

GAO

Fact Sheet for the Chairman,
Subcommittee on Oversight and
Investigations, Committee on Energy
and Commerce,
House of Representatives

July 1986

**SECURITIES
REGULATION**

**SEC Enforcement
Efforts in 1978 and
1985**

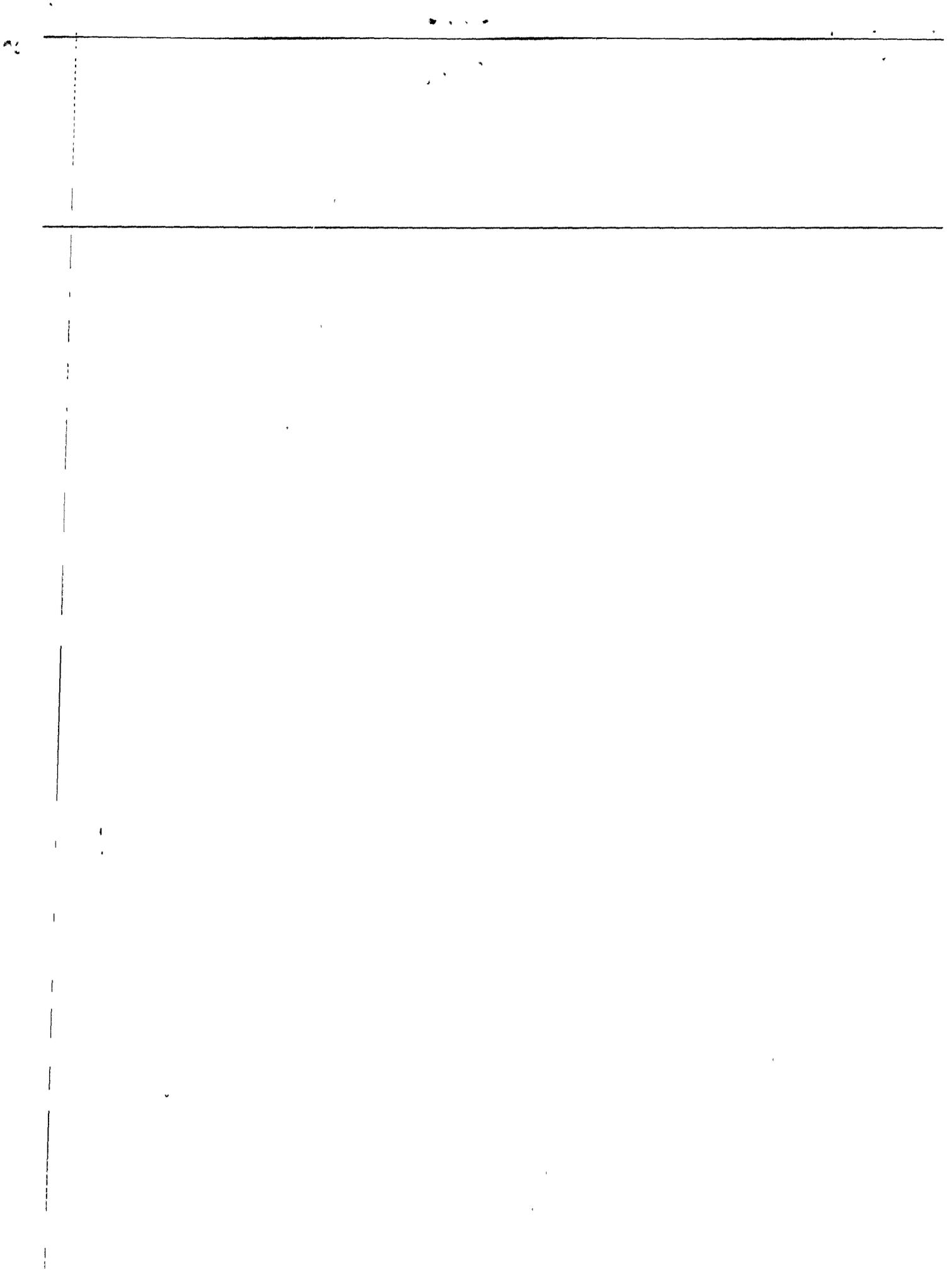


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B-219065

July 16, 1986

The Honorable John D. Dingell
Chairman, Subcommittee on Oversight
and Investigations
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

In response to your request and our subsequent discussions with your representatives, we gathered information on completed Securities and Exchange Commission (SEC) enforcement actions for two 6-month periods (April to September) in 1978 and 1985. In addition, we gathered data on completed U.S. Attorney and state actions which were based on SEC enforcement efforts.

