

March 25, 1938.

Mr. Howland S. Davis, Chairman,
Committee on Business Conduct,
New York Stock Exchange,
New York, N.Y.

Dear Mr. Davis:

I am in receipt of your letter of March 18, 1938, concerning the role of the New York Stock Exchange entitled "Excessive Trading by Members" (Section 17 of Chapter XIV of the Rules of the Governing Committee).

You will recall that shortly after the enactment of the Securities Exchange Act of 1934 this Commission considered adopting certain regulations relating to trading by members on national securities exchanges. At that time, representatives of the New York Stock Exchange requested that the Exchange be permitted to adopt its own rules. It was represented that because of the policing machinery of the Exchange and its broad interpretive powers, exchange regulation was more desirable than government regulation and would bring about more efficacious enforcement of the rules. On the basis of those representations, the Commission acceded to the request of the Exchange.

The language of the excessive trading rule was proposed by the representatives of the New York Stock Exchange in lieu of other more definite rules which the Commission had suggested. It was the understanding of the Commission that the purpose of the excessive trading rule was well understood by the Exchange when it was adopted and it was expected that the Exchange would be able to enforce it. Since it appears from your letter of March 18, 1938, and from recent discussions which you have had with representatives of the Commission on Business Conduct of the New York Stock Exchange are unable to agree upon an interpretation of that rule, we are pleased to confer with you further with a view to redrafting the rule for promulgation either by the Exchange or by the Commission.

Meanwhile I note that the decision in the Hiscoe case will not be considered by the Exchange as a binding precedent.

Faithfully yours,

William O. Douglas
Chairman