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MURKIN  
THE WHITE HOUSE

Resp'y forwarded to the President:

*Emm*  
W. S. W.

~~CONFIDENTIAL~~ MEMORANDUM

June 12, 1940

TO: The President

FROM: Jerome N. Frank, Chairman  
Securities and Exchange Commission

This morning one of our staff saw Senator Brown who introduced a bill in the Senate "by request" providing for drastic amendments of the Securities Act. Senator Brown said that he was not intending to push his bill at this session but that Congressman Lea had recently phoned him to say he intended, in the near future, to have a hearing before his House Committee on an identical bill which he introduced in the House. Also, I just learned from Judge Healy, who is conferring with Congressman Cole, that yesterday Starkweather, one of the officers of the IBA, had phoned Congressman Lea and had been told that Congressman Lea intends to hold a hearing on Monday, or in the near future, on that bill and generally to investigate the activities of the SEC.

I understand that last week, when, at your request, General Watson phoned Congressman Rayburn on this sub-

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CONFIDENTIAL

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ject, the latter said that we were being unduly apprehensive and that nothing would happen at this session. I phoned Sam Rayburn this morning, but have as yet been unable to reach him.

*PSF Frank*

CONFIDENTIAL MEMORANDUM

*file →*

June 14, 1940

TO: The President  
FROM: Jerome N. Frank, Chairman  
Securities and Exchange Commission

Frank Bonner, President of the National Association of Security Dealers (the Maloney Act association) called on me today to say that he hoped that, as far as possible, the investment bankers would play a part in financing in connection with the national emergency. He said that he thought that, before long, some mechanism to perform the function of the old Capital Issues Committee might have to be set up.

His association has, on the whole, cooperated far more with us than the Investment Bankers Association. The former represents not only the "Park Avenue" investment bankers but also the rank and file of dealers throughout the country.

It might be well to give some encouragement to NASD, by having SEC write a letter to it that, to the extent that the emergency does not require direct government financing or governmental financial aid, the government will be delighted to have the investment bankers do the necessary job of the increased financing that will be called for. Would it be appropriate for me to write such a letter?

- 2 -

His reference to the Capital Issues arrangement suggests that it might be well, in the near future, to have discussions between Jesse Jones, on behalf of the RFC, and myself, on behalf of the SEC, devising plans along those lines. Have I your permission to talk to Uncle Jess about the matter?

*PSF Jerome Frank  
Folder*

THE WHITE HOUSE  
WASHINGTON

January 10, 1941

MEMORANDUM FOR

HON. JEROME FRANK

That is very interesting  
about utility common stocks. I  
hope it will be carried out.

F. D. R.

WASHINGTON  
THE WHITE HOUSE

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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON

OFFICE OF THE CHAIRMAN

THE WHITE HOUSE  
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January 9, 1941

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**CONFIDENTIAL**

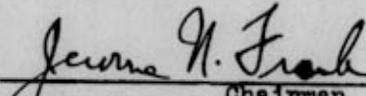
MEMORANDUM FOR THE PRESIDENT:

You may be interested to know that Stanley of Morgan Stanley & Co. told me this week that it is not at all unlikely his company will decide in the near future to undertake the distribution and sale as underwriters of utility common stocks. Such a move (which will represent a significant silent victory for the SEC) may be immensely helpful in aiding the utilities to finance expansion for national defense needs for the following reasons:

Many operating utility companies have unsound financial structures because they have outstanding a disproportionate amount of bonds (or bonds and preferred stock) so that it is difficult for them to finance expansion without injury to the investors. Morgan Stanley has heretofore been interested in selling only bonds. Although we cannot prove it, there is much reason to believe that, for that reason, they have discouraged the sale of utility common stocks. We believe that their influence has affected directly those utility systems

- 2 -

which are affiliated with United Corporation, and that it has indirectly affected other systems because the Morgan prestige has substantial effects on many other investment bankers. Several steps taken by the SEC have, however, put pressure on Morgan Stanley to distribute stocks and, if they soon do so, there will probably be created a considerable market for such securities. Not only will that help to improve the financial condition of operating companies but probably it will substantially aid in connection with integration. (Incidentally, I shall send you, in the next few days, a memorandum showing briefly the substantial progress we are making in the field of integration.)

