(Securities Exchange Act Release No. 7932)

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION
August 9, 1966

In the Matters of R. BARUCH AND COMPANY 1518 K Street, N. W. Washington, D. C. File No. 8-8712 A. T. BROD & COMPANY 70 Wall Street New York, New York File No. 8-6503 FAIRFAX INVESTMENT CORPORATION 1851 K Street, N. W. Washington, D. C. File No. 8-9466 SERAPHIM & COMPANY, INC. 533 Woodward Building Washington, D. C. File No. 8-10337 Securities Exchange Act of 1934 - Sections 15(b), 15A and 19(a)(3)	SUPPLEMENTAL FINDINGS, OPINION AND ORDER

BROKER-DEALER PROCEEDINGS

Offer, Sale and Delivery of Unregistered Securities

Bids for Securities During Distribution

Fraudulent Representations in Offer and Sale of Securities

Where one securities salesman offered, sold and delivered unregistered securities and participated in distribution of stock when he must have been aware that broker-dealer by whom he was employed was bidding for such stock, and another securities salesman made false and misleading representations in offer and sale of stock concerning, among other things, future market price and stock split, future earnings per share, and franchises sold by issuer, held, willful violations of registration provisions of Securities Act of 1933 and anti-fraud provisions of that Act and Securities Exchange Act of 1934 by respective salesmen.

Delay in Proceedings

Salesmen's contention that they were denied due process because of length of proceedings, rejected, where delays were due to consolidation of proceedings involving common questions of law and fact, vigorous defense by and settlement negotiations with various respondents, motions by respondents raising complex and novel questions, lack of quorum of Commissioners over long period, and extensions of time required for filing proposed findings, recommended decision, exceptions and briefs, and where salesmen contributed to such delays.

APPEARANCES:

Edward B. Wagner, James W. Fredericks, and Sydney H. Mendelsohn, for the Division of Trading and Markets of the Commission.

Eugene Ebert, for Eugene Tucker.

John Meslovich, pro se.

Bernard Hammett, pro se.

- - - - -

Among the issues remaining in these consolidated proceedings pursuant to Sections 15(b), 15A and 19(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act"), are (1) whether John Meslovich, while employed by A. T. Brod & Company ("Brod"), Eugene Tucker, while employed by R. Baruch and Company ("Baruch"), and Bernard Hammett, an attorney, willfully violated or aided and abetted violations of the Securities Act of 1933 and the Exchange Act; (2) whether Tucker and Hammett should each be found a cause of the Commission's order, entered on September 11, 1963, revoking Baruch's broker-dealer registration; 1/ and (3) whether the broker-dealer registrations of Fairfax Investment Corporation ("Fairfax") and Seraphim & Company, Inc. ("Seraphim") should each be revoked.

Following extensive hearings, the hearing examiner found willful violations of the securities acts by Meslovich, Tucker and Hammett, and recommended, among other things, that Tucker be found a cause of the revocation of Baruch's registration and that Hammett be barred from being associated with a broker-dealer pursuant to Section 15(b)(7) of the Exchange Act as amended in 1964. He denied, as not permissible under this Commission's Rules of Practice then in effect, the request of our Division of Trading and Markets ("Division") that Fairfax and Seraphim be deemed in default because of their failure to appear, but he made no recommendations as to them. Exceptions and briefs were filed by Tucker, Meslovich, Hammett and the Division, a reply brief was filed by the Division, and we heard oral argument. Our findings are based upon an independent review of the record.

1/ Securities Exchange Act Release No. 7138. Brod was suspended from membership in the National Association of Securities Dealers, Inc. for a period of 40 days. Securities Exchange Act Release No. 7139 (September 11, 1963). In our orders against Baruch and Brod we reserved jurisdiction to make findings as to other parties or persons involved in the proceedings who had not joined in the stipulations and consents on which those orders were based.

