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JAMES E. MITCHELL, GENERAL PARTNER

October 9, 2018

The Honorable Hester M. Peirce
Commissioner
Securities and Exchange Commission
100 F. Street, NE
Washington, D.C. 20549

Re: October 1, 2018 news article quoting Brett Redfearn (copy attached)

Dear Commissioner Peirce:

This letter is in response to the attached article quoting Brett Redfearn as saying "if a company is a dark company and listed in the OTC market and hasn't put out financials for six months maybe it shouldn't be quoted or offered to retail investors". I believe the objective of the Securities and Exchange Commission to eliminate penny stock fraud is commendable and just, but I have major concerns as to the actual effect of the quoted proposal. We are responding because we own directly and indirectly shares in a number of companies which are listed only in the OTC market and which do not publish quarterly reports. We are an outside investor in each of these companies and are not in any way associated with their management. None of the companies we have invested in is a "shell" company or the issuer of "penny stocks."

The quoted proposal should be rejected because:

1. Its adoption would substantially reduce liquidity and market value of many stocks (such as ours) that are not penny stocks causing losses to many thousands of individual investors.

2. It does not take into account all of the complexities of over-the-counter trading.

3. It is not likely to achieve the legitimate goal of preventing penny stock fraud.

4. Its effect is generally anti-competitive.

TWO EXAMPLES: Hershey Creamery Company and Pardee Resources

As I write this letter, Hershey Creamery Company common, is $3,805.00 bid, $4,200.00 ask, and Pardee Resources is $186.00 bid, $190.00 ask. Although each is quoted only on the OTC Markets, neither of them resembles a so called "penny stock" even remotely. Hershey Creamery Company, founded in 1894, distributes quality ice cream products in the east and northeast. Pardee Resources traces its roots to 1840, when Ariovistus Pardee began mining coal in West Virginia. The company now has timber, oil and gas, and coal properties in 15 states and has no long term debt. Hershey Creamery Company has a very small amount of long term debt, but has an 11 to 1 current ratio. Both companies have been consistently profitable for decades.

As solid as these companies are, neither has ever been an SEC reporting company, neither company has elected to pay OTC Markets to publish financial information on their website, and neither company sends out quarterly reports. Each of them sends out an annual report to shareholders, but with each of them there is a substantial portion of each year when the financials are more than 6 months old.

Are the stocks of these companies ones that prudent investors should avoid? No. The jobs of investors, brokers and regulators would be simplified if all companies were as consistently profitable and had balance sheets as strong as these two companies. The only things that distinguish these two companies from corporations listed on the New York Stock Exchange is they are small and their shares trade infrequently.

Are these isolated examples? There are thousands of community banks, dozens of insurance holding companies and thousands of small industrial and service companies which have shares that trade infrequently, that mail their financial information to shareholders and that do not publish financial information anywhere.

Would market makers in the stocks of Hershey Creamery Company and Pardee Resources be affected by the proposal cited in the article? Yes. Is it in the public interest to discourage market making in these stocks and others like them? We don't think so.

"OTC MARKETS" IS NOT A SINGLE MARKET

Lumped together in the former Pink Sheets are several groups of very dissimilar securities. These include foreign stocks, thinly-traded preferred stock, "penny stocks" issued by companies with few assets, and many thousands of respectable substantial companies that are not listed on any exchange because they have only 200 or 300 shareholders. This last group I will refer to as "traditional inactive stocks." Hershey Creamery Company and Pardee Resources are in this group.

The "traditional inactive stocks" and "penny stocks" couldn't be more dissimilar. Not only are the companies issuing the securities different, but the buyers and the potential regulatory problems are different. The following list illustrates a few of the differences:

1. The typical "penny stock" company has few tangible assets. The balance sheet is likely to list difficult-to-value assets like patent rights, distribution rights, goodwill or mineral rights. On the other hand, the traditional inactive company is likely to be a family-controlled business with lots of tangible assets, including cash. Balance sheets with no long-term debt and current ratios of 3 to 1 or greater are not uncommon among the traditional inactive companies. Generally, these are solid companies (like independent telephone companies, water companies, and manufacturers) with long histories of financial success.

2. The typical "penny stock" company is interested in issuing more shares to the public given any opportunity to do so. The typical traditional inactive company is just the opposite. It probably hasn't issued new shares for years. In fact, the company, or company insiders, are often trying to buy back shares.

3. Promoters of penny stocks may try to hype the company and its prospects to get the stock prices up. The typical traditional inactive company does not hire financial public relations firms, does not promote its stock in any way, and would prefer to be thought to be a private company. For various reasons, it wants its stock price to remain low.

4. The average buyer of a penny stock is often an unsophisticated speculator while the buyer of traditional inactive stocks is usually quite knowledgeable. The latter may be a brokerage firm executive buying for his or her own account, a professional investor, or a mutual fund.

