domestic exchange, except that 9 of the 26 Pacific Coast Stock Exchange issues are also listed on an exempted exchange.

<sup>4</sup> These issues became listed and registered on other exchanges subsequent to their admission to unlisted trading on the exchanges as shown.

<sup>5</sup> Duplication of issues among exchanges brings the figures to more than the actual number of issues involved.



TABLE 10.—*Market value and volume of sales effected on securities exchanges in the 12-month period ended December 31, 1957, and the 6-month period ended June 30, 1958*

[Amounts in thousands]

## PART 1.—12 MONTHS ENDED DECEMBER 31, 1957

	Total market value (dollars)	Stocks <sup>1</sup>		Bonds <sup>2</sup>		Rights and warrants	
		Market value (dollars)	Number of shares	Market value (dollars)	Principal amount (dollars)	Market value (dollars)	Number of units
Registered exchanges.	33,360,273	32,059,020	1,070,093	1,154,256	1,252,794	146,997	222,332
American.....	2,376,051	2,315,383	224,738	14,111	16,688	46,557	9,756
Boston.....	246,169	246,065	5,100	5	5	99	130
Chicago Board of Trade.....	24,694	24,061	544	237	451	396	280
Cincinnati.....	134,677	134,597	4,588			81	461
Detroit.....	866,143	864,754	25,901	10	13	1,379	4,263
Midwest.....	1,448	1,448	74				
New Orleans.....	28,686,335	27,450,748	714,451	1,139,573	1,235,240	96,014	199,711
Pacific Coast.....	651,284	650,011	32,362	34	26	1,239	2,901
Philadelphia-Baltimore.....	323,257	321,741	7,868	285	370	1,231	4,820
Pittsburgh.....	39,829	39,828	1,613			1	2
Salt Lake.....	3,983	3,981	27,348			1	7
San Francisco Mining.....	5,831	5,831	24,404				
Spokane.....	574	574	1,101				
Exempted exchanges.	8,842	8,747	573	13	15	82	24
Colorado Springs.....	21	21	43				
Honolulu.....	7,747	7,651	499	13	15	82	24
Richmond.....	637	637	19				
Wheeling.....	438	438	12				

## PART 2.—6 MONTHS ENDED JUNE 30, 1958

	Total market value (dollars)	Stocks <sup>1</sup>		Bonds <sup>2</sup>		Rights and warrants	
		Market value (dollars)	Number of shares	Market value (dollars)	Principal amount (dollars)	Market value (dollars)	Number of units
Registered exchanges.	15,704,710	14,932,617	526,438	704,827	741,376	67,266	43,451
American.....	1,046,831	1,015,271	99,998	9,688	11,085	21,871	3,303
Boston.....	120,193	118,170	2,561	107	80	1,916	702
Chicago Board of Trade.....	12,953	12,840	294	85	165	27	34
Cincinnati.....	55,833	55,736	2,029			97	41
Detroit.....	414,374	412,883	12,181			1,491	801
Midwest.....	403	402	21	1	1		
New Orleans.....	13,543,808	12,810,250	371,355	694,508	729,659	39,049	37,095
Pacific Coast.....	329,148	326,832	14,516	362	278	1,953	1,035
Philadelphia-Baltimore.....	164,092	163,156	4,172	75	109	861	434
Pittsburgh.....	14,350	14,350	1,050				
Salt Lake.....	1,216	1,216	10,425			( <sup>3</sup> )	6
San Francisco Mining.....	878	878	6,679				
Spokane.....	633	633	1,178				
Exempted exchanges.	4,801	4,655	359	30	43	107	60
Colorado Springs.....	6	6	54				
Honolulu.....	4,348	4,201	239	39	43	107	60
Richmond.....	327	327	10				
Wheeling.....	121	121	6				

<sup>1</sup> "Stocks" include voting trust certificates, American depositary receipts, and certificates of deposit.<sup>2</sup> United States Government bonds are not included in these data.<sup>3</sup> Less than \$500.

NOTE.—Value and volume of sales effected on registered securities exchanges are reported in connection with fees paid under Section 31 of the Securities Exchange Act of 1934. For most exchanges the figures represent transactions cleared during the calendar month. Figures may differ from comparable data in the Statistical Bulletin due to revisions of data by exchanges. Figures have been rounded and will not necessarily add to totals shown.

TABLE 11.—Block distributions

[Value in thousands of dollars]

Calendar year	Special offerings			Exchange distributions			Secondary distributions		
	Number	Shares sold	Value	Number	Shares sold	Value	Number	Shares sold	Value
1942 <sup>1</sup> -----	79	812,390	22,694	-----	-----	-----	116	2,397,454	82,840
1943-----	80	1,097,338	31,054	-----	-----	-----	81	4,270,680	127,462
1944-----	87	1,053,667	32,454	-----	-----	-----	94	4,097,298	135,760
1945-----	79	947,231	29,878	-----	-----	-----	115	9,457,358	191,961
1946-----	23	308,134	11,002	-----	-----	-----	100	6,481,291	232,398
1947-----	24	314,270	9,133	-----	-----	-----	73	3,961,572	124,671
1948-----	21	238,879	5,466	-----	-----	-----	95	7,302,420	175,991
1949-----	32	500,211	10,956	-----	-----	-----	86	3,737,249	104,062
1950-----	20	150,308	4,940	-----	-----	-----	77	4,280,681	88,743
1951-----	27	323,013	10,751	-----	-----	-----	88	5,193,756	146,459
1952-----	22	357,897	9,931	-----	-----	-----	76	4,223,258	149,117
1953-----	17	380,680	10,486	-----	-----	-----	68	6,906,017	108,229
1954-----	14	189,772	6,670	57	705,781	24,664	84	5,738,359	218,490
1955-----	9	161,850	7,223	19	258,348	10,211	116	6,756,767	344,871
1956-----	8	131,755	4,557	17	156,481	4,645	146	11,696,174	520,966
1957-----	5	63,408	1,845	33	390,832	15,855	99	9,324,599	339,062

<sup>1</sup> The first Special Offering Plan was made effective Feb. 14, 1942 the Plan of Exchange Distribution was made effective Aug. 21, 1953; Secondary Distributions are not made pursuant to any plan but generally exchanges require members to obtain approval of the exchange to participate in a secondary and a report on such distribution is filed with this Commission.

TABLE 12.—Comparative share sales and dollar volumes on exchanges

[Annual sales, including stocks, warrants and rights, as reported by all United States exchanges to the Commission. Figures for merged exchanges are included in those of the exchanges into which they were merged]

Year	Share sales	NYS %	AMS %	MSE %	PCS %	PBS %	BSE %	DSE %	PIT %	CIN %	Other %
1935.....	681,970,500	73.13	12.42	1.91	2.69	0.76	0.96	0.85	0.34	0.03	6.91
1936.....	962,135,940	73.02	16.43	2.18	2.96	.69	.72	.74	.32	.04	2.90
1937.....	838,469,889	73.19	14.75	1.79	3.23	.70	.83	.69	.38	.03	4.61
1938.....	543,331,878	78.08	10.55	2.27	2.67	.79	1.03	.75	.25	.04	3.57
1939.....	468,330,340	78.23	11.39	2.26	2.35	.93	1.18	.76	.25	.05	2.60
1940.....	377,896,572	75.44	13.20	2.11	2.78	1.02	1.19	.82	.31	.08	3.05
1941.....	311,150,395	73.96	12.73	2.72	2.69	1.24	1.50	.87	.36	.14	3.79
1942.....	221,159,616	76.49	11.64	2.70	2.62	1.08	1.39	.90	.29	.12	2.77
1943.....	486,290,926	74.58	16.72	2.20	1.92	.85	.76	.64	.20	.07	2.06
1944.....	465,523,183	73.40	16.87	2.07	2.40	.79	.81	.86	.26	.06	2.48
1945.....	769,018,138	65.87	21.31	1.77	2.98	.66	.66	.79	.40	.05	5.51
1946.....	803,076,532	66.07	19.37	1.74	3.51	.68	.84	.63	.28	.05	6.83
1947.....	513,274,867	69.82	16.98	1.67	4.22	.90	1.05	.66	.19	.08	4.43
1948.....	571,107,842	72.42	15.07	1.63	3.95	.87	.76	.68	.18	.08	4.36
1949.....	516,408,706	73.51	14.49	1.67	3.72	1.21	.93	.73	.18	.09	3.47
1950.....	893,321,458	76.32	13.54	2.16	3.11	.79	.65	.55	.18	.09	2.61
1951.....	863,918,401	74.40	14.60	2.10	3.54	.76	.70	.58	.16	.08	3.08
1952.....	732,400,451	71.21	16.08	2.43	3.85	.85	.73	.55	.16	.09	4.05
1953.....	716,732,406	72.64	15.85	2.28	3.90	.83	.81	.55	.15	.11	2.88
1954.....	1,053,841,443	71.04	16.87	2.00	3.24	.88	.50	.53	.13	.07	4.74
1955.....	1,321,400,711	68.85	19.19	2.09	3.08	.75	.48	.39	.10	.05	5.02
1956.....	1,182,487,085	66.31	21.01	2.32	3.25	.72	.47	.49	.11	.05	5.27
1957.....	1,293,021,856	70.70	18.14	2.33	2.73	.98	.40	.39	.13	.06	4.14
1958.....											
Six months to June 30, 1958.	570,308,000	71.61	18.12	2.28	2.73	.81	.57	.36	.18	.06	3.28
	Dollar volume (000 omitted)										
1935.....	\$15,396,139	86.64	7.83	1.32	1.39	.68	1.34	.40	.20	.04	.16
1936.....	23,640,431	85.24	8.69	1.39	1.33	.62	1.05	.31	.20	.03	.14
1937.....	21,023,885	87.85	7.56	1.06	1.25	.60	1.10	.24	.20	.03	.11
1938.....	12,345,419	89.24	5.57	1.03	1.27	.72	1.51	.37	.18	.04	.07
1939.....	11,434,528	87.20	6.56	1.70	1.37	.82	1.70	.34	.18	.06	.07
1940.....	8,410,772	85.17	7.68	2.07	1.52	.92	1.91	.36	.19	.09	.09
1941.....	6,248,055	84.14	7.45	2.59	1.67	1.10	2.27	.33	.21	.12	.12
1942.....	4,314,294	85.16	6.60	2.43	1.71	.96	2.33	.34	.23	.13	.11
1943.....	9,033,007	84.93	8.90	2.02	1.43	.80	1.30	.30	.16	.07	.09
1944.....	9,810,149	84.14	9.30	2.11	1.70	.79	1.29	.34	.15	.07	.11
1945.....	16,284,552	82.75	10.81	2.00	1.78	.82	1.16	.35	.14	.06	.13
1946.....	18,828,477	82.65	10.73	2.00	1.87	.79	1.23	.33	.16	.07	.17
1947.....	11,596,806	84.01	8.77	1.82	2.26	.91	1.51	.36	.14	.11	.11
1948.....	12,911,665	84.67	8.07	1.85	2.53	.88	1.33	.34	.14	.10	.09
1949.....	10,746,935	83.85	8.44	1.95	2.49	1.11	1.43	.39	.13	.12	.09
1950.....	21,808,284	85.91	6.85	2.35	2.19	.92	1.12	.39	.11	.11	.05
1951.....	21,306,087	85.48	7.50	2.30	2.06	.89	1.06	.36	.11	.11	.07
1952.....	17,394,395	84.86	7.39	2.67	2.20	.99	1.11	.43	.15	.12	.08
1953.....	16,715,533	85.25	6.79	2.84	2.20	1.06	1.04	.46	.16	.13	.07
1954.....	28,140,117	86.23	6.79	2.42	2.02	.94	.89	.39	.14	.10	.08
1955.....	38,039,107	86.31	6.98	2.44	1.90	.80	.78	.39	.13	.09	.08
1956.....	35,143,115	84.95	7.77	2.75	2.08	.96	.80	.42	.12	.08	.07
1957.....	32,214,846	85.51	7.33	2.69	2.02	1.00	.76	.42	.12	.08	.07
1958.....											
Six months to June 30, 1958.	15,004,655	85.63	6.92	2.76	2.19	1.09	.80	.37	.10	.09	.05

Symbols. NYS, New York Stock Exchange; AMS, American Stock Exchange; MSE, Midwest Stock Exchange; PCS, Pacific Coast Stock Exchange; PBS, Philadelphia-Baltimore Stock Exchange; BSE, Boston Stock Exchange; DSE, Detroit Stock Exchange; PIT, Pittsburgh Stock Exchange; CIN, Cincinnati Stock Exchange.

TABLE 13.—Reorganization proceedings in which the Commission participated during the fiscal year 1958

