

Congress of the United States

House of Representatives

Special Subcommittee on Investigations of the
Committee on Interstate and Foreign Commerce
Room 2323, Rayburn House Office Building
Washington, D.C. 20515

November 1, 1972

Honorable William J. Casey
Chairman
Securities and Exchange Commission
Washington, D. C.

Dear Mr. Chairman:

I have read your letters of October 20 and 25, 1972 concerning the International Telephone and Telephone Corp. matter.

Your letter of October 20 merely confirms my information that it was you, not the Department of Justice, who initiated the transfer of files from the SEC to the Department. Whether or not the formality of a request for these files was actually gone through, is, of course, immaterial. What is material is that you have sought to impede the legitimate Congressional oversight inquiry into the operations of your agency. This much is clear from all of the surrounding circumstances of this case, including the fact that no duplicates were made of the materials in question before they were turned over to the Justice Department. I must view this circumstance against the background of your representation to me that your staff was diligently continuing its evaluation of these materials. If this were in fact the case, it would seem that you have materially prejudiced your staff's ability to further pursue its investigation by transferring the files to the Department.

In my letter of October 13, I advised you that I had directed my staff to interview various employees of your Commission concerning this matter. My staff advises me that it has been impossible for them to carry out my directions because their initial attempts to interview an SEC employee was met with a refusal on his part. This refusal was based upon his assertion that he could not speak without permission from the Commission. My staff took up the question of securing such permission directly with your office. I take your letter of October 25, 1972 to be your response to that contact.

The substance of that letter is that your and the Commission's cooperation in this matter will depend upon my supplying you with some sort of a "more detailed idea" as to the subject matter my staff will pursue during its interviews with your employees. I must decline to establish a precedent that Congressional oversight can proceed only after negotiations and pre-clearance of such matters with the head of an agency which is the subject of the inquiry. The

legislative oversight responsibility which it is the duty of this committee to discharge is unequivocal. It requires that the standing committees of Congress evaluate the performance of the various regulatory agencies which the Congress has set up to administer the laws. This responsibility cannot be discharged if the extent and nature of Congressional inquiry is to be a matter of negotiation and debate between the Congress and the agency whose operations are to be examined. On this basis, I must decline your suggestion that we "work out an accommodation" on this matter.

In the particular matter at hand, I have advised my staff that their examination should cover all aspects of the SEC's handling of this case. This will include, but not be limited, to ex parte communications, administrative delay, possible prejudice of rights of recovery by potential litigants, inadequate disclosure under the Securities Act, Securities Exchange Act and the Investment Company Act, limitations on the scope of the investigation, adequacy and timeliness of action taken, mutual fund portfolio revaluation, trading in securities, and all other matters bearing upon the Commission's administration of the Federal securities laws.

By way of further clarification, my staff has been initially instructed to interview all of the following persons:

1. All Commissioners and their legal assistants.
2. Charles S. Whitman, III.
3. Ronald F. Hunt.
4. Irving M. Pollack.
5. Wallace L. Timmeny.
6. All persons signing the injunctive complaint, including G. Bradford Cook, Stanley Sporkin, Irwin M. Borowski, Richard E. Nathan, Ralph C. Ferrara and Kevin Duffy.
7. All staff members designated in the formal order to investigation, and any amendments thereto, as officers of the Commission for purposes of the investigation.
8. All persons in the Division of Corporation Finance involved in processing the registration statements of ITT, including Irving D. Borochoff and Matthew H. Epstein.

It may, of course, be necessary to interview additional personnel based on information developed in those interviews. You have expressed concern about "the possibility that any enforcement action which may be necessary could be jeopardized by publicity resulting from discussions between our staff and yours." As I pointed out in my letter of September 28, 1972, "any inference that the Subcommittee or any member thereof will misuse the materials in such a

manner as to injure the rights of any parties to future Commission action is to assume that we are unwilling to protect those rights. That is simply not the case.” We are concerned with the adequate and proper enforcement of the law and with protecting the legal rights of all parties. We both know that can be accomplished at the same time my staff conducts its examination.

In view of the prolonged delay which has already taken place in this inquiry, I shall expect an early and favorable response to this letter; specifically, it is requested that you advise me whether or not you will consent to the above-described interviews with members of the Commission and its staff. Your answer will allow us to determine our next course of action.

Sincerely,

HARLEY O. STAGGERS
CHAIRMAN