

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, D.C. 20510

January 28, 1981

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I have received the SEC Transition Team Final Report, dated December 22, 1980. I am most distressed at the recommendations contained in the Report. Frankly, the Report is a prescription for the destruction of the public interest mandate of the Securities and Exchange Commission and is unworthy of consideration by your Administration.

The SEC's mandate is to ensure fair and orderly capital markets. The SEC has succeeded in its mission. It is perhaps the best enforcement agency of the government. Because of its efforts our capital markets are the envy of the world and the investors around the globe have trust in our capital markets. No small part of this is directly attributable to the no holds barred public interest position of the enforcement activities of the SEC.

The Report strikes at the heart of the SEC. It recommends a virtual dismantling of the enforcement activities of the SEC, reducing the SEC to a toothless tiger.

Moreover, the Report's recommendations on enforcement policy are mutually inconsistent. It takes the SEC to task for its consent judgment procedure, complaining that the SEC spends too much time on small cases. At the same time, it recommends that the SEC spend less time on prolonged investigations shifting emphasis to major matters. Obviously major matters take a good deal of time to investigate thoroughly. Consent judgments not only save agency time as well as the time of the courts, but also have great value in identifying to the public the kinds of behavior on a case-by-case basis that run afoul of the SEC laws. Perhaps even more significantly, the Report contains an offensive recommendation suggesting that non-public enforcement action be undertaken by the SEC. This particular recommendation could result in "secret" enforcement actions completely contrary to the public interest. This would be contrary to the SEC's entire focus of disclosure which underlies the Federal securities laws.

The Report further would gut the Foreign Corrupt Practices Act by removing criminal penalties and a role for the SEC in its civil enforcement.

FCPA was a response to a major international scandal. Foreign bribery brought down a government in Japan, scandalized the monarchy in the Netherlands and complicated our relations with Italy, tarnishing the image of our democracy abroad. Competition in foreign markets based on bribery hurt American companies which want to compete on the basis of price, service and quality. I hope that the attention of the Reagan Administration would be directed to the development of a treaty outlawing bribery of all industrialized nations rather than dissembling our own law.

Mr. President, I believe the SEC deserves the support of your Administration not the second class status to which the Transition Report would sentence it. Because I feel so strongly about the Transition Report, I will have to oppose with every means at my disposal any nominee to the SEC whose views reflect the recommendations of the Transition Report.

Sincerely,

William Proxmire

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