ADMINISTRATIVE PROCEEDING
FILE NO. 3-2391

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of	
ALESSANDRINI & CO. (8-14370) WELLINGTON HUNTER d/b/a WELLINGTON HUNTER ASSOCIATES (8-1271) LOUIS B. MEADOWS & CO., INC. (8-13243) PHILIP S. BUDIN & CO., INC. (8-13488) RAYMOND I. WEISS RALPH H. WESEMAN MORTON KANTROWITZ PHILIP S. BUDIN PAUL P. ALESSANDRINI	Filed DEC 10 1971 SECURITIES & EXCHANGE COMMISSION

INITIAL DECISION

December 10, 1971
Washington, D.C.

David J. Markun
Hearing Examiner

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APPEARANCES: William R. Schief, Assistant Regional Administrator, and David P. Doherty, Attorney, Washington Regional Office, for the Division of Trading and Markets.

Robert W. Taylor, Esq. New York,N.Y., for respondents Alessandrini & Co; Paul P. Alessandrini, Wellington Hunter Associates, and Ralph H. Weseman.

Milton S. Gould, Esq. and Ronald H. Alenstein, Esq., of Shea, Gallop, Climenko & Gould, New York, N.Y., for respondents Philip S. Budin & Co. and Philip S. Budin.

Efrem A. Gordon, Esq., Springfield, Massachusetts, for respondent Louis B. Meadows & Co., Inc.

Gerald Walpin, Esq. and Eric Bregman, Esq., of Rosenman, Colin, Kaye, Petschek, Freund & Emil, New York, New York, for respondent Raymond I. Weiss.

Barry Feiner, Esq. and Michael Leo, Esq., of Feiner, Curtis, Smith & Goldman, New York, New York, for respondent Morton Kantrowitz.

BEFORE: David J. Markun, Hearing Examiner

THE PROCEEDING

This public proceeding was instituted by an order of the Commission dated March 24, 1970, pursuant to Sections 15(b) and 15A of the Securities Exchange Act of 1934 ("Exchange Act") to determine whether respondents [1/] during late 1967 and early 1968 committed charged violations of antifraud provisions contained in Section 17(a) of the Securities Act of 1933 ("Securities Act") and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [2/] and the remedial action, if any, that might be appropriate in the public interest. The charges arise out of a scheme in which various lending institutions around the country were induced to make loans totaling over $720,000, most of which are in default, by falsely creating the appearance of a market for the stock of American Continental Industries ("ACI"), pledged as collateral for the loans.

The evidentiary hearing, held in New York, New York, commenced on January 11, 1971, and was concluded on January 21, 1971. With one

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1/ One respondent, Paul P. Alessandrini, is charged only with a failure properly to supervise. Certain of the respondents are also charged with having violated Section 15(c)(2) of the Exchange Act and Rule 15c2-7 thereunder.

2/ 15 USC 77q(a); 15 USC 78j(b); 17 CFR 240.10b-5. Rule 10b-5 provides as follows:

> Rule 10b-5. Employment of Manipulative and Deceptive Devices.
>
> It shall be unlawful for any person, directly or indirectly, by use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange
>
> (1) to employ any device, scheme, or artifice to defraud,
>
> (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
>
> (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,
>
> in connection with the purchase or sale of any security.

exception, the parties have filed proposed findings, conclusions and supporting briefs pursuant to Rule 16 [3/] of the Commission's Rules of Practice. The findings and conclusions herein are based upon the record and upon observation of the demeanor of the various witnesses.[4/]

FINDINGS OF FACT AND LAW

The Respondents

Respondent Alessandrini & Co., Inc. ("Alessandrini & Co."), a broker-dealer in New York, New York, became registered as such with the Commission under Section 15(b) of the Exchange Act on February 28, 1969. Respondent's predecessor, which had the same name and will herein be referred to as "the former Alessandrini & Co.", became registered with the Commission as a broker-dealer on March 16, 1960, and withdrew from registration on March 3, 1969.

As of November 1967 the former Alessandrini & Co. employed some four persons including two traders. By July 1968 the firm employed about 30 persons. Engaged principally in the underwriting business, the firm was also an active over-the-counter ("OTC") market maker, quoting some 200 issues daily in the daily quotation sheets ("pink sheets")[5/]

3/ 17 CFR 201.16. Proposed findings, conclusions and supporting brief were not submitted on behalf of respondent Louis B. Meadows & Co., Inc.

4/ Preponderance of the evidence is the standard of proof applied.

5/ The "pink sheets", published by the National Quotation Bureau, Inc., are the primary medium for the dissemination of wholesale quotations among professionals, who use the sheets to find and communicate buying or selling interest in securities and to judge activity.

during most of the relevant period.[6/] These OTC stocks were traded "by the numbers", i.e. on the basis of supply and demand and without investigation of the issuer.

Respondent Paul P. Alessandrini ("Paul Alessandrini") was the president, a director, and 50% owner of the former Alessandrini & Co. and is the president, secretary, treasurer, and 100% owner[7/] of respondent Alessandrini & Co. During the relevant period Paul P. Alessandrini, who has been in the securities business 20 years, had overall responsibility for supervision of the former Alessandrini & Co. and its personnel.

Respondent Raymond I. Weiss, 40, ("Weiss") was employed as a trader and registered representative by the former Alessandrini & Co. from 1966 until it was succeeded in 1969 by respondent Alessandrini & Co., by which firm Weiss is currently employed in the same capacities. During the relevant period almost 100% of Weiss's working time was spent as a trader. He, along with one other trader, inserted from 100-200 quotations daily in the pink sheets on most of the days within the relevant period. Weiss has been in the securities business 15 years.

Respondent Wellington Hunter, doing business as Wellington Hunter Associates ("Hunter Associates"), is a sole proprietorship broker-dealer firm of Wellington Hunter ("Hunter") located in Jersey City, New Jersey. It has been registered with the Commission since March 14, 1954.

6/ The charges embrace the period from November 1967 to July 1968. The record indicates the activities complained of occurred during the period from approximately early December 1967 through June, 1968.

7/ Paul Alessandrini owns 40% and family members, not involved in the firm's management or operation, own the remaining 60%.

During the relevant period Hunter Associates was primarily an OTC market maker, with very few retail customers. During that period it employed about 5 persons, including 3 OTC traders who inserted about 100 quotations daily into the pink sheets. The OTC stocks traded by Hunter Associates were traded "by the numbers," without investigation of the issuer.

Respondent Ralph H. Weseman ("Weseman") was employed by Hunter Associates as an OTC trader in securities and a registered representative from 1960 until his retirement at the end of 1968. During the relevant period he had very few retail customers and spent virtually all of his working time as a trader. Weseman was in the securities business for 40 years.

Respondent Louis B. Meadows & Co., Inc. ("Meadows & Co.") has been registered with the Commission as a broker-dealer since June 23, 1967, and has its principal offices in Springfield, Massachusetts. In or about October 1967 it opened a branch office in New York, New York, which employed three persons and conducted virtually all of the firm's OTC trading activity, while the main office in Springfield handled retail sales activities and the back office work respecting all of the firm's operations. Meadows & Co. inserted some 50 quotations a day on most days during the relevant period. These stocks were traded "by the members."

