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ADMINISTRATIVE PROCEEDING
FILE NO. 3-2870

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of	
JAMES DONOHUE	INITIAL DECISION
Securities Exchange Act of 1934 Section 15(b)(5)(E)	(PRIVATE PROCEEDINGS)

Irving Schiller
Administrative Law Judge

Washington, D. C.
September 26, 1972

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In the Matter of JAMES DONOHUE Securities Exchange Act of 1934 Section 15(b)(5)(E)	INITIAL DECISION (PRIVATE PROCEEDINGS)

APPEARANCES: Martin Seigel and Marvin Pickholz of the New York Regional Office of the Commission for the then Division of Trading and Markets, now Division of Enforcement.* /

Paul J. Newlon and Bruce S. Kaplan of Paul, Weiss, Rifkind, Wharton & Garrison for James Donohue.

BEFORE: Irving Schiller, Administrative Law Judge

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* / See Securities Act of 1933 Release No. 5289 (August 14, 1972). In announcing a reorganization in its structure, the Commission eliminated the Division of Trading and Markets and transferred all enforcement activities under each of the Acts it administers to the Division of Enforcement.

There are private proceedings instituted by the Securities and Exchange Commission ("Commission") pursuant to Section 15(b), 15A and 19(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act") to determine whether certain persons willfully violated Sections 5(a) and (c) of the Securities Act of 1933 ("Securities Act"), whether certain persons including James Donohue ("Donohue") failed reasonably to supervise other persons under their supervision with a view to preventing the violation alleged in the Commission's Order for Private Proceedings ("order") and whether any remedial action is appropriate in the public interest pursuant to the above-mentioned sections of the Exchange Act.

The order alleges in substance that during the period from approximately April 1968 through December 1968 certain of the respondents named in the order willfully violated and willfully aided and abetted violations of Sections 5(a) and (c) of the Securities Act in that they offered to sell, sold and delivered after sale shares of common stock of A. K. Electric Corp. ("A. K.") when no registration statement was filed or in effect as to such securities pursuant to the Securities Act.[1/] The order further alleges Donohue, among other respondents, failed reasonably to supervise a person under his supervision with a view to preventing the violations alleged in the order for proceedings.

1/ The Commission's Order For Private Proceedings dated March 3, 1971 set forth charges against certain broker-dealer firms registered with the Commission and other persons whose cases have been determined by the Commission. See Exchange Act Releases 9316, 9283, 9533, 9534 and 9745. The findings and conclusions in this initial decision relate solely to the charges against Donohue as noted in the text.

After appropriate notice hearings were held before the undersigned. Proposed findings of fact and conclusions of law and briefs were filed by the Division of Enforcement ("Division") and Donohue.

The following findings and conclusions are based upon a preponderance of the evidence as determined by the record, the documents and exhibits therein and upon observation of the various witnesses.

A. K.

Under the order any finding that Donohue failed reasonably to supervise another person under his supervision requires a determination that such other person willfully violated the Securities Act in connection with the purported offer, sale and delivery after sale of the common stock of A. K. Thus, prior to considering Donohue's conduct, it is necessary to examine the salient facts, pertaining to the issuer, A. K., the manner in which its shares were publicly distributed and the participation therein by the person Donohue is charged with failing to supervise.

The following findings with respect to the issuer are predicated upon a stipulation between Donohue and the Division and made a part of the record in these proceedings. A. K. was incorporated in the State of New York in 1949. In 1961 it offered and sold 100,000 shares of its common stock to the public pursuant to an exemption under Regulation A promulgated under Section 3(b) of the Securities Act of 1933. Thereafter its shares were traded in the over-the-counter market. In 1968 A. K. had issued and

outstanding 569,000 shares of its common stock. On May 5, 1967, Jack A. Meltzer ("Meltzer"), president of A. K., purchased 31,334 shares of A. K. from Milton Cohen, an ex-officer of A. K. Meltzer paid for the said shares but they were placed in the name of Max Bernstein, a nominee of Meltzer. On December 5, 1967, Bernstein, acting as Meltzer's nominee, sold the said shares to Continental Diversified Industries, Inc. ("Continental"), a corporation controlled by Alfred Dallago. Upon the basis of an attorney's opinion letter the said shares were freed up and reissued in the name of Continental without any restrictive legend. 2/ As will be discussed in greater detail below Continental opened an account at the brokerage firm (hereinafter referred to as registrant) of which Donohue was a partner and sold 16,500 shares out of the block of 31,334 shares referred to above.

