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Regulation of Securities (January 1970)

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Regulation of Securities

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January, 1970

I. 15 points

- (A) Against what persons do the sanctions of 16(a) and 16(b) of the 1934 Act apply?
- (B) State generally the requirements of both these sections, indicating in the case of 16(b) at least two areas in which the courts have had difficulty coming up with fair and logical answers.

II. 25 points

In Texas Gulf, what were the majority's theories under section 10 b 5 as to:

- (1) the liability it found on the part of the group of officers who bought stock from 11/12/63 to 4/8/64, while drilling was going on.
- (2) the liability it found on the part of the three officers or employees who bought stock on April 15 and 16, 1964.
- (3) the possible liability (to be determined in the District Court) of the corporation itself for issuing its "cool it" press release on April 12, 1964.

III. 15 Points

St. Stephens Church offers \$500,000 of its bonds, for the purpose of financing a new building, to the members of its congregation of 125 persons. Thirty of the members purchase all of the issue.

- (A) Is this transaction a violation of the Securities Act of 1933, if the issue is not registered? Why?
- (B) Would it make a difference if a dozen insurance companies were the sole offerees and purchasers? Why?

IV. 25 points

Referring to the Bar Chris case, discuss (1) the areas of fault, if any, and (2) the nature of the liability, if any, in which each of the following was involved:

Auslander, a banker and "outsider" who became a director in April 1961 and signed signature sheets for the registration statement in May 1961.

Grant, a director, a signer of the registration statement, and a lawyer (member of the firm of P,D,M & C, counsel to Bar Chris)

Ballard (partner) and Stanton (associate) in the law firm of D.B. & R. who acted as counsel for the underwriters.

V. 20 Points

- A. Distinguish between broker, underwriter and dealer.
- B. Under what conditions may X, a person not engaged in the securities business who has had no dealings with Corporation Y be deemed nevertheless an underwriter of some or all of its shares under the Securities Act of 1933?

C. Assuming that no registration statement is in effect, explain how offerings or sales by such person involving use of the mails would necessarily be a violation of the 1933 act.

D. Such violation being established and continuing, could the SEC enjoin in Federal Court both (1) Sales by X's vendor to him and (2) Sales by X to the public? Why?