(Securities Exchange Act Release No. 7870)

SECURITIES AND EXCHANGE COMMISSION
Washington, D. C.
April 22, 1966

In the Matter of SAN FRANCISCO MINING EXCHANGE File No. 10-38 Securities Exchange Act of 1934 - Section 19(a)(1)	FINDINGS AND OPINION OF THE COMMISSION

REGISTRATION OF NATIONAL SECURITIES EXCHANGE

Grounds for Withdrawal of Registration

Failure to Enforce Compliance with Exchange Act and Rules Thereunder

Public Interest

Where registered national securities exchange over period of years repeatedly failed and neglected to enforce compliance with Securities Exchange Act of 1934 and rules thereunder by members and by issuers of securities listed thereon, and lent its facilities to unlawful securities distributions; where its officials themselves engaged in repeated violations of that Act and Securities Act of 1933; and where Exchange does not perform any significant function as a trading market, held, necessary and appropriate for protection of investors to withdraw registration of Exchange.

Opportunity for Rehabilitation

Withholding order of withdrawal pending attempt at rehabilitation by Exchange found to have pervasive and serious deficiencies is not warranted where Exchange has failed to avail itself of prior opportunities to take corrective measures and where, if effective rehabilitation is to be achieved, complete reorganization and change of personnel constituting in effect organization of entirely new exchange would be necessary.

APPEARANCES:

Frank E. Kennamer, Jr., Edward B. Wagner and William P. Sullivan, for the Division of Trading and Markets of the Commission.

Gardiner Johnson, of Johnson & Stanton, for the San Francisco Mining Exchange.

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Under Section 19(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act"), this Commission is authorized, if in our opinion such

action is necessary or appropriate for the protection of investors, to withdraw the registration of a national securities exchange if we find that such exchange has violated any provision of the Exchange Act or of the rules thereunder or has failed to enforce, so far as is within its power, compliance therewith by a member of the exchange or by an issuer of a security registered thereon. These proceedings were instituted to determine whether or not withdrawal of registration should be ordered against the San Francisco Mining Exchange ("Exchange").

After appropriate notice, hearings were held before a hearing examiner at which the Exchange stipulated to and admitted many of the factual matters alleged in the order for proceedings and additional evidence was received with respect to certain of those matters. Thereafter proposed findings and conclusions and briefs were filed by our Division of Trading and Markets ("Division") and by the Exchange, and the hearing examiner issued his recommended decision.

The hearing examiner found among other things that there had been numerous and repeated violations involving issuers, members and officials of the Exchange; that the Exchange had not made any effort to enforce compliance by issuers or members with the Exchange Act or to enforce its own rules adopted pursuant to the Act; that the Exchange had been a vehicle for evading and circumventing provisions of the securities acts designed for the protection of investors and in the public interest; and that remedial action must be taken in the public interest. The examiner, however, upon consideration of statements received from various public officials and others, and considering the Exchange as an institution distinguishable from its management, recommended that the Exchange be given a further opportunity to effect a complete reorganization and that if it failed to do so within 90 days the registration of the Exchange be withdrawn forthwith.

The Division filed exceptions and a brief urging that the registration of the Exchange be withdrawn. The Exchange excepted to a limited number of the hearing examiner's findings but only insofar as they might state or imply that the Exchange was not interested or willing to consider and effect an appropriate reorganization, and the Exchange supports the hearing examiner's recommendation that it be given a further opportunity to reorganize.

After hearing oral argument and on the basis of an independent review of the record we make the following findings.

The Exchange, an unincorporated business association, has been registered pursuant to Section 6 of the Exchange Act since June 1, 1936. 1/ George J. Flach has been president of the Exchange since 1939, and Frank J. Carter was secretary from 1936 and chairman of the Stock List Committee from 1950 until his death in 1965. Raymond A. Broy has been treasurer since 1933, a member of the Governing Committee since 1936, and a member of the Stock List Committee since 1950. Archie H. Chevrier was a member of the Governing Committee and the Stock List Committee from 1957 until 1962, and he was vice president of the Exchange and Chairman of the Governing Committee for a short period of time until he resigned these positions in March 1962. His offices were taken over first by Walter D. Forsyth, who had been a member of the Governing Committee since 1944, and subsequently in April 1962 by Paul W. Schwarz who

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1/ The Exchange was first organized in 1862 under the name of the San Francisco Stock and Exchange Board. It took its present name in 1927.

on prior occasions going back to 1951 had served as vice president of the Exchange and chairman of the Governing Committee.