  
\_\_\_\_\_  
Chairman  
Securities and Exchange Commission

*PSF Frank - Bureau 3  
New York*

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON

OFFICE OF THE CHAIRMAN

January 13, 1941

CONFIDENTIAL

*file* →

MEMORANDUM FOR THE PRESIDENT:

I think you will be interested in the following in its bearing not only on our national problems but in its relation to the attitude of the investment defense bankers:

Secretary Morgenthau, as a result of his conversations with the British, wanted to demonstrate to them that it would be possible for them to sell their nonlisted securities (i.e., in wholly owned American corporations) in an orderly way without unnecessary sacrifice. To that end he conferred with Mr. Cyril Quinn, one of the principal officers of Tri-Continental, an investment trust. He then invited us to a conference for the sole purpose of asking us to see to it that, if the investment trust industry were to offer to buy such securities, each of the investment trusts would get its ratable share, if they so desired. We agreed to perform that limited task.

Mr. Schenker, head of our Investment Company Division, accordingly went to New York to confer with the heads of the various investment trusts. He learned that, with the exception of the three investment trusts controlled by investment

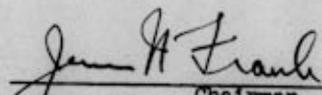
bankers, [Lehman Corporation, affiliated with Lehman Bros.; U. S. and Foreign, a Dillon affiliate; and American General, a Lazard Freres affiliate] most of the investment trusts which had been contacted by Mr. Quinn seemed ready to go along. Mr. Schenker conferred with Robert Lehman and John Hancock of Lehman Bros. and Arthur Bunker of Lehman Corp. They expressed an unwillingness to participate primarily on these alleged grounds: First, that they had information to the effect that the British did not want to sell such securities and that the plan would put pressure upon the British to sell (which they thought undesirable); and second, that the particular mechanism set up would stifle competition in bidding for those securities. (This second ground is amusing inasmuch as the same investment bankers are vigorously protesting against an SEC rule, now under consideration, to require competitive bidding for utility securities).

As above noted, the three recalcitrant investment trusts are those which are dominated by investment bankers. It seems fairly obvious that their true basic objection is their fear that there will develop, through the investment trusts, something highly desirable, namely, true underwriting, i.e., underwriting in which the underwriters, having sufficient capital, are able to buy the offered securities, without the necessity of any immediate or even ultimate sale to the public. The fact is that our investment bankers,

when they act as so-called underwriters, do not do the job that has frequently been done in England by underwriters, but (because of insufficient capital) merely act as salesmen who immediately sell to the public and receive more than a salesman's commission - the extra amount being paid to them on the theory that they are true underwriters when, in fact, they do not so function. They wish to maintain that position, thus in effect continuing to get more than they are perhaps entitled to; this aspect of the existing American underwriting arrangements was forcibly commented on by former Chairman Douglas several years ago, to the great disgust of the investment bankers.

What makes the matter even more amusing is this fact: The position of the investment bankers is based on their alleged desire to maintain competition. But our own studies, and the evidence introduced before the T.N.E.C., show that today there is virtually no competition among the leading investment bankers; for, when one leading investment banker gets a piece of business, all others, by tacit consent, usually lay off and do not compete. The development of true underwriting by the investment trusts (something contemplated by the Investment Company Act of 1940) will, in truth, create competition for the investment bankers; that is what the latter dislike and, in this instance, are (but on other purported grounds) resisting.

In spite of that resistance, I think that within a very short period many of those investment trusts which are not affiliated with investment bankers will be in a position to make offers for some of the British securities. That will still leave it open for the investment bankers to compete. The entrance of the investment trusts into the matter will, to repeat, increase and not decrease competition.

  
Chairman  
Securities and Exchange Commission

OFFICE OF  
THE SECRETARY OF THE TREASURY

January 17, 1941

MEMORANDUM TO GENERAL WATSON:

Returned for the files.

January 13, 1941

CONFIDENTIAL

MEMORANDUM FOR THE PRESIDENT:

I think you will be interested in the following in its bearing not only on our national problems but in its relation to the attitude of the investment defense bankers:

Secretary Morgenthau, as a result of his conversations with the British, wanted to demonstrate to them that it would be possible for them to sell their nonlisted securities (i.e., in wholly owned American corporations) in an orderly way without unnecessary sacrifice. To that end he conferred with Mr. Cyril Quinn, one of the principal officers of Tri-Continental, an investment trust. He then invited us to a conference for the sole purpose of asking us to see to it that, if the investment trust industry were to offer to buy such securities, each of the investment trusts would get its ratable share, if they so desired. We agreed to perform that limited task.

