

~~Handwritten scribble~~

RECEIVED
8/14/98

Daniel J. Demers
14341 Old Cazadero Rd.
Guerneville, California 95446

98-BK-C

telephone: 707-869-3855 fax: 707-869-3887 email: ddemers901@aol.com

August 2, 1998

Mr. Peter G. McCabe, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
Washington, D. C. 20544

Dear Mr. McCabe:

Attached herewith is the copy of a petition which I recently filed with the Securities & Exchange Commission together with relevant correspondence.

I am hereby formally requesting that the Committee on Rules of Practice and Procedure consider the preparation and adoption of a Bankruptcy Rule which will provide for court procedures for Form 10 public companies reporting requirements. The SEC policy has just recently changed and, in my opinion, the SEC cannot initiate the procedures which effectively over rides pertinent sections of the Bankruptcy Code and Congressional intent.

I believe the attached petition to the SEC will assist you in understanding the problem.

Should you have any questions, please feel free to contact me.

Sincerely



Daniel J. Demers

cc: Pat Channon
Bankruptcy Judges Division (w/encl.)

#5463

**Daniel J. Demers
14341 Old Cazadero Rd.
Guerneville, California 995446**

tele: 707-869-3855 fax: 707-869-3887 email: ddemers901.@aol.com

July 30, 1998

Jonathan G. Katz
Secretary
United States
Securities and Exchange Commission
Washington, D. C. 20549

Dear Secretary Katz:

This letter is written to formally petition the Securities and Exchange Commission ("Commission" or "SEC") to revoke Bulletin No. 2 ("Bulletin") published by the Division of Corporation Finance dated April 15, 1997. The Bulletin deals with SEC reporting procedures for Reporting Issuers which are under protection of the United States Bankruptcy Code. These procedures have not been formally adopted by the SEC as a Rule, Regulation or Statement of the Commission. Further the Commission has not approved or disapproved the content of the Bulletin. The Bulletin, however, has become, ipso facto, a rule because it purports to give guidance to reporting issuers which are in Chapter 11 proceedings.

The Bulletin seeks to establish a procedure whereby reporting issuers must adhere to certain reporting standards pursuant to the Securities Exchange Act of 1934. The SEC does not have statutory authority to establish such procedures nor does a division of the SEC have the statutory authority to establish a Bulletin which becomes a de facto rule without approval of the Commission.

In enacting the Bankruptcy Code in 1978, Congress stated unequivocally that it was passing security law considerations to the Bankruptcy Judiciary by granting flexibility in security law matters to the Bankruptcy Courts.

The Bulletin specifically states that reporting issuers are "not relieved of their reporting obligations". This is erroneous. Throughout the Legislative History statements can be found which do in fact specifically relieve reorganizing entities from provisions of the 1934 Act. For example, "...the bill...permits the disclosure statement to be approved without the necessity for compliance with the very strict rules of Section 5 of the Securities Act of 1933, Section 14 of the Securities Exchange Act of 1934, or relevant State securities laws..." (House Report (Reform Act of 1978) Chapter 5 Reorganization. B. Proposed Disclosure Requirements, 3. Applicability of Other Security Laws). And "Subsection (d) [of Section 1125] excepts the disclosure statement from the

requirements of the securities laws (such as Section 14 of the 1934 Act and Section 5 of the 1933 Act), and from similar State securities laws (blue sky laws, for example).” (HR Rep No. 595, 95th Cong. 1st Sess 408-410 (1977)). The controlling language in this quote is “such as” which implies that the exemption from Section 14 of the 1934 Act is not exclusive and is not the only exemption which applies to Debtors as that term is defined under the Bankruptcy Code (11 USC 101(12)). In specifying the exemption from Section 14 of the 1934 Act, Congress noted: *“The cost of developing a prospectus or proxy statement for a large company often runs well over \$1 million. That cost would be nearly prohibitive in a bankruptcy reorganization. In addition the information normally required under Section 14 may be simply unavailable, because of the condition of the debtor.”* (House Report (Reform Act of 1978) Chapter 5 Reorganization. B. Proposed Disclosure Requirements, 3. Applicability of Other Security Laws).