In February 1968 Meltzer sold 12,000 shares of his stock for investment to Harold Bass, secretary and director of A. K. Three months later Bass received an opinion letter stating that pursuant to Rule 154 of the Securities Act he could sell 5,900 shares of the stock he bought from Meltzer. Bass sold 2,500 shares of such stock to Continental in May 1968. Continental resold such shares through its account at registrant. Between

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2/ The Division asserts and Donohue does not dispute that the opinion letter was factually and legally inaccurate.

September 1967 and January 1969 Meltzer sold or otherwise disposed of at least 258,134 shares of A. K. stock including the 19,000 shares sold by Continental through its account at registrant.

The record discloses that other than the 100,000 shares sold pursuant to an exemption under Regulation A, noted above, which shares are not involved in these proceedings, no registration statement was filed or in effect with the Commission as to any securities of A. K.

Violations of Section 5 of the Securities Act

As noted earlier, under the order a prerequisite to a determination as to whether Donohue failed adequately to supervise necessitates a finding that the person he is alleged to have supervised willfully violated Section 5 of the Securities Act. The order in essence charges that during the period April - July 1968 R. S., employed by registrant as a registered representative and senior trader (hereinafter referred to as "salesman"), sold shares of common stock of A. K. when no registration statement was filed or in effect as to the said securities pursuant to the Securities Act. To determine whether such sales were in violation of the above mentioned statute requires an examination of all of the circumstances relating to the sales in question. In March or early April the salesman, who had approximately 100 accounts, received a telephone call from a John Carson ("Carson") who told him he was a principal of Continental and that he wanted to open an account to sell A. K. stock. Apparently all the salesman

obtained from Carson was the name of the customer, its address, phone number and bank reference, which information he included on a new account form. He told Carson he would call back after the account was opened. The salesman could not even recall asking Carson how many shares Carson wanted to sell. After completing the new account form he submitted it to one of registrant's sales partners who approved the account. That same day or the following day the salesman, who had not previously opened a corporate account, went to Donohue who was the operations partner in charge of registrant's back office operations and after informing him that he obtained the corporate account which had been approved by a sales partner sought information as to the procedures for opening a corporate account. Donohue explained that the new account department would obtain the necessary papers from the client including corporate resolutions, that the stock certificates had to be properly endorsed, that all certificates had to be delivered to the firm before sales were effected and that the certificates had to be transferred into the firm's name prior to payment to the customer . Donohue instructed the salesman to bring him the certificates when they arrived.

Several days later the salesman received 50 certificates for 5,000 shares from Continental and, in accordance with Donohue's instruction, brought them to him for inspection. The record discloses that prior to any sales of A. K. stock in the

Continental account, the salesman was requested by Donohue to ascertain whether there was any connection between A. K. and Continental or Carson, and how the customer had acquired the stock. The salesman telephoned Carson who informed him there was no connection between A. K. and Continental or Carson, that Continental had acquired the stock "cheaply", that the stock "had a sharp run up", that the stock was registered and that it was "good clean stock".[3/] The salesman relayed this information to Donohue. Donohue testified he inspected the 50 certificates for the purpose of determining if there was any restrictive legend thereon and if they appeared to be otherwise transferrable. Donohue admitted that based solely upon the information furnished him by the salesman and his examination of the certificates he informed the salesman he could sell the stock. Donohue also stated that payment would not be made until the stock cleared transfer. The 5,000 shares were sold commencing on April 5, 1968. Thereafter at Carson's instruction and delivery of additional shares of A. K. stock, the salesman sold an additional 14,000 shares on 24 days until July 2, 1968 when

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3/ Though there is some dispute in the record as to whether the information was obtained at the first conversation when the salesman went for instruction on the procedures for opening a corporate account or the second conversation when he brought the certificates to Donohue. The timing is not important. What is significant is that the information was obtained prior to any sales of A. K. stock and as to that fact there is no dispute.

Donohue halted all further sales.