Mr. Schenker, head of our Investment Company Division, accordingly went to New York to confer with the heads of the various investment trusts. He learned that, with the exception of the three investment trusts controlled by investment

bankers, [Lehman Corporation, affiliated with Lehman Bros.; U. S. and Foreign, a Dillon affiliate; and American General, a Lazard Freres affiliate] most of the investment trusts which had been contacted by Mr. Quinn seemed ready to go along. Mr. Schenker conferred with Robert Lehman and John Hancock of Lehman Bros. and Arthur Bunker of Lehman Corp. They expressed an unwillingness to participate primarily on these alleged grounds: First, that they had information to the effect that the British did not want to sell such securities and that the plan would put pressure upon the British to sell (which they thought undesirable); and second, that the particular mechanism set up would stifle competition in bidding for those securities. (This second ground is amusing inasmuch as the same investment bankers are vigorously protesting against an SEC rule, now under consideration, to require competitive bidding for utility securities).

As above noted, the three recalcitrant investment trusts are those which are dominated by investment bankers. It seems fairly obvious that their true basic objection is their fear that there will develop, through the investment trusts, something highly desirable, namely, true underwriting, i.e., underwriting in which the underwriters, having sufficient capital, are able to buy the offered securities, without the necessity of any immediate or even ultimate sale to the public. The fact is that our investment bankers,

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What makes the matter even more amusing is this fact: The position of the investment bankers is based on their alleged desire to maintain competition. But our own studies, and the evidence introduced before the T.N.E.C., show that today there is virtually no competition among the leading investment bankers; for, when one leading investment banker gets a piece of business, all others, by tacit consent, usually lay off and do not compete. The development of true underwriting by the investment trusts (something contemplated by the Investment Company Act of 1940) will, in truth, create competition for the investment bankers; that is what the latter dislike and, in this instance, are (but on other purported grounds) resisting.

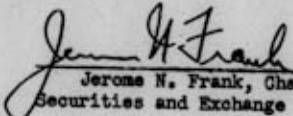
In spite of that resistance, I think that within a very short period many of these investment trusts which are not affiliated with investment bankers will be in a position to make offers for some of the British securities. That will still leave it open for the investment bankers to compete. The entrance of the investment trusts into the matter will, to repeat, increase and not decrease competition.

I am, therefore, glad to report that our integration proceedings are now well under way. We are progressively pushing forward our program.

But many holding companies still want to employ dilatory tactics. They are trying to make it appear, erroneously, that national defense needs will be impeded by integration.

For instance, the New York Journal of Commerce recently published a lengthy supplement, consisting of articles to that effect, signed by college professors, associated with New York University, who purported to be dispassionate. But evidence in our possession shows that the Dean of the School of Commerce of that University, and some of his associates, have received huge sums from public utility holding companies.

The fact, becoming more and more evident, is that the integration provisions of the statute are not a "death sentence" for those investors in utilities whose investments represent true values, but merely a "death sentence" for the horafullly parasitic jobs of utility holding company executives.

  
Jerome N. Frank, Chairman,  
Securities and Exchange Commission

PSF; Jerome Frank  
Folder 13

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON

*Frank*

JEROME N. FRANK  
CHAIRMAN

February 18, 1941

Confidential

The President  
The White House

My dear Mr. President:

Of course you know without my saying so how immensely grateful I am to you for sending my name to the Senate.

I would have written you to this effect long before this, but I had expected to see you in connection with SEC personnel changes, at which time I intended to express my gratitude in person. However, I received word that you wanted me to talk to Tom and Ben about SEC matters. This I have done and expect to have further talks with them in the next few days. I shan't bother you about the matter unless and until you want to see me.

Yours most appreciatively,

*Jerome*  
Jerome N. Frank

PSF

*Leave Jerry Frank folder  
3-41 - April 5  
lunch*

*file  
Personal*

THE WHITE HOUSE  
WASHINGTON

March 30, 1941

MEMORANDUM FOR

GENERAL WATSON

I want to have Jerry Frank for  
lunch on Wednesday or Thursday. Please  
give me this letter when he comes in.

F. D. R.

*Mr Quinn*  
↑

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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON

OFFICE OF THE CHAIRMAN

*April 3*  
*Handwritten signature*  
*Jerome Frank*  
March 24, 1941 *35* / "

CONFIDENTIAL

The President  
USS POTOMAC

My dear Mr. President:

1. Thank you for your gracious letter of March 19. I shall be in Washington when you return and do hope that you can then spare me a few minutes.