In August 1960, Agricultural Research Development, Inc. ("AGR"), a Colorado corporation which proposed to raise hogs and market a pork product, commenced a public offering, pursuant to Regulation A (17 CFR 230.251 et seq.) under the Securities Act, of 120,000 shares of 5¢ par value common stock at $2.50 per share through W. Edward Tague Company as underwriter on a "best-efforts" basis. On February 17, 1961, AGR filed a Form 2-A report stating that the offering had been terminated on February 14 after the sale of 39,685 shares and that a net amount of $82,330 had been received by AGR. As found by the hearing examiner, that report was false in that only 9,685 shares had been sold and the remaining shares merely placed in the names of nominees designated by Eugene Petersen, a controlling person and the largest stockholder of AGR. The nominees did not pay for the shares, which were distributed to the public through Brod, Baruch and Sutro Bros. & Co. ("Sutro") 2/ subsequent to February 14, 1961 without compliance with the registration provisions of the Securities Act. 3/

John Meslovich

Meslovich first became employed in the securities business in May 1960 in Brod's Washington, D. C. office. In the summer of 1960 and subsequently Petersen discussed AGR and the progress of the offering with Meslovich and gave him a copy of the Regulation A offering circular. In late November or December 1960, Petersen told Meslovich he was having a great deal of trouble selling the offering and that only 9,685 shares had been sold. Meslovich suggested to Petersen that if the latter was in a hurry to get the stock traded, he should "think in terms of closing the issue out with whatever can be sold."

On March 1, 1961, Petersen opened an account with Meslovich and informed him that he wished to sell some AGR stock. Meslovich admittedly knew that Petersen ran AGR, and the opening of the account was approved by Martin Lesser, the resident partner, who was also aware of Petersen's status in AGR. 4/ Petersen told Meslovich that the offering

---

2/ See A. T. Brod & Company, Securities Exchange Act Release No. 7139 (September 11, 1963); R. Baruch and Company, Securities Exchange Act Release No. 7138 (September 11, 1963); Sutro Bros. & Co., Securities Exchange Act Release No. 7053 (April 10, 1963).

3/ On April 19, 1961, we temporarily suspended the Regulation A exemption with respect to the AGR offering. The grounds for suspension included charges that the offering circular was false and misleading in failing to disclose, among other things, the activities of a principal stockholder in connection with the distribution of AGR stock, that the Form 2-A report contained false statements, and that the offering was made in violation of anti-fraud provisions of Section 17 of the Securities Act (See Securities Act Release No. 4357 (April 21, 1961)). No request for a hearing having been made, the suspension became permanent on May 18, 1961.

4/ The AGR offering circular disclosed that Petersen was the owner of 32,400 shares of AGR common stock or approximately 47% of the issued and outstanding shares of the company and owned more than twice as much AGR stock as the next largest shareholder.

had been "closed out" at 39,685 shares. When Meslovich questioned him about the sale of the additional 30,000 shares, Petersen merely replied that "they had been taken care of." About March 24, Petersen deposited 2,000 shares of AGR stock in his account and directed Meslovich to sell the stock at any price over 2¼. Those shares, which were issued in the name of the underwriter, were part of the 30,000 shares purportedly sold as part of the Regulation A offering. 5/ Meslovich obtained from Brod's cashier, who was also the back office manager, a determination that the shares were freely tradeable because they were properly stamped, the signature was guaranteed, and no restrictive legend appeared. From March 17 through March 27, 1961, Meslovich sold to the public the 2,000 shares together with at least an additional 1,000 shares of AGR stock purchased by him for Petersen's account.

