

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
THE CHIEF JUSTICE
1929 TWENTY-FOURTH STREET, N. W.

November 3, 1943

Re: No. 24, Securities and Exchange Commission v. Joiner, etc.

Dear Jackson:

I, of course, go along with you in this case, but there are one or two points which occur to me which I bring to your attention.

1. I think you might make more than you do of the provisions which appear in Exhibit 17 (R. 167-A) and some of the other exhibits. The language is: "You may have 10 acres around one or both wells at \$5.00 per acre, cash, payable by August 1, 1941, and \$5.00 per acre additional payable November 1, 1941, or 30 days after both wells are completed." Waiving the point that this might be taken to embody an implied agreement to complete the wells, and assuming that there was no obligation to complete on the part of Joiner, it still is a contract whereby the victim makes payments contingent on completion of the well and therefore is, on its face, a form of investment contract in which the victim is paying both for a lease and for a development project.

2. The concluding sentence of the opinion seems to suggest that you are remanding the case to the Circuit Court of Appeals. Under the statute a reversal, in the absence of special directions, operates to remand the case to the District Court. If you intend to have it remanded to the Circuit Court of Appeals I think the opinion should so state specifically. Personally I would not be averse to ruling here that the documents are securities investment contracts within the meaning of the Act, and remanding it to the District Court for further proceedings.

Yours faithfully,

H. S.
Harlan F. Stone.

Mr. Justice Jackson