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1 Paul Gonson
Associate General Counsel
2 Irving H. Picard
Assistant General Counsel
3 Howard B. Scherer
Attorney

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OFFICE OF GENERAL COUNSEL FILED

4 Securities and Exchange Commission
5 500 North Capitol Street
Washington, D.C. 20549
6 Telephone: (202) 755-1238

JAN 24 3 58 PM '77
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
BY _____

7 Charles R. Hartman
Attorney

8 Securities and Exchange Commission
9 Suite 1710
10 10960 Wilshire Boulevard
Los Angeles, California 90024
11 Telephone: (213) 984-0011

12 Attorneys for Defendants Securities and Exchange Commission,
Roderick M. Hills, Philip A. Loomis, Jr., John R. Evans,
13 and Irving M. Pollack, Stanley Sporkin, Irwin M. Borowski,
James G. Mann, and Ralph Erickson.

14 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

16 _____
17 ELLIOT HANDLER, RUTH HANDLER,
SEYMOUR M. ROSENBERG,

CIVIL NO. 77-0067 ^{FW} WPS

18 Plaintiffs,

19 SECURITIES AND EXCHANGE COMMISSION;
20 RODERICK M. HILLS, PHILIP A.
LOOMIS, JR., JOHN R. EVANS, and
21 IRVING M. POLLACK, as Commissioners
of the SEC; STANLEY SPORKIN,
22 Individually and as Director,
Division of Enforcement, SEC;
IRWIN M. BOROWSKI, Individually and
23 as Associate Director, Division of
Enforcement, SEC; JAMES G. MANN,
24 Individually and as Special Counsel,
SEC; RALPH H. ERICKSON, Individually
25 and as Assistant Administrator,
Enforcement Division, Los Angeles
26 Regional Office (Region 7), SEC;
27 UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA;

NOTICE OF MOTION AND MOTION
OF DEFENDANTS SECURITIES AND
EXCHANGE COMMISSION, ITS
COMMISSIONERS AND STANLEY
SPORKIN, IRWIN M. BOROWSKI,
JAMES G. MANN AND RALPH H.
ERICKSON, TO DISMISS THE COM-
PLAINT FOR FAILURE TO STATE
A CLAIM OR, ALTERNATIVELY,
FOR SUMMARY JUDGMENT

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1 EDWARD H. LEVI, as Attorney General :
of the United States; WILLIAM D. :
2 KELLER, as United States Attorney for:
the Central District of California; :
3 :
4 Defendants. :
5 _____ :

6 To Plaintiffs Elliot Handler, Ruth Handler, and
7 Seymour M. Rosenberg and their attorneys of record:

8 PLEASE TAKE NOTICE that on Monday, January 31, 1977,
9 at 10:00 a.m. or as soon thereafter as counsel may be heard, in
10 the courtroom of the Honorable Francis C. Whelan, United States
11 Courthouse, 312 North Spring Street, Los Angeles, California,
12 defendants Securities and Exchange Commission, its Commissioners
13 and Stanley Sporkin, Irwin M. Borowski, James G. Mann, and Ralph
14 H. Erickson, will move this Court for an order pursuant to Rule
15 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the
16 instant action, or, in the alternative, for an order pursuant to
17 Rule 56 of the Federal Rules of Civil Procedure For Summary Judg-
18 ment.


19 In support of this motion, the moving defendants rely
20 on a memorandum of points and authorities filed herewith, and also
21 upon a memorandum to be filed in support of a like motion to be
22 made in this case by defendants Attorney General Edward H. Levi
23 and United States Attorney William D. Keller. Counsel for the
24 moving defendants and counsel for the plaintiffs are in the pro-

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27 *
28 *

1 cess of preparing a stipulated fact statement. This statement
2 will be submitted in support of this motion in lieu of affidavits
3 and also in lieu of proposed findings of fact. The motion is
4 also based on defendants Securities and Exchange Commission, and
5 its Commissioners' and staff statement of material facts to which
6 there are no genuine issues and conclusions of law.

7 Based on the foregoing, the Court should grant the
8 motion of the defendants Commission and the Commission staff mem-
9 bers to dismiss or, in the alternative, for summary judgment.
10 The Court should also deny the plaintiff's request for a permanent
11 injunction and deny the plaintiff's request for declaratory relief.

12
13 Respectfully submitted,

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15 
16 Charles R. Hartman
17 Attorney for defendants
18 Securities and Exchange Commission,
19 Roderick M. Hills, Philip A. Loomis,
20 Jr., John R. Evans, and Irving M.
21 Pollack, Stanley Sporkin, Irwin M.
22 Borowski, James G. Mann, and Ralph
23 H. Erickson
24
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY AS FOLLOWS:

I am regularly employed in the office of the U.S. Securities and Exchange Commission as the secretary to Charles R. Hartman who is a member of the bar of this Court and at whose direction this service was made. My business address is Suite 1710, 10960 Wilshire Boulevard, Los Angeles, California. I served the foregoing NOTICE OF MOTION AND MOTION OF DEFENDANTS SECURITIES AND EXCHANGE COMMISSION, ITS COMMISSIONERS AND STANLEY SPORKIN, IRWIN M. BOROWSKI, JAMES G. MANN AND RALPH H. ERICKSON, TO DISMISS THE COMPLAINT FOR FAILURE TO STATE A CLAIM OR, ALTERNATIVELY, FOR SUMMARY JUDGMENT by depositing a true and correct copy thereof in the United States Mail in Los Angeles, California on January 24, 1977 enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows:

R. Stan Mortenson, Esq.
Miller, Cassidy, Larrella & Levin
2555 M Street, N.W.
Suite 500
Washington, D.C. 20037

Charles S. Battles, Jr., Esq.
Gibson, Dunn & Crutcher
9601 Wilshire Blvd.
Los Angeles, California 90210

Attorneys for plaintiffs, Eliot Handler and Ruth Handler

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Edward M. Medvene, Esq.
Mitchell, Silberberg & Krupp
1800 Century Park East
Suite 800
Century City, California 90067

Attorneys for Plaintiff Seymour M. Rosenberg

Dated: January 24, 1977


Secretary to Charles R. Hartman