Book 359

Bank of America

October 21 - November 20, 1938

Bank of America

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October 21, 1938

For the Secretary:

Attached is a suggested tentative draft of the letter of warning to be sent to the Bank of America, N.T. & S.A. We should have a conference on it shortly I think.

This is just for your information

Upm

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Enclosure

Reference is made to the letter of the Chairman of the Board of Directors of the bank to the Acting Comptroller of the Currency under date of May 6, 1938 and to the letter of the Board of Directors of the bank to the Comptroller of the Currency under date of October 15, 1938.

The Chairman of the Board, in his letter, claims that exaggeration of problems and underestimation of progress appear to be the obvious theme of the reports of examination of the bank; that the progressive improvement in the condition of the bank since his return to the management in 1932 is minimized by undue criticism; that the management of the bank has overcome obstacles that were generally viewed as insurmountable; that economic conditions since 1932 have not favored improvement in the condition of the bank; and that the problems of the bank can be more quickly cured if the bank receives a slight degree of cooperation from some of the Government agencies and representatives concerned, instead of being subjected to the critical and highly technical tactics presently employed which continue to absorb too great a proportion of the time and effort of the bank's management. This office does not concur in the opinion of the Chairman of the Board that there has been a misrepresentation of the condition of the bank in the reports of examination, or that there has been any exaggeration therein of the problems of the bank or any underestimation of its progress in solving them. Nor does this office agree that the management of the bank has overcome obstacles that were generally viewed as insurmountable. If such had been the case, the bank would not have been licensed to reopen after the banking holiday in 1933. Nor does this office agree that the economic conditions since 1932 have not favored improvement in the condition of the bank. If such had been the case, national banks throughout the country would not have shown the general improvement in their condition, due in a large part to prevailing economic conditions, that comparative figures disclose. In the case of your bank, the assistance afforded by improved economic conditions can readily be appreciated from the fact that the profits to the bank during the period from the sale of securities has exceeded $35,000,000 or a sum equal to approximately 72% of the net operating profits of the bank during that period.

The examination of a bank is made for the purpose of informing the supervisory authority of the bank's condition so that that authority may perform the duties imposed upon him by law. Copies of the report of examination are sent to the Board of Directors of a bank to disclose to it the bank's condition and to indicate to the bank's management those problems of the bank that require its special attention. The examination of a bank is not made for the purpose of complimenting the bank's management, and if criticism thereof is necessary to advise the Board of Directors of a bank of its condition, those criticisms must be made. The primary function of a bank supervisory authority is the protection of the funds of depositors. A bank supervisory authority considers the bank from the viewpoint of its being a trustee for its depositors and not from the viewpoint of its being the principal earning asset of a stockholder, either corporate or individual. This office seeks to cooperate with the Board of Directors and the management of banks under its supervision, with a view to insuring the safety of depositors' funds and working out the problems of such banks. In the case of your bank, that cooperation between the bank's management and this office has been lacking, due to the management's arbitrary and antagonistic attitude toward well-founded criticisms in the reports of examination of the bank on the basis that such criticisms are uncomplimentary to the management.

The Board of Directors, in its letter, which will be replied to under separate cover, states that Examiner Palmer, when he appeared before the Board of Directors at its meeting on September 13, 1938, with a telegram from this office which he read to the Board, delivered criticisms of the bank on items with respect to which the Comptroller of the Currency had never theretofore communicated formally with the management or the Board of Directors. The items set forth in the said telegram had all theretofore repeatedly been criticised in formal reports of examination of the bank which had been sent to the bank addressed to the Board of Directors. In addition, they had been discussed with the Chairman of the Board of Directors and the Vice President and Cashier of the bank, as well as with other representatives of the bank, here in Washington. This office felt that its position concerning such matters was not being communicated to the Board of Directors. Consequently, this office took the most direct method of getting before the Board of Directors its position theretofore taken with respect to the necessity for the conservation of the earnings of the bank and the making of proper provision for the bank's criticised assets before the Board of Directors should declare further dividends. From the letter of the Board of Directors, it is evident that this office was correct in its belief that its position had not theretofore been fully disclosed to the members of the Board of Directors. The responsibility for such a situation rests with the Board of Directors. The directors should give to the bank that degree of supervision contemplated by the law and their oaths of office, and see that the matters brought to their attention are corrected or adjusted. Unsatisfactory conditions in banks are due generally to the failure of directors to direct. While directors are not required to devote their entire time to the details of the business management of the bank, and may commit such routine to their duly authorized office s, provided they retain and exercise a general supervision, directors do not discharge the duty imposed upon them by law by reposing the entire administration to officers selected by them, without supervision of examination.

This office is pleased to note the assurances given by the Board of Directors of its cooperation in every effort to further the progress of the bank. This office also notes the statement in the letter of the Board of Directors that it will appreciate this office affording the management of the bank an opportunity to clarify some of the issues raised, and, further, that the main criticisms contained in the report of examination are fundamental questions of policy with respect to which the Board of Directors feels that the management should be accorded the privilege of direct contact and conference with this office. The management of the bank has always been accorded the privilege of direct contact and conference with this office, and has availed itself of this privilege on many occasions. The management of the bank will be afforded an opportunity to clarify the issues raised in the report of examination of April 28, 1938 at any time that the management is prepared to discuss with this office a constructive program looking toward the correction of the fundamental problems of the bank.

There are three major problems in your bank as disclosed by the report of examination as of April 28, 1938. The first two have to do with the asset condition of the bank and the policy of the management in relation thereto. The third has to do with the policy of the Board of Directors in failing to conserve the bank's earnings to provide and maintain an adequate capital structure, and in dissipating such earnings through the payment of excessive dividends.

Sound banking practice does not permit of any extension of credit, directly or indirectly, to any person, partnership, corporation or association and/or to his or its directly or indirectly owned or controlled subsidiaries or affiliates that would result in an unwarranted concentration in any type of bank assets.

The report of examination of the bank as of April 28, 1938 discloses an unwarranted concentration in the bank's assets of direct and indirect obligations of Transamerica Corporation and its subsidiaries and affiliates in the aggregate amount of $76,203,902 which sum represents 68% of the bank's total book capital structure. The details of this concentration and the policy of the bank's management in dealing with it are set forth in the report of examination. The elimination of this concentration is highly desirable in the interest of sound banking.

In connection with this Transamerica Corporation concentration, your attention is directed to the manner in which the Inter-America Corporation contracts have been eliminated by the bank's management. The sum of $14,500,000 was credited on the books of the bank against the balance due to the bank under these contracts. This credit was an unwarranted voluntary reduction by the bank's management of a part of the purchase price agreed to be paid to the bank by a reputedly solvent corporation for assets sold by the bank to that corporation under the terms of contracts secured by a pledge of collateral. The sum of $2,716,800 was eliminated by the acceptance by the bank from Transamerica Corporation, a reputedly solvent corporation, of 56,600 shares of stock of National City Bank of New York, in satisfaction of the debt of Transamerica Corporation to the bank at a time when Transamerica Corporation was obligated and apparently unable to make cash payment of such amount from its earnings. Transamerica Corporation paid to the bank the sum of $5,844,287 in cash, which sum represented funds paid out by the bank to repurchase previously charged off assets of the bank, and was made available to Transamerica Corporation through a series of inter-company credits. Under the terms of these Inter-America Corporation contracts, Bank of America sold certain assets of the bank, which had been classified by national bank examiners during the year 1931 as "Loss" or "Doubtful" or as assets of such unsatisfactory character as to require their elimination from Bank of America's balance sheet, in the face amount of $35,312,902, and to guarantee to the bank the payment of such purchase price, in accordance with the terms of the contracts, certain securities were assigned, transferred and deposited with the bank, in pledge. These Inter-America Corporation contracts were made for the purpose of eliminating unsatisfactory assets from the bank and substituting therefor enforcible secured contracts of a reputedly solvent corporation to make payment to the bank of the purchase price agreed to be paid for such assets. There is no justification for the voluntary reduction of the debt of the corporation secured by a pledge of collateral; for the substitution of previously charged off assets of the bank under a guarantee by Transamerica Corporation as to their liquidating value for the direct obligation of Transamerica Corporation; or by the questionable acquisition of stock of National City Bank of New York, even though Transamerica Corporation executed an option to purchase such stock.

California Lands, Inc., a corporation wholly owned by Transamerica General Corporation, is indebted, directly and indirectly, to Bank of America to the extent of $12,402,542. California Lands, Inc. owns, operates, leases, and sells farm properties for its own account and properties acquired under foreclosure for the account of Bank of America and subsidiaries of Transamerica Corporation. The contracts now in force between California Lands, Inc. and Bank of America were executed on April 4, 1934. Since that date, California Lands, Inc. has reduced its indebtedness to the bank to the extent of $7,435,325 through liquidation of real estate of that amount, while, at the same time, it has acquired additional real estate under these contracts to the extent of $8,322,207.

Capital Company, a corporation wholly owned by Transamerica General Corporation, is indebted, directly and indirectly, to Bank of America to the extent of $29,130,861. Capital Company owns, operates, leases, and sells urban properties for its own account and properties acquired under foreclosure for the account of Bank of America and subsidiaries of Transamerica Corporation. The contracts now in force between Capital Company and Bank of

America were executed on April 4, 1934 and subsequent dates. Since April 4, 1934, Capital Company has reduced its indebtedness to Bank of America in the amount of $23,158,410 through liquidation of real estate of that amount, while, at the same time, it has acquired additional real estate under these contracts to the extent of $35,254,457. 8

The performance of California Lands, Inc. and Capital Company under these contracts, which represent a major portion of the total Transamerica Corporation concentration, demonstrates that the indebtedness of these corporations to Bank of America under these contracts is dependent upon the liquidation of the underlying real estate and not upon any capacity of the corporation to make payments under the contracts regardless of such liquidation.

