

Administrative Memos

1.H.P.

MEMORANDUM

September 4, 1956

To : All Supervisory Personnel
From : Byron D. Woodside
Re : Division Operations and Operating Procedure

The Commission on July 2 approved a recommended plan of reorganization of the Division. The present table of organization is reflected in the large chart, a copy of which has been given to each Assistant Director and Branch Chief. Each of you should obtain and preserve in your files a complete and current set of job descriptions for all classes and grades of personnel under your supervision.

The reorganization plan contemplates a greater spreading of responsibility for Division operations, an enlargement and strengthening of staff and active participation in an intensified, organizationwide enforcement program.

The creation of new supervisory positions, the broadening of the Division's activities and the addition of new personnel prompt the following suggestions and directions as to operating policies and procedures to be followed. Some of these will appear elementary but they bear repetition.

1. With respect to appearances before the Commission:
 - (a) When you take a case or problem to the Commission, know your facts. Differences of opinion as to legal or other conclusions are bound to occur at times, but on all occasions the Commission expects you to know and to state clearly, concisely and accurately the material operative facts pertaining to every matter you present. If you don't know them, take someone with you who does.
 - (b) If you are questioned by the Commission and don't know the answer as to facts, law or policy, don't be afraid to say so, and then go get the answer. Don't under any circumstances attempt to bluff or pass off a question.
 - (c) The work of the Division is complex and involves highly specialized matters of law, accounting and economics. In administering the statutes and rules, many things are done for perfectly good reasons which you may not at the moment recall or which perhaps you never knew, since they

have their roots in old decisions which frequently were not too well documented. Don't forget that Commissioners, particularly the newer members, are and should be curious about many things in Commission practice and policies which to them may seem to require explanation or reconsideration. I have seen staff members of the Commission at times display irritation and impatience with questions and discussions at the table. Don't.

- (d) Present a case or problem to the Commission in an orderly manner, state immediately the name of the company, what the problem is and under what section of what Act or rule the matter arises. It is bad practice to present a long summary of facts or events ending with a question of law or policy. If you state your question first and the applicable statutory or rule provision, the Commission is then in a position to relate facts and events as they are explained or described to the problem they are being asked to rule on. Furthermore, if you have your problem so in mind as to be able to state it clearly at the outset, you will make a better presentation.
- (e) If you don't understand what the Commission has decided on a matter or if you are not sure of instructions given you, don't hesitate to ask for explanation or clarification before you leave the meeting.
- (f) Don't forget that this is a business office and that your day-to-day appearances will affect the impression the Commission has of you, the Division and how we do our job. (Present your questions or cases smartly, alertly and in a businesslike manner.) Don't waste the Commission's time.
- (g) When you have been given a decision or ruling, pick up your papers and depart.

2. With respect to handling of cases and personnel under your supervision:

- (a) A case or a problem is not your personal property. If you see that you will run into trouble or will be unable to meet a time schedule, bring the matter to the attention of your superior so that the Division (1) knows about the problem and (2) is in a position to do something about it.
- (b) Don't let cases drag. Keep close control over your cases and let your superior know when a case is not proceeding properly, either because of the conduct of the registrant or its representatives or because of internal problems here. Non-action on a case or problem is the cause of most of the criticism we hear of the Division and Commission with respect to matters within our jurisdiction.

