

February 22, 1988

Mr. Greg Plifka

Senior Vice President

Compliance & Operations

J.B. Hanauer & Co.

59 East Northfield Road

Livingston, NJ 07039

Dear Mr. Plifka:

This letter responds to your letter dated March 2, 1987 (letter not made available in SEC public files) In which you request, on behalf of J.B. Hanauer & Co. ("Hanauer"), clarification of the application of subparagraph (d)(2) of Securities Exchange Act Rule 15c3-3 (17 CFR 240.15c3-3(d)(2)) to municipal securities failed to receive.

I understand the pertinent facts to be as follows: Subparagraph (d)(2) of Rule 15c3-3 provides that a broker or dealer which has securities failed to receive on its books more than 30 calendar days shall, not later than the business day following the day on which such determination is made, take "prompt steps" to obtain physical possession or control of securities so receivable. Under Municipal Securities Rulemaking Board ("MSRB") Rule G-12, a broker or dealer desiring to close-out a municipal securities failed to receive must provide the seller with notice of intent to close-out not earlier than the fifth (5th) business day following settlement date. The close-out notice must specify a close-out date not earlier than the 10th business day after the date of such notice.

You inquire whether a broker-dealer carrying municipal securities failed to receive must execute a close-out of such position not later than one day after determination or only initiate an appropriate buy-in or close-out procedure within the period.

It is the opinion of the Division of Market Regulation that initiation of close-out procedures not later than the business day following the day on which the

determination of a deficiency of possession or control is made, pursuant to Rule 15c3-3(d), meets the requirements imposed by subparagraph (d)(2) of Rule 15c3-3.

Sincerely,

John J. Rioux

Staff Attorney

cc: Steve Strombelline

Harold L. Johnson, Esq.

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