(2) Kobrin was associated with Registrant from in or about August, 1976 to on or about October 1, 1978.

(3) From in or about November, 1976, to at least in or about March, 1977, at a time when Registrant had associated with it both Kobrin, who had been criminally convicted of securities law violations, and a person who has been enjoined for securities law violations, Registrant willfully violated Section 15(b) of the Exchange Act and Rule 15b10-4(c) thereunder in that Registrant failed to establish, maintain, and enforce written procedures relating to the supervision of customer accounts as prescribed by the above rule.

(4) In or about March, 1977, at a time when Registrant had associated with it both Kobrin, who had been criminally convicted of securities law violations, and a person who had been enjoined for securities law violations, Registrant willfully violated Section 15(b) of the Exchange Act and Rule 15b10-6 thereunder in that Registrant failed to obtain the signature of a supervisor on each customer account card.

It is therefore in the public interest to impose the sanction specified in the offer of settlement.

Accordingly, IT IS ORDERED that, effective at the opening of business on the second Monday after the date of this order, Donald & Co. Securities Inc., be and hereby is censured.

George A. Fitzsimmons
Secretary

SECURITIES EXCHANGE ACT OF 1934
Release No. 15292/November 2, 1978

Division of Investment Management's Interpretative Positions Relating to Rule 13f-1 and Related Form 13F

AGENCY: Securities and Exchange Commission.

ACTION: Interpretative release.

SUMMARY: The Securities and Exchange Commission today authorized the issuance of a release reflecting the views of the Division of Investment Management regarding the reporting obligation and filing requirement of certain institutional investment managers under the Commission's recently implemented institutional disclosure program. Since the program's implementation was announced, on June 15, 1978, the Division of Investment Management has received requests for interpretations with respect to various aspects of its requirements. This interpretative release is intended to assist interested persons in their understanding of, and compliance with, that program.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael S. Lichtenthal, Esq. (202-755-9034) or
W. Scott Cooper, Esq. (202-755-1792)
Division of Investment Management,
Securities and Exchange Commission,
500 North Capitol Street
Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Section 13(f) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)] was adopted by Congress as part of the Securities Acts Amendments of 1975. Generally Section 13(f) [15 U.S.C. 78m(f)] empowers the Commission to adopt rules which would create a reporting and disclosure system to collect specific information concerning Section 13(d)(1) [15 U.S.C. 78M(d)(1)] equity securities held in accounts over which certain institutional investment managers exercise investment discretion. The reporting system required by Section 13(f) is intended to create in the Commission a central repository of historical and current data about the investment activities of institutional investment managers.

On June 15, 1978, the Commission announced the adoption of Rule 13f-1 [17 CFR 240.13f-1] and related Form 13F [17 CFR 249.325] in Exchange Act Release No. 14852, effective July 31, 1978, [43 FR 26700, June 22, 1978], implementing the basic institutional disclosure program mandated by Section 13(f). Under the Rule, as adopted, an institutional investment manager exercising investment discretion (as defined in Section 3(a)(35) of the Exchange Act [15 U.S.C. 78(c)(a)(35)]) with respect to accounts having more than $100,000,000 or more in exchange-traded or NASDAQ-quoted equity securities on the last trading day of any of the twelve months of a calendar year must file annually with the Commission, and, if a bank, with the appropriate banking agency, within 45 days after the last day of such calendar year, Form 13F, beginning with the calendar year 1978. The form requires the reporting of the name of the issuer, and the title of class, CUSIP number, number of shares or principal amount in the case of convertible debt, and aggregate fair market value of each such equity security held. The form also requires information

concerning the nature of investment discretion and voting authority possessed.[1]

Since the adoption of the Rule, the Commission's Division of Investment Management ("Division") has received requests for interpretations with respect to various provisions under the Rule and the related Form. In order to assist other persons in their understanding of, and compliance with, the Rule, the Commission has authorized the publication of this interpretative release setting forth the current views of the Division.

The following are intended to supplement the explanation and analysis of Rule 13f-1 and related Form 13F set forth in Exchange Act Release No. 14852, and reflect the views of the Division as of the date of this release.

1. Reporting requirements. Who is Required to Report?

Question: If a natural person or company advises an account, but does not have *de jure* or *de facto* investment discretion over the account, is it required to report in respect of such account?

Answer: No. The reporting requirements apply to persons who have "investment discretion" as defined in Section 3(a)(35) of the Exchange Act.[2] Note, however, that, by rule, investment discretion is deemed to exist with respect to all accounts over which any person under control of such natural person or company (such as subsidiaries) exercises investment discretion.

