

4/20/33 AM

EXTRACTS FROM STATEMENT OF LESLIE B. HENRY

- P.3 L.6-8 Q. Mr. Henry, you were connected with Blyth & Co. up to and including December 31, 1932?
- A. Yes.
- P.4 L.13-19A. The Morning Call in San Francisco, and the Tribune here. The Tribune was E. T. Earl's paper, and I was his wire editor at San Francisco.
- Q. In what capacity were you connected with the paper here?
- A. I was a reporter. I covered the City Hall.
- P.7 L.16 A. A number of us were given common stock.
- P.8 L.6-8 A. I received in the old company fifty shares which were with the recapitalization or reorganization of the company later expanded to 375 shares.
- P.8 L.23-25A. Yes, I paid \$6,000.00 for them.
- Q. Did you pay that in cash?
- A. Yes.
- P.9 L.10-14Q. What would you say the outside would have been? \$1,000.00 or \$1,500.00?
- A. Possibly.
- Q. Something in that neighborhood?
- A. Yes.
- P.11 L.1-6 Q. In 1924, when you acquired the stock, I assume it was in 1924, from what you have stated, was any inquiry made by the firm as to how you were going to pay for it?
- A. I think I told them how I was going to pay for it. I borrowed the money from my mother-in-law and paid for it.
- P.12 L.21 A. Sometimes they ran as high as \$1500.00 a month.
- P.13 L.10-23A. My personal thought is that it was higher than \$500.00 a month. I would not want to be positive about it. My feeling is that it was in excess of that. I had one payment from Blyth & Co. alone of 150% stock dividend of \$9,000.00.
- Q. That was after you acquired the stock?
- A. Yes.
- Q. That stock dividend of course, from the very definition of the firm, was paid in stock and not in cash?
- A. It was paid in cash. I mean a 150% cash dividend on the stock.
- Q. When was that?
- A. That was along somewhere between 26 and 28 but I cannot swear to the date of that.
- P.14 L.4-21 A. No. The only dividends declared on the stock were dividends - I think the only dividends paid were semi-annually, as I remember it. I would not swear to it. They were not intended as real distributions on the stock. In other words, if anybody had their stock borrowed against during the period of purchase and somebody would not complete a purchase of shares it was intended that money would be such as to relieve them of interest charges. In other words, they kept the money within the firm as far as possible. It was not intended that dividends from stock should be income.
- Q. Apart from that \$9,000.00 dividend or distribution, did you have any other income from Blyth & Co. except your salary and commissions and such dividends as were paid on the stock?
- A. No, I don't think I did, Mr. Lewinson. I was just trying to think of any. If there was, it was negligible.
- P.17 L.5 A. I had opened an office in Pasadena in 1919.
- P.18 L.21-26A. Yes. They might have gone, as a matter of routine, through the hands of a sales manager at the time. They varied in practice. There was Mr. Graham for a while and Mr. Sanford for a while.
- Q. Mr. Sanford who is with the Stock Exchange?
- A. Yes.
- P.23 L.17 A. But in 1928 I had been in Los Angeles.

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P.35 L.16
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Q. Let me ask you another question. What was the nature of Blyth & Co's business? Did it embrace sales of securities they had on hand, which might be referred to as their own inventory, doing a brokerage business of buying for the account of the customer, and also underwriting?

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A. Exactly.

Q. It included all three.

A. Yes.

Q. When did they start underwriting?

A. They were members of the syndicate when I was studying in San Francisco. They had underwritten previous to that. They were discussing a very large issue then for the General Petroleum. They were partial underwriters.

Q. Those were the three types of business that a security house would be doing, or were there additional types? That is, inventory, brokerage and underwriting?

A. Yes.

Q. And they did all three. They sold their own inventory, they solicited business and went into the market and bought securities to supply the order they had taken, and then distributed securities that they themselves had underwritten?

A. Yes.

Q. And during this early period you engaged in sales of all three types?

A. Yes.

Q. Now coming to the question I asked and then passed, namely, as to the technic or routine of dealing with the customer after you had obtained an order. We will start a little ahead of that. You solicited the customer and then you obtained a statement from the customer that he will purchase securities of a certain kind. From that point forward how are the transactions handled during the period from 1916 to 1919?

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A. I would telephone the order into Los Angeles. And if they desired they would send them a bill for the securities. If they had the securities on hand at the time they would either mail them to me with the bill or they would mail them to the client direct for delivery on draft against a bank appointed by the client.

Q. They used both methods?

A. Yes.

Q. In taking the order from the customer, did you get a signed order?

A. Very infrequently. No, we did not need those.

Q. That was not the ordinary practice then?

A. It was by word of mouth.

Q. Would the office in Los Angeles during that period of 1916 to 1919 mail a confirmation first?

A. Sometimes. That is much more a practice of brokerage firms than bond houses. While I think a confirmation should go out, that has not been a regular practice.

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Q. I never did any business with that particular house so I don't know their practice.

A. If you were uncertain of whom you were dealing with, largely the confirmation, I think, was used in order to establish their liability.

Q. Yes.

A. As they had given the order, and their liability was created, and you assumed a liability or brokerage. Whenever the acquaintance with the client had grown to a point where you could judge from his attitude and financial responsibility, it was very much word of mouth. For instance, the bill would come out and on payment if the securities were not immediately available the time when the securities would be available, or in lieu of that if they wished, an interim certificate would be delivered.

Q. You mean where the securities were their own underwriting?

A. If we purchase bonds on the New York Exchange they might desire an interim certificate pending the delivery of the bonds.

- Q. Who would execute that?
A. I could not tell you. Probably the cashier.
Q. Some one connected with the Los Angeles office?
A. Yes.
Q. I suppose very often the first thing they would do would be to send a letter of thanks to the customer?
A. If it was a new client. That was not followed up in later transactions. After the relation with the customer was established we would not follow that process.
Q. You say there were two methods of delivery during that period, one sending to a bank with draft attached and I assume notifying the customer that the securities were at the bank as against the draft, and the other sending the securities to you for personal delivery?
A. Yes.
Q. What caused one method to be used and not the other? Was that by some consideration of the responsibility of the customer?
A. No. Convenience and other things. For instance, I had clients in Sierra Madre. It is a long way to make delivery, and would take too much time to make personal delivery. You might advise them that you were sending the securities to the Bank of Sierra Madre, draft attached. You would assume that the safety deposit was at the bank and pay for the securities and have the securities given to them and put them in the box. That process is still pursued. All houses pursue it where it is difficult to reach the customer outside. In Pasadena we have very little draft attached business.
Q. I suppose it depended in part upon the character of the client. A client of established position and desirable means would more or less receive with draft attached?
A. No. Some of them desired it that way. They would rather do that than to come into the office and make delivery.
Q. When you made delivery you would make it largely to the house? You had no office in Pasadena during this period from 1916 to 1919.
A. No.
Q. So when they handed them to you for delivery to the client, I suppose that was done at the Los Angeles office?
A. Yes, very frequently I would come in and get the bonds and take them to the people, and if they had not paid for them, get their check, or if they had been paid for just simply have a receipt from them for the securities.
Q. That was a part of your regular duties?
A. It was desirable from a salesman's point of view to make delivery because it simply extends his contact.
Q. Was that routine followed with other salesmen as well as yourself?
A. I think so.
Q. No exception was made in your case?
A. No.
Q. Were yourself and other salesmen under fidelity bonds at that time?
A. I am sure we were, Mr. Lewinson.
Q. Do you think you have described as fully as you can the routine of the business during that period from 1916 to 1919 and your relation to it?
A. Yes, I think so.
Q. Now coming to 1919. As I understand it, you had a promotion in that year - that is to say
A. Yes, a promotion to this effect - that I would have an office of my own and with more convenient equipment, with a stenographer, and also assistant salesmen to help me in the development of the territory.
Q. In other words, in that year a Pasadena sales office was established, and you were placed in charge of that office?
A. Yes.
Q. While before you were simply a salesman in the Pasadena territory?
A. Yes.
Q. How long did that continue? Until 1925?

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- A. I think that continued until 1925.
- Q. Will you give us the history of the Pasadena office during that period and the end of your activities and your relation to and contacts with the firm and its members?
- A. Well it was a very - except for the change of personnel of salesmen that came about from time to time
- Q. Let me put it this way. Except for the change in personnel, this statement of operation of the Pasadena office would just about cover it?
- A. Yes; deliveries were made by registered mail to us to the Pasadena office.
- Q. From Los Angeles?
- A. From Los Angeles. Sometimes securities were picked up in Los Angeles and brought over, but ordinarily they were sent over by registered mail. Instead of sending the checks direct to Los Angeles, we deposited them in a Pasadena bank account and then forwarded our own check to Los Angeles.
- Q. You deposited the money in Pasadena and then made your own check out to Los Angeles?

A. Yes.

Q. Go ahead.

A. Other than directing the efforts of other salesmen who were with me, and selling myself, I don't think there was any other routine up to 1925. "where I" was personally concerned.

Q. How were the expenses of the Pasadena office handled during that period?

A. We would pay our local bills out of a cash account carried there.

Q. You mean a cash account in the Bank?

A. First National Bank of Pasadena.

Q. Is that where the other account was kept? I will call it the customers' account.

A. That was the same account. We only had one account.

Q. You did not have two ^{bank} accounts?

A. We had only one account. We cleared from it to the Los Angeles office whatever came into us. We had a \$500.00 balance all our own, from which we worked.

Q. But you did not carry that in a separate account?

A. No. In one account.

Q. You had full authority to draw upon the account in the Bank; the First National Bank of Pasadena?

A. Yes.

Q. Were your instructions in writing, or were they merely oral?

A. Of course the instructions to the bank were by resolution or otherwise. The corporation (were asked) to acknowledge checks signed by myself or Miss Baber or in my absence some of the other men who were authorized at the time.

Q. There was, of course, a resolution of the corporation on file with the bank?

A. I am sure there was.

Q. Were there any written instructions, or was there any printed book of instructions?

A. No, it was strictly between the accountant in Los Angeles and myself or Miss Baber as to what was to be done.

Q. What safeguard, if any, was there against your drawing, or Miss Baber drawing or the others drawing upon this account in the First National Bank of Pasadena in your own interest?

A. There was none. I am sure there was none.

Q. Apparently there was not.

A. After all, the day's business was continuously checked against the business in Los Angeles. There was only money being paid into our account that was covered by orders in Los Angeles for securities and any accounting department keeps pretty strict tab on paid up business. That money being sent forward to them it only left \$500.00, which was the petty cash account to cover such items as telephone, rent, and things of that kind.

Q. I suppose there was also this protection. There was a fidelity bond

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on Miss Baber and yourself and the other cosigners. Do you know the extent of that bond?

- A. I could not tell you, but I am sure there was.
- Q. The salaries account was not paid out of that \$500.00 of course?
- A. No.
- Q. That was paid directly by Los Angeles?
- A. By Los Angeles. I would not swear to that. I know salesman's salaries were paid out of Los Angeles. I would not swear whether for a time or not Miss Baber's salary was paid out of that account. That is hazy in my mind.
- Q. There was also an account that the Company kept in Pasadena that you were not authorized to draw on?
- A. That was developed very much later in 1927.
- Q. We will take that up later. Then that was after you went to the Los Angeles office?
- A. No. There was only a short interim in 1925 when I was out of the management and another man was in charge, and I was doing business in Los Angeles office. That was in 1925. I am sure it was in 1925.
- Q. How long did you continue in the Pasadena office?
- A. I think it was either in the winter of 1925 and early in 1926 I went in charge and staid in charge until 1928.

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- Q. Did you voluntarily leave the Pasadena office in 1925?
- A. I left to take hold of wholesaling - that is syndication, and after the market break in 1929, early in 1930 decision came to close all branch offices and I went over there for a very short time until they decided to retain the Pasadena office in some form or other, in a much reduced form, and put a chap by the name of Bob Long in charge and I came back to Los Angeles.
- Q. That was in 1930, you say?
- A. I think it was in 1930.
- Q. And then you came back to Los Angeles until December, when you left?
- A. Yes.

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- Q. You made written reports to the Los Angeles office, too, did you, weekly, daily or in some manner?
- A. You mean the salesman's reports? Those would be made in duplicate. One would be sent into Los Angeles and another one in our own files in Pasadena.

P.37 L.11 -
P.39 L.10

- Q. In 1927, as I understand it, the Los Angeles office opened a bank account in Pasadena. What Bank was that with?
- A. I think the First National Bank.
- Q. The same bank?
- A. Yes.
- Q. What was the occasion or purpose of opening that account?
- A. Instead of our sending them checks by mail they would be notified at the close of business on each day of the amount available before 3:00 o'clock and they would draw on it. It just facilitated the transfer of money to Los Angeles.

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- Q. Instead of drawing on your original account and mailing a check to Los Angeles, you would deposit it in the second account and Los Angeles would draw a draft on it or a check?
- A. Would draw a draft on it.
- Q. During this period I take it that you not only sold securities to customers but you sold them for them.
- A. Yes sir.
- Q. What was the practice of handling the funds that came into the hands of yourself from those sales?
- A. They would send us a check payable to the customer or send a check made payable to us at Pasadena.
- Q. You mean the Los Angeles office would. In other words, the securities that were sold for customers were sold through the Los Angeles office?
- A. It was very rarely that we made a sale. We might have a matching of orders, where a person would come in to sell a security and then the person right in the territory would desire to buy that same security.
- Q. That was only occasionally done?

P.38(Cont.) A. Yes.
 Q. In the main, the matter was taken up with the Los Angeles office?
 A. Yes.
 Q. What was the routine of that?
 A. You would simply turn in a selling order. Telephone a selling order to the trading department, put the price limit on it, that it was to be sold at, if any or at market price, if there was no limit on it. Whenever the security was sold they would telephone you that information and then you would instruct them either to send a check direct to the client or if the client was coming into the office, to get the money, send it to us at the office.

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 Q. You mean deposit it in the Pasadena office account?
 A. No, a check would come direct.

P.40L.1-7
 Q. Where was the office?
 A. It was in the Chamber of Commerce Building first.
 Q. Where is that located?
 A. On Colorado and Broadway.
 Q. What floor was it on?
 A. It was on the top floor.

P.43L.3-16
 A. To the extent that whatever I was -- I was supposed to be engaged in trying to sell securities for Blyth & Co. at least eight working hours of the day.
 Q. Was anything ever said at any conversation with Babcock or others about not engaging in outside activities?
 A. Yes, we had many rows over things of that nature. The time I gave to certain things I thought were interesting to me and might have some collateral value. I didn't see any direct value because I never had any direct value out of them.

Q. You are referring now to social or civic activities?
 A. Yes, civic.
 Q. Mr. Henry, during this period that we are now speaking of, namely between 1919 and 1925, you made financial reports to the Los Angeles office, or the Pasadena made financial reports to the Los Angeles office?

4/27/33 PM)
 1:45)
 P.51L.3-)
 P.57 L.4)

A. In what respect?
 Q. As to the business done and the deposits made and the withdrawals and the like.
 A. Not financial reports. There were no weekly or monthly statements made by me or sent to them.
 Q. Tell us how that was handled.
 A. If you had a day's business you were transmitting certain securities to them in the course of a day, that was the only correspondence we had of that nature. We sent a letter of transmittal with the securities, involving the names of the persons to whom they had been sold, the securities themselves, what they were. We would send the securities with a letter of transmittal which would cover the names of the securities, from whom purchased, the amount due them, etc.