It is clear that the offer, sale and delivery of AGR stock by Meslovich from Petersen's account violated Sections 5(a) and (c) of the Securities Act. No registration statement under that Act had been filed with respect to those shares, and no exemption from registration is claimed or appears to have been available. 6/ Meslovich was an underwriter within the definition of Section 2(11) of that Act since he sold the shares on behalf of a controlling person of the issuer. 7/

Meslovich contends that any such violations by him were not willful. He asserts that he relied on Lesser and the cashier and on the fact that the stock was being quoted in the sheets published by the National Quotation Bureau, Inc. He knew, however, that Petersen was a controlling person of AGR. In addition he knew that only 9,685 shares had been disposed of in the first four or five months of the offering. Under these circumstances he was on notice that Petersen's statement that 30,000 additional shares of AGR had been sold in the preceding two months was questionable. Moreover, he should have inquired as to the circumstances under which the 2,000 shares of AGR stock deposited by Petersen in his account had been issued in the name of the underwriter. Meslovich could not abdicate his own responsibility by reliance on Lesser, much less on the cashier. We conclude that his violations of Sections 5(a) and 5(c) of the Securities Act were willful, 8/ and that

---

5/ Pursuant to Petersen's instructions, the 2,000 shares, and 8,000 additional shares, had been issued on January 31, 1961 in the name of the underwriter and sight-drafted to a Washington bank to be picked up and paid for by Petersen. Neither he nor the underwriter paid for them but they were finally turned over about March 24, 1961 to Petersen who signed a receipt back-dated to February 16, 1961. The proceeds from the subsequent sale of the 10,000 shares were in part deposited in AGR's bank account.

6/ The burden of showing that an exemption from registration is available is on the person claiming such exemption. S.E.C. v. Ralston Purina Co., 346 U.S. 119 (1953); S.E.C. v. Culpepper, 270 F.2d 241 (C.A. 2, 1959).

7/ See Sutro Bros. & Co., supra, at p. 7 of cited Release.

8/ Cf. N. Pinsker & Co., Inc., 40 S.E.C. 285, 289 (1960); Gearhart & Otis, Inc., Securities Exchange Act Release No. 7329, pp. 8-9, 34 (June 2, 1964), aff'd 348 F.2d 798 (C.A.D.C., 1965).

he also willfully aided and abetted violations of Rule 17 CFR 240.10b-6, under Section 10(b) of the Exchange Act, which proscribes bids for a security while distributing such security. During the period of Meslovich's participation in the distribution of AGR stock, Brod entered bids for the stock in the sheets and Meslovich must have been aware of such bids. 9/

Notwithstanding our findings against Meslovich, we do not think that the public interest requires his being completely barred from the securities business. We consider his reliance on Lesser, while not precluding our findings of willful violations, a mitigating factor in view of Meslovich's relative inexperience and the inadequate training he received at Brod. 10/ Accordingly, we conclude that our findings shall not in and of themselves be a bar to the employment of Meslovich in the securities business in a non-managerial capacity upon an appropriate showing that such employment will be adequately supervised.

Eugene Tucker

Tucker was employed by Baruch as a securities salesman for about five or six months from the end of February 1961. In March and April of that year he sold a total of 1,380 shares of AGR stock to customers at prices ranging from 6½ to 20, and in the course of his sales efforts made false and misleading representations.

Tucker variously told three customer-witnesses that AGR stock "was getting hot and starting to move," that AGR might go to 100 and split 10 for 1, that the stock "was going to perform fabulously in the short-term future" and split five for one when it got to 50, that AGR had sold five franchises at $500,000 each, that with its $100,000 profit per franchise AGR would have 1961 earnings of $6 per share, and that AGR stock would "be driven" to 35 or 40, would then split 5 for 1, and would eventually go to 90.

In addition, Tucker participated in arranging for the publication of two false and misleading newspaper articles concerning AGR in April 1961, which stated, among other things, that the company had "$5½ million franchises" to its credit, that "astronomical earnings" were predicted for the coming year, and that the stock had risen because the 39,000 trading shares outstanding were inadequate to meet the demand of persons recognizing the value of the company and its future earnings. 11/ Tucker also arranged to have his customers receive a market letter dated May 18, 1961, issued by Petersen, who was then president of AGR, which referred to AGR as a "successful and profit-making company" with a "unique process" for producing a disease-free pork product.

