

TESTIMONY OF JOHN R. EVANS, COMMISSIONER.  
SECURITIES AND EXCHANGE COMMISSION  
BEFORE THE SUBCOMMITTEE ON COMMERCE, CONSUMER, AND MONETARY AFFAIRS  
OF THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

OCTOBER 20, 1981

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I WELCOME THIS OPPORTUNITY TO RESPOND ON BEHALF OF THE SECURITIES AND EXCHANGE COMMISSION TO THE IMPORTANT QUESTIONS THAT HAVE BEEN RAISED REGARDING THE COMMISSION'S POWER TO INVESTIGATE ALLEGATIONS OF INSIDER TRADING IN ANTICIPATION OF CORPORATE TAKEOVERS.

WITH ME TODAY ARE:

WE HAVE BEEN REQUESTED TO RESPOND TO A NUMBER OF QUESTIONS THAT RELATE TO ALLEGATIONS RECENTLY RECEIVED BY THIS SUBCOMMITTEE OF TRADING BY INSIDERS IN STOCK OPTIONS FOR SANTA FE INTERNATIONAL CORPORATION, IN ANTICIPATION OF A TAKEOVER OF THAT COMPANY BY KUWAIT PETROLEUM CORPORATION. AS OUR STAFF HAS INFORMED YOU, I AM UNABLE TO ADDRESS QUESTIONS ABOUT ANY ONGOING COMMISSION INVESTIGATIONS INTO THOSE ALLEGATIONS AND OTHERS BECAUSE OF A COMMISSION POLICY NOT TO COMMENT ON SUCH MATTERS UNTIL AN OFFICIAL PUBLIC ACTION HAS BEEN ANNOUNCED. I HOPE, HOWEVER, THAT THE RESPONSES WE CAN GIVE WILL BE SATISFACTORY WITHOUT JEOPARDIZING THE COMMISSION'S POLICY, WHICH IS INTENDED TO PROTECT THE INTEGRITY OF OUR INVESTIGATIONS AND AVOID IMPROPER ADVERSE EFFECTS ON THOSE WHO MAY BE INNOCENT OF WRONGDOING.

YOU HAVE ASKED WHAT REMEDIES ARE AVAILABLE TO THE COMMISSION AND INDIVIDUALS WHEN INSIDER TRADING HAS OCCURRED. DEPENDING ON THE FACTS OF THE CASE AND THE PARTIES INVOLVED, THE COMMISSION MAY BRING A CIVIL INJUNCTIVE PROCEEDING IN COURT OR AN ADMINISTRATIVE PROCEEDING AT THE COMMISSION BASED ON VIOLATIONS OF SECTION 17(A) OF THE SECURITIES ACT OF 1933,

SECTION 10(B) OF THE SECURITIES EXCHANGE ACT OF 1934, OR SECTION 14(E) OF THE SECURITIES EXCHANGE ACT, AND COMMISSION RULES PROMULGATED PURSUANT TO THOSE STATUTORY SECTIONS. IN APPROPRIATE CASES, WE CAN REFER THE INVESTIGATION TO THE DEPARTMENT OF JUSTICE FOR POSSIBLE CRIMINAL PROSECUTION. IN ADDITION, THE SELF-REGULATORY ORGANIZATIONS SET UP UNDER THE SECURITIES LAWS, SUCH AS THE NATIONAL ASSOCIATION OF SECURITIES DEALERS AND THE NATIONAL STOCK EXCHANGES, CAN BRING DISCIPLINARY PROCEEDINGS BASED ON VIOLATIONS OF THEIR RULES, WHERE THE MISCONDUCT IS COMMITTED BY ONE OF THEIR MEMBERS.