Debtor	District court	Petition filed	Petition approved	Securities and Exchange Commission notice of appearance filed
Alaska Telephone Corporation	W. D. Wash.	Nov. 2, 1955	Nov. 21, 1955	Nov. 7, 1956
American Fuel & Power Co.	E. D. Ky.	Dec. 6, 1935	Dec. 20, 1935	May 1, 1940
Buckeye Fuel Co.	do	Nov. 28, 1939	Nov. 28, 1939	Do.
Buckeye Gas Service Co.	do	do	do	Do.
Carbroath Gas Co.	do	do	do	Do.
Inland Gas Distributing Co.	do	do	do	Do.
Automatic Washer Company	S. D. Iowa	Oct. 17, 1956	Nov. 2, 1956	Nov. 2, 1956
N. O. Nelson Company <sup>1</sup>	E. D. Mo.	Oct. 22, 1956	Nov. 8, 1956	Nov. 1, 1956
Central States Electric Corp.	E. D. Va.	Feb. 26, 1942	Feb. 27, 1942	Mar. 11, 1942
Coastal Finance Corporation	D. Md.	Feb. 15, 1956	Feb. 18, 1956	Apr. 16, 1956
Columbus Venetian Stevens Buildings, Inc.	N. D. Ill.	Aug. 30, 1955	Aug. 31, 1955	Oct. 3, 1955
Empire Warehouses, Inc.	do	June 15, 1956	June 15, 1956	July 19, 1956
Equitable Plan Company <sup>1</sup>	S. D. Calif.	Mar. 18, 1958	May 29, 1958	Mar. 27, 1958
Frank Fehr Brewing Co. <sup>1</sup>	W. D. Ky.	Aug. 13, 1957	Aug. 14, 1957	Nov. 8, 1957
General Stores Corp.	S. D. N. Y.	Apr. 30, 1956	May 1, 1956	May 23, 1956
Adolf Gobel, Inc.	D. N. J.	July 23, 1953	Dec. 28, 1953	Sept. 8, 1953
Eastern Edible Refinery Corp.	do	June 23, 1954	June 23, 1954	Oct. 14, 1954
Gobel's Q. F. Distributors	do	do	do	Do.
Gobel Pharmaceuticals, Inc.	do	do	do	Do.
Metropolitan Shortening Corp.	do	do	do	Do.
Green River Steel Corporation	W. D. Ky.	Sept. 13, 1956	Sept. 18, 1956	Oct. 5, 1956
Horsting Oil Company	D. N. Dak.	Mar. 17, 1952	Mar. 17, 1952	Sept. 30, 1955
Hudson & Manhattan Railroad Company	S. D. N. Y.	Aug. 11, 1954	Dec. 14, 1954	Jan. 7, 1955
Inland Gas Corporation	E. D. Ky.	Oct. 14, 1935	Nov. 1, 1935	Mar. 28, 1939
International Power Securities Corp.	D. N. J.	Feb. 24, 1941	Feb. 24, 1941	Mar. 3, 1941
International Railway Company	W. D. N. Y.	July 28, 1947	July 28, 1947	Aug. 4, 1947
Keeshin Freight Lines, Inc.	N. D. Ill.	Jan. 31, 1946	Jan. 31, 1946	Apr. 25, 1949
Keeshin Motor Express Co., Inc.	do	do	do	Do.
Seaboard Freight Lines, Inc.	do	do	do	Do.
National Freight Lines, Inc.	do	do	do	Do.
Kentucky Fuel Gas Corporation	E. D. Ky.	Oct. 25, 1935	Nov. 1, 1935	Mar. 28, 1939
Liberty Baking Corporation	S. D. N. Y.	Apr. 22, 1957	Apr. 22, 1957	May 2, 1957
Magnolia Park, Inc. <sup>1</sup>	E. D. La.	Oct. 16, 1957	Feb. 26, 1958	Oct. 24, 1957
Muntz TV, Inc.	N. D. Ill.	Mar. 2, 1954	Mar. 3, 1954	Mar. 4, 1954
Tel-A-Vogue	do	do	do	Do.
Muntz Industries, Inc.	do	do	do	Do.
Northeastern Steel Corporation	Coun.	Feb. 1, 1957	Feb. 5, 1957	Feb. 19, 1957
Parker Petroleum Co., Inc. <sup>1</sup>	W. D. Okla.	May 6, 1958	May 6, 1958	June 9, 1958
Pittsburgh Railways Co.	W. D. Pa.	May 10, 1938	May 10, 1938	Jan. 4, 1939
Pittsburgh Motor Coach Co.	do	do	do	Do.
Seaboard Drug Co.	S. D. N. Y.	May 7, 1957	May 10, 1957	June 25, 1957
Selected Investments Trust Fund <sup>1</sup>	do	do	do	Do.
Selected Investments Corporation <sup>1</sup>	N. D. Okla.	Mar. 3, 1958	Mar. 3, 1958	Mar. 17, 1958
Sierra Nevada Oil Co.	D. Nev.	June 22, 1951	June 22, 1951	July 25, 1951
Silesian American Corp.	S. D. N. Y.	July 29, 1941	July 29, 1941	Aug. 1, 1941
South Texas Oil & Gas Co. <sup>1</sup>	S. D. Tex.	Feb. 2, 1958	Feb. 2, 1958	Feb. 15, 1958
Stardust, Inc.	Nev.	July 19, 1956	Sept. 10, 1956	Sept. 7, 1956
Swan-Finch Oil Corporation <sup>1</sup>	S. D. N. Y.	Jan. 2, 1958	Jan. 2, 1958	Jan. 27, 1958
Texas City Chemicals, Inc. <sup>2</sup>	S. D. Tex.	June 22, 1956	Sept. 26, 1956	Oct. 11, 1956
Third Avenue Transit Corp.	S. D. N. Y.	Oct. 25, 1948	June 21, 1949	Jan. 3, 1949
Surface Transportation Corp.	do	June 21, 1949	do	July 7, 1949
Westchester St. Transportation Co. Inc.	do	do	do	Do.
Westchester Electric R. R. Co.	do	do	do	Do.
Warontas Press, Inc.	do	Sept. 8, 1949	Sept. 8, 1949	Sept. 8, 1949
Yonkers Railroad Co.	do	June 21, 1949	June 21, 1949	July 7, 1949
TMT Trailer Ferry, Inc. <sup>1</sup>	S. D. Fla.	June 27, 1957	Nov. 15, 1957	Nov. 25, 1957
Trinity Buildings Corp. of N. Y.	S. D. N. Y.	Jan. 18, 1945	Jan. 18, 1945	Feb. 19, 1945
Uintah Dome Oil & Gas Corporation <sup>1,2</sup>	C. D. Utah	Apr. 1, 1957	Apr. 2, 1957	July 29, 1957
U. S. Realty & Improvement Co. <sup>2</sup>	S. D. N. Y.	Feb. 2, 1944	Feb. 1, 1944	Feb. 8, 1944

<sup>1</sup> Commission filed notice of appearance in fiscal year 1958.  
<sup>2</sup> Reorganization proceeding closed during fiscal year 1958.  
<sup>3</sup> Commission no longer participating in proceeding.

TABLE 14.—Summary of cases instituted in the courts by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, and the Investment Advisers Act of 1940

Types of cases	Total cases instituted up to end of 1958 fiscal year	Total cases closed up to end of 1958 fiscal year	Cases pending at end of 1958 fiscal year	Cases pending at end of 1957 fiscal year	Cases instituted during 1958 fiscal year	Total cases pending during 1958 fiscal year	Cases closed during 1958 fiscal year
Actions to enjoin violations of the above acts:---	842	789	53	43	62	105	52
Actions to enforce subpoenas under the Securities Act and the Securities Exchange Act:---	69	68	1	0	3	3	2
Actions to carry out voluntary plans to comply with sec. 11 (b) of the Holding Company Act:---	125	120	5	2	5	7	2
Miscellaneous actions: .. .	24	23	1	0	1	1	0
Total:-----	1,060	1,000	60	45	71	116	56

TABLE 15.—Summary of cases instituted against the Commission, cases in which the Commission participated as intervenor or amicus curiae, and reorganization cases on appeal under ch. X in which the Commission participated

Types of cases	Total cases instituted up to end of 1958 fiscal year	Total cases closed up to end of 1958 fiscal year	Cases pending at end of 1958 fiscal year	Cases pending at end of 1957 fiscal year	Cases instituted during 1958 fiscal year	Total cases pending during 1958 fiscal year	Cases closed during 1958 fiscal year
Actions to enjoin enforcement of Securities Act, Securities Exchange Act and Public Utility Holding Company Act with the exception of subpoenas issued by the Commission:---	64	64	0	0	0	0	0
Actions to enjoin enforcement of or compliance with subpoenas issued by the Commission:---	8	8	0	0	0	0	0
Petitions for review of Commission's orders by courts of appeals under the various acts administered by the Commission:---	209	195	14	6	11	17	3
Miscellaneous actions against the Commission or officers of the Commission and cases in which the Commission participated as intervenor or amicus curiae: .. .	196	192	4	7	6	13	9
Appeal cases under ch. X in which the Commission participated: .. .	154	150	4	1	6	7	3
Total:-----	631	609	22	14	23	37	15

TABLE 16.—*Injunctive proceedings brought by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Advisers Act of 1940, and the Investment Company Act of 1940, which were pending during the fiscal year ended June 30, 1958*

Name of principal defendant	Number of defendants	United States District Court	Initiating papers filed	Alleged violations	Status of case
Adams Bond & Share, Inc.....	2	Idaho.....	Jan. 11, 1958	Sec. 17 (a), 1933 Act.....	Injunction by consent as to 1 defendant, Feb. 13, 1958. Order, May 27, 1958, dismissing remaining defendant. Closed.
The American Founders Life Insurance Company of Denver, Colorado.....	7	Colorado.....	Apr. 1, 1958	Secs. 5 (a) and (c) and 17 (a), 1933 Act.	Answers by defendants filed Apr. 23 and June 2, 1958. Preliminary injunction entered May 21, 1958. Pending.
Anderson, W. T., Company, Inc.....	3	Eastern District of Washington.....	Apr. 8, 1957	Sec. 10 (b) and rule 10b-5, 1934 Act.	Complaint filed Apr. 8, 1957. Answer filed June 28, 1957. Injunction by consent as to 1 defendant, June 13, 1958. Pending as to remaining defendants.
Ageros, George T.....	5	Western District of New York.....	June 20, 1958	Secs. 15 (c) (1), 15 (c) (3) and 17 (a), 1934 Act.	Injunction by consent as to all defendants, June 30, 1958. Closed.
Arkansas Securities Corp.....	3	Western District of Arkansas.....	Jan. 9, 1958	Sec. 5 (a) and (c), 1933 Act; secs. 15 (c) (1), 15 (c) (3), 17 (a) and 32 (a) and rules 16c1-2, 16c1-4, 16c3-1 and 17a-3, 1934 Act.	Injunction by consent as to all defendants, Feb. 14, 1958. Closed.
Backers Discount & Finance Co., Inc.....	2	New Jersey.....	Jan. 7, 1958	Sec. 5 (a) (1), (2) and 5 (c), 1933 Act.	Injunction by consent as to both defendants, Jan. 20, 1958. Closed.
Barrington, Laurence W. L.....	1	Massachusetts.....	Oct. 17, 1957	Secs. 10 (b) and 15 (c) (1) and rules 10b-5 and 16c1-2, 1934 Act.	Temporary restraining order and receiver appointed Oct. 17, 1957. Injunction by consent and order fixing compensation of receiver and terminating receivership, Oct. 25, 1957. Closed.
Billings Holding Corp.....	3	Montana.....	Dec. 4, 1954	Sec. 17 (a) (2) and (3), 1933 Act.....	Preliminary injunction, Feb. 17, 1955. Order June 17, 1955, denying defendants' motion to dismiss. Defendants' answer to complaint filed July 25, 1955. Injunction dismissed as to 2 defendants, June 11, 1958. Pending as to remaining defendant.
Bradford, William Dwight.....	1	Southern District of California.....	Feb. 26, 1958	Sec. 17 (a) and rules 17a-3 and 17a-5, 1934 Act.	Complaint filed Feb. 26, 1958. Answer filed Mar. 19, 1958. Amended and supplemental complaint filed June 23, 1958. Pending.
Burd, Jacwin & Costa, Inc.....	1	Southern District of New York.....	Dec. 18, 1956	Sec. 17 (a), 1933 Act.....	Reply affidavit and defendant's answer filed Dec. 26, 1956. Preliminary injunction by consent entered Dec. 28, 1956. Pending.
Catacraft Mining Corp.....	6	Southern District of New York.....	Oct. 30, 1957	Secs. 5 (a) (1) and (2) and 5 (c), 1933 Act.	Injunction by consent as to 5 defendants, Nov. 7, 1957. Preliminary injunction by consent as to remaining defendant, Mar. 13, 1958. Pending.
F. R. Chatfield Co., Inc.....	1	Massachusetts.....	Sept. 25, 1957	Secs. 10 (b) and 15 (c) (1) and rules 10b-5 and 16c1-2, 1934 Act.	Injunction by consent, Dec. 26, 1957. Closed.

TABLE 16.—*Injunctive proceedings brought by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Advisers Act of 1940, and the Investment Company Act of 1940, which were pending during the fiscal year ended June 30, 1958—Continued*

Name of principal defendant	Number of defendants	United States District Court	Instituting papers filed	Alleged violations	Status of case
Churchill Securities Corp.	4	Southern District of New York	Feb. 11, 1957	Sec. 15 (c) (1) and (3) and rules 15c1-2 and 15c3-1, 1934 Act.	Answer to complaint served Mar. 4, 1957. Preliminary injunction refused by court Mar. 5, 1957 but temporary restraining order continued in effect indefinitely. Pending.
Columbus-Rexall Oil Co.	3	Utah	Oct. 9, 1957	Sec. 5 (a) (1) and (2) and 5 (c), 1933 Act.	Injunction by consent as to 2 defendants, Nov. 13, 1957. Pending as to remaining defendant.
Coombs & Company of Washington, D. C.	1	District of Columbia	Aug. 17, 1956	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Injunction by consent and order appointing receiver Aug. 27, 1957. Order entered discharging equity receiver July 16, 1958.
J. D. Oregon & Co.	1	Southern District of California	Mar. 21, 1957	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Temporary restraining order signed Mar. 21, 1957. Answer to complaint filed May 2, 1957. Amendment to answer of complaint, July 11, 1957. Injunction entered Sept. 18, 1957. Closed.
Creswell-Keith Mining Trust	3	Western District of Arkansas	Jan. 9, 1958	Sec. 5 (a) and (c), 1933 Act.	Injunction by consent as to all defendants, Feb. 14, 1958. Closed.
Cromwell, William Rex	1	Northern District of Texas	Apr. 4, 1958	Sec. 17 (a) and rule 17a-3, 1934 Act.	Injunction by consent, Apr. 30, 1958. Closed.
Crussader Oil and Uranium Co.	3	Colorado	Aug. 19, 1957	Secs. 5 (a) and (c) and 17 (a), 1933 Act.	Injunction by consent as to 2 defendants, June 3, 1958. Injunction by consent as to remaining defendant as to sec. 17 (a) (2), June 3, 1958. Closed.
Cryan, Frank M. (Jefferson Custodian Fund, Inc.)	5	Southern District of New York	Mar. 14, 1958	Sec. 30 and 16 (a), IC Act of 1940.	Complaint filed and order appointing temporary receiver, Mar. 14, 1958. Answer filed Apr. 28, 1958. Order entered May 9, 1958 continuing receivership with power to reorganize or consent to The Fund. Pending.
Dawn Uranium and Oil Co.	7	Eastern District of Washington	June 1, 1956	Sec. 5, 1933 Act.	Injunction by consent against the corporation and 3 individual defendants, Dec. 11, 1958; dismissed as to 1 defendant, Sept. 25, 1957. Permanent restraining order as to 2 other defendants entered by consent, Sept. 25, 1957. Closed.
Doctors' Motels, Inc.	2	Kansas	June 27, 1957	Sec. 5 (a) and (c), 1933 Act.	Complaint filed June 27, 1957. Temporary restraining order signed June 27, 1957. Answer filed July 17, 1957. Order entered Feb. 11, 1958, dismissing action without prejudice. Closed.
Doeskin Products, Inc.	7	Southern District of New York	Apr. 18, 1957	Sec. 5 (a) and (c), 1933 Act.	Answers by 5 defendants, Apr. 25, 1957. Injunction by consent as to 2 defendants, May 13, 1957. Order of dismissal as to remaining defendants, Oct. 16, 1957. Closed.
Dyer, J. Raymond	1	Eastern District of Missouri	Apr. 9, 1957	Sec. 12 (a), 1935 Act.	Complaint filed Apr. 9, 1957. Defendant's answer filed Apr. 26, 1957. Order June 25, 1957, vacating plaintiff's notice of dismissal. Order dismissing defendant's counterclaim for lack of jurisdiction entered Nov. 12, 1957. Order entered amending order dated Nov. 12, 1957, and denying defendant's motion to vacate said order, Feb. 7, 1958. Pending.