Respondent Morton Kantrowitz ("Kantrowitz") was a vice-president, director and 30% shareholder of Meadows & Co. from October 1967 through June of 1968. During the relevant period he was manager of

the New York office and was in charge of the firm's trading, which was conducted with little or no direction or supervision from the Springfield, Massachusetts office or from the firm's president, Louis B. Meadows ("Meadows"). During that period Kantrowitz inserted some 45 to 50 quotations a day on most days during the relevant period in the pink sheets. He had only a few retail customers. After terminating his association with Meadows & Co. in late June 1968 he became associated with M.S. Wein & Co., Inc. as a trader and is presently vice-president of that firm.

Respondent Philip S. Budin & Co., Inc. ("Budin & Co."), a broker-dealer in Jersey City, New Jersey, has been registered with the Commission since October 6, 1967. The firm is engaged primarily in the wholesale trading of OTC securities and was so engaged during the period here relevant. As did the other broker-dealer respondents, Budin & Co. traded OTC stocks "by the numbers."

Respondent Philip S. Budin ("Budin") has been the president, a director, 50% shareholder, and a trader at Budin & Co. since October 1967. He was the firm's supervisor and responsible for its activities during the period here material.

Manipulation of OTC Market in ACI Stock

The scheme to manipulate ACI stock by establishing an artificial price for it and creating apparent market activity in the stock so that the stock could be pledged for loans, was conceived by Robert L. Taylor ("Taylor") and Michael LaMarca ("LaMarca").[8/]

8/ Neither Taylor nor LaMarca is a respondent in this proceeding or an officer or employee of any respondent. Neither testified at the hearing.

In September 1967 Taylor was the president and approximately 75% owner of nine companies engaged in the real estate business in the environs of Baltimore, Maryland. Charles L. Summers ("Summers") [9/] was the vice president and owned most of the remaining 25% ownership interest in the corporations.

About that time, Taylor's corporations were experiencing financial problems in that they were having considerable difficulty obtaining adequate mortgage money for their home purchasers and other customers, were under pressure to refinance their own land holdings which carried mainly short-term mortgages of two to five years, and were generally in a tight position as respected operating cash.

In order to help solve his tight cash situation, Taylor decided to merge his companies with a public shell corporation.

Taylor had been in contact with LaMarca and on October 2, 1967, a meeting to discuss merger possibilities and procedures was held in Baltimore, attended by Taylor, LaMarca, LaMarca's partner Emanuel Fields, ("Fields"), Summers, and Taylor's then attorney, Melvin Weinstock ("Weinstock"). [10/] In the course of this meeting plans were agreed to for merging Taylor's nine companies into Puritan Chemical Corporation ("Puritan"), a defunct public corporation with about 400 stockholders which had been adjudged a bankrupt and which LaMarca and Fields controlled.

9/ Summers, who testified at the hearing, is not a respondent and is not an officer or employee of any respondent.

10/ Weinstock testified at the hearing at the call of the Division.

It was agreed that LaMarca and Fields for their interest in Puritan would receive $20,000 in cash from Taylor and about 10% of the stock of the new corporation, whose name was to be changed to American-Continental Industries, Inc. ("ACI").

At the meeting LaMarca described how he would establish an apparent market value for ACI at around $10 by using his 10% of the stock and by having his "men on the street" 11/ create interest in the stock by back and forth buying and selling. Taylor observed in the course of the meeting that establishment of such price for the ACI stock would enable its being pledged as collateral to obtain loans for his financially hard-pressed operations.

Weinstock expressed his misgivings about the legality of the LaMarca-Taylor scheme for establishing a price and an apparent market for ACI and the following day submitted his written resignation as lawyer for Taylor and his corporations. 12/

11/ LaMarca formerly was the president and principal shareholder of J.P. Howell & Co., Inc., a New York broker-dealer. On June 1, 1967, after a public hearing, J.P. Howell was revoked as a broker-dealer and LaMarca was barred from association with any broker-dealer as a result of transactions in the stock of Puritan Chemical Corporation (Securities Exchange Act Release No. 8087).

12/ Though Weinstock's letter of resignation (Exhibit 8) emphasized the press of his other work, it is clear from the record that his doubts about the LaMarca-Taylor plan concerning ACI stock were what actuated his resignation particularly in view of his knowledge of Taylor's criminal record: On April 3, 1958 in the United States District Court for the District of Maryland, Taylor pleaded guilty to a charge of mail fraud (Criminal No. 24175) and on the same day pleaded guilty to a charge of making false oaths and claims in a bankruptcy proceeding (Criminal No. 24174). On November 14, 1961, in the same court, Taylor pleaded nolo contendere to to another mail fraud charge (Criminal No. 25764). Although the fact was not then known to Weinstock, LaMarca too, had a criminal record: On June 25, 1966, LaMarca was criminally convicted of securities fraud in the United States District Court for the Southern District of New York in connection with transactions in the stock of Allied Entertainment Corp. (SEC Litigation Release No. 3542). In 1964 the United States Court of of Appeals for the Third Circuit affirmed the judgment of permanent injunction entered by the United States District Court for the District (Cont'd)

On November 30, 1967, Taylor's nine Maryland corporations were merged into Puritan Chemical Corporation and Puritan's name was changed to ACI. According to the Articles of Merger LaMarca and Fields owned 72.67% of the Puritan stock prior to the merger and the 400 public shareholders owned the other 27.33%. After the merger, 541,492 shares (89.05%) were owned by the shareholders of the nine Maryland corporations, LaMarca and Fields owned 48,416 shares (7.96%), and the 400 public shareholders owned 18,208 shares (2.99%). LaMarca's and Field's 48,416 shares were issued on December 21, 1967, in the name of their corporation, Carreton, Inc. 13/

In pursuance of the scheme to artificially set a market price for ACI stock and to create a false appearance of market activity, LaMarca contacted Weseman, the trader at Hunter Associates, in early December, 1967. 14/ LaMarca got Weseman to insert both "bid" and "ask" quotations into the pink sheets for ACI stock. LaMarca specified a

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12/ (Continued)
of New Jersey against J.P. Howell & Co., Inc. and LaMarca on January 18, 1963 enjoining further violations of the anti-fraud and net capital provisions. (SEC Litigation Release No. 3010).

13/ After the merger, ACI was unable to obtain additional mortgage money for its customers, building operations slowed down, and by April 1968 ACI was unable to pay its creditors and offered debentures in lieu thereof. In approximately December 1968 ACI was put in the hands of a receiver and in February 1969 ACI creditors filed a petition for bankruptcy in the United States District Court for the District of Maryland. On April 3, 1969, ACI was adjudged a bankrupt.