The above data, which is presented in appendix I, includes a summary of:

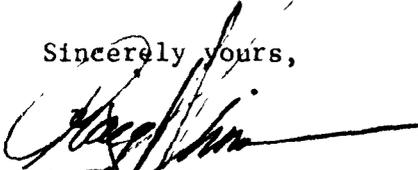
- Enforcement actions completed--actions in which SEC has announced that sanctions were imposed against one or more entities.
- Violations cited--statutes or regulations cited by SEC as having been violated by the sanctioned entities.
- Entities sanctioned--individuals, issuers, registered broker/dealers, registered investment advisors, and others that were sanctioned.
- Sanctions imposed--the types of penalties and remedies imposed on the entities sanctioned.

We gathered the above data through a review of the SEC Docket--a weekly SEC publication which, among other things, describes completed enforcement actions. Because of the manner in which the information is presented, we had to make judgments on how to classify some enforcement actions. SEC officials stated, however, that the SEC Docket is the best source from which to gather the requested information.

We are presenting much of the enforcement data in a format which facilitates comparing the two time periods. However, such comparisons should be made with some caution. For example, the data reported do not reflect the complexities of the enforcement actions. Moreover, we cannot determine if differences in the types of actions in the 2 years cause differences in the effectiveness of such actions in deterring future violations.

This document was reviewed by SEC officials and their comments were incorporated where appropriate. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this fact sheet until 30 days from the date of this letter. At that time we will send copies to interested parties and make copies available to others upon request. Any questions you may have can be addressed to me at 275-8678.

Sincerely yours,

A handwritten signature in black ink, appearing to read "George B. Simmons", with a long horizontal flourish extending to the right.

George B. Simmons
Senior Associate Director

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INFORMATION ON SEC ENFORCEMENT EFFORTS IN
1978 AND 1985

Table 1

Type and Number of Completed Enforcement Actions:
April to September 1978 and April to September 1985

<u>Type of Action</u>	<u>Number of Actions</u>	
	<u>1978</u>	<u>1985</u>
Civil injunctive ^a	103	103
Administrative proceeding ^b	56	61
Civil contempt ^c	1	4
U.S. Attorney ^d	35	16
Other ^e	11	7
Total	<u>206</u>	<u>191</u>

Source: GAO developed this table using information published in the SEC Docket.

^aCivil injunctive actions are actions in which SEC seeks court orders that prohibit future violations of securities laws by the subject entity.

^bAdministrative proceedings are actions that SEC brings before an administrative law judge against regulated entities or persons associated with such entities.

^cCivil contempt actions are actions SEC brings against those that violate court orders issued in civil injunctive actions.

^dU.S. Attorney actions are those criminal actions pursued by U.S. Attorneys that are based on SEC enforcement efforts. Internal procedures allow SEC staff discretion in reporting U.S. Attorney actions in the SEC Docket. Therefore, the number of U.S. Attorney actions may be understated.

^eOther enforcement actions include state actions (2 in 1978 and 3 in 1985), SEC issuances of Section 21(a) Reports of Investigation (1 in 1978 and 1 in 1985), and SEC reviews of appeals of self-regulatory organizations' disciplinary actions (8 in 1978 and 3 in 1985). Enforcement program staff are generally not involved in appeals. Rather, the Commission either upholds or changes the sanctions imposed by a self-regulatory organization. Like the internal procedures regarding the reporting of U.S. Attorney actions in the SEC Docket, SEC staff have similar discretion in reporting state actions.

Table 2

Number of Violations Cited by Type
of Completed Enforcement Action:
April to September 1978 and April to September 1985

<u>Type of Action</u>	<u>Number of Violations</u>	
	<u>1978</u>	<u>1985</u>
Civil injunctive	864	689
Administrative proceeding	258	221
Civil contempt	8	7
U.S. Attorney	133	40
Other	47	11
Total	<u>1310</u>	<u>968</u>

Source: GAO developed this table using information published in the SEC Docket.

Table 3

Type and Number of Entities Sanctioned:
April to September 1978 and April to September 1985

<u>Type of Entity</u>	<u>Number of Entities Sanctioned</u>	
	<u>1978</u>	<u>1985</u>
Individual	326	217
Issuer ^a	36	31
Registered broker/dealer	35	30
Registered investment advisor	11	7
Other ^b	70	64
Total	<u>478</u>	<u>349</u>

Source: GAO developed this table using information published in the SEC Docket.

^aIncludes companies listed in the Directory of Companies Required to File Annual Reports with the SEC.

^bIncludes companies not listed as issuers by the SEC as well as unregistered broker-dealers and unregistered investment advisors.