Elliot, Edward L.	Southern District of New York	Aug. 12, 1957	Sec. 5 (a) and (c), 1933 Act.	Injunction by consent as to all defendants, Aug. 12, 1957. Closed.
Evergreen Memorial Park Association	Eastern District of Pennsylvania	Apr. 3, 1958	Sec. 17 (a), 1933 Act.	Injunction by consent as to both defendants, Apr. 11, 1958. Closed.
Farn and Home Agency, Inc.	Southern District of Indiana	Apr. 16, 1958	Sec. 5 (a) and (c), 1933 Act.	Injunction by consent as to all defendants, Apr. 16, 1958. Closed.
Fenner, Lynne B.	Southern District of New York	Jan. 8, 1958	Sec. 15 (c) (3) and rule 16c3-1, 1934 Act.	Complaint filed Jan. 8, 1958. Injunction by consent as to both defendants, Jan. 24, 1958. Closed.
First Investment Savings Corp.	Northern District of Alabama	Mar. 5, 1957	Sec. 15 (c) (3) and rule 16c3-1, 1934 Act.	Complaint filed Mar. 5, 1957. Temporary restraining order signed Mar. 5, 1957. Preliminary injunction entered Mar. 26, 1957. Pending.
First Jersey Securities Corp.	New Jersey	Dec. 21, 1956	Secs. 15 (c) (1), 15 (c) (3) and 17 (a), 1934 Act.	Preliminary injunction entered Mar. 5, 1957, enjoining both defendants as to secs. 15 (c) (3) and 17 (a), 1934 Act. Amended complaint filed Mar. 19, 1957, answer to amended complaint, Apr. 2, 1957. Injunction by consent as to secs. 15 (c) (3) and 17 (a), 1934 Act, Feb. 17, 1958. Closed.
Francis Distributing Company, Inc.	Massachusetts	Apr. 22, 1958	Sec. 5 (a) and (c), 1933 Act.	Injunction as to all defendants, June 2, 1958. Closed.
Franklin Atlas Corp.	Southern District of New York	May 9, 1957	Secs. 5 (a) (1) and (2), and 17 (a) (1), (2) and (3), 1933 Act.	Complaint filed May 9, 1957. Temporary restraining order signed May 9, 1957. Answers filed June 6 and 21, 1957. Opinion denying preliminary injunction as to 2 defendants, Aug. 16, 1957. Preliminary injunction as to 3 defendants, Aug. 28, 1957. Pending.
Ben Franklin Oil and Gas Corp.	New Jersey	June 19, 1957	Sec. 5 (a) and (c), 1933 Act.	Complaint filed June 19, 1957. Temporary restraining order signed June 19, 1957. Preliminary injunction entered July 29, 1957, as to 8 defendants and denied as to remaining defendants. Pending.
Globe Securities Corp.	Southern District of New York	Apr. 29, 1958	Sec. 17 (a), 1933 Act.	Complaint filed Apr. 29, 1958. Preliminary injunction by consent as to 8 defendants, June 30, 1958. Pending.
Golden-Dersch & Co., Inc.	Southern District of New York	Sept. 7, 1956	Sec. 15 (c) (3) and rule 16c3-1, 1934 Act.	Injunction by consent, Sept. 27, 1956. Pending.
Gondelman, Sidney	Southern District of New York	May 19, 1958	Sec. 14 (a) and Regulation X-14, 1934 Act.	Complaint filed May 19, 1958. Answer by 1 defendant filed approximately May 29, 1958. Pending.
A. J. Gould & Co., Inc.	Southern District of New York	Sept. 18, 1956	Sec. 15 (c) (3) and rule 16c3-1, 1934 Act.	Preliminary injunction by consent as to all defendants, Oct. 2, 1956. Injunction by default as to all defendants, June 3, 1958. Closed.
Grøye, James C.	Southern District of New York	Mar. 26, 1957	Sec. 15 (c) (3) and rule 16c3-1, 1934 Act.	Complaint filed Mar. 26, 1957. Preliminary injunction denied and temporary restraining order vacated, Apr. 29, 1957. Pending.
Grøye, James O.	Southern District of New York	Oct. 29, 1957	Sec. 15 (c) (3) and rule 16c3-1, 1934 Act.	Appeal, Dec. 17, 1957, from the order of preliminary injunction signed Nov. 27, 1957. Injunction by consent, Apr. 3, 1958. Closed.
Grøye, James O.	Southern District of New York	Jan. 23, 1958	Sec. 17 (a), 1933 Act.	Preliminary injunction by consent entered Feb. 6, 1958 as to 3 defendants. Injunction by consent as to 1 defendant, Apr. 3, 1958. Pending.
Great Fidelity Life Insurance Co.	Southern District of Indiana	Jan. 16, 1958	Sec. 5 (a) and (c), 1933 Act; sec. 15 (a), 1934 Act.	Injunction by consent as to 4 defendants, Jan. 16, 1958. Final judgment by consent as to remaining defendants, Jan. 30, 1958. Closed.



TABLE 16.—*Injunctive proceedings brought by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Advisers Act of 1940, and the Investment Company Act of 1940, which were pending during the fiscal year ended June 30, 1958—Continued*

Name of principal defendant	Number of defendants	United States District Court	Initiating papers filed	Alleged violations	Status of case
Greenman, Clifford A.....	2	Utah.....	May 7, 1950	Secs. 5 (a) and (c) and 17 (a), 1933 Act; secs. 10 (b) and 15 (c) (1), 1934 Act; sec. 205 (1), (2) and (3), IA Act of 1940.	Injunction by consent as to both defendants, May 15, 1956. Receivership continued. Order Nov. 19, 1956, approving receiver's first report. Order approving report of receiver, final accounting and acts of receiver, and order allowing costs and fees and discharge, Oct. 9, 1957. Closed.
P. J. Gruber & Co., Inc.....	3	Southern District of New York.	Nov. 7, 1936	Sec. 17 (a) and rule 17a-3, 1934 Act.	Preliminary injunction by consent as to 2 defendants and by default as to remaining defendant, Dec. 18, 1956. Answer by 2 defendants filed Dec. 31, 1956. Pending.
Helsler, J. Henry, & Co.....	2	Northern District of California.	Nov. 19, 1954	Sec. 10 (b) and rule 10b-5 (2) and (3), 1934 Act; sec. 206 (2), IA Act of 1940.	Amendment to Interlocutory Order entered Nov. 22, 1955, extending term from twelve to fifteen months within which Commission may apply for injunction. Order Nov. 20, 1956, continuing motion to dismiss. Final compliance order by consent, Mar. 22, 1957. Order, Mar. 26, 1958, granting application for amendment of Exhibit A to Interlocutory Order dated Apr. 29, 1955. Amende final compliance order, May 8, 1958. Pending.
Barrett Hentick & Co., Inc.....	2	Southern District of New York.	Sept. 11, 1956	Sec. 15 (c) (1) and (3) and rules 15c1-2 and 15c3-1, 1934 Act.	Amended complaint filed Sept. 14, 1956, and appointment of receiver. Order signed Mar. 20, 1957, to show cause why receiver should not be authorized to make payment to receiver's certified public accountant. Pending.
Indian Valley Chemical Co.....	4	Northern District of California.	Mar. 15, 1957	Sec. 5 (a) and (b), 1933 Act.....	Order Apr. 24, 1957, denying motion for preliminary injunction. Answer to complaint filed May 6, 1957. Stipulation for dismissal of action without prejudice, Apr. 23, 1958. Closed.
Insurance Securities Inc.....	6	Northern District of California.	Aug. 13, 1956	Sec. 36 and rule N-20A-l, IC Act of 1940.	Amendment to complaint filed Aug. 13, 1956. Interlocutory orders, Aug. 14 and 30, 1956. Answer of Commission Oct. 24, 1956, in opposition to motions to dismiss and for summary judgment. Order Dec. 4, 1956, dismissing the amended complaint and dissolving the court's second interlocutory order. Appeal by Commission Jan. 24, 1957. Order entered by O-A-9 affirming the judgment of the District Court, Apr. 7, 1958. Pending.
Kaiser Development Corporation, Ltd.	2	Western District of Washington.	Apr. 9, 1957	Secs. 5 (a) and (c) and 17 (a), 1933 Act.	Complaint filed Apr. 9, 1957. Order of preliminary injunction signed Apr. 30, 1957. Injunction by default against 1 defendant, July 15, 1957. Permanent injunction by consent as to remaining defendant, July 29, 1957. Closed.
Kaye, Tanya.....	1	Eastern District of New York.	Feb. 6, 1958	Secs. 15 (c) (3) and 17 (a) and rules 15c3-1 and 17a-3, 1934 Act.	Injunction by consent, Feb. 26, 1958. Closed.

William Harrison Keller, Jr.	1	Southern District of Indiana.	Mar. 20, 1958	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Injunction by consent, Apr. 20, 1958. Closed.
Kelly, Roy B.	2	District of Columbia.	Oct. 18, 1957	Sec. 5 (a) and (c), 1933 Act.	Answer filed Nov. 25, 1957. Stipulation and dismissal, Dec. 18, 1957. Closed.
Land Development Company of Nevada.	3	Nevada.	Sept. 27, 1957	Sec. 5 (a) and (c), 1933 Act.	Complaint filed Sept. 27, 1957. Preliminary injunction signed Dec. 20, 1957. Pending.
Alfred D. Laurence & Co.	1	Southern District of Florida.	Aug. 5, 1957	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Complaint filed Aug. 5, 1957. Order Aug. 7, 1957, denying application for temporary restraining order and directing dismissal to file answer by Aug. 21, 1957. Motion to dismiss and answer filed Aug. 21, 1957. Pending.
J. H. Lederer Co., Inc.	2	Southern District of New York.	June 25, 1958	Sec. 5 (a) and (c), 1933 Act.	Injunction by consent as to both defendants, June 26, 1958. Closed.
Lincoln Securities Corp.	14	Southern District of New York.	June 25, 1958	Secs. 5 (a) and 17 (a), 1933 Act.	Complaint filed June 25, 1958. Pending.
Los Angeles Trust Deed & Mortgage Exchange.	7	Southern District of California.	Mar. 24, 1958	Secs. 5 (a) and (c) and 17 (a), 1933 Act; secs. 15 (a) and 15 (c) (1) and rule 15c1-2, 1934 Act.	Complaint filed Mar. 24, 1958. Answer of 6 defendants filed Apr. 9, 1958. Pending.
Martin, Edward H.	1	New Mexico.	Jan. 27, 1953	Sec. 17 (a), 1934 Act.	Temporary restraining order Jan. 27, 1953, and receiver appointed. Preliminary injunction, Feb. 5, 1953. Injunction by consent, May 22, 1953. Amended final injunction, June 2, 1953. Receivership terminated with the entry of the court order discharging the receiver's bond, Dec. 27, 1957. Closed.
Micro-Moisture Controls, Inc.	16	Southern District of New York.	Jan. 9, 1957	Sec. 5 (a) and (c), 1933 Act.	Affidavits in opposition, and answers by defendants filed on various dates. Preliminary injunction entered Mar. 6, 1957. Decision June 17, 1957, allowing 2 defendants to serve an amended answer and denying Commissioner's motion for summary judgment. Injunction entered as to all defendants, Apr. 29, 1958. Appeals filed by 9 defendants on various dates. Pending.
Mississippi Valley Portland Cement Co.	1	District of Columbia.	Dec. 20, 1957	Secs. 17 (a) and 23, 1933 Act.	Injunction by consent, Dec. 20, 1957. Closed.
Monro-Kearsarge Consolidated Mining Co.	7	Utah.	June 2, 1958	Sec. 5 (a) and (c), 1933 Act.	Complaint filed June 2, 1958. Answer by 1 defendant filed June 27, 1958. Pending.
The National Society of Music and Art, Inc.	2	Southern District of New York.	Aug. 22, 1956	Sec. 17 (a), 1933 Act.	Injunction by default as to 1 defendant, Oct. 8, 1956. Action dismissed as to remaining defendant, May 16, 1958.
Oregon Timber Products Co., Inc.	3	Nevada.	Oct. 3, 1956	Sec. 5 (a) and (c), 1933 Act.	Preliminary injunction entered Oct. 10, 1956, as to 2 defendants. Answer by remaining defendant, Jan. 15, 1957. Injunction by default as to 2 defendants, Aug. 20, 1957. Stipulation for dismissal as to remaining defendant, Apr. 24, 1958. Closed.
Owens and Co.	1	Colorado.	Jan. 21, 1958	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Answer filed Jan. 24, 1958. Injunction by consent Jan. 24, 1958. Closed.
Owen, William J.	4	Colorado.	July 24, 1957	Sec. 5 (a) and (c), 1933 Act.	Injunction by consent as to all defendants, Oct. 21, 1957. Closed.
Peerless-New York, Inc.	1	Southern District of New York.	Nov. 7, 1957	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Answer served Dec. 10, 1957. Preliminary injunction signed Feb. 3, 1958. Pending.
Perkins & Co., Inc.	1	Massachusetts.	Dec 3, 1957	Sec. 17 (a) and rule 17a-3, 1934 Act.	Injunction by consent entered Dec. 16, 1957. Closed.

TABLE 16.—*Injunctive proceedings brought by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Advisers Act of 1940, and the Investment Company Act of 1940, which were pending during the fiscal year ended June 30, 1958—Continued*

Name of principal defendant	Number of defendants	United States District Court	Initiating papers filed	Alleged violations	Status of case
Pierce, John.....	1	Nevada.....	Oct. 7, 1954	Sec. 13 (a), 1934 Act.....	Stipulation Sept. 23, 1955, providing for a period of 9 months within which motion for preliminary injunction may be restored if defendant violates sec. 16 (a), 1934 Act. Order, June 30, 1958 dismissing complaint. Closed.
Preston, Edward J.....	1	Montana.....	Dec. 20, 1957	Sec. 5 (a) and (c), 1933 Act.....	Injunction by consent, Feb. 19, 1958. Closed.
Rapp, Herbert.....	14	Southern District of New York.....	Apr. 29, 1958	Sec. 17 (a), 1933 Act.....	Complaint filed Apr. 23, 1958. Preliminary injunction by consent as to 6 defendants, June 9, 1958. Pending.
Reesor, Gerald L.....	2	Northern District of Illinois.....	Dec. 4, 1956	Sec. 8 (a), 1933 Act.....	Answer of defendants filed Dec. 27, 1956. Order June 19, 1957, directing defendant to produce certain documents. Order dismissing 1 defendant, Dec. 10, 1957. Injunction by consent as to remaining defendant, Dec. 10, 1957. Closed.
Red Bank Oil Co.....	7	Southern District of Texas.....	Dec. 12, 1956	Sec. 13, 1934 Act.....	Injunction by consent as to all defendants, Jan. 24, 1957. Order Mar. 27, 1957, extending time for 60 days for filing required reports. Financial report for the year 1953 filed. Pending.
Reiter, Morris J.....	2	Southern District of New York.....	Sept. 19, 1946	Sec. 15 (c) (1) and (3) and rules 16c-2 and 15c3-1, 1934 Act.....	Answer filed Sept. 25, 1956. Memorandum opinion Nov. 9, 1956, denying motion for preliminary injunction. Supplemental memorandum opinion dated Nov. 28, 1956. Amended complaint filed Jan. 21, 1957. Answer to amended complaint filed Feb. 21, 1957. Pending.
Keith Richard Securities Corp.....	1	Southern District of New York.....	Oct. 17, 1956	Secs. 15 (c) (1) and (3) and 17 (a) and rules 16c-2, 15c3-1 and 17a-3, 1934 Act.....	1957, granting motion for preliminary injunction based upon the bookkeeping rules but not granting full relief on the net capital rule. Order for a preliminary injunction entered Feb. 11, 1957. Answer filed Feb. 26, 1957. Pending.
Robinson Development Corp.....	6	Western District of Pennsylvania.....	Sept. 11, 1957	Secs. 5 (a) and (c) and 17 (b), 1933 Act.....	Injunction by consent as to all defendants, June 27, 1958. Closed.
Royal Drift Mining Co.....	3	Northern District of California.....	Mar. 5, 1958	Sec. 5 (a) and (b), 1933 Act.....	Complaint filed Mar. 5, 1958. Findings of fact and conclusions of law and order entered preliminarily enjoining all defendants, May 21, 1958. Pending.
Alan Russell Securities, Inc.....	4	Southern District of New York.....	Mar. 7, 1958	Sec. 17 (a), 1933 Act.....	Injunction by consent as to 3 defendants, Apr. 23, 1958. Pending as to remaining defendant.
Sanders Investment Co.....	1	New Mexico.....	Dec. 12, 1957	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.....	Receiver appointed Dec. 12, 1957. Injunction by consent, June 2, 1958. Pending.

