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TO: Mr. Jonathan G. Katz, Secretary
Securities and Exchange Commission

FROM: Gary W. Findlay

SUBJECT: Soft Dollars (S7-09-05)

DATE: November 25, 2005

In his statement at the Commission open meeting regarding the proposed soft dollar interpretive release, Chairman Cox commented that, "In many ways, soft dollars are an anachronism." I think a persuasive case can be made that, in all ways, they are an anachronism. They may have made sense to facilitate the transition to negotiated rates in 1975 but I think many people would argue that 30 years has been more than adequate to cover the transition. The resistance to change is certainly understandable – soft dollars produce easy money for a lot of people and allow others to sell their products (specifically, third party research) for significantly more than would be warranted on a fair market value basis.

There are numbers of critics of soft dollars who can provide the SEC with volumes of academic material as well as real world examples that lead one to the rational conclusion that 28(e) should be repealed by Congress and that commissions should be unbundled. I will be more than happy to provide related material on request but I suspect the SEC already has similar documents that would dwarf what I can provide – practically speaking, one does not need to go beyond the agency's 1998 inspection report on the subject to grasp the nature and magnitude of the problem.

The heading under "About Us" on the SEC web site references the Commission as being "The Investor's Advocate" and introduces the subject of "How the SEC Protects Investors and Maintains Market Integrity." When the Commission is protecting investors in their advocacy capacity, I assume they are expected to represent investor interests just as they would in a court of law if they were counsel for the investors – that is, they would make the strongest case possible for those things that favor the investor clients. Also, by definition, integrity stems from being unimpaired and acting with undivided loyalty. Presumably, this undivided loyalty is to the investors and not to the service providers whose livelihoods are contingent on what they can openly and/or surreptitiously extract from their investor clients' resources.

In the introduction to **Common Sense**, Thomas Paine (in 1776) wrote, "…a long habit of not thinking a thing wrong, gives it superficial appearance of being right, and raises at first a formidable outcry in defense of custom." The outcry for soft dollar preservation should be expected and should be expected to be loud. The Commission should not allow the volume from the proponents to drowned out the common sense voices suggesting that soft dollars are indeed an anachronism and need to be eliminated. They are a cancer – band-aids will not do the trick.