

CHAIRMAN'S OFFICE
MAILED

AUG 5 1963

The Honorable
Maurine Neuberger
United States Senate
Washington, D. C.

Signed by: _____

Dear Senator Neuberger:

This is in further reply to your July 16th reference of a letter which Mr. Lawrence W. Shiels, Jr., of Portland, addressed to you under date of July 3, 1963, with which Mr. Shiels enclosed seven pages of "Detailed Comments" with respect to my earlier letter to you of June 4, 1963.

Mr. Shiels is concerned, and properly so, with the free flow of capital into private industry. Certainly, this Commission is no less concerned; nor, I submit, is there any need for "indoctrinating S.E.C. field agents in our American capitalistic and risk-venture system . . .," as Mr. Shiels suggests. The Commission's law enforcement actions give recognition to the obvious fact that, unless prompt and vigorous action is taken against fraudulent promotions and unscrupulous securities firms, thereby minimizing investor losses through the purchase of highly speculative or worthless securities, the confidence of investors in securities and the securities markets could be undermined to such an extent as to cause a serious interruption in the flow of their savings into industry. In this connection, I would urge that Mr. Shiels read the Report of our Special Study of Securities Markets (five chapters are now available in printed form at the Government Printing Office as Part 1, \$2.25, and Part 3, \$.50, of House Document No. 95) if he believes that the Commission should be less active in its endeavor to protect investors.

I am quite sure that it would be futile to attempt to reconcile the disagreement between Mr. Shiels and this Commission over his basic premise that certain activities of the Commission operate to stifle the free flow of investment capital into industry. He is particularly critical of various enforcement actions of the Commission, and he suggests that for the most part they involve only unimportant or technical violations and are initiated by the Commission primarily for purposes of harrassment and publicity. While the Commission does not consider itself above criticism, I am confident that the record of its actions over the years, including the specific cases cited by Mr. Shiels, will not support the general proposition that Commission actions have been ill-advised and inappropriate in the public interest. This is borne out by the relatively few instances in which its enforcement actions have been unsuccessful or have been reversed on appeal, and even in these it was not because of any lack of substantive, prima facie evidence on which to predicate the action.

Nevertheless, the Commission constantly strives to improve its operations with a view to not only protecting the interests of public investors but also safeguarding the rights of those who may be suspected of securities violations.

With reference to the administrative action now pending before the Commission involving his own firm, Shiels Securities, Inc., Mr. Shiels states that the Commission "used the shotgun approach." He further comments at some length in defense of his actions in this particular case; but it may be noted that, although both he and the firm were represented by counsel in this action, they did not avail themselves of the opportunity which the Commission's Rules of Practice provide, to file "exceptions" to the recommended decision of the Hearing Examiner in which the latter ruled that the conduct of both the firm and Mr. Shiels involved serious violations of the anti-fraud provisions of the Federal securities laws. The Examiner further recommended that the firm's broker-dealer registration should be revoked. Nevertheless, Mr. Shiels accuses the Commission of using "the quasi-judicial hearings as a kangaroo court to rubber stamp preconceived S. E. C. conclusions" and states that "the eventual decision of the Commission will be purely academic, since I have already been harassed out of my business and publicly disgraced." You may be interested in reading the recommended decision of the Hearing Examiner, a copy of which is enclosed; but it should be noted that the Commission has not yet rendered a decision in this case and the Examiner's findings and conclusions are not binding upon the Commission.

Finally, Mr. Shiels makes serious charges against individual staff members of our Seattle Regional Office. We have made inquiry into these charges through Mr. James E. Newton, who has served as Administrator of that Office since January 1949. Mr. Newton assures us, based upon his knowledge of the facts and his interrogation of the individuals in question, that there is no basis in fact for these charges.

Sincerely yours,

Orval L. DuBois
Secretary

cc: James E. Newton, Seattle Regional Office
Thomas Rae