

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

May 22, 1975

Honorable Harrison A. Williams, Jr.
Chairman, Subcommittee on Securities
Committee on Banking, Housing and
Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Williams:

A copy of your letter of May 19, 1975, to Chairman Garrett was hand delivered to me, and, although I agree completely with the Chairman's May 20 reply to your letter, because you stated that a quote attributed to me in the Wall Street Letter of May 19 was "ill-advised," I believe it is important that I also respond for two reasons.

First, your letter appears to raise doubts concerning my attitude towards Rule 394 of the New York Stock Exchange and I believe I should convey to you directly my thoughts on the matters discussed in your letter. During the hearings on my confirmation as Commissioner, I testified that I would respond to any reasonable inquiry that may be given to me by a Committee of the Senate, and, while this matter does not involve a request to appear before the Committee, I believe that it is consistent with the spirit of that commitment to respond to your concern. Second, silence could give rise to misunderstandings or misimpressions that might jeopardize what I have considered to be a relationship of trust and cooperative efforts on securities legislation stemming from the several years I served as a Committee staff member. Such a result would be most unfortunate.

As a staff member I believed, and continue to believe, that forthright and straightforward communication of views is essential, even though differences may arise. I concur with Chairman Garrett that there are five independent individuals serving as Commissioners of the SEC. During my confirmation hearings, I thought it was quite clear that Congress expected independent regulatory bodies to be conducted in this manner. Indeed, in response to a question I stated that, "I intend to make independent decisions not influenced by personal relationships." My experience on the Commission has been that there are strong differences of opinion on some issues that have come before the Commission, and, although a Chairman might attempt to use that office to pressure or muzzle other members of the Commission, Chairman Garrett has never even intimated how I should vote on issues before the Commission or that I should refrain from expressing my views. If I ever get to the point that I believe I cannot vote or speak independently, it will be time to resign.

With respect to the quote discussed in your letter, I neither deny the quote nor do I believe that the substance of what I said was misquoted. In my relations with the press I have tried to be responsive to questions and in turn believe I have been treated fairly. I believe that the advantage of publicly airing the views of regulators outweighs the risks that the content and tone of those views may not be conveyed fully in all instances.

Since receiving your letter, I have discussed the matter with the Wall Street Letter reporter who wrote the story. He agrees that I prefaced my remarks by stating that the final language of the bill was not available, and that I could not comment, except on the basis of discussions which had taken place between the Commission, staff members of the House and Senate Committees, and members of the conference committee. I told him, as I have done on other occasions, that I believed Rule 394 would probably be eliminated either by competitive forces or by governmental action. I told him also that I believed the Commission would be required to review the rules of all exchanges, and that I was sure a standard of review in the final legislation would require the Commission to remove barriers to competition that were not needed to achieve the broad purposes of the Securities Exchange Act. In addition, as reported, I told him that the SEC would consider Rule 394 in a fair and objective manner, but based on all of the information thus far available, I thought it would be difficult to maintain the rule and meet the standard I expected to be in the legislation.

Yesterday, I received a copy of the Congressional Record of May 19 and read that part of the Conference Report and Statement of Managers relating to Rule 394. In my opinion, my comments were substantially correct. In any event, you will note that I did not express any view as to how I would vote on the issue nor how anyone else would vote on it, and the comment that there is a lot of sympathy around the Commission for getting rid of the rule shouldn't come as a surprise to anyone.

Let me assure you that I have not made a final decision on Rule 394. I intend to comply fully with legislative standards in considering this issue and am open to comments from any source. In my opinion, my views and public statements are not inconsistent with any standards contained in S. 249 or with any standard relating to our quasi-legislative authority and responsibilities.

I hope that this is responsive to your concerns and is consistent with your expectations regarding the conduct of a member of an independent Commission. If you have further questions regarding this matter, please let me know.

Sincerely,

John R. Evans
Commissioner