2	Securities Distributors, Inc.	Southern District of New York.	Nov. 25, 1957	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Complaint filed Nov. 25, 1957. Preliminary injunction entered, Nov. 25, 1957, as to both defendants. Pending.
3	Security Forecaster Co., Inc.	Southern District of New York.	Feb. 28, 1958	Sec. 206 (2), I.A. Act of 1940.	Injunction by consent as to 2 defendants, Mar. 27, 1958. Pending as to remaining defendant.
3	Sherwood & Co.	Northern District of California.	Mar. 18, 1958	Rule 17a-3, 1934 Act.	Preliminary injunction by consent, Mar. 25, 1958. Amended and supplemental complaint for appointment of a receiver, May 12, 1958. Injunction by consent as to 2 defendants, June 3, 1958. Pending as to remaining defendant.
1	Shuck, M. J.	Southern District of New York.	Aug. 28, 1956	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Complaint filed Aug. 28, 1956. Memorandum of Commission filed Sept. 4, 1956. Preliminary injunction signed Sept. 7, 1956. Pending.
3	Southwest Securities, Inc.	Eastern District of Arkansas.	May 19, 1958	Sec. 17 (a) (2), 1933 Act; sec. 15 (a), 1934 Act.	Complaint filed May 19, 1958. Notice of dismissal filed May 27, 1958. Dismissed by consolidation with S. E. O. v. Southwest Securities, Inc., et al.
7	Southwest Securities, Inc.	Eastern District of Arkansas.	May 19, 1958	Secs. 5 (a) and (c) and 17 (a) (2), 1933 Act; sec. 15 (a), 1934 Act.	Complaint filed May 19, 1958. Amended and substituted complaint filed May 24, 1958. Injunction by consent as to 4 defendants, June 4, 1958. Pending as to remaining defendants.
8	Strategic Minerals Corporation of America.	Northern District of Texas.	June 6, 1958	Sec. 5 (a) and (c), 1933 Act.	Injunction by consent as to 7 defendants, June 6, 1958. Final judgment by consent as to remaining defendant, June 17, 1958. Closed.
24	Swar-Finch Oil Corp.	Southern District of New York.	Apr. 15, 1957	Sec. 5 (a) and (c), 1933 Act.	Complaint filed and temporary restraining order signed, Apr. 15, 1957. Appeal by Commission from order Apr. 22, 1957, dissolving temporary restraining order as to 2 defendants. Temporary restraining order restored Apr. 24, 1957. Appeal by 6 defendants, May 8, 1957. Injunction by consent as to all except 1 defendant. Order of dismissal as to remaining defendant, Oct. 16, 1957. Closed.
20	Tannen & Co., Inc.	Southern District of New York.	Aug. 2, 1957	Sec. 5 (a) (1) and (2) and 5 (c), 1933 Act.	Injunction by consent as to 8 defendants on various dates. Injunction for 3 dismissing motion for preliminary injunction as to 11 defendants, Mar. 31, 1958. Pending.
2	Television and Radio Broadcast- ing Corp.	Massachusetts	July 1, 1957	Secs. 5 (a) (1) and (2) and 5 (c), 1933 Act.	Injunction by consent as to both defendants, July 15, 1957. Closed.
2	Thompson & Sloan, Inc.	Southern District of California.	Mar. 3, 1958	Secs. 10 (b), 15 (c) (1) and 17 (a) and rules 10b-5, 15c1-2 and 17a-3, 1934 Act.	Injunction by consent as to both defendants, July 15, 1957. Closed.
3	Triumph Mines, Ltd.	Western District of Washington.	Mar. 18, 1958	Secs. 5 (a) and (c) and 17 (a), 1933 Act.	Injunction by consent as to both defendants, Mar. 4, 1958. Closed.
1	Truckee Showboat, Inc.	Southern District of California.	July 23, 1957	Sec. 5 (a) and (c), 1933 Act.	Complaint filed Mar. 18, 1958. Injunction by consent as to 2 defendants, Mar. 18, 1958. Pending as to remaining defendant.
6	Universal Service Corporation, Inc.	Southern District of Texas.	Mar. 6, 1958	Secs. 5 (b), 7, 10 and 17 (a), 1933 Act.	Judgment Nov. 22, 1957, denying motion for preliminary injunction. Pending. Injunction by consent as to 2 defendants, Mar. 17, 1958. Pending as to remaining defendants.

TABLE 16.—*Injunctive proceedings brought by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Advisers Act of 1940, and the Investment Company Act of 1940, which were pending during the fiscal year ended June 30, 1958—Continued*

Name of principal defendant	Number of defendants	United States District Court	Initiating papers filed	Alleged violations	Status of case
The Variable Annuity Life Insurance Company of America, Inc.	1	District of Columbia	June 19, 1956	Sec. 5 (a) (1) and (c), 1933 Act; sec. 7 (a) or (b), IC Act of 1940.	Answer to complaint filed July 25, 1956. Order Dec. 6, 1956, granting interlocutory appeal by The Equity Annuity Life Insurance Company. Answer to complaint Jan. 6, 1957, by intervenor. Order Apr. 16, 1957, granting intervention by NASD as party plaintiff. Order May 13, 1957, denying motion for leave to amend complaint. Commission and NASD trial brief and defendants' trial brief filed June 7, 1957. Case tried June 10-21, 1957. Final judgment directing that complaint be dismissed with prejudice, Sept. 30, 1957. Notice of appeals filed by NASD and Commission, Oct. 21, 1957. Opinion and judgment of CA DC affirming the order of the District Court, May 22, 1958. Order June 24, 1958 staying the transmission of the opinion and the certified copy of the judgment to and including Aug. 20, 1958. Pending.
Jean R. Veditz Company, Inc.	1	Southern District of New York	Mar. 25, 1957	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Complaint filed Mar. 25, 1957. Decision rendered Apr. 5, 1957, denying motion for preliminary injunction and vacating temporary restraining order. Answer filed July 17, 1957. Pending.
Jean R. Veditz Co., Inc.	1	Southern District of New York	Oct. 18, 1957	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Complaint filed Oct. 18, 1957. Opinion Nov. 19, 1957, denying motion for preliminary injunction. Pending.
Warner, J. Arthur & Company, Inc.	12	Massachusetts	Oct. 31, 1951	Secs. 5 (b) (2) and 17 (a) (3), 1933 Act; secs. 7 (c) (1) and (2), 9 (a) (4), 10 (b) and 15 (c) (1) and rules 10b-5 (3) and 15c1-2 and Regulation T, 1934 Act.	Injunction by default entered as to remaining defendant, Feb. 20, 1958 as to sec. 17 (c) (3), 1933 Act, secs. 7 (c) (1) and (2), 9 (a) (4), 10 (b) and 15 (c) (1) and rules 10b-5 (3) and 15c1-2 and Regulation T, 1934 Act. Closed.
Watansbe, Tadao I.	1	Hawaii	Oct. 15, 1957	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Injunction by consent, Oct. 30, 1957. Closed.
Watkins, Horace E.	5	Colorado	Nov. 9, 1956	Sec. 5 (a) and (c), 1933 Act.	Preliminary injunction entered Nov. 19, 1956. Answer of defendants, Dec. 3, 1956. Injunction by consent as to 1 defendant, June 25, 1957. Injunction by consent as to 2 defendants, Mar. 14, 1958. Injunction by remaining defendants, Mar. 14, 1958. Closed.
Whitehead, William	1	New Jersey	Dec. 31, 1957	Secs. 15 (c) (3) and 17 (a) and rules 15c3-1 and 17e-3, 1934 Act.	Injunction by consent, Feb. 25, 1958. Closed.
Joseph J. Wilensky & Co.	1	Southern District of Florida	June 13, 1958	Sec. 15 (c) (3) and rule 15c3-1, 1934 Act.	Injunction by consent, June 1958, 19. Closed.

Wimer, Nye A.....	1	Western District of Pennsylvania.	Oct. 20, 1947	Secs. 5 (a) (1) and (2) and 17 (a) (2), 1933 Act.	Temporary restraining order entered, Oct. 20, 1947. Preliminary injunction entered, Nov. 13, 1947. Defendant's motion to dismiss complaint denied, Mar. 3, 1948. Trial date postponed indefinitely due to illness of defendant. Pending.
Wolfson, Louis E.....	1	Southern District of New York.	June 24, 1958	Secs. 9 (a) (4) and 19 (b), 1934 Act.	Complaint filed June 24, 1958. Pending.
World Wide Investors Corp.....	1	New Jersey.....	July 2, 1957	Sec. 17 (a) and rule 17a-3, 1934 Act.	Temporary restraining order signed, July 2, 1957. Order entered vacating application for final judgment and dismissing complaint, July 17, 1957. Closed.
R. G. Worth & Co., Inc.....	1	Southern District of New York.	Jan. 11, 1957	Secs. 15 (c) (3) and 17 (a) and rules 16c3-1 and 17a-3, 1934 Act.	Temporary restraining order signed Jan. 11, 1957. Order of preliminary injunction, Feb. 13, 1957. Answer filed. Pending.
Benjamin Zwang & Co., Inc.....	2	Southern District of New York.	Sept. 27, 1956	Sec. 15 (c) (3) and rule 16c3-1, 1934 Act.	Answer of defendants Oct. 16, 1956. Order Nov. 15, 1956, denying motion for preliminary injunction but permitting further application if situation warrants. Pending.

TABLE 17.—*Indictments returned for violation of the acts administered by the Commission, the Mail Fraud Statute (sec. 1341, formerly sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the 1938 fiscal year*

Name of principal defendant	Number of defendants	United States District Court	Indictment returned	Charges	Status of case
Ames, Harry G.....	1	Northern District of Illinois.	July 3, 1936	Secs. 5 (a) (2) and 17 (a) (2), 1933 Act; sec. 1341, title 18, U. S. C.	Defendant surrendered and posted \$2,500 bond. Motion to dismiss indictment, denied Mar. 29, 1937. Defendant's motion for bill of particulars granted Jan. 9, 1938. Case awaiting trial. Pending.
Autrey, Basil P. (National Union Life Insurance Co.).	7	Southern District of Florida.	Jan. 23, 1938	Secs. 5 (a) (1) and (2) and 17 (a) (1), 1933 Act; secs. 371, 1341 and 1343, title 18, U. S. C.	Order 670/38 granting sovereignty as to 2 defendants and transferring case to ND of Ala. as to remaining defendants. Pending
Bartz, Donald E. (Financial Enterprises, Inc.).	2	District of Nevada.....	May 14, 1937	Sec. 17 (a), 1933 Act; sec. 371, title 18, U. S. C.	Both defendants apprehended and released on bond. Due to illness one defendant has not yet entered his plea. Trial for defendant Bartz set for Mar. 9, 1939. Pending. Conviction affirmed by O.A.—9 Nov. 24, 1937.
Bowler, Richard William.....	1	Eastern District of Washington.	Sept. 12, 1935	Sec. 17, 1933 Act; sec. 1341, title 18, U. S. C.	One defendant deceased, other defendants not apprehended. Pending.
Broadley, Albert E. (Hudson Securities).	5	Western District of New York.	July 17, 1947	Secs. 5 (a) (1) and (2) and 17 (a) (1), 1933 Act; secs. 338 (now sec. 1341) and 88 (now sec. 371), title 18, U. S. C.	
Carden, Branch J., Jr. (Branch Carden & Co., Inc.).	2	Western District of Virginia.	Nov. 12, 1937	Sec. 17 (a), 1933 Act; sec. 10 (b) and rule 10b-5, 1934 Act; sec. 1341, title 18, U. S. C.	Defendants pleaded guilty to all counts. Defendant Carden sentenced to 2 years imprisonment.
Collins, Paul H.....	1	Southern District of Illinois.	June 6, 1938	Sec. 17 (a), 1933 Act; sec. 1341, title 18, U. S. C.	Defendant pleaded guilty on July 23, 1938, to 10 counts. Imposition of sentence was suspended and defendant was placed on probation for 5 years conditioned upon reasonable effort at restitution. Pending.
DePalma, Albert Edward (A. E. DePalma & Co.).	1	Northern District of Ohio.	June 11, 1947	Secs. 5 (a) (1) and (2) and 17 (a) (1), 1933 Act; sec. 338 (now sec. 1341), title 18, U. S. C.	Indictment dismissed Mar. 15, 1938, defendant deceased.
Donaldson, Arthur V.....	2	District of Montana...	June 16, 1934	Sec. 17, 1933 Act; secs. 1341 and 371, title 18, U. S. C.	One defendant deceased. Conviction affirmed by O.A.—9 Sept. 27, 1937, as to remaining defendant. Petition for certiorari filed Dec. 27, 1937.
Dorsey, William L., Sr.....	1	Western District of Missouri.	Mar. 6, 1938	Secs. 5 (a) (1) and (2) and 17 (a) (1), 1933 Act; sec. 1341, title 18, U. S. C.	Defendant pleaded guilty to all except 6 mail fraud counts. He was orally pressed, and was sentenced on April 1, 1938, to 1 year and 8 days and each of the first 4 counts set aside for 1 year and 8 days. Defendant was placed on probation for 5 years on the last 4 counts.
Errion, Edgar Robert (Beaver Plywood Coop.).	5	District of Oregon.....	Oct. 2, 1936	Sec. 17 (a), 1933 Act; secs. 371 and 1341, title 18, U. S. C.	Defendants pleaded not guilty. All counts were dismissed to 4 defendants, whom one was convicted in other Errion case (Mt. Hood). Remaining defendant then pleaded guilty to 2 mail fraud counts and was sentenced to 6 years on Aug. 2, 1937.