Congress specifically addressed its position on the need for certified audited statements (such as those required for a 10-K) and passed the determination of the issue to the Bankruptcy Court: *“Frequently the debtor’s books will be in a shambles at the time of the bankruptcy...If there is no need for the information under the circumstances, reconstruction may be dispensed with, and certified audited financial statements will not be required.”* (House Report (Reform Act of 1978) Chapter 5 Reorganization B. Proposed Disclosure Requirements 1 Adequate Information). This determinative authority rests with the Bankruptcy Court and not the SEC. Under Bankruptcy Code Section 1109 the SEC may comment and be heard. Thus the SEC could request that the financial information and method of presentation under Section 1109 but a SEC division cannot mandate such. It can only ask the Bankruptcy Court to consider the matter and the Bankruptcy Court is the ultimate arbiter in determining the financial information that must be presented. And that is a main crux of this problem: Who asks who? Should the Bankruptcy Court ask the SEC or should the SEC ask the Bankruptcy Court? From a strict reading of the relevant statutes, it appears that it would be the SEC’s burden to put forward such a request.

Bankruptcy court suzerainty over the 1934 Securities Exchange Act is further confirmed by 11 USC 1142 which reads *“Notwithstanding any otherwise applicable non-bankruptcy law, rule, or regulation relating to financial condition, the debtor and any entity organized or to be organized for the purpose of carrying out the plan shall carry out the plan and shall comply with any orders of the court.”*

And 11 USC 1145 (3) (c) provides the securities issued pursuant to a Plan of Reorganization *“...is deemed a public offering.”* The Legislative History explains that this provision was designed to avoid the transactions being characterized as *“...a ‘private placement’ which would result in restrictions under Rule 144 of the SEC, on the resale of the securities (HR Rep. No. 595, 95th Cong. 1st Sess 419-421 (1977); S Rep. No. 989, 95th Cong. 2nd Sess 130-132 (1978).*

Section 14 of the 1934 Act details what must be included in a proxy solicitation which includes pertinent information specified under Section 12 of the 1934 Securities Exchange Act. Thus by expressly exempting a Disclosure Statement from the requirements of Section 14, it also excused the information required under Section 12. The information required under Section 12 patterns and

mirrors the information required in a 10-K. The information required under Section 12 further patterns and mirrors the information required under Section 5 of the Securities Act of 1933 which is expressly exempted under the Bankruptcy Code (11 USC Sections 364(f) and 1145(a)).

In enacting the Bankruptcy Code in 1978, Congress recognized and addressed the inherent philosophical differences created by the Code as it related to the nations securities laws. In so doing, Congress granted maximum flexibility to the Bankruptcy Courts in dealing with security law issues. Congress recognized one very important feature of the bankruptcy process- the need to balance the interests of public investors with the rights of bankruptcy claimants. In so doing, the Congress purposely relaxed federal and state security laws and granted to the Bankruptcy Courts extraordinary authority to make security law determinations on a case by case basis. *"If nothing is to change when a company becomes insolvent, then the bankruptcy laws can offer the company little help. The company would be no better off proceeding under the bankruptcy law than under generally applicable law. The compromise proposed...is a reasonable one that accounts for both the interest of the creditors in a successful reorganization, and the interest of the public in preventing securities fraud."* (House Report (Reform Act of 1978) Chapter 5 Reorganization B. Proposed Disclosure Requirements 3 Other Security Laws)

Recognizing the historical propensity of the SEC interfering in the reorganization process by virtue of the SEC's pre-Code manipulative actions (See *In Re Yuba Consolidated Industries, Inc.*, 260 F. Supp. 930 (N. D. Cal. 1966) Congress removed the SEC as an automatic party in interest. Besides determining that the SEC had no financial interest in a reorganizing company, Congress determined that the SEC should no longer be an "advisor and advocate" because of the inherent conflict of interest.

