

CHAFFE & ASSOCIATES, INCORPORATED

SEC LETTER

Advisers Act Sec. 202(a)(11)

January 4, 1985

Publicly Available February 4, 1985

Section 202(a)(11) of the Investment Advisers Act of 1940, in relevant part, defines an investment adviser as any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities (emphasis added).

You state that, among other things, you value securities and issue reports on securities to your clients. Such activity comes within the above definition of investment adviser. For your information, I am enclosing an investment adviser registration package which includes Form ADV, the application for registration as an investment adviser. I understand that the Division of Market Regulation will be responding separately to the issues you have raised regarding the Securities Exchange Act of 1934.

Thomas S. Harman
Attorney

INCOMING LETTER

October 15, 1984

Chief Counsel

Division of Investment Management

Securities & Exchange Commission

450 Fifth St., N.W.

Washington, D.C. 20549

Dear Sir:

This letter is written to set forth this company's business plan and to request a "No-Action" letter with respect to our registration as an Investment Advisor under the Investment Advisors Act of 1940. Ms. Wilcox of your Atlanta office suggested in a telephone conversation with the writer that we do so.

Chaffe & Associates, Inc. and its investment banking activities are briefly described below with comments as to those specific activities in which we offer consultation and transaction assistance.

Capital Planning and Financing

We consult to businesses to i) develop financing requirements to accomplish the objectives of the business, ii) structure the financing as to type (equity, taxable or tax-exempt debt, partnership interests, leases, sale/leaseback) and as to general terms so as to access existing financial markets, iii) assist in preparation of memoranda to accomplish the financing and iv) assist in placement of the resulting financing. Our clients are business entities or professionals such as attorneys or accountants. We are compensated for management of the financing, not on a commission basis. Any publicly distributed securities will be handled by non-affiliated firms that are registered broker-dealers. In such cases our compensation and activity will be confined to management areas.

Private placements of corporate debt or other securities will be made by our client directly with institutions or accredited individuals. We may assist in screening for interest and contacting prospective purchasers. Our compensation for doing so will be set as a fixed fee not based as a sales commission. In

no circumstances would we carry customer's accounts, hold or issue securities or receive purchase funds. We represent the client company and make no recommendations as to portfolio strategy or purchase or sale of individual issues.

Evaluation of Companies

We evaluate securities of private corporations and private partnership interests to find fair market value or other requested value for Employee Share Ownership Plan administration, tax matters, shareholder buy/sell arrangements and recapitalization. We also provide fairness opinions for public companies in mergers, sale or disposition of subsidiaries or division, going private transactions and Savings and Loan conversions.

In performing these services, we issue written reports to our clients that usually are corporations, accountants, attorneys and executors of estates. In certain cases our clients are individuals, especially where our advice is sought in pricing and transaction assistance in the purchase or sale of interests in private businesses.

Acquisitions on Sales

We provide advice and recommendations to corporate and individual clients as to price and financial structures in the sale or purchase by them of privately held companies. We also assist in negotiations between buyer and seller if our clients so desire. Our compensation may be on an hourly rate or as a fixed fee contingent upon closing of the transaction.

In conclusion, we feel that our activities do not fall within the general intent and purpose of the Investment Advisors Act of 1940. Further, we also feel that we do not perform as a broker-dealer and consequently do not plan to register as such. This letter asks for clarification and if registration is not necessary, a response to that effect.

Yours very truly,

D.B.H. Chaffe, III