

MEMORANDUM OF CONFERENCE BETWEEN REPRESENTATIVES  
OF THE COMMISSION AND REPRESENTATIVES OF THE NEW  
YORK STOCK EXCHANGE AT THE NEW YORK STOCK EXCHANGE  
JUNE 16, 1938

Present for the Commission:       Mr. Ganson Purcell  
  Mr. James J. Caffrey  
  Mr. Hector Dowd  
  Mr. James A. Treanor, Jr.

Present for the Exchange:        Mr. Harding  
  Mr. Russell  
  Mr. Davis

The conference was called for the purpose of discussing a program of cooperation between the Commission and the Exchange with particular reference to the investigation of matters of mutual interest. Representatives of the Commission advanced the following suggestions:

(1)       That the Exchange could assist in policing its own requirements as well as the requirements of the Securities Exchange Act by instituting a program of office inspections which would include examination not only of margins but also of all other matters pertaining to the business of the office under examination. It was suggested that a routine examination of a member house would include, in addition to margin inspection, a survey of the bookkeeping methods employed, an examination of the general manner in which the business is conducted and an examination to determine what individuals were given subleases in or a free right to use the offices of members and what individuals habitually received telephone calls at that place. The representatives of the Commission offered to make available to the New York Stock Exchange upon request employees of the Commission who have had experience in making margin inspections and general office inspections for the purpose of breaking in the employees of the New York Stock Exchange to such work.

(2)       The suggestion was made that the New York Stock Exchange could be of great assistance to the Commission in the obtaining of a list of trades made by the various member houses in a security which was under investigation. It was pointed out that in such cases the Exchange could obtain all of the pertinent trading data from its own members and that the representatives of the Commission could supplement that work by obtaining information not available to the Committee.

(3)       It was stated that it would be desirable that the New York Stock Exchange notify the Securities and Exchange Commission whenever it instituted an investigation into matters of concern to the Commission, and that the Commission likewise notify the New York Stock Exchange when it began an investigation of matters of interest to the Exchange.

(4) It was suggested that where an investigation conducted by the Commission had disclosed violations of law or of the rules and regulations of the New York Stock Exchange the matter should be referred to the New York Stock Exchange for disciplinary action. It was stated that if the Exchange took no action the Commission would feel free to institute whatever proceedings it might determine upon against the member complained of.

(5) It was suggested that the Committee on Member Firms encourage the members of the New York Stock Exchange to report to that Committee the names of individuals having accounts in brokerage houses who, for one reason or another, came under suspicion. It was suggested that the Committee on Member Firms, by building up a card index of such individuals, would be in a position to advise other interested members of the Exchange who inquired concerning such individuals. It was pointed out that the Committee on Member Firms would not be required to express any opinion but rather to relate the facts as they appeared in the card index.

(6) The suggestion was made that much could be accomplished if a representative of the Securities and Exchange Commission attended some of the meetings of the Committee on Member Firms. Mr. Russell, who is a lawyer, stated that he felt that certain members of the Exchange might not speak freely and might claim a privilege at their appearance before the Committee if they knew that a representative of the Commission was in attendance. Mr. Purcell pointed out that he was not suggesting that a representative of the Commission attend all of the meetings of the Committee on Member Firms. He suggested that such a representative could attend the executive sessions and such other meetings of the Committee as were called to discuss matters of interest to the Commission. It was pointed out that the arrangement would be a flexible one and that the Commission's representative could withdraw whenever his presence at a meeting would be likely to impede the work of the Committee in eliciting information from a member of the Exchange.

(7) A short discussion was held, principally with Mr. Davis, concerning the re-drafting of the excessive trading rule. He stated that considerable thought had been given to the matter and that he hoped that in the near future the Exchange would be in a position to propose a definite rule. He stated that he felt that the present committee would interpret the excessive trading rule differently than the Old Committee on Business Conduct.

The representatives of the New York Stock Exchange expressed their willingness to cooperate with the Commission in the manner set forth above subject to the approval of the Committee on Member Firms. It was pointed out, however, that there were certain matters of policy involved concerning which they had no right to speak for the Committee and that any such system would entail a change in the internal organization of the Exchange. It was pointed out that certain employees were under the jurisdiction of the Committee on Member Firms while others came under the jurisdiction of Mr. Dassau and that some system would have to be worked out internally so that when representatives of Mr. Dassau visited an office they would inquire into matters of interest to the Committee on Member Firms as well as those matters with which Mr. Dassau is concerned.

The matter was left that the representatives of the Exchange would confer with the Committee on Member Firms on the matters discussed and would recommend that that Committee appoint a representative who would at all times be free to confer with a representative of the Commission who was to be designated by the Commission.