Congress further addressed the concept of *investor fraud* often raised by the SEC during the legislative committee discussions with SEC staff during the deliberations which led to the enactment of the Code. *"...the need for reorganization of a public company today often results from simple business reverses, not from any fraud, dishonesty, or gross mismanagement on the part of the debtor's management. Even if the cause is fraud or dishonesty, very frequently the fraudulent management will have been ousted shortly before the filing..."* (House Report (Reform Act of 1978) Chapter 5 Reorganization B. Proposed Disclosure Requirements V Appointment of a Trustee).

Then too there are practical considerations. In almost every instance, when a company files under Chapter 11, its independent auditors become creditors. Under AICPA guidelines, a CPA firm cannot issue an audit if it is a creditor because the accountant is not truly independent if it is owed money from a previous years audit. The AICPA does relax this rule when the a company is in bankruptcy. Even so, the accountant is not going to work for nothing. Also, often times, a Debtor is forced to hire new accountants and often, the prior accountants refuse to release relevant and necessary work papers because of the non-payment. Additionally a professional cannot be compensated by a company unless the professional is approved by court order.

And, further, the threat by the SEC of effectively de-listing a debtor which does not continue

its reporting obligation, effectively decreases the value of the bankruptcy estate which the bankruptcy courts are charged with preserving. Further a plan which offers to swap debt for equity becomes unworkable because there is no market for the stock once the plan is confirmed. This is another reason behind the adoption of 11 USC 1142 by the Congress in 1978.

Recently regional SEC Reorganization Sections have been soliciting Plans of Reorganization and Disclosure Statements prior to their being filed with the Bankruptcy Court-in effect attempting to, once again, position the SEC as a pre-Code advisor and advocate. Besides increasing the cost of and causing a delay in the reorganization, this activity is also a violation of Congressional intent. Congress determined that the SEC's involvement in bankruptcy proceedings was, in fact, delaying a fast resolution of the reorganization process, increasing the cost factor and thereby affecting not only the ability to reorganize, but the availability of assets to satisfy creditors: "*As has frequently been pointed out in connection with the [pre-1978 Bankruptcy Law requirement of SEC] valuation hearing, or diagnosis of the debtor, the patient may die on the operating table while lawyers are diagnosing.*" (Norton Supra Note 2 at 737).

Bankruptcy Rule 2002 (j) provides that the SEC is to be noticed of a Chapter 11 filing and the Section 341 (11 USC 341) hearing time and date. Rule 3017(a) provides that the SEC is to be sent a copy of the Plan of Reorganization and Disclosure Statement *when filed* with the Court together with the notice of the date and time of the adequacy hearing. These two Rules activate notice to the SEC and gives the SEC adequate time to notice that it intends to comment and be heard pursuant to 11 USC Section 1109(a).

SEC staff should not be soliciting Chapter 11 entities and offering to grant advice prior to the filing of the pertinent documents with the bankruptcy court. These SEC Regional office letters of solicitation are an indirect attempt at becoming an advisor and are manipulative of the reorganization process and increase the cost of the reorganization. These regional offices by their mere existence will always interpret security laws pursuant to the federal securities acts (i.e. 1933 and 1934 Acts as amended) and will always ignore the exemptions granted under the Bankruptcy Code. They offer little help to the debtor but instead, like all bureaucrats, strive to protect their bureaucracies turf.

This policy by innuendo indicates that the SEC wishes to pre approve a plan of reorganization and disclosure statement. This can only be interpreted as an attempt at a manipulation of the reorganization process which as previously noted is one of the reasons the SEC was removed as a party in interest in the first place. And in reviewing this policy, the SEC must ask itself whose rules, regulations and laws are the SEC reorganization sections interpreting-The 1933 and 1934 Acts and rules and regulations promulgated thereto or the security laws as they are to be interpreted under the United States Bankruptcy Codes. I suggest to the Commission, that the SEC staff personnel who do wish to review and pre-approve plans of reorganization will always bend their judgement towards the 1933 and 1934 Acts. After all they work for the SEC and were trained to interpret and enforce the nations securities laws. Therefore SEC employees cannot be disinterested while bankruptcy judges can be disinterested-thus the logic behind Congress granting flexibility to

the Bankruptcy Judiciary on a case by case basis.

