100-202, 101 Stat. 1329-131 (1988) (the "Appropriations Act").[2] In particular, your request includes the following securities: Government Trust Certificates; Current Coupon Certificates, Class PH-1; and Zero Coupon Certificates; Class PH-2 (Republic of the Philippines), to be issued in September, 1991.

Pursuant to the Appropriations Act, these securities are backed 90% by a full faith and credit guaranty issued by the United States of America, acting through the Defense Security Assistance Agency of the Department of Defense. These securities are structured as certificates representing undivided fractional interests in related trusts, the assets of each of which consist in part of a promissory note of the Republic of the Philippines ("Republic").

The 10% unguaranteed portion of the obligations of the Republic is secured by a pool of collateral consisting solely of non-callable United States Treasury bills, notes, bonds and other direct obligations of the United States of America ("U.S. Government Securities"). You therefore represent that your request is in accord with the Commission's statement that it would grant requests for exemptions from the broker-dealer registration requirements of Section 15(a) of the Exchange Act, in connection with any other securities issued under the Appropriations Act, only if, among other things, the collateral securing the unguaranteed portion of these securities consisted solely of Treasury obligations or Treasury STRIPS, and not any derivatives thereof.

You represent that LGSI will effect transactions in the securities that you describe solely in its capacity as a government securities dealer registered with the Commission under Section 15C(a)(2) of the Exchange Act, and that, if the requested exemption is granted, LGSI will continue to comply with all rules adopted by the Secretary of the Treasury pursuant to Section 15C(b) of the Exchange Act, including all applicable net capital regulations. You also represent that LGSI will request modification of this exemption regarding any new securities issued in connection with the refinancing of additional FMS loans.

Resposne:

Based on the above facts and representations, and pursuant to Section 15(a)(2) of the Exchange Act and the provisions of 17 CFR 200.30-3(a)(47), the Commission hereby grants an exemption from the broker-dealer registration requirements of Section 15(a)(1) of the Exchange Act solely to permit LGSI to effect transactions in, or to induce or attempt to induce the purchase or sale of, the securities described above, without LGSI registering with the Commission as a broker-dealer under Section 15(b) of the Exchange Act. This exemption is conditioned on LGSI effecting transactions in these securities solely in its capacity as a government securities dealer registered with the Commission under Section 15C(a)(2) of the Exchange Act, and on LGSI complying with all rules adopted by the Secretary of the Treasury pursuant to Section 15C(b) of the Exchange Act, including all applicable net capital regulations.

[¶ 79,797] Paul Anka.

Securities and Exchange Commission, Division of Market Regulation. July 24, 1991. Available July 24, 1991. (On SEC Significant List of October 17, 1991.) Correspondence in full text.

Exchange Act—Registration of Broker-Dealers—Limited Partnerships—Prospective Investors.—Enforcement action under Section 15(a) would not be recommended if an individual provides an Ontario, Canada limited partnership with the names of prospective U.S. and Canadian purchasers of limited partnership units issued by the partnership, without registering as a broker-dealer under Section 15(b). The U.S. persons will be potential investors whom the individual reasonably believes to be accredited investors as that term is defined in Regulation D under the 1933 Act. The Canadian persons will be potential investors whom the individual reasonably believes to be eligible to purchase the units under the exemption from registration under Section 71[1][d] of the Ontario Securities Act.

See ¶ 25,001, "Exchange Act—Broker-Dealer Regulation" division, Volume 3.

[*Letter of Inquiry of May 17, 1991*]

On behalf of Mr. Paul Anka ("Mr. Anka"), the opinion of the Staff of the Division of Market Regulation (the "Staff") of the Securities and Exchange Commission (the "Commission") is requested regarding the applicability of Sections 3(a)(4), 3(a)(5) and 15(a) of the Securities Exchange Act of 1934 (the "1934 Act") to Mr. Anka.

Mr. Anka has entered into an agreement with The Ottawa Senators Hockey Club Limited Partnership, a limited partnership organized

[2] *See also* 31 CFR Part 25 (1989).

under the laws of the Province of Ontario, Canada (the "Senators"), and Terrace Investments Limited, a corporation incorporated under the laws of the Province of Ontario, Canada and the managing general partner of the Senators ("Terrace"), by which, among other things, Mr. Anka has agreed to purchase 1,799 Class B Units (1.8% of the total limited partnership units) from Terrace. Ownership interests in the Senators are represented by 100,000 limited partnership units, which are classified into 49,000 Class A Units, 24,500 Class B Units and 26,500 Class C Units.