As of December 1962 the Exchange had 13 regular members, of whom only six were actively engaged in the securities business, and those six acted as representatives of three registered broker-dealer firms. Flach, Norman Hudson and Samuel Apple represented R. L. Colburn Co. ("Colburn"), a corporation with offices in Los Angeles and San Francisco; 2/ Broy and Victor J. Herrman represented the Broy Company, a sole proprietorship; and Forsyth traded as a sole proprietor until his death in 1963. In recent years almost all of the active trading on the floor of the Exchange was conducted by Flach, Broy, Herrman and Chevrier. Aside from Carter, the Exchange had only one salaried employee, the brother of Flach, whose functions were to work the blackboard during trading sessions, deliver stock and prepare daily quotation sheets and monthly summaries. During 1961 an average of 42 stocks, having an average price per share of 14¢, were listed for trading on the Exchange. Of these 42 listed companies, at least 15 had no revenue, and 8 others had revenue of less than $1,000. Only four listed companies had net earnings, and three of these had trading markets through listings on other exchanges. Of the 42 companies, 16 did not have a book value of more than 1¢ per share, and nine of these had no book value at all. Of the remaining 26 companies, 24 had a book value of 20¢ or less per share. As of December 1962, 25 of the 42 companies were not actively engaged in operations.

Most of the facts found by the hearing examiner with respect to the operations of the Exchange and the violations are not disputed. We adopt his findings of fact and repeat and summarize them here to the extent necessary to give a full understanding of the issues presented to us.

Failure to Take Action With Respect to Violations by Issuers and Exchange Members

Various issuers of securities registered on the Exchange failed altogether to file or filed late the annual and interim current reports required by the Exchange Act and the rules thereunder. 3/ In some instances the violations by a particular issuer occurred repeatedly over many years. The Exchange took no steps to enforce compliance with the reporting requirements, despite the fact that repeated violations were obvious on the face of reports filed late and any failure to file an annual report was evident from the Exchange's own records, and despite numerous warning letters by our staff to Carter as secretary of the Exchange calling attention to the violations.

Thus, the annual reports of Operator Consolidated Mines Company ("Operator") for 1942, 1943, 1944, 1945, 1946 and 1950 were filed late by periods ranging from two months to seven months. Operator also failed to file any current reports in 1956 with respect to an assessment levied against its outstanding shares, the sale of certain shares for which the assessment was not paid, and a charter amendment increasing its authorized shares from 3,000,000 to 10,000,000. Flach was Operator's president and a major stockholder and Carter was a holder of Operator stock when these reporting violations occurred.

2/ Colburn's main office is in Los Angeles; Flach has been employed as manager of its San Francisco branch office.

3/ Section 13(a) of the Exchange Act and Rules 17 CFR 240.13a-1 and 13a-11 thereunder require every issuer of a security registered on a national securities exchange to file, with this Commission and with the exchange, an annual report within 120 days after the close of

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Reorganized Carrie Silver-Lead Mines Corp. was late in filing its annual reports for 1939, 1940, 1942, 1944, 1945 and 1946 by periods of two months to 11 months. Consolidated Virginia Mining Co. ("Consolidated") was late in filing its annual reports for 1953, 1955, 1957 and 1958, the delinquencies ranging from one month to seven months. Consolidated also failed to file a current report in 1956 with respect to its issuance of over 12,000,000 shares of its stock in exchange for the stock of Hampton Mining Co. Eureka Company failed to file an annual report for 1955. On the basis of some of these delinquencies as well as other violations of the Exchange Act, this Commission itself ultimately withdrew the securities of these four issuers from registration on the Exchange. 4/

Ambrosia Minerals, Inc. ("Ambrosia") filed an application with the Exchange for registration in May 1956 which contained financial statements certified by an accountant who was secretary-treasurer of the company and accordingly was not independent as required. Flach and Carter were both acquainted with officials of the company, and after the application for listing had been filed and before it was approved Flach received an option to purchase 6,000 shares of Ambrosia stock, but they did not note or take corrective action with respect to the deficient financial statements. Subsequently we withdrew the registration on the Exchange of the Ambrosia stock because of Ambrosia's failure to comply with registration and reporting provisions of the Exchange Act. 5/

As we noted in two of the proceedings in which we found it necessary to initiate action to delist securities registered on the Exchange, delays and failures to comply with reporting requirements can not only frustrate the statutory objective of keeping existing and potential investors informed of material corporate activities and events, but also can serve to help conceal public distributions of unregistered securities in violation of the Securities Act of 1933 ("Securities Act"). 6/ The record in the instant proceedings shows how in other instances the Exchange's failure to require compliance with the Exchange Act by its members or issuers also led to or facilitated violations of the Securities Act.