FOR INDIVIDUAL INVESTORS OR MARKET-MAKERS WHO HAVE BEEN HARMED BY INSIDER TRADING, COURT DECISIONS HAVE ESTABLISHED THE RIGHT TO BRING PRIVATE LAWSUITS BASED ON VIOLATIONS OF VARIOUS FRAUD PROVISIONS OF OUR SECURITIES LAWS AND REGULATIONS. LAWSUITS BROUGHT EITHER BY THE COMMISSION OR BY PRIVATE PERSONS CAN RESULT IN INJUNCTIONS AGAINST FURTHER MISCONDUCT, AS WELL AS DISGORGEMENT OR RESTITUTION OF IMPROPER PROFITS, AND OTHER EQUITABLE RELIEF, WHERE APPROPRIATE.

YOU HAVE REQUESTED AN EXPLANATION OF THE CIRCUMSTANCES IN WHICH TRADING IN A PARTICULAR STOCK MAY BE SUSPENDED AND FOR A DISCUSSION OF THE SUSPENSION OF TRADING IN SANTA FE INTERNATIONAL CORPORATION STOCK ON FRIDAY, OCTOBER 2, 1981.

UNDER NEW YORK STOCK EXCHANGE RULES AND ARRANGEMENTS, A LISTED COMPANY MAY REQUEST A TRADING HALT BY THE EXCHANGE IN TWO TYPES OF SITUATIONS. FIRST, AN ISSUER MAY REQUEST A TRADING HALT BY INFORMING THE NYSE THAT AN IMPORTANT NEWS ITEM WILL BE FORTHCOMING. SECOND, AN ISSUER MAY REQUEST A TRADING HALT BY

INFORMING THE NYSE THAT A MAJOR NEWS ITEM HAS BEEN ANNOUNCED BUT THAT IT IS ONLY BEING CARRIED BY ONE NEWS SOURCE.

IN EACH OF THESE CASES, THE EXCHANGE MAY HALT TRADING UNTIL IT BELIEVES THAT THE PUBLIC HAS HAD A CHANCE TO DIGEST THE NEWS. IN ADDITION, OF COURSE, UNDER SECTION 12(K) OF THE SECURITIES EXCHANGE ACT, THE COMMISSION MAY SUSPEND TRADING IN ANY SECURITY.

THE NEW YORK STOCK EXCHANGE HAS REPORTED THE FOLLOWING SERIES OF EVENTS CONCERNING SANTA FE INTERNATIONAL:

ON OCTOBER 2, 1981, THE OPENING OF TRADING IN SANTA FE STOCK WAS DELAYED BECAUSE OF A MARKET IMBALANCE OF ORDERS ON THE BUY SIDE. AT 10:45 A.M. SANTA FE CONTACTED THE EXCHANGE AND REQUESTED A HALT IN TRADING. IT TOLD THE EXCHANGE THAT IT EXPECTED A BID TO BE MADE FOR IT BY A COMPANY NOT LISTED ON THE EXCHANGE, AND THAT IT EXPECTED TO MAKE A NEWS ANNOUNCEMENT REGARDING THAT BID AFTER ITS BOARD MEETING ON OCTOBER 5, 1981. AT 11:10 A.M., THE EXCHANGE HALTED TRADING ON THE BASIS OF "NEWS PENDING." THUS, TRADING DID NOT COMMENCE AT ALL ON OCTOBER 2 AND THERE WAS ALSO NO TRADING ON THE FOLLOWING MONDAY, OCTOBER 5. AFTER THE CLOSE OF THE MARKET ON OCTOBER 5 THE NEWS MEDIA CARRIED THE ANNOUNCEMENT OF THE TAKEOVER BID. ON OCTOBER 6, DUE TO AN ORDER IMBALANCE ON THE BUY SIDE, SANTA FE DID NOT BEGIN TRADING UNTIL 1:42 P.M. AT THAT TIME IT OPENED UP 19 POINTS AT 43-3/4. THE STOCK TRADED FOR 43 MINUTES, AND AT 2:25 P.M. TRADING WAS AGAIN HALTED BECAUSE OF AN INFLUX OF ORDERS CREATING AN IMBALANCE ON THE BUY SIDE. AT 3:37 P.M. TRADING WAS RESUMED, AND CONTINUED FOR THE REST OF THE DAY.

