ADMINISTRATIVE PROCEEDING
FILE NO. 3-1916

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of BOHN-WILLIAMS SECURITIES CORPORATION (now known as DON WILLIAMS SECURITIES CORPORATION) File No. 8-13843 RAY G. BOHN DONALD J. WILLIAMS	INITIAL DECISION (Private Proceedings)

Sidney L. Feiler
Hearing Examiner

Washington, D.C.
September 16, 1970

ADMINISTRATIVE PROCEEDING
FILE NO. 3-1916

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of BOHN-WILLIAMS SECURITIES CORPORATION (now known as DON WILLIAMS SECURITIES CORPORATION) File No. 8-13843 RAY G. BOHN DONALD J. WILLIAMS	INITIAL DECISION (Private Proceedings)

APPEARANCES: Jack H. Bookey and Francis N. Mithough, Esqs., of the Seattle Regional Office of the Commission, for the Division of Trading and Markets.

J. Donald Sullivan, Esq., 334 Northeast Northgate Way, Seattle, Washington 98125 and Joseph J. Carr, Esq., 318 North 125th Street, Seattle, Washington 98133, for Bohn-Williams Securities Corporation, (now known as Don Williams Securities Corporation) and Donald J. Williams.

John F. Campbell, Esq., 417 Paulsen Building, Spokane, Washington 99201, for Ray G. Bohn.

BEFORE: Sidney L. Feiler, Hearing Examiner

CONTENTS

I. THE PROCEEDINGS

These private proceedings were instituted by order of the Commission pursuant to Section 15(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act") to determine whether certain allegations set forth in the order were true and, if so, what, if any, remedial action was appropriate in the public interest, pursuant to Sections 15(b) and 19(a)(3) of the Exchange Act.

The order, as amended, sets forth allegations of the Commission's Division of Trading and Markets that:

A. During the period from on or about June 1 to October 31, 1968 Bohn-Williams Securities Corporation ("the Registrant") and Ray G. Bohn and Donald J. Williams, principals of that firm, (sometimes referred to collectively as "the Respondents"), singly and in concert, willfully violated Sections 5(a) and (c) of the Securities Act of 1933, as amended ("Securities Act") in that they offered to sell, sold and delivered after sale, shares of the common stock of Champion Oil and Mining Company when no registration statement had been filed or was in effect as to such securities, as required under the Securities Act.

B. During the relevant period, the Respondents willfully violated the anti-fraud provisions of the Exchange Act.[1/] As

---

1/ Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. The composite effect of these provisions, as applicable here, is to make unlawful the use of the mails or interstate facilities in connection with the offer or sale of any security by means of a device or scheme to defraud or untrue or misleading statements of a material fact, or any act, practice, or course of conduct which operates or would operate as a fraud or deceit upon a customer or by means of any other manipulative or fraudulent device.

part of such conduct and activities it is alleged that the Respondents, singly and in concert, would and did:

1. arrange for the purchase of large blocks of unregistered shares of Champion from the controlling persons of Champion and agreed to distribute such shares to the investing public;
2. accept 10,000 shares of Champion stock from the controlling persons of Champion for whom they were distributing Champion shares as additional compensation above the normal or usual commission charged by Registrant;
3. dominate and control the market for Champion shares and artificially raise and support the price for said shares;
4. in effecting transactions in the stock of Champion as broker for both the purchasers and the sellers, fail to disclose to purchasers that the sellers were Bohn or Williams, officers of Registrant, who had contemporaneously purchased the shares being sold at a price substantially below the price at which the shares were now being sold by them and such prices were not related to the current market price for Champion shares.
5. make untrue, deceptive and misleading statements concerning the financial condition of Champion, its

arrangements for the purchase of real estate and mining properties; its ore reserves, and the source of Champion stock being offered and sold and use of the proceeds thereof.

Additional violations are alleged of Section 10(b) of the Exchange Act and Rule 10b-6 thereunder (bid for and purchasing stock of Champion while engaged in a distribution of its shares); Section 15(c)(1) of the Exchange Act and Rule 15c1-4 thereunder (failure to give customers written notification disclosing source and amount of commission and other remuneration received by Registrant for transactions in Champion stock); Section 7(c) of the Exchange Act (extension of credit to customers in violation of Regulation T (12CFR220) prescribed by the Board of Governors of the Federal Reserve System); Section 17(a) of the Exchange Act and Rule 17a-3 thereunder (record-keeping requirements relating to brokerage orders); and failure of the Respondents to supervise persons under their supervision with a view to preventing the above alleged violations (Section 15(b) of the Exchange Act and Rule 15b10-4 thereunder).

Pursuant to notice a hearing was held in Spokane, Washington. The Division was represented by counsel. All the Respondents were represented by one counsel, John F. Campbell, Esq. After the conclusion of the evidentiary hearing, the Division in accordance with post-hearing procedures which had been prescribed at the conclusion of the

hearing, filed its proposed findings of fact, conclusion of law and brief in support thereof.

After several postponements had been obtained on behalf of the Respondents, a separate appearance was filed on behalf of the Registrant and Donald J. Williams. A motion was then filed on behalf of these Respondents to reopen the evidentiary hearing for the receipt of additional evidence. This motion was granted and the requested hearing was held. At this hearing Respondents Donald J. Williams and the Registrant were represented by Messrs. Sullivan and Carr and the Respondent Ray G. Bohn, was represented by Mr. Campbell. After the presentation of this additional evidence, proposed findings of fact, conclusion of law and a brief in support thereof were filed on behalf of the Registrant and Williams and a brief was filed on behalf of Bohn. The Division filed a reply brief.