Q. You are talking now of securities you purchased.
 A. Yes. On sales we made no report on that for the simple reason it was done by telephone conversations with the trading department.

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 Q. You mailed some slip, did you not, confirming the telephone conversation?
 A. No. There was a sales ticket covering the sale of the securities, which was sent in to the Los Angeles office. For instance, if I were purchasing a client of mine in Pasadena a security through the trading department, I would not know what the price was. I might put a limit on it. They might get it under that price. They would make out their own sales ticket over there and that sales ticket would go through their billing department. When you were purchasing the security yourself - when we were purchasing for a customer they would send their sales ticket through their own accounting department and then send their bill out for collection, or the securities with the bill, as I described previously.

P. 52L.16

Q. Would that apply when you would sell your own inventory, also?

A. Yes.

Q. The securities were all list securities?

A. Yes. When you say listed you mean listed on our inventory. A tremendous lot of our business are unlisted securities. When I mention open market securities I don't necessarily mean listed on the Stock Exchange.

Q. In other words, there was an over the counter market?

A. Yes.

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Q. Did you have quite a spread on that over the counter business?

A. I could not tell you except individual issues you would not have over a quarter

Q. Notwithstanding the spread, when you solicited a customer you would fix a flat price for the security to be sold?

A. To them?

Q. Yes.

A. You would fix a price that was the prevailing market price on the issue. Without direct agreement houses on the street will arrive at a prevailing price on a security, because they will take the market - the market may be limited in it - for instance, Mr. Lewinson, you take say 20 issues selling in the street, which was of interest at the time and in which a profit could be had, there may be a sponsor house for that particular issue. The sponsor house may have been retaining a particular price on that particular issue. It may be virtually the only source of bonds to be obtained on that issue. Your client may be interested through approach of some salesman of that house that sponsored the issue. You would buy that bond from that house but you would quote the same price to the client that the sponsor house has as its retail price, and you might have a half point off or a point or whatever it is, which would be your gross profit for handling the deal.

Q. Would this be a fair statement - that in the sale of securities to customers you were able to fix a price, but in purchasing securities from them you would take them at the market with a maximum price or range of prices fixed by the customer?

A. Customers vary. For instance, you will agree - if they are going to sell for cash they want cash and don't want any other security, and this is not a fixed rule, but general practice. You would have to depend on where you were going to sell that security to determine the price that they could obtain for it, because there is no listed market, and as a result your spread on that kind of a transaction would be very, very small because you would take that bond at whatever the best dealer market was. The best dealer market at the time would be the best bid of any of the professional traders for the bond. That would be the market you would quote them, less a commission to yourself.

Q. Were you authorized to quote prices on bonds that you were taking in in that way, either for cash or for exchange, without first submitting it to the Los Angeles office?

A. It would depend also entirely upon the trader.

Q. The trader would be some one other than your own firm?

A. The trader in our Los Angeles office.

Q. As I gather it, then, your authority from the house extended to closing, with customers on those transactions the house trusting to you to get the information from the trader.

A. Yes. The trader is the source of all information. Blyth or any one else can know the market.

Q. You worked through the trader in Los Angeles, the same way that whoever was in charge of the Los Angeles office? Your contact was directly with the trader and it was not necessary for you to go through your superior in the Los Angeles office?

A. That is right. There might be situations where it was a trade instead of a cash transaction - trade of a security held by a customer for security for our own, where the customer will occasionally stand for a higher price than they could obtain for cash.

Q. You say the customer will stand for a higher price. In other words, they trade you out of part of your profit.

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- P.55L.22 A. Yes. On a situation of that kind you submit that to your sales manager in Los Angeles.
- P.56 Q. That was your settled practice.
- A. Yes. Whether that could be done or could not be done was according to our obligations under the issue.
- Q. What I am trying to get at is this, Mr. Henry. Your contacts with Blyth & Co.'s Los Angeles Office while you were in charge of the Pasadena Office, particularly up to 1925, and the extent to which you reported to them, and the extent to which you operated upon your own initiative.
- A. The extent to which I operated in Pasadena - aside from being manager of my own salesmen - was very much as a salesman in relation - as though I were a Los Angeles Salesman. I dealt with the sales manager there as any other salesman, and my own salesmen with me did not for the purposes of my own convenience, bring their transactions to me. They would almost always call the Los Angeles office direct on their own transaction.
- Q. In other words, this Pasadena office was to a large extent a physical extension of Los Angeles office.
- A. It was.
- Q. You operated in much the same way as though you were in the same suite except you used your telephone.
- A. Yes.
- Q. Then, I take it that a salesman in the Los Angeles office would not report directly to the sales manager either, but would work through the trader just as you did in Pasadena.
- P.57 A. It was according to the transaction. If it was a market transaction he would deal with the trader, but if it involved a question of commission he would have to consult the sales manager first.
- P.59L.25 - Q. You say, Mr. Henry, that you had three locations altogether? That is P.60L.5 to say, you started at the Chamber of Commerce Building.
- A. And then it was 1924 or 25 we went to the Pacific Southwest Building at Colorado and Marengo Avenue, and then when the First Trust & Savings Building was opened we went up there, in 1927 or 1928.
- P.60L.14- Q. I understood that sometime in 1925 for a period you went to the Los P.67L.6 Angeles office.
- A. I worked between Pasadena and Los Angeles.
- Q. What was the occasion for that change?
- A. Very much of a matter between myself and Mr. Driver. Mr. Driver was taking charge at Pasadena and I was going to try and major in selling in Los Angeles because of connections I had.
- Q. You were attempting to transfer your sphere from Pasadena to Los Angeles?
- P.61 A. Yes. I had promise of a good clientele in Los Angeles.
- Q. And then you went back to Pasadena in something less than a year, and you staid until 1928?
- A. Yes.
- Q. These things you have said about the period between 1919 and 1925 also apply for the period of 1926 to 1928?
- A. Yes, except for that second bank account.
- Q. I wish you would explain again the banking arrangements up to the time you left in 1925, and the change that was made in 1927 account that affected the manner of doing business, if it did affect it.
- A. Up to 1925 we would merely take customers' checks, deposit them in the single bank account, and then draw possibly individual checks, but I think only one check for the total of a day's business, and send it in to the Los Angeles office. Or it might be on some occasions where the next day there was expected some customer to whom money was due, we might be instructed to retain enough there to draw our check to pay that customer. It was a matter of depositing in that account and then shipping that money to Los Angeles on check. And then afterward, whether that occurred in 1927 - I think it occurred in 1927, the second account was opened on which we had no checking rights. I had no right to check - all I did was to deposit in there and it was then drafted out there in Los Angeles. That was done with all branch offices.

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- Q. That was a set up that was made for all branch offices in Southern California.
- A. I think so.
- Q. Let me ask you, Mr. Henry, was Pasadena the first branch office?
- A. Opened, yes.
- Q. Then these offices in Santa Barbara, San Diego.
- A. San Diego was the second, and then Santa Barbara.
- Q. So that about the time that the business was extended to New York and the middle west the San Diego office was opened.
- A. I could not say. It was about the time, within the period of a year or so.
- Q. Suppose we approach it this way. When was the New York office opened?
- A. I think the New York office was opened about 1917, or 1918. 17 was the war. Gilmour went back there. It was not opened as a selling office at first, but as a purchasing office, for the purpose of participating in underwritings in the east, and for the purpose of purchasing Municipal bonds.
- Q. You think that was as early as 1918?
- A. Yes.

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- Q. When were the various sales offices through the country opened?
- A. Seattle and Portland. Seattle or Portland, I don't know which was first, and Chicago I think was opened before Pasadena was opened. I think in 1918 or 1919. They must have come at the close of the war.
- Q. Shortly after you joined the firm it had quite a rapid expansion.
- A. Within three years. The men were coming back from war.
- Q. Liberty loans had popularized the security business?
- A. Very much.

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- Q. Returning to the Pasadena account, the second account. After that second account was opened, I take it that all of the customers' money was intended to go into that account?
- A. Yes.
- Q. And the first account was simply maintained as a small disbursing account?
- A. Yes, except where immediate payment might be required for some customer. These were not rules.
- Q. I would like to know what was the practice and what happened. Do you recall any cases where, with the authority of the firm, money was deposited in the first account known as the Pasadena account, and held there for disbursement to a customer?
- A. I think that is possible because of the very necessity of having money there the next morning where you could not depend on getting it from Los Angeles.
- Q. How would that be done?
- A. That is quite a possibility.
- Q. Can you give us any information on the subject?
- A. I am just thinking of possible exceptions to any rule. The rule was to go into what was the Los Angeles Account subject to draft by the Los Angeles office any money paid to us by a customer. I can see where it was possible. I would not say it did happen, and I cannot swear that it did, but my inclination is that it did, because there are many situations that could have developed in discussing it with the accounting department, stating that such money will be necessary tomorrow morning for payment to so and so, and we would be instructed to put that much money in the Pasadena account for the purposes of meeting that rather than putting it in the other, subject to draft. That would be an exception to the rule. Whether that exception occurred I cannot swear to it. Miss Baber handled the details.
- Q. She would be familiar with that?
- A. Yes, much more familiar.
- Q. Did you have such a thing as interoffice communications by letter? A good many firms do have that. For example, take the matter of commun-

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leating with the accounting department for the purpose of making a deposit in the Pasadena account instead of the Los Angeles account. Would it be handled by letter?

- A. It more probably would come by telephone.
- Q. Do you think there would be a confirmation?
- A. Not necessarily.
- Q. Would not that be a pretty loose way of doing if you had no writing?
- A. Except that the money is checked there within twenty-four hours. If there was a change over that period it would only be a twenty-four hour transaction.
- Q. You would, of course, report money that you paid out to the customer to the Los Angeles accounting department?
- A. Yes. The checks to customers usually came from the Los Angeles office when the second account was opened.
- Q. I suppose you had a routine system of accounting or communication or blanks or other forms with the accounting department?
- A. No, not that I know of, because so far as the Los Angeles account was concerned it required no accounting. It was just subject to draft. The checks going in there were covered by letters of transmittal to Los Angeles, and we had no power of drawing against it so we need no accounting other than we had billed the person properly for the securities.

P.66

Mr. Chester: The letter of transmittal would square that as far as Los Angeles was concerned every time the money was deposited in the Pasadena Bank.

- Q. Did representatives of the accounting department ever come out to Pasadena and go over the business of the Pasadena office from stem to stern?
- A. They would come over and do two things, check bank balances and bank statement to show the condition of the petty cash account. That was the only thing to be accounted for. And would check our inventory of securities. That was what we had in our deposit box. My impression is that Price Waterhouse made that audit once a year or once every six months.
- Q. Did any one except representatives of the accounting department and Price Waterhouse make those checks?

- A. No.
- Q. In making those checks did they send letters to the customers to see whether the records of the Pasadena office were correct?
- A. Price Waterhouse - whether Price Waterhouse covers every client - Yes, I think Price Waterhouse covers every one that is supposed to have a balance, or supposed to have securities in safekeeping, and sent a letter to them.

P.67

Mr. Chester: On December 31, each year?

- A. Yes. In addition to that I think they picked out a certain number of names at random and sent a letter to them as a check.

P.68L.15

P.72L.22

-Q. Was Miss Baber connected with the Los Angeles office when you entered the Los Angeles office?

- A. No, she was with the South Pasadena Savings Bank.
- Q. Was her first connection with Blyth, Witter & Co. when you opened the office?

- A. Yes.
- Q. And did she start at the office with you?

A. She went over to Los Angeles for a while to be with the accountants there. She never had done any bond business before - to see how forms should be made with the trading department. I think she spent a month there.

P.69

- Q. Did she stay at the Pasadena office from 1919 to 1928?
- A. She staid there from 1919 until 1928, and then she came over to Los Angeles for a short time and with the reestablishment of the Pasadena office she went back to Pasadena for a short time. How long, I don't know.
- Q. When you left the Pasadena office in 1925 and went to Los Angeles office temporarily, did Miss Baber go with you?

- P.69L.11 A. She was attached to the Pasadena office. She ran the Pasadena office. She knew too much of the personnel of our clients. She was invaluable to the Pasadena office.
- Q. She was not merely your secretary. She was office manager.
- A. Not office manager. She had complete charge of all of the details of that office.
- Q. She was more of an executive secretary?
- A. Yes.
- Q. She was a stenographer or bookkeeper, was she?
- A. There was very little bookkeeping done. The only bookkeeping done was just the bank book.
- Q. But I mean she was a bookkeeper as well as a stenographer. When she came to the office she had bookkeeping training?
- P.70 A. I think she must have had some in the bank. She was teller and also bookkeeper in the bank.
- Q. How old a person is she, approximately?
- A. Miss Baber is now - She came to me - I think she was probably twenty or twenty-one. She is around 33, or 34 or 35.
- Q. She had charge of all the records, did she?
- A. The holding cards and files.
- Q. I wish, Mr. Henry, you would tell us, in your own way, rather than in response to detailed questions by me because I may overlook something, what Miss Baber's connection with the Pasadena office was, what her duties were.
- A. She was a stenographer in the first place to take letters from the salesmen to people, to clients. Any stenographic work to be done. In addition to that she took care of whatever banking there was to be done. She was the second party on a check in checks drawn on the bank account. She recorded any changes in the holdings of clients. We have what we call holding cards, which represents securities held by clients. Any those that were sold she changed those holdings to conform. If there were any additions to be made, for instance if we sold a party security she would enter it on those records. In addition to that she kept in files all information regarding corporations that we had for the information of salesmen. She would clip the financial pages for any current data or any memorandum that came to us from the Los Angeles office. She would file that under the corporation heads. If none of us were there it was her business, just like your reception girl, to meet the client and try to provide them all information she was capable of giving them and if there was any specific information that was not available in our files, to call our Los Angeles office and get the statistical department to provide it.
- Q. Did she ever sell securities?
- A. I think she has in a few instances where people were - yes, she has so securities, usually where the recommendation had been made for the particular client, and either I or the salesman was not available to take care of them when they came in.
- Q. I suppose if any one came in she might engage in an over the counter transaction herself.
- A. Yes.
- Q. You kept no inventory at the Pasadena office?
- A. No, the only securities we had were for safekeeping.
- Q. You did have a safekeeping department?
- A. We had a safety deposit box. A party might order bonds, and pay for them, and say he would not take delivery for about ten days. The bonds would be sent to us for immediate delivery, and upon calling up they would say it would be a week before they could get down for them and the bonds would be held in our safety deposit box. If it was for too long a period the bonds would be returned to Los Angeles.
- P.71
- P.72

P.72L.7

Q. How about transactions for safekeeping where the customer was entrusting the bonds to the house? In other words, the customer was entrusting his own bonds for safekeeping?

A. They were to go to Los Angeles.

Q. They would be taken to Pasadena, and then would be expressed to Los Angeles and held there?

A. Yes. If there was to be any extended time.

Q. The company did accept bonds for safekeeping in the ordinary course business?

A. Yes, they did that up until about 1929 or 1930, and then they dumped the whole thing out. They discontinued that line of business. It was an expense and inconvenience. It was not a proper function of the house.