5. The regulatory problems are different. With penny stocks it is usually the buyer or potential buyer who should beware and who may need legal and regulatory protection. With traditional inactive stock, the company or company insiders are often trying to buy back shares. It is more often the potential sellers who must be careful. There is a conflict of interest between the shareholder and the company which wants to depress the price of its shares so it can buy them back more cheaply or so there will be less estate taxes to pay when the founder dies. The holders of traditional inactive stocks could use more protection against managements that limit or delay sending information to their own shareholders, cut or eliminate dividends, declare reverse splits, use statutory instead of GAAP accounting, and attempt to freeze out minority shareholders at outrageously low prices. These managements would welcome your proposed regulation. The market makers in these traditional inactive stocks help to keep managements honest by creating a market that competes with the company insiders for the purchase of shares. These market makers break up the company's monopoly of information on who the potential buyers and sellers are.

6. Regulatory solutions also must be different. It may be tempting for regulators to assume or hope that such a rule would cause companies to publish more financial information in order to gain access to a public market. But, management of the typical traditional inactive company has clear control. They don't need a public

market for the minority shares. If the controlling shareholders want liquidity they can sell the whole company.

THE RESULTS OF THE PROPOSAL WOULD BE ANTI-COMPETITIVE

What is the likely effect of the proposal on stocks like those of Hershey Creamery Company and Pardee Resources? Depending on the wording of any new rule, market makers may be forced out of many traditional inactive stocks like these. The result would be less liquidity and much lower prices in any private transactions that do occur. Also, there would no longer be transparency as to the prices of any transactions.

A second effect is that the companies (issuers) power would be greatly increased relative to their minority shareholders. Some would discover they could use the new rule (by delaying release of financial information) to prevent market making in their shares.

Third, more companies and shareholders would lose track of each other. Both companies and shareholders change names, move, and undergo other changes. The existence of market makers in OTC Markets is one of the simplest means by which lost companies and shareholders are found again. If you found a certificate for 100 shares of AMFI Corp (a viable company with real assets which is currently listed in the OTC Markets, but which would probably be eliminated by the proposal) among the papers of a decreased grandfather, what would you do if their is no longer a market for the shares? You might assume they are worthless

Fourth, managements of traditional inactive companies occasionally try to freeze out minority shareholders by merging with a shell corporation or using some other form of reorganization. Management may put a low value on the sharesand seek a fairness opinion from an investment banker. The investment banker has difficulty justifying a price below the recent bid prices for the stock. Thus, the bid prices tend to give minority shareholders some measure of protection by creating a floor below which freeze out prices cannot go. The proposal would reduce or eliminate this protection for many shareholders.

POTENTIAL LOSSES AND A DILEMMA

As a private investor I've been investing in stocks for over 50 years. Almost 40 years ago I began a limited partnership to invest in stocks. Between my personal holdings and the investments of our partnership, we have many millions of dollars invested in stocks listed only on the OTC Markets. We've bought non-NASDAQ over the counter stocks because that was where we could use our own research to find good values (banks earning over 2% return on total assets, but trading at or near book value, or insurance companies with combined ratios below industry averages available at modest price earnings ratios). Up until now our investment results have been quite satisfactory. We have sought and found brokers who are honest and ethical. We have never been the victim of "penny stock" fraud. Now, the attached article leads us to believe you're considering a rule change for our "protection" which could cause us to suffer significant and permanent losses in liquidity and market value.

Our situation is not unique. There are thousands of individual investors that are potentially affected. I don't know if anyone has tried to estimate the size of the market for traditional inactive stocks. But, a few rough calculations convinces me that the market capitalization of just the shares in public hands totals several billion dollars. My rough calculations are as follows:

I estimate there are at least 10,000 traditional inactive companies. Although many are much larger, the average market capitalization per company may be only 5 million dollars. This gives me a total market capitalization of 50 billion dollars. I estimate the average percentage of these shares in public hands to be 25%. Therefore the total value of non-penny stocks affected by the proposed idea in the attached article, is estimated to be 12 ½ billion dollars. I am certain someone can make a more precise estimate, but I will use this until a better one is available.

Most of the shares in traditional inactive companies are held by individuals (although we have spotted some in the T. Rowe Price Small Cap Stock Fund, Royce Value Trust and others). The thousands of individual shareholders in traditional inactive companies are unlikely to hear about this proposed idea in advance.

The dilemma presented by the proposal is how to react. If we call the matter to the attention of mutual funds and large individual investors in effort to have them send comments to the Securities and Exchange Commission, at least some of them will sell before the idea can become effective so that threatened losses will be suffered by someone else. At some point, enough investors will be informed to cause prices to drop. On the other hand, if out of self-interest we keep quiet about the anticipated effects on over the counter stocks (while selling as many shares as we can) the lack of adverse comments may make it more likely that the idea will be adopted.

CONCLUSION

For the reasons outlined above, traditional inactive stocks should not be confused with "penny stocks". The OTC Markets is an institution that includes more than just "penny stocks". The different types of securities present different regulatory problems and should be given different regulatory treatment. Fraud is not going to be stopped by simply making a new rule, it is going to require investigations, and possibly a larger SEC budget.

Very truly yours,

James E. Mitchell
General Partner

Cc: Chairman Jay Clayton
Commissioner Robert L. Jackson, Jr.
Commissioner Elad L. Roisman