2. Meanwhile, however, I think that, for the sake of the SEC, some changes should be made promptly along the following lines: Subject, of course, to your concurrence, on Wednesday or Thursday I'll resign, as Chairman; the Commission will immediately elect Ed Eicher as Chairman; those changes will be announced and it will also be stated publicly that, after a very few days, in which I will clean up my desk, I will resign as Commissioner.

3. This program I think very important because there are several critical matters soon likely to arise which will demand the attention of the Chairman: Congressional hearings on proposed amendments to the 1933 and 1934 Acts are imminent; an effort to amend the Holding Company Act may also be made and should be resisted. Senate Committee hearings on the Administrative Law Bills begin on March 31. During the coming week there may be discussions on the Hill concerning our proposed rule requiring competitive bidding for public utility securities. In all these imminent matters, the SEC ought to be vigorously represented by a Chairman whose hands will not be tied as mine necessarily now are: I feel that it would be publicly resented on the Hill (and probably by my new colleagues on the Court of Appeals) if it seemed that I was endeavoring publicly to use my new position as a Judge in order to aid the SEC.

4. The items enumerated above and others will keep the Chairman busy, pretty constantly, on the Hill and elsewhere for several months. This fact plus the fact that Leon,

- 2 -

necessarily because of his defense activities, is, as you know, wholly inactive so far as the Commission is concerned, may mean that, with my departure, the Commission will often not have a quorum as to many necessary matters. I have been given to understand that you propose soon to name Ben as Commissioner, with the idea that when Ed leaves, Ben will succeed him as Chairman. I respectfully suggest that, if that is correct, I be permitted to tell Ed and Sumner Pike, for their peace of mind, that that will be your course of conduct.

5. It would be immensely helpful if you could let me know that that above program is satisfactory to you so that the changes discussed above can take place this week.

6. I have discussed all the foregoing with Bill Douglas, Ed Eicher and Tom, all of whom fully concur.

7. We have been talking over a plan to have the Commission create a new position of Vice Chairman, and to name Sumner Pike to that post, so that he can take over much of the administrative work of the Chairman while Ed is on the Hill, and also when Ed leaves and Ben becomes Chairman.

Sincerely yours,

*Jerome N. Frank*  
Jerome N. Frank  
Chairman

H. M. J.

H & H.

Willis.

Dwight.

Byrnes.

PSF: Frank

John Lewis  
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UNITED STATES CIRCUIT COURT OF APPEALS  
NEW YORK CITY

CHAMBERS OF  
JEROME N. FRANK  
CIRCUIT JUDGE.

THE WHITE HOUSE  
Dec 30 9 08 AM '41  
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Personal*

The President,  
Washington, D. C.

CONFIDENTIAL

My dear Mr. President:

I hope you will forgive me for making the following candid statement: There is a rising discontent with the business management of production in O.P.M. and related agencies. It is notable that even so conservative a person and businessman adulator as Walter Lippman, the other day indulged in such criticism publicly. And others have recently done the same in the press. They are expressing what many of those who have served under you for years, and who are today in the war-production setup, have been saying for some time.

I, for one, who acted as legal adviser for businessmen for twenty years, have no question whatever of the integrity or patriotism of the businessmen who have been managing that setup. But most of them actually, or in practical effect emotionally, are on leave of absence from their companies, and still feel the old emotional ties. The New Deal has insisted that the corporate executive regard himself as a trustee for his investors. And, almost inevitably, when such an executive works for government, but thinks of some day returning to his private post, he fears to take risks for those investors. There is the important fact, too, that industrial leaders are not accustomed, by training or background, enthusiastically to press for maximum production; their business habits cause them to think of limiting production and plant expansion at a point where immediate and future private profit will be adversely affected. To expand plant without stint, drastically to rearrange industry with regard primarily to the nation's welfare, may be to injure investors - unless one remembers that there won't be any, if our military objectives fail, an idea which it is difficult for many (not all) businessmen to keep constantly in mind. It may be unfair to ask them so violently to adjust their viewpoint.

If you were to take a vote of all the men who worked under you devotedly, beginning with 1933, and who are still on the job, I think you would find that the overwhelming majority believe that there is one person who, acting directly under you, can coordinate industry and government so as to expedite production to the maximum - Bill Douglas. They know his executive capacity, his ability to choose subordinates skillfully and to evoke their enthusiasm, his thorough knowledge of governmental administration, and the respect which he aroused in the business community. In saying this to you, I am doing so entirely without his knowledge.

Sincerely,

*Jerome*  
Jerome N. Frank