

MEMORANDUM

August 7, 1939

To: Chester T. Lane, General Counsel

From: Martin Riger, Assistant Director, Reorganization Division

Subject: Chapters X and XI of the Bankruptcy Act, as amended.

There have been brought to the attention of the Commission a number of instances where corporations which have publicly held securities have proposed arrangements under Chapter XI of the Act. It is the Commission's view that the jurisdiction of the federal courts under Chapter XI was not intended to extend to corporations of this character, and that if such a corporation desires to avail itself of the provisions of the Bankruptcy Act to adjust its obligations, it must file a petition under Chapter X.

The Commission recently has been permitted to intervene in Chapter XI proceedings instituted by the United States Realty and Improvement Company in the United States District Court for the Southern District of New York, for the purpose of raising this jurisdictional question. The District Court denied the Commission's motions on this issue, but the Commission has filed its notice of appeal and the matter will be heard by the Circuit Court of Appeals for the Second Circuit early in the fall.

We may also desire to seek intervention in other such cases as they arise. We shall at least wish to bring our position to the attention of the parties and the court. Under the provisions of the Bankruptcy Act, however, the Commission does not receive formal notice of the filing of petitions under Chapter XI. I am, therefore, requesting each Division Head and each Regional Administrator to instruct the members of his staff immediately to advise the Reorganization Division of any Chapter XI proceeding brought to their attention which involves a corporation having securities outstanding in the hands of the public.

The Commission has considered and approved this memorandum, and has authorized its transmittal.