P.76L.1 -

P.77L.23

Q. Naturally, I assume that Blyth & Co. and Blyth, Witter & Co. had a great deal of confidence in their own underwritings, and I assume that the purpose of the house was to market securities they had underwritten to the greatest possible extent. That was one of their principal sources of revenue. That is they made more on their underwritings than they did on their brokerage or retailing?

A. Yes. The very fact that you underwrote a list of securities did not mean that every client you had was immediately available as a purchaser for that particular security. On the general principle because there was a profit in your underwritten bond beyond any other and further because you at least thought you had a more intimate knowledge of the particular security than you had of any one of the open preferred types you would push that security.

Q. In marketing securities was it customary to mention the name of the underwriter or was the issue simply sold on its own merits?

A. Well, our men were furnished, - as far as possible to sell a security on its own merits. There was no hesitancy in mentioning the fact that they were the underwriter or who was the underwriter if they were houses of quality or respect in a particular field of bonds, unless it was true up until the new era started certain houses in certain fields were particularly respected in certain class of bonds.

P.77

Q. You mean until the new era ended?

A. I think it was the start of it. It was not near the end that the distribution came. The distribution came in the beginning.

Q. We are talking now about the new era and not the new deal.

A. When you came into certain classes of far, land bonds there were one or two houses whose names attached to those bonds and carried a good deal of weight as underwriters because they were considered as men of great experience in the field and men of good judgment in it, if we were at all participants in it not only ourselves as underwriters but the other house as well, you would mention them as underwriters.

Q. Would you feature the fact that the bonds had been underwritten by your house?

A. We had a good deal of pride in Blyth & Co. and respect for them, and certainly would show no hesitancy and would mention the fact that Blyth & Co. were the underwriters of that issue.

P.84L.16-

P.95L.21

A. There are lots of people who have confidence in the house. In the case of Mrs. Shelby - securities left by Mrs. Shelby were not left with Blyth and Co. for that purpose. In other words, they were not left in safekeeping with Blyth & Co. for that purpose. They were left with me. I am talking to you just as honestly as I can. I want you to get that clear.

Q. As long as you are on that subject, tell me what is on your mind.

A. While I gave her receipts of Blyth & Co., nevertheless so far as the handling of securities was concerned and the placing of them in Blyth & Co. where Blyth & Co. would have known what they consisted of, that was very remote from Mrs. Shelby's thought or intention.

P.85

Q. Well in developing that, I would like to have you state the facts and the circumstances under which the securities were received and why you make that statement.

P.85L.8

A. I receipted for them in that way for the simple reason that Mrs. Shelby was afraid that Miss Minter's attorney would arrive at what Mrs. Shelby bond holdings were, or the location of the property and had Blyth & Co. been in possession of them - I don't know if you have the right to go in and join the bond house as a litigant and compel them to show up holdings. She was afraid of that. While I receipted for them for Blyth & Co., the bonds were not to be held in safekeeping with Blyth & Co.

Q. Where were they to be kept?

A. They were to be kept by me in Pasadena or anywhere else in order to keep them from being discovered by one of two parties, either by the Government or by Miss Minter's attorneys in particular.

Q. Why did you give a receipt for them in the name of Blyth & Co?

A. For two reasons. First for Mrs. Shelby - for one reason very largely. Mrs. Shelby herself - while Mrs. Shelby wanted me to keep those securities out of any knowledge of Blyth & Co. that would become available to Miss Minter's attorneys who might seize them or attempt to seize them who might locate the securities and seize them - while she wanted me to have them and keep them away from that contact or knowledge of Blyth & Co., she still wanted to be under the protection of Blyth & Co. by having the receipt made by me as representing Blyth & Co.

Q. Go ahead with your explanation.

A. That is my explanation. So when you say were there any other accounts held where people went away, Mrs. Shelby's account was a different kind of an account, so far as my relation to it was concerned, than other people who left securities in safekeeping with me, who let the whole world know they had securities with Blyth & Co. She was solicitous that different property she had, and particularly that which was here, was to be unknown to anybody, and particularly to Blyth & Co., because of the acquaintance of our officers, the members of our firm with O'Melveny's office or firm, and things of that nature, so that either through personal contact or by legal action there could be compelled a showup of Mrs. Shelby's holdings. That was her reason for the selling of the securities in 1925 and the repurchase in 1925 and 1926 under these fictitious names. It was to keep that element of concealment.

Q. I am discussing this with you now to this extent. I want you to tell me everything you can which will be informing.

A. I would like to help you that much. Here is a very odd situation. You examined the books. She paid me in the purchase of securities in 1925 and 1926. Some of them were made to her personally. She proceeded on the theory that she wanted me to make purchases in fictitious names and then she became hesitant that she may not have any hold on Blyth & Co. and then she makes some checks to Blyth & Co. She wanted to have the protection of Blyth & Co. and yet be outside of the knowledge of Blyth & Co.

Q. Is that quite correct, or would not this be a more accurate statement? She wanted the protection of Blyth & Co., but she wanted the matters out of the knowledge of any one connected with Blyth & Co. except yourself, who at the time was the manager of the Pasadena office?

A. That would not be for the simple reason if that were true I should have turned the securities into the safety deposit box of Blyth & Co. where they would have belonged and where they would be known to everybody.

Q. They could not have been placed in the vault of Blyth & Co. in a concealed envelope?

A. The minute Price Waterhouse comes in to make an audit they are not going to accept a concealed package in our vault and pass an audit on the basis of that, unless I put that in there as the property of Mrs. Shelby.

Q. by Mr. Judson: I understood you to tell me that all securities brought in for safekeeping for clients became subject to some sort of an accounting system, whereby a card was made and filed at Blyth & Co. showing the customer's name and the securities deposited.

A. Then a safekeeping registry.

P.86

P.87

P.88

P.88L.9

Mr. Chester: I didn't see it, but I assume they had, but the instructions to Price Waterhouse was to-

A. I am satisfied they were entered. I have not seen it but they are entered in a registry in what is known as a safekeeping registry, and those items are by individual names, by numbers of the securities and the names, the names of the holders, and are strictly subject to the audit by Price Waterhouse.

Q. In this statement you gave at the Biltmore Hotel, you made the statement and I think you repeated it this morning, also, that as far as Mrs. Shelby was concerned she thought she was dealing with Blyth & Co.

A. Yes. I made that statement. I have tried to explain to you, Mr. Lewinson, one thing peculiar in a situation of this kind. They were anxious to have everything kept secret from everybody. So still by reason of the form of receipt I gave her she could come back and say Blyth & Co. is responsible because here is Blyth & Co.'s name on here, but so far as the firm assuming that responsibility it would be absolutely damning to the very thing she was anxious to accomplish.

Q. Did you explain that to her at the time?

A. No, I accepted just what she asked me to do.

Q. by Mr. Chester: Have Price Waterhouse always examined your accounts?

A. I could not tell you.

Q. They have for a number of years?

A. Yes.

Q. You have not known any auditors besides them?

A. I don't believe so. Haskins and Sells might have.

Q. And when they examined them they always examined the bank accounts at Pasadena, both the Pasadena and the Los Angeles?

A. I would not be sure of our bank accounts.

Q. But the Los Angeles account, they examined the bank account.

A. I don't believe I was ever there.

Q. You don't know?

A. No.

Q. I notice there were a lot of fictitious accounts in December, 1922. What was the explanation for those?

A. When Mary left home in 1921 that was when Mrs. Shelby again got one of these ideas of concealment.

Q. That was the first time, as a matter of fact?

A. Yes.

MR. LEWINSON: I think we can go into that when we take up the matter of detail.

MR. CHESTER: What I had in mind was this: When these checks were issued from Los Angeles and went through to Black, you put that into the \$500.00 account, and then drew that out. I was wondering whether the Los Angeles office examined those accounts or Price Waterhouse did not catch it?

A. I don't know.

Q. Because if they had they would have discovered them.

A. That might be it, I don't know. An audit was a matter of checking up the bank balance, and checking the petty cash, and whether they checked the checks back, I don't know.

Q. You don't know the modus operandum?

A. No.

Q. These checks that went into the Pasadena account to Black and all these other people, that was the account they went into, the \$500.00 account?

A. Yes.

Q. All deposits after 1927 were supposed to go into the Los Angeles account?

A. Yes.

Q. All cash that came into the Pasadena office was supposed to be deposited in the Los Angeles account. There were specific instances where you were going to withdraw money the following day where you were allowed to deposit in the Pasadena account?

A. I say that is quite possible. There might have been exceptions.

P.89

P.90

P.91

P.91L.9

- Q. As a matter of fact, there was latitude so far as both accounts were concerned.
- A. There was no latitude on the Los Angeles account except some deposit might be made in the Pasadena account. I paid no attention to that. Miss Baber would know that, and understand what was done. I do not
- Q. By MR. LEWINSON: In other words, Mr. Henry, you must have understood the time you used that account in that way, or Miss Baber must have understood that that account was not being examined; otherwise, you would have used an account of your own.
- A. That is quite possible. Miss Baber and I both understood the purpose that Mrs. Shelby had in mind. That was used for the purpose of purchasing securities under fictitious names, unless I had put them through my own personal account in Pasadena.

P.92

MR. CHESTER: It is a fact, though, if they had examined the Pasadena account they would have been bound to be put on guard by the magnitude of the deposits and withdrawals in the Pasadena account.

Mr. Lewinson: That is a matter of inference, and very clear inference, it is not necessary to pursue that.

- Q. by Mr. Lewinson: While you have the question in mind, before I go back to the line of interrogation that I have in mind, if there is anything you care to add to this account of Mrs. Shelby for safekeeping, or anything else, I would be pleased to have you state it.
- A. No, I have not. I only drew that differentiation as to whether there were any other accounts. I wanted to get it right there so as to clarify your mind regarding what I know. What the situation was then I was in the position of having to maintain secrecy for Mrs. Shelby concerning her securities. She had made a very heavy conversion of securities under fictitious names to accomplish that, and the only preservation of it was to have held the securities from the ordinary course of business in Blyth & Co. by forwarding them to Blyth & Co. or leaving them in the safety deposit box, because the first audit would have shown them and then if Mr. O'Melveny or whoever had the right to take whatever action necessary to demand information, there would have been the picture. Mrs. Shelby was maintaining a position at that time toward her daughter and toward Mr. O'Melveny that after the payment of any such settlement as they agreed on, that she would only have some fifty of seventy-five thousand dollar securities left.

P.93

- Q. Was that before she went to Europe?
- A. Yes, before she went to Europe. When he tried to make a settlement. Mr. Mott and I and Mr. O'Melveny met. The first demand was on a half million dollar basis, and then they talked of even a \$250,000.00 basis that is including the Casa property. Mrs. Shelby maintaining a representation then that her holdings were only somewhere between fifty and seventy five thousand dollars. It was vitally important as she said it, to have no access through Blyth & Co. by record or otherwise, that would indicate what her actual holdings were.

Q. You did not suggest to her that if she wanted to have absolute concealment, she could have taken out a safety deposit box under a fictitious name and kept the property there?

A. She had thought out possibly every possible way of concealment. She had even thought of taking them to New York, and then didn't wish them in New York, but wanted them partially here. She realized her daughter was staying here. She was going alone. Mrs. Fillmore was here. She left here in June, 1926, and I don't think Margaret went over until 1927, so that she wanted securities here that would be available to Margaret Fillmore, if anything developed.

P.94

Q. You did not suggest to her that you take a safety deposit box and keep the securities in that way?

A. It was left strictly to her how they were kept, so long as they were kept out of the knowledge of Blyth & Co. and O'Melveny's office or the Government Agents for fear that through any government inspection of income tax return of anything of that character, the information might be uncovered to Miss Minter or Miss Minter's attorney.

P.94L.12

- Q. You did not actually tell her that there would be no record of the securities, did you?
- A. No record in Blyth & Co. I told her so far as these securities purchased under fictitious names were concerned, there would be no record in Blyth & Co. If she held any of those originally purchased in her own name or Margaret Fillmore's name, there was no way of concealing that. They were part of the record.
- Q. But as to those that were taken under fictitious names, there would be a record with Blyth & Co. under the fictitious names?
- A. Yes, but there would not be anything to indicate they were Mrs. Shelby holdings.

P.95

- Q. I think we were talking about different things. I had intended to develop this in a little different way so it is like going into the middle of it. At the time Mrs. Shelby left for Europe, or about that time, was the time when the securities were left for safekeeping, was it not?
- A. She left with me \$63,500 par value. Those were not left all at one time Margaret brought them in, but that was the total.
- Q. Those were the ones that you gave the Blyth & Co. receipts for?
- A. Yes.
- Q. Some of them had been purchased under fictitious names and some were not?
- A. I don't know, do you Mr. Chester?
- Mr. Chester: \$28,500 were German bonds, but the amount is correct.
- A. And then there were \$85,000. of Westphalia. Those Andes Copper bonds were purchased in her own name because they were partial payment bonds and the payment had not been completed.

P.97L.18 -
P.104L.1

- Q. Now, take this period between 1925 and 1926, when you gravitated between the Pasadena office and the Los Angeles office. What would you say as to your activities during that period, and your relation with customers. Were they any different?

A. No, just selling, or -- the

Q. Then when you finally went to the Los Angeles office in 1928, what were your duties from that time on?

A. I was syndicate manager, in charge of wholesaling but there were certain individual accounts I handled.

Q. That was known to the house, was it?

A. Oh, yes.

Q. And that was with their consent?

A. Yes.

Q. How did you happen to go to the Los Angeles office?

A. Because their possibilities of participation in underwritings were opening up to an extent that it would need active work on the part of one man in forming what might become western representatives for an eastern syndicate on a piece of business.

Q. In that connection were you buying or selling?

A. Selling wholesale or obtaining members of a syndicate to become parts of a selling group in Southern California.

Q. I don't think I understand it, but before going into that I would like to ask you a preliminary question. Did you solicit the house to get that position or did they bring it to your attention?

A. They brought it to my attention.

Q. Who brought it to your attention?

A. Mr. Babcock or Mr. Cadwalader. Mr. Babcock, I am sure it was.

Q. Was that discussed with the San Francisco office or just with Mr. Babcock and Mr. Cadwalader?

A. I just discussed it with Babcock, but it became general policy to have syndicate managers appointed in offices.

Q. You were syndicate manager for Southern California. I wish you would explain in detail your duties as syndicate manager.

A. His job is strictly to form selling groups of bond houses and banks to take part in a general national or coastwide syndicate. If it was going to be an eastern issue in which we would major we might have the Pacific Coast syndication rights. One of the easterners might retain the eastern syndicate rights.