Sound banking practice requires that no unwarranted extension of credit be made, directly or indirectly, to Transamerica Corporation and/or its directly or indirectly owned or controlled subsidiaries or affiliates; or to any partnership, corporation or association and/or its directly or indirectly owned or controlled subsidiaries or affiliates, in which Transamerica Corporation and/or its directly or indirectly owned or controlled subsidiaries or affiliates owns or own a substantial part of the invested capital; or, for the benefit of Transamerica Corporation and/or its directly or indirectly owned or controlled subsidiaries or affiliates, directly or indirectly, to any person, partnership, corporation or association on the security of obligations or assets of Transamerica Corporation and/or its directly or indirectly owned or controlled subsidiaries or affiliates.

The report of examination of the bank of April 28, 1938 discloses an unwarranted concentration in the bank's assets of real estate aggregating $97,660,265, which sum represents 87% of the bank's total book capital structure. This concentration includes the contracts of California Lands, Inc. and Capital Company in the amount of $39,739,346. These contracts required no down payment by these corporations. They provided for payment of 10%

of the book value of the real estate covered by the contracts approximately two years after the date of the contract, and 10% per annum thereafter. The bank retains title to the real estate until it is sold by California Lands, Inc. and Capital Company, and is obligated to pay all taxes on the real estate. The bank agrees to accept at face value cash, notes, or sales contracts received by these corporations in payment for the real estate sold by them. The cost of the rehabilitation or improvement of the properties covered by the contracts by these corporations is added to the unpaid balance due from them under the contracts. These corporations pay 1% interest on the balance due the bank. All real estate covered by these contracts is carried by the bank on its books as "Real Estate Sales Contracts" and shown as "Loans and Discounts" in published reports of condition. The amount of real estate covered by these contracts has increased from 29% of the bank's book capital structure of $97,419,540 as of June 22, 1934 to 35% of the bank's book capital structure of $112,420,311 as of April 28, 1938.

The real estate concentration also includes real estate shown in the report of examination of April 28, 1938 as "Banking House" in the amount of $27,613,727, included in which were properties of a book value of $1,578,005 which are not used as banking premises, and which should, accordingly, be carried as part of "Other Real Estate Owned". The report of examination of April 28, 1938 shows "Investment in and Advances to Companies or Nominees Holding Title to Banking House" in the sum of $19,332,734. This sum represents an investment of the bank's funds in the stock of Merchants National Realty Corporation and includes the sum of $6,039,920 which represents real estate owned by the corporation and not used as banking premises, which real estate should be carried on the books of the bank as "Other Real Estate Owned."

Sound banking practice requires that the books of the bank and the published reports of condition of the bank correctly reflect the nature of the assets of the bank. Sound banking practice and compliance with the provisions of law would, therefore, require that real estate carried on the books of the bank as "Real Estate Sales Contracts" be carried as "Other Real Estate Owned" and so reported in published reports of condition of the bank. As a result of the terms and conditions of these contracts, the bank is enabled to carry parcels of land, which are either unsaleable or can only be liquidated at a substantial loss, for an unlimited period of years, through the device of crediting the proceeds of the sale of a given parcel as a payment on the balance of the total contracts instead of treating each transaction as an individual item.

Reference is made to the criticism contained in the report of examination of April 28, 1938 in connection with the write-up of the cost price of certain United States and high grade municipal bonds. Your attention is called to the fact that during the past ten years there have been three occasions on which the difference in the value of the securities account of the bank between the height of appreciation and the low point of depreciation in the same cycle approximated $17,500,000 with an extreme between the highest point of appreciation and the lowest point of depreciation of more than $33,000,000. If the management takes advantage of a rising securities market to capitalize an unrealized profit represented by appreciation, it must stand ready to make adequate provision for depreciation in the market value of its investment securities so written up. This it has refused to do in the past. As revealed by the report of examination of April 28, 1938, a portion of these bond write-ups were still carried on the books of the bank as an asset.

Reference is made to the criticism contained in the report of examination of April 28, 1938, in connection with impounded German credits. These German credits were carried on the books of the bank at $7,964,961. The liquidation of these credits involves their conversion into registered marks. The exchange loss on these credits, represents the difference between the value of registered marks and the value of free marks, which has been classified as "Doubtful" and "Loss". This classification is considerably more lenient that the charge offs voluntarily taken by other large national banks holding these German credits. The management has heretofore refused to recognize these classifications.

The methods employed by the bank's management in attempting to effect corrections of criticised assets are exemplified by the cases of the Bankamerica Company and Transamerica Corporation. Bankamerica Company is a corporation dealing in securities and underwriting municipal bond issues. The liability of this company to the bank was removed from the Transamerica Corporation concentration in the April 28, 1938 report of examination, because of a questionable technical change in the relationship between Bankamerica Company and Transamerica Corporation.

Bankamerica Company was sold by Transamerica General Corporation to Western States Corporation, a Nevada corporation, having a capital consisting of 10,000 shares $1.50 cumulative dividend Class "A" voting stock of the par value of $5.00 a share, entitled to preference up to $27.50 a share and accumulated dividends upon liquidation or dissolution, and 10,000 shares of Class "B" non-voting stock of the par value of $250.00 a share. Capital Company, which was obligated to Bank of America to the extent of over $29,000,000, paid $5,000,000 to Western States Corporation for the 10,000 shares of Class "B" non-voting stock of an aggregate par value of $2,500,000. Bankamerica Company is still indebted to Bank of America despite the change of ownership of Bankamerica Company.

The liability of Transamerica Corporation to the bank was eliminated through a series of transactions as follows: - -

On October 1, 1931, Bank of America sold to Transamerica Corporation, for a consideration of $9,155,786.[illegible], certain real estate carried on the bank's books as banking premises, but which were not being used for banking purposes. The contract provided for a down payment with the balance payable within five years from the date of the contract, or October 1, 1936.

Subsequently, Transamerica Corporation resold the properties acquired by it under this contract to Capital Company (a corporation all of the stock of which is owned by Transamerica General Corporation, which, in turn, is 100% owned by Transamerica Corporation).

On July 14, 1937, more than nine months after the date on which the balance due to Bank of America under this contract was to have been paid to it, Bank of America contributed $5,875,000 in cash to the surplus of Merchants National Realty Corporation (a banking premises holding corporation all of the stock of which is owned by Bank of America), and increased the book value of the bank's investment in the stock of this corporation by the same amount. On the same date, Merchants National Realty Corporation purchased from Capital Company, for the sum of $5,874,457, the properties then held by Capital Company which had been purchased by it from Transamerica Corporation, such sum being the balance remaining due to Bank of America under the original contract of October 1, 1931 between Bank of America and Transamerica Corporation. Capital Company then paid to Transamerica Corporation the proceeds of this sale, to eliminate Capital Company's liability under its contract with Transamerica Corporation. Transamerica Corporation, in turn, used the same funds to make payment to Bank of America in order to eliminate Transamerica Corporation's liability under its contract of October 1, 1931, with Bank of America. The net result of these transactions is that Bank of America increased its investment in the stock of Merchants National Realty Corporation in the sum of $5,875,000, which acquired real estate having a book value of $5,874,457, thus eliminating the direct obligation of Transamerica Corporation to the bank.

Reference is made to the extension of credit to Transamerica Corporation and its subsidiaries exceeding the limits prescribed by Section 5200 of the Revised Statutes, as set forth in the report of examination of April 28, 1938. California Lands, Inc. and Capital Company, both of which corporations are wholly owned by Transamerica General Corporation, which, in turn, is wholly owned by Transamerica Corporation, resold to the bank certain assets formerly charged off by the bank and sold by it under certain agreements. By virtue of this resale to the bank of its previously charged off assets, Transamerica Corporation was enabled, from the proceeds of this sale, to effect the liquidation of the Inter-America Corporation contracts to the extent of $5,844,247 and thereby regain collateral previously held by and pledged with the bank under these contracts, substituting in lieu thereof its guarantee to the bank, to the extent of $6,500,000, of the liquidating value of the previously charged off assets repurchased by the bank from Transamerica Corporation's wholly owned subsidiaries.

The amount of this indebtedness of Transamerica Corporation to the bank as of April 28, 1938 was $5,524,096. In addition, First National Corporation of Portland, Transamerica Service Corporation, Bank of America Agricultural Credit Corporation, California Lands, Inc., Capital Company and Inter-Continental Corporation, all subsidiaries of Transamerica Corporation, were indebted to the bank as of April 28, 1938 to the extent of $17,594,056, making a total extension of credit of $23,118,152. The bank's loaning limit under the provisions of Section 5200 of the Revised Statutes is $9,000,000. This excessive extension of credit of $14,118,152 is a violation of Section 5200 of the Revised Statutes.

From the first examination of the bank made after its conversion into the national banking system in 1927, to the last examination of the bank made as of April 28, 1938, the book capital of the bank was increased approximately $54,000,000 and the net sound capital of the bank was increased approximately $42,000,000. During that period the capital structure of the bank was increased to the extent of $49,391,397, of which $40,000,000 was provided by the sale of common stock of a par value of $12,500,000 at a premium of $27,500,000; $6,565,800 by voluntary contribution; and $2,825,597 by an unrealized write-up of municipal bonds. During the same period the increase of real estate acquired under foreclosure was $42,157,464 and the total real estate concentration of the bank increased $74,844,786.

From the date of conversion of the bank into the national banking system to June 30, 1938, the total of losses charged off was approximately $82,000,000 while the net operating profit for the same period was approximately $88,000,000. Losses shown in the report of examination as of April 28, 1938, which was delivered to the bank subsequent to its report of earnings and dividend as of June 30, 1938, shows additional losses of approximately $8,000,000. It is apparent that the losses of the bank have exceeded its net operating profit from 1927 to June 30, 1938. During the same period, recoveries on losses charged off have amounted to but 6%, which is less than half of the general experience of national banks in connection with recoveries on their charged off assets.

