Securities and Exchange Commission
Washington, D.C. 20549

Division of
Trading and Markets

August 21, 1968

Mr. Robert W. Haack
President
New York Stock Exchange
Eleven Wall Street
New York, New York 10005

Dear Mr. Haack:

As you are aware, we have been studying trading by members of the Exchange for their own account from off the floor. We collected data for March-April, 1967 from 30 members who were particularly active as short-term traders. We have completed our analysis of this data and are sending you the attached report of our findings.

The study shows that many of the detrimental aspects of on-floor trading appear in member off-floor trading. There is concentration by several off-floor members, domination of the market where a large proportion of the purchases are effected by members, and an impact on the market resulting in an increase in the price of the stock.

Members off floor, like floor traders, generally concentrate their activity in the more active and volatile stocks. The study shows that there is a strong tendency for members to trade together in these stocks in short periods of time. For example, in many instances several off-floor members selected the same 15 minute period or less to effect their purchases in a particular stock and these were the only purchases of this stock by such members in the entire day. Table 5 of the report shows how frequently members participated together as purchasers in short intervals.

In an analysis of hourly trading in selected stocks by off-floor members it was found that in almost half of the hours analyzed, members off floor were responsible for more than 25 percent of all the shares purchased. In shorter intervals of time they frequently accounted for 50 percent or more of the purchases.

The destabilizing nature of off-floor members' trading is most apparent when members are participating as purchasers at about the same time. In such instances over 90 percent of off-floor members' purchases were found to occur on plus or zero plus ticks, primarily at or above the previous day's close. As a result stock prices rose from 1/8 to more than one point in 175 of 200 trading sequences analyzed. Prices rose where members bought less than a majority of the shares sold as well as in those where they bought more. Strategic placing of orders, large tape prints, or a series of purchases in quick succession served to accomplish the same result.

Members took advantage of the price rises to promptly liquidate their positions. In 90 percent of the trading sequences analyzed, off-floor members began to sell their shares within an hour or less after the last purchase by any off-floor member.

In Table 9 of the report several typical examples of trading by off-floor members are presented showing their concentration, domination of the market and effect upon prices. In Tel Autograph Common on April 25, 1967, for example, four off-floor members raised the price from 8 1/8 to 8 5/8 in only five minutes of trading. Purchases of 4,500 shares, or 90 percent of the volume, by Rafkind & Co., Filor, Bullard & Smyth, Stern, Hoffman and William Fisher were responsible for this increase. Strategic placing of orders appears to have enabled Pershing & Co., Ross, Lyon & Co., and Rosen, Deutschmann to increase the price of Montgomery Ward Common on March 3, 1967 from 22 3/8 to 22 3/4 in three minutes. In Lehigh Valley Industries on April 27, 1967, there were three large tape prints between 10:24 and 10:36 a.m. and all three were attributable to off-floor members, namely Haberman Brothers, Rafkind & Co. and Weis, Voisin, Cannon.

In addition to indicating violations of the applicable exchange trading rules, the above also serve as examples of situations which strongly suggest violations of Section 9(a)(2) and Rule 10b-5 under the 1934 Act. Accordingly, we recommend that the Exchange staff fully explore these situations.

The attached report makes two recommendations which the staff feels will greatly reduce the problems disclosed in the report. These recommendations are: (1) members and member firms trading from off the floor for their own account may not, when establishing or increasing a long position, effect any purchases on plus or zero plus ticks at or above the previous day's close; (2) members or member firms may not enter an order to sell for their own account any shares of a stock in which the member or member firm has effected any purchases previously that day unless at least one hour has elapsed since the time of his last purchase.

In view of the current back office problems of broker-dealers which reflect the speculative activity in the market, it is particularly appropriate at this time to impose these kinds of restraints upon members' own trading. Any lessened activity on the part of members would cause a commensurate decline in back office problems apart from the related reduction of activity by public investors who, as the report shows, are frequently attracted to the market by this type of member trading.

We would like to meet with members of your staff at the earliest possible time to discuss the attached report.

Sincerely yours,

/s/ Irving M. Pollack

Irving M. Pollack
Director

Attachment