

Davis, Skaggs & Co.
San Francisco, California

April 1, 1968

Mr. Orval L. DuBois, Secretary
Securities and Exchange Commission
500 North Capitol Street
Washington, D. C. 20549

Dear Mr. DuBois:

Your memo of January 26, 1968 invited comment re proposed Rule 10b-10. We are anxious to convey our views on this proposal for as one of the smaller regional firms, we feel that passage of 10b-10 would impose undue financial burdens upon us and the public while it would favor the bigger firms. This should not be the SEC's objective.

This firm has operated for over 40 years in San Francisco. We have a personnel of about 85, catering to a retail clientele. Our business "mix" is about evenly divided between Stock Exchange transactions and underwritten securities. About 7% of our revenue comes from the sale of mutual funds. "Give ups" which we received last year came to \$25,000, which is worth nearly \$50,000 of normal gross to us since there is no part of this paid to salesmen.

This firm, and hundreds like it, need the "mix" which includes principal and agency business plus a moderate fund business to meet the needs of various types of investors. We need the combined income from all these sources to keep employed the 85 people we have with us, and also to train annually at least 4 to 5 new men at a cost of at least \$10,000 a year each.

We need profitability to build our capital and to make possible the continuation of our practice to finance with our own funds small companies which are not ready "to go public" short of 2 to 5 years. In the past several years we have brought forth three of our own underwritings to provide funds for sound local companies, and likewise, investments for our clients.

We reject the SEC philosophy of handling the "give up" as proposed. This is an impracticality at its worst. It purports to establish as a fraud the handling of any part of a "give up" unless it is returned to the fund from which it was initiated. This is a bookkeeper's nightmare, and a haven for dishonest men. There is no justifiable reason for any Commission to direct a part of a standard commission any more than it would be in order for the Department of Commerce, to order a

part of the profit from a tire sale to be refunded to the buyer. Reciprocity is a part of American life and has prevailed from the year one. In the profession of law fees may be and are spread between those lawyers who contribute to the conduct of the case. For the writers of 10b-10 to propose such a plan indicates a lack of the practical understanding of general business, and of the problem of handling and recording "give ups", even if they were to be directed back to the buyer's source. Related to the foregoing and particularly objectionable to us, is the obvious result from 10b-10 that the large firm would get more action, and the small regional firm less. It may be that the SEC did not intend this, but the result is obvious.

The volume discount and minimum commission are subjects which need particular comment. The writer, who has been in this business since 1921, has seen the chaos which comes out of giving volume discounts and breaking down of minimum commissions. Years ago the old San Francisco Stock Exchange operated on a 20% over-ride above New York rates. The transcontinental wire costs were the reason therefore. The ingenuity of man caused banks and big private buyers to lump their orders and send them direct to New York on outside wires. Further, great pressure was put upon salesmen and their firms to rebate from personal gross, or from the firm's part of the commission, in return for "all" of the business. No feature of Stock Exchange business has ever been more stable and standardized than the strict undeviating adherence to the minimum rate. This benefits the public and the members of the financial community. If this is broken down by 10b-10, it will have opened a Pandora's Box of irregularities and scheming which will be regretted. As to volume discount, this too opens an area of bunching orders; concentrating them in the hands of big firms with endless arguments over when and how the volume should be handled.

For over 30 years the technique of security house operation has been set by what is Fair, Just, and Equitable to the public. The NASD 5% philosophy for years has set a disciplined pattern of fair compensation for principal transactions. Brokerage business, covered by standard and fair commissions presently scaled to the 1958 level, should not be subjected to a rate making order covering volume discounts and a rebate of "give-ups" to the source of the order. Such a proposal is unfair, unjust and inequitable and is being promulgated by the SEC rather than upon complaints of the public. Never in the past 5 years has this firm had one complaint involving the amount of profit or commission charged. Our public must feel that they get valued service.

Lately the SEC has suggested a 5% ceiling on fund profit. With a prospectus disclosing every facet of a fund's transactions and with the broker-dealer and his client being free and able to choose between the management of a fund which carries an 8 1/2% load, or one with no load, it appears redundant that the proposal of the SEC be made to alter spreads. Too much has been said of 8

1/2% loads. No one seems to be able to spell out the fact that the load pays the fund, itself, the dealer and his salesman. Included also is the commission paid the broker who buys and sells the fund's inventory. Basic business economics dictates that compensation sets profits. The securities business is no exception.

All 20 of our partners join in preparing this, our outright objection to 10b-10. We feel that we contribute to the welfare of our community and to our clients. We provide financial help to new industries in this area. We make markets and abide by the law and good business principles. Our experience tells us that volume discounts provide nothing but chaos, and to abandon the minimum commission principle is unthinkable. We expect proper compensation for our services, and we resent proposals which in the guise of being in the Public's Interest break down business processes which prevail within every industry.

Very truly yours,

George W. Davis