The report of examination of October 21, 1927 shows $1.00 of net sound capital ($54,273,088) for each $10.76 of deposits ($583,946,000), while the report of examination of April 28, 1938 shows $1.00 of net sound capital ($96,447,599) to each $14.36 of deposits ($1,385,494,280). The assets classified in the October 21, 1927 report ($33,709,000) represented 5% of the total assets of the bank amounting to approximately $670,000,000, while the assets classified in the April 28, 1938 report ($137,818,000) represented 9% of the total assets of the bank amounting to approximately $1,512,000,000. The assets classified in the October 21, 1927 report represented 57.7% of the bank's book capital of approximately $58,373,000, while the assets classified in the April 28, 1938 report represented 122% of the bank's book capital of approximately $112,420,000.

The law imposes upon the Board of Directors of a national bank the responsibility for the determination of the disposition of the earnings of the bank. Sound banking practice requires that the losses of a bank be charged off and that its earnings be conserved to provide and maintain an adequate sound capital structure. An adequate capital is not supplied by compliance with legal minimum capital requirements. $1.00 of capital to $10.00 of deposits is accepted as a sound ratio. The determination, of course, of what constitutes an adequate capital in any given case necessitates a consideration of the nature of the assets of the bank, as well as the nature of its liabilities. In the case of your bank it is the opinion of this office that \$1.00 of capital to \$10.00 of deposits would be a minimum amount of capital to satisfy the requirements of adequacy because of the large concentration of frozen assets in an aggregate amount exceeding the bank's total book capital structure. 15

The report of examination of April 28, 1938 points out to the bank's directorate and management the unwarranted credit extension to Transamerica Corporation and its subsidiaries and affiliates; the heavy concentration in real estate, a large portion of which is not properly carried on the books of the bank or properly reported in published reports of condition; and the dissipation of the bank's earnings in excessive dividends. All are matters of major importance, worthy of the time and efforts of the management consumed. While the problems are serious, they can be cured by the establishment and maintenance of a constructive program which would, of necessity, include the conservation of the earnings of the bank and their application to the charge off of losses and the setting up of adequate reserves for other assets adversely classified. This office could cooperate with the bank's directorate and management in working out the bank's problems if a satisfactory program were established and carried out.

Because of the large concentration in credits extended to Transamerica Corporation and its subsidiaries and affiliates for a long period of time, the heavy concentration in real estate and in assets dependent upon the liquidation of real estate for their elimination from the bank, and because of the absence of fundamental correction of the repeatedly criticised asset condition of the bank, it is the opinion of the Comptroller of the Currency that it would be an unsafe and unsound practice in conducting the business of your bank for the Board of Directors to declare any dividend, unless, in addition to meeting all statutory conditions precedent, assets classified as estimated losses in the last preceding report of examination and any other assets known to be losses, first shall have been charged off and all other assets adversely classified shall have been properly provided for through write-down or through the establishment and allocation of adequate reserves.

Pursuant to the provisions of Section 30 of the Banking Act of 1933, the Comptroller of the Currency hereby warns the bank, its officers, the Board of Directors and members thereof, to discontinue the unsafe and unsound practice of extending credit in such a manner as to result in an unwarranted concentration, or of declaring any dividend unless proper provision for the criticised assets were first made, and to discontinue the violation of Section 5200 of the Revised Statutes through extension of credit in amounts in excess of the limitations set forth in such section.

THE WHITE HOUSE
WASHINGTON

Poughkeepsie, N.Y.,
October 22, 1938.

MEMORANDUM FOR SECRETARY MORGENTHAU:

Since March 4th, 1933, A. P. Gianini has been sending me frequent letters and telegrams about his banking business and similar matters. He has, I think, also communicated with other people in the White House and has written frequently to the President.

Obviously neither I nor anybody else in this office has sought to help Mr. Gianini in any shape, manner or form. The regular procedure has been to acknowledge the communications and, if the contents seemed to warrant anything further, to refer such communications to the Secretary of the Treasury or other officials for their information.

On several occasions I have written to Mr. Gianini quite frankly, informing him that I had no jurisdiction in the subject matter of his communication and that I lacked any knowledge or information with respect thereto.

I am writing this in order that the record may be clear in the event that Mr. Gianini or anybody else, for personal or political motives, seeks to make it appear that Mr. Gianini has any form of "backdoor" or personal influence with this office.

M H McIntyre
M. H. McINTYRE
Secretary to the President.

October 24, 1938

For the Secretary:

The following is quoted from a letter dated October 21st from W. O. Wayman, a Director of the Anglo California National Bank:

> " . . . . . . A number of matters have been corrected from the original report that was read to the board of directors at the meeting early this month, and you may rest assured that the sub-committee appointed by the directors will proceed as rapidly as possible in meeting the requests of your department.
>
> "Mr. Herbert Fleishhacker has been in Washington and returned a day or so ago, and his resignation as President of the Bank has been asked for and a meeting of the board has been called for Thursday, the 27th, and if the resignation is not before the directors at the meeting on Monday he will be removed as President of the Bank by the board of directors.
>
> "I wish to compliment, in no uncertain terms, your bank examiner, Mr. Sedlacek, who has been extremely patient and, to my way of thinking, is doing a most capable and thorough piece of work, and there is not a single criticism that I can offer in regard to his method of procedure."

upm

Upm

October 25, 1938

MEMORANDUM IN RE THE ANGLO CALIFORNIA NATIONAL BANK
SAN FRANCISCO, CALIFORNIA

At 6:10 p.m., I talked to Mr. Sedlacek on the telephone. He said that he had a bad break Friday night in that Herbert Fleishhacker told Mortimer Fleishhacker and Paul Hoover that the last thing in the world he would do would be resign or permit himself to be kicked out. If he is forced to resign he will see that Mortimer and Paul Hoover have to also. He feels that he has enough on them to make it pretty hot for them.

Today Sedlacek said the directors with whom he confers think that Herbert may stick to his decision not to resign. It depends on how he feels on Thursday. Sedlacek thinks he is insane, that he talks one way when he means another, carries on, cries, scolds and blusters around. Upon looking up the articles of the association, it was discovered that two-thirds of the entire board must vote to declare the office of the president vacant. It may not be possible to get a two-thirds vote. Sedlacek said that he has found seven or eight very good men among the Board of Directors and the situation will be canvassed before Thursday. If it is impossible to get a two-third's vote of the board, Sedlacek thinks this office must appoint a conservator for the bank because the seven good directors will resign at once if Herbert's resignation is not asked for at the board meeting. They have set their minds on that. Herbert must go.

There is some disposition not to pay the second half of the dividend recently declared and which is payable on December 31. The board feels that it was illegally declared and so can be rescinded. If they can get the RFC money in before December 31, they can quickly rescind their declaration and redeclare without any publicity. If not, there will be a good deal of gossip on the street. Sedlacek is working on the letter which the Board of Directors expects to send and require the letter from the Comptroller's Office.

He asked whether a wire to this office or to the RFC from the directors asking the question "would you approve the purchase of preferred stock if Herbert Fleishhacker remained as president?" would bring any definite reply. Sedlacek feels that the good directors are trying to do a job and are having difficulty in getting rid of Herbert, and that a stand by this office or the RFC would be tremendously helpful and encouraging to them. He said that Herbert is threatening to blow up the bank and making similar threats if anything happens to him. Herbert repeats that no one in Washington has said he must resign and that he still hopes Washington will say that he won't have to. Sedlacek suggested that a definite stand that Herbert must resign would probably come better from the Comptroller's Office than anywhere else since we are the ones who have the record of criticizing the management.

Sedlacek said that it is reported in San Francisco that Jesse Jones is supposed to have told Herbert that he didn't care about the date of his resignation or the date of the money going in, and that holding up the resignation until the shareholders' meeting in January would be satisfactory to him.

Sedlacek said that Herbert follows him around the bank, seeking him out whereever he is working to tell him that he and his wife and family are being destroyed and it is all because of the lies that Sedlacek has put into his report of examination.

I told Sedlacek that I would think it over over night and talk to my associates here in the morning, but that my disposition was in view of the circumstances to see if it might not be possible for this office to be willing to take a definite stand for Herbert's immediate resignation in the event that the direct question were put up to us by the board committee. I told him that I would call him tomorrow.

Upm

October 25, 1938.

MEMORANDUM

At 4:30 P. M. Mr. Taylor had a group meet in his office to discuss procedure in connection with the Bank of America N.T.S.S.A. of San Francisco, California.

After considerable discussion it seemed to be the consensus that before going ahead with a letter of warning the Comptroller's office make a thorough analysis of the letter of October 15 received from the directors of the bank with a view to ascertaining just what are the points of difference between the office of the Comptroller and the Bank and determining what changes in the Bank have been made since the Comptroller's examination.

October 26, 1938

I talked to Mr. Sedlacek in San Francisco at 5:15 p.m. He said that the Directors' committee of the Anglo California National Bank met late yesterday afternoon and that since then they have been canvassing the Directors and met with considerable success on the proposition of Herbert's immediate resignation, but they do not have a two-thirds vote as yet.

The committee prepared for Herbert a letter of resignation giving him a "beautiful out", stating that in view of the pending law suits and the persecution of an innocent man, he is retiring from the bank in the interim. Herbert took the letter home last night to sleep on and today he has indicated to some people that he found it satisfactory. As a matter of fact, he made one or two slight changes in it, indicating that the rest of it was satisfactory. He has been in his office today seeing no one but clearing out a lot of personal papers from his desk--another good indication. He saw his attorney, a Mr. McInerney, about 12:15 but no one has had any indication from him since that time as to what he thinks.

Sedlacek says that Mortimer Fleishhacker has the opinion that it is satisfactory to Mr. Jones and to the Secretary to leave him in charge of the bank for two or three years to demonstrate that he can do a good job. Director Humphries yesterday suggested that Mortimer be elected President until a new management is decided upon and attained. Sedlacek wondered how we feel about that.

Sedlacek understands that Mr. Jones submitted the names of three persons who might be picked by the RFC as President of the bank, with the understanding that if none of the three was acceptable, Mr. Mortimer Fleishhacker would submit other names to Mr. Jones for approval.

Sedlacek seemed surprised that the RFC had not included a definite condition that Herbert resign in the tentative letter which they have drafted to the Secretary of the Treasury and the conditions of which I read to him over the phone. I told him that the Secretary of the Treasury, of course, was free to stipulate any additional conditions that he wished.

