

CHAIRMAN'S OFFICE  
MAILED

OCT 3 1960

Honorable Oren Harris, Chairman  
Committee on Interstate and Foreign  
Commerce  
House of Representatives  
Washington 25, D. C.

Signed by: \_\_\_\_\_

Dear Mr. Harris:

On June 30, 1959, I wrote to you for the purpose of advising you of the fact that the backlog of investigations in our New York Regional Office was such that it would be impossible for the staff of that office to pursue all of these matters with any promptness and consequently it would be necessary to close certain of these cases without a determination that no actionable violations had occurred.

In your reply to me dated July 24, 1959, you expressed concern over this situation and requested a report of cases closed under this procedure. I enclose a memorandum from our Division of Trading and Exchanges discussing the cases which may be regarded as having been closed under this procedure during the fiscal year 1960. I trust that this will supply the information that you desire.

I realize that you desired to have this report as of September 30, 1959. We concluded, however, that a report as of that time would not be informative because of the very limited use made of the procedure up to that date. This circumstance has been discussed with members of the staff of your Committee.

Sincerely yours,

Edward N. Gadsby  
Chairman

Enclosure

MEMORANDUM PREPARED BY THE DIVISION OF TRADING AND  
EXCHANGES, SECURITIES AND EXCHANGE COMMISSION, CONCERNING  
CLOSING OF CASES IN THE NEW YORK REGIONAL OFFICE DURING  
THE FISCAL YEAR 1960

On June 15, 1959 the Division sent a memorandum to the Commission advising the Commission of the fact that, due to the pressure of enforcement work in the New York Regional Office, that office might find it necessary to close certain cases without a definite determination that no actionable violations existed which upon complete investigation might justify enforcement action. This procedure would be applicable where, due to the pressure of enforcement matters involving a greater public interest, there appeared no likelihood that the particular case could be developed to the point of enforcement action within any reasonable time.

Under date of June 30, 1959, Chairman Gadsby transmitted a copy of this memorandum to Honorable Oren Harris, Chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives for the information of that committee.

On July 24, 1959, Congressman Harris wrote to Chairman Gadsby expressing concern over this situation and requesting a report as to the closing of cases under this procedure. This memorandum has been prepared in response to that request.

During the fiscal year 1960 an aggregate of 215 docketed and preliminary investigations in the New York Regional Office were closed. 18 of these closings represented the closing of preliminary investigations by their conversion into docketed cases, leaving a balance of 197 cases finally closed.

Of the 197 cases so closed, ten may be deemed to have been closed pursuant to the procedure outlined in the Division's memorandum of June 15, 1959. These cases are as follows:

1. Vanguard International Corp., File NY-3211

This case was opened on April 22, 1959, following a complaint that one Leo Spellman, president of the company, had been causing the company to sell its shares without effective registration under the Securities Act of 1933, in possible violation of Section 5 of that Act. Investigation disclosed that shares had been sold to the two principal officers of the company, to certain of their relatives, friends and business associates, and to six employees. Counsel for the company was of the opinion that these sales were exempt under Section 4(1) of the Securities Act as "transaction by issuer not involving any public offering". The New York Regional Office was not satisfied that this opinion was correct, but concluded

not to pursue the matter in view of the fact that this appeared to be a borderline case under Section 4(1), and that there was no evidence of fraud in the matter. The case was accordingly closed on September 25, 1959.

2. Jay W. Kaufmann & Co., File NY-2990

This case was opened on April 29, 1957 to investigate possible violations of the registration provisions of the Securities Act of 1933 in the sale of the stock of Basson Industries Corp. It appeared that certain stock purportedly taken for investment which had been pledged to Kaufmann as security for loans had been sold, without registration, to satisfy the loans. Subsequently, the scope of the inquiry was extended to include possible violations of the anti-fraud provisions of the Securities Act because of sales by Kaufmann at about the time Basson Industries filed for reorganization under Chapter X of the Chandler Act. A limited investigation did not disclose sufficient evidence of serious violations on which any action could be based. Kaufmann ceased being a member of the American Stock Exchange after being suspended because of financial difficulties and ceased the sale of Basson's stock. The New York Office decided in view of its heavy workload and because of the pressure of matters having greater priority that further investigation should not be undertaken. The file was closed on May 11, 1960.

3. North American Endorsement Corp., File NY-3112

This case was opened on September 19, 1958 based upon possible violations of the anti-fraud and registration provisions of the Securities Act by the subject in connection with the sale of its promissory notes and mortgages, apparently in reliance on the intrastate exemption provided by Section 3(a)(11) of the Securities Act. A preliminary investigation disclosed the corporation had made offers to non-residents of the State of New York. The subject has ceased to do business, is in effect defunct and has made restitution to purchasers of its securities, after an inquiry by the Attorney General of New York. In view of the foregoing and in light of its workload of matters of higher priority, the New York Office recommended closing and the file was closed May 20, 1960.