All these extravagant statements and predictions had no basis in fact. The offering circular listed, as of August 3, 1960, current assets of only $9.15 and current liabilities of $16,389. It stated

---

9/ See Shearson, Hammill & Co., Securities Exchange Act Release No. 7743, pp. 10-11 (November 12, 1965).

10/ See N. Pinsker & Co., Inc., supra.

11/ Contrary to Tucker's assertion, our previous findings that others also participated in arranging for the publication of these articles are in no way inconsistent with findings against Tucker in this regard.

that AGR had not yet begun operations and that, unless substantially all of the shares being offered were sold, the company would not only be unable to engage in its proposed business but its principal asset, heavily mortgaged real estate, might be lost through foreclosure sales. It further stated that the success of the venture, if commenced, would depend on the market price of pork which at that time was at a four-year low, and, as a result of oversupply, was not likely to rise in the foreseeable future, and that it was "unknown at this time" whether the company would be able to compete successfully with existing pork suppliers. Moreover, the record shows that AGR's process for producing its pork product was not unique.

AGR entered into only two franchise agreements under which each franchise holder was firmly committed to purchase only 330 pigs at a total price of $38,250. 12/ AGR also entered into a construction contract to build certain facilities for one of the franchise holders for $159,000. As of August 31, 1961, the projected loss to AGR on the construction contract was over $28,500. As of the same date, AGR had current assets of $87,347, current liabilities of $339,178, and an earned surplus deficit of more than $425,000.

Tucker argues that "predictions" cannot be false or fraudulent, that in any event he relied on false information furnished by his employer, and that he did not willfully violate the anti-fraud provisions of the securities acts since he was unaware he was misstating material facts. We have repeatedly pointed out that predictions of specific and substantial increases in the price of a speculative security within a relatively short period of time are inherently fraudulent and cannot be justified. 13/ And it is also well established that the making of representations to prospective purchasers without a reasonable basis, couched in terms of either opinion or fact and designed to induce purchases, is contrary to the basic obligation of fair dealing of those who sell securities to the public. 14/

Tucker's claims that he did not know he was misstating material facts and merely relied on information supplied by others are clearly specious. He had read the AGR offering circular, and its financial statement as of May 15, 1960 was the only financial statement of the company he had ever seen. He also knew that the AGR offering had just been terminated because less than 1/3 of it could be sold. Though he admittedly told customers that AGR might go to 90 and split 4 for 1 at 40, he did not inform them of the bleak financial picture disclosed by the offering circular or the consequences it predicted if the offering were not substantially sold. Tucker never saw the AGR franchise

---

12/ The franchise holders were each obligated to purchase an additional 700 pigs but only if their sales through AGR of pigs produced by the 330 pigs initially purchased reached a certain level.

13/ See, e.g., Arnold Securities Corp., Securities Exchange Act Release Release No. 7813, p. 4 (February 7, 1966); Albion Securities Company, Inc., Securities Exchange Act Release No. 7561, p. 3 (March 24, 1965).

14/ See, e.g., Mac Robbins & Co. Inc., Securities Exchange Act Release No. 6846, p. 4 (July 11, 1962) aff'd sub nom. Berko v. S.E.C., 316 F.2d 137 (C.A. 2, 1963); J. A. Winston & Co., Inc., Securities Exchange Act Release No. 7337, p. 6 (June 8, 1964); N. Pinsker & Co., Inc., 40 S.E.C. 285, 291 (1960).

agreements and based his predictions of a $100,000 profit per contract and a stock split on "office hearsay" and his own surmise. 15/

Tucker also asserts that two of the customers who testified against him were experienced investors who were only interested in speculative stocks and did not rely on him in making their purchases. He also states that the testimony of the customer-witnesses must be weighed in the light of the fact that they lost money on AGR, and he complains that one witness was permitted to refresh his memory on the basis of a letter written about a year after his AGR purchase, and another on the basis of a deposition taken two months after the transaction in question, while the third purported to testify without the aid of any records or memoranda as to conversations which had occurred three years earlier.