On the basis of the entire record, including his evaluation of the testimony of the witnesses the undersigned makes the following:

II. FINDINGS OF FACT AND LAW

A. The Registrant

The Registrant, under the firm name and style of Bohn-Williams Securities Corporation has been registered with the Commission as a broker-dealer since April 24, 1968. On January 28, 1970, it filed with the Commission a notice of a change of name to Don Williams Securities Corporation. The Registrant commenced business on May 1, 1968 and has been engaged in the business of buying and selling securities for its own account and for the accounts of other persons, both on a national securities exchange and over-the-counter. The

principal business of the firm is in mining stocks.

During the period here relevant Bohn was the president, a director and the beneficial owner of 50 percent of the common stock of the Registrant. Williams was the secretary-treasurer, a director and the beneficial owner of 50 percent of the common stock of the Registrant. Within the meaning of Section 3(a) of the Exchange Act, he also is a member and Registrant is a member firm of the Spokane Stock Exchange, a national securities exchange registered with the Commission pursuant Section 6 of the Exchange Act.

During the period here relevant Bohn and Williams were in joint control of the operations of the Registrant and participated in its trading activities. Williams managed the office staff of two clerical employees. There were no other employees except some salesmen who were employed from time to time to sell securities which were the subject of intra-state sales. This activity is not germane to the issues here.

Bohn maintained active participation in the operations of the Registrant until on or about April 1, 1969. He resigned as president and director on or about December 1, 1969, but he continued his ownership interest in the Registrant. Negotiations had taken place for the disposal of his interest to Williams and employees of the Registrant as of the time of the reopened hearing. As previously noted, notice of the change of name of Registrant was filed with the Commission in January 1970. Williams is president of the Don Williams Securities Corporation.

B. ACTIVITIES OF THE RESPONDENTS IN THE OFFER AND SALE OF CHAMPION OIL AND MINING COMPANY STOCK

(1) Sequence of events.

In late June or early July 1968 John Hatch, whom Bohn had known for 5 years as a person interested in mining property, introduced him to an Allan F. Zalk. Zalk told Bohn that he was looking for a company into which he would put certain properties. A week or two later, Zalk again met with Bohn and told the latter that he had secured the company shell that he was looking for and that he wished the Registrant to handle the stock of this company (Div. Ex. 5, pages 14-16).

The company Zalk referred to was Champion. Control of Champion was acquired by Zalk and his associates, William Meyst and David E. Hoover on July 22, 1968 by an oral agreement with the then president of Champion, Joseph Novelli, who owned approximately 900,000 of its approximately 1,470,000 shares issued and outstanding. Novelli agreed to sell 500,000 of his shares, later increased to 550,000 shares for $20,000,000. This money was paid to him on August 15, 1968. At the time of the sale Champion was indeed a dormant shell. It had been incorporated in Nevada in 1924, was inactive, had a small number of shareholders and there had been little trading in its stock in recent years. There was no market for its shares.

On July 23 Zalk, Hoover and Meyst, became directors of Champion, its president, treasurer and secretary, respectively, and at all times here relevant were directly and indirectly in control of Champion. At all times here relevant, the Respondents knew of the

connection of Zalk and Hoover to Champion.

Zalk proposed that the Respondents sell one hundred thousand shares of Champion stock to raise money for the uses of that company. Sales were to be made in the name of David E. Hoover, the treasurer of Champion and confirmations and remittances were to be sent to him. According to Zalk, it was intended in addition to raising money that the price of Champion be moved up as expeditiously as possible in order to have a stock selling at $3.00 a share and to develop a large list of shareholders. His testimony is corroborated by a letter to stockholders dated July 24, 1968 and signed by him in which reference is made to the financing of certain acquisitions by the issuance of convertible preferred stock convertible at prices of not less than $3.00 per share (Div. Ex. 14). Obviously if the common stock of Champion were selling at less than that price the convertible preferred would have little value. While Zalk's testimony is not fully corroborated in detail by that of Bohn or Williams, it is credited. Bohn and Williams agreed to Zalk's proposal. He also offered them 10,000 shares as a bonus or additional compensation. They agreed to accept the shares and the transfer was made on August 2.

In the aforementioned letter to stockholders, Zalk stated that the company desired to announce that "...an active mining program is at this time being activated by means of the following acquisitions and projects, which are presently being actively negotiated, and for which certain contracts have been acquired:" He then proceeded to give details. About 1000 copies of this letter

were sent to the Registrant for distribution. They arrived about a week after the date of the letter. While no general mailing was made, the letters were available at Registrant's office, some were mailed out in response to inquiries and some were handed to customers.

The Registrant began trading the shares of Champion on August 1, 1968. On August 2, it received a telegram from the transfer agent for Champion stating "THIS IS TO ADVISE YOU THAT PER INSTRUCTIONS RECEIVED FROM MR. ALLAN ZALK, WE ARE HOLDING 100,000 SHARES OF CHAMPION OIL AND MINING COAL STOCK IN OUR OFFICE TO COVER TRANSFERS SENT BY YOU." (Div. Ex. 9) Part of the arrangement between Zalk and the Respondents was that initial sales of the stock were to be made at 80 cents a share and the price was to be moved up as expeditiously as possible. There is a disagreement between Zalk and Bohn and Williams as to who set the prices for the stock--Zalk or the Respondents. However, it is clear from the record that prices for the stock were moved up quickly and steadily. From August 1 to August 9 the Registrant sold Champion stock in dealer transactions to investors with prices reaching from 80 cents to $1.10 a share. The shares involved in the transaction all came from the control shares of the Zalk group through the Hoover account pursuant to the arrangements previously made by Zalk (Div. Ex. 9, 10, 19). Thereafter, while there were some additional transactions listed as dealer transactions in Champion stock most of the Registrant's transactions were in agency transactions with the Registrant acting

for both the buyer and seller and receiving commission compensation from both parties. These agency transactions took place between August 9 and October 29 (Div. Ex. 20). They reflect a steadily advancing price from 97 cents per share until September 6 when a high of $1.90 per share was reached. This price continued with some minor fluctuations until the end of the period listed. The high point reached was on October 14, when a high of $2.10 was reached on a sale for Williams' personal account (Div. Ex. 20).