To put this all in perspective, the Commission needs to understand that prior to the enactment of the Bankruptcy Code in 1978, a Plan of Reorganization with evidence developed at an “approval hearing” was sent to the SEC which then developed an *advisory report*. The purpose of the advisory report was to inform creditors, stockholders and other claimants of the contents of the plan and the SEC’s evaluation of the plan. At that time, it was thought, that claimants were “*simply unable to make an intelligent or informed decision without the SEC’s report, all of the valuation evidence...and an order of the court finding the plan worthy of consideration and approval. The purpose of the approval hearing, court approval, and SEC report...was public investor protection.*” (House Report (Reform Act of 1978), Chapter 5. Reorganizations; III Court Hearing on the Plan and Disclosure; A Current Law (pre-1978)).

This policy was abandoned when the Congress enacted the Bankruptcy Code in 1978: “*The premise underlying the consolidated Chapter 11 of the [Bankruptcy] Code is the same as the premise of the securities laws. If adequate disclosure is provided to all creditors and stockholders whose rights are affected, then they should be able to make an informed judgement of their own, rather than having the court or Securities & Exchange Commission inform them in advance of whether the proposed plan is a good plan*” (House Report (Reform Act of 1978), Chapter 5. Reorganizations; III Court Hearing on the Plan and Disclosure; B. Proposed Disclosure Requirements; 3. Applicability of Other Securities Laws.)

The Bankruptcy Code does not contain any provisions which specifies the SEC is to perform any function in bankruptcy proceedings (Newton, *Bankruptcy and Insolvency Accounting* (9th edition)). The SEC on its own volition and without any direction from Congress took it upon itself to monitor bankruptcies and initiated this activity through Corporate Reorganization Release Number 331, in February of 1984. The fact that the SEC took it upon itself to state it would continue to monitor reorganizations by this release does not make it right or legal. The SEC merely asserted a position without any express authorization from the Congress.

Congress further recognized the potential severity of SEC involvement in reorganizations by enacting a “safe harbor” clause: “*The threat of an injunctive proceeding by the SEC may be leverage that could be used to frustrate the disclosure policy contained in the section [1125(d)]...*” (House Report (Reform Act of 1978) Chapter 5 Reorganization B. Proposed Disclosure Requirements 4 Safe Harbor). Similarly to 11 USC 1109, Section 1125 (d) once again reiterates that no government agency (including the SEC) may appeal or seek a review of the adequacy of a Disclosure Statement because “*Two courts should not be second guessing each other in this matter*” (ibid).

Suggestions:

In petitioning the SEC, I would make the following suggestions:

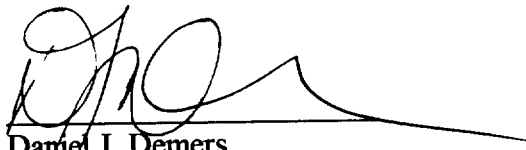
(1) The Commission formerly direct the Division of Corporate Finance to terminate and abandon Bulletin #2.

(2) The Commission extend to Reporting Issuers the same rights the Commission recently agreed to grant to Non-Reporting Issuers, i.e. (Modifications to Rule 15c2-11 (17 CFR Part 240; Release No. 34-39670; File No. S7-3-98; RIN: 3235-AH40; Publication or Submission of Quotations Without Specified Information at page 34) pursuant to my petition dated November 14, 1997.

(3) The Commission direct its regional reorganization sections to cease requesting copies of the Plan of Reorganization from debtors prior to the filing of such documents with the Bankruptcy Court in compliance with Bankruptcy Rule 3017(a).

