

CHAIRMAN'S OFFICE  
MAILED

DEC 3 1963

Signed by: \_\_\_\_\_

The Honorable  
Kenneth B. Keating  
United States Senate  
Washington, D. C.

Dear Senator Keating:

Your November 21st communication to our Houston Branch Office, in which you enclosed the November 14th hand-written letter to you from Mr. Louis Fernandez complaining of the activities of Danby & Co., has been referred to this Office for reply.

In his letter to you, Mr. Fernandez enclosed a copy of my letter to you of June 11, 1963, with respect to this matter. Mr. Fernandez re-asserts his view that Danby and Co. sold securities to him in violation of the Securities Act registration requirements; suggests that local attorneys "won't touch the case because the S.E.C. is not definite in its pronouncements;" and urges that an "explanation" be demanded of Mr. L. F. Wyrick of our Houston Branch Office. Mr. Fernandez' letter and its enclosure are returned herewith.

In view of the strict rules of this Commission against disclosure of any information which may be developed in an investigation conducted by its staff (except as may be coincident with some law enforcement action authorized by the Commission), I do not believe there is anything which Mr. Wyrick or I can add to my letter of June 11, 1963. It may be observed, however, that it is not within the province of this Commission or its staff to advise investors whether they may have a claim or right of action under the Securities Act growing out of the sale of securities in possible violation of that Act. In my letter of June 11th I mentioned that the Commission under certain circumstances might take action against a company if substantive evidence of a law violation were developed in an investigation of its activities; but the taking or withholding of such action by the Commission would in no way affect the private right of action by an individual investor (which under the law must be asserted in the appropriate United States District Court).

Whether any action by the Commission against Danby & Co. is possible or likely, I cannot say. However, if action is taken we shall see that Mr. Fernandez is notified thereof promptly.

Very truly yours,

Orval L. DuBois  
Secretary

cc: Mr. Wyrick, Houston Branch Office  
Mr. Allred, Fort Worth Regional Office