14/ LaMarca had, shortly before, opened an account with Weseman at Hunter Associates. Weseman was aware at this time that LaMarca had been associated with J.P. Howell & Co., Inc., a broker-dealer which had gone out of business. Indeed, Weseman had transacted business with LaMarca while he was associated with J.P. Howell & Co. LaMarca had never previously had a customer account with Hunter Associates.

bid quote of $10 and an ask quote of $12 [15] and arranged to have Weseman maintain the bid and offering at that price with the understanding that if necessary LaMarca would supply Weseman any shares of ACI which Weseman sold pursuant to his $12 offer quotation and that, if Weseman had to purchase any ACI shares pursuant to his $10 bid quotation, LaMarca would buy these shares from him or supply him with the name of a purchaser. Under the arrangement it was further understood that Weseman would receive a profit of at least $.25 (¼ point) per share on each such transaction. LaMarca agreed to provide this protection to Weseman to the extent of 100 to 200 shares per transaction. [16] Weseman knew little about ACI and had no basis for going into the sheets at the $10 and $12 figures other than LaMarca's request.

Although it is a highly unusual practice for a firm to insert both bid and ask quotes into the sheets for a customer [17] and although Weseman was aware of that fact, [18] he nevertheless entered into the

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15/ There was no existing market in ACI stock.

16/ According to custom and practice a quotation in the pink sheets indicated an interest to buy or sell only to the extent of 100 shares - Report of Special Study of Securities Markets of the S.E.C. ("Special Study"), H.R. Doc. 95, Pt. 2, 88th Cong., 1st Sess., p. 572.

17/ Such a condition is a "red flag" to a broker-dealer that calls for appropriate inquiry on his part. D.H. Blair & Co., et al., Securities Exchange Act Release No. 8888, May 21, 1970, pp. 7-8, 10.

18/ He testified that he might refuse to enter such bids at a customer's behest because he "just [wouldn't] like the smell of the picture."

arrangement with LaMarca without making any effort to ascertain the current material facts about the management, business or financial condition of ACI or about LaMarca's relationship to ACI. 19/

Beginning on December 5, 1967 until about May 20, 1968, Weseman, pursuant to this arrangement, caused Hunter Associates to be listed on almost every business day in the pink sheets, generally at $10 bid, $12 ask but with some lower quotes and with "bid only" quotes in May of 1968. December 5, 1967 was the first business day that any quotations were listed in the pink sheets for ACI stock by any broker-dealer. 20/

Notwithstanding the almost daily quotations by Hunter Associates during this five and one-half month period, very few actual transactions were effected in ACI stock by that firm. 21/ During this time, Hunter Associates effected only 17 purchase and sale transactions in ACI stock in which it acted as an agent, totalling 1,483 shares. All of such transactions were effected for the account of LaMarca. During the same period, Hunter Associates effected 13 purchase transactions of ACI stock on a principal basis, for a total of 1,220 shares. Hunter Associates sold 810 of such shares to LaMarca, all of such transactions being effected by Weseman.

Hunter Associates realized a gain or profit on each transaction. 22/

19/ The concept that given circumstances or knowledge of given facts may impose on a broker-dealer a duty to make diligent inquiry in order to prevent violations of securities laws has been recognized by numerous decisions: Dlugash v. S.E.C., 373 F.2d 107, 109 (C.A. 2, 1967); Berko v. S.E.C., 316 F.2d 137, 142-3 (C.A. 2, 1963); Barnett v. U.S., 319 F.2d 340, 343 (C.A. 8, 1963).

20/ The former Alessandrini & Co. also appeared in the sheets on December 5 with both bid and ask quotes on ACI. Two other broker-dealers appeared in the sheets that day, one with a bid quote and one with "bids wanted" quotes. These latter two dealers both disappeared from the sheets after about a week.

21/ From December 5, 1967 through the first of March 1968 Hunter Associates had only four transactions in ACI stock.

22/ The firm earned $376 on the transactions in ACI stock.

As of May 20, 1968, the last day Hunter Associates quoted ACI in the pink sheets, it had a long position of only 10 shares.

No other retail customers of Hunter Associates had any transactions in ACI during the indicated period.[23/]

At about the same time that LaMarca contacted Weseman he also contacted Weiss, the trader at the former Alessandrini & Co.[24/] LaMarca got Weiss to insert both bid and ask quotes for ACI in the pink sheets and indicated they should be inserted at $10 bid, $12 ask.[25/] LaMarca agreed to protect Weiss by supplying Weiss with any ACI stock that he might be able to sell to others and by agreeing to buy from Weiss any ACI stock he purchased pursuant to his pink sheet bids.[26/] It was understood that this undertaking to take or supply ACI stock, particularly as to supplying stock, was not unlimited as to amount.[27/]

Weiss entered into this arrangement with LaMarca and continued it for some 6 months without inquiring into the facts about the management, business or financial condition of ACI or of LaMarca's relationship to ACI even though LaMarca's willingness to both buy and sell was a "red flag"[28/] that should have altered Weiss to the need for such inquiry and

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23/ Weseman had only some 5 retail customers.

24/ Shortly prior thereto, LaMarca had opened an account with Weiss at the former Alessandrini & Co. During the relevant period, Weiss was aware that LaMarca, an acquaintance, had previously controlled J.P. Howell & Co., Inc., a broker-dealer which had been put out of business as a result of action by "some type of governmental agency". LaMarca had previously advised Weiss that he was in the business of buying and selling "shell" corporations. LaMarca had never before had a customer account at the former Alessandrini & Co., Inc.

25/ There was no existing market in ACI stock.

26/ Weiss testified that he regarded this as "an ideal trading situation", "a trader's paradise", and "the ultimate of trading".

27/ See footnote 16 above.

28/ See footnote 17 above.

notwithstanding the fact that other facts came to Weiss's notice that should have alerted him to the need for inquiry. Thus, while Weiss was quoting ACI in the pink sheets he was told by LaMarca that various persons had gone "all over the country" attempting to get bank loans by pledging ACI stock as collateral. In addition, Weiss had met Taylor and had introduced Taylor and LaMarca to his boss, respondent Paul Alessandrini, in connection with the efforts of Taylor and LaMarca to get the former Alessandrini & Co. to underwrite a proposed issue of ACI stock. Weiss was further aware that nothing was coming of the underwriting talks because Taylor and LaMarca failed to furnish a certified financial statement and other data requested by Paul Alessandrini.[29/]

In accordance with his arrangement with LaMarca, Weiss caused the former Alessandrini & Co. to be listed in the pink sheets on virtually every business day during most of the relevant period quoting ACI stock, generally at $10 bid, $12 ask. December 5, 1967 was the first day that any broker-dealers appeared in the pink sheets on ACI stock.[30/]

From December 5, 1967 through May 1, 1968, the former Alessandrini & Co. effected 22 purchase and sale transactions in ACI stock on an agency basis for a total of 3,045 shares. Twenty one (21) of such transactions, involving 3,015 shares were for the account of LaMarca.[31/] During this period the firm made three purchase transactions on a principal basis, totalling 300 shares, all of which it sold to LaMarca.