The agency transactions commencing on August 9 were for the David E. Hoover account until August 23. On August 22, when the price of the stock had advanced to $1.90 per share, an investigator from the Seattle Office of the Commission visited the office of the Registrant and discussed the sale of the Champion stock with Bohn and Williams. He advised Bohn and Williams that a further investigation of their activities in the sale of Champion stock might be made. On the next day, another 9,150 shares at $1.90 per share were sold in 7 transactions for the David E. Hoover account. Thereafter, further selling from the 100,000 share allotment, represented by the Hoover account, by the Registrant ceased. Transactions in accounts other than the Hoover account will be discussed later. They include transactions of Williams and Bohn personally.

(2) Violations of the Registration Provisions of the Securities Act

It is alleged in the order for these proceedings that Respondents violated the registration provisions of the Securities Act (Sec. 5(a) and (c)) in the offer and sale of the stock of Champion. It is undisputed that the stock of Champion was never registered with the

Commission and that the facilities of interstate commerce and of the mails were used by the Registrant in the offer and sale of Champion stock.2/

It has been previously noted that Zalk arranged with the Respondents to make available to them 100,000 shares of Champion for sale to the public. Prior thereto Zalk and his associates had acquired 550,000 shares of Champion and by virtue of the stock ownership and their positions as officers of the company were in control of its operations. The Respondents at the time of the agreement knew that Zalk was president and Hoover was treasurer of Champion. They agreed to set up an account in Hoover's name and to use the 100,000 shares made available to them by the stock transfer agent for Champion, pursuant to Zalk's instructions, and to remit the proceeds to Hoover. From this allotment 16,600 shares of Champion were bought by the Registrant and sold in dealer transactions to 8 customers and one other broker-dealer in 9 transactions at prices beginning at $.80 and increasing to $1.10 per share (Div. Ex. 19). Registrant's costs ranged from 76 cents to one dollar per share. During the period from August 9 to August 23, 1968, acting as agent for both buyer and seller, the Registrant effected the sale of 52,500 shares of Champion in about 70 transactions to members of the public for the Hoover account. Prices started at $.97 and increased to $1.90 per share (Div. Ex. 2, and 20).

2/ Section 5 of the Securities Act provides, in pertinent part, that it shall be unlawful to make use of the instruments of transportation or communication in interstate commerce or of the mails to offer to sell or to sell a security unless a registration statement is in effect as to it.

While the basic facts of Respondents' activities in the purchase and sale of Champion stock are undenied, it is asserted on behalf of the Registrant and Williams that these Respondents were under the impression that no registration statement was required and that the stock was free trading stock and could be traded in the open market. It is further asserted that reasonable and extended efforts were made by Williams to verify that the stock was free trading stock under the so-called "grandfather" clause of the Securities Act.3/

According to Williams, he was told by Zalk that Champion had been in existence prior to the enactment of the Securities Act and that its stock, pursuant to the provisions of that statute, was exempt from registration. Williams testified that he telephoned authorities in Nevada and was informed that Champion had been organized in 1924 and was in good standing there. He further testified that he spoke again by telephone to counsel for Champion who confirmed what Zalk had told Williams; namely that the stock was free trading by virtue of the "grandfather" clause (Tr. pp. 445-446). It is further contended that the Respondents did not know of the arrangements by which Zalk obtained control of Champion.

The gambit of the use in stock sales of a shell (a publicly-owned corporation with neither assets nor liabilities whose shares can be acquired for a small sum) preferably with a history dating back to pre-Securities Act days, so that a "grandfather" clause exemption may be asserted, is a device which has had a long

---

3/ Section 3(a)(1) of the Securities Act grants an exemption from registration for any security offered to the public prior to or within 60 days after enactment of that statute but it further provides that the exemption shall not apply to any new offering of any such security by an issuer or underwriter subsequent to 60 days.

history, but which has never received the respect which is supposed to be accorded old age. Traditionally this device has been used to unload worthless stock or stock of little value on the public without affording it the protection of the registration provisions of the Securities Act. The Commission and the courts have consistently branded such activities as fraudulent and violative of the Securities Act and, under certain conditions, of the Exchange Act also.

Of the many cases dealing with this subject, the most recent is S.E.C. v North American Research and Development Corp., 280 F. Supp. 106 (1968), affirmed in part and remitted for further consideration with reference to the refusal to enter preliminary injunctions against 4 defendants, (424 F. 2d 63 (1970)). This decision in many respects could serve as a blueprint of what occurred in the instant proceedings. As in this case, certain persons got control of a shell corporation organized prior to 1933 by buying most of the shares of the shell for nominal consideration and then proceeded with a stock-selling scheme. Extensive opinions both on the District Court and Circuit Court level dealt in detail with the legal and factual questions which arises under such circumstances. Judge Medina pointed out in the Circuit Court decision that when control persons seek to dispose of a block of the shares they have acquired in a shell there is a "new offering" within the meaning of Section (3)(a)(1) of the Securities Act which nullifies any claim that "grandfather" clause of that section applies (supra. pp. 70-71). When unregistered shares are sold by the use of the mails or the facilities of interstate commerce the persons who participate in such sales have the burden

of showing that for some reason Section 5 does not apply to those sales. Section 3(a)(1) is not applicable here because "a new offering" is involved. The Respondents do not claim that various exemptive provisions of Section 4 of the Securities Act are applicable. It is evident that Zalk and his group who were in control of Champion had the status of "issuer" as defined in the Act and that the Registrant acted as "underwriter" in that it participated in a distribution[4/] of securities from an "issuer" to the public.