Subject to receipt of the Staff's concurrence with the opinions set forth in this letter, Mr. Anka has also agreed to use his reasonable efforts to introduce potential "accredited investors" (as that term is defined in Regulation D promulgated under the Securities Act of 1933 (the "1933 Act")) interested in purchasing Class A and/or Units to the Senators. The Senators have agreed to make available Class A and Class B Units for purchase by such investors and Mr. Anka, and to pay to Mr. Anka upon the sale of Class A and/or Class B Units to such investors a finder's fee equalto 10% of the sales price of the units sold. Mr. Anka will also receive such a finder's fee for any additional Class A and/or Class B Units he may purchase. The Senators have also agreed to pay to Mr. Anka a 1% fee on all sales of Units (except those Class A and/or B Units sold to investors introduced by Mr. Anka to the Senators and those additional Class A and/or B Units sold to Mr. Anka for which the 10% finder's fee is payable) made after May 13, 1991.

Mr. Anka's activities will be limited to the introduction of potential accredited investors to the Senators. Mr. Anka will describe to the potential accredited investor the name of the issuer and the price per Class A and/or Class B Unit. He will also disclose to the potential investor his percentage ownership interest in the Senators and his right to receive a finder's fee in the event such investor purchases Class A and/or B Units. If an investor expresses interest, Mr. Anka will then forward the investor's name, address and telephone number to the Senators. Mr. Anka will not participate in any negotiations between the Senators and the investors. Mr. Anka has not participated, and will not participate, in (a) the preparation of any materials (including financial data or sales literature) relating to the sale or purchase of the Class A or Class B Units or (b) the distribution of any such materials to any potential investor. Mr. Anka will not (i) perform any independent analysis of the sale, (ii) engage in any due diligence activities, (iii) assist in or provide financing for such purchases, (iv) provide any advice relating to the valuation of or the financial advisability of such an investment, or (v) handle any funds or securities.

Mr. Anka is a world class entertainer and has advised us that he has not been previously engaged in any private or public offering of securities (other than buying and selling securities for his own account through a broker) and has not acted as a broker or finder for other private placements of securities. He has further advised us that he does not intend to participate in any distribution of securities after the completion of this proposed private placement.

The Senators and Terrace have advised us that the proposed sales of Class A and B Units will be made in the United States in compliance with applicable exemptions from the registration requirements of the 1933 Act and in Canada in compliance with the registration requirements of the Ontario Securities Act, R.S.O. 1980, c. 466, as amended, and applicable exemptions therefrom. The Senators and Terrace have retained separate United States counsel to advise them regarding compliance with United States securities laws. The Senators and Terrace have advised us that sales in Canada will be limited to purchasers (i) who are purchasing or who make the investment as a principal for investment purposes only and not with a view to resale or distribution and (ii) who purchase a minimum of $150,000 CDN of Units.

The Senators and Terrace will solely determine whether a sale of Class A or Class B Units is to be made to a U.S. investor. The Senators and Terrace have solely determined the sales price of the securities to be sold and prepared all offering materials. The Senators and Terrace have advised us that they will disclose to each investor introduced to them by Mr. Anka the 10% finder's fee to be paid to Mr. Anka and will also disclose to all other investors the 1% fee to be paid to Mr. Anka.

The Staff has issued several no-action letters with respect to similar finder's fee arrangements which support our interpretation that the activities proposed to be conducted by Mr. Anka will not be within the definition of a broker or dealer pursuant to Sections 3(a)(4) and 3(a)(5) of the 1934 Act and will not require Mr. Anka to be registered pursuant to Section 15(a) of the 1934 Act. In *Victoria Bancroft* (available August 9, 1987), Ms. Bancroft proposed to introduce former clients and her associates and friends to persons she knew to be involved in the selling of various commercial banks and savings and loans associations. Bancroft's activities were to be limited to a description to the potential purchaser of the type of financial institution, the asking price and the general location. If the potential purchaser indicated an interest in such an investment, she would then arrange a meeting between the seller and the potential purchaser.