Table 4

Number of Sanctions by Type of Completed
Enforcement Action:
April to September 1978 and April to September 1985

<u>Type of Action</u>	<u>Number of Sanctions</u>	
	<u>1978</u>	<u>1985</u>
Civil injunctive	521	380
Administrative proceeding	166	155
Civil contempt	4	3
U.S. Attorney	123	54
Other	47	19
Total	<u>861</u>	<u>611</u>

Source: GAO developed this table using information published in the SEC Docket.

Table 5The 10 Most Commonly Imposed Sanctions:
April to September 1978

<u>Type of Sanction</u>	<u>Number of Times Sanction Imposed</u>
Permanent injunction ^a	234
Probation	49
Fine	46
Requirement to notify parties other than SEC	34
Imprisonment	29
Suspension from association with a regulated entity	29
Requirement to conduct special reviews	29
Censure	28
Debarment from association with a regulated entity	24
Requirement to appoint committees/ professionals ^b	23
All other sanctions ^c	<u>336</u>
Total	<u>861</u>

Source: GAO developed this table using information published in the SEC Docket.

^aA permanent injunction is a permanent court order which prohibits future violations of specific federal statutes and regulations.

^bIncludes requirements to appoint and/or maintain audit committees, independent accountants, and securities counsel.

^cRefer to Table 11 for an expanded list of sanctions.

Table 6The 10 Most Commonly Imposed Sanctions:
April to September 1985

<u>Type of Sanction</u>	<u>Number of Times Sanction Imposed</u>
Permanent injunction ^a	205
Disgorgement	36
Temporary restraining order	30
Freeze placed on assets	23
Debarment from association with a regulated entity	20
Imprisonment	20
Fine	17
Probation	17
Appointment of a temporary receiver	17
Requirement to file affidavits	16
All other sanctions ^b	210
Total	<u>611</u>

Source: GAO developed this table using information published in the SEC Docket.

^aA permanent injunction is a permanent court order which prohibits future violations of specific federal statutes and regulations.

^bRefer to Table 11 for an expanded list of sanctions.

Table 7

Number and Type of Most Commonly Imposed Sanctions
By Type of Entity Sanctioned:
April to September 1978

Type of Sanction	Type of Entity				
	Individual	Broker/ Dealer	Investment Advisor	Issuer ^a	Other
Permanent injunction	140	12	4	23	55
Probation	49	0	0	0	0
Fine	45	1	0	0	0
Requirement to notify parties other than the SEC	16	0	2	5	11
Imprisonment	29	0	0	0	0
Censure	18	4	2	0	4
Requirement to conduct special reviews	7	2	0	13	7
Suspension from association with a regulated entity	28	0	0	0	1
Debarment from association with a regulated entity	24	0	0	0	0
Requirement to appoint committees/ professionals	3	1	0	12	7
All other sanctions	182	43	7	66	38
Total	541	63	15	119	123

Source: GAO developed this table using information published in the SEC Docket.

^aIncludes companies listed in the Directory of Companies Required to File Annual Reports with the SEC.

Table 8

Number and Type of Most Commonly Imposed Sanctions
By Type of Entity Sanctioned:^a
April to September 1985

Type of Sanction	Type of Entity				
	Individual	Broker/ Dealer	Investment Advisor	Issuer ^a	Other
Permanent injunction	126	8	3	19	49
Disgorgement	32	0	0	0	4
Temporary restraining order	18	0	0	0	12
Freeze placed on assets	12	1	0	0	10
Debarment from association with a regulated entity	20	0	0	0	0
Imprisonment	20	0	0	0	0
Fine	15	2	0	0	0
Probation	17	0	0	0	0
Appointment of temporary receiver	3	2	1	0	11
Requirement to file affidavits	10	5	0	0	1
All other sanctions	97	38	7	36	32
Total	370	56	11	55	119

Source: GAO developed this table using information published in the SEC Docket.

^aIncludes companies listed in the Directory of Companies Required to File Annual Reports with the SEC.

Table 9

Number and Type of Most Commonly Imposed Sanctions
By Type of Completed Enforcement Action:^a
April to September 1978

Type of Sanction	Type of Action				
	Administrative Proceeding	Civil Injunctive	Civil Contempt	Actions Taken by U.S. Attorney	Other
Permanent injunction	n/a	234	n/a	n/a	0
Probation	n/a	n/a	n/a	47	2
Fine	n/a	n/a	4	30	12
Requirement to notify parties other than the SEC	4	30	0	n/a	0
Imprisonment	n/a	n/a	0	27	2
Censure	13	n/a	n/a	n/a	15
Requirement to conduct special reviews	6	23	0	n/a	0
Suspension from association with a regulated entity ^b	24	1	n/a	1	3
Debarment from association with a regulated entity ^b	19	n/a	n/a	1	4
Requirement to appoint committees/professionals	5	18	0	0	0
All other sanctions	95	215	0	17	9
Total	166	521	4	123	47

Source: GAO developed this table using information published in the SEC Docket.