The record amply supports the finding that on April 5, 1968 when the sales of A. K. stock in the Continental account first commenced the only information which the salesman had concerning A. K. and Continental was the information detailed above which information he obtained from Carson by telephone. No effort was made by the salesman to ascertain how Continental had acquired its shares, from whom such stock had been obtained or the amount of stock Continental proposed to sell. Other than merely asking Carson by telephone whether there was any connection between Carson, Continental and A. K., no effort was made to ascertain any information concerning A. K., the amount of shares it had outstanding, the names of its principals or the relationship of Continental and its principals to A. K. In addition the salesman testified that when Carson told him the stock was "registered" he was also satisfied with that statement and made no independent effort to ascertain whether any A. K. stock was, in fact, registered with the Commission.

The record amply supports the finding that the transaction in unregistered A. K. stock described above were in violation of Sections 5(a) and 5(c) of the Securities Act unless an exemption was available as to them.[4/] Section 5 of the

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4 / See e.g., Gilligan Will & Co. 38 S.E.C. 388, 391 (1958), affirmed 267 F 2d 461 (C.A. 2), cert. denied 361 U.S. 896 (1960).

Securities Act makes it unlawful for any person to use the mails or means of interstate commerce, to offer for sale, sell or deliver a security unless a registration statement has been filed and is in effect with the Commission. As noted above no registration was filed or in effect with respect to the stock of A. K. The evidence discloses that Continental had acquired its securities directly and indirectly from Meltzer, a controlling person of A. K., and Continental was a statutory "underwriter" as that term is defined in Section 2(11) of the Securities Act. The burden of proving that an exemption from the general policy of the Securities Act requiring registration was available rests with the person claiming the exemption. 5 / Donohue makes no claim that an exemption was available with respect to the sales of A. K. stock for the Continental account. He contends that the Division has failed to prove the charge against the salesman and that to prove a wilfull violation of Section 5 of the Securities Act it was encumbent upon the Division to prove that the salesman knew that the A. K. stock was unregistered or at the very least he should have known that the stock was unregistered. Both arguments are rejected. The Division having established the above facts relating to the sales by Continental and that no registration statement was filed as to

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5 / S.E.C. v. Ralston Purina Co., 346 U.S. 119 (1953); S.E.C. v. Culpepper, 270 F 2d 241, 246 (C. A. 2, 1959).

the A. K. stock, made out a prima facie case of a violation of Section 5 of the Securities Act. As indicated above Donohue has the burden of establishing the existence of an exemption. This burden it is found he failed to meet. The argument that there is no proof that the salesman should have known that the stock was unregistered is not supported by the record.

Both the Commission and the Courts have consistently held that a searching inquiry is called for by a dealer who offers to sell, or is asked to sell a substantial amount of a little-known security and it is not sufficient for his merely to accept "self serving declarations" of his sellers "without reasonably exploring the possibility of contrary facts". 6 / The evidence amply demonstrates that at the time the salesman was requested by Carson, who was a stranger, to sell A. K. stock on behalf of Continental, he knew nothing about A. K. or its business operations. It was only a name to him. He personally made no effort to secure any information concerning A. K., its officers or directors nor did he make any effort to ascertain the source of Continental's acquisition, the relationship between A. K., Continental and Carson or, the number of shares of A. K. which Continental wanted to sell. In addition the record also discloses that the salesman

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6 / Securities Exchange Act Release 6721; Securities Act Release 4445 (February 2, 1962); S.E.C. v. Mono-Kearsarge Consolidated Mining Co. 167 F. Supp. 248 (D. Utah 1958).

learned that A. K. stock had a sharp run up but he made no attempt to ascertain who was selling the stock. Moreover, shortly after sales commenced Carson telephoned the salesman complaining he had not received payment for his stock. He told the salesman that other brokers were paying him on time for sales of A. K. stock and requested the salesman to find out why the registrant was not paying him. The salesman thus also acquired knowledge that his customer was selling A. K. stock at other brokers but took no steps to assure himself that his sales for Continental were in compliance with the Securities Act. Donohue urges that his and the salesman's inspection of the certificates which were properly endorsed, when coupled with the fact that the A. K.'s independent transfer agent transferred the stock from the corporate name into street name, establishes that the salesman had no reason for believing the stock was unregistered. The argument is specious. In the first place it is abundantly clear that in so far as the salesman knew or ever ascertained A. K. was a relatively obscure company and he accepted the customer's self serving declaration that the stock being sold was good, clean stock without exploring the possibility of contrary facts. Secondly, the fact that the transfer agent transferred the stock is no assurance that the sales are in compliance with the Securities Act. See e.g. Stead v. S.E.C. (C.A. 10 No. 382-70, July 2, 1971). It is found that the salesman offered and sold shares of common

stock of A. K. for the Continental account at registrant in violation of Sections 5(a) and (c) of the Securities Act and that within the meaning of Section 15(b) of the Exchange Act the violations were wilfull. 7 /