29/ Failure to receive the requested data for ACI prompted Paul Alessandrini to tell Weiss to leave the sheets briefly on ACI a couple of times but not permanently.

30/ See footnote 20 above.

31/ The firm had only one other retail customer whose account showed any transactions in ACI during the time the firm appeared in the pink sheets, and this customer was introduced to Weiss by LaMarca.

The former Alessandrini & Co. realized a gain or profit on each transaction in ACI, [32/] all of which transactions were effected by Weiss.

Weiss had a couple of trader friends who were with other brokerage firms that were regarded as "friendly competitors" [33/] of the former Alessandrini & Co. He decided to induce them to go into the pink sheets also on ACI stock.

Weiss contacted the two traders, [34/] Budin of Budin & Co. and Kantrowitz at the New York office of Meadows & Co., [35/] and got them to insert quotations in the pink sheets at $10 bid, $12 ask, the figures that respondents Hunter Associates and the former Alessandrini & Co. were then quoting in the pink sheets, based on an understanding that Weiss would protect them against loss by supplying to them ACI stock, if necessary, to cover sales by them to others and that he would buy from them, if necessary, ACI stock they might purchase from others. Weiss was able to give Budin and Kantrowitz these assurances because of the arrangement he had earlier entered into with LaMarca.

Budin and Kantrowitz never bothered to inquire how it was that Weiss was able to give them these protective assurances. As Kantrowitz put it, ". . . you don't look a gift horse in the face." (sic). Though the protective arrangement was a clear "red flag" that should have alerted Budin and Kantrowitz to make proper inquiry, they never

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32/ The firm earned $498 on the transactions, of which Weiss received $230. Weiss total income for 1968 was about $60,000.

33/ Friendly cooperation between broker-dealers is discussed in the "Special Study", cited supra at footnote 16, at pp. 576-577.

34/ Weiss also contacted a third trader at another firm, not a respondent in this proceeding, which firm dropped out of the pink sheets after being in on ACI for 3 days.

35/ Weiss' firm had direct wires to Budin & Co. and to the New York office of Meadows & Co.

inquired into the material facts about the management, business or financial condition of ACI or into the matter of how Weiss was able to offer them participation in relatively risk-free trading in the stock.

Pursuant to this protective arrangement, Budin had Budin & Co. insert quotations in the pink sheets on virtually every business day from December 18, 1967 until March 18, 1968, generally at $10 bid, $12 ask or, during the latter portion of the period, at $9 bid, $11 ask.

Similarly, Kantrowitz had Meadows & Co. insert quotations into the pink sheets for ACI stock on an almost daily basis from December 20, 1967 to February 15, 1968; from March 28 to April 5, 1968; and from April 18 to June 17, 1968. During the first two periods the quotes were $10 bid, $12 ask and during the third period they included bids at those figures or at $9 bid, $11 ask, or, for portions of May and June, only ask quotes at $11 or "bid wanted" quotes on the "ask" side.

Budin & Co.'s transactions in ACI were not numerous. During the first two months of quoting it had only one 30-share transaction and by March 14, 1968, the date of its last transaction in ACI within the period it appeared in the pink sheets, it had had only seven purchase transactions for 600 shares and four sale transactions for 600 shares.

On March 4, 1968, at 3:11 p.m., Budin & Co. sold short 70 shares of ACI at $12 and, a minute later, purchased 70 shares from the former Alessandrini & Co. at 11½, or a ½ point profit for Budin & Co. Fifty percent of the ACI shares purchased by Budin & Co. during the time it appeared in the pink sheets were sold to Alessandrini & Co., all at a profit to Budin & Co.[35a/] On March 14, 1968, Budin & Co. had 300 shares

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35a/ See footnote 36 below.

of ACI in its firm position and sold these shares to the former Alessandrini & Co. for the account of LaMarca; [36] shortly after this Budin & Co. dropped out of the pink sheets.

No retail customer of Budin & Co. effected any transaction in ACI stock.

Meadows & Co.'s transactions in ACI were also not numerous. It had 13 purchase transactions for $1,150 shares and 14 sale transactions for $1,150 shares, leaving it with a zero balance. [37] From December 20, 1967, when it first entered quotes in the pink sheets, until the end of March, 1968, it had had only three transactions in ACI. On April 17, 1968 the former Alessandrini & Co. bought 80 shares from Meadows & Co. for the account of LaMarca. On April 29 and May 2, 1968, respectively, the former Alessandrini & Co. sold 100 shares to Meadows & Co. for LaMarca's account.

Most of Meadows & Co.'s transactions in ACI stock took place in May and June of 1968, under a modified arrangement between Weiss and Kantrowitz.

In approximately May of 1968, after the former Alessandrini & Co. discontinued its quotes on ACI in the pink sheets, Weiss modified

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36/ Some two months later, on May 14, 1968, after both the former Alessandrini & Co. and Budin & Co. had dropped out of the sheets, LaMarca cancelled his purchase of these 300 shares. This record does not disclose what prompted LaMarca to cancel. The former Alessandrini & Co., in turn, cancelled its purchase of these 300 shares from Budin & Co.; however, Budin & Co. for some reason, which may have been inadvertence, in turn cancelled its purchase from Hertz Newmark of not 300 shares, but 400 shares, leaving Budin & Co. with what appeared to be a 100 share short position. Budin then went into the market, in an apparent effort to cover its short position and purchased 100 shares on May 14 from Hunter Associates. This record of transactions, does not support Budin's testimony that he lost money trading ACI stock. However, even if there were satisfactory proof that Budin & Co. had sustained a loss in its trading in ACI stock, such loss would have resulted from the cancellations, which occurred subsequent to the time that Budin & Co. appeared in the pink sheets.

37/ The firm had only one retail customer who had transactions in ACI.

his arrangement with Kantrowitz. Weiss was no longer prepared to buy ACI shares from Kantrowitz, but he told Kantrowitz that if Kantrowitz would insert offer quotations in the pink sheets and sell ACI stock, Weiss would supply ACI stock to cover any such sales by Kantrowitz at a lesser price in order to insure Kantrowitz a profit.

Thereafter, Kantrowitz discontinued his bid quotations and began inserting only offer quotations or bid-wanted quotations on the offer side in his effort to sell ACI stock. Under this modified arrangement, from May 1 to June 24, 1968, 19 of Meadows & Co.'s total 27 ACI trades took place; 1640 shares were traded of the total of 2,300 ACI shares traded by the firm; 10 of the 14 sale transactions occurred; and 820 shares were sold of a total 1,150 shares sold by the firm.

Meadows & Co.'s profit from trading ACI stock during the relevant period was $480,of which Kantrowitz received $376.

Evidencing how the arrangements operated, the record shows that on May 2, May 10, May 20 and May 22, 1968, Meadows & Co. sold short ACI stock and on the same days purchased the same numbers of shares from the former Alessandrini & Co. to cover its short positions. Meadows & Co.'s last transaction (a purchase) was with the former Alessandrini & Co., leaving it with a zero balance in ACI stock.

