

EMBASSY OF THE  
UNITED STATES OF AMERICA

Bern, Switzerland

November 13, 1981

The Honorable  
John S. R. Shad  
Chairman  
Securities and Exchange Commission  
500 North Capitol Street  
Washington, D.C. 20549

Dear Mr. Shad:

Before I left for Bern on October 9, 1981, to assume my responsibilities as U.S. Ambassador, I asked the State Department to arrange a briefing session for me in Washington with the new Director of the Enforcement Division of the SEC, John Fedders. I did so because as a practicing attorney, I was aware of the existence of some matters of concern between the SEC and the Swiss banking community. Mr. Fedders kindly assembled the important members of his staff for the meeting. I was accompanied by Ward Thompson, the Foreign Service Officer in charge of the Swiss Desk in the State Department. We met for approximately 40 minutes. I discovered, as we progressed, that there were some subjects which needed further clarification. We decided, therefore, due to the fact that I was leaving for Switzerland the next week, that John Fedders and staff would prepare a memo for me outlining the basic areas of concern. Because Ira Pearce, Mr. Fedders' staff member who was assigned preparation of the memorandum has been out sick for several weeks, I have not as yet received it. However, Mr. Fedders called me last week and assured me it would be sent out in the near future.

Since I have arrived here I have had several informal conversations with Directors and Chief Operating Officers of Swiss banks. My impression is that they are anxious to cooperate and do not want to develop a reputation as being a safe haven for violators of American securities laws. Nor do they want to run the substantial economic risks of running afoul of the SEC. They are unanimous, however, in their condemnation of the harsh tactics and manner of Mr. Fedders' predecessor, Mr. Sporkin. I have informed the Swiss that there is a new Director of Enforcement in the SEC who is determined to conduct the affairs of his office in a professional manner and who will not indulge, in my view, in the tactics of his predecessor which were so roundly criticized, apparently not only by the Swiss bankers but by the American business community as well. John Bedders has advised me that he will keep me briefed by mail and telephone on our governmental positions and activities in this area. I am grateful for that. However, I do think it

would be enormously helpful if John could be released to come to Switzerland, particularly Zurich, to participate in an informal briefing session with the Swiss financial community explaining present policies and enforcement procedures of the SEC with particular emphasis on "insider trading." John has indicated to me that he shares my view that such a trip would be beneficial for us and for them. The Swiss government has informed us that it would have no objection to such a visit. A clear explanation of SEC policy and United States law on this subject, presented by such a high-level spokesman in a businesslike and reasonable manner, would, in my view, contribute significantly to a better relationship, fewer enforcement actions, and increased ability and incentive on the part of the Swiss to regulate their own internal corporate policies in a way which would avoid costly and lengthy litigation in the future. Based upon the enclosed news accounts from "The Economist" of October 31, 1981, such a visit would also seem to complement your new policy of seeking improved understanding as a more effective means of achieving U.S. regulatory goals.

My observation is that the Swiss are particularly supportive of the change in direction of the U.S. Government in the present Administration. A visit here by the SEC Director of Enforcement would indicate that we do want to maintain the good-will and mutual respect which have been the hallmarks of our bilateral relations for many years; but are nonetheless committed to a forthright, courteous but firm insistence upon our own sovereign prerogatives in this sensitive area. You, of course, are the best judge of the allocation of John's scarce time resources, but I urge you to consider this request favorably and make John available some time after Christmas, if possible. Please let me know your thoughts.

Sincerely,

Faith Ryan Whittlesey  
Ambassador

Enclosure

cc:     The Secretary of State  
          The Secretary of the Treasury  
          Mr. Jim Baker, White House  
          Mr. John Fedders, SEC

Mr. Ward Thompson