The Staff concluded that it would not recommend enforcement action if Bancroft did not register as a broker-dealer, noting, among other things, the following facts: (a) Bancroft was to have a limited role in the negotiations between the purchaser and seller, (b) the businesses represented by Bancroft were going concerns and not "shell" organizations, (c) Bancroft was not to advise the parties whether to issue securities or assess the value of any securities sold, (d) Bancroft would not assist the purchasers in obtaining financing, (e) Bancroft would not participate in the preparation of any materials related to the transaction or distribute any such prepared information (except that which was publicly available) and (f) Bancroft would not undertake any due diligence activities or independent analysis of the transaction. *See also, John Di Meno* (available October 11, 1978) and *Carl L. Feinstock* (available April 1, 1979).

On the basis of the foregoing, it is respectfully requested that the Staff concur in the following views in connection with the finder's fee arrangement between Mr. Anka and the Senators: (1) Mr. Anka will not be acting as a broker or dealer as defined by Sections 3(a)(4) and 3(a)(5) of the 1934 Act; and (2) Mr. Anka is not required by Section 15(a) of the 1934 Act to be registered as a broker or dealer.

[*Letter of Inquiry of July 12, 1991*]

In accordance with our telephone conversations with the Staff of the Division of Market Regulation (the "Staff") of the Securities and Exchange Commission (the "Commission") regarding the applicability of Sections 3(a)(4), 3(a)(5) and 15(a) of the Securities Exchange Act of 1934 (the "1934 Act") to our client, Mr. Paul Anka ("Mr. Anka"), we are furnishing additional information as requested by the staff. This letter supplements our previous letter dated May 17, 1991 and, unless otherwise defined herein, capitalized terms used in this letter shall have the same meanings as defined in such earlier letter.

Subject to receipt of the Staff's concurrence with the opinions set forth in this letter, Mr. Anka proposes to furnish to the Senators names of potential "accredited investors" (as that term is defined in Regulation D promulgated under the Securities Act of 1933 (the "1933 Act")) in the United States and potential non-united States investors (who will purchase pursuant to the exemptions under Section 71 [1][d] of the Securities Act of Ontario) in Canada with whom he has a preexisting personal and/or business relationship and whom he thinks may be interested in purchasing Class A and/or Class B Units. In accordance with the exemption contained in Rule 3a4-1 of the General Rules and Regulatiosn promulgated under the 1934 Act, only the directors, officers and employees of the Senators and Terrace Investments Limited, the corporate general partner of the Senators (the is, an "associated person oa an issuer" as defined therein), will contract such potential investors, not Mr. Anka. When the directors, officers and employees of the Senators and Terrace contact such persons, they will indicate that the potential investor's name and telephone number were furnished to the Senators by Mr. Anka. Mr. Anka will not partivcipate in any negotiations between the Senators and the investors. Mr. Anka will not solicit such investors and will not make any recommendations regarding an investment in the Senators to any potential investor, endorsement or general solicitation in the United States regarding an investment in the Class A and B Units.

On the basis of our letter dated May 17, 1991 and the foregoing, it is respectfully requested that the Staff concur in the following views in connection with the finder's fee arrangement between Mr. Anka and the Senators: (1) Mr. Anka will not be acting as a broker or dealer as defined by Sections 3(a)(4) and 3(a)(5) of the 1934 Act; and (2) Mr. Anka is not required by Section 15(a) of the 1934 Act to be registered as a broker or dealer.

[*SEC Staff Reply*]

In your letters dated May 17, 1991 and July 12, 1991 on behalf of Paul Anka, supplemented by telephone conversations between you and Lynne Brickner of your office and the staff of the Division of Market Regulation, you request the Division's assurance that it will not recommend enforcement action to the Commission under Section 15(a) of the Securities Exchange Act of 1934 (the "Exchange Act") if Mr. Anka engages in the activities described below without registering with the Commission as a broker-dealer under Section 15(b) of the Exchange Act.

