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Speeches - SEC. Staff

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Securities and Exchange Commission

A D D R E S S

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Chairman, Securities and Exchange Commission

to the

ASSOCIATION OF STOCK EXCHANGE FIRMS

COMMODORE HOTEL, N. Y.

November 18, 1946

Mr. Chairman, Members of the Association:

The opportunity to get together with you is an extremely welcome one. We, at the Commission have discovered that we cannot administer legislation like ours sensibly by maintaining ourselves in splendid isolation. You and we have a mutual concern -- it is with the vitality and safety of the great market places in which the American investor trades. The market is a dynamic thing, it goes through broad phases, the nature of its problems changes. To deal with its problems intelligently, we need to get together once in a while to compare notes and to appraise the situation in general.

The recent elections have come and gone, but our concerns for the health and safety of the markets goes on forever. I am not running for office. I have no campaign oratory to make and no bill of goods to sell. For that reason I can be brief. But for that reason too, I will be serious. Tonight I want to take stock of where we stand and where we are heading.

The roots of the securities legislation which the Commission administers lie deep in American history. You gentlemen are familiar with the broad objectives of that legislation: among them, to procure full disclosure about securities; to prevent fraud and manipulation; and to guard against improper handling of customers accounts. There is not a single standard under which we work that is alien to American ideals and the American way of life. Honesty, and a concern with truth and decent practices are not revolutionary ideas to Americans. Quite to the contrary, they are at the foundation of our financial life; they are the hall-mark of all that has been worthwhile in the American financial community throughout its history.

The tradition of sharp practice has vanished even for shopkeepers. It certainly has no place in a profession which cannot survive without a basic public confidence and cannot get that confidence without preserving a strict sense of its responsibility to the American investor.

The standards of professional decency which we now take as a matter of course are embodied in our laws. In 1929 we had our own ideas of what values should be, and it was not uncommon practice to help destiny along with a rig or a pool whenever it was felt that she was lagging behind. When the day came to face dreadful consequences of our irresponsibility we were lost and confused. We do not want to see that happen again.

The years which have passed since the adoption of the Securities Act of 1933 and the Securities Exchange Act of 1934 have been among the most critical in American history. We were in a deep and world-wide depression. As we climbed out of it Poland was invaded. Then came Pearl Harbor and the gruelling task of war. In the short aftermath of war we have already witnessed some of the problems of reconversion and watched a dizzying climb and a deep drop in the market.

Today, having seen the essential toughness of the market, having seen it take body blows and still stand firm, we can easily be misled into dangerous relaxation of vigilance. We are likely to forget that it took years of hard work to strengthen our standards so that we could face heavy declines of security prices without facing also a wave of forced liquidation and failures which inevitably result in panic.

This law has been in operation for twelve years. Yet, in spite of the early prophets of doom, the law has worked; the S.E.C. has not taken over the management of American companies; there has not been a universal, or even tremendous withdrawal of securities from exchanges; we are members of a society in which Democracy and the American way of life still stand firm. And, our markets have shown the kind of resilience that would have been impossible unless the vigilance of the past decade had been preserved.

The Commission alone could never have made a working reality out of the Securities Exchange Act. Once it was realized that the law was workable, the Commission had the cooperation of the exchanges and their members, as well as of other organizations and individuals affected by the law. I do not believe that the cold letter of the law alone accounts for the improvement in the professional standards of the financial community. I know that there has been within the community, a development of the sense of responsibility uncoerced by the existence of a federal policeman. From the bulk of those with whom we deal day by day, those who in large part account for this development in the community's sense of responsibility, we have had ample demonstration that the community is in basic agreement with the standards embodied in our laws. It is from them, too, that we have frequently heard that this desirable development could not have taken place without the existence of our federal securities legislation. But I am aware that at the fringes of every group there are those who will not accept the self-imposed disciplines of responsibility inherent in the profession and who are perennially anxious to obliterate lawfully declared standards of decency and honesty.