THE NEXT QUESTION REQUESTS A DISCUSSION OF THE COMMISSION'S PAST EXPERIENCE AND PROBLEMS IT HAS ENCOUNTERED WITH CASES INVOLVING ALLEGED INSIDER TRADING IN OPTIONS IN ANTICIPATION OF A TAKEOVER. ONE OF THE CASES MENTIONED IN YOUR QUESTION, THAT OF ST. JOE MINERALS CORPORATION, PRESENTS A GOOD ILLUSTRATION OF SOME OF THE PROBLEMS WE ENCOUNTER IN SUCH INVESTIGATIONS, PARTICULARLY WHERE INSIDER TRADING IS EFFECTED THROUGH THE USE OF FOREIGN BANKS AS INTERMEDIARIES. THE ALLEGATIONS OF THIS CASE HAVE BEEN PRESENTED IN OPEN COURT.

IN MARCH OF THIS YEAR, JOSEPH E. SEAGRAM & SONS, INCORPORATED ANNOUNCED A TENDER OFFER FOR THE COMMON STOCK OF ST. JOE MINERALS CORPORATION AT \$45 PER SHARE. THE COMMISSION'S STAFF SUBSEQUENTLY LEARNED THAT THE DAY BEFORE THE PUBLIC ANNOUNCEMENT OF THIS TENDER OFFER, UNDER CIRCUMSTANCES STRONGLY SUGGESTING IMPROPER TRADING BY PERSONS WITH INSIDE INFORMATION, AN ORDER HAD BEEN EXECUTED ON THE PHILADELPHIA STOCK EXCHANGE FOR MORE THAN 1,000 CALL OPTIONS IN ST. JOE STOCK, WHICH GAVE THE PURCHASER THE ABILITY TO OBTAIN OVER 100,000 SHARES OF THE UNDERLYING STOCK AT PRICES BETWEEN \$25 AND \$35 PER SHARE. THE STAFF WAS ABLE TO ASCERTAIN THAT THE OPTIONS HAD BEEN PURCHASED BY THE BANCA DELLA SVIZZERA ITALIANA, A SWISS BANK, THROUGH A BROKER WITH OFFICES IN NEW YORK AND GENEVA. HOWEVER, THE BANK CLAIMED THAT IT WAS PROHIBITED FROM REVEALING THE IDENTITY OF THE ACTUAL PURCHASERS ON WHOSE BEHALF IT WAS ACTING, BECAUSE OF SWISS BANKING SECRECY LAWS. THE BANK LIQUIDATED THE OPTIONS ONE DAY AFTER THE TENDER OFFER WAS ANNOUNCED, AT WHICH TIME THE PRICE OF THE OPTIONS HAD INCREASED BY APPROXIMATELY \$15, AND REALIZED A PROFIT IN EXCESS OF \$1,000,000.

THE COMMISSION SUBSEQUENTLY BROUGHT A CIVIL ACTION IN FEDERAL DISTRICT COURT TO ENJOIN FURTHER INSIDER TRADING AND TO REQUIRE DISGORGEMENT OF THE PROFITS, NAMING UNKNOWN "PURCHASERS OF CALL OPTIONS" AS DEFENDANTS, AS WELL AS THE SWISS BANK AND A NEW YORK BANK IN WHICH THE PROCEEDS WERE DEPOSITED. THE COURT ISSUED AN INJUNCTION FREEZING THESE PROCEEDS AND REQUIRING THE SWISS BANK TO NAME THE ACTUAL PURCHASERS. HOWEVER, THE BANK HAS SUCCESSFULLY RESISTED THAT ORDER, AND THE MATTER IS STILL IN LITIGATION. THE SWISS GOVERNMENT HAS BEEN COOPERATIVE, BUT BECAUSE OF THEIR SECRECY LAWS WE HAVE NOT SUCCEEDED IN IDENTIFYING THE PURCHASERS.