(3) The Commission direct its staff to begin discussions with the Committee on Rules of Practice and Procedure for the United States Court ("Committee") and seek to achieve the enactment of a Bankruptcy Rule which would delineate what is required by taking all the above into consideration and with specific reference to Bankruptcy Code Section 1142. I am initiating such by forwarding a copy of this petition to the Secretary of the Committee and requesting that the Committee promulgate new Bankruptcy Rules to resolve this dilemma.

Respectfully submitted



Daniel J. Demers
Petitioner

cc: Peter G. McCabe, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
Washington, D.C. 20544 (W/encl)

Pat Channon
Bankruptcy Judges Division
Suite 4-250
Administrative Office of the United States Courts
Washington, D.C. 20544 (W/Encl.)

DANIEL J. DEMERS
14341 Old Cazadero Road
Guerneville, California 95446

tele: 707.869.3855 fax: 707.869.3887 email: DDemers901@aol.com

November 14, 1997

Ms. Nancy Sanow
Assistant Director
Office of Risk Management and Control
Division of Market Regulation
Securities & Exchange Commission
450 Fifth Street, NW
Washington, DC 20549

Sent via fax and by US Mail

Dear Ms. Sanow:

I am currently writing an article for a bankruptcy law journal and am writing this letter to you in an effort to confirm that non-reporting public companies are not obligated to provide audited financial statements under Rule 15c2-11. If you would be so kind as to advise me that this is correct and cite the appropriate rule, regulation or statute, I would be most appreciative.

Due to publishers deadline, I would appreciate it if you would fax me your response to the above--ASAP.

Also, by this letter I hereby formally request that the SEC consider modifying Rule 15c2-11 ("Rule"). As now written, the Rule requires that a non-reporting company supply *(i) the issuers most recent balance sheet and profit and loss and retaining earnings statements ;and, (ii) similar financial information for such part of the two (2) preceding fiscal years as the issuer or its predecessor has been in existence.* It is the second part (in bold italics) that I believe the SEC needs to address as such pertains to companies emerging from Chapter 11 Reorganizations.

This requirements appears to be inconsistent with AICPA Technical Practice Aids (Sec 10 at 460 (Nov. 1990) also referred to as AICPA SOP 90-7. The AICPA's statement on the issue is as follows:

Fresh start financial statements prepared by entities emerging from Chapter 11 will not be comparable with those prepared before their plans were confirmed because they are, in effect, those of a new entity. Thus comparative financial statements that straddle a confirmation date should not be presented. (Bold emphasis added by author).

I believe that the inconsistency between the AICPA's position and the SEC needs to be corrected. The Rule appears to be in further conflict with Section 1142 (a) of the Bankruptcy Code which reads:

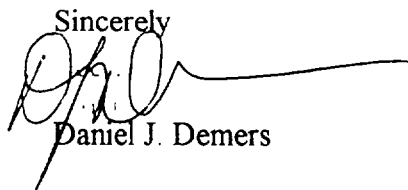
"Notwithstanding any otherwise applicable non-bankruptcy law, rule, or regulation relating to financial condition, the debtor and any entity organized or to be organized for the purpose of carrying out the plan [of reorganization] shall carry out the plan and shall comply with any orders of the court."

A problem is created because the OTC Bulletin Board is charged with enforcing a Rule which doesn't address or contemplate the problems I have articulated above. The problem further poses the question as to whether or not the Rule is in violation of Section 1109 (a) of the Bankruptcy Code which reads as follows:

"The Securities and Exchange Commission may raise and may appear and be heard on any issue in a case under this chapter, but the Securities and Exchange Commission may not appeal from any judgment, order, or decree entered in the [Chapter 11] case."