^aCertain sanctions are generally not imposed in certain enforcement actions. For example, imprisonment and probation are generally not imposed in administrative proceedings and civil injunctive actions. SEC staff identified these situations as n/a (not applicable) in the table.

^bWhile only the Commission (in administrative proceedings) or self regulatory organizations have the express jurisdiction to bar or suspend a regulated entity, we found instances in which such action was incorporated in civil and criminal proceedings.

Table 10

Number and Type of Most Commonly Imposed Sanctions
By Type of Completed Enforcement Action:^a
April to September 1985

Type of Sanction	Type of Action				
	Administra- tive Proceeding	Civil Injunctive	Civil Contempt	Actions Taken by U.S. Attorney	Other
Permanent injunction	n/a	205	n/a	n/a	0
Disgorgement	n/a	35	1	n/a	0
Temporary restraining order	n/a	30	n/a	n/a	0
Freeze placed on assets	n/a	23	0	0	0
Debarment from association with a regulated entity	20	n/a	n/a	n/a	0
Imprisonment	n/a	n/a	1	17	2
Fine	n/a	1	0	11	5
Probation	n/a	n/a	n/a	15	2
Appointment of temporary receiver	n/a	17	0	n/a	0
Requirement to file affidavits	16	0	0	0	0
All other sanctions	119	69	1	11	10
Total	155	380	3	54	19

Source: GAO developed this table using information published in the SEC Docket.

^aCertain sanctions are generally not imposed in certain enforcement actions. For example, imprisonment and probation are generally not imposed in administrative proceedings and civil injunctive actions. SEC staff identified these situations as n/a (not applicable) in the table.

Table 11

Listing of Sanctions Imposed 10 or More Times In
April to September 1978 and/or April to September 1985^a

<u>Type of Sanction</u>	<u>Number of Times Sanction Imposed</u>	
	<u>1978</u>	<u>1985</u>
Appointment of temporary receiver	1	17
Censure	28	14
Debarment from association in a supervisory capacity with a regulated entity	13	7
Debarment from association with a regulated entity	24	20
Disgorgement	12	36
Fine	46	17
Freeze placed on assets	6	23
Imprisonment	29	20
Monetary payment required	20	3
Permanent denial of privilege of practicing before SEC	13	8
Permanent injunction	234	205
Preliminary injunction	21	11
Probation	49	17
Prohibited from being an officer or director of a public company	19	0
Registration of regulated entity revoked	14	13
Requirement to amend filings	14	5
Requirement to appoint committees/professionals	23	7
Requirement to appoint independent directors to the board of directors	10	0
Requirement to comply with rules, regulations and/or statutes	18	12
Requirement to conduct special reviews	29	5
Requirement to file affidavits	0	16
Requirement to file reports with the SEC	14	5
Requirement to notify parties other than the SEC	34	8
Requirement to revise/institute policies, procedures and/or programs	20	15
Restitution	7	13
Suspension from association with a regulated entity	29	11
Temporary limitation on activities	17	7
Temporary restraining order	13	30

Source: GAO developed this table using information published in the SEC Docket.

^aThis table lists 24 types of sanctions that were imposed 10 or more times during the 6-month period in 1978 and 17 types of sanctions that were imposed 10 or more times during the 6-month period in 1985. For the 6-month period in 1978, 38 types of sanctions were imposed 9 or fewer times; 13 of these sanctions were imposed once. For the 6-month period in 1985, 33 types of sanctions were imposed 9 or fewer times; 10 of these sanctions were imposed once.

Table 12

Listing of Violations Cited 10 or More Times
In Completed Enforcement Actions In
April to September 1978 and/or April to September 1985

<u>Type of Violation</u>	<u>Number of Times</u> <u>Violation Cited</u>	
	<u>1978</u>	<u>1985</u>
Accounting/auditing violation	11	21
Books and records violation	55	59
Commingling of funds	11	0
Conspiracy	27	2
Distribution of stock violation	16	6
Entity convicted (if basis for administrative action)	0	10
Entity enjoined (if basis for administrative action)	26	10
Excessive markup/markdown	11	3
Failure to disclose to the public	173	150
Failure to file with the SEC	22	27
Failure to follow generally accepted auditing standards	3	11
Failure to register as a regulated entity	28	22
Failure to supervise	13	5
False filing with the SEC	59	49
Fraud	295	214
Improper professional conduct	6	10
Insider trading	6	31
Mail fraud	14	8
Market manipulation	48	6
Misappropriation of funds, securities and/or assets	35	65
Net capital violation	22	20
Proxy violation	46	6
Reporting violation	75	33
Securities registration violation	146	107
Tender offer violation	15	3

Source: GAO developed this table using information published in the SEC Docket.

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