Failure to Supervise

We next turn to a consideration of the charge that Donohue failed reasonably to supervise the salesman found to have violated Section 5 of the Securities Act. The thrust of Donohue's argument that there is no demonstrable failure reasonably to supervise the salesman is threefold; first, that Donohue's duties and responsibilities as operation partner did not include supervision of sales personnel or sales functions; second, the firm's procedures designed to prevent Section 5 violations were adequate and fully observed by Donohue and third that subjecting Donohue to sanctions in light of the failure of Congress and the Commission to define the standard of the conduct constituting reasonable supervision in Section 15(b)(5)(E) would be unfair and unjust since Donohue had no way of knowing what conduct would subject him to liability.

In considering to the first of Donohue's arguments relating to his duties and responsibilities the record reveals that during the period April - July 1968 registrant

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7 / A finding of willfulness requires merely a finding of an intent to do the act which constitutes a violation. See e.g., Tager v. S.E.C., 344 F 2d 5, 8 (C.A. 2, 1965).

was a partnership composed of nine partners. Donohue came with the firm in 1958 and became a partner in 1966. In 1968 he was the youngest partner and had the smallest percentage interest in the firm. At the time in question Donohue was in overall charge of and had prime responsibility for the firm's back office operations which included responsibility for the following departments: cashiers department, margin department, order room, P and S department (purchases and sales), dividend department, keypunch and coding and accounts record. Each department had its own supervisor who reported to Donohue. Other partners were designated as sales partners, research partners, administrative partners or had other titles. All partners were on an equal level, with the exception of the managing partner, to whom all partners reported. Registrant's procedures required new accounts to be approved by a partner. Normally new accounts were approved by a sales partner since this was one of their ordinary functions. However, the record is clear and Donohue admits that in addition to certain specific areas of responsibility every partner including Donohue had authority to approve opening of new accounts. In addition, Donohue testified that ". . . the lines of authority aren't that clearly drawn", that "any partner would do something to further firm's business" and that as a part of his functions he also "had authority to stop trading of a particular security". It is thus clear from his own testimony

that as a partner he could exercise authority with respect to sales functions including opening new accounts and halting trading of a particular stock if he felt it furthered the firm's business.

Moreover, assuming arguendo that Donohue, as operations partner, had no supervisory responsibility for the day to day operations of salesmen, the record amply demonstrates that he, in fact, assumed responsibility for supervising the salesman involved in the instant case in connection with the latter's sales of A. K. stock for the Continental account. Thus, as noted earlier, after another partner had approved the Continental account, the salesman went to Donohue to find out the procedures for opening a corporate account and received the advice he sought. Had the relationship between Donohue and the salesman thereupon ceased and Donohue no longer involved in the Continental account, Donohue's argument that he did not, in fact, supervise the salesman would be persuasive. However, Donohue was not content with merely furnishing advice on the technicalities involved in opening a corporate account and divorcing himself from further concern with the salesman's activities. Of utmost importance in evaluating whether Donohue exercised supervision over the salesman, is the fact that Donohue instructed the salesman to ascertain the relationship between A. K., Carson and Continental, to find out where Continental had acquired the stock and whether the securities were registered. He also

instructed him to bring him the certificates of stock so he could determine whether they were in proper form for transfer. The salesman obtained the information from Carson and, as noted above, relayed it to Donohue. If, in fact, Donohue truly had no supervisory authority over the salesman in so far as the latter's activities related to sales there is no logical explanation for Donohue's obtaining information to determine for himself whether A. K. stock could be sold. Nor did Donohue offer any explanation as to why he did not refer the Continental account to a sales partner. The record amply supports the finding that Donohue sought information to satisfy himself that the A. K. stock could be sold and made the determination himself that the salesman could sell the stock.