- (c) Don't hesitate to ask questions of anyone on the staff who may be able to help you or guide you as to policy, precedent or procedure. Don't hesitate to make suggestions if you think practices or procedures can be improved. Compartmentation by section, branch or assistant director cannot be permitted to develop. Failure to keep yourselves oriented and coordinated will reflect on you and the Division and ultimately on the Commission. Lack of uniformity of treatment of businessmen, attorneys and other professional people reflects poor administration and generates complaints and friction.
- (d) You have been selected for your position because of your experience, knowledge and ability to deal with people. One of your primary functions is to teach and train the new people joining our staff. I wish to urge that you assign to all new members the full range of the Division's work at once. In my opinion, starting people on 10-K's and 8-K's is a mistake. Give them an opportunity to do well or to make mistakes on all types of our work as it comes along. Let them know you expect them to assume a fully responsible place in the Division--throw the work at them--help them when they don't understand or make errors and find out quickly whether they have a potential for the Commission or whether they are holding a position which rightfully should be occupied by another. We are not interested in keeping people who do not display interest, initiative and a willingness to accept responsibility in addition to technical proficiency. We are anxious to keep and promote those who demonstrate a potential for growth and development and a liking for the work. New employees won't display these qualifications and you won't be able to judge them unless you attract their interest, make it possible for them to participate fully in the work, and make it clear that you are willing to give them opportunities and to rely on them. Branch chiefs and assistant directors are urged to collaborate on a standard guide for new personnel which will explain what is expected of them in the examination of cases, sources of information to be searched, and adherence to Division procedures. Make a practice of taking your men to the Commission with you occasionally or on a case in which a man has done a good job or one which is particularly interesting. It will help them to understand how the Commission operates and give them a flavor of Commission thinking.
- (f) Make certain that every new employee has his attention directed to Rule 122 of the General Rules and Regulations under the Securities Act and to the rules of conduct and to the importance of Rule 1 in particular. People new to public service frequently fail to appreciate the need for extreme care in accepting invitations, favors and entertainment from persons--even though personal friends--with whom we do business. Just as many well-known firms with whom we do business make it a practice never to invite staff members to lunch, etc., it would be well to advise staff members that

a safe, general rule is not to be dined by or accept gifts (Christmas included) from the “customers.”

- (g) Familiarize yourselves with the internal time schedules for processing various types of filings and recognize that they are too generous in many instances. One of your objectives is to achieve a shortening of them.
- (h) Keep a close watch on backlog data and delinquent reports. Mr. Casey’s office will supply you with current data for your respective case assignments.
- (i) It will be your responsibility to make sure that matters of concern and interest to other Divisions and the General Counsel’s office are brought to their attention. It should be remembered that many of the matters of concern to the other Divisions in the performance of their duties have their origin in or are first reflected in some filing handled by this Division. It will be necessary for you to pay more attention to some of the Commission’s powers under the 1934 Act than perhaps some of you have been accustomed to in the past. The promptness with which effective enforcement action may be taken by the Commission through its other Divisions and offices frequently will depend upon your recognition of an enforcement problem and prompt transmittal by written memo of a proper “alert.” It is Division policy to work closely with and to assist the other Divisions and the General Counsel’s office. It is also Division policy to make sure that staff work is completed before you go to the Commission table rather than at the Commission table. If disposition of a problem involves other Divisions, recognize that fact and do something about it in a timely manner, if possible before you go to the Commission.

3. With respect to dealing with the public:

- (a) It is presumed that you will enforce the law, carry out Commission policy and deal impartially and objectively with all your problems.
- (b) How you do it will in large measure govern the reaction of the people with whom we deal to the Commission, the Division and to you as a public official.
- (c) I can recall no instance in which the Division or Commission has been criticized for doing what the law requires us to do. Usually trouble arises, when it does, because of some belief that there has been failure to act with dispatch, some misunderstanding as to procedures, or a belief that insistence upon some change or amendment involves a dollar cost or delay not justified by the materiality of the matter involved.

- (d) The time schedule for a public financing and the time schedule and strategy of the parties in a proxy contest are crucial factors in many business situations. It is not our function to attempt to govern or influence them in any way except as the discharge of our duties requires it. Every reasonable request for action by the Division should be accommodated if at all possible. It has been our boast that no financing of any consequence which was free of serious problems under the law has missed a market because of our failure to act. I think it has rarely occurred that proxy material has not been processed in time to meet schedules. You should remember that the business community and Congress view our work as a Division activity rather than a branch or section activity. It is their view, and rightly so, that their problems are entitled to treatment by the Division and the fact that a particular section or branch happens to be overburdened at the minute is our problem and not theirs. One of the purposes of our organizational structure is to provide flexibility and interchangeability to meet just such problems. Make sure you take advantage of it to keep the work flowing.

- (e) It is difficult to answer before members of Congress, Congressional Committees and various groups we meet around the country, complaints and critical comments or questions arising out of "how" we do things or treat people. An important part of your job is public relations. Your work is such that you have more than the usual number of opportunities to make friends or enemies for the Commission. Most people will take an adverse decision, even though it is costly and disappointing to them, in pretty good grace if the matter is handled promptly, courteously, firmly and fairly by the public official with whom they have to deal.

It is an important part of your job to so handle your business that your efforts will enhance the respect in which the Division and the Commission are held by the financial community and the public.