The chief defense asserted that Williams acted in good faith and investigated the claim of Zalk that the stock of Champion could be sold without registration. In any stock-selling scheme which involves the sale of unregistered securities, the cooperation and assistance of a broker or brokers is usually necessary. The Commission both in formal decisions and in special releases has summarized in detail the responsibilities of broker-dealers in connection with distribution to the public of substantial amounts of unregistered securities, particularly in situations where the securities are those of relatively obscure and unseasoned companies and where all the circumstances surrounding the proposed distribution are not known to the broker-dealer. In 1962 the Commission issued a release dealing in detail with the duties and obligations of broker-dealers under such circumstances.[5/] In the course of dealing

---

4/ Gearhart & Otis, Inc., Sec. Exch. Act Rel. No. 7329 (June 2, 1964), aff'd. 348 F. 2d 798 (1965).

5/ Sec. Act. Rel. No. 4445 (February 2, 1962).

in detail with various questions which might arise, the Commission observed that a broker who is asked to sell a substantial amount of securities must take whatever steps are necessary to make sure that exemptive provisions apply when such a claim is made. It further stated that for this purpose it is insufficient for him merely to accept "self-serving statements of his sellers and their counsel without reasonably exploring the possibility of contrary fact." It is evident that the Respondents did no more than accept self-serving statements by Zalk and his counsel.[6/] There was no consultation with independent counsel or with any other unbiased source of information. Bohn and Williams were aware that Champion was a shell recently acquired by Zalk and his group and that Zalk and Hoover were members of a control group of Champion. They had sufficient information of this control relationship even if they did not know all the details by which stock control was acquired.[7/] The undersigned concludes that the Respondents did not make dilligent efforts to ascertain whether the stock that they were asked to distribute could properly be sold to the public under the provisions of the Securities Act and that by their activities the Respondents singly and in concert, violated Section 5 of the Securities Act as alleged, and that these violations were willful within the meaning of the Securities Act.[8/]

6/ There is some question whether this counsel was consulted before sales were made, but the situation most favorable to the Respondents is assumed here.

7/ The general standard applied by the Commission and approved by the Courts is that "**willful**"..."...means intentionally committing the act which constitutes the violation. There is no requirement that the actor also be aware that he is violating one of the Rules or Acts." Tager v. S.E.C., 344 F. 2d 5, 8 (2nd Cir. 1965), affirming, Sidney

(3.) Violations of the Anti-Fraud Provisions of the Exchange Act

a. Distribution of False and Misleading Information Concerning Champion

It is alleged in the order for these proceedings that the Respondents willfully violated the anti-fraud provisions of the Exchange Act in several respects. One allegation relates to the contents of the letter to stockholders dated July 24, 1968.

It has been pointed out that it is usual in a stock-selling scheme involving the use of a shell that after control of it is obtained assets which can be acquired with little expenditure of cash, but whose possibilities of potential value can be blown up, are added to the shell. Then a process of touting begins designed to raise the price of the stock substantially to the benefit of the control group. The opening move in that phase usually is to issue some statement often in the form of a report to stockholders stressing the enormous possibilities inherent in the new program of the hitherto dormant company (See North American Research and Development Corp., Supra, pp. 66-67).

The control group of Champion followed the standard program to the letter. They acquired control of Champion on July 22, 1968.

7/ Continued.
Tager, Sec. Exch. Act Rel. No. 7368 (July 14, 1964); Accord Harry Marks, 25 S.E.C. 208, 220 (1947); George W. Chilian, 37 S.E.C. 384 (1956); E. W. Hughes & Company, 27 S.E.C. 629 (1948); Hughes v. S.E.C., 174 F. 2d 969 (C.A.D.C. 1949); Shuck & Co., 38 S.E.C. 69 (1957); Carl M. Loeb, Rhoades & Co., 38 S.E.C. 843 (1959); Ira Haupt & Company, 23 S.E.C. 589, 606 (1946); Van Alstyne, Noel & Co., 22 S.E.C. 176 (1946); Thompson Ross Securities Co., 6 S.E.C. 1111, 1122 (1940); Churchill Securities Corp., 38 S.E.C. 856 (1959). See generally Loss, Securities Regulation, (1961 Ed.), Vol. II, pp. 1309-1312 (1969 Supp.), Vol. V, pp. 3368-3374.
8/ Div. Ex. 6, p. 81

The three insiders, Zalk, Hoover and Meyst became directors of Champion, its president, treasurer and secretary, respectively, on July 23, 1968. The letter to stockholders, previously referred to, dated July 24, 1968 and signed by Zalk was then issued (Div. Ex. 14). This letter spoke of ..."an active mining program... being activated by means of certain acquisitions and projects... being actively negotiated, and for which certain contracts have been acquired". Mention was made of three specific mining projects.

The first project mentioned was the Curlew Mine. This was stated to be a silver and lead producing property in Montana contracted for acquisition at a total price of $1,650,000 to be paid through the issuance of preferred shares, convertible into common at a price of $3.00 per share. It was represented that the mine had been in production for approximately six months and that operations would be under the guidance of the company's very capable mining geologist, Victor Lovejoy, who knew the project intimately. It was also stated that the company intended to market 200 tons or more of ore per day and within six months would have installed a 200 ton per day mill plus a smelter so as to produce the pure metals on the premises.