P.99

- P.99L.13 Q. What does that mean? That a syndicate block would be allotted to you in Southern California?
- A. They might allot, or subject to subscription you might put your participants in. I would get in touch with First Securities Company and the various dealers up and down the street, and submit the offer, telling them the terms, the selling group terms, the fixed retail price, less two points would be the selling price, commission less syndicate expense which it allowed amounting to a quarter of one percent. They would say how many they wanted. They would then telegraph in to the house, that the syndicate manager, that is the head of the syndicate it might be Morgan & Co. or some one else in New York, and then the allotment would be made from there.
- P.100 Q. Was your firm joint underwriters on that or just simply allottees?
- A. Any time we had a Pacific Coast syndication right almost available, we would be members of the original syndicate or underwriting group.
- Q. The persons you solicited, however, were not joint underwriters. They were simply purchasers?
- A. They are bound by the syndicate agreement. There are three groups, the so-called originating group, the banking group and the selling group.
- Q. What the difference in the originating group?
- A. The originating group are the ones that are originally responsible for the group.
- Q. Would they be underwriters?
- A. They would be in almost every instance. In recent years they would be distributors also. There is the banking group -
- Q. What is that?
- A. The banking group has a slightly larger profit than the selling group. In a block of bonds which did not necessarily mean they were of the same block of bonds - for instance you are going to bring out an issue of bonds - you have an original underwriting - you have a group of houses to whom you look also for securities when they are bringing out an issue. Say house No. 1 is going to bring out an issue, it may be a five million dollar issue. There may be five other houses to whom I owe obligations, from whom I expect continually to have participation in some groups they have. The issue we will say is popular enough so that a very large number of houses in the country want to participate in it. You can only spread for five million dollars worth of bonds and give any one of them a decent number of bonds. You cannot take and split the five million dollars worth of bonds between yourself and the five houses and do any justice to any other house. But you may allot to these five houses what is known as the banking groups/larger number of bonds than they are going to get in what is known as the selling group. The reason for that is that they will then get this fractional profit on say \$100,000.00 worth of bonds and have then only the selling group on \$50,000.00 worth of bonds which is allotted to them for selling purposes.
- Q. Your connection with the matter, however, was not in the originating group or in the banking group, but was in the selling group.
- A. Sometimes in the originating group. The Pacific Western Oil Co. was the originator, and my wholesaling in that situation it should be the wholesale rights in Southern California on that, and I created both banking and selling groups here.
- Q. Did you have anything to do with the setup or underwriting there?
- A. No, I sat in on part of the discussion. I had none of the negotiations.
- Q. Your connection with that was limited to what was material to the selling group later?
- A. I am the wholesaler. The originating group goes into another department.
- Q. You were at all times connected with the selling end of it?
- A. I was selling.
- Q. And in a sense, the term "Syndicate Manager" is misleading.
- A. The Syndicate Manager for an active underwriting house is a very real position. He has his hands full.
- Q. I don't mean it is not a very important position.
- P.101
- P.102

- P.102L.18 A. The Syndicate Manager in an active underwriting house, or in a house in close association with other active originating houses, his work is sufficiently absorbing during an active market so that he has not time to fool around with the originating group or issue.
- Q. Does the term "Syndicate Manager" in financial circles carry with it the implication that one is wholesaling bonds and is connected with the selling end of it?
- P.103 A. He is wholesaling bonds, but he is distinguished from another type of seller, who is your trader. The trader is the man who is constantly dealing in between dealers. My job as syndicate manager had nothing to do with the inventory of an office. That is a matter for the trade between other dealers, and the sales manager through salesmen. My relation with his house and other houses on the basis of new issues, the maintenance of the terms of the Syndicate and matters of that nature.
- Q. Your principal sales relations in that capacity were with the large underwriting houses here rather than with the large purchasers. You were selling to persons who were purchasing for resale?
- A. Yes.
- Q. You had a card, I believe, at that time that carried with it the designation as Syndicate Manager?
- A. The card I think was printed without the knowledge of -
- Q. When was the card printed?
- A. In 1928. The speed with which the market dried up in 1929 - my market dried up very materially.
- Q. Is that what sent you back to Pasadena?
- A. No, I went over there to go over the closing of it. I had such long personal contact with clients over there, to keep them in and to hold the thing together until a final decision was made.
- P.108L.19- Q. Tell us about when that was?
P.109L.6 A. It was in 1919, I think, or 20. I went to Australia in 1920, and she was a client before that.
- Q. How long were you in Australia?
- A. Three months.
- Q. When was it you went to Australia.
- A. In June and came back in September.
- Q. In 1919.
- A. 1920.
- P.109 Q. Do you know who handled her business during your absence.
- A. There was not any done.
- Q. Do you know that?
- A. I am pretty sure. I am positive as I can be.
- 4/21/33 Q. Relative to the dividends that you received on your Blyth stock. Could you give more accurate information on that? Yesterday, you referred to a 150% dividend.
10:15 AM)
P.110L.18)
P.111L.3)
- A. 150% cash dividend.
- Q. That is a \$9,000.00 dividend. You stated that your recollection was that your other dividends were paid semiannually.
- A. Yes.
- P.111 Q. Do you have any further recollection on that?
- A. I could not tell you the amounts. They were not much.
- P.115L15-17 Q. Miss Baber was attached to the Los Angeles office?
- A. She was brought over there in 1930 or 1931.
- P.121L.4- Q. Have you any explanation to offer as to why Miss Baber moved that file to her garage instead of sending it to the Los Angeles office, to which you were then attached, or putting it in some Blyth & Co. vault?
P.125L.4
- A. Only because it covered the same matters, I imagine, that were covered by the same secrecy element that had covered the original purchase of many of the securities listed on the holding cards under her name or Margaret Fillmore's name. In other words, while the purchases were made in secret, these particular file cards that were maintained up to a certain point, showed holdings of Mrs. Shelby, even though purchased under the fictitious names.

P.121L.17

Q. As I understand it from you now, in this file that was moved to the garage, there were certain cards, as well as this correspondence?

A. Yes.

Q. What else was there in that file?

A. That and her correspondence with me and mine with her.

Q. Did the cards give a sequence of the transactions with Mrs. Shelby, either under fictitious names or otherwise?

P.122

A. They did up to a certain point. They went through all the fictitious of 22 and that period in there. Then the fictitious names of 25 and 26 we had used a different filing card on. Those big cards were abandoned in favor of a small holding card.

Q. You mean the office had installed a different system?

A. Exactly.

Q. Were the cards kept on all of these securities kept in fictitious names?

A. She had segregated them from fictitious names to hold them in Mrs. Shelby's and Mrs. Fillmore's names where they belonged.

Q. In other words, in effect what Miss Baber had done had been to take these fictitious name cards and segregate them and put them under Mrs. Shelby's general index number or general file?

A. No. Many of these so-called fictitious names were actually clients of Blyth & Co. The purchases made under those names were not placed on the cards of those clients in our office. Otherwise, it would be confusing. They belonged to Mrs. Shelby or Mrs. Fillmore. Those holdings would be entered under Mrs. Shelby's or Mrs. Fillmore's name on some card.

Q. Would they show any parenthesis or some identification that they were taken in fictitious names?

A. I could not tell you.

Q. Miss Baber had charge of that?

A. Yes. There might have been some notation of the name.

Q. As you say, the fact that some of these fictitious names, as far as the Shelby account was concerned were not only real persons but customers of Blyth & Co., and Blyth, Witter & Co., and that was a source of confusion.

A. Yes.

Q. How did it come, when you had the whole telephone book to draw from, the names of customers were selected?

A. We are going into a long story of dishonesty. There was a credit of \$2.50 for every new client. Had I used new names, I would have been credited with new clients. In other words, I could have used ten or or fifteen or twenty new names, which would have constituted new client. I would have been entitled to a bonus. I would have had that as a rating over other salesmen.

Q. While we are talking about the matter of these records, do you know whether Miss Baber is available for a statement?

A. I would not be sure. She could not locate work here. I think she went to San Francisco - out of town with some friends. I do not know whether she is back or not, but will try to find out.

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Q. One more question about this. In making returns to the Los Angeles office, these purchases and sales in the names of what we will term fictitious name customers, would appear as business done with those customers, I suppose.

A. Yes.

Q. It would occur to me that if there were regular annual checks made by Price Waterhouse or another auditing firm, and letters were sent to those customers, that that situation would have been uncovered. Was anything done to provide against that?

A. Well, yes. There were no balances or undelivered securities in the names of those persons which required circulation by letter.

Q. In other words, it was arranged at the end of the year that balances were taken out of these names?

- P.124L.18 A. This woman had gone to Europe. All of these transactions were complete in 1925 that were for 1925, and those that were done in 1926 were all completed in 1926. Were all completed before she left for Europe in June of 1926.
- Q. I assume that you picked out these customers' names as fictitious names yourself?
- A. Yes.
- Q. And Mrs. Shelby did not know, as far as you were aware, that those were the names of other customers of Blyth & Co. or Blyth, Witter & Co?
- P.125 A. I don't know whether I made any explanation in making delivery to her or not. Whether I told her it was a customer or not, I don't know.
- P.126L1-6 A. At the time she had taken up her residence in the Mathewson House in Los Angeles, it was known as the Helen Mathewson House.
- Q. Where was that?
- A. Out opposite Windsor Square. Fremont Square.
- P.126L16-18 A. It was either late in 1919 or early in 1920 that she moved into the New Hampshire Street property, called the Casa Marguerita.
- P.130L2 - A. At that time it was in 20 or the end of 1919 that she began making purchases in the name of her daughter Margaret Shelby and under the name of her mother, Mrs. Miles.
- P.131L.4
- Q. Did the confirmations or billings come out that way?
- A. Yes.
- Q. And were they entered on the books in that way?
- A. Yes.
- Q. Mary was a minor at that time?
- A. I think she was.
- Q. So she did not make any purchases in Mary's name?
- A. She did originally. She purchased some securities under her name and then began making all of her purchases either in her own name or in her grandmother's name or in Margaret's name.
- Q. Was the propriety of that discussed with you? Or was she seeking your advice on that?
- A. She asked me about the matter of return so far as the investment was concerned, and what the results would be by making a return under those names, and I said so far as it being their distinct property, all right if it was going to be distinctly their property to make the return that way. If it was going to be an allotment of funds by Mary, all right, and that was later developed in the federal hearing. That element was brought out what her plan was.
- P.131
- P.136L.19-20 A. It showed Miss Minter entitled to \$165,000.00.
- P.140L.2-6 A. All of that would either be in the possession of Mr. Wales, who was the accountant for Neil McCarthy, Mary's first attorney. It may have found its way into the hands of Dana Latham, an income tax man. It was all submitted to Mr. Mott's office.
- P.141L.11-16 A. Very much to the contrary. After looking over the statement she said she felt that I must be in the employ of her mother to provide such a statement or such an argument.
- Q. How long after that was it that Mary employed Neil McCarthy?
- P.141L.25- A. I didn't see Miss Minter until after the Taylor murder case, and she had moved over and was staying with some friends on Garfield Avenue.
- P.142L.1
- P.150L.18-29 A. Then it suddenly appeared that Mary had approached a Mr. Leo Chandler as an attorney. Either Leo came to see me or I met him on the street and we talked about it and I told him very much what I told Mary at the time I met her out at the house and tried to dissuade his interest insofar as litigation against the mother and trying to get a settlement inside the family.
- P. 153L.25 A. I would say those conversations covered quite a time before it happened
- P.157 L.13 } My best recollection is that as a result of having held securities in
- L/21/33 } the name of her mother and in the name of Margaret as she had, Mrs.
- 1:45 PM } Shelby wondered if they could not be purchased in the names of other people and yet held by her, which I told her was quite possible.
- Q. These were bearer bonds?
- A. I have forgotten. It was merely a matter of our records in Blyth & Co.

on

books that was involved. I know I assured her/that point that it could be done. It was with that satisfaction on her part that I could purchase the securities through Blyth & Co. in the names of other persons and make delivery to her so that our records would not disclose these particular bonds as being in her possession or her property. I think by that time we stopped buying securities in her mother's name so it would be between herself and Margaret Shelby - that would be the substance of it. I cannot for the world tell you everything.

Q. There were a good many conversations about that?

A. Yes, we discussed it interminably from 1920 up until that time.

Q. About what time was that? 1922 or 23?

A. Along in 1922.

Q. Can you recall whether the suggestion regarding purchase in fictitious names came from Mrs. Shelby, or whether it was a suggestion you made?

A. Mrs. Shelby followed up on the proposition that having been able to buy securities in these names of these other women, whether she could not buy securities in the names of other persons as well.

Q. As a matter of fact, you did not see anything necessarily dishonest in a suggestion of that kind?

A. No, not at all.

Q. This thought occurred to me this morning when you were explaining what had occurred with McCarthy and Chandler, that Mrs. Shelby may well have felt that her claim that Mary was entitled to \$165,000.00 was a claim in good faith, and that one of the reasons, and perhaps the principal reason why Mrs. Shelby did not want the securities taken in her name so that they could be traced, was to prevent tying her up by attachments pending the determination of any controversy. I suggest that to you with a view of refreshing your recollection and ask you whether that feature ever was discussed.

A. I think it was because she was hopeful there would be no law suit, but was apprehensive, and with the retention of these attorneys, it became a question in her mind whether or not there would be a seizure of securities. I was no lawyer - she was no lawyer - and she was trying to make a lawyer out of me, and I was to the best of my ability trying to consult with her. It seemed to me that a claimant of property would have a perfect right to go in and either seize or tie up securities so I was

Q. Was that discussed with Mr. Mott, so far as you know?

A. No.

Q. You never discussed it with him?

A. No, I never did.

Q. What I have in mind, Mr. Henry, is this: All I can do, of course, is to reconstruct the thing, from my experience, on the basis of what you have just said, but it occurs to me that Mrs. Shelby might very well have wanted to go into this arrangement so she would not be at a disadvantage in any litigation that she might have. In other words, to be tied up in advance rather than ultimately defrauding Mary, if Mary should prevail. I am directing your attention to that aspect of it with a view of ascertaining whether or not it was discussed on that basis. I understand from what you have said that it perhaps was.

A. I think it was discussed on that basis. Unquestionably. Mrs. Shelby, however, had this in mind, Mr. Lewinson. She had the determination in her mind that litigation or no litigation, by any manner or means in which she would beat the attorneys to it - when I use that term I mean have the advantage by movement over them in any way that she would not have to surrender a dollar of anything to Mary, as far as she could.

Q. That is to Mary personally?

A. Yes.

Q. And the idea of that, in part at least, was the protection of Mary and others?

A. That was stated continuously.

Q. At this time in collaborating with Mrs. Shelby and in purchasing securities under fictitious names, you were not conscious of doing anything dishonest?