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each fiscal year, and a current report within 10 days after the close of each month during which there occurs any of a number of specified events which are considered material information for investors.

4/ Operator Consolidated Mines Company, 39 S.E.C. 580 (1959); Reorganized Carrie Silver-Lead Mines Corporation, 29 S.E.C. 49 (1949); Consolidated Virginia Mining Company, 39 S.E.C. 705 (1960); Eureka Company, 38 S.E.C. 475 (1958). The Exchange suspended trading in the Operator and Eureka stocks, but only after the institution of our proceedings against those companies.

5/ 39 S.E.C. 734 (1960).

6/ Eureka Company, 38 S.E.C. 475, 483-484 (1958); Consolidated Virginia Mining Company, 39 S.E.C. 705, 709 (1960).

In 1954 Chevrier acquired control of Comstock, Ltd. ("Comstock"), then an inactive corporation with virtually no assets, and he became president and Carter vice president. With the assistance of Carter, Chevrier caused the Comstock stock to become registered and listed on the Exchange in 1955. In 1956 Chevrier entered into an agreement for the merger of Comstock with a company in the charcoal business. In connection with such agreement Chevrier purported to sell a controlling block of 500,000 shares of Comstock stock to six persons but under circumstances whereby the alleged purchasers merely received an option to purchase the shares and Chevrier still remained the beneficial owner thereof. Nevertheless Comstock filed with us and the Exchange a current report in February 1957 falsely reporting the transactions as a sale, with the obvious purpose, as the hearing examiner found, of having it appear that neither Chevrier nor any of the six purported purchasers was the beneficial owner of 10% or more of the outstanding stock. Carter, who received the report as an officer of the Exchange, knew or should have known of the false or misleading nature of the report in view of his connections with the issuer. Thereafter during 1957 H. Carroll & Co. ("Carroll"), a registered broker-dealer, made a public distribution of Comstock shares, obtaining the shares it sold to the public from the controlling block of 500,000 shares optioned by Chevrier and also from shares purchased on the Exchange by Chevrier. Chevrier purchased over 88,000 shares on the Exchange for Carroll's account in a two month period during which the stock's price increased by more than 40%, thereby manipulating the price in such a manner as to facilitate the over-the-counter distribution being conducted by Carroll.

In the distribution of the Comstock shares false and misleading representations were made in violation of the anti-fraud provisions of the Securities Act and of the Exchange Act. Carter as secretary of the Exchange received a letter sent by Comstock to its stockholders and a brochure used by Carroll, both of which contained misrepresentations as to Comstock's assets and prospects, but he did nothing. Only after learning that the matter was under investigation by our staff did the Exchange suspend trading in Comstock shares. 7/

Finally we note that Comstock's annual reports for 1955 and 1956 did not contain the required financial statements due to the fact that, as a result of dissension that had arisen between Chevrier and the group connected with the charcoal company, Chevrier had retained and refused to return certain corporate records. Although Carter received a copy of a letter from Comstock to Chevrier demanding the return of corporate records and an application to the Exchange by Comstock for delisting of its stock stated that the wrongful withholding of records by Chevrier was a principal reason for Comstock's inability to comply with the reporting requirements, neither Carter nor the Exchange made any inquiry or investigation of the charges against Chevrier and took no action in respect thereof.

