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TREASURY DEPARTMENT

Washington 25, D. C.

December 18, 1962

Honorable William L. Cary
Chairman
Securities and Exchange Commission
425 Second Street, N.W.
Washington, D. C.

Dear Bill:

Several people who attended the recent Practicing Law Institute Forum on Pension and Profit Sharing Plans wrote this Office concerning statements attributed to your Mr. Charles E. Shreve, Chief Counsel of the Division of Corporate Finance, to the effect that all common trust funds, including pooled retirement funds of the self-employed, are subject to registration and regulation under the various acts administered by your office. According to these reports, Mr. Shreve spoke unequivocally to many questions of law affecting these areas.

Jack Whitney spoke to me the other day about the desirability of having our respective staff people get together to discuss unspecified areas, including presumably, matters discussed by Mr. Shreve. The areas reportedly discussed unequivocally by Mr. Shreve involve matters of great importance to this Office and indeed to the public. I might say that our own thorough examination of the various issues dealt with by Mr. Shreve has led us to far different conclusions of law, as will be clearly reflected in our revised common trust fund regulations, to be issued soon. In addition, we believe that the "investors" in common trust funds enjoy better protection in the intensive regulation of banks than the Commission can provide.

Mr. Shreve reportedly indicated to the cited meeting that his conclusions of law on these questions would be recommended by him to the Commission; but the setting in which he stated his legal conclusions and the unequivocal nature of his statements apparently left the impression that they were authoritative expressions of the Commission's policies and views. Of course, we do not know whether or not such an impression correctly reflects the position of the Commission but in view of the importance of the issues involved and the legal conclusions thereon expressed by Mr. Shreve, this Office would much appreciate being advised whether Mr. Shreve's comments do or do not represent the policies and views of the Commission.

If the Commission has decided that it has the authority which Mr. Shreve apparently believes it has, and proposes to exercise it, it is our considered judgment that the basis for the

discussion suggested by Jack, and which I welcomed, dissolves. Should, contrary to what many now believe, Mr. Shreve's statements not constitute an irrevocable or immutable public commitment of the Commission to this position, it would appear highly desirable that you and I meet to determine whether there exists any possibility of our reaching a common understanding so as thereby to avoid open public conflict. I think you will concede that an early clarification of these issues is needed in the public interest.

Cordially,

/s/ Jim

James J. Saxon
Comptroller of the Currency