- P.157L.8 A. Not at all. This matter of concealment was a problem of hers and was one which I saw was vital to her, in determining that the securities -
- Q. And her ideas may have been legitimate and proper, and so far as she expressed them, they were?
- A. Yes.
- P.158L.8 Mr. Henry: The only thing is that at that time it was just a perfect uproar
- P.160 L.5 I never went through Hell and high water higher than that was.
- Q. Will you enlarge upon that?
- A. I suddenly discovered a new picture so far as feelings were concerned. There was extreme bitterness between her mother and herself that seemed to go beyond business. The mother, on the other hand, was critical of the daughter as being wayward and things of that character, and absolutely unwilling to have any advice from her or discussion with her. Mrs. Shelby then told me that her daughter was then charging, that Mary was then passing the word that she had killed Taylor.
- Q. That who had killed Taylor?
- A. Mrs. Shelby. That Mary was doing that because her mother was jealous of Taylor and her associations - I hope I cannot be sued for libel, because I am trying to tell you the truth.
- Q. You need not have any apprehension on that score.
- P.159 A. I am trusting you and trying to tell you what I know of this thing. Then came very clearly into line the intense bitterness between Margaret and her sister. I saw little of it in Mary because I saw little of Mary.
- Q. Was this before O'Melveny was employed? Can you say?
- A. Yes, O'Melveny was not employed until after the Taylor murder.
- Q. Had McCarthy been employed prior to that time?
- A. I cannot say. My impression is that what we are talking about ~~is~~ the attorneys happened after the Taylor murder.
- Q. The reason I asked that question was that I got the impression from what you said when you first took the matter up with Mary and showed her the \$165,000.00 total figure, that there was not a great deal of bitterness but there was rather disappointment on Mary's part.
- A. Mary was disappointed and thought I was in the employ of her mother to do a job. very
- Q. There was not/much bitterness when you had the meeting at Mott's office was there?
- A. I only met with Wales and did not meet with Miss Minter.
- Q. Perhaps we can discuss the dates some other time.
- P.160 A. Whatever I have been discussing here - all purchases of securities under new names, all of the rest of this I have been discussing here in relation to the employment of the different counsel, I am positive came after the Taylor murder. There was untold bitterness mixed up in that.
- P.165L.8 - Q. As I understand it, that does not imply that the certificates were to be issued in fictitious names?
- P.200 L.3 A. They must have been bearer bonds, because if they had been certificates they would have had to be issued in that way.
- Q. I had understood, without knowing, that they were all bearer bonds,
- A. I said I did not know if they were bearer bonds or preferred stock. I know that they must have been bearer bonds because had I ordered preferred stock in a fictitious name it would have had to be issued, the certificate would have had to be issued in that fictitious name in order to preserve the element of concealment.
- Q. At that time Mrs. Shelby had not purchased any common stock, had she?
- A. I think once that she bought Famous Players Lasky - either common or preferred.
- Mr. Chester: There was some common.
- Mr. Lewinson: Prior to that time?
- P.166 Mr. Chester: That is my impression, that she bought common.

P.166L.3

Q. We have two lines of thought here we have been developing in a more or less parallel way; one in the matter of the purchase of securities and ordering them in fictitious names and the other is the controversy with Mary. What is the next thing that stands out in your mind on either of those subjects?

A. With the development of the situation under O'Melveny, I felt very certain, and I know that Mrs. Shelby did, that the \$165,000.00 figure was not going to stand for two reasons. First, because of the basis on which it had been established. I told you I was dubious of the income tax on which I felt certain would be attacked. Secondly, also the girl had made further earnings in the interim period. And also the question of what had become of the money that the girl had earned. There was a certain figure due her. What could have been done with it? Her investments in securities. She had also made investments in real estate. Some I think out on LaBrea and a piece of property in Hollywood - Laughlin Park I think it was called. This Laughlin Park property, as I remember it, she originally paid \$35,000.00 for it. It was purchased later by King C. Gillett for, I think \$185,000.00. That is a sample of Southern California real estate advance. And Mrs. Shelby asked me to prepare an investment schedule of Mary's basis of her income, less the 40%, less the tax, etc., month by month, and year by year, for a certain fixed period.

Q. That is to reconstruct it?

A. That is, to check over the securities which she had purchased, Mrs. Shelby had purchased, whether under her own name, her mother's name, or Margaret Fillmore's name, to take these securities and as a certain amount was paid for - we will say January 1, 1921, there was some that would have been available for investment. To assign against that amount the purchase of whatever securities Mrs. Shelby had bought in January.

Q. Mr. Henry, I don't quite understand you.

A. On January 31, 1921, we will say that a payment of \$35,000.00 was made under the contract with the Famous Players Lasky people. There would be deducted from that amount of \$35,000.00, first the forty per cent coming to Mrs. Shelby. There would then be deducted that proportion of the year's income tax and income tax reserve that I had to figure or set off against that, together with any expense that could be attributed to her, extraordinary expense. That would then leave a net amount for Mary for investment purposes. We will say out of that \$35,000.00 there remained after all of that \$15,000.00 or \$16,000.00. If Mrs. Shelby had purchased in January, 1921, a block of \$20,000 of some securities, such as China Mails Steamship Co. bonds, I was expected to assign against this \$15,000 available investment capital, either \$15,000 of these China Mails figured principal and interest, or show the total of \$20,000.00 of bonds purchased with \$15,000.00 applied as a partial payment on them. That trust was to be carried through on payment made by the Famous Players Lasky people to Miss Kinter month by month throughout the period, which at its conclusion would show presumably the amount of bonds that Mrs. Shelby while holding under the name of herself or her daughter, Mrs. Fillmore - Margaret Shelby - and her mother Mrs. Miles, were actually the property of Mary and had been purchased for her account. That was an accounting of the investment program she made.

Q. Did you prepare such a schedule or statement?

A. I did. It was a long extensive thing.

Q. Have you a copy of it?

A. I don't know whether I have or not, but Mrs. Shelby has. I am sure she has as it was used by her in regard to the Laughlin Park property.

Mr. Lewinson: Mr. Judson, have you a copy of it?

Mr. Judson: No.

Q. Did you prepare that alone, or with the aid of Miss Baber and others?

A. I may have used Miss Baber on the calculations and in checking up details of accrued interest.

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P.169L.2

- Q. Can you tell us when that was?
A. In 1922 or 1923. I don't know. I think it was just at the inception of the O'Melveny interest in the case. It was after the McCarthy incident and the Chandler interest.
Q. You think it was just on the eve of the O'Melveny employment or shortly afterwards?
A. Shortly afterwards.
Q. What did you do with that data?
A. It was furnished to Mrs. Shelby.
Q. Do you know what that showed?
A. Something over \$200,000.00.
Q. Due to Mary?
A. Yes in securities - everything - that showed everything that had been invested up to the minute.
Q. Mr. Henry, you say something over \$200,000.00. Can you give it a little more closely than that?
A. It was a little more than \$200,000.00.
Q. Was it less than \$225,000.00?
A. It was less than \$300,000.00. The \$165,000.00 always stuck in my mind.
Q. Of course, there is an awful spread between \$200,000.00 and \$300,000.00. I am pressing you to see if you can remember it more particularly.
A. It was - I would not venture that figure because that figure never stuck in my mind.

P.170L.2

- Q. Was that figure/communicated by you to any one other than Mrs. Shelby?
A. In other words, was it ever communicated by you to Mott or O'Melveny?
A. Not to O'Melveny.
Q. To Mott?
A. It might have been. Do you know if a copy of that paper was delivered to Mr. Mott?
A. I think the original was turned over to Mrs. Shelby and she delivered it to Mr. Mott.
Q. Have you anything else to say with reference to that paper?
A. The purpose of that paper, as eventually developed, Mrs. Shelby told me was that this showed that at no time had Miss Minter had any cash available for the purchase of the Laughlin Park property. She kept her all invested up. It eliminated the Laughlin Park property as any property that Miss Minter could have possibly purchased because at all times she had this block of securities she had purchased. There was a lot of bitterness over that Laughlin Park property. She may have abandoned it as being of no interest to her, but at that time she was unusually interested whether or not it was \$35,000.00 of her money or whether or not it was part of the 40% of Mrs. Shelby's money that went into the property that produced \$150,000.00 profit.

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- Q. You understood it at the time, did you not, Henry, that Mrs. Shelby was making the claim in good faith that it was her money that went into Laughlin Park property.
A. She was making a claim all right.
Q. You understood there was a basis for the claim?
A. You are drawing a conclusion in my mind. I had purchased no securities for Miss Minter. This total block of securities at that time - I could not differentiate between what should be assigned to Miss Minter or what should be assigned to her mother. Here was a big block of securities, while purchased in a variety of names, was in Mrs. Shelby's personal account. Anything developed out of them was retained by her - a commission was paid to Margaret for the purchase of that property.
Q. You stated a moment ago that you were surprised that your accounting showed that the Laughlin Park property was purchased with Mrs. Shelby's and not with Mary's money.
A. I was not surprised at it. It was only to establish clearly - I don't question it probably was Mrs. Shelby's money. I was handling any money that was there, and it was up to me to determine whether it was her money as manager's compensation, or whether it was her portion of what was earned which was used to buy the Laughlin Park property. What actually developed was that here where possibly there was no designation

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of bonds as being Miss Minter's property and reported as such in her income tax form, anything of that character, it suddenly came around in this set up whereby there was not a possibility under it to show where there had been at any time cash available for the purchase of the property by Miss Minter.

- Q. Was that subject discussed with Mr. Mott or O'Melveny?
A. With Mr. Mott. It unquestionably was discussed with Mr. Mott.
Q. I mean between you and Mr. Mott?
A. I cannot tell you. It may have been. I think that in one of my meetings with Mr. Mott and Mrs. Shelby that question of the Laughlin Park property did come up.
Q. At the time you prepared this account, you regarded it as an honest account did you not?
A. If that was Mrs. Shelby's use of the money? I don't quite get you.
Q. Let me put it this way.
A. I recognized Mrs. Shelby as her daughter's manager, and if she said that was the way the money went, that was the way the money went.
Q. In other words, you did not regard the account you had gotten up as being a dishonest contract to defraud Mary?
A. No, I didn't at the time, because at the time I prepared that statement it was to show what Mary was supposed to own. I didn't and I don't know whether Mrs. Shelby had the idea when it was first prepared but it eventually wound up against the possibility of Mary ever having the money to buy Laughlin Park property. That was really surprising to me.
Q. So apparently it was prepared with that plan in mind?
A. I don't know what the plan was. I did what I was expected to do. Later it was used in that way.
Q. In preparing it, you didn't have in mind that you were collaborating with Mrs. Shelby with a view of defrauding Mary?
A. No, nor did I think of the Laughlin Park property particularly. It became suddenly a bone of contention.
Q. Do you know whether at that time the Laughlin Park property had been purchased?
A. At the time this thing was prepared?
Q. Yes.
A. I could not tell you. I don't know the dates that statement covers. I would have to find out.

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- Q. Just prior to this, Mr. Henry, you were dealing with the subject of this account you had reconstructed from the data furnished you by Mrs. Shelby and as I understand your statement that account was made either late in 1922 or early in 1923.
A. Somewhere thereabouts. I think it was in 1922 or 1923.
Q. What is the next incident that stands out in your mind?
A. Well, I am trying to think.
Q. Mrs. Shelby went to Europe, as I understand it, in the middle of 1926. It might be convenient to consider that date, and then go into the things that occurred from the time that you were talking about in 1926.
A. You want me to go into this matter of the things I have been charged with in court.
Q. I want you to go into this sooner or later, but my idea was that you would take the subject up historically and naturally and without regard to charges, and tell the story, and your statement would probably be more accurate. If you can forget those things for the present and give the matter historically, I think that would be preferable.
A. In 192 - I don't know when O'Melveny brought his case -
Q. This might perhaps help you, Mr. Henry. There was a \$100,000.00 trust prepared in 1924, and instead of taking the date of 1924, if you will work up to that date in 1924.
A. In the course of coming down to - I think it was preliminary to filing the complaint I am not sure, I think as a preliminary matter Mr. Mott and Mr. O'Melveny I think discussed that between themselves, and then
Q. Discussed what?
A. Discussed a trust.

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P.175L.5

- Q. Am I to understand, then, that the trust was prepared as a result of certain negotiations in advance of an action being brought?
- A. My impression is it was. My feeling is that was done before and was really in its creation, I know this to be a fact that in its creation it either had in Mrs. Shelby's mind the idea, the possibility that either an action would not be brought or if it had already been brought it would soften the effect of it by taking this action. My impression is it was taken before the complaint was filed.
- Q. Do you know the facts in connection with the preparation of the trust? Did you have anything to do with it?
- A. In the preparation of the trust?
- Q. I don't mean the legal document.
- A. I discussed it with Mrs. Shelby and discussed it with Mr. Mott. Mrs. Shelby was first adverse to it.
- Q. Who broached the idea?
- A. I could not say.

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- Q. Was it done pursuant to some demand of Mary or O'Melveny?
- A. That is out of mind, whether Mr. O'Melveny suggested it, I know Mrs. Shelby was averse to it, and I know I talked to Mr. Mott. Whether I was called to his office or not - I must have been called to his office or whether I went to his office at Mrs. Shelby's request or at his request I don't know, but I know I talked with him relative to affecting Mrs. Shelby's consent in doing it.
- Mr. Judson: It seems to me some way, although I am not at all sure about it, that O'Melveny's office insisted upon Mrs. Shelby creating a trust as evidence of good faith before they would go further with negotiation. In other words, as I understand it, before they would negotiate with her they insisted that she put up at least this sum of money in trust.
- Mr. Henry: It is my feeling that this was preliminary to even discussing a settlement of their differences. There had to be that much put up.
- Q. Just a minute, Mr. Henry; what went into that trust? Securities that you had sold to Mrs. Shelby?

P.177

- A. Yes. Some were securities that were originally sold to Mary in Mary's name, and there was \$100,000.00 par value of them and in addition to that another amount totaling fourteen or sixteen thousand dollars.
- Q. Mr. Chester states to me that there was \$100,000.00 in the trust and \$40,000.00 outside of that. Can you explain it?
- A. No, there was not \$40,000.00 outside of the trust. I mean the trust situation with O'Melveny and Mott. I am thinking of that. There was \$100,000.00 plus some fourteen or sixteen thousand dollars of stuff that went to Mr. O'Melveny at the time.
- Q. You mean to O'Melveny for his fee?
- A. I don't know.
- Q. I am somewhat interested in that.
- A. Because the \$100,000.00 constituted the trust.
- Q. You speak of the par value. Was that substantially the then market value, also?
- A. No. It lacked that market value some thousands of dollars. That can be established. I can give it to you. Coming down to the \$40,000.00 which you mention is the excess over this fourteen or sixteen thousand was an excess given direct by Mrs. Shelby to Mary, which consisted of \$20,000.00 Oxnard Drainage District Bonds, and I think it was \$5,000.00 reclamation 1604s. That would be \$25,000.00. That is your figure. There was \$25,000.00 there and some fifteen thousand over with the O'Melveny trust.
- Q. What can you tell me about the circumstances leading up to that trust?
- A. I think that is a fact. It was O'Melveny who demanded the formation of a trust for some part of what would be due Mary. That went in with the matter of further discussion, whether by litigation or by settlement of her matters, dependent upon that being done. Mott recommended it after O'Melveny's first request for it.
- Q. How did you function in that?