The fact that a customer is a sophisticated investor or usually deals in speculative securities cannot excuse fraudulent representations made to him. 16/ Moreover, it is well established that it is unnecessary to show reliance on such representations or that the customer was in fact misled in order to establish violations of the anti-fraud provisions. 17/ And merely because a customer may have lost money or testified without a memory aid is no reason for rejecting his testimony, especially where, as here, the representations made to the customers bear a striking similarity and Tucker himself has admitted making statements of the same general character. 18/ The hearing examiner heard and observed the witnesses and determined to credit their testimony. Finally, a memorandum used by a witness to refresh his memory need not be a closely contemporaneous account of the circumstances it describes. 19/ We are satisfied that the hearing examiner properly exercised his discretion in this regard.

Nor can we accept as evidence of Tucker's asserted good faith the fact that he sold AGR stock to relatives. His willingness to risk

---

15/ Tucker objects to the admission into evidence of pre-hearing testimony he gave to our staff under oath, on the grounds that it was given without benefit of counsel and also because he was available to testify at the hearings. However, prior to giving the testimony in question, he was specifically advised of his right to counsel and, at the hearings, he refused to testify, claiming his privilege against self-incrimination. In any event, admissions in his prior testimony were clearly admissible against him.

16/ Underhill Securities Corporation, Securities Exchange Act Release No. 7668, p. 6 (August 3, 1965); Hamilton Waters & Co., Inc., Securities Exchange Act Release No. 7725, p. 6 (October 18, 1965).

17/ See Hamilton Waters & Co., Inc., supra, at p. 6 of cited Release, and cases there cited.

18/ See A. J. Caradean & Co., Inc., Securities Exchange Act Release No. 6903, p. 4 (October 1, 1962).

19/ See 3 Wigmore, EVIDENCE, § 761, pp. 105-8 (3rd ed. 1940); Fanelli v. United States Gypsum Co., 141 F.2d 216, 217-18 (C.A. 2, 1944); Dowling Bros. Distilling Co. v. United States, 153 F.2d 353, 360-1 (C.A. 6, 1946), cert. den. 328 U.S. 848.

his relatives' funds on the basis of the information he had available provides no license for the fraudulent representations he made to induce purchases. 20/

We conclude that Eugene Tucker willfully violated or aided and abetted violations of Section 17(a) of the Securities Act and Sections 10(b) and 15(c)(1) of the Exchange Act and Rules 17 CFR 240.10b-5 and 15c1-2 thereunder, and that he is a cause of the revocation of Baruch's broker-dealer registration.

Bernard Hammett

Hammett, an attorney who was named as a respondent in the proceedings instituted against both Brod and Baruch, first met Petersen in 1957 or 1958, and subsequently performed legal services for both Petersen and AGR. The record indicates that in late December 1960, Hammett discussed with Petersen the sale of AGR shares which were the subject of the Regulation A offering. Subsequently, at an AGR stockholders' meeting in Denver on February 14, 1961, Petersen stated that he had sold additional stock to friends, contingent on the offering being closed immediately, and exhibited checks in payment therefor, including two from Hammett covering 10,000 shares. Three days later, as previously noted, AGR filed a Form 2-A report stating that the offering had been terminated on February 14 after sale of 39,685 shares. This figure included 10,000 shares nominally sold to Hammett. Payment on Hammett's checks was refused because of insufficient funds, and he never paid for the 10,000 shares which were issued to him. When he received the shares of AGR stock, he sold half of them through Baruch and half through Brod, turning over the entire proceeds of his sales to Petersen. It is clear that Hammett served as a temporary repository of unregistered AGR shares in order to assist Petersen in effecting their distribution in violation of Section 5 of the Securities Act, and we find, as did the hearing examiner, that Hammett's activities played an important part in such unlawful distribution.

