

Addendum by Stanley Sporkin to Oral Histories Interview – March 24, 2004

There is another area I would like to discuss that shows the creativity and ingenuity that the Commission and SEC staff exercised when confronted with unprecedented challenges. In the mid-sixties the brokerage community had extremely serious back office problems. Trading volume had increased to such a degree that it outstripped the brokerage community's ability to handle it.

This was not a capital or money crisis. It involved strictly the inability of brokers to control their recordation of transactions. In one case we found a major NYSE brokerage firm unable to account for some 500 million dollars in securities. One half of the \$500 million reflected customer's claims but with respect to which there were no securities in those customer's names. At the same time the firm had securities in that amount without any specific indication as to their ownership.

When the firm reported to us its problems which had not been publicly reported, I searched all of the statutes looking for some way to resolve the problem. As I poured through the books I came across the provision that authorized the Commission to take action against broker dealers. What caught my eye was the provision that read that any proceeding brought by the Commission "may be public." I immediately realized I had the proverbial "key to the case." If the statute read the proceeding may be public then of course it could also be private. That was the key. We would bring a "private proceeding" so that the public would not be alarmed about a broker dealer (at the time only one of many) that was utterly out of control.

This was the center piece of our strategy: “a private proceeding.” We coupled that with a request that the Commission suspend the firm pending final determination of the action. The Commission authorized the proceeding. The next step was to meet with the brokerage firm to tell its officials that if immediate action was not taken the firm would be ordered to cease operations.

The firm got the message. It immediately engaged the services of one of the major accounting firms which brought in some 100 accountants to research the so-called failed transactions. Within weeks the books and records were reconciled. Because of the firm’s cooperation the only sanction was a censure, at which point the proceeding was concluded and publicly announced. Since at this point the firm was in full compliance when the public announcement was made, there was little investor reaction. The good news outweighed the bad news.

The crisis was thus averted and the Commission had one of its finest hours. Its powers were exercised not to punish, but to protect the public interest. Because this action was without precedent, Mr. Pollack and I were relieved when everything worked out to everyone’s benefit. This process was utilized in other instances virtually all with the same degree of success.