In 1960 Chevrier was president, director and a principal stockholder of Best & Belcher Gold and Silver Mining Corporation ("Best and Belcher"), a company whose stock was registered on the Exchange but which had been dormant for about 20 years and which had net assets of $2,943,

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7/ We subsequently revoked Carroll's registration as a broker-dealer based on findings, among other things, of violations of the registration and anti-fraud provisions of the Securities Act and the Exchange Act in the offer and sale of Comstock shares. H. Carroll & Co., 39 S.E.C. 780 (1960).

current assets of $609, and current liabilities of $6,901. As part of plans to merge certain other companies with a company whose stock was registered on the Exchange, and in order to avoid certain restrictions arising from the fact that Best & Belcher was incorporated in California, Chevrier in October 1961 caused Industrial Enterprises, Inc. ("Industrial") to be incorporated in Nevada, and thereafter caused Best & Belcher to become merged into Industrial. Chevrier and Arnold Toews, another member of the Exchange, became directors of Industrial, and the Industrial stock was listed on the Exchange in place of the Best & Belcher stock. Chevrier, for his own and family accounts and as agent for certain non-member brokers, engaged in heavy trading in Best & Belcher stock on the Exchange prior to the merger, and the price of the stock went from 17¢ in September 1961 to $1.75 per share in December. 8/

In December 1961 Industrial acquired a controlling interest in Caloric Foods, Inc. ("Caloric"), a promotional company which allegedly owned certain formulas for the production of low calorie diets. In connection with such acquisition Industrial issued 750,000 shares of its stock. In January 1962 the Exchange approved the registration and listing of the additional 750,000 shares, despite the absence of certified financial statements of Caloric in the listing application. Thereafter, trading in the Industrial stock took place at prices increasing from about $1.75 to $2.25 per share, and it led Schwarz to advise our regional staff of what he considered the unusual activity and market behavior of the Industrial stock and of the fact that Chevrier was touting that stock. After our staff began an investigation, the Exchange rescinded its approval of the supplemental listing of the 750,000 shares, and we suspended trading in the Industrial stock on the Exchange. 9/

The Best & Belcher-Industrial situation presents an example, as the hearing examiner found, of the use of a "corporate-shell game," by an official of the Exchange, who engaged in a scheme whereby, through merger and manipulative trading on the Exchange, the stock of a long dormant company was raised from about 17¢ per share to $2.25 per share in about five months, to the substantial profit of the Exchange official and others, and in violation of the registration, anti-fraud and other provisions of the Securities Act and of the Exchange Act. 10/

8/ A total of only 5,000 shares of Best & Belcher shares was traded on the Exchange in the nine months January - September 1961, of which 3,000 had been purchased in September by Chevrier. Trading in November reached a total of 68,940 shares, with Chevrier purchasing 47,100 shares and selling 54,140 for his various accounts.

9/ After successive orders by us pursuant to Section 19(a)(4) of the Exchange Act suspended trading on the Exchange from March to October 1962, the Exchange made an application, which we granted, to strike the Industrial stock from listing and registration on the Exchange.

10/ In June 1962 the Exchange suspended Chevrier pending the outcome of administrative proceedings instituted against him under the Exchange Act. Subsequently, we revoked Chevrier's registration as a broker-dealer and expelled him from the Exchange on the basis of findings that he had engaged in a manipulative scheme with respect to the Best & Belcher-Industrial stock, filed false reports and failed to file required reports under Section 16 of the Exchange Act, confirmed transactions as agent and charged commissions when acting as principal, and falsified his records. Securities Exchange Act Release No. 7579 (April 22, 1965).

In May 1961 the Exchange approved a supplemental listing of 600,000 shares of stock of Apex Minerals Corporation which had been issued to a promoter of the company who also became its president, and certain associates. The listing application claimed that these shares were exempt from registration under the Securities Act on the ground that they had been "acquired for investment only and not for resale or distribution." Nevertheless, both before and after the supplemental listing Broy, who was then a member of the Exchange's Stock List and Governing Committees, sold a substantial number of these shares on the Exchange for the account of Apex's promoter-president, under circumstances which, as the hearing examiner found, constituted an illegal public distribution of unregistered stock in violation of Section 5 of the Securities Act.

In 1957 the Exchange received an application for the listing and registration of stock of Wilson Oil and Gas Company ("Wilson"). The application stated that the company had been incorporated in 1956, and that in that year 7,500,000 shares had been sold through H. Carroll & Co. to residents of Colorado, and that such sale constituted an intrastate distribution exempt from registration under the Securities Act. Although the Exchange received information that a number of stockholders had addresses in states outside of Colorado, the Exchange approved the listing without making any inquiry or investigation as to compliance with the Securities Act. 11/

The Exchange maintained no procedures for discovery and prevention of violation of Regulation T issued by the Board of Governors of the Federal Reserve System under Section 7 of the Exchange Act. In over 25 years of the Exchange's existence only about 100 requests for extensions of time for receipt of payment were made to it by its members. In the San Francisco office of R. L. Colburn Company managed by Flach an inspection in 1962 disclosed 55 instances in which credit had been illegally extended by Flach, with the periods of delinquency in which no action was taken to cancel or liquidate transactions in which payments were not received within the prescribed time ranging up to 12 years. 12/

In addition, in numerous instances Flach and other members and officials of the Exchange failed to comply with the reporting requirements of Section 16(a) of the Exchange Act and Rule 17 CFR 240.16a-1. 13/ For

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11/ When the above facts became known to our staff, it requested and secured withdrawal of the Exchange's certification of listing of the Wilson stock.