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- P.178L.5 A. To the extent that I talked with Mr. Mott about it, and I think I talked with O'Melveny about it. Mrs. Shelby was very hesitant at the first of it - very anxious to avoid it. Her feeling was, as she expressed it at the time, was the fear that this was something that would be set up and then litigation would extend to a greater demand from her or a greater settlement than would otherwise would be the case by negotiation or litigation, and was opposed to it. I argued with her some time over that and it was because of that argument that I had the discussion with Mr. Mott, he stating that it was vital to Mrs. Shelby's own interests that this evidence of good faith be established. At that time there was the animosity between them and a good deal of attack and counter-attack and the like, and it was essential - I can say it was very desirable at least, to make the showing that this matter was going to go through on a settlement basis.
- Q. Well what happened then?
- A. After that was done there was a meeting between - there was a meeting between Mr. Mott and myself and Mr. O'Melveny as to a settlement.
- P.179 Q. Can you tell us about when that was?
- A. I would say that would come along - that trust was formed in 24. It was toward the tail end of 24 or sometime in 25 probably. Mr. O'Melveny demand was a half a million dollars.
- Q. In addition to the trust money?
- A. I don't think so, a half million dollars, the trust money standing aside including the trust money. That was an impossible settlement as it stood in my estimation at least. Mrs. Shelby got her 40% earnings but she was entitled to enough to live on. It was not in line with it. I made the statement to Mr. Mott.
- Q. You made it to Mr. O'Melveny?
- A. Yes. Then there was some talk of \$250,000.00. and that did not get anywhere.
- Q. Was that O'Melveny?
- A. Whether it was Mr. Mott each time, I don't know.
- Q. On what basis was the settlement discussed? Was it on the basis that Mary would be entitled to an accounting, or was it just on a horsetrading basis?
- A. It was just a horsetrading basis. The statement was made that an accounting would show that there was not due more than that. On the other hand, the contention was made on the other side that if an accounting was ever made it would show much more than that. So it was really a horsetrading basis. Nothing came of it.
- P.180 Q. Let me interrupt you there. Of course, in this accounting that you prepared based upon Mrs. Shelby's transactions with the house, you took into account the securities purchased in fictitious names, as well as the securities purchased in Mrs. Shelby's name or the names of members of her family, did you not?
- A. It is quite possible, Mr. Lewinson.
- Q. You necessarily must have.
- A. I should think so, yes.
- Q. You don't know whether that was ever delivered to O'Melveny?
- A. No. I feel very sure it never reached O'Melveny. I would not swear to that, but that is to the best of my recollection.
- Q. Now, did you meet at O'Melveny's office more than once?
- A. No, just once.
- Q. Did you meet with Mott in that connection more than once?
- A. I met with Mott - Mrs. Shelby asked me to go to Mott's office, I could not say how many times. Two or three times probably, with the settlement of the trust. Then I talked with her and Mr. Mott on how we would talk to Mr. O'Melveny when it came to this proposition of this proposed settlement basis. How many times I could not tell you. It was not many times. I talked with her a good deal more. I was getting in pretty deep when I got in between these two lawyers. When I went to see O'Melveny with Mott, it was no great pleasure for me to do it. Mrs. Shelby asked me to do it. It was not a situation that I liked. In maintaining this position of a settlement of \$250,000.00, Mrs. Shelby even at that
- P.181

P.181L.6

figure would have little more than a just a reasonable living.
Q. Did this feature of the matter receive any attention in the discussion, namely, that Mrs. Shelby was entitled to deduct a reasonable figure for the support of Mary in a particular style in order to enable her to properly pursue her career?

A. That was brought out both in the income tax hearing and in this settlement. Any time that discussion came up, that was given attention.

Q. There was no authority to make the offer, if an offer was made of \$250,000.00? Was that general talk?

A. That was general talk. As a matter of fact, I remember of going back and talking with Mrs. Shelby about what happened. She would talk with Mr. Mott and then she would talk with me, and when I talked with her about the \$250,000.00 it did not please her, and if O'Melveny had accepted it, it would have been hard.

Q. In taking it up with O'Melveny, was it taken up on the basis of negotiations so familiar in this part of the country, that while you had no authority, and Mott had no authority, to make that sort of a proposal, if O'Melveny would make that offer you would take that up with Mrs. Shelby and use your personal influence to have it accepted.

A. It very probably was.

Q. Was this \$250,000.00 spoken of in addition to the \$140,000.00 already paid?

A. No.

Q. That was \$250,000.00 over all from which the \$140,000.00 was to be deducted?

A. It is my impression that Mr. Mott had in mind the \$250,000.00 in addition to the trust, that is my impression. In my personal mind it was \$250,000.00, including the trust, because I knew what Mrs. Shelby would say when I saw her and she would see Mr. Mott -

Q. At any rate, to use an expression of a Harvard Professor, it was all in the vestibule of loose talk.

A. It turned out that way.

Q. It appeared at the time there was no authority

A. I had discussed with Mrs. Shelby several times where she was going to get off in the event of suit, as I saw it. I felt certain the income element would be attacked, that the report she had made through Miss Berger would not stand up under investigation, that the Laughlin Park property would come into account. That there would be one thing and another that would pile into that.

Q. You say that you felt these things. Did you communicate them to Mrs. Shelby?

A. Yes. I would talk everything out with her. She would have me over for that purpose.

Q. What did she say in response to those suggestions?

A. I could not say. There was night after night of it and I cannot tell you

Q. Did she acquiesce in those suggestions or did she combat them, or did she do both?

A. She would sometimes seem to yield to what I thought might be the inevitable, and the next time she was protesting bitterly, because what she had in mind was the fact that it was not herself solely but there was Margaret. She wanted to take care of Margaret. She wanted to take care of Margaret, and it would leave Margaret virtually penniless if the suit went through to a conclusion.

Q. That is to say, if it went through to a conclusion and she lost all along the line.

A. Yes.

Q. What is the next incident that stands out in your mind?

A. Then came this - this was in 1925 - two or three things combined to affect Mrs. Shelby very much. The first was, of course, the imminence of this suit coming to trial. The second, as I remember it, was the income tax investigation conducted by a man named Pyle.

Q. Who was he, a government man?

A. He was a government man.

Q. What brought that about. Was that done by O'Melveny?

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P389L6

Q. Mr. Henry, I am going to exhibit to you a transcript of your dealing with E. F. Hutton & Co., and I wish you would take time to examine it and examine it with reference to the items in Exhibit 2 of the Price Waterhouse report which I have been over with you in detail, and after you have completed your examination I wish you would undertake to show if you can, what moneys you realized from Mrs. Shelby's securities up to June 21, 1928, were used to buy Pacific Gas & Electric stock and Famous Players stock which you purchased for the account of Mr. Morris or Mrs. Morris or the Morris estate, and delivered to one or the other persons named on the estate.

A. Mr. Lewinson, it is absolutely impossible, because, for instance, on the stocks issued out there is not the name of a single party to whom the securities were issued. If this record will show - what we will have to get from Hutton & Company is actually the name in which securities ordered out. Does that appear in this record?

Mr. Chester: No.

P390

Mr. Henry: In other words, there were other persons during the same period of time that I had the Hutton account open, and what I will have to obtain from Hutton is when Pacific Gas & Electric or Famous Players were ordered issued out, when those appear in the name of W. E. Morris or his wife.

Q. Can you do that during the noon hour? Between 12:00 and 2:30 today?

A. Well, I will try. I don't know whether Hutton can furnish it. You know how it is with those brokers.

Q. I am anxious to have that so we can proceed, and I prefer to adjourn now and endeavor to let you get it by 2:30.

A. I will make the effort but I would not promise you. From my experience with these fellows in brokerage offices, it is hard to get, but I have got to get it.

Q. Would you care to telephone them now and see if you can make some arrangement. It is 11:15 now. Suppose you talk in the library.

A. In the first place, they will not take it on telephone call. I will telephone to prove it to you.

Q. I would like to adjourn now, then, so that you can proceed over there. It is just in the next block, and get an examination of the account in addition to what you have.

P391

Mr. Judson: Why can't we authorize Mr. Chester to get that information?

Mr. Lewinson: Mr. Chester can get that, Mr. Henry.

Mr. Henry: What I will have to get is the dates that was ordered out under the name of Morris in order to -

Mr. Lewinson: That is what I would like to have you get. Could you call now and make an appointment by telephone so that Mr. Chester and yourself can go over there and get that information.

Mr. Henry: Yes, I will be glad to.

Mr. Lewinson: Mr. Chester has called Mr. Waley at E. F. Hutton & Co., and Mr. Waley states if you will give us a letter authorizing us to obtain the information he will see that it is furnished to us as soon as reasonably convenient. The transcript of the accounts which I have handed to you for inspection is a transcript of your ledger accounts with E. F. Hutton beginning in 1920. Will you please state what data you will require in order to trace the proceeds of Mrs. Shelby's securities into the Famous Players and Pacific Gas stock delivered to Morris, Mrs. Morris or the Morris estate which is not shown in the transcript of the ledger accounts.

A. In order to assure identification of the stocks delivered to Mr. Morris, Mrs. Morris or the brother, it will be necessary to obtain the names of persons in whose names either Pacific Gas & Elec. or Famous Players preferred was issued when ordered out for delivery as appearing on their statement.

P392

Q. How can you fix the time when you received the money from Morris?

A. You refer now to the partial payments?

Q. Yes.

P39217

- A. I don't know how I could. I can, of course, as to when he would have completed his payments.
- Q. Can you tell us now when that was?
- A. No, but Blyth & Company's books will show when that was. They will show the purchase of some underwritten securities from them, at that time, on a partial payment basis, which succeed completion of his payments on this stock with me on our joint account.
- Q. You cannot determine the loss that you sustained on the Morris joint operating account without first fixing the date you received the original payment can you?
- A. No, I cannot exactly, but I think fairly I can approximate it.
- Q. By reference to the books of Blyth & Co. can you approximate when you received the first payment?
- A. With reference to the books of Blyth & Co. they would show approximately the completion of his payments on the stock.
- Q. Would any bank accounts of yourself, or deposit slips show receipt of the money?

P393

- A. They came in such odd amounts, Mr. Lewinson? that I would not be able to identify them as Mr. Morris money from the bank statements.
- Q. Did Miss Baber have anything to do with the Morris account?
- A. No, other than receipting for any money he brought in.
- Q. Miss Baber knew at the time that you were transacting this business with Morris on your own account?
- A. She knew I was buying through Hutton & Co.
- Q. Did Mr. Babcock know?
- A. Mr. Babcock only knew, as far as I know, that I had the account - wait Mr. Babcock I think would be aware of the original purchases for Morris of the commitment for Morris, for Morris was under the account of Logan & Bryan, under the name of Blyth & Co.
- Q. You mean for the Famous Players? and the Pacific?
- A. Yes. Whenever that was, in 1924, or whatever date you fix. It was in Logan & Bryan and not in Hutton.
- Q. And under the name of Blyth & Co.?

P394

- A. Yes.
- Q. Am I to understand that in 1924 or 5 when you first entered into a joint trading arrangement with Morris, you went to Logan & Bryan and in the name of Blyth & Co. bought Famous Players and Pacific Gas & Electric?
- A. The statement will show whatever I did buy.
- Q. Is that your present understanding?
- A. I could not tell you. I think I bought one of the stocks at that time and others of my own selection. I have not seen the account.
- Q. If you were doing this on your own account, why did you make a purchase in the name of Blyth & Co.?
- A. Because other persons would buy stocks through open market order or by partial payment plan, and the house did not desire to handle that type of business.
- Q. I do not understand that. If the house did not desire to do it, why did you make the purchase in Blyth & Company's and in your own name?
- A. Blyth & Co. would be holding the stock, and only have partially made a payment on it if they were holding the stock.
- Q. You had an account yourself at Logan & Bryan between July 23, 1923, and June 24, 1925?
- A. Is that the account, I cannot tell you. I have not had reference to those records there, those records through which the Morris sales were made.

P395

- Q. Mr. Henry, I have your signed statement under date of December 20, 1932 bearing the initials J.D.S. or E.G.C. and C. giving the names as follows: "All of my brokerage transactions were confined to the following firms and between the dates given respectively: Logan & Bryan July 23, 1923, to June 24, 1925." I take it before you made this statement you made some investigation?
- A. However, that account with Logan & Bryan was in the name of Blyth & Co.
- Q. It was in the name of Blyth & Co.?
- A. Yes.
- Q. It was used as your personal account?

P395L9

- A. Yes.
Q. It was used exclusively.
A. Inasmuch as Blyth & Co. did not wish to handle purchase of securities, open market securities on partial payment plan.
Q. Why then should they purchase them, or should you purchase them in an account that stood in the name of Blyth & Co.?
A. Because in this account over here in Pasadena so far as those purchases were concerned, outside of the Morris account which was a joint account those purchases were made and paid for on the basis of the moneys paid in and Logan & Bryan were holding the account rather than Blyth & Co. It did not occupy any capital of Blyth & Co. in holding the securities.
Q. In other words, the situation was this. That Blyth & Co. opened, or permitted you to open, the account with Logan & Bryan?

P396

- A. As far as I know, yes, because I have forgotten now whether I had to get a card from Blyth & Co. to authorize the account.
Q. In 1923 you were not engaged in any irregularities that were subject to being made public?
A. That was opened for the Morris business, as I remember it.
Q. And it was opened in the name of Blyth & Co.?
A. Yes.
Q. So it must have been done with the consent of Blyth & Co.
A. I would not swear to that, whether they had to furnish a card to Logan & Bryan or not.
Q. There was not any concealment about your taking that in the name of Blyth & Co.?

- A. No.
Q. Was the only business you handled through that account the Morris business?
A. I would not swear to it, Mr. Lewinson.

- Q. On a matter of that kind, if stocks were bought on the partial payment plan they were, in effect, bought on a margin with the broker.

- A. Yes. If there was a drop in the market, and it was closed out and there was a deficiency, the firm would have been bound for that deficiency.
Q. It was really understood, so far as the Morris account was concerned that the firm was not interested in buying open market stuff for him and in the opening of that account under the name of Blyth & Co. by myself I had it in mind solely to use it with the liability for any situation developing around an individual to fall on the individual's shoulder. In the Morris account I would have been bound by my understanding to deliver him the stocks we had agreed on.

P397

- Q. As I gather it, from your statement, you were not only buying stock for Morris on the partial payment plan but for other customers of Blyth & Co.

- A. I might have. I cannot reconcile what was bought under that account with what was bought under the Hutton account for 1925 because I have not the Logan and Bryan account in front of me. I could not undertake to say whether there was anything bought under there for another party, but I have the impression there may have been.

- Q. At the time that the Logan & Bryan account was in effect, the firm was Blyth, Witter & Co. and not Blyth & Co.?

- A. Yes.
Q. So it was opened in the name of Blyth, Witter & Co. and not Blyth & Co.

- A. Yes.
Q. The firm apparently knew then that you were handling some independent business of your own?

P398

- A. The firm only knew - the firm as far as I know only knew this so far as the Morris account was concerned, or any person desiring to buy open market stuff on partial payments, which they had done in his case because of his other purchases of underwritten securities and did not desire to continue. That was explained to Mr. Morris.

- Q. I want to know what was explained to Mr. Babcock or any of your superiors in connection with running a brokerage account under the firm name.

- A. I don't remember whether I ever explained to them at all.

- Q. Was this account opened at the Pasadena Branch of Logan & Bryan?

- A. Yes.

- Q. Do you have anything to add to that?

