

# EMANUEL & Co.

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COMMODITY EXCHANGE, INC.

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April 3, 1946.

Amon G. Carter, Esq.,  
President and Publisher,  
Fort Worth Star Telegram,  
Fort Worth, Texas.

Dear Amon:

I was so sorry it was necessary to bother you by telephone last week in connection with the anticipated secondary offering of the 211,000 shares of American Airlines, Inc. stock owned by The Aviation Corporation and wish to thank you for your wonderful cooperation in the matter. I can assure you Victor also deeply appreciated it and I understand he has already dropped you a line to this effect.

As advised you by 'phone, we already had taken preliminary steps (without mentioning any name) to see whether it would have been possible to have obtained permission from the N.A.S.D. and, while I do not want to bother you with a lot of reading material, I am taking the liberty to attach a copy of letter received from them showing just how difficult it would have been.

I do so hope to have the pleasure of seeing you when you next come to New York, but in the meantime wish to thank you again for your kind consideration.

I 'phoned Mr. Charles E. Crawley, of Merrill Lynch, as per your request and he was deeply appreciative.

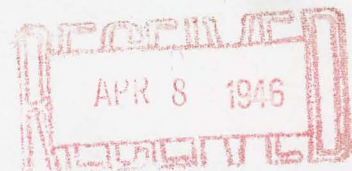
With warmest regards, I am

Sincerely,

*Rudy Deetjen*

RHD:ms

P.S.—When you mentioned the word "steak", my mouth started to water, as there is no family in the world who love to see their dinner table dressed with a fine piece of steak more than the Deetjens.



"Gentlemen:

"Your letter of March 26th has been received. You ask whether it is permissible under the Association Rules for Association members forming an underwriting group to provide that the principal underwriters could subunderwrite parts of their commitments with an individual. The agreement among underwriters would provide for sub-underwriting less a concession up to the underwriting spread. The sub-underwriter would not be a broker or dealer or a member of the Association, but an individual who would purchase the stock for his own investment, and would not distribute the stock or in any way participate in the distribution of any of the shares offered.

"Section 24 of Article III of the Rules of Fair Practice provides:

'Selling concessions, discounts, or other allowances, as such, shall be allowed only as consideration for services rendered in distribution and in no event shall be allowed to anyone other than a broker or dealer actually engaged in the investment banking or securities business; provided, however, that nothing in this rule shall prevent any member from selling any security owned by him to any person at any net price which may be fixed by him unless prevented therefrom by agreement.'

Since the proposed individual sub-underwriter is not a broker or dealer and is not engaged in the investment banking or securities business as those terms are defined in Section 3, Article I of the By-Laws, Section 24 of Article III of the Rules of Fair Practice would prohibit members from sub-underwriting part of their commitments as underwriter with such individual, to the extent that such individual would thereby receive any concession, discount or other allowance. In addition, Section 23 of Article III of the Rules of Fair Practice would prohibit members from sub-underwriting or selling any part of their commitments "to any Person not actually engaged in the investment banking or securities business at any price which shows a concession, discount or other allowance."

In reply to your second question, underwriters who are Association members could not become a party to an underwriting agreement along with such an individual who was not a member of the Association as Section 25 (b) (2) of Article III of the Rules of Fair Practice provides that:

'no member shall \* \* \* join with any non-member broker or dealer in any syndicate or group contemplating the distribution to the public of any issue of securities or any part thereof.'

What has already been said answers your third question. Underwriters who are Association members could not sub-underwrite part of their commitments with two or more individuals who are not broker/dealers, not members of the Association, and not engaged in the investment banking or securities business, and members could not become parties to the underwriting agreement with such individuals as principal underwriters.

The foregoing opinion represents the opinion of this office based upon the facts set forth in your letter and it is concurred in by Counsel.

"If you desire a formal interpretation by the Board of Governors and will so advise us, the questions will be presented to the Board at its next meeting."

Very truly yours,