

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION
September 20, 1965

In the Matter of	:	
HAROLD E. WINTERHALTER	:	FINDINGS,
doing business as	:	OPINION
	:	AND ORDER
HAROLD E. WINTERHALTER COMPANY	:	SUSPENDING
72-61 113th Street	:	BROKER-DEALER
Forest Hills, New York 11375	:	REGISTRATION
	:	AND MEMBERSHIP
File No. 8-6717	:	IN REGISTERED
	:	SECURITIES
Securities Exchange Act of 1934 -	:	ASSOCIATION
Sections 15(b) and 15A	:	

Following a hearing in these proceedings under Sections 15(b) and 15A of the Securities Exchange Act of 1934 ("Act"), the hearing examiner filed an initial decision finding that Harold E. Winterhalter, doing business as Harold E. Winterhalter Company ("registrant"), a registered broker-dealer and a member of the National Association of Securities Dealers, Inc. ("NASD"), willfully violated Section 17(a) of the Act and Rule 17 CFR 240.17a-5 thereunder in failing to file a financial report for 1963, and concluding that registrant's registration as a broker-dealer be cancelled. Registrant filed a petition for review of the initial decision, and we entered an order granting review with respect to the issues of whether registrant's registration should be cancelled, and what, if any, remedial action is appropriate in the public interest. Our Division of Trading and Markets ("Division") has filed a brief in support of affirmance of the initial decision. Our findings with respect to the issues under review are based upon an independent examination of the record.

Registrant objects to cancellation of his registration on the ground that he is and has been engaged in the securities business, stating that during virtually every month since 1958, his customers have made payments on contractual investment plans for the purchase of mutual fund shares. Although he had not otherwise engaged in the securities business in 1963 and 1964, he has expressed the desire and intention to become more active in such business as soon as possible. We agree that in this situation cancellation, which is permitted under Section 15(b) of the Act only where a registered broker-dealer "is no longer in existence or has ceased to do business as a broker or dealer," is not an appropriate action to be taken.

Registrant further contends that the public interest does not require that he be barred from the securities business, and asserts that his failure to file a timely report was the result of negligence and oversight caused by personal problems, that no member of the public has suffered from such failure, that he is interested only in the mutual funds aspect of the securities business, and that in the future he will comply fully with the reporting requirements.

The record shows that registrant failed to make timely filing of the financial report for 1963 required by Rule 17a-5 although our staff had sent him two letters reminding him of such requirement. After expiration of the time in which the filing was required to be made, registrant filed financial reports for 1963 as well as for 1964. Those reports were, however, returned to him by our staff on the ground that they contained certain deficiencies.

While we do not condone registrant's violation we do not think the public interest requires the revocation of his registration. Under all the circumstances, including the character of the violation found, the limited nature of registrant's business, his attempted filings and his undertaking to comply with reporting requirements in the future, we are of the opinion that it is appropriate in the public interest to suspend his registration as a broker-dealer and his membership in the NASD for a period of four months. However, in taking this action we stress our prior holdings that the reporting requirements are an important part of the scheme of regulation and surveillance of brokers and dealers under the Act. 1/ Any further failure by registrant to achieve compliance with such requirements would warrant an order of revocation.

IT IS ORDERED, therefore, that the registration as a broker and dealer of Harold E. Winterhalter, doing business as Harold E. Winterhalter Company, and his membership in the National Association of Securities Dealers, Inc. be, and they hereby are, suspended for a period of four months from October 1, 1965 to January 31, 1966, inclusive.

By the Commission (Chairman COHEN and Commissioners WOODSIDE, OWENS, BUDGE and WHEAT).

Orval L. DuBois
Secretary

1/ Family Funds of New York, Inc., Securities Exchange Act Release No. 7358 (June 30, 1964); John J. Murphy, 38 S.E.C. 430 (1958).