12/ Subsequently in administrative proceedings before us we found that Colburn, aided and abetted by Flach, extended credit in willful violation of Section 7(c) of the Exchange Act and Regulation T as well as failed to notify customers that it was acting as broker for both buyer and seller, and in addition to suspensions against the firm, we found Flach to be a cause of the firm's suspensions and suspended him from the Exchange for 90 days, R. L. Colburn Company, Securities Exchange Act Release No. 7547 (March 9, 1965).

13/ As applicable here, these provisions require owners of more than 10% of a class of equity securities registered on a national securities exchange and officers and directors of the issuer of such security, to file with this Commission and the appropriate exchange, reports of their beneficial ownership of equity securities of such issuers and of any changes in such ownership.

example, in the period 1941 to 1959 Flach in 16 instances failed to file on time required reports of his holdings of and transactions in stock of Manhattan Gold Mines Co. ("Manhattan") and Operator during times when he was president and a director, respectively, of those companies. The delays in filing such reports ranged up to 34 months. In the period 1948 to 1960, Schwarz, while an officer and a director of Manhattan, Pony Meadows Mining Co. ("Pony"), Silver Divide Mines Co., Smuggler Mining Co., Ltd., and Comstock-Keystone Mining Co., failed to file required reports in five instances and in five other instances filed reports which were late by periods ranging up to 31 months.

From 1958 to 1962 Chevrier as president and director of Industrial and a principal stockholder of Pony, failed in four instances to file reports and in eight other instances filed reports which were late by periods ranging up to three months. In five instances reports which were filed were false or incomplete in that they did not disclose the full extent of his holdings and transactions. From 1955 to 1959 Toews, as an officer and director of Comstock, Industrial and Sunburst Petroleum Corp., failed to file two reports and filed four reports which were late by periods up to seven months.

Again, although these officials and members of the Exchange were repeatedly in violation of the reporting requirements of Section 16(a) of the Exchange Act, and the reports filed late with the Exchange disclosed on their face the delinquencies involved, the Exchange took no disciplinary action nor made any efforts to enforce compliance.

As the foregoing shows and the hearing examiner found, the Exchange over a long period of time failed to enforce compliance with the Exchange Act and the rules thereunder by its members and by issuers of securities registered thereon. The violations were numerous and repeated, and were not only known to the Exchange and its officials, but various officials of the Exchange were themselves involved in violations.

The Exchange has an essential obligation to make sure that its members observe the standards of conduct required by the Exchange Act. The self-policing function of a registered national securities exchange is of the utmost importance in fulfilling the statutory scheme of cooperative regulation of the securities markets in the interest of protecting the public. Section 6(a) requires as a condition of registration as a national securities exchange an agreement, which the Exchange here supplied, to comply and to enforce, so far as within its powers, compliance by its members with the provisions of the Exchange Act and rules thereunder. Further, Section 6(b) requires, and the Exchange's constitution includes, provisions for the expulsion, suspension or disciplining of a member for conduct inconsistent with just and equitable principles of trade and for the willful violation of any provision of the Exchange Act or any rule thereunder.

The self-regulatory responsibilities imposed on a securities exchange cannot be fulfilled merely by adopting regulations for disciplining its members; Section 6(b) imposes the further duty upon the Exchange of enforcing its own disciplinary provisions. 14/ Notwithstanding the numerous violations of the Exchange Act by members of the Exchange, some of which have been detailed here, in more than ten years the only disciplinary actions taken by the Exchange were to fine

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14/ See Baird v. Franklin, 141 F.2d 238 (C.A. 2, 1944), cert. denied 323 U.S. 737 (1944); Avery v. Moffett, 55 N.Y.S. 2d 215 (1945); cf. Pettit v. American Stock Exchange, 217 F. Supp. 21 (S.D.N.Y., 1963).

