

National Association of Securities Dealers, Inc.

1735 K Street, N.W. Washington, D.C. 20006

TELEPHONE(202) 728-8000

September 19, 1983

Mr. Stephen Gray

Securities and Exchange Commission

450 Fifth Street N.W. Washington, D.C. 20549

Dear Steve:

We have previously discussed situations in which a broker-dealer may find that he is holding unendorsed stock certificates registered in the names of his customers, which are no longer long in such customers' accounts. A situation of this kind usually arises when:

1. The customer has sold stock, delivered it to the broker-dealer, but failed to endorse it, and through an oversight has been paid for the sale, even though the certificate is non-negotiable.
2. A customer sells securities which the broker-dealer is holding long in his account in safekeeping, registered in the customer's name. The customer does not forward the broker-dealer a signed stock assignment form, nor does he visit the broker-dealer's office in order to sign the actual certificates which were sold.
3. The customer has sold stock on which a stock dividend is pending, and has endorsed and delivered the stock certificate to the broker-dealer. Because of late delivery by the customer, or negligence on the part of the broker-dealer, the stock has missed record date with the transfer agent, and consequently, the stock dividend has been mailed by the transfer agent to the selling customer, who is not entitled to it. In order to balance its dividend accounts, the broker-dealer makes entries on its books showing the customer short the dividend shares

related to the original trade. The customer subsequently delivers in the dividend shares, but fails to endorse the certificate.

The end result of situations such as those described above is that the broker-dealer holds securities which have no value for him because they are non-negotiable: They cannot be converted to cash either by sale or delivery, nor can they be used to satisfy possession or control requirements of SEC Rule 15c3-3.

The question has arisen as to whether such securities, if held by the firm for more than ten days past settlement date of their sale, or related sale, in accordance with paragraph (m) of SEC Rule 15c3-3, should be charged, at market, to the firm's net capital.

Your prompt response will be appreciated.

Very truly yours,

Darrell Proctor

Associate Director

Financial Responsibility

October 27, 1983

Mr. Darrell Proctor

Associate Director

Financial Responsibility National Association of Securities Dealers, Inc.

1735 K Street, N.W. Washington, D.C. 20006

Dear Mr. Proctor:

This letter is in response to your letter of September 19, 1983 in which you seek clarification of the proper treatment, under Securities Exchange Act Rule 15c3-1 (17 CFR §240.15c3-1), for situations in which a broker-dealer is holding unendorsed stock certificates registered in the names of its customers, which are no longer in such customers' accounts.

You state that this type of situation can arise when:

1. the customer has sold stock, delivered it to the broker-dealer, but failed to endorse it or to provide the broker-dealer with a signed stock assignment form, and through an oversight by the broker-dealer has been paid for the sale;
2. the customer sells securities registered in his name which the broker-dealer is holding for safekeeping. The customer does not provide the broker-dealer with a signed stock assignment form, nor does the customer visit the broker-dealer's office in order to sign the certificate(s) that were sold but the customer has been paid for the sale by the broker-dealer;
3. the customer has sold stock on which a stock dividend is pending, and has endorsed and delivered the stock certificate(s) to the broker-dealer. Because of late delivery by the customer, or inadvertence by the broker-dealer, the stock has not been presented to the transfer agent by the record date, and consequently the stock dividend has been mailed by the transfer agent to the selling customer. The customer subsequently delivers the dividend shares to the broker-dealer, but fails to endorse the certificate(s) or to provide the broker-dealer with a signed stock assignment form.

It is the view of the Division of Market Regulation that in each of these situations the broker-dealer should deduct the market value of the securities from net worth in computing net capital when the certificates have been held by the firm for ten business days past settlement date. Such treatment is required because the unendorsed certificate(s) are not marketable and therefore cannot be given any value for purposes of computing a broker-dealer's net capital.

I trust the above will resolve any uncertainty in this area. Should you have any questions, regarding these matters, please do not hesitate to contact us.

Sincerely,

Steven J. Gray

Staff Attorney