

SURFACE POUCH  
PRIORITY

LIMITED OFFICIAL USE  
with UNCLASSIFIED Section  
(Security Classification)

FOREIGN SERVICE DESPATCH

FROM : CONSULATE GENERAL, TORONTO, CANADA 95  
DESP. NO

TO : THE DEPARTMENT OF STATE, WASHINGTON. November 17, 1954  
DATE

REF :

SUBJECT: Ontario Securities Commission Revokes Requirement that Ontario Brokers  
Comply with SEC Regulations Before Offering Securities for Sale in the  
United States.

BEGIN UNCLASSIFIED

There is enclosed a copy of a statement issued yesterday by Chairman O. E. LENNOX of the Ontario Securities Commission (OSC) containing the announcement that the Commission has decided to discontinue its policy of requiring Ontario brokers and dealers in securities, particularly of the unlisted category, to comply with SEC regulations concerning registration, especially Regulation D\*, when offering securities to persons in the United States. Such a requirement was established by the Commission on a trial basis in a directive of March 26, 1953 upon the issuance of Regulation D by the Securities and Exchange Commission in Washington.

It will be noted that Mr. Lennox also indicates in his statement that the discontinuation of the above-mentioned requirement does not mean that OSC will tolerate reversion to the practices and abuses which were employed by some brokers or dealers in Ontario in the selling of speculative securities to residents of the United States prior to 1953, and which have since cropped up in Montreal.

END UNCLASSIFIED

BEGIN LIMITED OFFICIAL USE

Mr. Lennox's announcement of this change in policy caught the local financial community by surprise although the possibility of such action was hinted in the press last week as a result of publicity given to a pamphlet titled "It's Your Money" which was written by G.

---

\* Regulation D exempted from the registration requirements of the Securities Act of 1933 offerings of securities, not exceeding \$300,000 in any one year, made by Canadian issuers or by domestic issuers having their principal business operations in Canada.

GJHaering:CEBartch:mef  
REPORTER

Retain in div

LIMITED OFFICIAL USE  
with UNCLASSIFIED Section

tions.

LIMITED OFFICIAL USE (Cont'd)

Keith FUNSTON, president of the New York Stock Exchange. While Mr. Funston's pamphlet was evidently intended to warn the public against "stockateering" in Canada outside the Province of Ontario, and particularly in Montreal, it was apparently felt locally that this distinction was not emphasized sufficiently and that the pamphlet created the impression that the American public should be careful about offerings from Canada in general, inclusive of Ontario broker-dealers. Today Mr. Lennox informed the undersigned that he believed the Toronto press queried brokers and dealers concerning their reaction to the Funston article with the result that some of the criticisms contained in his own statement were brought to light. He, himself, was quoted in the Toronto Star (Liberal) of November 9 as saying that it is a "distressing fact" that American investors were being swindled at home without any outside assistance. His Commission had adopted drastic policies and disciplinary measures but American corporations recently formed for the purpose of acquiring Canadian mining claims which entitled them to sell stock in the United States under Regulation D and put out promotional matter that had placed Canadians in a position of having to take the blame for the practices of these concerns.

On the same date the Star commented editorially on the Funston article. It was pointed out that Canadian prosperity leans heavily on American investments, which are, "playing a major role in our resource development". The newspaper warned that the flow of such funds might be discontinued unless prompt steps were taken to rid the country of the unscrupulous promoters referred to by Funston. The newspaper called for prompt action on the part of the Quebec authorities, while warning that government measures are no substitute for action by the brokers themselves.

The Telegram (Progressive Conservative) of November 9 contained an editorial on its financial page which commented favorably on the views expressed by Mr. Lennox and stated there was no reason for Ontario to prevent the sale of honest speculative stocks in the United States, but that the United States authorities should police their own regulations. The editorial concluded that:

"Strict enforcement of Ontario securities laws is enough for now. If dealers want to cross the border with their Ontario-approved wares, and we are sure the deal they're offering is a fair one, then let them do so. If they break United States laws designed to hamper Canadians while Americans clean up, then let the Americans deal with that situation. It will be one of their own making."

The Globe and Mail (Progressive Conservative) ran a series of three articles from November 11 to 13, which were critical of the results of Regulation D. An unnamed "spokesman for Ontario brokers" was quoted as saying that he "was sorely tempted to believe that the SEC authorities do not really want our broker-dealers infringing on the territory of their own financial groups." The same source was also reported to have said that "It is a known fact that a mail representation by one of our broker-dealers was sabotaged by post offices in the United States".

LIMITED OFFICIAL USE (Cont'd)

Attitude of Chairman Lennox

In today's conversation with the undersigned, Mr. Lennox indicated that it had been necessary to issue his statement and make a change in policy on short notice because (1) the reaction to the Funston pamphlet had brought to public notice the fact that compliance with Regulation D has failed to provide the promised facilitation of trading in Ontario offerings across the border and (2) there was reason to believe that some Ontario brokers had in mind taking advantage of the fact that SEC would permit offerings or circulars to be made in the United States even though they might not stand up to OSC standards.

Mr. Lennox said that the foregoing and other reasons had placed OSC in a position where it had no alternative other than that of ending its trial enforcement of SEC regulations with respect to across-the-border offerings from Ontario. Lennox expressed regret that it had been necessary to take this action without previous notification to SEC and the authorities of states, including New York, with which Ontario had reached reciprocal understandings on an informal basis. He pointed out, however, that in August he had informed visiting SEC representatives of the problems referred to in his statement, and that in late September he had attended meetings in the United States at which he had again tried to impress SEC representatives and other appropriate persons with the serious possibilities of the situation.