THE COMMISSION FREQUENTLY HAS DIFFICULTY CONDUCTING INVESTIGATIONS INVOLVING PERSONS AND INFORMATION LOCATED IN FOREIGN COUNTRIES. PART OF THIS DIFFICULTY CAN BE ATTRIBUTED TO THE LANGUAGE OF SECTION 21(B) OF THE SECURITIES EXCHANGE ACT OF 1934, WHICH LIMITS THE ABILITY OF THE COMMISSION TO OBTAIN ACCESS TO WITNESSES (EVEN U.S. CITIZENS) AND DOCUMENTS LOCATED ABROAD. ANOTHER PART OF THE DIFFICULTY LIES IN THE FACT THAT SERVICE OF COMPULSORY PROCESS IN A FOREIGN COUNTRY MAY IN ITSELF BE AN EXERCISE OF U.S. SOVEREIGNTY IN THAT COUNTRY WHICH MAY VIOLATE INTERNATIONAL LAW. ADDITIONALLY, SEVERAL NATIONS HAVE ENACTED "BLOCKING STATUTES" TO PROTECT THEIR CITIZENS BY PROHIBITING PRODUCTION OF CORPORATE DOCUMENTS PURSUANT TO OFFICIAL INQUIRIES FROM ABROAD.

IN LIGHT OF THE DIFFICULTIES WE HAVE ENCOUNTERED, THE COMMISSION IS CONSIDERING VARIOUS POSSIBLE METHODS TO ASSURE

MORE EVENHANDED ENFORCEMENT OF THE SECURITIES LAWS AGAINST FOREIGN AND DOMESTIC ISSUERS AND INVESTORS.

THE COMMISSION HAS ATTEMPTED TO ADDRESS AT LEAST PART OF THIS PROBLEM THROUGH PROPOSED RULEMAKING. OUR PROPOSAL WOULD PROVIDE THAT, WITH RESPECT TO SECURITIES ACCOUNTS OF NON-NATURAL PERSONS--SUCH AS BANKS--BROKERS AND DEALERS COULD MAINTAIN RECORDS REFLECTING ONLY THE IDENTITIES OF PERSONS AUTHORIZED TO TRANSACT BUSINESS ON BEHALF OF SUCH ACCOUNTS, RATHER THAN THE IDENTITIES OF THE ACTUAL BENEFICIAL OWNERS. HOWEVER, IN SUCH CASES THE RULE WOULD REQUIRE THE BROKER OR DEALER TO OBTAIN FROM THE ACCOUNT HOLDER AN AGREEMENT TO FURNISH, AT THE COMMISSION'S REQUEST, THE NAME AND ADDRESS OF THE ACTUAL BENEFICIAL OWNER. THE PROPOSED AMENDMENT COULD BE USEFUL IN THEORY, BUT, AS THE COMMENTS RECEIVED FROM THE PUBLIC POINTED OUT, THERE WOULD BE NO GUARANTEE THAT ACCOUNT-HOLDERS WOULD HONOR THEIR AGREEMENTS, AND NO PENALTY COULD BE IMPOSED UPON THEM IF THEY DID NOT. MOREOVER, EVEN IF FOREIGN WRONGDOERS WERE IDENTIFIED, THE COMMISSION WOULD STILL NOT HAVE SUBPOENA POWER OVER THEM.

THUS, IT APPEARS THAT A MORE BROAD-RANGING SOLUTION IS NEEDED. IN THIS CONNECTION, YOU HAVE ASKED US WHETHER WE RECOMMEND THE ADOPTION OF A REQUIREMENT THAT ALL PROCEEDS OF SECURITIES TRANSACTIONS ON UNITED STATES EXCHANGES (OR OVER-THE-COUNTER) BE KEPT IN THE UNITED STATES FOR SIX MONTHS TO ALLOW US TIME TO INVESTIGATE ALLEGATIONS OF INSIDER TRADING, AND TO TAKE ACTION WHERE INDICATED. SUCH A PROVISION WOULD HELP COMBAT THE PROBLEM, BUT IT WOULD ALSO TIE UP THE PROCEEDS