The existence and operation of Weiss's protective arrangements with Budin and Kantrowitz are further evidenced by certain other transactions disclosed by the record. Thus, on April 17, 1968, the former Alessandrini & Co. bought 80 shares of ACI stock from Meadows & Co. at 10½ and on March 14, 1968 it bought 300 shares from Budin & Co. at 10¼.[38/] These were the only instances in which the former Alessandrini & Co.

38/ See footnote 36 above.

purchased ACI stock from anyone at a price above what it was bidding in the pink sheets, i.e. $10 per share. These shares were purchased as agent for LaMarca, who paid that price plus commission, which was the highest price paid by LaMarca for any ACI shares sold to him on an agency basis by the former Alessandrini & Co. 39/

The net result of the arrangements LaMarca made with Weseman and Weiss and which Weiss made with Budin and Kantrowitz was to give the false appearance that four independent broker-dealers were "making a market" in ACI stock at about $10 per share. The record shows clearly that the widespread loans with ACI stock as collateral, 40/ most of which loans are in default, were made in direct reliance upon that apparent independent market in the stock while the broker-dealer respondents appeared in the pink sheets during the relevant period. The four broker-dealer respondents were essentially the only broker-dealers who inserted both bid and ask quotes in the pink sheets for ACI stock during

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39/ The only other time LaMarca purchased ACI stock from the former Alessandrini & Co. at a price of over $10 per share was on March 5, 1968, when the firm sold 100 shares to him at 10 3/16. These shares were the same 100 shares the firm had bought from LaMarca at $10 a share the previous day.

40/ ACI stock was pledged as collateral for at least 19 loans at 12 banks spread about the United States. Some 140,900 shares were pledged for loans totaling $722,227.96, of which $661,691.70 is in default. Taylor pledged 40,000 ACI shares at four banks for total loans of $180,000 of which $174,000 is in default. Guardian Investment Corporation (a corporation formed by Taylor in early 1968 and a subsidiary of ACI) pledged 24,000 ACI shares at two banks for loans of $115,000, all of which amount is in default. Seymour Jacobson pledged 29,000 ACI shares (which had been transferred to him the previous day from the name of Robert L. Taylor) for a loan of $125,000, which is in default. John G. Wilson and T.H. Ruth pledged 7,900 shares of ACI at five banks for loans of $62,227.96 of which $13,006.47 is in default. These shares were either in the name of LaMarca's corporation, Carreton, Inc. or transferred to them from the name of Carreton, Inc. Orbit Machine Corp. pledged 30,000 ACI shares for a $150,000 loan, which is in default, and Baptist Foundation of America, Inc. pledged 10,000 ACI shares for a $90,000 loan on February 29, 1968, which loan is in default.

the period December 5, 1967 to June 17, 1968.[41/]

The mails were used by Hunter Associates, the former Alessandrini & & Co., Budin & Co., and Meadows & Co. in mailing confirmations respecting their transactions in ACI stock. In addition, the pink sheets, in which they entered quotations, are disseminated in interstate commerce.

Respondents contend that they did not participate in nor aid and abet the manipulative scheme of Taylor and LaMarca but that they were themselves tricked by LaMarca and made victims of the scheme. They contend they were unaware of any facts that should have put them on notice that they were participating in a manipulative fraud or that imposed on them a duty to make suitable inquiry to satisfy themselves that they were not participating in a fraud. These contentions, as the findings made above indicate, are without merit.

From the very nature of their arrangements with LaMarca, as found herein,[42/] both Weseman and Weiss should have been put abundantly on notice that LaMarca's purpose was to manipulate the market in ACI stock in one way or another and for one purpose or another. That both bid and ask quotations were being inserted in the sheets for the customer, LaMarca, an unusual practice, was a clear "red flag".[43/] The protective

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41/ M.L. Lee was the only other broker-dealer that inserted both bid and ask quotes. This was for one day only, and was done at Weiss's request. Only one other broker-dealer, Edward F. Henderson & Co., inserted more than a very few quotations for ACI and it entered bid quotations only, which it discontinued in January, 1968.

42/ The testimony at the hearing of respondents Weseman, Weiss and Kantrowitz that sought to deny the existence of the arrangements or to cast them in a different light from what their prior, investigative testimony would indicate, is not credited in the light of their demeanor, their prior testimony, and the other evidence tending to corroborate their prior testimony. Budin's testimony denying the existence of any arrangement is not credited, in view of the ample and persuasive contrary evidence, both testimonial and documentary, and in view of his demeanor on the stand.

43/ D.H. Blair & Co., et al., Securities Exchange Act Release No. 8888, May 21, 1970, pp. 7-8, 10.

undertakings made by LaMarca under his arrangements with Weseman and and Weiss as well as the modus operandi thereunder obviously suggested some special, and improper, motivation on LaMarca's part and gave rise to a duty to make appropriate inquiry. The securities business is not one in which "ignorance is bliss" or in which a broker-dealer can refrain from making necessary inquiry on the basis that "you don't look a gift horse in the mouth".

As already noted, both Weiss and Weseman were aware of LaMarca's former association with J.P. Howell & Co., a broker-dealer that had been put out of business. Beyond that, Weiss became aware of the fact that "some people" were attempting to pledge ACI stock as loan collateral during the time he was inserting ACI quotes in the pink sheets. Moreover, even after Weiss was instructed to drop the former Alessandrini & Co. out of the pink sheets (partly because of the failure of LaMarca or ACI to furnish a certified financial statement but mostly because of an SEC inquiry), Weiss continued his own (modified) protective arrangement with Kantrowitz.

While Budin and Kantrowitz were not aware of either Taylor's or LaMarca's role in the manipulative scheme, their protective arrangements with Weiss 44/ carried with them such necessary implications as to give rise to a clear duty to make suitable inquiry. Budin and Kantrowitz were not entitled to "hold hands" with Weiss as so-called "friendly competitors" without first making appropriate inquiry where the "smell of the situation" was so patently bad.

Respondents contend that they had no motive to become participants in any unlawful scheme as evidenced by the relatively small amounts

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44/ See footnote 42 above.

realized by them from their trading in ACI stock.[45] This contention overlooks the fact that their participation is no less unlawful if it was based upon accommodation of a customer or a "friendly competitor" rather than the expectation of substantial gain, where the circumstances are such as to give rise to a duty to inquire. Moreover, their argument also overlooks the fact that the profits realized by respondents, though not large, were essentially risk free and the further fact that the respondents testified that they initially decided to make a market in ACI stock in the expectation that trading in it would become active.[46]

Respondents contend that they were not knowing participants in the manipulative scheme and that they therefore cannot be found to have wilfully violated, as charged, the antifraud provisions of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. The contention is not well founded. It is well established that a finding of wilfullness under Section 15(b) of the Exchange Act does not require an intent to violate the law and that it is sufficient that a respondent intentionally engaged in conduct which constitutes a violation.[47] Where the circumstances are such as to impose a duty to investigate or inquire, a failure to carry out that duty brings one within the term "wilful" as used in the anti-fraud and anti-manipulation provisions of the Exchange Act.[48]

45/ See footnotes 22, 32, 36, and p. 17, above.