<p>Errion, Edgar Robert (Mt. Hood Hardboard &amp; Plywood Coop.).</p>	<p>9 District of Oregon.....</p>	<p>Oct. 2, 1956</p>	<p>Sec. 17 (a), 1933 Act; secs. 371 and 1341, title 18, U. S. C.</p>	<p>Errion pleaded guilty to 1 mail fraud count and 1 sec. 17 (a) count and was sentenced to 6 years. Four defendants were found guilty on 6 mail fraud counts, 5 sec. 17 (a) counts, and 1 conspiracy count, and received sentences ranging from 15 months to 7 years. Two defendants were found guilty on 1 conspiracy count and one was sentenced to 15 months; the other defendant, who was sentenced to 1 year and released on \$2,500 bond, has filed notice of appeal. One defendant dismissed because of illness and another acquitted. Pending.</p>
<p>Forsyth, Council Mayo (Central Finance Service, Inc.).</p>	<p>2 Eastern District of Texas.</p>	<p>Jan. 15, 1958</p>	<p>Sec. 17 (a), 1933 Act; secs. 371 and 1341, title 18, U. S. C.</p>	<p>One defendant pleaded guilty and was sentenced on Apr. 14, 1958, to 2 years imprisonment on count 1 and a 3 year suspended sentence on count 2. The remaining counts were dismissed. The other defendant pleaded not guilty on Mar. 10, 1958, and is awaiting trial. Pending.</p>
<p>Geller, George B.....</p>	<p>1 Southern District of New York.</p>	<p>Oct. 30, 1953</p>	<p>Sec. 1921, title 18, U. S. C.....</p>	<p>Defendant pleaded not guilty. Bail set at \$1,500. Motion by defendant to dismiss indictment, denied Sept. 24, 1957. Trial set for Sept. 8, 1958. Pending.</p>
<p>Getchell, Francis E. (Florida Palms, Inc.).</p>	<p>4 Southern District of Florida.</p>	<p>Jan. 15, 1957 Superseding Indictment returned Aug. 19, 1957.</p>	<p>Secs. 5 (a) and 17 (a) (1), 1933 Act; sec. 1341, title 18, U. S. C.</p>	<p>One defendant found guilty on 2 sec. 17 (a) (1) counts and 3 mail fraud counts and sentenced to 5 years; two defendants found guilty on 2 sec. 17 (a) (1) counts and sentenced to 2 years each; and one defendant found guilty on 1 sec. 17 (a) (1) count and sentenced to 1 year. Sentences imposed Apr. 30, 1958. Defendants released on bond pending appeal. Pending.</p>
<p>Gill, Jesse S.....</p>	<p>3 Northern District of Georgia.</p>	<p>May 20, 1957</p>	<p>Sec. 1341, title 18, U. S. C.....</p>	<p>Two defendants found guilty of all counts and each sentenced on July 26, 1957, to imprisonment for 1 year; execution of sentence suspended and defendants placed on 6 year probation on condition that restitution be made in the sum of \$2,000 for each defendant. Case as to one defendant dismissed Dec. 2, 1957.</p>
<p>Gould, Oscar V.....</p>	<p>1 Southern District of New York.</p>	<p>June 25, 1954</p>	<p>Sec. 1921, title 18, U. S. C.....</p>	<p>One defendant pleaded guilty to 1 sec. 15 (b) count and was sentenced on Feb. 5, 1958, to a suspended sentence of 6 months and was fined \$250. The remaining 2 counts were dismissed. The corporate defendant pleaded guilty to all counts and was fined \$250 on each count, a total of \$750.00. Defendants were not to engage in stock transactions for 30 months.</p>
<p>Graves, Charles M. (The Locators, Inc.).</p>	<p>2 Territory of Alaska.....</p>	<p>Oct. 22, 1957</p>	<p>Sec. 15 (b) and (c) (1) and rule 16c-2, sec. 1341, title 18, U. S. C.</p>	<p>Defendant pleaded guilty to 5 counts. Sentence to be imposed July 7, 1958. Pending.</p>
<p>Heffernan, Albert.....</p>	<p>1 Western District of Michigan.</p>	<p>Feb. 27, 1958</p>	<p>Sec. 17 (a), 1933 Act; sec. 1341, title 18, U. S. C.</p>	<p>Herck pleaded not guilty. Remaining defendants are fugitives. Pending as to all defendants.</p>
<p>Herck, John.....</p>	<p>6 Eastern District of Michigan.</p>	<p>July 30, 1954</p>	<p>Sec. 17 (a) (1), 1933 Act; secs. 338 (now sec. 1341) and 88 (now sec. 371), title 18, U. S. C.</p>	<p>Defendant pleaded guilty to 5 counts. Sentence to be imposed July 7, 1958. Pending.</p>
<p>Do.....</p>	<p>1 do.....</p>	<p>.....</p>	<p>Sec. 15 (a), 1934 Act.</p>	<p>.....</p>
<p>Do.....</p>	<p>5 do.....</p>	<p>.....</p>	<p>Sec. 5 (a) (1) and (2), 1933 Act; U. S. C.</p>	<p>.....</p>
<p>Kru, Seng-Ohlu.....</p>	<p>3 Southern District of New York.</p>	<p>Dec. 20, 1954</p>	<p>Sec. 17 (a), 1933 Act; secs. 371 and 1341, title 18, U. S. C.</p>	<p>Noile prosequi filed Mar. 19, 1958, as to all defendants.</p>



TABLE 17.—Indictments returned for violation of the acts administered by the Commission, the Mail Fraud Statute (sec. 1341, formerly sec. 333, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the 1958 fiscal year—Continued

Name of principal defendant	Number of defendants	United States District Court	Indictment returned	Charges	Status of case
Intermountain Development Co., Inc., et al.	9	District of Idaho.....	Aug. 29, 1957	Sec. 5 (a) (2) and 17 (a), 1933 Act; sec. 371 and 1341, title 18, U. S. C.	One defendant convicted on all counts, fined \$10,000 and sentenced to 5 years imprisonment, later reduced to 4 years. Corporate defendant convicted on all counts and fined \$5,000. Another defendant fined \$1,000 and sentenced to 1 year, later reduced to 10 months. Four defendants each received 1 year suspended sentence, were placed on probation for 1 year and each fined \$900. Another defendant was fined \$1,000. One defendant apprehended but not yet arraigned. Pending.
Jacobson, Hilding L. (Confidential Finance Corp.).	1	District of Nebraska...	Dec. 3, 1957 Information filed.	Sec. 17 (a) (1), 1933 Act; secs. 1001 and 1341, title 18, U. S. C.	Defendant pleaded nolo contendere and was sentenced on Mar. 14, 1958, to 2 years on each of 17 counts, sentence suspended, and defendant placed on probation for 3 years.
Jensen, James O.....	4	Eastern District of Washington.	Apr. 12, 1956	Sec. 17 (a), 1933 Act, secs. 1341 and 371, title 18, U. S. C.	Defendants previously sentenced on Nov. 2, 1956. CA-9 on Apr. 11, 1958, affirmed convictions. Petition by 3 defendants for rehearing in CA-9 filed May 6, 1958. Pending.
King, Wilbert Fay (Tri-State Metals, Inc.).	2	District of Nevada....	May 15, 1957	Sec. 17 (a), 1933 Act; sec. 371, title 18, U. S. C.	Defendants pleaded not guilty and posted \$2,500 bond on Nov. 1, 1957. Order, Nov. 1, 1957, denying one defendant's motions to dismiss and strike. Trial set for Nov. 3, 1958. Pending.
Low, Harry (Trenton Valley Dismillers Corp.).	2	Eastern District of Michigan.	Feb. 3, 1959	Sec. 17 (a) (1), 1933 Act; sec. 338 (now sec. 1341), title 18, U. S. C.	Indictment previously dismissed as to defendant Low, now deceased, after plea of guilty to income tax evasion indictment. Pending as to Hardie, who is a fugitive.
Mallen, George E.....	6	Eastern District of Michigan.	June 2, 1944	Sec. 5 (a) (2) and 17 (a) (1), 1933 Act; secs. 338 (now sec. 1341) and 38 (now sec. 371), title 18, U. S. C.	Two defendants deceased, pending as to remaining defendants, who are fugitives.
E. M. McLean & Co. (Devon Gold Mines, Ltd.).	2	Eastern District of Michigan.	Oct. 21, 1941	Sec. 19 (a), 1934 Act.....	Case pending as to 1st indictment, 3 defendants previously convicted and sentenced on 2d and 3d indictments.
Do.....	7	do.....	do.....	Sec. 5 (a) (1) and (2), 1933 Act; sec. 38 (now sec. 371), title 18, U. S. C.	Case pending as to remaining 8 defendants on the 2d and 3d indictments. Pending.
Do.....	12	do.....	do.....	Sec. 17 (a), (1) and (2), 1933 Act; sec. 338 (now sec. 1341) and 38 (now sec. 371), title 18, U. S. C.	
Monarch Radio and Television Corp.	8	Southern District of New York.	June 4, 1954	Sec. 17, 1933 Act; sec. 371 and 1341, title 18, U. S. C.	All defendants arraigned and released on bail or own recognizance. Motions by defendants for bills of particulars and examination of grand jury minutes denied. Motion to dismiss indictment for failure to prosecute denied June 24, 1958. Pending.

Newton, Silas M. (Yellow Cat Royalty Trust).	District of Colorado	Mar. 4, 1958	Sec. 17 (a), 1933 Act; secs. 371 and 1341, title 18, U. S. C.	Defendants arrested and each posted \$5,000 bond. Arraignment set for Mar. 21, 1958. Pending.
Parker, I. M., Inc.	Eastern District of Michigan	Apr. 27, 1954	Sec. 371, title 18, U. S. C.	Eight defendants pleaded guilty to 1 sec. 15 (a) of the 1934 Act count and six of these defendants were given sentences on Jan. 3, 1958, ranging from 6 to 15 months. The 15 month sentence was later reduced to 1 year. One other defendant was placed on probation for 2 years. The remaining counts as to these 8 defendants were dismissed on Jan. 20, 1958. Other defendant previously deceased.
Do	do	do	Sec. 1341, title 18, U. S. C.	Remaining defendants not apprehended. Pending.
Do	do	do	Sec. 17 (a), 1933 Act.	Defendants previously pleaded not guilty. One defendant was acquitted Oct. 16, 1957; the other defendant was convicted Oct. 18, 1957, on all counts and sentenced on Nov. 22, 1957, to 7 years. Notice of appeal filed and bond fixed at \$10,000 Nov. 22, 1957. Motion for a 6 months extension in which to file the record on appeal granted. Pending.
Price, Eldridge Solomon	Northern District of Georgia	Mar. 27, 1956	Secs. 5 (a) (2) and 17 (a) (1), 1933 Act, sec. 1341, title 18, U. S. C.	Two defendants were arrested on Aug. 19, 1957, and released on \$1,000 bond each. All defendants were arraigned and pleaded not guilty Sept. 4, 1957. Awaiting trial. Pending.
Roe, D. H. (Stratroy Oil, Inc.)	Northern District of Texas	Aug. 16, 1957	Secs. 5 (a) (1) and (2) and 17 (a) (1), 1933 Act; secs. 371 and 1341, title 18, U. S. C.	Defendant arrested and released on \$5,000 bond. On April 24, 1958, defendant was arraigned and pleaded not guilty to all counts. Motions to strike surplussage from the indictment to dismiss the indictment filed by defendant June 13, 1958. Pending.
Schaefer, Carl D.	Northern District of Illinois	Mar. 26, 1958	Secs. 5 (a) (2) and 17 (a), 1933 Act	All defendants were arraigned and released on bail of \$1,000 each. Pending.
Shindler, David L.	Southern District of New York	June 23, 1957	Sec. 17 (a) (2), 1933 Act; sec. 9 (a) (2), 1934 Act; sec. 371, title 18, U. S. C.	Judro Honny set bonds of \$1,000 for Shoemake, \$5,000 for Lewis, and \$3,000 for each of the other defendants. Awaiting arraignment and trial. Pending.
Shoemake, A. B. (U. S. Trust & Guaranty Co.)	Southern District of Texas	Aug. 9, 1957	Sec. 17 (a), 1933 Act; secs. 371 and 1341, title 18, U. S. C.	Defendants previously convicted. Appeal dismissed on defendant's motion Mar. 13, 1958.
Snowden, Homer W.	Eastern District of Illinois	Jan. 18, 1956	Secs. 5 (b) and 17 (a), 1933 Act, secs. 1341 and 371, title 18, U. S. C.	Individual defendants convicted on all counts, corporate defendant convicted upon default on Mar. 13, 1957. One defendant sentenced to 4 1/2 years imprisonment and fined \$18,000; two other defendants received 1 year probation. Corporate defendant fined \$50. Conviction of Walter F. Teulier and additional defendant who appealed upheld by CA-2 on May 6, 1957. Petition for Writ of Certiorari by Teulier filed June 26, 1958. Pending.
Tellier, Walter F. (Alaska Telephone Corp.)	Eastern District of New York	Dec. 1, 1955	Sec. 17 (a), 1933 Act; secs. 1341 and 371, title 18, U. S. C.	Defendant pleaded not guilty. Pending.
Tellier, Walter F. (Consolidated Uranium Mines, Inc).	Eastern District of New York	Apr. 26, 1956	Sec. 17 (a), 1933 Act; sec. 371 and 1341, title 18, U. S. C.	One defendant arraigned and bond of \$25,000 continued. Awaiting trial. Pending.
Tellier, Walter F.	District of Southern New York	Aug. 3, 1956	Sec. 17 (a), 1933 Act; sec. 371 and 1341, title 18, U. S. C.	Two individual defendants apprehended. Pending.
Metz, Abraham M.	do	do	Sec. 1621, title 18, U. S. C.	
U. S. Manganese Corp.	Southern District of New York	May 20, 1957	Sec. 371, title 18, U. S. C.	

TABLE 17.—Indictments returned for violation of the acts administered by the Commission, the Mail Fraud Statute (sec. 1941, formerly, sec. 938 title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the 1958 fiscal year—Continued

Name of principal defendant	Number of defendants	United States District Court	Indictment returned	Charges	Status of case
Van Valkenburgh, Hugh C. (Instant Beverage, Inc.)	2	District of Nebraska...	Feb. 15, 1957	Secs. 5 (a) (2) and 17 (a) (1) and (2) 1933 Act; sec. 1341, title 18, U. S. C.	One defendant found guilty following a plea of nolo contendere to 8 counts, and on Apr. 18, 1958, was sentenced to 2 years on each count. Sentence suspended; defendant placed on probation for 30 months and fined \$2,000. Order, May 8, 1958, granting other defendant leave to take deposition and continuing trial to Sept. 8, 1958. Pending.
Vitale, Edward J. ....	1	Eastern District of Michigan.	Jan. 7, 1958	Sec. 17 (a), 1933 Act; secs 1001 and 1341, title 18, U. S. C.	Defendant pleaded not guilty to all counts on Jan. 13, 1958, and was released on \$10,000 bond. Awaiting trial. Pending.
Warner, J. Arthur & Co., Inc. ....	1	District of Massachusetts.	July 7, 1953	Sec 17 (a) (3) 1933 Act; secs. 1341 and 371, title 18, U. S. C.	Six defendants previously convicted and indictment dismissed as to 3 defendants and abated as to 1 defendant who is deceased. Pending as to defendant Thayer, a fugitive since 1953, who was indicted Nov. 4, 1957, at Boston, Mass. for "Bal Jumping" in violation of sec. 3146, title 18, U. S. C. Pending.
Werner, George J. ....	1	Northern District of Indiana.	May 29, 1957	Sec. 5 (a) and 17 (a), 1933 Act; sec. 1341, title 18, U. S. C.	Defendant not yet apprehended. Pending.