OF ALL INNOCENT TRANSACTIONS, AS WELL AS SUSPICIOUS ONES. THUS, IT WOULD ADVERSELY AFFECT THE IMPORTANT NATIONAL INTEREST OF ENCOURAGING FOREIGN INVESTMENT IN THE UNITED STATES BY INHIBITING TRADING IN OUR SECURITIES MARKETS. WITH RESPECT TO YOUR QUESTION ABOUT THE POSSIBILITY OF PROHIBITING TRADES BY NON-IDENTIFIED CLIENTS, I HAVE ALREADY DISCUSSED SOME OF THE PROBLEMS WITH SUCH AN APPROACH IN MY COMMENTS ON OUR PROPOSED RULE. BESIDES THOSE PROBLEMS, IT TOO COULD HAVE AN ADVERSE EFFECT ON U.S. INVESTMENT BY FOREIGN PERSONS. ANY LEGISLATIVE SOLUTION SHOULD BE RESPONSIVE TO THE SOVEREIGNTY CONCERNS OF FOREIGN COUNTRIES AND BE PERCEIVED AS A GOOD FAITH EFFORT TO DEAL WITH A SERIOUS PROBLEM IN THE UNITED STATES. A POSSIBLE APPROACH WOULD BE TO PROVIDE A MECHANISM WHEREBY THE COMMISSION MAY PROMPTLY ACT TO ASSURE THAT THOSE WHO VIOLATE FEDERAL SECURITIES LAWS THROUGH THE USE OF FOREIGN SECURITIES TRANSACTIONS MAY NOT OBTAIN THE FRUITS OF THEIR ILLEGAL ACTIVITIES.

COURTS EXPLICITLY COULD BE EMPOWERED THROUGH SUMMARY PROCEEDINGS TO ISSUE ORDERS TO PROHIBIT ISSUERS OF SECURITIES, TRANSFER AGENTS, OR BROKER-DEALERS FROM EFFECTING ANY PURCHASE OR SALE OF SECURITIES FOR A PERSON WHO REFUSED TO PROVIDE INFORMATION TO THE COMMISSION; AND ALSO TO ISSUE ORDERS TO IMPOUND DIVIDENDS OR INTEREST ON SECURITIES, FREEZE ASSETS WITHIN THE UNITED STATES, AND SUSPEND RIGHTS TO VOTE SECURITIES.

YOU HAVE ALSO ASKED WHO IS HURT, AND TO WHAT EXTENT, BY INSIDER TRADING SITUATIONS. IN A CASE WHERE A PERSON HAVING INSIDE INFORMATION USES THAT INFORMATION TO PURCHASE SECURITIES BEFORE POSITIVE NEWS IS RELEASED, ONE CLASS OF PERSONS INJURED

BY THAT ACTION ARE INVESTORS WHO SELL THEIR SECURITIES TO THE INSIDER AT A PRICE LOWER THAN THE PRICE THEY COULD GET IF, KNOWING WHAT THE INSIDER KNOWS, THEY HELD THE STOCK UNTIL AFTER THE POSITIVE NEWS WAS ANNOUNCED PUBLICLY. SIMILARLY, WHERE AN INSIDER SELLS, OR SELLS SHORT, IN ANTICIPATION OF NEGATIVE NEWS, THE INNOCENT PURCHASER IS HARMED BY ACQUIRING STOCK AT A PRICE HIGHER THAN IF HE HAD WAITED UNTIL THE NEGATIVE NEWS WAS ANNOUNCED PUBLICLY.