Question: When a managed account is an institutional account such as a pension or endowment fund, when is investment discretion "sole" and when is it "shared"?

Answer: It depends on which most accurately reflects the nature of investment discretion possessed by the manager. If the manager makes all decisions, then of course he has sole investment discretion. If he merely makes recommendations to internal managers of the account, which make their own decisions, then he does not have investment discretion at all.[3] If the decision-making can best be described as joint decision-making, then investment discretion should be reported as shared.

Question: Does the foregoing answer also apply if the managed account is an investment company or separate account of an insurance company?

Answer: Yes.

Question: If, following the above, an investment adviser has sole investment discretion over portfolio securities of an investment company, does the investment company have any reporting obligations regarding such securities, including that of filing an information statement?

Answer: No. Again, reporting obligations relate to the possession of investment discretion.

Question: In determining whether investment discretion is sole, shared or none, is the determination (and response) to be given in terms of particular securities within an account, or as to the account as a whole?

Answer: The account as a whole, reflecting the statutory provision (Section 13(f)) itself.

Question: In the case of a pension fund placed in an entity such as a master trust which is divided into segments for the purposes of investment management, each segment being assigned to a separate

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[1] The Release announcing the adoption of the Rule sought comments concerning the usefulness and costs associated with quarterly, as opposed to annual, reporting. The Division is presently reviewing the numerous comments it has received concerning that matter and will be in a position to make a recommendation to the Commission in the near future.

[2] Section 3(a)(35) states:

> A person exercises "investment discretion" with respect to an account if, directly or indirectly, such person (A) is authorized to determine what securities or other property shall be purchased or sold by or for the account, (B) makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions, or (C) otherwise exercises such influence with respect to the purchase and sale of securities or other property by or for the account as the Commission, by rule, determines, in the public interest or for the protection of investors, should be subject to the operation of the provisions of this title and the rules and regulations thereunder.

[3] Unless he otherwise possesses the authority (contemplated by Section 3(a)(35) (A) of the Exchange Act) to determine purchases and sales.

manager, what is the "account" with respect to each such separate manager: is it the entire pension fund or the segment assigned to the manager?

Answer: It is the segment assigned to the manager.

Question: In the foregoing situation, if there is one manager assigned the role of reviewing and approving the decisions of the various separate managers and which receives a fee for this activity (in addition to a fee for any administrative duties), would this manager report as having "shared" investment discretion?

Answer: It is most probable that this activity, for which a fee is received, is a form of shared investment discretion.

Question: Could a natural person investing for his own account be subject to the reporting requirements?

Answer: No, Section 13(f)(5) of the Exchange Act [15 U.S.C. 78m(f)(5)] excludes natural persons investing for their own accounts from the definition of "institutional investment manager."

Question: If a natural person (e.g., a trustee) has investment discretion over an account having at least $100 million in 13(f) securities of another person (as defined in Section 3(a)(9) of the Exchange Act [15 U.S.C. 78(c)(a)(9)]to include a "natural person, company, government, or political subdivision, agency, or instrumentality of a government"), would the natural person be subject to the reporting requirements?

Answer: Yes, Section 13(f)(5) of the Exchange Act includes natural persons in the definition of "institutional investment manager" when such persons exercise investment discretion over the account of any other person. Note that a natural person investing for his or her own account and managing the accounts of other persons could be required to report if the accounts of the other persons have in the aggregate at least $100 million in 13(f) securities, although the value of the securities in the account of the natural person would not be included in determining whether the natural person met the $100 million threshold. Similarly, in the case of a partnership which exercises investment discretion over various accounts, the personal investments of the individual partners would not be aggregated with the holdings or advisory accounts of the partnership.

Question: Does a person who exercises investment discretion with respect to an account organized by or under the auspices of a governmental authority (e.g., a municipal pension fund) have to report, assuming the basic reporting criteria are met?

Answer: Yes.

Question: Would the parent of a corporate complex with five subsidiaries be required to report if none of the subsidiaries had at least $100 million in 13(f) securities?

Answer: Yes, if in the aggregate its subsidiaries had investment discretion over $100 million or more of Section 13(f) securities. Under Rule 13f-1(b) [17 CFR 240.13f-1(b)] an institutional investment manager would be deemed to exercise investment discretion over all accounts with respect to which any person under its control exercises investment discretion. In addition, under Special Instruction v to Form 13F the parent would be deemed to have shared investment discretion with each of its subsidiaries with respect to the specific 13(f) securities under their respective control. However, since none of the subsidiaries would have investment discretion over at least $100 million in 13(f) securities they would not have to be named in Item 7 of Form 13F.

2. Mechanics of Reporting

Question: In the situation described in the immediately preceding question, how would the reporting be accomplished?