TABLE 18.—Petitions for review of orders of Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, and the Investment Company Act of 1940, pending in courts of appeals during the fiscal year ended June 30, 1958

Petitioner	United States Court of Appeals	Initiating papers filed	Commission action appealed from and status of case
Allegheny Corporation	4th Circuit	Jan. 21, 1957	Order of Nov. 30, 1956, denying the various applications for a declaration that no action by the Commission was required with respect to the voluntary exchange of stock, or, in the alternative, for an order pursuant to sec. 6 (c) of the IC Act of 1940 exempting the transactions. Motions by Randolph Phillips and Breswick & Co for leave to intervene. Order Feb. 5, 1958, continuing case pending decision of Supreme Court in a related matter. Pending.
Arkansas Fuel Oil Corp., et al.	3rd Circuit	Nov. 8, 1957	Order of Sept. 20, 1957, directing Arkansas Fuel Oil Corp. and Cities Service Co to comply with sec. 11 (b) (2) of the 1935 Act directing the elimination of the public minority interest in Arkansas Fuel Oil Corp. Order Nov. 29, 1957, granting Pennrood Corp. and Louis E. Marron leave to intervene as intervenor-respondents. Order Dec. 17, 1957, granting intervenor-respondents, James W. Hearn, Paul S. Hearn, William J. Hearn and Eleanor Hearn leave to file brief. Order Feb. 7, 1958, postponing decisions on Commission's motions to dismiss petition for review until appeals have been heard. Briefs of Arkansas Fuel Oil Corp., M. L. Benedum and Cities Service Co. filed Mar. 19, 1958. Intervenor-respondents' joint brief filed Apr. 18, 1958. Commission's brief filed Apr. 18, 1958. Pending.
Cities Service Co.	3rd Circuit	Nov. 8, 1957	Order of Sept. 20, 1957, directing Cities Service Co and Arkansas Fuel Oil Corp. to comply with sec. 11 (b) (2) of the 1935 Act directing the elimination of the public minority interest in Arkansas Fuel Oil Corp. Order Nov. 22, 1957, granting Pennrood Corp. and Louis E. Marron leave to intervene as intervenor-respondents. Order Dec. 17, 1957, granting intervenor-respondents, James W. Hearn, Paul S. Hearn, William J. Hearn and Eleanor Hearn leave to file brief. Order Feb. 7, 1958, postponing decisions on Commission's motions to dismiss petition for review until appeals have been heard. Briefs of Cities Service Co. Arkansas Fuel Oil Corp. and M. L. Benedum filed Mar. 19, 1958. Intervenor-respondents' joint brief filed Apr. 18, 1958. Commission's brief filed Apr. 18, 1958. Pending.
Cities Service Co.	2d Circuit	Oct. 29, 1956	Order of Aug. 31, 1956, denying application for exemption to sec. 3 (a) (5) of the Public Utility Holding Company Act of 1935. Order of Aug. 14, 1957, affirming Commission's order of Aug. 31, 1956. Order of CA-2 of Sept. 3, 1957, denying application for stay. Order of Sept. 17, 1957, by USSC denying application for stay of judgment of CA-2. Writ of certiorari denied on Jan. 6, 1958. Closed.
Columbia General Investment Corp.	5th Circuit	May 1, 1958	Order of Mar. 5, 1958, regarding sec 8 (d) of the 1933 Act, suspending the effectiveness of petitioner's registration statement filed with the Commission on Mar. 29, 1956, and denying petitioner's motion to dismiss proceedings and its request for withdrawal of its registration statement. Order of June 19, 1958, granting petitioner's motion to enlarge time within which designation of the portions of the record which petitioner intends to print as an appendix to its brief to July 3, 1958. Pending.
Comico Corp.	District of Columbia	Feb. 18, 1958	Order of Dec. 17, 1957, denying plaintiff's application for withdrawal of its registration statement. Order of CA DC Mar. 24, 1958, dismissing petition for review. Closed.
Cremens, John F.	1st Circuit	June 18, 1957	Order of Apr. 22, 1957, granting application and permitting declaration of New England Electric System to become effective with respect to exchange offer of stock of a holding company for stock of a non-affiliated public utility company. Petition for review filed June 18, 1957. Order Oct. 4, 1957, dismissing petition for review for want of diligent prosecution. Closed.

TABLE 18.—Petitions for review of orders of Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, and the Investment Company Act of 1940, pending in courts of appeals during the fiscal year ended June 30, 1958—Continued

Petitioner	United States Court of Appeals	Initiating papers filed	Commission action appealed from and status of case
Dyer, Nancy Corinne, et al.	8th Circuit	Mar. 29, 1957	Order of Mar. 21, 1957, permitting declaration to become effective regarding solicitation of proxies. Order Apr. 9, 1957, denying petitioners' application for a stay pending review Judgment of CA-8 Jan. 24, 1958, dismissing petition for review. Order Feb. 25, 1958, denying petition for rehearing. Order Mar. 12, 1958, denying application for stay of judgment. Petition for writ of certiorari filed May 20, 1958, in the USSC. Commissioner's memorandum filed June 11, 1958. Pending.
Dyer, Nancy Corinne, et al.	8th Circuit	Apr. 4, 1958	Orders of Mar. 21 and 25, 1958, permitting the declaration filed under sec. 12 (c) of the 1935 Act and U-62 thereunder by Union Electric Company, to become effective. Order Apr. 17, 1958, granting Union Electric Company to intervene. Order of CA-8, Apr. 18, 1958, denying petitioners' application for stay. Order May 9, 1958, granting to Cyrus L. Day status as intervenor-petitioner. Pending.
Fisher, William	2d Circuit	Dec. 26, 1957	Order of Nov. 25, 1957, in which the petitioner was found to be a cause of the revocation of the broker-dealer registration of A. J. Gould & Co., Inc. Pending.
Gilligan, Will & Co., James Gilligan and William Will.	2d Circuit	May 14, 1958	Order of May 7, 1958, suspending the partnership of Gilligan, Will & Company for 5 days from membership in the NASD, Inc. and finding individual partners, Gilligan and Will as causes of such suspension. Petitioner granted stay of Commission's order pending disposition of petition for review. Pending.
Great Sweet Grass Oils, Ltd.	District of Columbia	June 5, 1957	Order of Apr. 8, 1957, directing that subject's stock be withdrawn from listing and registration on the American Stock Exchange, effective after Apr. 13, 1957. Briefs filed. Judgment of CA-DC June 24, 1958, affirming Commission's order. Pending.
Gruber, P. J., and Co. and P. J. Gruber.	District of Columbia	Mar. 17, 1958	Order of Jan. 15, 1958, denying the application of the company for registration as a broker-dealer and its request for withdrawal of such application and finding Peter J. Gruber and Phil Sachs to be causes of such denial. Petition for review filed Mar. 17, 1958. Pending.
Kroy Oils Limited	District of Columbia	June 5, 1957	Order of Apr. 8, 1957, directing that subject's stock be withdrawn from listing and registration on the American Stock Exchange, effective after Apr. 13, 1957. Order Feb. 26, 1958, rescheduling order of Nov. 10, 1957, which provided that Great Sweet Grass Oils Ltd. and Kroy Oils Ltd. be consolidated for hearing. Order Apr. 30, 1958, extending time to file briefs. Pending.
Kroy Oils Limited	District of Columbia	Dec. 14, 1957	Order of Oct. 18, 1957, refusing to reopen the hearing under sec. 19 (a) (2) of the 1934 Act which resulted in an order withdrawing the registration of petitioner's capital stock on the American Stock Exchange. Order of CA-DC of Mar. 24, 1958, postponing consideration of respondent's motion to dismiss. Pending.
Lewisohn Copper Corp.	9th Circuit	May 16, 1958	Order of Mar. 18, 1958, permanently suspending petitioner's exemption pursuant to sec. 3 (b) of the 1933 Act and Regulation A thereunder, from the registration provision of the 1933 Act with respect to a proposed offering of 100,000 shares of petitioner's common stock. Pursuant to sec. 8 (d) of the 1933 Act, a stop order was issued suspending the registration statement. Pending.
Shuck, Milton J.	District of Columbia	Nov. 12, 1957	Order of Sept. 13, 1957, revoking petitioner's broker-dealer registration. Petition for review filed, Nov. 12, 1957. Petitioner's brief filed, Feb. 24, 1958; Commission's brief filed, Apr. 1, 1958; petitioner's reply brief served, Apr. 23, 1958. Order May 20, 1958, postponing oral argument until after Sept. 1, 1958. Pending.

TABLE 19.—Contempt proceedings pending during the fiscal year ended June 30, 1958

CRIMINAL CONTEMPT PROCEEDINGS

Principal defendants	Number of defendants	United States District Court	Initiating papers filed	Status of case
Birrell, Lowell M.....	1	Southern District of New York...	Oct. 11, 1957	Order of Oct. 11, 1957, directing the defendant to show cause why he should not be punished for criminal contempt for not obeying the subpoena in cause, "S. E. C. v. Swan-Finch Oil Corp., et al.," Order of District Court Dec. 2, 1957, denying motion to quash bench warrant issued Nov 20, 1957. Notice of prohibition to the District Court from proceeding with contempt for a writ petitioner's brief and government's brief filed, Dec. 9, 1957 in CA-2. Petition denied by CA-2, Dec. 9, 1957. Motion by defendant in Supreme Court for leave to file and petition for a writ of prohibition and mandamus served, Dec. 23, 1957. Order Dec 26, 1957, in the District Court denying application for stay of contempt proceedings pending final determination in Supreme Court. Memorandum filed Dec. 31, 1957, in Supreme Court in opposition on petitioner's motion for writ of prohibition and mandamus. District Court on Feb. 10, 1958, denied defendant's motion for discovery of Commission's reports. Supreme Court on Mar. 3, 1958, denied motion by defendant for leave to file petition of prohibition and mandamus. Pending.
Christopoulos & Nichols Brokerage Co., et al	3	Utah.....	Sept 20, 1957	Order of Sept 20, 1957, directing defendants to show cause why they should not be punished for criminal contempt for violating an injunction entered on Nov 19, 1956. Defendants found in criminal contempt on Jan. 9, 1958, two defendants fined \$500 each and the corporate defendant fined \$1,000. Closed
Colotex Uranium and Oil, Inc..	3	Colorado	Jan 17, 1957	Order of Jan. 17, 1957, directing defendants to show cause why they should not be adjudged in criminal contempt for violating secs 5 and 17 Injunction, 1933 Act. Stipulation of facts, May 28, 1957. Defendants' memorandum and memorandum briefs filed, Aug. 1, 1957. Plaintiff's reply brief, Sept. 15, 1957. Pending.
McBride, John F.....	2	Southern District of New York...	Aug 3, 1956	Order Aug 3, 1956, directing defendants to show cause why they should not be found guilty of criminal contempt for violating injunction under sec. 5, 1933 Act. Pending.

TABLE 20.—Cases in which the Commission participated as intervenor or as amicus curiae, pending during the fiscal year ended June 30, 1958

Name of case	United States District Court, Court of Appeals, or U. S. Supreme Court	Date of entry	Nature and status of case
Berker, Harold O., et al. v. Russell McPhail, et al.	Southern District of New York.	Mar. 21, 1958	Action for violation of sec. 14 (a) of the 1934 Act and Regulation 14 thereunder, involving solicitation of proxies. Complaint by Commission as intervenor filed on Mar. 21, 1958, demanding a final judgment, temporary restraining order and a preliminary injunction. Temporary restraining order signed on Mar. 21, 1958, restraining defendants and plaintiffs from voting their shares and proxies except for the purpose of a forthcoming meeting on Apr. 24, 1958. Proxies were finally voted May 6, 1958, after further adjournments. Pending.
Greene, et al. v. Dietz, et al.	2d Circuit.	June 20, 1957	Action under sec. 10 (b) of the 1934 Act involving a shareholders' derivative suit against officers of CIT Financial. Opinion of CA-2, June 7, 1957, affirming the order of the district court dismissing the complaint. Memorandum of Commission as amicus curiae filed July 10, 1957. CA-2 denied Commission's petition for rehearing on Aug. 12, 1957. Closed.
Hull, J. Warren v. Newman, Kennedy & Co., et al.	Southern District of New York.	Sept. 10, 1957	Action for violation of sec. 215 (b) of the Investment Advisers Act of 1940 involving money misappropriation as result of a contract with defendants. Memorandum of the Commission as amicus curiae filed Sept. 10, 1957. Supplemental memorandum amicus curiae filed Nov. 23, 1957. Pending.
Ostergren, et al. v. Kirby, et al.	Northern District of Ohio, 6th Circuit.	Feb. 15, 1957 May 3, 1957	Action for violation of Regulation X-14 of 1934 Act. Complaint filed by Commission as intervenor Feb. 16, 1957, seeking injunction. Order Apr. 10, 1957, amended Apr. 12, 1957, granting permanent injunction to restrain violations of proxy rules by opposition group. Appeal to CA-6 by defendants comprising shareholders' committee filed Apr. 17, 1957. Order by stipulation entered Jan. 17, 1958, by CA-6 dismissing the appeal, leaving injunction in effect. Closed.

TABLE 21.—Proceedings by the Commission to enforce subpoenas under the Securities Act of 1933 and the Securities Exchange Act of 1934, pending during the fiscal year ended June 30, 1958

Principal defendants	Number of defendants	United States District Court	Initiating papers filed	Section of act involved	Status of case
Henderson, Leon	2	Southern District of New York.	Mar. 18, 1938	Sec. 22 (b), 1933 Act.	Order Mar. 18, 1958, directing respondent to show cause why order should not issue requiring respondent to comply with subpoena. Stipulation Apr. 3, 1958, discontinuing court action in view of compliance with subpoena. Closed.
Lord, Linda	1	Id.	May 28, 1938	Sec. 22 (b), 1933 Act; sec. 21 (c), 1934 Act.	Order June 2, 1958, directing respondent to show cause why order should not issue requiring respondent to comply with subpoena. Pending.
South, Dudley P.	1	Southern District of Texas.	Feb. 5, 1938	Sec 22 (b), 1933 Act.	Order Feb. 17, 1958, directing respondent to obey subpoena. Respondent consented to the entry of the order. Closed.



TABLE 22.—Miscellaneous actions involving the Commission or employees of the Commission during the fiscal year ended June 30, 1958

Plaintiff	Court	Initiating papers filed	Status of case
Doeskin Products, Inc.	Supreme Court of New York State, Southern District of New York and 2d Circuit.	Sept. 5, 1957	Action commenced on Sept. 5, 1957, in the Supreme Court of the State of New York by the service of a summons without a complaint which demanded damages in the amount of \$10,000,000 against all defendants. Complaint received Dec. 17, 1957, charging malicious interference with purported legal rights of plaintiff and seeking damages of \$1,000,000. Amended complaint received Jan. 3, 1958. Commission's petition for removal of case from New York Supreme Court to the United States District Court, Southern District of New York, filed Jan. 4, 1958. Judgment of district court, Jan. 31, 1958, granting defendants' motion to dismiss for failure to state a claim and dismissing the action with prejudice. Appeal to CA-2, Feb. 14, 1958 by plaintiff. Appeal withdrawn and dismissed on stipulation, Mar. 18, 1958. Closed. Complaint filed Oct. 20, 1956, for a declaratory judgment concerning certain sections and rules of the 1934 Act and directing the Commission to vacate and set aside its order of Oct. 25, 1956. Action dismissed as moot after the securities involved were permanently suspended. Closed. Petition for order directing that the Commission show cause why securities to be issued pursuant to plan of reorganization are not exempt from registration and brief in support thereof. Order Complaint filed Nov. 3, 1956, for declaratory judgment concerning certain sections and rules of the 1934 Act and directing the Commission to vacate and set aside its order of Nov. 2, 1956. Action dismissed as moot after the securities involved were permanently suspended. Closed. Petition for judgment alleging improper separation in reduction in force and seeking recovery of lost pay filed, July 30, 1954. Pending.
Great Sweet Grass Oils Limited.	District of Columbia.	Oct. 29, 1956	Motion filed Feb. 24, 1958, for an order requiring the Commission to show cause why application for withdrawal of the registration statement of plaintiff should not be granted. The district court on Feb. 26, 1958 denied the request for a show cause order. Closed.
Hancock Trucking, Inc., In Re.	Southern District of Indiana.	Mar. 8, 1957	Complaint filed Mar. 5, 1958 for preliminary injunction directing Commission to enter an order cancelling plaintiff's application for registration as a broker-dealer. Order Mar. 14, 1958, denying plaintiff's motion for preliminary injunction. Appeal to court of appeals by plaintiff and application stayed the Commission's proceedings until further order of the court. Order Mar. 25, 1958, rescinding order of Mar. 17, 1958 and denying motion by plaintiff for an injunction pending appeal. Agreement for dismissal of appeal by both parties filed, Apr. 28, 1958. Order June 12, 1958, of the district court granting defendants' motion to dismiss complaint and application for injunction. Closed.
Kroy Oils Limited.	District of Columbia.	Nov. 3, 1956	Petition by Randolph Phillips filed in the district court, May 17, 1958, requesting an order to show cause why the Commission should not be adjudged in criminal and civil contempt of court's order of Dec. 30, 1957. Rule to show cause entered May 21, 1958. Petition of Commission to vacate and dissolve rule to show cause and to dismiss Phillips' petition filed May 27, 1958. Rule on Phillips to show cause entered May 28, 1958. Hearing before court June 6, 1958. Pending. (Proceeding also listed in Table No. 23 under The United Corp.)
Levinson, Herman D.	U. S. Court of Claims.	July 30, 1954	Complaint for injunction and a declaratory judgment filed June 24, 1957, restraining Commission from prosecuting disciplinary proceedings against plaintiff. Judgment July 18, 1957, granting Commission's motion to dismiss and denying plaintiff's motion for preliminary injunction. Appeal to CA, July 26, 1957. Opinion Jan. 30, 1958, affirming order of the district court. Petition for writ of certiorari filed, Feb. 25, 1958. Commission's brief in opposition filed, Mar. 23, 1958. Certiorari denied, Apr. 7, 1958. Closed.
National Lithium Corp.	District of Columbia.	Feb. 24, 1958	
Peoples Securities Co.	District of Columbia.	Mar. 5, 1958	
Randolph Phillips	District of Delaware.	May 17, 1958	
Schwebel, Morris Mac.	District of Columbia.	June 24, 1957	