He went on to say that he had returned with some hope that an improvement would develop but in October some broker-dealers and attorneys for others had presented him with briefs of complaints regarding the delays and obstacles they were experiencing in their efforts to make offerings in the United States.

With regard to the Funston pamphlet, he expressed appreciation of the favorable references made to his own views but also expressed the opinion that insufficient differentiation had been made between Ontario and Canada as a whole. Furthermore, the pamphlet failed to deal with activities of firms incorporated in the United States, especially in Delaware, for the purpose of promoting the sale of securities based on "moose pastures" in Canada under Regulation D. He said the average American was likely to get the impression that care should be taken in regard to any offering of stock related to Canada without differentiating between offerings from Ontario and those emanating from sources where regulation is not as strict or is entirely lacking. He added that he believed Mr. Funston would agree with the views expressed in his statement.

With regard to possible developments resulting from OSC's nonenforcement of compliance with American regulations, Mr. Lennox indicated that the Commission would have ways and means of preventing a reversion to past abuses in the solicitation of residents in the United States by "stockateers" who might try to operate from Ontario. He said that any persons applying for registration as brokers or dealers would be carefully screened and that appropriate

LIMITED OFFICIAL USE (Cont'd)

arrangements would be made to keep under observation any efforts to engage in mass mailing or telephoning across the border. He admitted that action on telephonic solicitations might be handicapped in consequence of difficulties which might arise with regard to the use of evidence.

Mr. Lennox expressed the hope that a way would be kept open in the United States for a cooperative solution to the problems to which he referred in his statement but said he had no formula at the moment. He spoke at considerable length of the desirability of state acceptance of SEC registration and clearance in order to eliminate the duplicated expense of registration of offerings in individual states. He indicated that OSC would continue to exchange information with SEC and state authorities.

In the course of his conversation, Mr. Lennox gave the impression that he had felt [ ] at times by the treatment he had received in the past from former SEC officials. He referred to several occasions on which he had journeyed to the United States to speak with a former SEC official but had been unable to see him. He said that on one of these occasions an engagement had been agreed upon well in advance of his visit but the official in question had not put in an appearance and no explanation had been given. It is interesting to note in this connection that the previously mentioned editorial in the Toronto Telegram of November 9 contained the following statements:

“Mr. Lennox has been a very patient man with mudslingers. He has taken a lot of abuse from local promoters because they thought he favored the Americans. He knew better, but he kept his own counsel and pursued his course of action without time off to protect himself from that unfair attack.

“Mr. Lennox also has taken a lot of abuse on official visits to the U.S., and there also he pursued the wise policy of swallowing his bitterness and working quietly toward his goal—the promotion of a sound relationship between mine-maker, stock seller and stock buyer.”

Reaction in Brokerage Circles

Judging by comments of representative members of the Broker-Dealers' Association and the Toronto Stock Exchange, the position taken by Mr. Lennox has widespread support in local brokerage circles. It appears that dissatisfaction with the application of SEC regulations really commenced to become acute last month, the major reason probably being the continued dwindling of sales of securities from Ontario across the border presumably as a result of competition from unregulated dealers in Montreal and from corporations in the United States offering stock based on their mining claims in Canada. Unfulfilled hopes that the visit of Mr. Lennox to the United States at the end of September would soon be followed by the elimination of procedural delays in the clearance of across-the-border offerings were probably also factors contributing to the growing dissatisfaction of Toronto brokers and dealers. Other irritants were

LIMITED OFFICIAL USE  
with UNCLASSIFIED Section  
*(Classification)*

LIMITED OFFICIAL USE (Cont'd)

also involved; among them were reports of the nondelivery to addressees in the United States of mail containing material conforming with SEC regulations and of an allegedly overmeticulous warning from the United States regarding advertisements in a prominent Canadian periodical which has a number of American subscribers.

According to Williams M. WISMER, Executive Secretary and General Counsel of the Broker-Dealers' Association of Ontario, the only immediate development in prospect so far as members of his organization are concerned will be the resumption of their contacts with former clients in the United States. He said that the association would continue to be selective in its approval of broker-dealer applications and would deal appropriately with any cases involving sharp practices.

Conclusion

The prevailing opinion in interested local quarters is that for the time being the United States will maintain a wait-and-see attitude in regard to OEC's change in policy. There has been some indication of an undercurrent of concern among brokers that the present situation may eventually lead to the creation of a federal Canadian Securities Commission. Such a possibility is envisioned if the United States were to take up at a federal level at Ottawa the matter of having compliance with American laws enforced in Canada in the case of across-the-border offerings and the Canadian government were to accede to such a request on condition that Regulation D and procedures thereunder are geared to meet present Canadian objections. Whether or not Mr. Lennox has had in mind such a possibility could not be ascertained from today's conversation with him.

Whatever the considerations may have been that motivated Mr. Lennox's action, it appears that his statement and the change in OEC policy with regard to offerings in the United States are generally endorsed by the financial community in Toronto. He is inclined to be schoolmasterish at times and is difficult to fathom, but it would seem to be in our interest to give him the impression that he is considered important. There is reason to believe that appropriate gestures in his direction will promote effective cooperation on his part in the prevention of "stockateering" from Ontario even though compliance with SEC regulations is no longer formally enforced by OSC.

END LIMITED OFFICIAL USE

George J. Haering  
Consul General

Enclosure:  
Ontario Securities Commission  
Statement.

LIMITED OFFICIAL USE  
with UNCLASSIFIED Section