In addition to the foregoing which occurred prior to any sales in the Continental account there were at least two additional conversations during the period sales were being effected for Continental which further reflect Donohue's involvement in the sales of A. K. stock. Midway between April and July 2, or toward the latter of June 1968 the salesman again approached Donohue [8/] to inform him that his customer was complaining about the failure of the firm [redacted]

8/ There is some dispute in the record as to whether the approach occurred midway or near the end of the period in question. The salient point is not when the conversation took place, rather the substance of the matters discussed as they bear upon Donohue's alleged supervision of the salesman.

to make payment on the settlement date, informing Donohue that the customer said that other brokers were making payments for sales of A. K. stock on such date. Donohue testified he paid no particular attention to what he termed an "old trick" used by salesman and customers to obtain payment. He instructed the salesman to check with the firm's transfer clerk and call the transfer agent to inquire when the securities could be expected out of transfer reiterating that payment would then be made. Shortly thereafter the salesman asked Donohue whether he could open an account for a Canadian subsidiary of Continental which Carson had told him wanted to sell some A. K. stock. Donohue testified that at this point it "dawned" on him that the firm had been selling quite a bit of A. K. stock and he determined not only to refuse opening an account for Continental's Canadian subsidiary but also to refuse to permit any further sales of A. K. stock by Continental. Both these conversations establish additional evidence that Donohue exercised supervision over the salesman's activities concerning sales of A. K. stock. In this latter connection Donohue's own testimony sufficiently establishes that his responsibilities transcended back office operations. Thus, he testified he had authority to stop trading a particular security and in fact any partner had the right to determine that a particular security could not be sold. It was Donohue who determined that no further sales of A. K. stock

be effected in the Continental account. Again Donohue offered no logical explanation as to why he did not refer the matters to a sales partner if, as he claim, sales functions were not within the area of his responsibility.

Donohue urges that when consideration is given to the testimony of the salesman in question who admitted that it was normal and unusual for him to consult with a sales partner concerning matters relating to sales of securities and the testimony of the individual in charge of the order room to the effect that it was his responsibility to supervise everything the salesman did, it becomes evident that Donohue cannot be charged with lack of supervision over the salesman. The argument is rejected. In addition to Donohue's actions relating to the Continental account detailed above, the record contains other evidence reinforcing the conclusion that the salesman, within the meaning of the language of Section 15(b)(5)(E), was "subject to his supervision". Donohue testified that during the course of the salesman's employment Donohue disciplined him on numerous occasions "with respect to his duties". Such occasions included informing the salesman that he was favoring a particular firm in placing over-the-counter trades and instructing him to make fewer trades with such firm, criticizing the salesman for inattention to his primary duties as an over-the-counter order clerk; spending too much time talking to his personal customers and refusing the request the salesman

made to him to be permitted to trade five securities instead of only three, a matter which was instrumental in the salesman's decision to resign. Most of these matters did not relate strictly to Donohue's back office operations but are indicative of an overall responsibility for all of the salesman's activities. Moreover, Donohue in describing his area of responsibility as the back office partner testified that he had overall supervision of the order room in which the salesman was working but apparently attempted to establish that such supervision excluded the salesman's functions in the area of sales. The record fails to support such contention. It is clear from the evidence that notwithstanding the fact that the order room had a supervisor who may have had more daily contact with the salesman because of the physical presence of the salesman in the order room, the record amply demonstrates that Donohue as a partner exercised responsibilities which embraced all the activities of the personnel in the order room.

Donohue urges that the phrase "subject to his supervision" as used in Section 15(b)(5)(E) of the Act is intended to reach only supervisors whose supervisory jurisdiction covers the subject matter of the substantive wrong. This limited view of the statute is rejected. The issue to be resolved is not solely whether the supervisor had "jurisdiction" over the subject matter of the substantive wrong but rather whether the supervisor in fact exercised authority with respect to or assumed responsibility

for the avtivities of another person who committed a violation. Stated differently the conclusion as to whether a person is subject to the supervision of another person is measured on the basis of a functional approach rather than a table of organization which purports to delineate lines of authority.