Both the honest brokers and the American investors face, at this time, a clearly defined necessity. It is the necessity at least to preserve those gains which we have made against the forces which led to the boiler shops, the bucket shops, and the high-riding irresponsibility, of the days before the statutes. Those of you who have been in the business long enough to have seen its peaks and its pits, and to have witnessed the turning of its cycles know what I mean. Your business cannot survive without a basic public confidence in the securities markets and in your handling of customers' affairs. That confidence was lost with the onset of the great depression and you never want to see that happen again. Those of you in the trade who know that you can make a decent living honestly in the securities business feel, as I do, that the business must be protected from its submarginal fringe. For your own welfare you need, just as the investor does, to have the securities laws in existence and honestly enforced.

We hear perennial complaint about restraints. There are all kinds of restraints and there are many ways in which restraints can be administered. You cannot maintain a high professional standard in your business with high-binding license. And no standard is a real standard unless it restrains license. It was not the intention behind the laws administered by the Commission, and it cannot be the intention behind any standards - external or internal - to make the path of the securities seller easy. The easy path is the primrose path. We must not permit a relaxation of vigilance that opens the way to the degrading of professional standards and the loss of public trust. The way lies rather in honest, sensible administration of the law; with adjustment by the

financial community to conformance with its standards and adjustment by the Commission to meet the legitimate needs of business. The legislation administered by the Commission embodies standards which are an integral part of the American way of life. These standards are translated into action by a Commission. They can be ruined by unintelligent and vindictive administration, on the one hand, or by flabby non-administration on the other. We, at the Commission, continue to stand pledged to an honest administration free of vindictiveness, and motivated by a constant attempt to make a sensible application of the policies of the law.

To beat the barrel is one thing. To lay it on the barrel head is another. We don't intend merely to utter glittering generalities. I talk about real things when I talk about our adjusting ourselves to legitimate business needs and I take this opportunity of announcing publicly some of the steps we have taken at the Commission to adjust our procedures to improve and simplify them. First I think it important to let you know that the Commission has undertaken a definite program of simplification and improvement of forms and procedures. Sometime ago we published proposals for improving the machinery of getting information about securities out to the world in advance of effectiveness of registration, by use of the so-called "red-herring" prospectus. We have received many comments and helpful suggestions from the financial community on those proposals and that step of our program should be completed soon. I might remark, as an aside, that we have been tentatively moved by comments from the financial community to eliminate some of the requirements originally proposed by us in our proposed "red-herring" rules.

We are now proposing a series of changes in our forms and prospectus requirements to carry forward our promise to improve and simplify our procedures. These are designed not only to lessen the burden of registrants but to aid in speeding up the Commission's processing of registration statements. I do not wish to discuss the proposals as to the forms and prospectuses in detail. We intend to specify our tentative suggestions, send them around, and afford ample opportunity for comment. Of course, the details of the program are necessarily tentative at this time. However, in general, they involve the complete scrapping of three registration forms under the Securities Act, the A-1, A-2 and E-1 forms; the elimination of that part of Form S-1 calling for items of information that do not go into the prospectus; and the deletion of other items of information that are more or less obsolete carry-overs from former days, or duplicate information otherwise filed with the Commission. For example, we contemplate the revision of Form S-1, the form now most frequently used for the registration, to eliminate the necessity of supplying historical financial information in certain cases where similar information is required by other provisions of law. We contemplate cutting out from that form the information now required with respect to the description of the securities of the issuer not being registered - except to the extent necessary to appraise the securities being registered - so that only information materially pertinent to investors will be required to be supplied.

Comparable simplification, and in fact added simplification in the prospectus is also being considered. We want to cut out of the prospectus a good deal of the lengthy description of the underwriting contract heretofore required, and to limit disclosure only to those portions really important to investors. We intend to reduce the required amount of information about remuneration - particularly with respect to

non-policy-making personnel. As I indicated, the form itself would be revised to eliminate the necessity for submitting historical financial information in the registration statement where it is otherwise available, and therefore the prospectus will no longer be required to carry that information.

As I stated, I have tried to avoid making my description of our proposal too specific. You will soon get more precise statements about these proposals and, of course, will have opportunity to comment about them.

We make these proposals because they make sense to us and are, in our view, utterly consistent with the interests of the public and of investors. We ask for your cooperation and suggestions on these proposals because our past experience shows that we do better and go further by telling people what we are about and inviting their help.