Chevrier for the use of intemperate language, and to suspend Chevrier in 1962 following the institution by us of disciplinary proceedings against him. The Exchange, itself, thus totally abdicated its vital self-regulatory function required by Section 6(b) of the Exchange Act.

Public Interest

We have found that the Exchange has violated the Exchange Act and has failed to enforce compliance therewith by its members and by issuers of securities registered thereon. In the light of all the surrounding circumstances there is ample basis for concluding, as the hearing examiner did, that remedial action is required. Indeed, the Exchange does not except to this conclusion. Rather, it recommends that the Exchange be given another chance to set its house in order. We cannot agree, and in our opinion it is necessary and appropriate for the protection of investors to withdraw its registration.

The Exchange has been given an over-abundance of opportunities to organize itself and operate in a manner consistent with its responsibilities under the law. 15/ Over the years, in addition to the numerous letters from our staff with respect to reporting violations, it has been necessary for us to withdraw the registrations on the Exchange of the securities of 28 issuers on the basis of findings of violations of various provisions of the securities acts which made such delistings necessary and appropriate for the protection of investors. In 1957, after the institution during that year of four proceedings which subsequently resulted in delisting orders on the basis of findings of violations of the reporting and proxy soliciting requirements, 16/ our staff made specific written

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15/ In fact, in 1935 in connection with proceedings relating to the Exchange's registration as a national securities exchange under the Exchange Act, a hearing examiner in his recommended decision stated:

> "It is the conclusion of the Trial Examiner that the San Francisco Mining Exchange had been negligent, to the time of the hearing above referred to, in adopting and enforcing rules looking toward fair trading in securities listed upon the Exchange. It seems probable that registration of the Exchange as a national securities exchange will give an opportunity for a thoroughgoing revision, by the Exchange, of its rules, and in the opinion of the Trial Examiner registration of the San Francisco Mining Exchange as a national securities exchange would at least afford the opportunity for a rehabilitation of said Exchange."

The record in the instant proceedings is a sad commentary on the willingness and ability of the Exchange in the intervening years to rehabilitate itself.

16/ Verdi Development Company, 38 S.E.C. 553 (1958); Eureka Company, 38 S.E.C. 475 (1958); Operator Consolidated Mines Company, 39 S.E.C. 580 (1959); Consolidated Virginia Mining Company, 39 S.E.C. 705 (1960). In March 1957 the promoters of Operator were also enjoined from selling unregistered securities in violation of Section 5 of the Securities Act.

recommendations to the Exchange as to changes in rules and procedures considered necessary to enable the Exchange to meet the standards applicable to a registered national securities exchange. The Exchange up to 1962 adopted only some of these recommendations and partially carried out others. It took no action with respect to some recommendations, including those for the supervision of members' personal trading, the delisting of the securities of dormant and inactive issuers, and the improvement of listing standards.

Apart from the retention of counsel in anticipation of and in connection with these proceedings, the Exchange had never regularly retained or sought the advice of counsel. Not until 1962, when these proceedings were imminent, did the Exchange's Governing Committee hold a formal meeting to consider implementation of the written recommendations submitted by our staff in 1957. The Exchange has never made an independent investigation of the financial condition of applicants for listing or employed a certified public accountant to examine or advise with respect to financial statements in listing applications or reports.

The Exchange's listing standards are minimal to the extreme, 17/ and even so they have not been uniformly observed. It has no organization worthy of the name; we have already noted that over the years it had only two salaried employees, Carter and one other employee, and only the Governing and Stock List committees ever actually met, with the latter committee rarely if ever holding a separate meeting. Furthermore, the Exchange does not perform any substantial or significant function as a trading market. As has been stated, as of December 1962 there were only 13 members, of whom only six were active in the securities business, the stocks listed on the Exchange had little or no underlying income or book value, and many of the issuers were dormant. Trading volume on the Exchange is small.

In view of this history of failure to prevent or punish violations, inadequate and careless procedures, inadequate standards and organization, and dormant and marginal listed companies, it is evident that there is really nothing of substance to salvage of the present Exchange. It is also evident that the Exchange's principal contribution in recent years has been to provide an exchange registration and listing to some issuers which had no other assets to speak of and thereby facilitate, through the Exchange mechanism, and in some instances with the knowledge or active participation of Exchange officials, illegal and fraudulent distributions of worthless or highly speculative securities to the public.18/

17/ Issuers were required to show only that 15% of their outstanding shares were publicly owned and that they had at least 100 public shareholders.