I told Sedlacek that we here were disposed to feel that Herbert ought to resign immediately and we were also disposed to feel that money should not be put into the bank until he did. He said that while he thought there was no necessity for a telegram from us to that effect, it might happen that during the meeting tomorrow, which begins at 5:30 our time, one of the Directors might want to call us for an oral expression of our views.

Upm

C O P Y

Board of Governors
of the
FEDERAL RESERVE SYSTEM
Office of the Chairman

October 27, 1938

Dear Henry:

Upon my return from the west just following my visit to San Francisco, I asked some of our legal and operating staff who have had practical experience with Section 30 proceedings to let me have for my own information a brief memorandum on both the legal and practical aspects and the time element involved in such a proceeding, as contrasted with possible alternative procedures, assuming that the case in question related to a large banking institution and that a variety of complaints were alleged, including the question of dividend disbursements.

While I knew in a general way about Section 30 procedure from our experience with minor cases, I was frankly dismayed, on reading this memorandum, at the possibilities of interminable delay and infinite complexity involved in a case such as is envisioned here.

I am particularly impressed by the fact that in dealing with a case that needs prompt correction, this procedure at best means delay after delay--that, first, it must be found that there is a violation of law or that unsafe or unsound practices are being pursued; that a warning must then be issued; that next, "a reasonable time" must be allowed to permit of corrections; that it must then be shown and subsequently proved that the violations or unsound practices were continued, notwithstanding the warning and allowance of a reasonable time for correction; and that all this must precede the filing of a certificate with this Board. Then there must be further time allowances wholly aside from the time wasting tactics that could be employed by a resourceful defendant, to say nothing of the enormously complicated accounting and valuation problems affecting real estate and other assets that would arise if, as must be assumed, defendant attorneys undertook to disprove the Comptroller's charges by the testimony of experts of their own choosing.

On the basis of the facts developed in this memorandum, I have concluded that it would be a great mistake to proceed along these lines and that I ought to let you know how I feel about it personally. I hope you will have an opportunity to look this memorandum over yourself.

Sincerely yours,

/s/ M. S. ECCLES

M.S. Eccles
Chairman.

Honorable Henry Morgenthau, Jr.,
Secretary of the Treasury,
Washington, D. C.

enclosure

Problems of procedure under Section 30.

The following are the steps to be taken in the Section 30 proceedings

1. There must be a violation of law or unsafe or unsound practices by the officer, employee or director.
2. A warning must be issued by the Comptroller's Office.
3. A reasonable time must elapse after the warning to permit of corrections.
4. Despite the warning the violations of law or the unsafe or unsound practices must have continued.
5. A certificate reciting the above facts and setting forth the specific matters complained of must be filed by the Comptroller's Office with the Board.
6. The accused must be given notice and such reasonable time as will meet the requirements of "due process".
7. The hearing proper.

Comptroller's proof of certificate.

In many of his actions the Comptroller of the Currency acts in a so-called quasi-judicial capacity and, except under certain exceptional circumstances, a court will not look behind his actions. For instance, his determination of losses and his resulting finding of an impairment in a bank's capital or its insolvency, his appointment of a receiver, and the levy of an assessment against shareholders are all actions which the courts have regarded as final. Similarly, it would seem that a finding by him of the necessity to appoint a conservator "in order to conserve the assets of any bank for the benefit of depositors and other creditors" would not be reviewable by the courts. This, however, would not be true with respect to the institution of a proceeding under Section 30. "Certifying the facts" does not prove the facts. Accordingly, there must be evidence to support such charges, not necessarily of the type admissible only under the technical rules of evidence applicable to judicial proceedings but certainly of the type entitled to consideration under the general rules applicable to administrative proceedings.

For instance, the legality or illegality of a dividend payment by a bank, if that should be an issue, would depend upon the amount of the bank's losses and statutory bad debts at a given date. Proof would be necessary with respect to each item of loss and each statutory bad debt until collectively such items aggregated "an amount greater than its net profits then on hand". In many instances it probably would be necessary to fix the value of collateral, real estate and otherwise, concerning which no doubt there would be wide differences and conflicts in the testimony which would have to be resolved. Furthermore, since Section 30 involves a failure to discontinue violations of law and unsafe and unsound practices after warning, it would be necessary to establish the case on at least two dates, to wit, before the warning and after the warning. This would be true with respect to each charge in the certificate and to each asset involved in each charge.

Opportunities for attack and delay by defendant in an important case.

With representation of the accused director or officer in the hands of the best talent available, it is reasonable to expect attacks upon the procedure as a whole, attacks upon each step in the procedure, claims with respect to reasonableness of the time afforded, requests for delay, and other objections, none of which could be lightly considered and the effect of all of which would be to impede and delay action upon the merits. Then, with respect to the merits of the case it is reasonable to expect that repeated attempts would be made to color the entire picture by emphasizing the fact that the bank was licensed as a sound bank subsequent to which the Comptroller's own examinations have shown periodic improvement in the bank's position; and that further, the bank has been permitted, with the approval of the Comptroller of the Currency, to establish approximately fifty de novo branches, which would seem to indicate that at the time of the establishment of each such branch the Comptroller found the bank to be in satisfactory condition else he would not have permitted its establishment. Also, it is to be expected that with respect to each asset involved not only will there be an attempt to establish the value thereof by their own witnesses, but also it is reasonable to expect that the examiner will be cross-examined with respect to each asset, the value placed thereon at each examination by him, and his prior criticism thereof. The amount of time which could be consumed in a proceeding conducted along such lines staggers the imagination, and yet if a hearing is to be conducted so as to meet the test of fairness imposed by the courts, it would be almost impossible to prevent the use of such tactics if chosen to be used.

It may be seen, therefore, that action under Section 30 at best is a long and tedious process. Moreover, it does not operate directly upon the bank but only upon officers and directors of the bank. If the removal of an officer would not have the effect of changing the directors' policies, nothing would be accomplished. And, if removal of the directors would mean only that stockholders would elect directors that would carry out the same policies, nothing would be accomplished. It might be well, therefore, first to consider the situation from a standpoint of control and whether the removal of particular individuals would affect such control before attempting to effect correction by removing such individuals from nominal office.

Other available procedures.

On the other hand, it would seem that if the situation is so critical as to require immediate action the bank's license could be revoked by the Secretary or the Comptroller could appoint a conservator. Either of these alternative would be effective without delay and would operate directly upon the bank.

Another proceeding of a direct nature would be to institute a suit to forfeit the bank's charter. However, such a suit could not be considered as a measure of prompt relief.

Finally, correction might be obtained through the normal exercise of supervisory powers. Many of the facts which would have to be established by evidence in either a Section 30 proceeding or a suit to forfeit a bank's charter could be determined by the Comptroller of the Currency through the normal processes of examination. For instance, if the examiner should find losses and the Comptroller of the Currency should support him in such findings and determine them so to be, the bank's profit account as a measure for the payment of dividends and its capital and surplus account (if impaired by such determination) as a measure for the bank's loan limit, would be fixed and its earnings absorbed.

<u>Effect of an important Section 30 hearing upon the banking situation.</u>

However important it is to cure the particular ailment, it is equally important not to select a remedy which may kill or permanently injure the patient. In this connection it is important to remember that there are hundreds of thousands of uninformed people involved who, because they are uninformed, may be swayed by extraneous and irrelevant considerations, and that indirect as well as direct repercussions on the banking structure might follow drastic action. It is hard to conceive of any circumstances in which the interest of depositors would best be served if attempted correction is accompanied by wide publicity and long drawn out proceedings during which rights of creditors are constantly changing (which may account for the negligible number of suits to forfeit charters which have been instituted in the past.) Particularly would this seem to be true when it is reasonable to expect that such publicity would include recriminations, charges of persecution, and claims that the action is political in its nature. The ill-effects consequent upon such an open fight might prove very disastrous and far out weigh the possible good sought to be accomplished in pursuing the remedy.

In conclusion, it is difficult to see how a procedure such as one would have to be under Section 30 could remain long without publicity and therefore before initiating it or any other procedure likely or certain to receive wide publicity, serious consideration should be given to the possibility of effecting correction by other means which are available under the law and are within the discretion either of the Secretary of the Treasury or the Comptroller of the Currency.

The Secy:

Mr Delano & I have read and discussed Mac's letter to you and A.R. He we both agreed that they are satisfactory as written and that no changes are indicated

10/27/38 Herman Oliphant

Frederic A. Delano

[redacted]

THE WHITE HOUSE
WASHINGTON

Poughkeepsie, N.Y.,
October 22, 1938.

MEMORANDUM FOR SECRETARY MORGENTHAU:

Since March 4th, 1933, A. P. Gianini has been sending me frequent letters and telegrams about his banking business and similar matters. He has, I think, also communicated with other people in the White House and has written frequently to the President.

Obviously neither I nor anybody else in this office has sought to help Mr. Gianini in any shape, manner or form. The regular procedure has been to acknowledge the communications and, if the contents seemed to warrant anything further, to refer such communications to the Secretary of the Treasury or other officials for their information.

On several occasions I have written to Mr. Gianini quite frankly, informing him that I had no jurisdiction in the subject matter of his communication and that I lacked any knowledge or information with respect thereto.

I am writing this in order that the record may be clear in the event that Mr. Gianini or anybody else, for personal or political motives, seeks to make it appear that Mr. Gianini has any form of "backdoor" or personal influence with this office.

M. H. McINTYRE
Secretary to the President.

Poughkeepsie, N.Y.,
October 22, 1938.

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M. H. McINTYRE
Secretary to the President.

The Secy:

Mr Delano & I have read and discussed Mac's letter to you and A.P. He we both agreed that they are satisfactory as written and that no changes are indicated

10/24'38

Herman Oliphant

Frederic A Delano

HOLD UNTIL AFTER HE TALKS
TO SECY MORGENTHAU.

[illegible]

THE WHITE HOUSE
WASHINGTON

Poughkeepsie, N. Y.,
October 20, 1938.