Answer: If none of the subsidiaries individually had investment discretion over $100 million in 13(f) securities, then, as explained above, only the parent corporation would have a filing obligation. Therefore, the parent would simply aggregate the holdings of its subsidiaries and check shared investment discretion under Item 6(b) without naming the subsidiaries either on the cover page or in Item 7.

Question: What if one or more such subsidiary did have investment discretion over $100 million in 13(f) securities?

Answer: If one or more of the subsidiaries were to have investment discretion over $100 million in 13(f) securities, then it too would have a reporting obligation. As such, there would then exist two possible reporting persons. However, under General Instruction B to Form 13F only one manager could include information with respect to a given security. Thus, if the parent were to file the report for both, it would list separately the holdings of its other subsidiaries, which it would report in the aggregate. The parent corporation would check Item 6(b) (indicating shared investment discretion) for all of the entries on the Form, but would only name the subsidiary having a reporting obligation in response to Item 7. Pursuant to Special Instruction i that subsidiary would also be named on the cover page of the Form filed by the parent corporation. In addition, that subsidiary would

file a cover page and a separate statement indicating that its parent would be filing on its behalf.

If, in the above situation, the subsidiary with a reporting obligation were to file on its own behalf, then it too would check Item 6(b) for all entries and name its parent in Item 7. The parent would then include a statement with its report indicating that the subsidiary would be filing on behalf of the parent.

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Question: For purposes of Item 6(b) of the Form, would investment discretion be deemed shared if a subsidiary exercises investment discretion without interference from its parent?

Answer: Yes, Subsection 13f-1(b) states: "An institutional investment manager shall also be deemed to exercise 'investment discretion' with respect to all accounts over which any person under its control exercises investment discretion."

Question: Can Item 6(b) *and* Item 6(c) *both* be checked with respect to the same securities?

Answer: Yes. This would be appropriate where, for example, a parent was reporting in respect of a subsidiary (6(b)) which shares investment discretion with another person (such as a co-trustee - 6(c)).

Question: How would holdings be reported by a parent for a multi-tiered corporate structure where the parent, its mid-level subsidiary, and lower level subsidiary are all reporting persons?

Answer: The securities over which the lower-level subsidiary exercises investment discretion would be listed separately, and Item 6(b) would be checked to indicate shared investmennt discretion. In Item 7, both the mid-level subsidiary and the lower-level subsidiary would be named in accordance with the instructions to indicate that they have shared investment discretion with the parent. Any additional securities with respect to which the mid-level subsidiary exercises investment discretion would be reported in a similar manner, noting in Item 7 that investment discretion is shared with the parent. Of course, the parent would indicate that it is filing on behalf of the two subsidiaries on the cover page, and each subsidiary would file an information statement indicating that its parent would be filing on its behalf.

By the Commission.

George A. Fitzsimmons
Secretary

SECURITIES EXCHANGE ACT OF 1934
Release No. 15289/November 1, 1978

LOST AND STOLEN SECURITIES PROGRAM

Extension of the Pilot Period; Redesignation of Securities Information Center, Inc.; Reregistration of Certain Institutions.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the extension of the Lost and Stolen Securities Program's (the "Program") pilot period, the redesignation of Securities Information Center, Inc. ("SIC") as the Commission's designee to maintain and operate the data base of missing, lost, counterfeit or stolen securities, and the reregistration of certain institutions subject to Rule 17f-1 (17 CFR §240.17f-1) with SIC.

SUMMARY: This action extends the Program's pilot period until June 20, 1979, redesignates SIC as the Commission's designee for a period of two years beginning January 1, 1979, and requires certain institutions subject to §240.17f-1 to register with SIC utilizing a revised registration form before December 15, 1978.

EFFECTIVE DATE: November 1, 1978

FOR FURTHER INFORMATION CONTACT: Gregory C. Yadley, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202) 376-8129.

SUPPLEMENTARY INFORMATION: The Commission today announced the extension of the Program's pilot period until June 30, 1979, the redesignation of SIC as the Commission's designee to maintain and operate the computerized data base of missing, lost, counterfeit or stolen securities for a period of two years beginning January 1, 1979, and the reregistration of certain institutions subject to Rule 17f-1 (17 CFR §240.17f-1) with SIC before December 15, 1978.[1] In addition, all institutions which register as direct inquirers and direct inquirers who fail to submit a new registration form indicating a change of status in accordance with instructions contained in the Appendix will be charged for SIC's services according to an estimated revised fee schedule beginning on January 1, 1979.

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[1] Both the pilot period and SIC's original period of designation will expire on December 31, 1978.