Donohue further urges that his firm had established procedures and a system for applying such procedures which would reasonably be expected to prevent and detect, insofar as practicable Section 5 violations. The record fails to support such contention. In the instant case the record amply supports the finding that there were no established procedures nor a system for applying such procedures which reasonably would be expected to prevent or detect the violations in question and the evidence amply demonstrates that Donohue failed to discharge the duties and obligations incumbent upon him once he undertook to determine whether the salesman could sell A. K. stock for the Continental account. The established procedures apparently relied upon by Donohue in the case of an obscure over-the-counter stock, are stated to include requesting the customer to state whether there was any relationship between the issuer and the customer, how the customer acquired the stock and accepting the customers answers without independently making inquires. The procedures also included physical inspection of stock certificates to check for restrictive legends, to see if the certificates represented a large number of shares and to ascertain whether the

stock would clear transfer by independent transfer agents before making payment to the customers. These procedures under the circumstances here present are wholly inadequate to determine whether a broker-dealer is or may be participating in an illegal distribution in violation of Section 5 of the Securities Act. The Commission in 1962 considered the standards of conduct expected of registered broker-dealers in connection with public distribution of substantial blocks of unregistered securities particularly of obscure and unseasoned companies. The Commission stated that when a dealer is offered a substantial block of a little known security, either by persons who appear reluctant to disclose exactly where the securities came from, or where the surrounding circumstances raise a question as to whether or not the ostensible sellers may be merely intermediates for controlling person or statutory underwriters, a searching inquiry is called for Exchange Act Release No. 6721 (February 2, 1962). In the same release the Commission emphasized " . . . it is not sufficient for him merely to accept self-serving statements of his sellers and their counsel without reasonably exploring the possibility of contrary facts". In the instant case the record is abundantly clear that Donohue having undertaken the responsibility for determining whether the stock of A. K., an obscure and unseasoned company, may be sold, failed to make reasonable inquiry concerning the source of the acquisition of the A. K. stock by Continental, the relationship between Continental, its officers and directors with A. K., the amount of stock to be sold

and whether Continental was selling stock at other broker-dealers. He was satisfied with the salesman's statement that the customer said the A.K. stock was good, clean stock, that there was no relationship between Continental and its principles to A.K. and that the stock was "registered". With respect to the procedure which called for inquiry from the transfer agent as to the transferability of stock the Courts have held that in determining whether securities about to be sold may, in fact be sold, a call to a transfer agent to inquire if securities will be transferred does not exculpate a broker-dealer from his responsibility for searching inquiry. Stead v. S.E.C. supra. Upon the basis of the record it is concluded that the salesman was, within the meaning of Section 15(b)(5)(E) of the Act, subject to Donohue's supervision and Donohue failed reasonably to supervise such salesman with a view to preventing the latter from violating Section 5 of the Securities Act.

Public Interest

The remaining question is whether it is in the public interest to invoke any sanction against Donohue. The record establishes that Donohue had an unblemished record in the securities industry for more than 15 years, that on prior occasions he rendered assistance to the Commission in connection with its enforcement activities and fully cooperated with the Division's investigation of the instant case. However, in this

connection Donohue testified that some of the statements he made during the investigation were not accurate, that after the instant charges were filed against him he made greater efforts to ascertain what truly happened and these latter efforts resulted in his differing testimony at these proceedings. Well intentioned as his purported cooperation may have been, there is little doubt that this type of cooperation is ineffectual.

The conclusion is inescapable that Donohue undertook responsibility for determining whether the A. K. stock could be sold for the Continental account and after obtaining what he considered satisfactory answers authorized the sales. As noted above, the circumstances in the instant case raised sufficient red flag warnings which called for searching inquiry. See S.E.C. v. Mono-Kearsarge Consolidaged Mining Co. supra. Donohue failed to carry out the responsibilities required of him under the circumstances here present. It is in the public interest that he be suspended from association with any broker-dealer for seven business days. 9/

IT IS ORDERED that James Donohue be, and he hereby is, suspended from associating with any broker-dealer for a period of seven business days.

9/ To the extent that proposed findings and conclusions submitted by the parties are in accordance with the views set forth herein they are sustained and to the extent they are inconsistent therewith they are expressly overruled.

This order shall become effective in accordance with and subject to the provisions of Rule 17(f) of the Commission's Rules of Practice.

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 15 days after service thereof on him. Pursuant to Rule 17(f) this initial decision 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. If a party timely files a petition for review or if the Commission take action to review as to a party, this initial decision shall not become final with respect to such party.

Irving Schiller
Administrative Law Judge

Washington, D. C.
September 26, 1972