BESIDES THE ACTUAL MONETARY DAMAGE TO THE INNOCENT PARTICIPANTS IN SUCH TRANSACTIONS, CONSIDERABLY BROADER HARM IS PERPETRATED ON THE SECURITIES MARKETS IN GENERAL. IF CERTAIN PERSONS WERE ABLE TO ENRICH THEMSELVES BECAUSE THEY HAD "SPECIAL ACCESS TO PRIVILEGED INFORMATION WITHOUT THE RISK OF SUBSTANTIAL LEGAL PENALTIES, A PUBLIC PERCEPTION WOULD DEVELOP THAT THE MARKETS ARE UNFAIR, AND FAVOR THOSE WHO ARE SPECIALLY SITUATED TO TRADE ON THE BASIS OF IMPROPER ADVANTAGE. SUCH A PERCEPTION WOULD DISCOURAGE THE AVERAGE, HONEST INVESTOR FROM ENTERING THE MARKETS AND THUS MAKE IT MORE DIFFICULT FOR CORPORATIONS TO RAISE CAPITAL.

IT IS ALSO IMPORTANT TO NOTE THAT AMONG THE PARTIES INJURED BY INSIDER TRADING OF THE TYPE ALLEGED IN THE SANTA FE SITUATION ARE OPTIONS EXCHANGE MARKET MAKERS WHO ARE ON THE OPPOSITE SIDE OF THE TRADES WITH THE ALLEGED WRONGDOERS. THE LOSSES CAUSED IN THESE SITUATIONS MAY FORCE SOME MARKET MAKERS OUT OF BUSINESS TO THE DETRIMENT OF THE MARKET AS A WHOLE.



YOUR NEXT INQUIRY IS WHETHER THE STOCK EXCHANGES ARE DOING ALL THEY SHOULD TO PROTECT THEIR MARKET MAKERS AND THE GENERAL PUBLIC IN SITUATIONS SUCH AS THE ONE ALLEGED WITH RESPECT TO SANTE FE. ALTHOUGH EXCHANGES MUST CONTINUE TO IMPROVE THEIR SURVEILANCE AND ENFORCEMENT CAPABILITIES, WE BELIEVE THEY ARE TAKING REASONABLE STEPS IN THEIR PROGRAMS TO DETECT SITUATIONS INVOLVING ABUSES OF INSIDE INFORMATION.

UPON PERCEIVING UNUSUAL TRADING IN A STOCK, THE EXCHANGES CONTACT THE ISSUER TO DETERMINE WHETHER THERE IS ANY IMPORTANT NEWS ANNOUNCEMENT THAT IS ABOUT TO BE MADE. AN EXCHANGE MAY, ON ITS OWN, HALT TRADING IN A SECURITY BECAUSE OF PENDING NEWS OR IN THE EVENT OF AN ORDER IMBALANCE. OPTIONS EXCHANGES ORDINARILY DO NOT HALT TRADING DUE TO AN ORDER IMBALANCE, BECAUSE OF THE DERIVATIVE NATURE OF OPTIONS CONTRACTS.

FINALLY, YOU HAVE ASKED WHETHER THE COMMISSION'S ENFORCEMENT CAPABILITY WILL BE AFFECTED BY PROPOSED BUDGET CUTS. YOU CAN BE SURE THAT WE WILL DO ALL WE CAN TO FULFILL OUR STATUTORY RESPONSIBILITIES AND MAINTAIN THE COMMISSION'S REPUTATION FOR PROFESSIONALISM, BUT WITHOUT ANY DOUBT THE PROPOSED 12 PERCENT BUDGET DECREASE WOULD HAVE A PROFOUND NEGATIVE EFFECT ON THE COMMISSION'S ENTIRE OPERATION INCLUDING OUR ENFORCEMENT EFFORTS. LAST TUESDAY WE TRANSMITTED TO THE OFFICE OF MANAGEMENT AND BUDGET AND TO THE HOUSE AND SENATE APPROPRIATION COMMITTEES A DOCUMENT REFLECTING OUR PLANS IN THE EVENT CONGRESS WERE TO APPROVE THE PROPOSED REDUCTIONS. HISTORICALLY, WE HAVE BEEN ABLE TO MAINTAIN OUR VIGILANCE IN THE FACE OF INSUFFICIENT RESOURCES THROUGH THE DEDICATION AND PROFESSIONALISM OF A