46/ That they remained in the pink sheets in the absence of any substantial trading activity tends to confirm the existence of the arrangements.

47/ Tager v. Securities and Exchange Commission, 344 F.2d 5, 8 (C.A. 2, 1965); Dunhill Securities Corporation, Sec. Exch. Act Rel. 9066, p. 4 (Jan. 26, 1971). D.H. Blair & Co., at p. 5, cited supra, footnote 17.

48/ Dlugash v. SEC, 373 F.2d 107, 109 (C.A. 2d 1967).

Failure to Disclose Arrangements

Section IIC of the order for proceeding alleges that the former Alessandrini & Co., Budin & Co. and Meadows & Co. failed to advise the publisher of the pink sheets or the other broker-dealers quoting ACI of the existence or nature of the arrangements that existed between these respondents while they were inserting quotations on ACI in the pink sheets during the relevant period, and charges that they thereby wilfully violated Section 15(c)(2) of the Exchange Act and Rule 15c2-7 thereunder, and that Weiss, Budin, and Kantrowitz wilfully aided and abetted such violations. 49/

49/ Section 15(c)(2) of the Exchange Act, 15 U.S.C. 78o(c)(2), proscribes the making of any "fictitious quotation". Rule 15c2-7, adopted on October 1, 1964, provides in pertinent part as follows:

> Rule 15c2-7. Identification of Quotations.
> (a) It shall constitute an attempt to induce the purchase or sale of a security by making a "fictitious quotation" within the meaning of Section 15(c)(2) of the Act, for any broker or dealer to furnish or submit, directly or indirectly, any quotation for a security to an inter-dealer-quotation-system unless:
> (1) The inter-dealer-quotation-system is informed, if such is the case, that the quotation is furnished or submitted
> * * *
> (B) in furtherance of one or more other arrangements (including a joint account, guarantee of profit, guarantee against loss, commission, markup, markdown, indication of interest and accommodation arrangement) between or among broker or dealers, and if so, the identity of each broker or dealer participating in any such arrangement or arrangements; provided, however, that the provisions of this subparagraph shall not apply if only one of the brokers or dealers participating in any such arrangement or arrangements furnishes or submits a quotation with respect to the security to an inter-dealer-quotation-system.
> * * *
> (b) It shall constitute an attempt to induce the purchase or sale of a security by making a "fictitious quotation," within the meaning of Section 15(c)(2) of the Act, for a broker or dealer to

(Cont'd.)

The respondents charged concede that they did not give any such notice to the pink-sheet publisher or to the other broker-dealers who were appearing in the sheets. They deny, however, the existence of "arrangements" such as would bring them within the reach of Rule 15c2-7. In view of the arrangements found to have existed between Budin & Co. and the former Alessandrini & Co. and between Meadows & Co. and the former Alessandrini & Co. it is concluded that the provisions of Rule 15c2-7, subsection (a)(1)(B) and subsection (b), were violated, as charged, by the failure to disclose the existence of the arrangements and the parties thereto. 50/

Failure of Respondent Paul Alessandrini Properly to Supervise

Under Section IID of the order for proceeding respondent Paul Alessandrini is charged, in effect, with having failed reasonably to supervise respondent Weiss, who was subject to his supervision, with a view to preventing the violations of law and regulation committed by

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49/ (Continued)
enter into any correspondent or other arrangement (including a joint account, guarantee or profit, guarantee against loss, commission, markup, markdown, indication of interest and accommodation arrangement) in furtherance of which two or more brokers or dealers furnish or submit quotations with respect to a particular security unless such broker or dealer informs all brokers or dealers furnishing or submitting such quotations of the existence of such correspondent and other arrangements, and the identity of the parties thereto.

* * *

50/ In view of the proviso in subsection (a)(1)(B) of Rule 15c2-7, there was no violation of the rule during such periods, as disclosed by the findings herein, when only one of the two parties to an arrangement appeared in the pink sheets within the relevant period. It is further concluded that subsection (a)(1)(A) of the Rule, which applies to correspondent broker-dealers submitting quotations "for the account of or in behalf of another broker or dealer", was not violated inasmuch as the arrangements found did not amount to one broker-dealer's buying "for the account of or in behalf of "the other within the meaning of that subsection.

Weiss.[51] The record amply establishes this charge.

During the relevant period Paul Alessandrini, president, had overall supervision of the firm and its personnel, including particularly its traders.[52]

The firm had no procedures, written or oral, requiring Weiss to obtain Paul Alessandrini's prior approval for going into the pink sheets on any stock, though he sometimes "told" him he was going in. Weiss was given no specific criteria that might have controlled his making a market in particular stocks or not doing so. The criteria he actually employed were concerned with whether the stock would "be active". There were no instructions or policy statements of the firm to guide or control Weiss in what were permissible relationships with the firm's so-called "friendly competitors". No different procedure was prescribed for cases in which both bid and ask quotes were inserted than existed for cases involving a one-sided market.

Aside from the general absence of adequate supervisory procedures, the record is clear here that Paul Alessandrini knew, or came to know, enough about the trading in ACI, and its background, that he should have, consistently with his supervisory responsibility, seen to it that adequate inquiry was made.

51/ Section 15(b)(5)(E) of the Exchange Act, as added by the 1964 amendments to it, provides an independent ground for the imposition of a sanction against a broker or dealer or a person associated with a broker or dealer who ". . . has failed reasonably to supervise, with a view to preventing violations of such statutes, [various securities statutes, including the Securities Act and the Exchange Act], rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision."

52/ The office manager, Bernard Tompkins, had certain delegated supervisory responsibility over back-office personnel, but this did not embrace traders or trading functions, which were subject to Paul Alessandrini's direct supervision.

Thus, Paul Alessandrini was aware that his firm was quoting ACI in the pink sheets during the relevant period, generally at $10 bid, $12 ask. He knew that LaMarca was a customer of Weiss's and that LaMarca was both buying and selling the stock and that most of the firm's transactions were for LaMarca's account. When Paul Alessandrini gave oral approval to Weiss to trade ACI stock, after Weiss introduced LaMarca to him in November or December, 1967, he did so without knowing at what prices Weiss would enter the pink sheets. He never subsequently inquired how the price had been arrived at, even though there had been no prior market in the stock.

Though Paul Alessandrini instructed Weiss to get some information on ACI after having met LaMarca, none was received until about February 29, 1968, when they got a pro-forma balance sheet of that date for ACI. Paul Alessandrini noted that the balance sheet reflected as ACI's major asset land at appraised value of nearly $6 million and expressed doubt as to the reliability of an appraised valuation. Nevertheless, he continued to allow his firm to trade ACI without first getting more adequate data.