Memorandum for Secretary Morgenthau:

This is the letter I spoke to you about. Would you be good enough to check it personally, and possibly ask Mr. Oliphant to look at it.

You already know my reasons for wanting to make a record.

Regards,

M. H. McIntyre
Secretary to the President.

THE WHITE HOUSE
WASHINGTON

Poughkeepsie, New York,
October [illegible], 1938.

My dear A.P:

I have your letter of October 15th. As I have written you once or twice, matters like the one referred to are not only "over my head" but are matters about which I have no knowledge, and with which I have nothing to do.

Since this is a Treasury Department case I do not think that I could, with propriety, discuss it with Mr. Collins, or anyone else.

I am quite sure that you will appreciate the situation and understand that any developments should come to the White House only through regular departmental channels.

With kind personal regards,

Sincerely yours,

M. H. McIntyre
Secretary to the President.

A. P. Giannini, Esq.,
Bank of America,
Los Angeles,
California.

WHITE HOUSE

FICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE $300

A. P. Giannini, Esq.,
Bank of America,
Los Angeles,
California.

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION
LOS ANGELES

A. P. GIANNINI
CHAIRMAN OF THE BOARD OF DIRECTORS

October 15, 1938.

Colonel Marvin H. McIntyre,
Secretary to the President,
Washington, D. C.

Dear Colonel:

The Directors Committee of 9 met in San Francisco yesterday for a final check up on the letter, figures, etc. which are to go to the Comptroller of the Currency. Same will probably be air mailed to him today.

In the past we have sent you copies of our letters to the Comptroller, but in this instance we are not doing so because the Directors were of the opinion that if the letter were sent to you at the same time it was sent to him, he might resent our doing so. I have therefore arranged to have a copy, together with the exhibits, etc. sent to Mr. Collins, our Washington attorney.

In a week or so after the Comptroller has received his letter, Mr. Collins will get in touch with you and if you or the President are desirous of going over same, he will be very glad to deliver the copy to you.

May I suggest that if you should decide to go over this, it may be well for you to have Mr. Collins sit in with you, as he will be in a position to explain to you every item in it. He was present at all of the meetings of the Committee of 9, as well as the Directors meeting and is therefore in a position to clarify any items that might not be readily understood.

With cordial good wishes and warmest regards, I am

Yours sincerely,

E WHITE HOUSE
OFFICIAL BUSINESS

PENALTY FOR PRI
PAYMENT OF P

Honorable Henry Morgenthau, Jr.,
Secretary of the Treasury,
Washington, D. C.

Poughkeepsie, New York,
October 20, 1938.

My dear A.P:

I have your letter of October 15th. As I have written you once or twice, matters like the one referred to are not only "over my head" but are matters about which I have no knowledge, and with which I have nothing to do.

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With kind personal regards,

Sincerely yours,

M. H. McIntyre
Secretary to the President.

A. P. Giannini, Esq.,
Bank of America,
Los Angeles,
California.

Poughkeepsie, N. Y.,
October 20, 1936.

Memorandum for Secretary Morgenthau:

This is the letter I spoke to you about. Would you be good enough to check it personally, and possibly ask Mr. Oliphant to look at it.

You already know my reasons for wanting to make a record.

Regards,

M. H. McIntyre
Secretary to the President.

TELEGRAM

The White House
Washington

Mr. Ingling:

Send up in today's pouch sure, latest correspondence with A. P. Giannini.

H. M. Jr.

Oct. 20, 1938 2:00 p.m.

P.S. Better make it last two or three months.

File

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION
LOS ANGELES

A. P. GIANNINI X
CHAIRMAN OF THE BOARD OF DIRECTORS

10/13-38.

Dear Colonel:- Think you should know that J. M. Schenck, one of the Bank's Directors, has joined in a letter of resignation from the Board. Received the letter this morning from San Francisco.

At the special meeting, held on Sept 30-, held by order of the Comptroller, he was present and participated in all of the discussions - voting, with all others present on all propositions - which voting was unanimous all through.

Sincerely
A. P.

Regraded Unclassified

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION
LOS ANGELES

A. P. GIANNINI
CHAIRMAN OF THE BOARD OF DIRECTORS

10/13-38

Dear Colonel -

I neglected to tell you that Mr. Schenck is a very old friend of Mr. Morgenthau, the Secretary, I according to Mr. Schenck told me prior to the S.F. meeting.

Sincerely

A.P.

THE BILTMORE HOTEL
LOS ANGELES

10/12 38

Dear Colonel - Just to tell you that at the regular meeting of the Board of Directors of the Bank of America N.T.&S.A. held here yesterday, a report re Comptroller's Criticisms together with a draft of letter to Comptroller, was presented by a fact finding Committee of 9 Directors and unanimously adopted. The letter, signed by the Directors, exclusive of myself will go forward next few days.

Secretary Morgenthau has certainly gone the limit, in his and his General Counsel's attempts to destroy our Institution.

Kind regards Sincerely, A.P.G.

September 20, 1938

21-B
Misc

21-B

CONFIDENTIAL MEMORANDUM FOR

MARSHALL DIGGS
Acting Comptroller of the Currency

Here is another communication from A. P. Gianini. I frankly do not know what it is all about. These matters about which he writes me are clearly outside my province and I do not feel that it is any of my business.

Will you talk to me about this sometime?

M. H. McINTYRE
Secretary to the President

mhm/tmb

Enclosure

Let. to MHM from A. P. Gianini, California Club, Los Angeles, Calif. 9/17/38 evidently wants to act as Receiver for some bank in California.

September 26, 1938

My dear Mr. Giannini:

Just before leaving for a very brief vacation last Saturday, Mr. McIntyre asked me to see that the enclosed letter was returned to you.

Sincerely yours,

T. M. BACHELDER
Assistant Secretary
to Mr. McIntyre

A. P. Giannini, Esq.,
Chairman of the Board of Directors,
Bank of America,
Los Angeles,
California.

mhm/tmb

Enclosing letter dated 9/19/38 to Mr. Giannini from Charles Clarke Chapman, Fullerton, Calif.

9/21- 38.

Dear Colonel:-

As I feel, from your past and recent friendly actions, that you are the one loyal friend I have in the Administration there, I am taking the liberty of sending you a letter from Charles C. Chapman, perhaps the most highly respected citizen of Southern California, and Grower and Packer of the famous Mission Brand of Oranges, who was present at the meeting at which Suggs' Clayton was read.

It will give you some idea of how such a splendid character as Mr Chapman viewed the happening. Please return after perusal. Kind regards

Sincerely

A.P.

TELEGRAM

The White House
Washington

2 WU. RA. 48-

Los Angeles, California, Sept. 19, 1938

H. M. Kannee.

P.P.7
1135

As I communicated with you the other day re that Diggs telegram I think you should know that each director this morning received a copy of the telegram the letter accompanying same being dated September sixteenth which is about the time my letter should have reached there. Regards,

A. P.

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION
LOS ANGELES

A. P. GIANNINI
CHAIRMAN OF THE BOARD OF DIRECTORS

September 15, 1938.

Col. Marvin H. McIntyre,
Secretary to the President,
Washington, D. C.

Dear Col. McIntyre:

Enclosed is a copy of a telegram from the Acting Comptroller of the Currency to Mr. Palmer of the National Banking Department. The telegram was read by Mr. Palmer to our Directors at their board meeting held on September 13th last.

A copy of my letter in response to the Acting Comptroller's message is also enclosed, together with the excerpt from Directors' proceedings referred to in the letter.

I should very much appreciate your having the President peruse these enclosures after you have done so. I am satisfied that when you folks in Washington have checked into this matter you will agree that the action of the Acting Comptroller of the Currency was very high-handed and wholly unjustifiable. One would not expect such tactics on the part of a Government official holding the responsible office of Acting Comptroller of the Currency.

Sentiments of esteem and warmest personal regards to you and your great chief, the President!

Yours sincerely,

A. P.

Enclosures

R E A PALMER

835 H W HELLMAN BUILDING LOS ANGELES

B of A - N.T.S.A.

YOU ARE INSTRUCTED PERSONALLY TO ADVISE THE BOARD OF DIRECTORS (13044) WHO ARE MEETING THERE TODAY, TUESDAY, THE FOLLOWING:

QUOTE IN VIEW OF THE UNSATISFACTORY ASSET CONDITION OF THE BANK, OF OTHER REAL ESTATE IN EXCESS OF FORTY MILLION DOLLARS CARRIED IN LOANS AND DISCOUNTS AND IN THE SECURITIES ACCOUNT, OF GERMAN CREDITS OF SIX MILLION DOLLARS, OF OTHER ITEMS CARRIED IN ASSETS OF QUESTIONABLE VALUE AND OF THE AGGREGATE OF ASSETS CLASSIFIED AS DOUBTFUL AND LOSS, IT IS IMPERATIVE THAT THE EARNINGS OF THE BANK BE USED TO WRITE OFF AND REDUCE BOOK VALUE OF SUCH ASSETS STOP NOTWITHSTANDING THE CONDITION AS OUTLINED ABOVE AND THE FACT THAT THE DIVIDEND POLICY HAS BEEN REPEATEDLY CRITICISED, THE DIVIDEND RATE HAS BEEN REPEATEDLY INCREASED FROM FOUR AND FIVE TENTHS PERCENT IN NINTEEN THIRTY-THREE TO THE PRESENT RATE OF NINTEEN AND TWO TENTHS PERCENT STOP THIS SITUATION WAS DISCUSSED AT LENGTH BY THE CHIEF NATIONAL BANK EXAMINER IN WASHINGTON WITH THE CHAIRMAN OF THE BOARD IN JANUARY AND AGAIN WITH THE VICE PRESIDENT AND CASHIER OF THE BANK IN AUGUST OF THIS YEAR STOP IN THE OPINION OF THE COMPTROLLER OF THE CURRENCY THE DECLARATION OF ANY DIVIDENDS AT THIS TIME WOULD, UNLESS PROPER PROVISIONS FOR SUCH CRITICISED ASSETS WERE FIRST MADE, BE AND CONTINUE AN UNSAFE AND UNSOUND PRACTICE IN CONDUCTING THE BUSINESS OF THE BANK STOP ACCORDINGLY THE COMPTROLLER OF THE CURRENCY PURSUANT TO SECTION THIRTY OF THE BANK ACT OF NINTEEN THIRTY THREE HEREBY WARNS THE BANK, ITS OFFICERS, THE BOARD OF DIRECTORS AND THE MEMBERS THEREOF TO DISCONTINUE SUCH UNSAFE AND UNSOUND PRACTICE UNQUOTE

(Signed) MARSHALL R. DIGGS

ACTING COMPTROLLER

Copy as de-coded from
original telegram

HEAD OFFICE
SAN FRANCISCO, CALIF.