- P398L16
- A. The statements of Logan & Bryan came to my office. The accountants who they saw Elyth & Company account with Logan & Bryan at that time were extremely surprised, but the only explanation was that statements had gone to them instead of coming to me.
- Q. Did you discuss it with the accountants of Elyth & Co. when they made the discovery?
- A. No, never.
- Q. In 1923 to 1925 they did not know anything about the account so far as any audit of Fasafena was concerned.
- P399
- A. There was no discussion of that account as I recollect it at any time only the discussion of the necessity for Mr. Morris' purchases on a partial payment plan of open market stuff being bought outside Elyth & Co.
- Mr. Lewinson: May I have that Hutton & Co. transcript?
- A. Yes.
- Q. Mr. Henry, so far you have attempted to account for something less than \$40,000.00 in value of Mrs. Shelby's securities and state that an amount less than \$40,000.00 went to enable you to purchase stock for delivery to Mr. Morris, Mrs. Morris or the Morris heirs. That is correct, isn't it?
- A. Yes, as far as I can tell it without knowing the figures.
- Q. All right. This Exhibit 2 of the audit of Price Waterhouse which you have before you shows that you realized between September 25, 1925, and October 26, 1932, \$143,000.00 in value from a misappropriation of Mrs. Shelby's securities, including two items in which the name of Margaret Shelby Millmore was used, one on October 25, 1932, for \$174.80 and one on October 26, 1932, for \$2062.03, is that correct?
- A. Yes, taking these figures.
- Q. I am stating that the figures show that now assuming that you used \$40,000.00 of that money to enable you to purchase stock for delivery to one of the Morris or the Morris estate, tell us what you did with the other \$103,000.00 plus.
- P400
- A. That presumption again is subject to correction by me in the actual reference to figures.
- Q. Do you mean that you realized less than \$143,000.00?
- A. I mean that \$40,000.00 figure.
- Q. If you assume it was less than \$40,000.00 then you have more than \$103,000.00 to account for. I am only asking you to account for \$103,000.00.
- A. To the best of my recollection somewhere in the neighborhood of about \$50,000.00 paid to her in - forty to fifty thousand dollars paid to her in cash.
- Q. On what basis?
- A. On income on defaulted securities or on securities that had been sold without her knowledge.
- Q. That is without disclosing either of those facts, the fact of default or sale?
- A. Yes, as well as - may I ask a question? I want to ask Mr. Chester, included in Exhibit 2 is there involved any sale of securities in which Mrs. Shelby knew that the security was sold and the money advanced to?
- Mr. Chester: No.
- Mr. Lewinson: Inasmuch as you have raised that question, Mr. Henry, what is your best recollection as to the total amount realized by you on securities of Mrs. Shelby and/or Mrs. Millmore and/or Miss Juliet Shelby misappropriated by you?
- P401
- A. I could not tell you. I would only have to take the figures as they come up here.
- Q. Do you recall calling up Mrs. Shelby on the telephone after these figures came out and asking whether Mr. Chester had discovered any misappropriation in addition to those discovered by Price Waterhouse?
- A. I never did call her on any such matter at all.
- Q. Do you know of any securities misappropriated other than those that appear or are reflected in the Price Waterhouse report?
- A. No.
- Q. You have examined the Price Waterhouse report carefully?
- A. Yes.

- PH01L15 Q. You have gone over it several times?
A. Yes.
- Q. Did you ever ask Mrs. Shelby, referring to the Price Waterhouse report substantially this - "Is that all you found?"
A. I have never talked to Mrs. Shelby about any such matter.
- Q. You never talked to her on the telephone about any such matter?
A. Not about any such matter as that at all.
- PH02 Q. Prior to the time this Price-Waterhouse report was made, what is your best recollection as to what you had realized from misappropriated securities misappropriated from these three women?
A. Mr. Lewinson, I never kept any books at all. I had a gross idea in my mind of somewhere around \$150,000.00, or more. \$150,000.00, however, was in my mind, and I did not keep a record at any time. Mine was a day to day existence just trying to stay this thing off and hoping for some of these things in which I put money to realize.
- Q. Did Miss Baber keep any books of your defalcations?
A. No.
- Q. Or on your affairs at all?
A. No.
- Q. In your presence at the Biltmore Hotel, Miss Baber stated without contradiction by you, that if it had not been for her it would not have been possible for you to have kept up the concealment so long. Can you tell us what she did to aid you in keeping up that concealment.
A. Only to this extent. I would have no way of keeping track of the securities I had sold, of the amount of interest due, and things of the nature that constituted the monthly statements on which had to be made to me.
- Q. You say you paid about \$50,000.00 to Mrs. Shelby as interest, or purported interest on default securities, and as purported payments for the purchase price of securities, and that you used less than \$40,000.00 in connection with the Morris matter. What did you do with the rest of the money?
A. Involved in that \$50,000.00 also is syndicate interest and false profits that were supposed to be realized, and items of that nature. For instance Price Waterhouse shows syndicate interest of \$800.00. There was actual in excess of \$3,000.00 paid in so-called interest - syndicate interest alone. Among other things, I purchased this interest in University properties which cost me I think about \$12,500.00. When I purchased an interest in oil fee at Santa Fe Springs for \$10,000.00. I purchased that because the income from it was such, or the promised income from it would be such as to cut down the necessity of cutting into Mrs. Shelby's holdings in order to pay her income. In other words, the income would be great enough to very much relieve the situation of paying on these sold or defaulted securities.
- PH03 Mr. Lewinson: Can we suspend that and pick it up when we come back.

Recess taken until 3:00 P.M., May 5, 1933.
Resumed at 3:00 P.M., May 5, 1933.

The last question and answer read.

- PH04 Mr. Henry: In that question regarding the \$150,000.00. Would you mind reading that question back? It was the first question you read.

Question re-read, down to bottom of page PH02.

- PH04 A. I do not understand that part of the question.
Q. What I mean by that is this: You say that you paid certain sums to Mrs. Shelby, which you represented to be interest on securities, and that you paid other sums which you represented to be for the purchase price of securities sold in her behalf. As a matter of fact the payments were not interest because the securities were in default and were not yielding interest.
A. Exactly.

- PL04L110 Q. And you also made other payments you represented to be principal, that is to say on account of securities sold for her account, which were not sold for her account.
- A. I don't think that \$50,000.00 figure included anything that represented payment for securities.
- Q. You explain it in your own way.
- A. As best I understand, I have not made the totals myself, I had to take the figures accumulated by the accountants. What figure would represent interest paid on their default securities or dividends on preferred stock that had been paid, dividends together with moneys paid as interest or dividends on securities which I had sold.
- Q. Not the purchase of securities which you had sold for her on her order but for dividends or interest on securities which you had misappropriated and which she believed to be in existence.
- PL05 A. Yes, on default securities and this syndicate interest and false profit.
- Q. Well, so far all you have accounted for is something less than \$90,000. You have one item of approximately \$50,000.00 which you have just explained, and an item of less than \$40,000.00 connected with the Morris account. Summarizing the matter, I will say that the Price Waterhouse report shows that you embezzled approximately \$200,000.00 of money realized on the sale of securities belonging to Mrs. Shelby or Margaret Fillmore or Mary Miles Ninter, or belonging to all of them without seeking to allocate the securities. What did you do with the other \$110,000.00?
- A. I can only take items that are set forth. I purchased an interest in an east Texas oil syndicate that represented between \$500.00 and \$5,000.00. Another oil well drilling syndicate in Montana or Wyoming, which was either \$500.00, or \$1,000.00. I will have to get those figures.
- Q. Can you give the dates of those things?
- A. No.
- Q. Approximately by year?
- A. No, I can't do that.
- Q. Go ahead and tell us what you did with the money.
- A. It is going to be awfully hard to do.
- PL06 Q. How are going to find out what you did with the money unless we ask you?
- A. I know, and how am I going to answer unless I really get at a record.
- Q. What records have you available?
- A. I don't know. Among others there would be my income tax returns. If we can get those, they will help me. Then the matter of whatever personal correspondence that had to do with these oil properties and the like, which may be had. Some of that stuff I understand is still in Elyth's office.
- Q. Let us approach it this way. You complete your answer as best you can as to what you did with the money.
- A. I have several cases in point. On the First National Bank sale of 5000 Western States. I went on a man's note in that bank, a man named Richard Cole.
- Q. For how much?
- A. For \$4,000.00 unsecured, and time went by and he could not pay that note, and as I remember those \$5,000.00 bonds or some other bonds, I was finally asked by the bank to put up some security for it because they did not look to him. He had property and I thought his note was all right.
- Q. Did you pay it in that way?
- A. Ultimately paid it, by their selling the bonds probably. I paid it.
- PL07 Q. I call your attention to Exhibit 2 of Price Waterhouse showing the sale of \$4,000.00 of Western States Gas & Electric bonds on April 8, 1926, on which \$3704.00 was realized, and the sale was made through the First National Bank of Pasadena and also a similar item August 22, 1927, when \$5,000.00 was sold in the name of First National Bank of Pasadena for \$5227.50. Was either of those items the items in question?
- A. I will have to establish the item. The indebtedness was \$4,000.00. I will have to find out from the First National Bank. They can give the data on it.

Ph07L11 Q. Go on and tell us what else you did.
A. Another situation I think of, a case of a man by the name of Willi R. Brown who had a heater business in Glendale which had him in serious difficulty, and he wanted a loan for thirty days, to give his immediate collectible paper as security for it for I think it \$2,000.00 or \$2300.00.
Q. You mean he assigned receivables?
A. He was to. That was a total loss.
Q. How much was that?
A. \$2300.00
Q. Did you advance money to him?
A. Yes, it was \$2000.00 or \$2300.00.
Q. Was he a friend of yours?
A. I passed it to him. I felt that he was.
Q. When was that?
Ph08 A. I think that was in 1925, or 26. I would not swear to it.
Q. All right, proceed.
A. As I say, Mr. Lewinson, I have just been trying to think even over lunch time.
Q. Under what name did Brown do business in Glendale?
A. I would have to find that out for you.
Q. What is his full name?
A. William R. Brown.
Q. Is he still living in Glendale?
A. No, I think he is living in Montclair, N. J.
Q. What was Cole's business when he lived in Pasadena?
A. He was a man who had a fine home there and had a responsible equity in it. They had been friends of ours.
Q. Did you ever seek reimbursement from him?
A. Ever seek it?
Q. Yes.
A. Yes. As a matter of fact he paid I think \$500.00.
Q. On account?
A. Yes.
Q. All right, proceed with your narrative, and tell us what you did with the rest of the money.
Ph09 A. I prefer that you let me try to make a list up.
Q. I would be glad to have it any way you can.
A. Because this way -
Q. All right, Mr. Henry. We won't be able to meet on Monday, but I would like to meet on Tuesday morning at 10:00 o'clock. By that time will you endeavor to prepare as full a statement as you can as to what you did with the money that you realized on the sale of securities belong to these three women or any one of them, and which you applied or misapplied to your own uses?
A. Yes, I will. I have not even figures on such losses as I may have to in the stock exchange or the premiums paid on life insurance or items of that nature.
Q. I would like to try to elicit some information on your transactions with Hutton & Company, in view of the suggestion you have just made, and if I cannot do it now I can at least attract your attention to the matter to enable you to have the data for me by Tuesday. Your account with Hutton & Co. was closed out in the year 1931, on February 17, 1931 by payment to you of \$33943.36 in cash. The statement I just made as to payment in cash is withdrawn. I find from Mr. Chester I was in error. The summary of your account with Hutton & Co. shows that you paid into Hutton & Company \$117,086.38 in cash; that there was paid back to you in cash during the life of the account \$41,405.86. During the life of the account you took losses of approximately \$35,000.00 and made profits of approximately \$22,000.00 showing a net loss of approximately \$11,000.00; and so in round figures, taking your losses and the moneys paid to you in cash and aggregating them, you have a figure of approximately \$44,000.00, and it would appear from that that \$100,000.00, or approximately that much, must have been taken out by you in securities

PH1018

- Is that a correct summary of your account with Hutton & Co.?
- A. I don't know whether it is or not. In other words, let us find first the - there is only one way to answer that and that is to get the names of the persons to whom those were delivered.
- Q. Your ledger account, Mr. Henry, shows the figures I have given you. I have given the principal figures in detail and the loss and profits in round figures. You did from time to time take down stocks from E. F. Hutton & Co.
- A. Every delivery is noted on that ledger.
- Q. Except for the joint trading account with Morris, which was had with Logan & Bryan and possibly carried over to Hutton & Co., your business with Hutton & Co. was on your own account, was it not?

PH11

- A. Oh, not at all.
- Q. I wish you would explain.
- A. There were securities purchased for other customers of Blyth & Co., which I purchased for them through that account, and when we get the names of those persons - in other words a list of delivered securities shows on the Hutton statement and will show who purchased them and who got delivery of them.
- Q. Clear down to 1931 were you doing business in your own name at E. F. Hutton & Co. in behalf of clients of Blyth & Co. for whom you were buying installments on company account or for company benefit?
- A. Not for company account. I was buying them as an individual for them.
- Q. Were you doing business in your own behalf or doing business for the company?

PH12

- A. That was more using the convenience of that local office in order to throw the brokerage business to a friend of mine by the name of Lyon who was a customer's man.
- Q. There was certain bookkeeping through Blyth & Co. in connection with these transactions?
- A. No, except the purchase and ultimate delivery of the stock to them.
- Q. Your transactions with Hutton & Co. aggregated just under \$750,000.00.
- A. That is money in and out.
- Q. I realize that, but it would be about that volume. Do you recall that?
- A. I have not seen the totals of that.
- Q. How did you keep track of business for customers of the house that you were transacting in your name with Hutton & Co.?
- A. I didn't have to, as they were ordered and paid for and delivery was made to them. There was no necessity for bookkeeping. Some of them were fully paid and some partially paid, but many of them were fully paid.
- Q. You mean to say that you kept all that business in your head?
- A. A statement made to them at the time of purchase where a completed payment was made did not require it.
- Q. During the life of the Hutton account interest of \$4,756.68 was charged to you and interest of \$65.70 was credited to you, and dividends or bond interest of \$5,657.80 was credited to you. You were charged with insurance and/or taxes of \$121.01. You were charged with purchases of \$704,952.24. You were credited with sales of \$588,425.91. You were credited with a profit of \$23,162.50. You were charged with a loss of \$35,771.05. You were credited with cash of \$147,086.38. You were charged with cash of \$31,405.86. Do you want us to understand that you had that range in varied transactions in behalf of a number of people without keeping any records at all?
- A. A large part of that, Mr. Lewinson, was margin account.
- Q. Well, I know, but Mr. Henry,
- A. A great deal larger increase was involved there in many instances than cash involved.

PH13

- Q. Your cash was quite considerable. You paid in almost \$150,000.00 in cash. Who were some of the people for whom you operated through this account?
- A. I prefer to let the record of Hutton & Co. speak for itself.
- Q. Will that show the people for whom you traded?