Of course the issuance of preferred stock convertible into common at $3.00 a share merely meant that paper, then worthless, was being issued to persons who were willing to gamble that they would benefit by stock operations which would make this paper of some value. Actually the arrangements to issue the preferred stock had been made with the lessees of the property and not with owners of the

land itself. The owners of the property required $750,000 in cash with a down payment of $100,000 due by October 1, 1968. Lovejoy was not in the employ of Champion at this time. He was associated with another person as a finder seeking to sell this property to Champion. He had not made any extensive personal investigation of this mine and there was no basis for the statement attributed to him that there was "blocked ore reserves exceeding 700,000 tons." The proposed mill was estimated to cost between $300,000 and $400,000 and the proposed smelter an additional substantial amount. There was no reasonable basis for these proposed expenditures nor was there any disclosure that Champion did not have any cash assets to make any investment such as that proposed.

Lovejoy testified that he first went to work at the Curlew Mine on October 1, 1968, the date the Curlew property was transferred to Champion and that he left its employment in the middle of that month because they had no money to pay him (Tr. 132). In other words, Champion by October 1, had managed to accumulate sufficient cash assets to acquire possession of the mine but was unable to meet current payrolls.

The letter further mentioned negotiations to purchase the Lost Lode Mine in Montana for a total price of $220,000, to be paid out of a 10% royalty override. It was stated that assay values from the developed ore body in the mine showed over $120 per ton average and that the ore was of smelter grade.

Actually the Lost Lode Mine was being acquired for stock and cash with a requirement for a $20,000 down payment and minimum

payments of $5,000 per month. The property was acquired by Champion on or about August 1, 1968. The cash payments soon became deliquent. The letter also failed to state that favorable assays referred to were furnished by the seller and that Champion never attempted to verify the alleged results.

The letter also stated that agreement had been signed to acquire the Cavalli-Hughes copper claims near Reno, Nevada, then in "preliminary production". The price for the properties, including the operators' mill was $1,675,000. No mention was made of how the substantial purchase price was to be paid. In fact, the sellers required cash as well as some stock and the purchase was never completed. Elaborate claims were made as to the production of these properties but the Champion officers never did anything to verify this information but merely quoted reports given them. One of their sources was the seller's superintendent.

The letter concluded with notice of intention to seek the stockholders' approval for the issuance of ten million dollars worth of convertible preferred stock, convertible at no less than $3.00 per share and also a possible stock issue of up to one million shares of common stock. Notice was also given of a proposed stockholders meeting to be held on August 7, 1968.

It is evident that the letter to stockholders carefully avoided the problems Champion faced in view of its lack of cash resources while making optimistic estimates of the value of the properties Champion intended to acquire when these estimates did not have a valid basis in

proven fact. Substantial cash was needed by Champion to get control of and to continue operations of the Curlew and Lost Lode Mines. Champion, as far as the evidences indicates, had no cash assets and even when it was able to get possession of these properties, it was not able to acquire the Cavalli-Hughes claims. The stock-selling plan concocted by Zalk and his associates was also not revealed in the letter. The undersigned therefore concludes that the statements made in the letter are incomplete, false and misleading and violative of the anti-fraud provisions of the Exchange Act and applicable rules.

It is urged on behalf of the Respondents that the letter was prepared, printed and distributed by Champion, that statements contained therein are attributable to Zalk and Champion, and that the Respondents merely received copies of the letter from Zalk. It is also maintained that there is no proof that any sales were made because of the contents of the letter[9/] and that some investors and Lovejoy felt that the properties were valuable.

A large supply of the letters was furnished by Zalk to the Respondents. While there is no proof that Respondents made a general mail-out of the letter, it was available at the office of the Registrant to anyone who wished to take a copy. Copies of the letter were given to persons inquiring about Champion (Div. Ex. 6, p. 56) and

---

9/ Reliance is immaterial under statutory provisions (North American, supra. p. 84). Accord, Hanley v. S.E.C. 415 F. 2d 589, 595-597 (2d Cir. 1969).

it was also mailed out to some investors. (Div. Ex. 23)

The evidences establishes that the Respondents accepted the letter and its contents without the careful inquiry which was warranted by what they had already learned of Zalk's plans with reference to Champion and the sale of its stock.[10/] The fact that Lovejoy was optimistic over some of these claims on the basis of a cursory inspection and that some private investors, who did not have detailed knowledge of the poor financial condition of Champion, also shared his opinion did not excuse the failure of the Respondents to see to it that they did not play a part in the dissemination of fraudulent material. The undersigned therefore concludes that by their activities in the dissemination of the letter of July 24, 1968 the Respondents violated the anti-fraud provisions of the Exchange Act and applicable rules thereunder (Sec. 10(b) and Rule 10b-5 thereunder) and that said violations were willful.

b. Trading Activity by the Respondents in the Stock of Champion

The letter and other moves designed to stimulate trading in Champion had the desired effect. The books and records of the Registrant reveal that trading started on August 1 and continued at a brisk pace until October 29 (Div. Ex. 19 and 20). Total dealer transactions by the Registrant involved 26,950 shares bought at $31,533 and

---

10/ See Sec. Act Rel. No. 4445, supra, which stresses the obligation of broker-dealers in situations analagous to the instant one "... if such a dealer lacks essential information about the issuer, such as knowledge of its financial condition, he must disclose this lack of knowledge and caution customers as to the risk involved in purchasing the securities without it."

sold at $34,144. Agency transactions resulted in the transfer at 151,775 shares sold at prices totalling $266,165.50. Registrant earned over $15,000 in commissions on these latter transactions.