The examiner denied a motion by Hammett to dismiss the proceedings as to him on jurisdictional grounds. Although the examiner found that Hammett was neither a controlling person of nor controlled by Brod or Baruch and did not come within the classes of persons enumerated in Section 15(b) of the Exchange Act pursuant to which these proceedings were instituted, 21/ he considered that jurisdiction was conferred by Section 15(b)(7) of the Exchange Act. That section, which was added to the statute in 1964 after these proceedings were instituted, specifical provides that we may find violations by and impose appropriate sanction as to all persons. We do not consider it necessary to address ourselve to these jurisdictional questions, which will not arise in future cases

---

20/ Cf. Shearson, Hammill & Co., Securities Exchange Act Release No. 7743, pp. 21-22 (November 12, 1965).

21/ Section 15(b) of the Exchange Act provided in relevant part: ". . . The Commission shall . . . revoke the registration of any broker or dealer if it finds that such revocation is in the public interest and that . . . (2) any partner, officer, director or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), or any person directly or indirectly controlling or controlled by such broker or dealer . . . (D) has willfully violated any provision of the Securities Act of 1933 . . . or of this title, or of any rule or regulation thereunder . . ."

There is no indication that Hammett has any present intention to engage in the securities business and under the circumstances these proceedings may be discontinued as to him. Should he, however, seek to engage in such business in the future, proceedings may be instituted against him pursuant to Section 15(b), as amended, on the basis of the conduct we have found in the instant case.

Fairfax Investment Corporation and Seraphim & Company, Inc.

The gist of the allegations against Fairfax and Seraphim is that these firms had associated with them individual respondents charged with violations of the securities acts in connection with their transactions in AGR stock while employed by Brod or Sutro.

Neither Fairfax nor Seraphim appeared in these proceedings. The hearing examiner found that both were out of business and that there was no evidence that any effort was being or would be made to reactivate them. The Division has requested that their broker-dealer registrations be cancelled.

Under the circumstances, we shall enter an order pursuant to Section 15(b) of the Exchange Act cancelling the broker-dealer registrations of Fairfax and Seraphim.

Other Matters

Both Tucker and Meslovich claim they were denied due process because of the length of these proceedings. In this connection, Tucker has renewed his motion, previously denied by the hearing examiner, to dismiss the proceedings on the ground of undue delay. The Commission by order of June 22, 1964, denied Tucker's application for review of the examiner's ruling. That order pointed out that the proceedings had extended over a relatively long period because of the vigorous defense made by various respondents, settlement negotiations with certain respondents, motions by the parties raising complex and novel questions, and a quorum problem resulting from the non-participation of two Commissioners and the resignation of a third. More particularly, the order referred to Tucker's joinder in a motion to determine whether certain Commissioners should be disqualified and the proceedings dismissed because of the decision in Amos Treat & Co. v. S.E.C., 306 F.2d 260 (C.A.D.C., 1962), the termination of the proceedings and the institution of the present proceedings without the participation of the challenged Commissioners, the controversy over the staff's motion to introduce into evidence the record of the prior proceedings, and the lack of a quorum over a period of about six months following the resignation of a third Commissioner. With respect to Tucker's contention that consolidation of the proceedings contributed to the delay, the order observed, as stated in Siltronics, Inc., 22/ that "common questions of law or fact justify consolidation under our rules and outweigh the possible inconvenience to [the respondents]."

We note further that after the hearings were concluded on July 23, 1964, requests by various parties for extensions of time within which to file proposed findings and briefs with the hearing examiner, including two such requests by Meslovich and three by Tucker, were granted. Tucker and Meslovich finally filed their proposed findings and briefs in February 1965. Our staff filed a reply brief in March 1965, and the hearing examiner, with a voluminous record to analyze,

---

22/ Securities Exchange Act Release No. 7150, p. 6 (September 30, 1963).

filed his recommended decision in August 1965. 23/ Thereafter, a request by Tucker for additional time within which to file exceptions to this decision was granted as to all parties, and oral argument was scheduled and presented.