We understand the facts to be as follows:

Mr. Anka has entered into an agreement with The Ottawa Senators Hockey Club Limited Partnership, a limited partnership organized under the laws of the Province of Ontario, Canada (the "Senators"), and Terrace Investments Limited, a corporation incorporated under the laws of the Province of Ontario, Canada and the managing general partner of the Senators ("Terrace"), to provide the Senators with the names of prospective purchasers of limited partnership units issued by the Senators. Ownership interests in the Senators are represented by 100,000 limited partnership units, which are classified into 49,000 Class A Units, 24,500 Class B Units, and 26,500 Class C Units. You represent that the Senators and Terrace have advised you that sales of Class A and B Units will be made in the United States in compliance with applicable exemptions from the

registration requirements of the Securities Act of 1933 ("Securities Act") and in Canada in compliance with the registration requirements of the Ontario Securities Act, R.S.O. 1980, c. 466, as amended, and applicable exemptions. The Senators and Terrace have advised you that sales in Canada will be limited to purchasers who are purchasing or who make the investment as a principal for investment purposes only and not with a view to resale or distribtuion, and who purchase a minimum of Cdn $150,000 of units. The Senators will use the proceeds from both U.S. and Canadian sales of Class A and Class B Units to meet the financial requirements established by the National Hockey League (the "NHL") as a condition of admitting the Senators to the NHL.

In particular, Mr. Anka has agreed to furnish the Senators with the names and telephone numbers of persons in the United States and Canada with whom he has a bona fide, pre-existing business or personal relationship and whom he believes may be interested in purchasing Class A or Class B Units. The U.S. persons will be potential investors whom Mr. Anka reasonably believes to be accredited investors as that term is defined in Regulation D under the Securities Act. The Canadian persons will be potential investors whom Mr. Anka reasonably believes to be eligible to purchase the units under the exemption from registration under Section 71[1][d] of the Ontario Securities Act. Mr. Anka himself has agreed to purchase 1,799 Class B Units (1.8 percent of the total limited partnership units) from Terrace.

Only directors, officers, or employees of the Senators or Terrace will contact any potential investors identified by Mr. Anka, in reliance on Rule 3a4-1 under the Exchange Act. When directors, officers, or employees of the Senators or Terrace contact a potential investor, they will indicate that the investor's name and telephone number were furnished to the Senators by Mr. Anka. Mr. Anka will not participate in any negotiations between the Senators and any potential investors. Mr. Anka will not solicit these persons, make any recommendations to them regarding an investment in the Senators, or have any contact with them concerning the Senators, either before or after directors, officers, or employees of the Senators or Terrace contact them upon receiving their names and telephone numbers from him.

In addition, Mr. Anka will not participate in any advertisement, endorsement, or general solicitation in the United States regarding investment in the Class A or Class B Units. Mr. Anka has not participated, and will not participate, in the preparation of any materials (including financial data or sales literature) relating to the sale or purchase of the Class A or Class B Units or in the distribution of these materials to any potential investor. Mr. Anka will not perform any independent analysis of the sale, engage in any "due diligence" activities, assist in or provide financing for such purchases, provide any advice relating to the valuation of or the financial advisability of such an investment, or handle any funds or securities. Finally, you represent that Mr. Anka has advised you that he has not previously engaged in any private or public offering of securities (other than buying and selling securities for his own account through a broker-dealer) and has not acted as a broker or finder for other private placements of securities. You also represent that Mr. Anka has further advised you that he does not intend to participate in any distribution of securities after the completion of this proposed private placement.

You state that counsel for the Senators and Terrace have advised you that sales of Class A and Class B Units commenced in Canada on March 8, 1991, but you add that Mr. Anka has not yet commenced his proposed activities described above. While your request to the Division was pending, counsel for the Senators and Terrace informed you that there were 11,250 Class A Units remaining to be sold,in blocks of 245 units each at the price of Cdn $205,800 per block, and 15,384 Class B Units remaining to be sold, in blocks of 257 units each at the price of Cdn $157,862 per block. The Senators have agreed to make these Class A and Class B Units available for purchase by investors identified by Mr. Anka and by Mr. Anka himself.

The Senators also have agreed to pay to Mr. Anka upon the sale of Class A and Class B Units to those investors a finder's fee equal to 10 percent of the sales price of the units sold. Mr. Anka will also receive this finder's fee for any additional Class A or Class B Units he may purchase. Mr. Anka and the Senators have agreed that he can receive this 10 percent fee in connection with a maximum of Cdn $9.45 million of sales resulting from his identification of potential investors or from his own additional purchases. In addition, the Senators have agreed to pay to Mr. Anka a 1 percent fee on all other sales of units made after May 13, 1991 (the date of his agreement with the Senators), *i.e.*, sales of units other than Class A or Class B Units sold to investors identified by Mr. Anka and additional Class A or Class B Units sold to Mr. Anka for which the 10 percent finder's fee is payable. The Senators and Terrace alone will determine whether a sale of Class A or Class B Units is to be made to a U.S. investor. The Senators and Terrace alone have determined the sales price of the securities to be sold and prepared all offering materials. You represent that the Senators and Terrace have advised you that they will disclose to each investor identified by Mr. Anka the 10 percent finder's fee to be paid to Mr.