Both Bohn and Williams took substantial personal positions in Champion stock and did much trading in it. As additional and further compensation and as a bonus, Zalk offered Bohn and Williams, and they agreed to accept,10,000 shares of Champion. The books of the Champion transfer agent reflect that these shares were issued out of a block of control stock on August 2, 1968 in the name of Josephine Priano, the bookkeeper of the Registrant. These shares remained undisposed of at the time of the hearing herein.

On September 24, 1968, in transactions handled by Bohn, the Registrant purchased 1,000 shares of Champion for Bohn's personal account at $1.50 from Union Western Securities in Los Angeles. Registrant's preceding transactions in Champion had been at $1.89 on the previous day. In its next transactions in Champion that day, Registrant sold 2,650 shares for Bohn's account which it purchased for the accounts of 5 customers at $1.89 a share. Two of those customers purchase orders were received prior to Bohn's purchase at $1.50, the other three fail to show the date and time received (Div. Ex. 2, 20 and 24a-h).

Registrant in its next 2 transactions in Champion on September 26 and 27 purchased 1,000 shares for Williams at $1.50 per share and then sold 600 shares for him and 300 for Bohn which it purchased for the account of a customer at $1.90 per share (Div. Ex. 2, 20 and 31a-f). On September 27 an additional 100 shares were sold for Williams at $1.90 per share.

On September 30, 1968, Bohn purchased 10,000 shares of Champion from Zalk at $1.00 per share in a personal transaction not handled by the Registrant.

On October 3, 1968, Registrant sold 1,000 shares for Union Western Securities Corporation at $1.25 net. These shares were sold to Williams, who received 600 shares, and a Robert Lauer who received 400 shares. On that same day 600 additional shares were sold to Lauer at prices of $1.95 and $1.96. Lauer's order for 1,000 shares had been received on October 2. When his order was filled on October 3, by the lower-priced stock a change in his order was noted from 1,000 to 400 shares. Williams thus received the bulk of the lower-priced stock.

On October 10, 1968, when the previous transaction was at $1.50 a share and while holding orders from 3 customers to purchase Champion, Registrant purchased 1,000 shares of Champion from Union Western Securities for the account of Williams at $1.00 a share. In the following transactions that day it filled the orders of those customers and other customers at $1.50 a share (Div. Ex. 20, 25 and 33a-i) and in the following transaction sold 100 shares for Williams to a customer at $1.90 a share.

The next day, October 11, 1968, Registrant purchased 3,000 shares of Champion at $1.00 a share from Union Western Securities which was divided up equally between Bohn, Williams and Mrs. Josephine Priano, Registrant's bookkeeper. Immediately after this transaction and while holding prior orders for other customers Registrant purchased 2,500 shares for the account of a Lynn Lindholm at $1.60 a share. Lindholm was known to the Respondents as a person who had had personal dealings with Zalk

and had sold mining properties to Champion, obtaining Champion stock for the sale, some of which had been sold through Registrant. Registrant then sold 200 shares for Williams' account at $1.96 and sold 2,800 shares to 3 of its customers at $1.90 a share from the account of Williams and Priano (Div. Ex. 20 and 35e-0). On October 14, 1968, Registrant sold 700 shares for the account of Williams at $2.10 per share, the highest price ever traded by Registrant in that stock. The previous trade, also a sale by Williams, was at $1.90 per share and the next trade the following day was at $1.80.

Williams also sold 300 shares on October 18, 1968, through Registrant, for 3 of its customers at $1.90 per share, 10 cents higher than the last previous trade (Div. Ex. 20).

The records of the Registrant show sustained, quick upward movement of the price of Champion (Div. Ex. 19 and 20). Beginning with the initial price of 80 cents the shares were quickly advanced in price and at arbitrary increases of 10 cents a share from the commencement of trading on August 1 until the beginning of September. The price then hovered around the $1.90 mark for about a month, the high being reached at $2.10 on October 14. At times when shares became available at a much lower price, Bohn or Williams, as previously noted, picked up these shares and resold a substantial amount of them to their customers at considerable increases over their costs. None of these personal dealings were revealed to the customers of the Registrant to whom it and its officers in control of its operations owed a fiduciary duty of good-faith dealing. It is urged that as testified to by Williams that stock purchases in Champion by Bohn and Williams acquired at a substantial

discount from the apparent current price were blocks of stock offered with the requirement that the entire block be purchased. However, on occasion, Registrant had on hand orders substantially aggregating the amount of the shares offered, but still Bohn and Williams took the securities offered in whole or in part. In any event customers were not told later that Bohn and Williams were personally selling them their stock at very sharp increases over their contemporary costs. It is concluded that the Respondents singly and in concert dominated and controlled the market for Champion shares and artificially raised and supported the price for said shares either on their own initiative, as Zalk testified, or participated with him in that activity and failed to disclose to customers the personal dealings of Bohn and Williams in Champion stock. This conduct and the arrangements for the distribution of Champion shares for controlling persons and the receipt by Bohn and Williams of additional compensation for their sales activity, were all willfully violative of the anti-fraud provisions of the Exchange Act and Rule 10b-5 thereunder, and the Respondents are each chargeable with these violations.

c. Additional Violations of the Anti-Fraud Provisions of the Exchange Act

It is further alleged in the order that Registrant, Bohn and Williams willfully violated and willfully aided and abetted violations of Sec. 10(b) of the Exchange Act and Rule 10b-6 thereunder in that Registrant while engaged in a distribution of common stock of Champion directly and indirectly purchased in its own account and for accounts

in which Bohn and Williams had a beneficial interest the common stock of Champion.[11/]

As previously pointed out the Respondents had agreed to and were participants in the distribution of a large block of Champion stock on behalf of a control group of Champion. This took place in the so-called Hoover account from which the Registrant made purchases in dealer transactions from August 1 through August 9 and then further sold Champion from the account in agency transactions up to August 23. During that same period advertisements were inserted on August 20 and August 21, 1968 in the regular advertisements of the Registrant in the Spokane Daily Chronicle, a newspaper, stating "WILL BUY CHAMPION OIL & MINING" (Div. Ex. 7 and 8).