Under all the circumstances we do not think that Tucker and Meslovich, who contributed to the delay, should be heard to complain of the length of the proceedings. 24/ Moreover, while they assert that the delay caused witnesses in their behalf to become unavailable, neither has indicated who those witnesses were or the nature of their proposed testimony. We reject the contention that a denial of due process occurred and deny Tucker's motion to dismiss the proceedings as to him.

Tucker again raises the question of whether it was proper to admit into evidence the record of the prior proceedings. We reaffirm our previous orders approving its admission. 25/ In any event, since none of our findings against Tucker (except those relating to the actual condition of AGR during the period in question which Tucker does not challenge) are based on evidence contained in such prior record, Tucker has no cause for complaint.

Finally, Meslovich objects to the admission into evidence of "hearsay" and "irrelevant and immaterial testimony" for the purpose of furnishing background material both in the prior proceeding and the present one. Meslovich has not complied with Rule 18 of our Rules of Practice which requires that an exception relating to the admission of evidence specify "the substance of the evidence admitted . . . with appropriate references to the transcript." We note, moreover, that the generally accepted view favors liberality in the admission of evidence in administrative proceedings, and all evidence which "can conceivably throw any light upon the controversy" at hand should normally be admitted. 26/ Although such evidence might be inadmissible at a jury trial, it is not weighed by a jury, which could be unduly influenced, but by a hearing examiner who is legally trained and judicially oriented. 27/ In any event, our findings against Meslovich are based on what we consider "reliable, probative and substantial evidence," as required by Section 7(c) of the Administrative Procedure Act. 28/

23/ Tucker asserts that the examiner's recommended decision is not properly before us since it was due on or before July 1, 1965 and the examiner failed to obtain an extension of time for filing it. However, the record shows that we had granted the examiner an extension on June 30, 1965.

24/ See Transamerica Corporation, 10 S.E.C. 454, 456-59 (1941); Russell L. Irish, Securities Exchange Act Release No. 7687, pp. 8-9 (August 27, 1965).

25/ See Siltronics, Inc., supra, at pp. 3-5 of cited Release.

26/ Samuel H. Moss, Inc. v. F.T.C., 148 F.2d 378, 380 (C.A. 2, 1945), cert. denied 326 U.S. 734.

27/ See Clinton Engines Corporation, Securities Act Release No. 4585, p. 3 (March 4, 1963), and cases there cited.

28/ We also reject Meslovich's further contention that he was not adequately informed of the charges against him. The order for proceedings recited such charges in specific detail. (Continued)

Accordingly, IT IS ORDERED that the registrations as brokers and dealers of Fairfax Investment Corporation and Seraphim & Company, Inc. be, and they hereby are, cancelled; that these proceedings be, and they hereby are, discontinued as to them; and that these proceedings be, and they hereby are, discontinued as to Bernard Hammett; and it is found that Eugene Tucker is a cause of the order of the Commission, entered on September 11, 1963, revoking the registration as a broker and dealer of R. Baruch and Company. It is further found that the findings against John Meslovich shall not in and of themselves bar his employment in the securities business in a non-managerial capacity upon an appropriate showing that he will be adequately supervised.

By the Commission (Commissioners OWENS, BUDGE and WHEAT), Chairman COHEN and Commissioner WOODSIDE not participating.

Orval L. DuBois
Secretary

---

28 contd./

To whatever extent the exceptions to the recommended decision of the hearing examiner involve issues which are relevant and material to our decision, we have by our findings and opinion sustained or overruled such exceptions to the extent that they are in accord or inconsistent with the views herein.