TABLE 23.—Actions pending during the fiscal year ended June 30, 1958, to enforce voluntary plans under sec. 11 (e) to comply with sec. 11 (b) of the Public Utility Holding Company Act of 1935

Name of case	United States District Court	Initiating papers filed	Status of case
Arkansas Natural Gas Corp.	Delaware.	Reopened June 25, 1956.	Petition filed June 25, 1956, by Cities Service Company for an order requiring Elias Auerback to show cause why he should not be adjudged in contempt of order entered Jan. 29, 1953. Petition filed by Louis E. Marron July 23, 1956, seeking intervention. Order Oct 26, 1956, denying petition for intervention but directing that petitioner be permitted to appear amicus curiae. Pending.
Louisiana Gas Service, et al., In Re.	Eastern District of Louisiana.	Dec. 2, 1957.	Application filed Dec 2, 1957, by Commission for an order enforcing the carrying out of a plan pursuant to secs 11 (e) and 18 (f) of the Public Utility Holding Company Act of 1935 approved by Commission order of Nov 22, 1957, and to enjoin interference with the plan. Order Jan. 14, 1958, enforcing provisions of the plan. Closed.
New England Public Service Co., In Re.	Maine.	Reopened Mar. 5, 1958.	Supplemental application IV filed Mar. 5, 1958. Order rescinding order of Mar. 25, 1958 by substituting July 14, 1958 as the bar date and that Guaranty shall attempt to locate persons entitled to unclaimed assets and furnish to the Commission and the court a report as to assets unclaimed as at June 15, 1958, and the court shall continue to retain jurisdiction. Pending.
Philadelphia Co., et al., In Re.	Western District of Pennsylvania.	Reopened Sept 25, 1957.	Petition filed Sept. 25, 1957 by Standard Gas and Electric Co. requesting an order approving as reasonable its efforts to locate all stockholders re Step 4 of the amended plan. Commission's answer agreeing with the petition, filed Nov. 5, 1957. Order Nov 5, 1957 approving Standard's petition. Petition filed Apr. 2, 1958 by Standard requesting an order approving as reasonable Standard's efforts to locate all stockholders and directing the securities and funds held by the Exchange Agent be disposed of pursuant to the plan. Commission's answer that petition containing to the proposed order, May 16, 1958. Order May 20, 1948 approving Standard's petition, except as to specified stockholders who were in process of making up exchange. Pending.
Portland Gas & Coke Co., In Re. Standard Gas and Electric Co., et al., In Re.	District of Oregon. Delaware.	Reopened Nov 20, 1957 Reopened Nov. 1, 1957.	Application filed Nov. 20, 1957. Order Dec 18, 1957 approving application. Closed. Petition filed Nov. 1, 1957 by Standard Gas and Electric Co. relating to the cutoff rights of holders of unexchanged securities to Step 1 of the plan dated Feb 8, 1957, for approval by Standard Gas and Electric Co. and Philadelphia Co. with sec. 11 of the 1935 Act. Commission's answer to petition of Standard, Dec. 3, 1957. Order Dec. 5, 1957 approving petition of Standard. Petition filed Apr. 15, 1958 by Standard requesting an order approving as reasonable Standard's efforts to locate all stockholders and directing that the securities and funds held by the Exchange Agent be disposed of pursuant to the plan. Commission's answer to petition of Standard filed May 13, 1958. Order May 23, 1958 approving Standard's petition, except as to specified stockholders who were in process of making the exchange. Pending.

TABLE 23.—Actions pending during the fiscal year ended June 30, 1958, to enforce voluntary plans under sec. 11 (e) to comply with sec. 11 (b) of the Public Utility Holding Company Act of 1935—Continued

Name of case	United States District Court	Initiating papers filed	Status of case
The United Corp.....	Delaware.....	Oct. 11, 1954.....	<p>Application filed Oct. 11, 1954. Enforcement order entered Mar. 7, 1955. Judgment of CA-3, Apr. 16, 1956, affirming the district court order. Petition for writ of certiorari by Protective Committee and Biddle filed July 13, 1956. Certiorari denied Oct. 8, 1956. Supplemental application for enforcement of order relating to fees filed July 27, 1956. Order Oct. 31, 1956, approving order of Commission re fees. Notices of appeal to CA-3 by Randolph Phillips and Joseph B. Hyman filed Dec. 28, and 29, 1956. Judgment of CA-3, Oct. 24, 1957 affirming in part and reversing in part the order of Oct. 31, 1956, and remanding cause to the district court. Commission's petition for rehearing denied by CA-3, Dec. 3, 1957. Order of district court Dec. 30, 1957, remanding proceeding to the Commission for modification of its Findings, Opinion and Order of June 28, 1956. Petition by Randolph Phillips filed in the district court, May 17, 1958, requesting an order to show cause why the Commission should not be adjudged in criminal and civil contempt of court's order of Dec. 30, 1957. Rule to show cause entered May 21, 1958. Petition of Commission to vacate and dissolve rule to show cause and to dismiss Phillips' petition filed May 27, 1958. Rule on Phillips to show cause entered May 28, 1958. Hearing before court June 6, 1958. Pending. (Letter proceeding also listed in Table No. 22 under Randolph Phillips.)</p>

TABLE 24.—Actions under sec. 11 (d) of the Public Utility Holding Company Act of 1935 pending during the fiscal year ended June 30, 1958, to enforce compliance with the Commission's order issued under sec. 11 (b) of that act

Name of case	United States District Court	Initiating papers filed	Nature and history of case
International Hydro-Electric System...	Massachusetts.....	Reopened July 15, 1957.....	Application for order directing trustee to deliver assets to Old Colony Trust Company and for authority to operate the business, filed July 15, 1957. Order Sept. 19, 1957, releasing Aheus fund from jurisdiction of the court with certain exceptions. Petition filed Jan. 21, 1958 by trustee for approval and allowance of account for period Nov. 13, 1944 to Sept. 18, 1957. Supplemental application of Commission Jan. 21, 1958, for approval of payment on account of maximum final allowances of compensation and reimbursement of expenses. Orders Mar. 3, 1958, approving trustee's petition and allowances and expenses. Pending.

TABLE 25.—*Reorganization cases under ch. X of the Bankruptcy Act pending during the fiscal year ended June 30, 1958, in which the Commission participated when district court orders were challenged in appellate courts*

Name of case and United States Court of Appeals	Nature and status of case
General Stores Corp., debtor; Lewis J. Ruskin, Ford Hopkins Co., Stineway Drug Co, Sargent's Drug Store and Wright & Lawrence, Inc., appellants (2d Circuit).	Appeals from orders of May 2, 1957, staying Lewis J. Ruskin, secured creditor, from foreclosing on stocks of debtor's subsidiaries and from order of July 1, 1957, requiring management of subsidiaries to give notice to the Chapter X trustee 20 days in advance of substantial commitments and authorizing veto by trustee unless reversed by court. Appellants' brief and appendix filed approximately Sept. 13, 1957. Briefs for Richard Goodman, appellee, filed approximately Oct. 16, 1957. Commission's brief filed Nov. 4, 1957, in opposition to appeals. Briefs and appendix of reorganization trustee, appellee, filed Nov. 4, 1957, and approximately Nov. 20, 1957. Reply brief for appellant and supplemental appendix filed Nov. 27, 1957. Commission's memorandum filed Dec. 20, 1957. Opinion Jan. 6, 1958, by CA-2 affirming orders of May 2, 1957, and July 1, 1957. Closed.
Inland Gas Corp., et al., debtors, Ben Williamson, Jr., Paul E. Kern, Green Committee, Clinton M. Harbison, Allen Committee, Vanston Committee and Gregory Committee, appellants (6th Circuit).	Appeals from order of Mar 14, 1956, inter alia denying confirmation of Trustees' Amended Plan of Reorganization refusing to find worthy of consideration a plan submitted by a security holder and refusing to confirm a plan of reorganization because it provided for post-bankruptcy interest and since it was not accepted by the requisite majority of creditors affected by the plan. Brief of Commission filed Aug 1, 1956, supporting certain of the appeals. Decision of CA-6 Feb 14, 1957, affirming the order of the district court. Petition of Kentucky Debenture Holders Committee and Paul E. Kern, Mar 4, 1957, for rehearing and memorandum of Commission, Mar 4, 1957, in support of petition for rehearing. Order entered by CA-6, May 8, 1957, denying the petition for rehearing. Petitions by appellants for writ of certiorari to review judgment entered by CA-6, Feb 14, 1957. Memorandum of the Commission in support of petition, Aug 15, 1957. Brief and consolidated brief of Columbia Gas System, Inc., in opposition to petitions for writ of certiorari, Sept 9, 1957. Reply brief of Allen Committee and Edward D. Spilman, Sept. 19, 1957, to brief of Columbia Gas System, Inc. in opposition to petition for writ of certiorari and memorandum of the Commission. Writ of certiorari denied, Oct 14, 1957. Petition of Paul E. Kern for rehearing, Nov. 1, 1957. Petition for rehearing denied by Supreme Court, Nov. 19, 1957. Closed.
Inland Gas Corp., et al., debtors; Thomas Choate and Harmon L. Remmel, Charles J. Gregory and Clyde L. Paul, Paul E. Kern, Elmo E. Allen, George H. Greenwald and Edward D. Spilman, appellants (6th Circuit).	Appeals from orders of May 13, 1958, and June 2, 1958, finding the plan for reorganization of Feb. 25, 1958, as amended, is fair, equitable and feasible. Motion by Clinton M. Harbison, as trustee of American Fuel & Power Company, to dismiss appeal of Paul E. Kern, et al., approximately June 20, 1958. Memorandum June 25, 1958, of appellee, The Columbia Gas System, Inc., in support of motion to dismiss appeals. Memorandum June 27, 1958, of Green Committee in support of American's trustee's motion to dismiss appeals from order of May 13, 1958. Pending.
Magnolla Park, Inc., debtor; Stephen Goldring and Malcolm Woldenberg, appellants (5th Circuit).	Appeal from order of Feb 25, 1958, approving petition for reorganization. Motion by Stephen Goldring and Malcolm Woldenberg for leave to file petition, petition for writ of mandamus and prohibition or for a supersedeas or stay of the district court's order of Feb. 25, 1958, and brief in support thereof served Apr. 16, 1958. Commission's memorandum May 2, 1958, in opposition to petition for writs of mandamus and prohibition, etc. Trustee's memorandum May 7, 1958, in opposition to motion of appellants. Rejoinder memorandum on behalf of petitioners filed May 9, 1958. Order by CA-5 May 21, 1958, denying leave to file petition for writ of mandamus and refusing the alternate application for supersedeas. Pending.
Selected Investments Corp., et al., debtors; Selected Investments Corp., Selected Investments Trust Fund, Hugh A. Carroll, Julla L. Moore Carroll, William A. Rigg, H. P. and Zona Willis; C. M. Holliday and Herschel Hillery, et al., appellants (10th Circuit).	Appeals from order of Mar 3, 1958, declaring Selected Investments Corporation and Selected Investments Trust Fund to be bankrupt, and finding certain trust certificates issued by Selected Investments Trust Fund not to be debt securities within the meaning of the Bankruptcy Act and therefore not under the jurisdiction of the district court. Application Apr. 4, 1958, of appellants for order staying proceedings in district court pending determination and final decision of appeal to CA-10; denied Apr. 7, 1958. Commission's designation of additional portions of the record on appeal, Apr. 9, 1958. Pending.
Selected Investments Corp., et al., debtors; C. M. Holliday, Herschel M. Hillery, J. S. Pledger and Lucille Pledger, appellants (10th Circuit).	Petition for writ of prohibition directed to Hon. Stephen S. Chandler commanding him to desist and refrain from further proceeding in the district court and exercising further jurisdiction. Debtors' petition Apr. 4, 1958, for intervention and consolidation and for stay of proceedings in the district court. Commission's statement in opposition to petition for writ of prohibition, Apr. 4, 1958. Brief and response of Hon. Stephen S. Chandler, Apr. 7, 1958. CA-10 Apr. 7, 1958, denied application for writ of prohibition. Closed.
Third Avenue Transit Corp., et al., debtors; Hiram S. Gans, appellant (2d Circuit).	Appeal from opinion of Feb. 6, 1958, denying application of Amen, Gans, Welsman and Butler for compensation and denying the application for approval of a certain transfer of securities. Pending.

TABLE 26.—A 25-year summary of criminal cases developed by the Commission—1934 through 1958 by fiscal year

[See table 29 for classification of defendants as broker-dealers, etc.]

Fiscal year	Number of cases referred to Department of Justice in each year	Number of persons as to whom prosecution was recommended in each year	Number of such cases in which indictments were obtained by United States attorneys	Number of defendants indicted in such cases <sup>1</sup>	Number of these defendants convicted	Number of these defendants acquitted	Number of these defendants as to whom proceedings were dismissed on motion of United States attorneys	Number of these defendants as to whom cases are pending <sup>2</sup>
1934	7	36	3	32	17	0	15	0
1935	29	177	14	149	84	5	60	0
1936	43	379	34	368	164	46	158	0
1937	42	128	30	144	78	32	34	0
1938	40	113	33	134	75	13	45	0
1939	52	245	47	292	199	33	60	1
1940	59	174	51	200	96	38	66	0
1941	54	150	47	145	94	15	36	0
1942	50	144	46	194	108	23	49	14
1943	31	91	28	105	62	10	33	3
1944	27	69	24	79	48	6	20	5
1945	19	47	18	61	36	10	14	1
1946	16	44	14	40	13	8	4	15
1947	20	50	13	34	9	5	16	4
1948	16	32	15	29	20	3	6	0
1949	27	44	25	57	19	13	25	0
1950	18	28	15	27	21	1	5	0
1951	29	42	24	48	37	5	6	0
1952	14	26	13	24	17	4	3	0
1953	18	32	15	33	20	6	5	2
1954	19	44	19	52	26	4	6	16
1955	8	12	8	13	7	0	6	0
1956	17	43	16	44	18	3	6	17
1957	26	132	15	53	23	1	2	27
1958	<sup>3</sup> 15	51	8	16	4	0	0	12
Total	696	2,333	<sup>4</sup> 575	2,376	1,295	284	<sup>5</sup> 680	117

<sup>1</sup> The number of defendants in a case is sometimes increased by the Department of Justice over the number against whom prosecution was recommended by the Commission. For the purpose of this table, an individual named as a defendant in 2 or more indictments in the same case is counted as a single defendant.