Anka and will also disclose to all other investors the 1 percent fee to be paid to Mr. Anka.

Response:

Based on the facts and representations set forth above, the Division will not recommend enforcement action to the Commission under Section 15(a) of the Exchange Act if Mr. Anka engages in the activities described above without registering with the Commission as a broker-dealer under Section 15(b) of the Exchange Act. This staff position concerns enforcement action only and does not represent a conclusion on the applicability of statutory or regulatory provisons of the federal securities laws. This position also is based solely on the representations that you have made, and any different facts or conditions might require a different response.

[¶ 79,798] Fagin, Kopley & Hanson, Inc.

Securities and Exchange Commission, Division of Market Regulation. October 1, 1991. Available October 1, 1991. (On SEC Significant List of October 17, 1991.) Correspondence in full text.

Exchange Act—Registration—Exchanges—Clearing Agencies—Transfer Agents—Securities Information Processors—Electronic Trading System for Debt Securities.—Subject to a number of terms and conditions, a broker-dealer could operate a proposed electronic trading system for debt securities without registration as a national securities exchange under Section 6, a clearing agency or transfer agent under Section 17A, or an exclusive securities information processor under Section 11A.

See ¶ 21,305, "Exchange Act—Definitions; Exchanges" division, Volume 2; ¶ 22,901, "Exchange Act—Manipulations; National Market System" division, Volume 3; and ¶ 26,202, "Exchange Act—Insiders; Recordkeeping; Clearance & Transfer" division, Volume 4.

[*Letter of Inquiry of March 7, 1991*]

Our client, Fagin, Kopley & Hanson, Inc., a New Jersey corporation ("Company"), proposes to offer to institutional money managers and registered broker-dealers an electronic information and execution service ("LIMITrader") for the secondary market trading of corporate debt, including "junk bonds," and municipal bonds.

The Company's operation of LIMITrader raises a number of issues under the Securities Exchange Act of 1934, as amended (the "Act").[1] As more fully discussed below, we request that the Division of Market Regulation (the "Division") determine that it will not recommend to the Commission enforcement action against the Company if the Company remains registered as a broker-dealer and does not register with the Commission as a national securities exchange, clearing agency, transfer agent or exclusive securities information processor.

Facts

LIMITrader is intended to facilitate trading of corporate and municipal bonds among the Company's institutional customers by permitting those institutional customers to enter, on an anonymous basis, limit orders to buy or sell those securities, and to (i) match that buy or sell interest with countervailing interest in the same security on the other side of the market, or (ii) enter into a negotiation process that may ultimately produce an executed trade. The Company believes that trading through the system should add liquidity, reduce transaction costs and allow customers to satisfy a variety of trading needs through trading limits, time restrictions and other features of LIMITrader.

The Company is a broker registered with the Securities and Exchange Commission (the "Commission") under Section 15(b) of the Act (and registered with the Municipal Securities Rulemaking Board pursuant to Section 15B of the Act) and is a member of the National Association of Securities Dealers, Inc. ("NASD").

The Company currently plans to make LIMITrader available only to institutional money managers and other broker-dealers that trade corporate and municipal bonds, including, but not limited to, mutual funds, public funds and other institutional money managers. Orders must be a minimum of $100,000 par value (or 100 bonds). Securities eligible for trading on LIMITrader will not include securities issued by the Company or any affiliates thereof.

Each applicant must be approved by the Company and its clearing broker, initially anticipated to be Mabon Nugent & Co., in order for the applicant to participate in LIMITrader. The applicant approval process includes review of the creditworthiness of the applicant. Once approved, the applicant will enter into a normal customer agreement with the clearing broker, establish an account at the clearing broker and designate a custodian bank. A credit limit may be set for broker-dealer participants. In many instances, the applicant will already be a customer of the clearing broker. The Company will act as a fully disclosed introducing broker on all

[1] 15 U.S.C. § 78a, et seq. (1988).