



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

DIVISION OF
INVESTMENT MANAGEMENT

May 13, 1997

Mr. John Bowen
John Bowen Investment Management
550 C Avenue
Coronado, CA
92118-1825

ACT IA
SECTION _____
RULE 204-2(a)(7)
ISSUING _____
AVAILABILITY MAY 13 1997

PUBLIC

Dear Mr. Bowen:

Thank you for your letter dated February 28, 1997. You state in your letter that you believe the recordkeeping rule under the Investment Advisers Act of 1940 ("Advisers Act") that requires you to retain copies of trade confirmations represents an unnecessary "duplication of efforts."

You indicate that all of your client accounts are maintained at Charles Schwab & Co. ("Schwab"). You state that when you place an order with Schwab to purchase or sell a security on behalf of a client, the client receives a paper confirmation of the trade directly from Schwab, and that you receive either a paper or electronic confirmation of the trade. You and the client then each receive a monthly statement from Schwab reflecting that month's transactions.

You believe that rather than retaining copies of trade confirmations, it should be sufficient to maintain copies of the monthly statements. You believe that the requirement to keep trade confirmations should not be necessary when an adviser does not have custody of its clients' securities and the custodian sends the clients monthly statements.

Rule 204-2(a)(7) under the Advisers Act provides in relevant part that an investment adviser shall maintain originals of all written communications received relating to the placing or execution of any order to purchase or sell any security. Such written communications include trade confirmations. This requirement applies both to advisers who maintain custody of their clients' assets and those who do not.

While you believe the information contained in a trade confirmation duplicates the information contained in a monthly statement, this may not always be the case. A trade confirmation may contain different or additional information from that provided in a monthly statement. For example, trade confirmations provide information on sales commissions and other fees that might not be reflected in a monthly statement. Investment advisers have a duty to seek best execution when trading for their clients, and the maintenance of confirmations and other trading records makes it possible for the Commission staff to monitor compliance with this obligation during investment adviser examinations. We do not believe, therefore, that the information contained in a trade confirmation is necessarily duplicative of information contained in a monthly statement.

Mr. John Bowen
May 13, 1997
Page 2

Rule 204-2(a)(7) covers many types of written communications received by an adviser. Because the terms of the recordkeeping rules under the Advisers Act are necessarily broad, there may of course be some overlap in the information contained in documents required to be retained by an adviser. The Commission is aware that the maintenance of records can be burdensome, especially for smaller investment advisers. To help alleviate this burden, the Commission has adopted rules under the Advisers Act limiting the time certain records must be kept,¹ and permitting electronic or photographic storage of records.²

Your letter in closing indicates that you hope you have not put yourself at a disadvantage by raising your concerns with the Commission. Please let me assure you that this is not the case. The Commission and its staff welcome the views of persons subject to Commission regulation. We have referred your letter to appropriate members of the staff for their consideration in connection with any future amendments to Rule 204-2. If you have any additional questions, please contact this office at (202) 942-0659.

Sincerely,



Brendan C. Fox
Attorney

¹ See Rule 204-2(e). Generally, records such as trade confirmations must be maintained and preserved in an easily accessible place for a period of not less than five years, the first two years in the office of the investment adviser.

² See Rule 204-2(g).

JOHN BOWEN

INVESTMENT MANAGEMENT

Feb. 28, 1997

Mr. Jack Murphy
Chief Counsel, Div. of Investment Mgt.
Securities and Exchange Commission
450 5th Street NW
Washington, DC 20549

Dear Mr. Murphy,

Brendan Fox suggested that I write to you on the following issue when I spoke to him last on Feb 26th. I had called and discussed it with him on two occasions and had asked the best way to go about running it up the flagpole.

Regarding the requirement for investment advisors to maintain duplicate copies of trade confirmations either on paper or electronically:

Simply put, for me this is a recordkeeping matter that appears to be an unnecessary duplication of efforts. All of my client accounts are housed at Charles Schwab. If you were a client of mine, and I purchased 100 shares of AT & T today in your account, the following paperwork is generated:

1. You receive a paper confirmation of the trade directly from Charles Schwab, and I receive either a paper copy or electronic confirmation (my choice) from them also.
2. You will receive your monthly statement directly from Charles Schwab in March which summarizes all February transactions, including today's AT & T purchase. I receive a copy of your statement as well.

Bottom line: if I were asked to produce a confirmation of that trade four years from now, I would easily retrieve the Charles Schwab statement on which it is documented. The statement itself then is the confirmation. I would not go fumbling through my mountainous collection of boxes that house years of paper copies or figure out how to find it on the disc where it was saved electronically.

Mr. Fox suggested that perhaps the rationale for the requirement is to prevent fraud on the part of investment managers. For a firm that has custody of its clients' securities and creates its own monthly statement, I understand the requirement entirely.

But it is a horse of another color altogether for those managers who do not have custody of our clients' securities and whose clients receive monthly statements directly from the custodian of those securities.

In my own personal account, I save my paper copies of transactions until my monthly statement arrives from Schwab. Once I see the transaction repeated correctly on the statement, I toss the copies - there is simply no need to save them any longer. I suggest to my clients they may want to do the same.

Please consider allowing us to do likewise. Also, please understand this letter is not being written in response to a problem here at my sole proprietorship; it is merely a proactive effort I am undertaking to both unclutter my archives and simplify things in the future.

I was in the Navy long enough to know that it's not a great idea to rattle the cages of those who can make life unpleasant for you. So I've hesitated for awhile to write this letter even while feeling certain that I had a valid point. Having taken the risk and raised my hand, I hope I haven't somehow placed myself on a list I'd rather not be on - and that my letter is received in the positive spirit in which it is written!

Thank you in advance for any consideration.

Sincerely,



cc: Brendan Fox