A few weeks later LaMarca met again with Paul Alessandrini and Weiss at their offices, this time accompanied by Taylor, whom LaMarca introduced as a substantial shareholder of ACI. Taylor and LaMarca indicated they would like the former Alessandrini & Co. to underwrite a new issue of ACI stock. They gave Paul Alessandrini an ACI "Special Report to Stockholders" which contained an uncertified pro-forma balance sheet carrying ACI land at appraised value. At that time Paul Alessandrini

asked LaMarca and Taylor for a five year Profit and Loss statement for ACI, a certified financial statement, certified appraisals on the land, and background on the ACI principals.

The requested information was not forthcoming. On a few occasions, Paul Alessandrini directed Weiss to drop out of the pink sheets for ACI stock because he had not received the requested information. The periods of absence from the sheets, however, were of very short duration and on each such occasion, Paul Alessandrini allowed Weiss to start quoting ACI stock again. In at least one instance this approval followed conversations Paul Alessandrini had with LaMarca.

Although the requested information was never received, the former Alessandrini & Co. continued to quote ACI in the pink sheets over an extended period. Paul Alessandrini ultimately directed Weiss to cease quoting ACI stock in May 1968 after he received an inquiry from the SEC about ACI.

During the period in which the former Alessandrini & Co. was quoting ACI stock, Paul Alessandrini expressed curiosity to Weiss with respect to why LaMarca wanted to buy ACI stock. Weiss did not provide him with an answer. Moreover, during the relevant period, Paul Alessandrini and Weiss discussed LaMarca's background and the fact that he had his own brokerage firm at one time.[53/]

The record, in short, discloses that Paul Alessandrini had ample warning that something was probably amiss and that he should have exercised his supervisory functions definitively long before he was finally moved to halt his firm's "market making" activity in ACI after an inquiry from the S.E.C.

53/ Weiss was then aware that LaMarca had been associated with J.P. Howell which had gone out of business because of the action of "some type of governmental agency."

Respondents' Contentions [54]

Respondents contend broadly that much of the Division's case is based upon incompetent hearsay evidence. This argument appears to be addressed primarily to the admission into evidence of portions of certain transcripts of prior testimony, taken at earlier investigative proceedings, given by Weseman, Weiss and Kantrowitz.[55] Portions of such prior testimony were offered and received at the hearing as admissions against the individual respondents who gave such testimony, and the question was reserved whether such testimony would be considered as competent evidence against all respondents.

Respondents seek to exclude the prior testimony of the three respondents on the basis of the authority that before hearsay statements of a "co-schemer" or co-conspirator may be admitted (as an exception to the hearsay rule) against a defendant the defendant's participation in the conspiracy must first be established by evidence independent of the hearsay utterances.[56] This rule has application where technical rules excluding hearsay apply. But liberality in the admission of evidence in administrative proceedings is well established and all evidence which "can conceivably throw any light upon the controversy" is normally admitted.[57] Under 5 USC §556(d) of the Administrative Procedure Code hearsay evidence may support findings if "reliable, probative and substantial."[58]

54/ Some contentions treated herein are raised by one or fewer than all of the respondents but, in the main, most of the respondents advance the same or similar contentions.

55/ Exhibits 13, 14, 15, 16.

56/ E.g. U.S. v. Geaney, 417 F.2d 1116, 1120 (C.A.2d, 1969).

57/ Samuel H. Moss, Inc. v. F.T.C., 148 F.2d 378, 380 (C.A. 2, 1945), cert. denied 326 U.S. 734. See also Hyun v. Landan, 219 F.2d 404, 408 (C.A. 9, 1955) aff'd 350 U.S. 990.

58/ See 2 Davis, Administrative Law Treatise, pp. 303-4 (1958). Cf. Ellers v. Railroad Retirement Board, 132 F.2d 636, 639 (C.A. 2, 1943).

However, though clearly admissible at least as hearsay in this proceeding, the prior testimony of the three respondents was in reality not "mere hearsay". Weseman, Weiss, and Kantrowitz were each called as witnesses at the hearing herein, where they testified extensively. In the course of such testimony, each of them was fully examined and cross examined concerning the received prior testimony that each had given. In view of this opportunity for confrontation, cross-examination, and observation of demeanor, it is concluded that the prior testimony of Weseman, Weiss, and Kantrowitz has essentially the same standing as testimony given at the hearing and that such prior testimony may therefore properly be considered as against all respondents with the same force as the testimony they gave at the hearing.[59/] The standard for admission of evidence in an administrative proceeding is not as stringent as that enforced by courts of law, so long as fundamental fairness is observed.[60/]

Moreover, even if the prior testimony did not have such a high probative value and were instead regarded merely as hearsay, there is sufficient non-hearsay evidence in the record, including the testimony given by respondents at the instant hearing, to corroborate the prior testimony of Weiss, Weseman, and Kantrowitz and, taken together with such prior testimony, to support the findings and conclusions made herein.

Respondents also contend that the evidence concerning LaMarca's October 2, 1967 meeting with Taylor, during which they discussed their

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59/ Cf. California v. Green, 399 U.S. 149 (1970).

60/ Hansen v. S.E.C., 396 F.2d 694 (C.A.D.C. 1968) cert. denied 393 U.S. 847 (1968); Nees v. S.E.C., 414 F.2d 211 (C.A. 9, 1969).

plan to establish an apparent OTC market at an arbitrary price for ACI stock, is hearsay. There is no merit to the contention. Weinstock, Taylor's then attorney and Summers, who became President of ACI, were present at the meeting and were as competent as anyone else attending the meeting to testify to what was said there.

Respondents further claim that the testimony of Sidney Evnitz concerning his meeting in New York City with LaMarca to deliver a check to him from Taylor is hearsay as respects statements attributed to LaMarca. While the objection is not well founded, it is in any event irrelevant inasmuch as no reliance has been placed on Evnitz's testimony in reaching the findings and conclusions made herein.

Another contention made by respondents is that evidence of orders of the Commission indicating the initiation and pendency of other administrative proceedings against various of the respondents is inadmissible in this proceeding for any purpose. The Division contends that evidence of such proceedings is relevant on the question of sanctions, citing two Commission decisions in which receipt of evidence respecting respondent's criminal indictments [61/] and prior arrests [62/] were received. While evidence of the pendency of other administrative proceedings before the Commission was receifed as possibly bearing on sanctions, it is concluded under all the facts and circumstances present in this proceeding that no weight or consideration will be given for any purpose.

61/ J.A. Winston & Co., Inc., Sec. Exch. Act Release No. 7337 (June 8, 1964) pp. 11-12.

62/ Irving Grubman, 40 S.E.C. 671, 674 (footnote 10) (1961).

Respondents contend also that a finding of violations by them would amount to a holding that "numbers" trading is per se unlawful. Such is not the case. The findings and conclusions herein are predicated, as they were in the Commission's recent decision in D.H. Blair & Co.,[63/] on a finding that respondents' trading was not in fact independent.

Respondents made various additional contentions, all of which have been considered and found to be so clearly without merit as not to warrant discussion.

