



SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

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Office of

May 12, 1971

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Senator John Sparkman

Honorable John Sparkman
Chairman, Committee on Banking,
Housing and Urban Affairs
United States Senate
Washington, D. C. 20510

Dear Senator Sparkman:

Thank you for your letter of May 11 about the continuation of the stock surcharge.

For the few weeks I have been here, I have been impressed by the number of pending decisions which will affect the securities industry and its ability to service the investor, as well as the degree to which these issues are interrelated. These issues include: (1) the stock surcharge; (2) the new Commission rate schedule which the Exchange is due to submit by June 30; (3) steps to see that brokerage firms have more adequate and more permanent capital; and (4) the need to require that brokerage firms establish cash reserves to protect the free credit balances of their investors.

We are hopeful that we will have enough information early next month to begin our determination as to how and when these matters can be resolved in a way which will protect the investor and maintain the ability of the industry to serve him.

Honorable John Sparkman

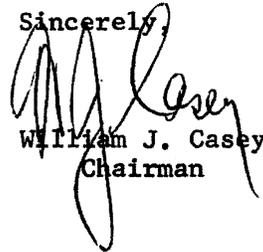
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Whenever you would like to discuss these matters, I will be more than happy to come and see you.

Incidentally, for your further information, I am enclosing a copy of my response to the questions which Congressman Moss raised about the continuation of the surcharge. The Times article, which you mentioned in your letter, was based on this letter of mine to Congressman Moss.

With best regards.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. J. Casey', is written over the typed name. The signature is fluid and cursive, with a large loop at the end of the last name.

William J. Casey
Chairman

May 12, 1971

Honorable John E. Moss
Chairman, Subcommittee on
Commerce and Finance
Committee on Interstate
and Foreign Commerce
House of Representatives
Washington, D. C. 20515

Dear Mr. Moss:

Thanks for yours of May 4. I'm sorry it took so long to respond to your April 7 letter. The Commission took it very seriously and wanted to give you carefully considered views based on the latest available information. We will make every effort to respond to your inquiries more promptly.

Our conclusion that the orders of the small investor are no longer being widely neglected is based on a sharply diminished number of complaints and on the assurances of the exchanges and of firms which had been charged with avoiding the execution of small orders. In addition, you will recall that the public hearings of last July confirmed on the record that transaction size and other limitations on small investor accounts had been removed. Restrictions of this kind have not been reintroduced.

The Commission has always considered it inappropriate for it to determine how a firm compensates its salesmen. We are concerned that requiring firms to pay more to salesmen on small orders could permanently

increase the cost of handling small orders and generate other problems. For example, some might think that suitability questions arise where a salesman actively solicits (as opposed to passively accepting and executing) transactions from investors who have only very small sums to invest.

The monitor data for March was unusually late. Normally, the data is not available to the New York Stock Exchange until the last week of the succeeding month. A principal factor in the delay is that most firms do not close their books until the 15th of the following month. Accordingly, complete returns are not available to the Exchange for processing until the 20th of the following month. Processing of these forms, where no errors exist, normally would take two days. In the month of March, we have been informed by the Exchange staff there were more keypunching errors than usual and there were other processing delays resulting from the absence of key personnel. Also when errors are detected through the edit checks, reference must be made back to the reporting firm and such errors corrected before tabulations are made. These tabulations as well as listing of individual firm profit figures are then forwarded to the Commission. Accordingly, the March data was delayed and has just been received. Normally, receipt by the Commission would occur sometime during the last week of the following month (e.g., the last week of May in the case of April data). At a somewhat later date updated computer tapes are received containing individual firm data.

We thoroughly agree with you that, as you put it, "any determination to terminate the surcharge would have to be based not only upon the monitor data but also ..." upon the essential requirement to preserve or maintain the financial responsibility of the

broker-dealer community with a view to their adequate service to the small investor. The additional two months' data is intended to provide further confidence that the financial condition of the securities industry has improved and add to the ability of the Commission to evaluate the relative status of the industry in light of the fundamental goal which you share with us of the need to maintain the financial health of the securities industry.

Again, we agree with you that the Commission should make a clear public showing of the reasons for its final determination with respect to the continuance or termination of the surcharge. We assure you that we will proceed in that way and we appreciate this opportunity to look ahead with you.

Sincerely,

William J. Casey
Chairman