<sup>2</sup> See table 27 for breakdown of pending cases.

<sup>3</sup> Six of these references as to 33 proposed defendants were still being processed by the Department of Justice as of the close of the fiscal year, and also 9 of the 1957 references as to 82 proposed defendants.

<sup>4</sup> 546 of these cases have been completed as to 1 or more defendants. Convictions have been obtained in 473 or 87 percent of such cases. Only 73 or 13 percent of such cases have resulted in acquittals or dismissals as to all defendants, this includes numerous cases in which indictments were dismissed without trial because of the death of defendants or for other administrative reasons. See note 5, infra.

<sup>5</sup> Includes 54 defendants who died after indictment.

TABLE 27.—Summary of criminal cases developed by the Commission which were still pending at June 30, 1958

	Cases	Number of defendants in such cases	Number of such defendants as to whom cases have been completed	Number of such defendants as to whom cases are still pending and reasons therefor		
				Not yet apprehended	Awaiting trial	Awaiting appeal
Pending, referred to Department of Justice in the fiscal year:						
1938.....	1	2	1	1	0	0
1939.....	0	0	0	0	0	0
1940.....	0	0	0	0	0	0
1941.....	0	0	0	0	0	0
1942.....	2	18	4	13	1	0
1943.....	1	5	2	2	1	0
1944.....	1	7	2	5	0	0
1945.....	1	1	0	1	0	0
1946.....	4	16	1	15	0	0
1947.....	1	5	1	4	0	0
1948.....	0	0	0	0	0	0
1949.....	0	0	0	0	0	0
1950.....	0	0	0	0	0	0
1951.....	0	0	0	0	0	0
1952.....	0	0	0	0	0	0
1953.....	2	12	10	1	1	0
1954.....	2	25	9	7	9	0
1955.....	0	0	0	0	0	0
1956.....	8	23	6	0	12	5
1957.....	9	35	8	1	21	5
1958.....	4	12	0	0	12	0
Total.....	136	161	44	50	57	10

## SUMMARY

Total cases pending <sup>1</sup> .....	51
Total defendants <sup>1</sup> .....	275
Total defendants as to whom cases are pending <sup>1</sup> .....	232

<sup>1</sup> Except for 1957 and 1958 indictments have been returned in all pending cases. As of the close of the fiscal year, indictments had not yet been returned as to 115 proposed defendants in 15 cases referred to the Department of Justice in 1957 and 1958. These are reflected only in the recapitulation of totals at the bottom of the table.

TABLE 28.—A 25-year summary classifying all defendants in criminal cases developed by the Commission—1934 to June 30, 1958

	Number indicted	Number convicted	Number acquitted	Number as to whom cases were dismissed on motion of United States attorneys	Number as to whom cases are pending
Registered broker-dealers <sup>1</sup> (including principals of such firms).....	360	224	24	100	12
Employees of such registered broker-dealers.....	128	65	17	43	3
Persons in general securities business but not as registered broker-dealers (includes principals and employees).....	722	368	57	261	38
All others <sup>2</sup> .....	1,166	638	186	276	66
Total.....	2,376	1,295	284	680	117

<sup>1</sup> Includes persons registered at or prior to time of indictment.

<sup>2</sup> The persons referred to in this column, while not engaged in a general business in securities, were almost without exception prosecuted for violations of law involving securities transactions.

TABLE 29.—A 25-year summary of all injunction cases instituted by the Commission, 1934 to June 30, 1958, by calendar year

Calendar year	Number of cases instituted by the Commission and the number of defendants involved		Number of cases in which injunctions were granted and the number of defendants enjoined. <sup>1</sup>	
	Cases	Defendants	Cases	Defendants
1934	7	24	2	4
1935	36	242	17	56
1936	42	116	36	108
1937	96	240	91	211
1938	70	152	73	153
1939	57	154	61	165
1940	40	100	42	99
1941	40	112	36	90
1942	21	73	20	54
1943	19	81	18	72
1944	18	80	14	35
1945	21	74	21	57
1946	21	45	15	34
1947	20	40	20	47
1948	19	44	15	26
1949	25	59	24	55
1950	27	73	26	71
1951	22	67	17	43
1952	27	103	18	50
1953	20	41	23	68
1954	22	59	22	62
1955	23	54	19	43
1956	53	122	42	89
1957	58	192	32	93
1958 (to June 30)	38	162	38	107
Total	842	2,509	742	1,892

SUMMARY

	Cases	Defendants
Actions instituted	842	2,509
Injunctions obtained	731	1,892
Actions pending	36	173
Other dispositions <sup>4</sup>	75	444
Total	842	2,509

<sup>1</sup> These columns show disposition of cases by year of disposition and do not necessarily reflect the disposition of the cases shown as having been instituted in the same years.

<sup>2</sup> Includes 11 cases which were counted twice in this column because injunctions against different defendants in the same cases were granted in different years.

<sup>3</sup> Includes 39 defendants in 12 cases in which injunctions have been obtained as to 39 co-defendants.

<sup>4</sup> Includes (a) actions dismissed (as to 376 defendants); (b) actions discontinued, abated, vacated, abandoned, stipulated, or settled (as to 53 defendants); (c) actions in which judgment was denied (as to 11 defendants); (d) actions in which prosecution was stayed on stipulation to discontinue misconduct charged (as to 4 defendants).



TABLE 30.—*Canons of Ethics for Members of the Securities and Exchange Commission*

## PREAMBLE

Members of the Securities and Exchange Commission are entrusted by various enactments of the Congress with powers and duties of great social and economic significance to the American people. It is their task to regulate varied aspects of the American economy, within the limits prescribed by Congress, to insure that our private enterprise system serves the welfare of all citizens. Their success in this endeavor is a bulwark against possible abuses and injustice which, if left unchecked, might jeopardize the strength of our economic institutions.

It is imperative that the members of this Commission continue to conduct themselves in their official and personal relationships in a manner which commands the respect and confidence of their fellow citizens. Members of this Commission should continue to be mindful of, and strictly abide by, the standards of personal conduct set forth in its Regulation regarding Conduct of Members and Employees and Former Members and Employees of the Commission, most of which has been in effect for many years and which was codified in substantially its present form in 1953. Rule 1 of said Regulation enunciates a General Statement of Policy as follows:

"It is deemed contrary to Commission policy for a member or employee of the Commission to—

"(a) engage, directly or indirectly, in any personal business transaction or private arrangement for personal profit which accrues from or is based upon his official position or authority or upon confidential information which he gains by reason of such position or authority;

"(b) accept, directly or indirectly, any valuable gift, favor, or service from any person with whom he transacts business on behalf of the United States;

"(c) discuss or entertain proposals for future employment by any person outside the Government with whom he is transacting business on behalf of the United States;

"(d) divulge confidential commercial or economic information to any unauthorized person, or release any such information in advance of authorization for its release;

"(e) become unduly involved, through frequent or expensive social engagements or otherwise, with any person outside the Government with whom he transacts business on behalf of the United States; or

"(f) act in any official matter with respect to which there exists a personal interest incompatible with an unbiased exercise of official judgment.

"(g) fail reasonably to restrict his personal business affairs so as to avoid conflicts of interest with his official duties."

In addition to the continued observance of these foregoing principles of personal conduct, it is fitting and proper for the members of this Commission to restate and resubscribe to the standards of conduct applicable to its executive, legislative and judicial responsibilities.

## 1. Constitutional Obligations

The members of this Commission have undertaken in their oaths of office to support the Federal Constitution. Insofar as the enactments of the Congress impose executive duties upon the members, they must faithfully execute the laws which they are charged with administering. Members shall also care-

fully guard against any infringement of the constitutional rights, privileges or immunities of those who are subject to regulation by this Commission.

## 2. Statutory Obligations

In administering the law, members of this Commission should vigorously enforce compliance with the law by all persons affected thereby. In the exercise of the rule-making powers delegated this Commission by the Congress, members should always be concerned that the rule-making power be confined to the proper limits of the law and be consistent with the statutory purpose expressed by the Congress. In the exercise of their judicial functions, members shall honestly, fairly and impartially determine the rights of all persons under the law.

## 3. Personal Conduct

Appointment to the office of member of this Commission is a high honor and requires that the conduct of a member, not only in the performance of the duties of his office but also in his everyday life, should be beyond reproach.

## 4. Relationship with Other Members

Each member should recognize that his conscience and those of other members are distinct entities and that differing shades of opinion should be anticipated. The free expression of opinion is a safeguard against the domination of this Commission by less than a majority, and is a keystone of the commission type of administration. However, a member should never permit his personal opinion so to conflict with the opinion of another member as to develop animosity or unfriendliness in the Commission, and every effort should be made to promote solidarity of conclusion.

## 5. Maintenance of Independence

This Commission has been established to administer laws enacted by the Congress. Its members are appointed by the President by and with the advice and consent of the Senate to serve terms as provided by law. However, under the law, this is an independent Agency, and in performing their duties, members should exhibit a spirit of firm independence and reject any effort by representatives of the executive or legislative branches of the government to affect their independent determination of any matter being considered by this Commission. A member should not be swayed by partisan demands, public clamor or considerations of personal popularity or notoriety; so also he should be above fear of unjust criticism by anyone.

## 6. Relationship with Persons Subject to Regulation

In all matters before him, a member should administer the law without regard to any personality involved, and with regard only to the issues. Members should not become indebted in any way to persons who are or may become subject to their jurisdiction. No member should accept loans, presents or favors of undue value from persons who are regulated or who represent those who are regulated. In performing their judicial functions, members should avoid discussion of a matter with any person outside this Commission and its staff while that matter is pending. In the performance of his rule-making and administrative functions, a member has a duty to solicit the views of interested persons. Care must be taken by a member in his relationship with persons within or outside of the

Commission to separate the judicial and the rule-making functions and to observe the liberties of discussion respectively appropriate. Insofar as it is consistent with the dignity of his official position, he should maintain contact with the persons outside the agency who may be affected by his rule-making functions, but he should not accept unreasonable or lavish hospitality in so doing.

#### 7. Qualification to Participate in Particular Matters

The question of qualification of an individual member to vote or participate in a particular matter rests with that individual member. Each member should weigh carefully the question of his qualification with respect to any matter wherein he or any relatives or former business associates or clients are involved. He should disqualify himself in the event he obtained knowledge prior to becoming a member of the facts at issue before him in a quasi-judicial proceeding, or in other types of proceeding in any matter involving parties in whom he has any interest or relationship directly or indirectly. If an interested person suggests that a member should disqualify himself in a particular matter because of bias or prejudice, the member shall be the judge of his own qualification.

#### 8. Impressions of Influence

A member should not, by his conduct, permit the impression to prevail that any person can improperly influence him, that any person unduly enjoys his favor or that he is affected in any way by the rank, position, prestige or affluence of any person.

#### 9. Ex parte Communications

Matters of a quasi-judicial nature should be determined by a member solely upon the record made in the proceeding and the arguments of the parties or their counsel properly made in the regular course of such proceeding. All communications by parties or their counsel to a member in a quasi-judicial proceeding which are intended or calculated to influence action by the member should at once be made known by him to all parties concerned. A member should not at any time permit ex parte interviews, arguments or communications designed to influence his action in such a matter.

#### 10. Commission Opinions

The opinions of the Commission should state the reasons for the action taken and contain a clear showing that no serious argument of counsel has been disregarded or overlooked. In such manner, a member shows a full understanding of the matter before him, avoids the suspicion of arbitrary conclusion, promotes confidence in his intellectual integrity and may contribute some useful precedent to the growth of the law. A member should be guided in his decisions by a deep regard for the integrity of the system of law which he administers. He should recall that he is not a repository of arbitrary power, but is acting on behalf of the public under the sanction of the law.

#### 11. Judicial Review

The Congress has provided for review by the courts of the decisions and orders by this Commission. Members should recognize that their obligation to preserve the sanctity of the laws administered by them requires that they pursue and prosecute, vigorously and diligently but at the same time fairly and impartially and with dignity, all matters which they or others take to the courts for judicial review.

## 12. Legislative Proposals

Members must recognize that the changing conditions in a volatile economy may require that they bring to the attention of the Congress proposals to amend, modify or repeal the laws administered by them. They should urge the Congress, whenever necessary, to effect such amendment, modification or repeal of particular parts of the statutes which they administer. In any such action a member's motivation should be the common weal and not the particular interests of any particular group.

## 13. Investigations

The power to investigate carries with it the power to defame and destroy. In determining to exercise their investigatory power, members should concern themselves only with the facts known to them and the reasonable inferences from those facts. A member should never suggest, vote for or participate in an investigation aimed at a particular individual for reasons of animus, prejudice or vindictiveness. The requirements of the particular case alone should induce the exercise of the investigatory power, and no public pronouncement of the pendency of such an investigation should be made in the absence of reasonable evidence that the law has been violated and that the public welfare demands it.

## 14. The Power to Adopt Rules

In exercising its rule-making power, this Commission performs a legislative function. The delegation of this power by the Congress imposes the obligation upon the members to adopt rules necessary to effectuate the stated policies of the statute in the interest of all of the people. Care should be taken to avoid the adoption of rules which seek to extend the power of the Commission beyond proper statutory limits. Its rules should never tend to stifle or discourage legitimate business enterprise or activities, nor should they be interpreted so as unduly and unnecessarily to burden those regulated with onerous obligations. On the other hand, the very statutory enactments evidence the need for regulation, and the necessary rules should be adopted or modifications made or rules should be repealed as changing requirements demand without fear or favor.

## 15. Promptness

Each member should promptly perform the duties with which he is charged by the statutes. The Commission should evaluate continuously its practices and procedures to assure that it promptly disposes of all matters affecting the rights of those regulated. This is particularly desirable in quasi-judicial proceedings. While avoiding arbitrary action in unreasonably or unjustly forcing matters to trial, members should endeavor to hold counsel to a proper appreciation of their duties to the public, their clients and others who are interested. Requests for continuances of matters should be determined in a manner consistent with this policy.

## 16. Conduct Toward Parties and Their Counsel

Members should be temperate, attentive, patient and impartial when hearing the arguments of parties or their counsel. Members should not condone unprofessional conduct by attorneys in their representation of parties. The Commission should continuously assure that its staff follows the same principles in their relationships with parties and counsel.

### 17. Business Promotions

A member must not engage in any other business, employment or vocation while in office, nor may he ever use the power of his office or the influence of his name to promote the business interests of others.

### 18. Fiduciary Relationships

A member should avoid serving as a fiduciary if it would interfere or seem to interfere with the proper performance of his duties, or if the interests of those represented require investments in enterprises which are involved in questions to be determined by him. Such relationships would include trustees, executors, corporate directors and the like.

### 19. Organization

Members and particularly the Chairman of the Commission should scrutinize continuously its internal organization in order to assure that such organization handles all matters before it efficiently and expeditiously, while recognizing that changing times bring changing emphasis in the administration of the laws.