HIGHLY MOTIVATED STAFF WILLING TO MAKE PERSONAL SACRIFICES IN TERMS OF SALARY, WORKING CONDITIONS AND LONG HOURS. OUR DIVISION OF ENFORCEMENT IS RESPECTED AND ACCLAIMED AS ONE OF THE MOST EFFECTIVE LAW ENFORCEMENT ORGANIZATIONS IN THE WORLD. BUT, THERE IS ONLY SO MUCH OUR PEOPLE CAN ACCOMPLISH UNDER PRESENT RESTRAINTS. EVEN NOW, BECAUSE OF LIMITED STAFF AND TRAVEL FUNDS, DIFFICULT JUDGMENTS HAVE HAD TO BE MADE TO DELAY OR NOT INSTITUTE MERITORIOUS CASES AND, IN CERTAIN INSTANCES, OUR INVESTIGATORS HAVE BEEN FORCED TO USE SUCH UNDESIRABLE TECHNIQUES AS TAKING SWORN TESTIMONY BY TELEPHONE. THE STRESS ON OUR ENFORCEMENT RESOURCES HAS ALSO BEEN INCREASED BY DEFENSE COUNSEL EMPLOYING MORE DILATORY TACTICS AND ENGAGING IN MORE LITIGATION AND BY NON-PROGRAMMATIC LEGISLATIVE REQUIREMENTS, SUCH AS THE FREEDOM OF INFORMATION ACT AND THE RIGHT TO FINANCIAL PRIVACY ACT, THAT IMPOSE ADDITIONAL PROCEDURAL AND MANPOWER BURDENS. MOREOVER, GREATER EMPHASIS ON ENFORCEMENT IS REQUIRED IF THE COMMISSION'S EFFORTS TO REDUCE PRESCRIPTIVE REGULATORY BURDENS BY SIMPLIFYING DISCLOSURE PROVISIONS AND EXPANDING THE SCOPE OF EXEMPT OFFERINGS ARE NOT TO RESULT IN A DIMINUTION OF INVESTOR PROTECTION.

WITH THIS BACKGROUND, IT SHOULD NOT BE DIFFICULT TO UNDERSTAND WHY AN ADDITIONAL 12 PERCENT BUDGET REDUCTION WILL SUBSTANTIALLY ERODE OUR ABILITY TO PURSUE SECURITIES LAW VIOLATIONS AND PROTECT THE INTEGRITY OF THE MARKETPLACE. PERHAPS A DISCUSSION OF SOME STAFFING FIGURES WILL HELP IN CLARIFYING OUR SITUATION. AT THE END OF FISCAL 1979, THE STAFF MEMBERS INVOLVED IN ENFORCEMENT ACTIVITIES NUMBERED 692.

BY THE END OF FISCAL 1980 THIS FIGURE HAD DROPPED TO 646, A DECREASE OF 6.6 PERCENT. IN FISCAL 1981 THIS FIGURE SHRANK ANOTHER 4.3 PERCENT TO 618. IN THE SUBMISSIONS MADE LAST WEEK TO OMB AND THE APPROPRIATIONS COMMITTEES, WE ESTIMATED THAT THE ADMINISTRATION'S PROPOSED BUDGET CUTS WOULD NECESSITATE A FURTHER 14 PERCENT REDUCTION IN ENFORCEMENT PERSONNEL OR 87 STAFF MEMBERS IN THE CURRENT FISCAL YEAR.

ALL TOTALLED, THIS WOULD AMOUNT TO A THREE YEAR DECREASE OF 161 PEOPLE OR 23.3 PERCENT OF THE ENFORCEMENT STAFF AT A TIME WHEN OUR SECURITIES MARKETS ARE GROWING AND BECOMING MORE COMPLEX AND THE POTENTIAL FOR ABUSE IS INCREASING. IN OUR OPINION, THIS IS INCONSISTENT WITH NATIONAL GOALS OF INCREASED INVESTMENT AND ECONOMIC ACTIVITY AND REDUCED GOVERNMENT REGULATION.