I would suggest that the Rule, as written, is in conflict with the Bankruptcy Code and hinders the implementation of confirmed Plans of Reorganization. One of the primary reasons that the SEC was removed as a party in interest in bankruptcy proceedings under the Bankruptcy Code as enacted in 1978 was because Congress believed that the SEC (prior to 1978) was manipulating bankruptcies (see 5 Collier on Bankruptcy (15th ed) 1109-16, 1107-17). I believe the SEC, unintentionally, is effectively manipulating bankruptcy proceedings under the Rule as it is now written and would request the Rule be modified to make provision for the relaxation of prior year financial statements being required for companies emerging from Chapter 11 proceedings.

Thanking you in advance for your assistance, I am

Sincerely

Daniel J. Demers

cc: Paul Hudgins, Esq.



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF
THE SECRETARY

February 18, 1998

Mr. Daniel J. Demers
14341 Old Cazadero Road
Guerneville, California 95446

Re: Petition for Rulemaking, File No. 4-405

Dear Mr. Demers:

This letter responds to the Petition for Rulemaking ("Petition"), dated November 14, 1997, that you submitted requesting that the Securities and Exchange Commission ("Commission") institute rulemaking proceedings to amend Rule 15c2-11 ("Rule") under the Securities Exchange Act of 1934 ("Exchange Act").

The Petition indicates that currently Rule 15c2-11 requires an issuer that is not required to file periodic reports with the Commission ("non-reporting issuer") to supply, in addition to its most recent balance sheet and profit and loss and retained earnings statements, similar financial information for such part of the two preceding fiscal years as the issuer or its predecessor has been in existence. The Petition requests that the Commission relax the requirement regarding the prior year financial statements for non-reporting companies emerging from bankruptcy proceedings pursuant to Chapter 11 of the Bankruptcy Code.¹

Response:

Rule 15c2-11 governs the initiation or resumption of quotations by a broker-dealer for over-the-counter ("OTC") securities in a quotation medium (other than Nasdaq). The Rule requires broker-dealers to gather and review financial and other information about the issuer before initiating or resuming quotations for the issuer's securities. The Rule specifies the issuer information that a broker-dealer must obtain and review before publishing a quotation for an OTC security and contains information requirements regarding non-reporting issuers.

Among other items of information, for non-reporting issuers the broker-dealer must obtain and review the issuer's most recent balance sheet and profit and loss and retained earnings statements, and similar financial information for such part of the two preceding years as the issuer or its predecessor has been in existence. As you have pointed out, this information requirement

¹11 U.S.C. Section 1101 et seq.

Mr. Daniel J. Demers
February 18, 1998
Page 2

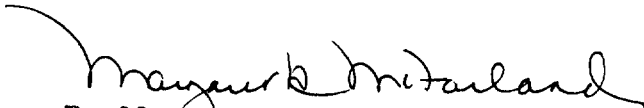
may present difficulties for broker-dealers that intend to publish quotations for the securities of a non-reporting issuer emerging from bankruptcy.

On February 17, 1998, the Commission issued a release proposing several amendments to Rule 15c2-11. Under the proposals, a broker-dealer would need to obtain financial information, and the court-approved disclosure statement,² from the date a non-reporting issuer emerged from Chapter 11 bankruptcy proceedings if the reorganization plan has been effective less than two years. The Commission is soliciting public comments on the proposals, which must be submitted within 60 days of the date of their publication in the Federal Register. A copy of the release containing the proposals is enclosed for your information.

Based on the foregoing, the Commission has directed me to inform you that the foregoing rulemaking proceeding regarding Rule 15c2-11 appears to respond to your concerns and that it has no plans for further action with respect to your Petition at this time.

By the Commission,

Johnathan G. Katz
Secretary


By: Margaret H. McFarland
Deputy Secretary

²11 U.S.C. Section 1125.