Conclusions

In general summary of the foregoing, the following conclusions of law are reached:[64/]

(1) During all or portions of the period December, 1967, through June, 1968, as more particularly found above, the former Alessandrini & Co., Hunter Associates, Meadows & Co., Budin & Co., Weiss, Weseman, Kantrowitz and Budin participated in or aided and abetted execution of a manipulative scheme with respect to ACI stock, thereby wilfully violating or wilfully aiding and abetting violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

63/ Securities Exchange Act Release No. 8888, May 21,1970. The Commission, at p. 11, stated in response to a similar argument: "[Respondent] argued, among other things, that "numbers" trading, i.e. trading on the basis of supply and demand and without investigation of the issuer, was during the period in question and still is accepted industry practice, and that it serves a genuine economic function. We do not here express a view on those matters which are beside the point where as here the trading was not independent. At the least, when trading is conducted by the numbers and no basis exists for determining whether price movements have any relation to the investment value of the security a particularly close supervision must be maintained with a view to detecting any sign of possible manipulation or other irregularity.

64/ Broker-dealer firms are responsible for the acts of their agents. Armstrong, Jones & Co. v. SEC, 421 F.2d 259, (C.A. 6, 1970), cert. den. June 15, 1970.

(2) The former Alessandrini & Co., Budin & Co. and Meadows & Co. wilfully violated Section 15(c)(2) of the Exchange Act and Rule 15c2-7 thereunder by failing to advise the National Quotation Bureau, Inc., publisher of the pink sheets, and other broker-dealers quoting ACI stock of the existence or nature of the arrangements that existed between these respondents while they were quoting ACI stock in the pink sheets. Weiss, Budin and Kantrowitz wilfully aided and abetted such violations.

(3) Within the meaning of Section 15(b)(5)(E) of the Exchange Act respondent Paul Alessandrini failed reasonably to supervise Weiss with a view to preventing the violations of law and regulation committed by Weiss.

(4) Pursuant to Section 15(b)(5) of the Exchange Act, Alessandrini & Co. is subject to the sanctions specified thereunder for the violations of law found herein to have been committed by Weiss and for the failure of Paul Alessandrini properly to supervise Weiss, both Weiss and Alessandrini being "associated persons" of Alessandrini & Co. as that term is defined by Section 3(a)(18) of the Exchange Act.

PUBLIC INTEREST [65/]

The kind of fraudulent manipulation found to have occurred here with respect to ACI stock is a threat to the integrity of the securities markets and to investors and other members of the public who have a right to count on the integrity of such markets. Where broker-dealers and traders participate in such manipulation without making reasonable inquiry even though in possession of information clearly pointing to a

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65/ See p. 29 above respecting charges against respondents in other proceedings.

need for further inquiry, the sanctions imposed on them must be of sufficient severity to deter such conduct in the future by them and by others as well as to apply appropriate sanctions for the instant violations.

The losses sustained by banks which loaned money on the basis of the apparent market in ACI stock were both real and substantial.

On July 22, 1966, the former Alessandrini & Co, and Paul Alessandrini were permanently enjoined by the Superior Court of the State of New Jersey from engaging in the securities business in New Jersey. This order was vacated on June 3, 1969. On September 30, 1965, they were fined $150 and censured for Regulation T violations. On July 3, 1962, the former Alessandrini & Co. was fined $2,600 and Paul Alessandrini was censured for, among other things, Regulation T violations and books-and-records and "free-trading" violations.

Hunter Associates was preliminarily enjoined on February 20, 1968, in the United States District Court for the Southern District of New York from further violations of Sections 5(a) and 5(c) of the Securities Act of 1933 in the offer and sale of stock of North American Research and Development Corporation. 66/

On January 29, 1969, Louis B. Meadows, now president of Meadows & Co., was suspended by the NASD for 30 days and fined $500 in connection with net-capital and bookkeeping violations and for failing to supervise adequately during 1965 and 1966 while associated with Stewart Hughes & Company, Inc.

66/ In January 1968 Hunter, 73 years old and with 55 years experience in the securities business, turned over active management of the firm to Weseman.

The record contains some indication that Meadows & Co. has taken at least some steps to dimish the likelihood of a repetition by them of the kind of involvement found herein.

Budin, called by the Division to testify at the hearing, was grossly uncooperative as a witness. Thus, although he was the supervisor of Budin & Co. and responsible for the activity of the firm during the relevant period, he declined to estimate whether the retail customers of the firm numbered closer to 3 or to 300 or whether the firm's contract for inserting quotes in the pink sheets called for a number closer to 5 or to 500.

Taking into account the gravity of the violations; the length of time respondents have been in the securities business and the existence or absence of prior disciplinary sanctions against them; the factors urged by respondents in mitigation; the demeanor of the individual respondents when they testified; the respective degrees of knowledge that the several respondents had of LaMarca and Taylor and of the nature of the manipulative scheme or of circumstances that imposed on respondents a duty to inquire; and on the entire record, it is concluded that the sanctions ordered below are necessary and appropriate in the public interest.

ORDER

Accordingly, IT IS ORDERED as follows:

(1) The registrations as a broker and dealer of Alessandrini & Co., Inc. and of Wellington Hunter Associates are hereby revoked and the firms are hereby expelled from membership in the National Association of

Securities Dealers, Inc.

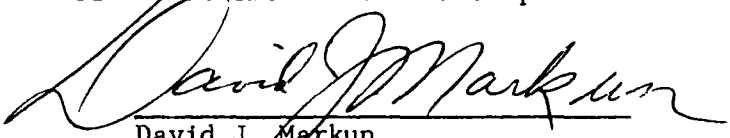
(2) The registration as a broker and dealer of Philip S. Budin & Co., Inc. is hereby suspended for three months and the broker-dealer registration of Louis B. Meadows & Co., Inc. is hereby suspended for one month. Each firm is hereby suspended for the corresponding period from membership in the NASD.

(3) Respondents Raymond I. Weiss and Ralph H. Weseman are hereby barred from association with any broker or dealer and respondents Morton Kantrowitz and Philip S. Budin are each hereby suspended from association with any broker or dealer for three months.

(4) Respondent Paul P. Alessandrini is hereby suspended from association with any broker or dealer for four months.

This order shall become effective in accordance with and subject to Rule 17(f) of the Commission's Rules of Practice.

Pursuant to Rule 17(f), this initial decision shall become the final decision of the Commission as to each party who has not, within fifteen (15) days after service of this initial decision upon him, filed a petition for review of this initial decision pursuant to Rule 17(b), unless the Commission, pursuant to Rule 17(c), determines on its own initiative to review this initial decision as to him. If a party timely files a petition for review, or the Commission takes action to review as to a party, the initial decision shall not become final with respect to that party. 67/



David J. Markun
Hearing Examiner

Washington, D.C.
December 10, 1971

67/ To the extent that the proposed findings and conclusions submitted by the parties are in accordance with the views herein they are accepted, and to the extent that they are inconsistent therewith they are rejected. Certain proposed findings and conclusions have been omitted as not relevant or as not necessary to a proper determination of the issues presented.