On August 22, while still engaged in a distribution from the Hoover account, the Registrant made sales in dealer transactions to customers of Champion stock, which shares it had acquired in dealer transactions prior thereto (Div. Ex. 19).

There is evidence that the period of distribution continued for some additional time in view of sales by the Registrant of Champion stock acquired by certain individuals from the control group in exchange for the transfer of certain properties. However, it is unnecessary to deal with these transactions since the above transactions clearly

---

11/ It is provided in Rule 10b-6, so far as it is pertinent here, that it shall constitute a "manipulative or deceptive device or contrivance" as used in Section 10(b) of the Act for any person who is a broker or dealer and is participating in a particular distribution of securities, by the use of inter-state facilities or of the mails, to bid for or purchase for any account in which he has a beneficial interest, any security which is the subject of such distribution, until after he has completed his participation in such distribution.

establish the violations alleged. It is therefore concluded that the Respondents willfully violated and aided and abetted violations of Section 10(b) of the Exchange Act and Rule 10b-6 thereunder as alleged in the order for the proceedings.

4. Violations by Reason of the Stock Bonus Transaction

It is undisputed that during the period from August 8 to August 23, 1968 the Registrant effected approximately 70 transactions in Champion stock and induced the purchase of Champion stock by customers. Prior to these transactions, Bohn and Williams, who were the Registrant's chief officers, had beneficially received from Zalk 10,000 shares of Champion as additional compensation or bonus for their activities in the disposition of Champion stock. Bohn and Williams each owned 50 percent of the Registrant's stock and controlled its operations and they received the Champion shares in connection with their control of the operations of the Registrant. Under these circumstances this block of shares constituted remuneration in connection with transactions in Champion stock which should have been revealed to customers of the Registrant in accordance with the provisions of Rule 15c1-4 enacted pursuant to the provisions of Section 15(c)(1) of the Exchange Act.[12/] This was not done.

It is urged that the 10,000 shares were never traded and that no attempt was made to be secretive or to conceal this bonus. However, there was an affirmative duty to reveal the receipt of these shares to

---

12/ Every broker or dealer, except in certain exempt transactions, is required to furnish a customer at or before the completion of a transaction a confirmation showing the source and amount of any commission or other remuneration to be received by him in connection with a transaction.

Registrant's customers and this was not done. It is therefore concluded that the Registrant willfully violated the aforementioned Section and Rule and that Bohn and Williams willfully aided and abetted these violations.

C. Other Violations

A sampling by a Commission investigator of the customers' ledgers of Registrant during the period from May 1 to November 1, 1968, disclosed 30 instances in which Registrant, in violation of Section 7(c) of the Exchange Act and Section 4(c)(2) of Regulation T issued by the Board of Governors of the Federal Reserve System, had extended and maintained credit in customers' special cash accounts without requiring such customers to make full cash settlement for their purchases within 7 days and without promptly cancelling or otherwise liquidating such transactions or the unsettled portions thereof (Div. Ex. 21). Twenty-four of the transactions involved situations where no time extension was requested or obtained and 6 transactions involved situations in which time extensions were requested and granted but payment was not received or the transaction cancelled within the extension period (Tr. 265-271).

The above violations are not denied, although it is asserted that new procedures have been adopted by the Registrant designed to avoid a repetition of these violations. It is concluded that the Registrant, aided and abetted by Bohn and Williams violated Section 7(c) of the Exchange Act, as alleged in the order, and that the violations were willful.

It also was found during the investigation of Registrant's records that during the period from August 1 through October 31, 1968, that 152 agency orders did not show both the hour and date the order was received and the hour and date when the order was executed, as required by Section 17(a) of the Exchange Act and Rule 17a-3 thereunder (Div. Ex. 25). There were an additional 36 orders executed for Bohn and Williams personally where there were similar omissions. These violations are admitted, but it is alleged that corrective action has been taken. It is concluded that the Registrant, willfully aided and abetted by Bohn and Williams, willfully violated the aforementioned Section and Rule.

A broker-dealer is required to exercise diligent supervision over all the securities activities of his associated persons.[13/] During the period material herein, the Registrant's total roster of employees consisted of two clerical employees. The Registrant's office space was small and it was an easy matter for Bohn or Williams to observe what was going on and to supervise office operations. Average daily volume was 30 to 50 transactions. Yet, despite these favorable circumstances, repeated and substantial violations of rules designed to protect investors and the public interest took place. It is, therefore, concluded that Registrant, aided and abetted by Bohn and Williams, violated the duty of supervision, and that these violations were willful.

13/ Section 15(b) of the Exchange Act and Rule 15b10-4, thereunder. Paine, Webber, Jackson and Curtis, Sec. Exch. Act Rel. No. 8500 (Jan. 22, 1969), p.6, Reynolds & Co., 39S.E.C.902, 916 (1960).

III. CONCLUDING FINDINGS, PUBLIC INTEREST

The Commission, pursuant to the provisions of Section 15(b)(5) of the Exchange Act, so far as it is material herein, is required to censure, suspend for a period not exceeding twelve months or to revoke the registration of any broker or dealer if it finds that such action is in the public interest, and such broker or dealer, whether prior or subsequent to becoming such, has willfully violated any provision of the Exchange Act, the Securities Act, or any rule or regulation thereunder. It also may, pursuant to the provisions of Section 15(b)(7) of the Exchange Act, censure, bar, or suspend for a period not exceeding twelve months any person from being associated with a broker or dealer if it finds that such sanction is in the public interest and that such person has willfully violated any provisions of the Exchange Act, the Securities Act, or any rule or regulation thereunder, or has been enjoined in connection with the purchase or sale of any security, or has failed reasonably to supervise, with a view to preventing violations of the Securities Acts or rules. It also, pursuant to Section 19(a)(3) of the Exchange Act, may expel or suspend a member of a national securities exchange who has violated any provision of the Exchange Act or the rules and regulations thereunder.