Exerpt From:

SECURITIES AND EXCHANGE COMMISSION

17 CFR PART 240

Release No. 34-39670; File No. S7-3-98

RIN: 3235-AH40

Publication or Submission of Quotations Without Specified Information

AGENCY: Securities and Exchange Commission

ACTION: Proposed Rule

SUMMARY: The Securities and Exchange Commission (“Commission”) is publishing for public comment proposed amendments to Rule 15c2-11 (“Rule”) under the Securities Exchange Act of 1934 (“Exchange Act”). The Commission is publishing these proposals in response to increasing incidents of fraud and manipulation in the over-the-counter securities market involving thinly traded securities of thinly-capitalized issuers (i.e., “microcap securities”). Rule 15c2-11 governs the publication of quotations for securities that are traded in a quotation medium other than a national securities exchange or Nasdaq. The proposals would require all broker-dealers to review information about the issuer when they first publish or resume publishing a quotation for a security subject to the Rule, document that review, annually update the information if they published price quotations, and make the information available to other persons upon request. In addition, the proposal would enhance the Rule’s information requirements for quotations for the securities of non-reporting issuers and ease the Rule’s recordkeeping requirements when broker-dealers have electronic access to information about reporting issuers. The Commission is also proposing a number of textual and structural changes in an effort to simplify and streamline the Rule. Finally the Commission is proposing an amendment to Rule 17a-4 under the Exchange Act that would incorporate the record retention requirements currently contained in Rule 15c2-11.

reports that ordinarily contain only receipts and disbursements.⁵⁶ These periodic reports do not provide the type of issuer financial information contemplated by the Rule. In particular, where a bankruptcy issuer meets the criteria for Exchange Act reporting, it would be inconsistent with the public interest and protection of investors to permit broker-dealers to facilitate trading by publishing quotations without reviewing Exchange Act information. Therefore, under the proposals, broker-dealers would not be able to initiate or resume quotations for the securities of issuers in bankruptcy and could not public^h priced quotations for those securities as of the annual update requirement, unless they have obtained and reviewed the Rule's required information.

Page 34

Q37. What difficulties does this position present for broker-dealers quoting securities of issuers that file bankruptcy?

Issuers Emerging from Bankruptcy. The Commission recently received a petition for rulemaking seeking a revision of the financial statement requirements for non-reporting issuers emerging from bankruptcy.⁵⁷ In addition to the issuer's most recent financial statements, the Rule currently requires that a broker-dealer review similar financial information that has little bearing on the financial condition of the issuer emerging from a Chapter 11 reorganization. The Commission agrees with the suggestion made in the petition and proposes to amend Rule 15c2-11 to limit a broker-dealer's review to the court-approved disclosure statement⁵⁸ for the issuer's plan of reorganization and the issuer's financial information from the date the bankruptcy court confirms the reorganization plan.

⁵⁶ See Federal Rule of Bankruptcy Procedure 2015

⁵⁷ See Letter from Daniel J. Demers to Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC (November 14, 1997). This petition for rulemaking is available in File No. 4-405 in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549

⁵⁸ 11 U.S.C. 1125. The disclosure statement includes, among other things, a description of the issuer's business plan, a description of any securities to be issued, and financial information.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

ANTHONY J. SCIRICA
CHAIR

PETER G. McCABE
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

WILL L. GARWOOD
APPELLATE RULES

ADRIAN G. DUPLANTIER
BANKRUPTCY RULES

PAUL V. NIEMEYER
CIVIL RULES

W. EUGENE DAVIS
CRIMINAL RULES

FERN M. SMITH
EVIDENCE RULES

October 2, 1998

Mr. Daniel J. Demers
14341 Old Cazadero Road
Guerneville, California 95446

Dear Mr. Demers:

Thank you for your suggestion that the Committee on Practice and Procedure study the relationship between the SEC "reporting procedures for Reporting Issues, which are under the protection of the United States Bankruptcy Code" (Bulletin No. 2) and the Federal Rules of Bankruptcy Procedure. A copy of your letter was sent to the members of the Judicial Conference Advisory Committee on Bankruptcy Rules. And the issue is on the advisory committee's agenda for the October 8-9, 1998 meeting.

We welcome your comments and appreciate your interest in the rulemaking process.

Sincerely,



Peter G. McCabe
Secretary