18/ In Operator Consolidated Mines Company, 39 S.E.C. 580, 594 (1959), we stated: "The situation here presented is one where a dormant insolvent corporation, whose chief value lay in the registration and listing of its stock on the Exchange, was reactivated by a group which accumulated various properties to be transferred to the registrant in exchange for large blocks of its stock. Most of the properties were undeveloped or of a speculative nature and in large measure were subsequently abandoned. The large blocks of stock issued in exchange therefor were not registered under the Securities Act and were issued without any restrictions or precautions to prevent illegal public distribution of unregistered securities, and in fact some of those shares were involved in a public distribution without the disclosure and safeguards inherent in registration under the Securities Act."

Any "reorganization" of this mere facade of an exchange would of necessity involve the creation of an entirely new structure, retaining nothing of the old form except possibly its name. The hearing examiner himself stressed that any reorganization must include "all functional aspects" and present "entirely new personnel in every department of management without exception." Such a "reorganization" would in essence be the withdrawal of the registration of the present Exchange and the registration of a completely new exchange. We recognize this reality by withdrawing the registration of this Exchange.

We have given consideration to the views expressed by several public officials and civic and business associations that the present Exchange has served a useful purpose and that it or one like it should be allowed to exist. We recognize that an area exchange, whether or not it is limited to trading in securities of mining concerns, may serve a valuable function, but we think we would not fulfill our duty to act for the protection of investors if we did not withdraw the registration of this Exchange, which as the hearing examiner found, has a history of "pervasive and abysmal abdication of responsibility" and which because of its "aura of legitimacy" as a quasi-public institution has been used as "an unsuspected tool for manipulative practices perpetrated by its members and principal officers for their own personal and unconscionable gain." The withdrawal of its registration is, if anything, long overdue. 19/

An appropriate order will issue.

By the Commission (Chairman COHEN and Commissioners WOODSIDE, OWENS, BUDGE and WHEAT).

Orval L. DuBois
Secretary

19/ The Exchange in its brief in support of the hearing examiner's recommended decision states that if his recommendation is not approved by us, its position is that it has been denied a full and fair hearing because of our refusal to authorize the issuance of subpoenas directed to the members of this Commission and our Secretary and for the production of non-public Commission files, all allegedly for the purpose of inquiring into whether this Commission was biased or had prejudged the issues against the Exchange. We have already considered and rejected these contentions of the Exchange on three prior occasions. Securities Exchange Act Release No. 7106 (July 31, 1963); Securities Exchange Act Release No. 7136 (September 9, 1963); Securities Exchange Act Release No. 7247 (February 26, 1964). We see no reason to change our conclusions in this respect and for all the reasons stated in our prior rulings we affirm them. Nothing has been presented to indicate that the Exchange has not had a fair hearing. In fact, as we previously noted (Securities Exchange Act Release No. 7106, p. 2) in view of the nature of these proceedings we authorized the Division to take the unusual step of furnishing the Exchange a copy of the Division's investigation report prior to the institution of these proceedings. Our decision herein is based solely on the facts in this record, many of which have been admitted by the Exchange and most of which are uncontroverted.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
April 22, 1966

In the Matter of SAN FRANCISCO MINING EXCHANGE File No. 10-38 Securities Exchange Act of 1934 - Section 19(a)(1)	ORDER WITHDRAWING REGISTRATION OF NATIONAL SECURITIES EXCHANGE

Proceedings were instituted pursuant to Section 19(a)(1) of the Securities Exchange Act of 1934 to determine whether to withdraw the registration as a national securities exchange of the San Francisco Mining Exchange.

Hearings were held after appropriate notice, the hearing examiner submitted a recommended decision, exceptions thereto were filed by the San Francisco Mining Exchange and the Division of Trading and Markets of the Commission, and oral argument was presented to the Commission.

The Commission has this day issued its Findings and Opinion herein; on the basis of said Findings and Opinion

IT IS ORDERED, pursuant to Section 19(a)(1) of the Securities Exchange Act of 1934, that the registration as a national securities exchange of the San Francisco Mining Exchange be, and it hereby is, withdrawn, effective at the close of business April 29, 1966.

By the Commission.

Orval L. DuBois
Secretary