Bank of America

September 1[illegible], 1938.

Hon. Marshall R. Diggs,
Acting Comptroller of the Currency,
Washington, D. C.

Dear Sir:

I am enclosing an excerpt from the record of proceedings of the Board of Directors of this Bank held on September 13, 1938, which is self-explanatory.

We were very much surprised to hear the contents of your telegram referred to in the excerpt, which Mr. Palmer read to the meeting, particularly in view of the fact that at the time Mr. A. C. Smith, our Vice President and Cashier, recently discussed with you and Mr. Folger, at a meeting requested by you in regard to certain applications for branches, the last report of examination of the Bank, you had an opportunity to inform him of any important matters which you felt should be brought to our attention.

Instead of following this procedure, without any warning you sent Mr. Palmer, your Los Angeles representative, to call on me at 1:30 P. M., on the day our meeting was to be held at 4:00 P. M., with a mysterious message to the effect that he had been advised by Mr. Folger that he would receive a code message that he was directed to read to the Board of Directors.

In the circumstances, it appears to us that the method employed of getting your message to our Board of Directors was entirely unwarranted. As you are well aware, banks are dependent upon the confidence of the public for their existence, and it is therefore regrettable that your message and the method of its delivery were calculated to disturb this confidence.

As you will observe from the enclosed excerpt, our Board has directed me to request a reply to the comments made in my letter to you of May 6, 1938, regarding the last report of examination of the Bank. Complying with this direction, I therefore request such a reply, in order that our Board of Directors may be fully informed as to the exceptions, if any, which your office takes to my comments on the various matters referred to in that letter.

In your telegram to Mr. Palmer, you made the following statement:

"In view of the unsatisfactory asset condition of the bank, of other real estate in excess of forty million dollars carried in loans and discounts and in the securities account, of German credits of six million dollars, of other items carried in assets of questionable value and of the aggregate of assets classified as doubtful and loss, it is imperative that the earnings of the bank be used to write off and reduce book value of such assets."

This is an astounding statement in view of the fact of the recent discussions regarding the write off of losses classified in the last report. We understood such write offs had been made to the satisfaction of you and your Chief Examiner. No intimation has heretofore been given us that any charge off was expected in connection with assets not adversely criticised in the report.

Your reference to the other real estate in loans and discounts undoubtedly applies to real estate sold under contract to Capital Company and California Lands, Inc. These contracts represent the obligations of financially sound companies and provide for a specific schedule of payments. They therefore are sound loans and cannot be classified as "Other Real Estate." The contracts are secured not only by the underlying real estate, but also by the substantial net worth of the obligors, which, according to the financial statements of the companies, amounted on August 31, 1938, to $22,768,000 in the case of the Capital Company, and $17,008,000 in the case of California Lands, Inc.

Since April 4, 1934 and up to June 30, 1938, the two companies mentioned have bought real estate from the Bank aggregating a purchase price of $31,456,000, and have paid to the Bank the sum of $34,550,000 on account of the principal of the contracts. This total payment represents more than twice the amount of payments called for by the terms of the contracts.

Referring to the German credits; the requirements of the Department have been fully complied with.

Referring to your statement that "it is imperative that the earnings of the bank be used to write off and reduce value of such assets"; since January, 1933 we have applied $55,000,000 to the writing off of losses and the reduction of book value of assets. During the same period surplus and undivided profits have been increased by $12,300,000. This improvement of $67,300,000 in net capital position is conclusive evidence that we have adequately provided for losses and that we have consistently followed a sound dividend policy.

You state in your telegram that the dividend policy has been repeatedly criticised, that the situation was discussed at length by the Chief National Bank Examiner in Washington with the Chairman of the Board in January and again with the Vice President and Cashier of the Bank in August of this year, and that the declaration of any dividends at this time would, in the opinion of the Comptroller of the Currency, be unsafe and unsound unless proper provision is made for criticised assets.

HEAD OFFICE
SAN FRANCISCO, CALIF.

CABLE ADDRESS
"BAMERICAL"

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION

The discussions referred to in your wire were in no respect formal, and your references to dividend policy were incidental to discussions of branch permits. Our records fail to disclose any formal protest by the Comptroller regarding our dividend policy, which at no time have we considered as unsound or unsafe, and which, on the contrary, has been an important factor contributing to the success of this institution, in which more than 150,000 Californians have a stockholder's interest.

The record does disclose the fact that proper provision has been made to care for assets adversely classified, including such assets referred to in the last examination report, and the further fact that for the period from January 1, 1933 to June 30, 1938, only 36% of the earnings has been paid in dividends. It is true that the rate of dividend on the total par value of the capital stock has been increased from 6% in 1933 to 9.2% in 1938, but a logical comparison of dividend rates would be based on the relation of dividends to earnings. Dividends paid in the year 1933 amounted to 51% of the earnings, while in 1938 the percentage of dividends paid to earnings was only increased to approximately 40%. In the first eight months of the year 1938, net actual income amounted to $15,010,882, while current dividend requirements amount to $800,000 per month.

This is the first time to our knowledge that the assets of this Bank have been characterized as "unsatisfactory" by anyone. Why has this question not been raised previously in the past six years during which improvement of $67,300,000 in net capital position has been made? When our Vice President and Cashier talked with you two weeks ago, he reported a friendly attitude in your office and telegraphed me that he confidently expected to have favorable action taken without further delay on at least three of the pending branch applications. What has happened in the short time since then to so completely change the attitude of your office?

Another recent change in the attitude of your office caused us considerable embarrassment and inconvenience, from which we are still suffering. I refer to the withholding of a charter on our Gonzales application after approval had been given and the time for opening the branch extended. As a consequence, bank premises, ready for our occupancy, stand idle in Gonzales, to the wonderment of the community.

We believe the successful accomplishments of the management of this Bank are without parallel, and we therefore resent the reference in your telegram to "unsafe and unsound practice" and to the provisions of Section 30 of the Bank Act of 1935. Having made every required provision for the protection of our assets, we are entitled to have you withdraw your statement that the assets are in an unsatisfactory condition. If you feel otherwise, I request that the management of this Bank be summoned before the Federal Reserve Board for a hearing on this issue.

Yours very truly,

Chairman,
Board of Directors.

HEAD OFFICE
SAN FRANCISCO, CALIF.

Bank of America
NATIONAL TRUST AND SAVINGS ASSOCIATION

CABLE ADDRESS
"BAMERICAL"

EXCERPT FROM THE RECORD OF PROCEEDINGS OF THE MEETING OF THE BOARD OF DIRECTORS OF BANK OF AMERICA NT&SA, SEPTEMBER 13, 1938.

At the opening of the meeting, the Chairman reported that Mr. Palmer, a representative from the National Banking Department, had informed him that day at 1:30 P. M. of his instructions from the Comptroller's office to deliver a message to the Directors.

The Chairman stated that upon receipt of this information, he had requested Mr. R. E. Smith, Vice President and Cashier of the Bank, to come to Los Angeles by plane and bring with him a copy of the last report of examination of the Bank and data relating thereto. He further stated that he had informed Mr. Palmer that he would be called to appear before the Board upon the arrival of Mr. Smith.

. . . .

At the conclusion of the order of business of the Board, the Chairman announced the fact that Mr. R. E. Smith, Vice President and Cashier of the Bank, had not yet arrived from San Francisco for an appearance before the Board as arranged, and that he deemed it desirable that Mr. Palmer not be kept waiting. Thereupon, with the consent of the Board, Mr. Palmer was introduced to the meeting and extended the courtesy of the floor.

Thereupon Mr. Palmer read to the meeting the contents of a private wire addressed to him by Mr. Marshall R. Diggs, Acting Comptroller of the Currency, and shortly afterwards withdrew from the meeting.

The contents of the telegram were discussed at length by the board members present, and, at the Chairman's suggestion, on motion duly made, seconded, and unanimously carried, the Chairman of the Board was directed to address a response to the Acting Comptroller of the Currency and authorized to request a hearing for the managing officers of the Bank before the Federal Reserve Board in view of the Acting Comptroller's reference to Section 30 of the Banking Act of 1933.

The Chairman directed that a copy of the telegram read to the Board by Mr. Palmer be filed with the records of the meeting.

The Secretary then reported that Mr. Smith had arrived from San Francisco and was waiting to be called into the meeting. Mr. Smith was then called into the meeting.

The President obtained from Mr. Smith and read to the meeting a copy of a letter addressed by Mr. A. P. Giannini, Chairman of the Board, to Mr. Marshall R. Diggs, Acting Comptroller of the Currency, under date of May 6, 1938, referring to the last report of the examination of the Bank, made as of August 31, 1937, and received in April, 1938.

The Chairman reported that no reply to the comments made in said letter had been received, and the Board thereupon directed the Chairman of the Board to respectfully request a reply.

The Chairman commented on his reported discussion referred to in the telegram and invited Mr. Smith to report to the Board in detail his recent discussions in Washington, D. C. with Mr. Folger, Chief National Bank Examiner, and with Mr. Marshall R. Diggs, Acting Comptroller of the Currency.

OFFICE
..., CALIF.