It has been found that the Registrant and Ray G. Bohn and Donald J. Williams, its chief officers and owners of all its stock, willfully violated the registration provisions of the Securities Act and the anti-fraud provisions of the Exchange Act in connection with the offer and sale of the stock of Champion Oil and Mining Company. Violations also were committed by these Respondents, of the confirmation , Regulation T,

recordkeeping rules, as well as of the obligation to properly supervise associated persons in order to prevent violations of the Securities Acts and applicable rules.[14/]

It is urged on behalf of Williams and the Registrant that while violations were committed by the Respondents, they occurred shortly after the Registrant was organized, and continued for an additional three months so far as the Champion transactions were concerned. It is argued that the violations were neither extensive nor typical of the Registrant's business, and that Bohn had the principal dealings with Zalk and his associates.

Additional contentions advanced on behalf of Williams are that he has a good record in the securities business and in his community, he voluntarily discontinued transactions in Champion, mark-ups were not excessive, and that no previous injunctions or violations have been charged to him. In view of these matters, that Bohn is no longer active in the business, and certain corrective measures have been taken, it is urged that censure is a sufficient sanction here. Reference is made to cases where some of these factors have been recognized by the Commission as mitigating circumstances.

On behalf of Bohn it is contended that the violations occurred as the result of misinformation and incorrect legal advice given Respondents, they do not have a history of violations, and are respected in the community. Under these circumstances, it is urged, revocation and other

---

14/ The Respondents also have been permanently enjoined from selling or offering to sell the securities of Champion unless these securities are registered or exempt from registration (Div. Ex. 41).

severe sanctions would be unduly harsh and arbitrary and the interests of the public can be served by imposition of a period of temporary suspension.

Some of the arguments advanced on behalf of the Registrant and Williams do not find support in the record. While Zalk's original contact was with Bohn, thereafter Williams participated in the agreement with Zalk, shared in the receipt of bonus stock, acquired Champion stock at low prices and resold higher, as Bohn did, had equal control of the operations of the Registrant, and thus had an equal responsibility for the violations.

Transactions in Champion were not voluntarily discontinued. Transactions for the Hoover account were ended after a Commission investigator questioned them. Thereafter other agency transactions were executed and some of the individual Respondents' more lucrative personal transactions took place during this period. The mark-ups over their costs were very large. Activity in Champion was a substantial part of Registrant's business.

The salient fact that emerges from the record is that the Respondents lent themselves to a stock-selling scheme designed to raise capital for Champion and pay for assets acquired by a boot-strap operation whereby the price of Champion was to be artificially advanced by arbitrary increases in prices quoted to the goal of $3.00 a share. Only the possibility of a searching investigation stopped the effort short of its goal.

In a plan, such as Zalk and his associates devised, the cooperation of a broker was essential. The Respondents furnished this assistance. Accepting self-serving declarations from the Champion control group, they

provided the market for trading the Champion stock, participated in the manipulation of Champion stock prices, and Bohn and Williams profited substantially in personal transactions. At the same time these violations were occurring, the Respondents were violating regulations relating to the conduct of business operations by brokers designed to protect investors and the public interest. While some of the factors relied on by Respondents have been held to constitute extenuating circumstances, their applicability in a particular case depends upon the evaluation of the record. The cases cited on behalf of the Respondents have been considered but significant differences from the instant case weaken their applicability here.[15/] The undersigned concludes that the violations committed by the Respondents were most serious, evidence a disregard of the fiduciary duties owned investors by their brokers, and a careless disregard of rules and regulations designed to protect the public interest. Respondents should not be permitted to have further opportunity to endanger the public interest in complete and effective protection of investors. Accordingly,

---

14/ Furthermore, the Commission has pointed out that, "the remedial action which is appropriate in the public interest depends upon the facts and circumstances of each particular case and cannot be precisely determined by comparison with action taken in other areas." (Martin A. Fleishman, Sec. Exch. Act Rel. No. 8002, p. 5 (Dec. 7, 1966); A.T. Brod & Company, Sec. Exch. Act Rel. No. 8060, Exch. Act Rel. No. 8360, p. 8 (July 23, 1968)).

IT IS ORDERED that the registration of the Registrant, Bohn-Williams Securities Corporation, now known as Don Williams Securities Corporation is hereby revoked; that Ray G. Bohn and Donald J. Williams are barred from association with any broker or dealer; and that Donald J. Williams and the Registrant are expelled from membership on the Spokane Stock Exchange.

Pursuant to Rule 17(b) of the Commission's Rules of Practice a party may file a petition for Commission review of this initial decision within fifteen days after service thereof on him. This initial decision pursuant to Rule 17(f) shall become the final decision of the Commission as to each party unless he files a petition for review pursuant to Rule 17(b) or the Commission, pursuant to Rule 17(c), determines on its own initiative to review this initial decision as to him. If a party timely files a petition to review or the Commission takes action to review as to a party, this initial decision shall not become final as to that party.[15/]

Sidney L. Feiler
Hearing Examiner

Washington, D.C.
September 16, 1970

15/ All contentions and proposed findings have been carefully considered. This initial decision incorporates those which have been found necessary for incorporation therein.