- Ph13L9 A. Exactly. I traded in margin accounts except this joint account of Mr. Morris and myself. The others were strictly purchases.
- Q. Do you mean to say that you paid broker's interest of almost \$5,000.00 on that small account that you carried for Morris?
- A. No, not at all.
- Q. Yet you are charged with large interest.
- A. Involved in that was some of Mrs. Shelby's money which I speculated with.
- Q. That is you speculated on your account through this account?
- A. Yes, I was trying to rebuild that situation as best I could.
- Q. When did you start to speculate on your own account with Mrs. Shelby's money?
- A. I could not tell you.
- Q. Can you tell us the volume of speculations?
- Ph14 A. You read a list of figures to me, I was going to suggest you add my telephone number to it. It was just a recitation of figures to me.
- Q. You didn't sustain much of a loss on this account. Your own loss was approximately \$11,000.00.
- A. \$11,000.00, and then of course the interest payments. I notice where you said bond interest.
- Q. Well, bond interest was credited to you.
- A. That was nothing I had the advantage of, because the bond interest that was credited to me there, well it offset those items which had to be paid by me -
- Q. Paid to whom?
- A. If it was Mrs. Shelby, in a case of any securities of hers that had been sold and the money involved there, I had to pay the interest to her on those bonds.
- Q. These figures that I am giving you, and have given you, are from the account with Hutton & Co. You had other brokerage accounts with Russell, Miller & Co., William R. Staats Company, Logan & Bryan, Graham, Adkisson & Co., R. E. Campbell Co., Blyth & Co. Stock Department, and Waggy & Co.?
- A. That is right, yes.
- Q. Were there any others?
- A. That was all.
- Q. Do you know what your losses or profits were on your account with Russell Miller & Co.?
- Ph15 A. No, I could not tell you.
- Q. Do you know what your losses or profits were with William R. Staats & Co.
- A. No.
- Q. With Logan & Bryan?
- A. No.
- Q. With Graham, Adkisson & Co.?
- A. No.
- Q. With R. E. Campbell & Co.?
- A. No.
- Q. With Blyth & Co. Stock Department?
- A. No. Just one transaction.
- Q. With Waggy & Co.?
- A. Waggy & Co. was either \$3500.00, somewhere between \$3500.00 and \$5000.00.
- Q. What was that, on the Julian transaction? When was that?
- A. Just before the crash. You as market exponent of that will probably know the date better than I do.
- Q. You do not remember the date?
- A. No.
- Q. Was that Mrs. Shelby's money or the money of either of the two girls?
- A. It might be possible. I cannot distinguish between what money was mine and theirs, but it is quite possible it was theirs.
- Ph16 Q. What was the period over which you had transactions with Waggy & Co.?
- A. A very short period. Bank stock was off. You got in when it was high and out when it was low. The thing that put me in there was the announcement that their issue had been sold by the company and I suppose there was no overissue of stock.
- Q. That is a bond issue had been sold through the First Securities Company, or don't you remember?

- PH16L10 A. I don't like to mention the names. Is it necessary?
Q. Of course, it is a matter of common knowledge that they did have an underwriting with the First Securities Company which was a joint syn property with you, according to your earlier statement.
A. Let me ask you this, Mr. Lewinson. Is this an essential thing? You asking me about Blyth & Company's account and I told you what it is at the circumstances under which I did it, namely, under the report that was out that a bond issue was sold.
Q. We will let that item rest there. Mr. Henry, can you say whether, as a result of your operations with each and all of the brokerage houses whose names I have given you, you sustained a net loss or a net profit on your market operations?
A. I could not tell you, Mr. Lewinson. In explanation of that I might say this, that every stock brokerage account was requested by me for investigation by these men, which was attended by Chester, but none of them have come to my sight only just during their investigation when they would ask me a question about something and since that time I have seen nothing.
Q. Do you understand that Blyth & Co. have transcripts or photostats of brokerage account you had with these various houses?
A. Either partial or complete. I could not tell you.
Q. You examined the transcripts or photostats of such accounts during the last two weeks of your employment at Blyth & Co.?
A. Yes.
Q. Mr. Henry, I wish you would state in as much detail as you can, the resources that you now have. Whether they stand in your name or in the name of your wife or your children or anybody else.
A. I cannot say that I have anything, Mr. Lewinson. I live in a house that has a debt on it, a first mortgage debt of about \$6500.00, and a second mortgage of \$5000.00, and I don't believe there is a dollar of equity there, so that even if I could claim it for my own I would not have anything there.
Q. What else?
A. Anything that would remain of the debts to the First National Bank of Pasadena or the Security First National Bank on loans which they held against such collateral as is on deposit with them.
Q. Collateral that is on deposit with them is collateral that belongs to Mrs. Shelby, is it not? Or was purchased by money that belonged to Mrs. Shelby or misappropriated from her.
A. Stock in Blyth & Company was not purchased with money of Mrs. Shelby, which is with the Security First National Bank. And the other items there, yes I imagine all of them were purchased with Mrs. Shelby's money. I allow now that being in her debt, that every dollar I had earned or anything else was involved at that time I purchased anything.
Q. Have you anything to add to that, as to your resources, assets or anything of worth?
A. I have no sources of income or anything of that nature.
Q. What have you been living on since November, 1932?
A. I received some money from Blyth & Co. for about a month.
Q. Did you receive money after the first of January, 1933?
A. No.
Q. When these things were discovered on November 16, 1932, or thereabouts did you have any conversation with Mr. Charles Blyth or any one else connected with the house relative to your continuing in their employ?
A. Not continuing in their employ. They were going to pay me what I had been receiving.
Q. What for? What were you to do?
A. I was working with the accountants and doing anything I could do in getting the account cleared away.
Q. What you really agreed to do with them, and they asked you to do, was to assist in the investigation of their affairs and make such statements as they should require of you and to sign such summaries as they should require and prepare for your signature.
A. That is what it ultimately wound up in.

PH17

PH18

P 419

PH19L16

- Q. The arrangement was that you should cooperate in the investigation and give such information as you could, was it not?
- A. Anything I could in order to get a clear idea of what the picture was.
- Q. Will you make that a little more definite as to whom you made that arrangement with, and what was said and who said it and where it was said?
- A. At the Biltmore Hotel. I told them then I would do anything I could.
- Q. Who was present?
- PH20 A. Mr. Loeb, Mr. Schwartz, Mr. Elyth, and Mr. Shurtleff.
- Q. Did they say you were to continue on the payroll?
- A. No, nothing was said about that.
- Q. When was that subject opened up?
- A. I could not tell you.
- Q. That happened on the 10th?
- A. It was probably toward the first of the month when I would have received a pay check.
- Q. What was said at that time?
- A. Mr. Babcock told me that I would receive what I had been receiving pending the time the investigation was completed, and that was about the gist of it.
- Q. Was anybody else present?
- A. Not that I remember of. I don't even remember the circumstances.
- Q. How long did you continue to assist on that investigation? Until the first of January or later?
- A. Up until the time the arrest took place.
- Q. When was that?
- A. December, you said the other day.
- Mr. Chester: December 21.

PH21

- Q. That is during the last week in December you did not do any work for them?
- A. No.
- Q. But you received payment for the whole month, however?
- A. As I remember - I think - yes, it was paid to Mrs. Henry.
- Q. You mean the check was made out to her?
- A. Yes. It was not part of the employment, but we were just strapped. I think my employment ended definitely - if that is what you wish to call it, employment, - ended with my arrest. Of course, by that time I think they had already notified the Corporation Commissioner, as I understand it, that I was no longer associated with them or whatever form of it was.
- Q. So you received your November pay check on the first of December or thereabouts?
- A. Yes.
- Q. Since your arrest on the 21st of December, 1932, you have had obligations for attorney's fees to Mr. Judson, I take it. How did you get the money to pay those fees, if you paid them?
- A. I borrowed \$2100.00 from my mother-in-law.
- Q. On security?
- A. No, no security. I offered her a chattel mortgage on the house or rather on the furniture.

PH22

- Q. You say a chattel mortgage was filed on the furniture?
- A. No, it never was. I was going to tell, then I had, I borrowed what I could on life insurance that was available to me that I could get.
- Q. When was that?
- A. Probably two months ago. Yes, - the 5th of May - February or March.
- Q. How much did you borrow on the Life Insurance?
- A. I think all told it totalled three to four thousand dollars.
- Q. What did you do with that money?
- A. I paid off part of the bail bond and paid back some people I borrowed from. I borrowed \$4,000.00 from one man down here to apply against the bail bond. I paid him off. I paid the bail bond down from \$1750.00 to some four hundred and something. I paid Mr. Judson - shall I disclose his fee?
- Q. Well, if he does not object, I would like to have the figure, not out of curiosity but for other reasons.

- PH22L20 A. Well, \$3500.00. Then living expenses and the hospital and the hospital and things of that nature. I had the telephone shut off once or twice and had the hot water heater taken out of the house once. We were buying it on partial payments and we had to get that replaced.
- PH23 Q. That have Mrs. Henry and your children been living on?
 A. They have been living with their grandmother. Mrs. Bush made the occasion of my birthday or Mrs. Henry's birthday the occasion for advancing a little money we could use.
 Q. What were your living expenses in 1932?
 A. I don't believe our household expenses ran \$200.00 a month. They may have but I would have to get - Mrs. Henry's bank account would show that.
 Q. Does Mrs. Henry have any money in the bank now?
 A. No.
 Q. Do you?
 A. Not at all.
 Q. Does that include clothes, doctor bills, etc.?
 A. No. For 1932, you are asking me for a definite year, and there were darn few clothes bought in 1932.
 Q. Had you any servants?
 A. We had a girl. We had a baby boy. He is four now. He was three then, and we had this young girl and paid her \$25.00.
 Q. What were your living expenses for 1931?
 A. Not very much different.
 Q. In 1930?
 A. Not very much different.
 Q. In 1929?
 A. You are just going year by year. I would rather depend on Mrs. Henry's bank account. I did not advance her money. I very seldom advanced her cash.
 Q. Did Mrs. Henry have independent means? Where did she get her money?
 A. She is a good manager. If I were in her place and she were in my place we would not be in the position we are now.
 Q. The money came from some source, and if she didn't have independent means it must have come from you.
 A. When you talk about household expenses, you mean
 Q. I mean your total outlays in connection with living, not only household expenses but entertainment, medical services, vacations, books, whatever you spend to live on.
 A. I will have to take that then year by year and try to figure it out. I am talking about living expenses. If you mean running a household including a servant, clothes, medical attention
 Q. Club dues, contributions to charity.
 A. I will have to refer to the figures themselves.
 Q. What clubs do you belong to?
 A. I belong to the California. I don't know whether I do yet or not. I was a member of the California Club. I was a member of the Annandale Golf Club.
- PH25 Q. How long have you belonged to the California?
 A. Since 1919.
 Q. How long to the Annandale Golf Club?
 A. I think the same year.
 Q. Any other clubs?
 A. The Valley Hunt Club.
 Q. How long did you belong to that?
 A. I think the same year.
 Q. What are the dues of the California Club?
 A. I cannot even tell you that now, \$25.00 or something.
 Q. If you come into the element of club dues and add those items in then it is a figure in excess of \$200.00 or \$250.00 a month. You belonged to the Tournament of Poses Association, did you not?
 A. Yes.

- PH25L17
- Q. Were there any dues in connection with that?
- A. I think \$1.00 a year.
- Q. Were there any activities in connection with that?
- A. No. You asked me about entertaining. Mrs. Henry and I have not entertained any one - what you would consider an entertainment - other than possibly two couples of us going to dinner, once in six months outside of the house, and so far as having them inside of the house only a very odd visitor occasionally.
- PH26
- Q. I would like to have you, Mr. Henry, in preparing this other data make it as full a statement as you can of your total expenditures since 1923.
- A. I will have to go back and take club dues and add them together.
- Q. You had some bills at the California Club, did you not?
- A. Yes. They were not excessive. I used the California Club very occasionally, occasionally theater tickets. I would eat there some before the Club moved to the new locality. My wife and I would eat there once or twice a week or once in two weeks, something like that, and then go to the theater.
- Q. How many trips have you made to Canada? Since 1919?
- A. Four, I think. Five if you include a trip to Victoria I took from Seattle.
- Q. Have you made any other trips during that period except the trip to Australia?
- A. No.
- Q. How much did you spend on your trip to Australia?
- A. Somewhere around \$2,000.00.
- Q. Where did you get the money for that?
- A. Our own money.
- Q. That was the first trip you made to Canada?
- A. I believe, Mr. Lewinson, it was 19 -, the summer of 1921.
- Q. Where did you go?
- A. I went, as I remember it, I went from Cleveland to Niagara Falls and from there to Halifax, River John in Pictou County, Nova Scotia.
- Q. What were you doing in Cleveland?
- A. Attending the Kiwanis Convention.
- Q. At your own expense?
- A. No, the expense of the Kiwanis Club.
- Q. Did they defray your expenses to Canada, too?
- A. No.
- Q. How much did you spend on your trip to Canada?
- A. Well, little or nothing on my trip to Canada. I went down to relatives to River John. Instead of going just to Cleveland I took a round trip to New York by way of Halifax.
- Q. Was Mrs. Henry with you?
- A. No.
- Q. Was that a vacation trip?
- A. I took it during my vacation, yes.
- Q. When was your next trip to Canada?
- A. I think it was in 1922.
- Q. Talking about the Kiwanis Club or Association, did you belong to the Rotary Club or any other organizations except the Kiwanis?
- A. No.
- Q. Did you belong to any lodges?
- A. Yes, I am a Mason.
- Q. You are a naturalized citizen, is that it?
- A. No.
- Q. What are you?
- A. Still a British subject.
- Q. When was it you made the next trip to Canada?
- A. I believe it was the next year, either 1922 or 23. 1922 I went to Toronto.
- Q. What did you do there?
- A. Kiwanis Convention.
- Q. Mrs. Henry with you?
- A. No.
- PH27
- PH28

PH28L16 Q. Any expense to yourself?
A. As far as going to Toronto and my hotel bills there. The expense to me was the added fare of going down to Halifax, and then from Halifax to New York and back.
Q. What was your connection with the Kiwanis Club?
A. I was what they call Governor of the California District/1920-21. in
Q. When did you next go to Canada?

PH29

A. In 1924.
Q. Where?
A. Let me see. I want to be sure of this. I did not go to Canada in 192 because in 1924 the Convention was at Atlanta, Georgia.
Q. You went to the Kiwanis Convention in Atlanta, Georgia, then?
A. Yes.
Q. When did you next go to Canada?
A. Mr. Lewinson, let me review those years again. I have to take these by Conventions.
Q. You say you have to take it by Conventions. Were all of your trips to Canada in connection with Kiwanis Conventions?
A. Yes. 1921, 1922 was Toronto. 1923 was Atlanta and I didn't go. In 1924 was Denver and I didn't go. 1925 was St. Paul and I didn't go. 1926 was at Montreal and that is when I saw Mrs. Shelby, and then either in 1928, I think it was I went up to Seattle to the Kiwanis Convention, and from there went to Victoria with my daughter.
Q. Have you taken any trips since 1919 other than the trips to the various Kiwanis Conventions and the trip to Australia?
A. No. My wife and I had been in Yosemite probably twice during that time.
Mr. Lewinson: I think we had better suspend at this point until we have gone over these accounts.

PH30

A. You have given me a job.
Q. And Mr. Judson I should like to have those papers.
Mr. Judson: It will probably be Monday afternoon or possibly Tuesday morning before they are finished.
Mr. Lewinson: If possible I should like to have them on Monday because I should like to have this closed up on Tuesday.