Bank of America

NATIONAL TRUST AND SAVINGS ASSOCIATION

CABLE ADDRESS
"BAMERICAL"

Mr. Smith reported to the Board as requested, and the Board, by motion regularly made, seconded and carried, expressed its inability to reconcile the information conveyed to it by the Chairman of the Board and the Cashier and the information furnished in the letter of the Chairman of the Board addressed to the Acting Comptroller of the Currency under date of May 6, 1938, with the contents of the aforementioned telegram from the Acting Comptroller of the Currency to Mr. Palmer.

Before adjournment, the Board, by motion regularly made, seconded, and unanimously carried, expressed its complete confidence in the management of the Bank and the appreciation of the management's outstanding record of achievement.

CLASS OF SERVICE

This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable sign above or preceding the address.

WESTERN UNION

R. B. WHITE, PRESIDENT — NEWCOMB CARLTON, CHAIRMAN OF THE BOARD — J. C. WILLEVER, FIRST VICE PRESIDENT

SIGNS
DL = Day Letter
NM = Night Message
NL = Night Letter
LC = Deferred Cable
NLT = Cable Night Letter
Ship Radiogram

The filing time as shown in the date line on full-rate telegrams and day letters, and the time of receipt at destination as shown on all messages, is STANDARD TIME.

Received at

JB8 TWS PAID A=WUX LOS ANGELES CALIF JUL 11 156P

HONORABLE MARVIN H MCINTYRE=

CARE PRESIDENTS TRAIN

Grammer, O.P.

TO KEEP YOU POSTED WE RECEIVED TELEGRAM FROM ACTING COMPTROLLER DIGGS QUOTE COPY SUGGEST YOU CALL JONES DIRECT HE HAS QUESTIONS I CANNOT ANSWER PLEASE REMEMBER THIS OFFICE CANNOT ACT UNTIL ESTIMATED LOSSES HAVE BEEN CHARGED OFF UNQOTE TO WHICH WE HAVE JUST REPLIED QUOTE COPY RETEL NINTH REGARDING LOSSES ESTIMATED IN LAST AUGUST EXAMINER'S REPORT. PLEASE INFORM SECRETARY THAT CHECKUP SHOWS THAT WRITEUP IN GOVERNMENT BOND ACCOUNT ENTIRELY ELIMINATED THROUGH GRADUAL SALES. THEREFORE BALANCE IN BANKEXAMINER'S REPORT OF $2,064,300.15 SHOULD BE TAKEN OUTENTIRELY. MARKET DEPRECIATION IN AUGUST REPORT WRITEUP IN MUNICIPAL ACCOUNT OF $458,815.16 HAS DISAPPEARED BY IMPROVED MARKETS. $313,000.00 ITEM MENTIONED IN REPORT HAS BEEN CHARGED TO LOSSES. THE ABOVE ACCOUNTS FOR ALL OF $2,836,769.31 MENTIONED IN REPORT . BOND ACCOUNT AT PRESENT TIME SHOWS APPROXIMATELY $10,000,000.00 MARKET APPRECIATION OVER BOOK=

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

WESTERN UNION

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NEWCOMB CARLTON, CHAIRMAN OF THE BOARD — J. C. WILLEVER, FIRST VICE-PRESIDENT

The filing time as shown in the date line on full-rate telegrams and day letters, and the time of receipt at destination as shown on all messages, is STANDARD TIME.

08 2=

LUE AFTER RESERVE FOR AMORTIZATION IN PREMIUM ACCOUNT. COND MILLION ON GERMAN LOANS HAS BEEN CHARGED OFF AND SET IN RESERVE. UNDERSTAND THAT OTHER ITEMS WERE RECENTLY ATISFACTORILY DISPOSED OF BY RUSSELL SMITH IN CONFERENCE TH EXAMINER SEDLACEK. IF YOUR RECORD VARIES FROM THIS IN NY RESPECT PLEASE WIRE ME SPECIFICALLY ITEMS CONCERNED SO AT WE CAN CLEAR WAY FOR IMMEDIATE GRANTING OF LONG PENDING ERMIT APPLICATION. BEST WISHES.

AP.

416.

AP.

THE SECRETARY OF THE TREASURY
WASHINGTON

File

July 12, 1938

21-B
Misc.

Dear Mr. McIntyre:

I have your note of July 7th referring "without comment" the personal telegram to you from A. P. Giannini, dated July 5th.

Thank you for letting me see this wire. I am returning it, also without comment.

Sincerely yours,

HMorgenthau Jr

Secretary of the Treasury

Honorable Marvin H. McIntyre,
Secretary to the President,
The White House.

Enclosure

July 7, 1938

MEMORANDUM FOR SECRETARY MORGENTHAU

Referred without comment.

M. H. McINTYRE
Secretary to the President

Enclosure

mhm/tmb

Tele. to MHM from A. P. Giannini, Los Angeles, Calif. 7/5/38
re applications by Bank of America pending in the Comptroller
office for branches at Gonzales, Pinole, Galt, Crockett, Rodeo Holtville
McFarlane, Marchfield, Campbell and Watts all in Calif. asks MHM to
talk with Morgenthan and convey his request that Morgenthau give
these applications personal consideration at the earliest consistent
time.

TELEGRAM

The White House
Washington

11WUA 222 N.L.

Los Angeles, Calif., July 5 1938

M.H. Mc-ntyre,

(Personal)

The Bank of America has applications pending in the comptroller office for branches at Gonzales, Pinole, Galt, Crockett, Rodeo Holtville, McFarlane Marchfield, Campbell and Watts all In California. The Gomzales and Pinole applications were granted by comptroller O'Connor on Jany., third subject to opening during January. Within the month we requested additional time to equip banking quarters and understood this would be allowed and proceeded in good faith. Although Gonzales Banking room has been ready for months we have not been able to get the permit renewed. The Galt applications is take over an existing bank where owner is desirous of closing the transaction. Most of these applications have been pending since last year. Without criticizing anyone I am wiring to ask that you talk with Secretary Morgenthau and convey to him my request that he give these applications personal consideration at the earliest consisitent time. I wish you would also inform the President and Secretary Morgenthau or rather confirm what theyprobably already know from McDonald that the bank of America has given the FHA its utmost cooperation and that our joint efforts have gone along way to-ward sustaining and increasing business in California. Furthermore we are giving the RFC our cordial cooperation on Industrial loans. California is looking forward to greeting the President. Cordial reagrds

A.P. Giannini

ELEGRAM

The White House
Washington

4WUC 66 N.L. 11:36pm

BM Los Angeles, Calif., July 24, 1938.

H. M. KANNEE:

George Austin inspector San Francisco granted Ettore Patrizi time until Monday for filing reports, he requested. Patrizi says most essential he be granted time until October first when regular statement is due to appear in L'Italia otherwise he will be caused great deal anoyance and damage both morally and financially. May I urge you please do your utmost get favorable action tomorrow, Monday. Thank you. Regards.

A. P. Giannini.

TELEPHONES { GArfield 1977 / GArfield 1978

... AND MOST PROGRESSIVE ... DAILY IN THE WEST

... CIRCULATION OF ANY ... PAPER WEST OF NEW YORK

L'ITALIA

THE ITALIAN DAILY NEWS

ESTABLISHED 1886

OVER 60,000 ITALIANS IN SAN FRANCISCO

ABOUT 800,000 ON THE PACIFIC COAST

OVER 5,000,000 IN THE UNITED STATES

118 COLUMBUS AVENUE

SAN FRANCISCO, CALIF.

July 27th,1938

Mr. H.M. Kannee,
Sec.to Col.Marvin H. McIntyre,
White House,
Washington,D.C.

Dear Mr. Kannee:

When you were in Los Angeles a short time ago, my good life-long friend A.P. Giannini spoke to you in reference to a statement of ownership and circulation of this Daily L'ITALIA, which had been requested by the Washington Postal Authorities. This statement was to be made and published at this time, which would have caused me some annoyance; so Mr. Giannini asked of your kindness to obtain a postponement until October first when the regular yearly statement is to be presented by all daily newspapers.

The other day the local Postmaster William H. Mc Carthy, informed me that the Third Assistant Postmaster had granted my request and instructed him to hold this matter in abeyance until October next. I was indeed very pleased and relieved at this postponement and so was Mr. Giannini. And now it is my duty and pleasure to send you my cordial thanks and express my hearty appreciation for your kind intervention in the matter, hoping to have the opportunity some day of showing you my gratitude.

With very kind regards and wishes,

Respectfully yours,

Ettore Patrizi

Ettore Patrizi-Editor

EP/H

TELEGRAM

The White House

Washington

WA136WUAB 368 N.L.

Los Angeles, Calif., Aug.,30, 1935.

Col.Marvin H. McIntyre:

You will recall that last August a group of representative business men of Southern California came to Washington and I urged you to have an interview with them. Which you readily granted they were in Washington on behalf of an annual trade fair which was referred to at that time as the Pacific Mercado to be established in Southern California and to be of great benefit to Southern California and the nation as a whole.

Much work has been done and much has been accomplished in this regard and it has now been decided by the business interests to combine the facilities for the holding of an annual trade fair as a part of our country administrative center. This will produce an enormous improvement in the center and will provide a beautiful front door to our new Union Terminal nearing completion at this time.

The Board of Supervisors of Los Angeles county have filed a PWA application docket California number 8103 covering a comprehensive and adequate administration and trade center plan for Los Angeles County. The total project is estimated at $54,570,000. Of this amount the County is prepared to raise by bond issue $30,013,400, which together with a federal grant of $24,556,680 will complete the project.

Wm.J. Fox Chief Engineer Regional Planning Commission Los Angeles County and PWA Coordinator this district is in Washington now conferring with Col. Clark and I should like to have Mr. Fox call upon you and explain the project in person. If it is in order should appreciate having your secretary call Mr. Fox at the Baronett Apartments telephone National 1572 and arrange an appointment at your convenience.

The manifold benefits of this project will be of such immense value to Southern California and our relationship with the Pan-Pacific and Pan-American Countries that I strongly urge and recommend its careful consideration and approval.