4. Seaford-Mar Marina, Inc., File NY-3241

This investigation was opened on July 2, 1959 to determine whether the registration and anti-fraud provisions of the Securities Act had been violated by several New York broker-dealers in the sale of the Seaford-Mar Marina, Inc. stock. Subsequently, however, because of action taken on other grounds

by the Commission against the broker-dealers in question, N. Pinsker & Co., Inc. and A. J. Caradean & Co., Inc., the New York Office recommended that this matter be closed without further investigation, and it was closed May 24, 1960.

5. DuVal's Consensus, Inc., File NY-2091

On September 12, 1955, this investigation was instituted for the purpose of determining whether the subject had made false statements in literature recommending the purchase of Kristina Copper Mines stock and whether it had received consideration from the Canadian issuer or underwriter for touting the stock. Later the investigation was expanded to determine if the subject had also received consideration for touting Mid-Continental Uranium stock. A partial investigation was made of the matter but because of the pressure of other work it could not be completed. In view of the indictment of Pierre A. DuVal in the United Dye and Gulf Coast Leasehold cases and the age of this case, the investigation was closed on June 13, 1960.

6. Owen K. Taylor, Inc., File NY-2929

On August 29, 1956, this inquiry was initiated to determine whether this investment adviser was responsible for false statements in literature recommending the purchase of Basic Atomic stock and whether it was receiving consideration for its recommendations. From a partial investigation conducted it appears that there was some basis in fact for some of the more questionable representations made. In addition, the investigation failed to show any consideration was received for recommending the stock. The New York Office recommended the closing of this case because of its age and the fact that revocation proceedings were pending against the subject as a result of another investigation. The file was closed June 13, 1960.

7. Kirkland Minerals Corp. Ltd., File NY-PI

This case was opened on November 29, 1957 for the purpose of investigating the sale of Kirkland Minerals and Randex Corporation stock by R. B. Gravis & Co., Walker-Stevens, Inc. and Lincoln Securities Corp. Due to the heavy workload of the office, the case could not promptly be developed. However, the activities of the broker-dealers became the subjects of other investigations which resulted in actions against the principals. In view of the circumstances, this file was closed May 17, 1960.

8. North American Cigarette Manufacturers, Inc., File NY-PI

On November 26, 1958, this case was opened to look into possible violations of the registration and anti-fraud provisions of the Securities Act in the sale of the subject's stock. Subsequently, the investigation was broadened for the purpose of looking into the activities of Best Securities Inc. who had been selling the stock. The New York Office recommended closing the case without further investigation because of the broker-dealer revocation action brought against Best Securities Inc. by reason of alleged violations involving the sale of stock of another company. Accordingly, this investigation was closed on May 26, 1960.

9. Pan-Israel Oil Co., File NY-PI

On August 20, 1956, this file was opened to determine whether there had been violations of the registration provisions of the Securities Act in connection with the sale of the subject's stock. The initial investigation was supplemented when it appeared that a control person may have sold his personally owned stock with the result that a registration statement filed in connection with the subject's securities may have been false and misleading. Nothing was done on the supplemental assignment because of priority of other matters resulting from "boiler-room" investigations. The New York Office recommended that the file be closed because of the lack of public interest and the heavy workload of the office, and the file was closed on May 20, 1960.

10. The Old Hickory Copper Co., File NY-PI

A preliminary investigation was opened on February 28, 1956 when information was received by the New York Office that false representations may have been used in selling literature disseminated by two broker-dealers in the sale of Old Hickory Copper Co. stock. Shortly after preliminary inquiries were commenced in this case, other cases involving "boiler-room" operations took priority, with the result that the staff had to be diverted to these cases. The New York Office recommended closing based on the age of the case and the lack of public interest indicated by absence of complaints from the investing public. On March 24, 1960, the file was closed without having been fully investigated.

The following two cases perhaps may be deemed to also involve the procedure in question:

Keith Richards Securities Corp., File NY-3211

In this case the Commission, after an investigation, commenced an action in the United States District Court to enjoin violation of the net capital and bookkeeping rules by Keith Richards Securities Corp., a registered broker-dealer. In 1957 proceedings were instituted to revoke the registration of the firm primarily upon the basis of false representations to customers by salesmen of the firm concerning the stock of Arliss Plastics Company. On July 7, the Commission entered its findings and opinion revoking the registration of the firm. Consideration was given to the question of whether the investigation should be pursued with a view to possible criminal prosecution. It was concluded that, due to a relative lack of public interest and because of the pressure of matters having greater priority, such further investigation would not be undertaken and the case was closed on October 20, 1959.

Silver Crater Mines, Ltd., File NY-PI

The subject investigation was opened on August 6, 1956 for the purpose of determining whether the subject, a Canadian issuer, was offering and selling its securities in violation of the registration and anti-fraud provisions of the Securities Act and whether it should be required to register as a broker-dealer under the Securities Exchange Act of 1934. The extensive investigation which was conducted into this matter was handicapped by the fact that the principal subjects were outside the United States and the Commission was unable to obtain certain documentation due to Canadian law restricting removal of corporate records from that country. The investigation did reveal, however, that the funds received from the sale of the stock were remitted to the issuer and were used for corporate purposes. In addition, it appeared that the issuer was in receivership. The New York Office recommended closing based, among other things, upon the fact that the sales took place more than five years before. The investigation was closed on May 20, 1960.