

THE WALL STREET JOURNAL DOW JONES & COMPANY, INC.

Publishers

1025 CONNELLICUT AVENUE N.W.
SUITE 800
WASHINGTON, D. C. 20036

October 26, 1983

The Honorable
John S.R. Shad
Chairman
The Securities and Exchange Commission
Washington DC 20549

Dear Chairman Shad:

We are planning a profile of you and your accomplishments thus far at the SEC. At Andy Rothman's request, I have prepared a list of questions to which you might care to respond. I would prefer to discuss them with you in person, on the record, as soon as possible; but I am told that you would like to draft some answers first, and then grant an interview. I am amenable to that proposal. The final story will draw upon your responses, the interview, my notes of our past discussions, and the scores of interviews I have already conducted with SEC employees, other government officials, and industry executives. It is my honest intention to write a fair, balanced profile of you. Obviously, input from you is essential to that end.

In addition, I have enclosed a summary of a study of SEC enforcement actions; It was compiled by me, with the paid assistance of Charles E. Simon & Co., a local research firm. As you can see, the study counts the number of SEC enforcement actions, since mid-1977, against "big business." Its simple purpose was to see whether SEC enforcement statistics refute or support the oft-heard criticism that the Enforcement Division has gotten "soft on big business." I have not yet decided whether this analysis, if it results in a story, will be included in our profile of you, or whether it will run separately. Either way, I am eager to hear your comments on it, and have included some questions that address this study. I am sending John Fedders a separate copy, for his comment.

Please pardon the length of these questions, and the bluntness with which they have been phrased. At Andy's request, I am laying out some of the major points the story may make, based on what others say about you. Your reaction to these points will obviously shape the final story.

I look forward to hearing your responses to these questions, and receiving any other comments you might care to make on the subject.

Sincerely,

Richard L. Hudson
Staff Reporter

cc Andy Rothman

QUESTIONS FOR CHAIRMAN SHAD

1) What do you consider your most significant accomplishments, and failures, in office? Many industry officials regard as accomplishments: getting through the Commission an unprecedented volume of rule-changes generally regarded as deregulatory, reshaping Commission enforcement policy and operations with the aide of John Fedders, increasing reliance on the self-regulatory organs of industry, increasing cooperation with other agencies of government (e.g., the CFTC accord), and fostering some subtle changes in the process of SEC regulation, such as increasing emphasis on cost-benefit analysis, restraining bureaucratic "nitpicking", and listening more closely to industry complaints. Failures, according to these people, include an inability to get any meaningful deregulatory legislation enacted, difficulties with effectively countering or muting press and Congressional criticism, and problems maintaining a consensus among your four colleagues.

2) Among those who discuss your accomplishments, opinion varies widely over whether they have been beneficial or harmful to investors. Please address the often-heard criticism that the SEC, under your guidance, has frequently given more weight to the deregulatory desires of industry, than to the interests of investors in full disclosure and safeguards against fraud. Few people question your personal integrity in this regard; rather, they maintain that, coming as you do from a respected Wall Street firm, you sometimes assume erroneously that the ethical standards of all corporate executives and brokers are as high as those held by many of your former associates.

3) How would you explain the fact, demonstrated by the attached study, that the Commission during your tenure has brought significantly fewer enforcement actions against big issuers, than it did under Mr. Williams? As you can see, the number of proceedings against big issuers dropped to eight in the second year of your term, from 18 in the first year of Mr. Williams' tenure. You can also see that these big business cases represented 7% of all enforcement actions against issuers in your second year, compared to 11% in Mr. Williams' first year. Why? Is big business more law-abiding than it was in 1977? Is the Commission less aggressive in the pursuit of large companies? Do you believe the Commission has any extra obligation to investigate violations by large corporations, rather than small ones? On a related point, I am told that, in closed meetings, you often espouse the view that SEC charges should be brought against the individual violators, when possible, rather than the corporation or firm that employs them. Please explain why, as a general proposition, you feel that way. Could that view have anything to do with the numbers cited above?

4)As the attached study also shows, SEC proceedings against the nation's largest broker/dealers have grown more numerous under your tenure (ignoring the first year of Mr. Williams' term.) The analysis also shows, however, that most of these cases involved supervision charges, rather than any more substantive violation. In addition, it shows that a higher percentage of the broker/dealer cases involved big firms during Mr. Williams' term, than in your term thus far. Could one conclude from these statistics that the Commission during your term has focused most of its expanded broker/dealer enforcement efforts on small firms, rather than large, and has only rarely charged a major firm with anything but a "technical" supervision charge? How would you explain these statistics?

5)Many of your most ardent supporters, while praising your accomplishments, also find several personal faults in you. They include: poor public speaking skills; political naivete, as evidenced by the recent Hill episodes over the mortgage-backed securities legislation and the evolution of your position on the insider trading bill; a disinclination or inability to engineer winning coalitions among your four colleagues for some of the deregulatory positions you have espoused (e.g., the pro rata rule, the debate on S-18); occasional difficulty getting some of your ideas adopted, partly because of an insufficiently detailed knowledge of some aspects of securities regulation (e.g., some industry officials say that, while you wished to achieve greater deregulation of investment companies, your efforts were hindered by past foot-dragging by some Investment Management staffers;) and too "thin-skinned" about criticism from the press and political opponents. You are generally praised as hard-working, conscientious, persistent to the point of what some call "bull-headed", honest, and without the "imperial", personal pretensions for which Mr. Williams was sometimes criticized.

6)When you came aboard, you listed investor protection and deregulation as your two top priorities. Have your priorities or goals changed since then? How have you, personally, changed since May 1981?

7)What specific changes in SEC rules, statutes, or policies, beyond those already proposed for comment or enactment, would you like to accomplish in the remainder of your term? Would you say you have accomplished the bulk of what you set out to do, or is much more remaining to be done?

8)Many people, inside and outside the Commission, are speculating that the pace of deregulation will slow next year. To support this thesis, they cite the coming turnover in Commission members as a prescription for inaction, their view that most of the proposed rule-changes on the most recent Regulatory Flexibility list are not as significant as those that have already been adopted in your tenure, mounting criticism of deregulation that makes major changes politically difficult, and widespread belief that further significant deregulatory initiatives would have to be accomplished by legislation, the prospects of which appear unpromising until at least late 1984. I should add that

this thesis is advanced primarily by people who support deregulation. Do you believe there is any truth to this thesis? Did your recent request for a list of 1-year and 5-year goals from division directors reflect any desire to reassess the Commission's direction?

9) An oft-stated goal of the Reagan Administration has been to make lasting changes in the size, role, and operation of regulatory agencies. Under your tenure, have there been any lasting changes in the functioning of the SEC -- e.g., its attitude to the businesses it regulates, its manner of weighing costs and benefits of regulation? Which of your accomplishments do you feel most confident will survive your term and that of Ronald Reagan? Is it true that you plan to urge OMB to make no significant cuts in the FY 85 budget?

10) What role, if any, has OMB or the West Wing played in deregulation at the SEC? How often have you met or spoken with members of the President's Cabinet or his inner circle of advisors about SEC matters?

11) Do you enjoy your job? Have its annoyances (such as press inquiries like this) begun to outweigh its personal rewards? How long would you like to remain chairman? Is it true that you would have liked to become finance chairman for the President's re-election campaign, or that you would like to move on to a cabinet-level post in the next Republican administration?

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