Have arranged meeting in our Directors Room tomorrow of most important business executives in Southern California with Mr. Flaherty Secretary to Senator McAdoo (as Senator is away from city) at which time plans willbe fully discussed. Flaherty assures us that project has the Senators entire approval and support.

Thank you. Warmest regards.

A.P. Giannini.

ELEGRAM

The White House
Washington

Spcab 110 N.L.

Los Angeles, Calif., Aug [illegible]

Col. Marvin H. McIntyre:

Once more Colonel does Los Angeles owe you a debt of gratitude for your intervention in its behalf in that civic center matter. Please also accept our sincere thanks for so promptly sending for Mr. Fox. Thought it would be of interest to you to know that a most enthusiastic meeting was held yesterday at which Senator McAdoo's Secretary was present and another meeting is to be held Monday at one thirty at which the Senator himself will be present. There will also be present our leading business executives in Los Angeles, heads of fraternal organizations, womens clubs, labor organizations and representatives from all walks of our community life. Warmest regards.

A.P. Giannini.

THE WHITE HOUSE
WASHINGTON

8/11/38

MEMORANDUM FOR MR. McINTYRE:

Do you want to see Mr. Giannini's friend, Mr. Fox? If so, shall I phone him?

R. B. OK

BARON LONG, PRESIDENT
CHARLES BAAD, MANAGING DIRECTOR
EDWARD B. BERNARD, MANAGER

192

8-17-38

THE BILTMORE HOTEL
LOS ANGELES

Dear [illegible]: The President if he could find time to read the enclosed booklet through, will I believe find the answer to the problem of taking care of the financial needs of the small business man.

In my opinion all that would be necessary would be to encourage the important Branches in each Federal Reserve District to establish departments, in charge of a person so approved [illegible] to give the service outlined in the booklet and the small business man's problem might then be pretty well [illegible]

ON LONG, PRESIDENT
ARLES BAAD, MANAGING DIRECTOR
ARD S. BERNARD, MANAGER

THE BILTMORE HOTEL
LOS ANGELES

The [illegible]

[illegible]

[illegible]

The [illegible] Corporation of New York [illegible]

[illegible]

RUSSELL G. SMITH

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION
LOS ANGELES

A. P. GIANNINI
CHAIRMAN OF THE BOARD OF DIRECTORS

August 26, 1938

file

Honorable Marvin H. McIntyre
Secretary to the President
The White House
Washington, D. C.

My dear Colonel:

Russell G Smith, Vice President and Cashier of our bank, who is president of the National Bank Division of the American Bankers Association, is leaving tomorrow night for Chicago and the east to attend a meeting of the executive committee of this group.

I have asked him when through with the meeting there to go on to Washington and call on the Comptroller, with the idea of doing his utmost to clear up the situation with which you are familiar through my correspondence with you.

I have also taken the liberty of asking him to call upon you and acquaint you with the facts in connection with our difficulties with the Comptroller, so that you will know our side of the story from a man who has first hand knowledge of it. X21-B

Incidentally Mr. Smith is one of the Bank of America's coming young men, and we regard him very highly. I am sure you will be much impressed with him when you meet him.

Thanking you in anticipation of any courtesy you may extend to him while there and with warmest personal regards, I am

Yours sincerely,

A P G

August 30, 1938

430

My dear A.P.:

Your letter of August nineteenth, with enclosures, reached me at the temporary White House in Poughkeepsie, and was brought to the President's attention. Many thanks for sending it along.

I am afraid I shall miss you when you are in the East for, if my present plans materialize, I hope to take a brief vacation about the latter part of September and early October. I shall be mighty sorry to miss seeing you.

With all good wishes,

Sincerely yours,

M. H. McINTYRE
Secretary to the President

[illegible]B/[illegible]

A. P. Giannini, Esq.,
Bank of America,
Los Angeles,
California.

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION
LOS ANGELES

A. P. GIANNINI
CHAIRMAN OF THE BOARD OF DIRECTORS

August 19, 1938

Mac
& thanks

Honorable Marvin H. McIntyre
Secretary to the President
The White House
Washington, D. C.

My dear Colonel:

Inclosed is a copy of a page advertisement we are going to run here in California on next Monday. It is something I should like very much to have the President, as well as your good self, note carefully.

Will you be good enough to bring it to your Chief's attention at some time when he has a moment to look it over, for he will see from this that we are cooperating wholeheartedly with the Administration and liberalizing our credit policies as we go along. We hope that this action will encourage other bankers to follow in our footsteps.

Several clippings from today's papers are also inclosed; one from Salt Lake, which will indicate that the Associated Press carried this story throughout the country.

I am planning to get to New York the latter part of September or the first of October and in that event shall avail myself of the privilege of dropping in to have a few moments chat.

With sentiments of esteem and sincerest best wishes to your great Chief, and warmest regards to your good self, I am

Yours sincerely,

Inclosures

San Francisco Chronicle

August 19, 1938

Bank America Explains Plan

Bank of America's lending policy has for a long time been such as to have attracted Nation-wide attention on the part of bankers. Also its successful features have been reflected in the bank's earnings, and now, in furtherance of an expansion program for this type of its business the bank has inaugurated an advertising campaign to explain the methods by which this lending service may become available to individuals, commerce and industry.

This advertising method of conveying information is to be carried on the week beginning Monday, the medium being the newspapers of the State. In commenting on it, A. P. Giannini, chairman of the board, stated:

"The lending policy of Bank of America is to provide the soundest type of credit best suited to the need of every individual and of every established business, no matter how large or small. If any man or woman of good character and prove dability requires money for any worthy purpose—for business or personal uses, no matter how specialized the need, Bank of America has, or will endeavor to provide, the type of credit that will be most helpful.

"We have always made sound capital loans to large and small businesses to the mximum amount permitted by Government regulations. Now we have broadened our services under the new rules and are calling attention to the full program of lending services available at all Bank of America branches."

Salt Lake Tribune

August 17, 1939

Modified Capital Loan Latest in Banking

SAN FRANCISCO, Aug. 15 (AP)—The Bank of America turned out something new in banking Thursday—modified capital loans.

The new loans take two general forms:

1. "Long term" or five-year amortized loans, and
2. "Accounts receivable" financing.

The first is designed to bridge the gap between ordinary short-term loans advanced to commercial and industrial borrowers and the permanent capital employed by corporations and private business of other forms.

The second marks the first entrance, so far as is known, of banks into a field formerly dominated by finance companies and private lenders.

Both are designed not only to expand banking services to customers, but to provide new employment for funds accumulated through growing deposits. Banks have been forced to place increasing blocks of surplus funds in government securities in the last few years. The meager return on such investments has forced banks to look around for new uses for money to bring up the average return.

A. P. Giannini, chairman, said the plans are expansions of loans formerly made to the maximum allowed under government regulations.

San Francisco Examiner

August 19, 1938

MORE LIBERAL LOANING PLAN IS ANNOUNCED

Bank of America Embarks on New Policy of Aid to Large and Small Business Enterprises

By R. W. JIMERSON,
Financial Editor.

American bankers as a whole have extended a frigid reception to repeated suggestions from the administration in Washington that there be an immediate and widespread liberalization of policy in respect to commercial loans.

Washington has said, in effect:

"If the banks don't make loans needed for the expansion of business enterprise, then financing must and will be supplied by government agencies. Loan—or else!"

Banking has replied:

"We know when and where to make loans, and for how much. No deserving applicant is turned away, but we must continue to be the final judge as to the adequacy of risks."

IMPASSE SHOWN.

This has resulted in what is familiarly known as an impasse, with neither side showing any tendency toward a conciliatory attitude.

Into this situation yesterday plunged A. P. Giannini, friend of the administration and chairman of the board of Bank of America, with announcement that the bank is launching an extensive advertising campaign to explain the comprehensive service it extends to "individuals, commerce and industry." Giannini revealed that the bank has broadened its policy under new regulations recently put into effect, and declared that a "new, more liberalized lending service" is available.

Definitely taking a stand on the administration side of the fence, Giannini disclosed that the program specifically provides for long term loans to commercial or industrial enterprises; for the financing of accounts receivable held by manufacturers, wholesalers and jobbers; and for term loans to small business.

These may be classed as innovations, and are in addition to the traditional services already in effect. They constitute a frank acceptance of the administration's invitation.

AMORTIZED BASIS.

The long term loans for commercial and industrial enterprises will be made on an amortized basis, secured either by bonds or notes. Giannini classed this type of loan as "particularly well adapted to the concern desiring to expand its operations as well as those desiring to refinance existing obligations."

The term loans for small business will be in amounts from $500 to $5,000, repayable in from one to five years, depending upon the circumstances. The amount of

JIMERSON

(Continued from Preceding Page)

loan will be based on the minimum net income of the business before depreciation and owner's withdrawal. The purpose, Giannini said, is to furnish working capital for established businesses—not to finance new ventures or liquidate past due indebtedness to creditors. These loans will not replace ordinary seasonal financing, which will be handled as usual.

The "accounts receivable" plan is also to provide working capital, and free cash invested in receivables for expansion of sales into new territory, for the launching of new projects, to take advantage of cash discounts, or for other purposes.

As a whole, the program substantially complies with the recommendations as to lending policies advanced recently by Jesse H. Jones, chairman of the Reconstruction Finance Corporation.

Los Angeles Herald Express

August 1[illegible], 1938

High Spots

By J. K. BAILLIE

Financial Editor of The Evening Herald and Express

Two Los Angeles banks are listed among the first 10 in volume of savings accounts by the American Banker. Bank of America is now the largest savings bank in the United States. Not only has the Bank of America the largest total of savings and time deposits of any institution of the country, but it also has the largest number of savings depositors as well. The figures include its state-wide system of branches.

The Security-First National of Los Angeles is fifth on the national list ahead of many of the large banks of New York, Boston and Chicago.

Listed in order of volume of savings accounts:

1.	Bank of America	[illegible]
2.	Bowery Savings, N. Y.	[illegible]
3.	Emigrant, N. Y.	[illegible]
4.	Philadelphia Savings	[illegible]
5.	Security-1st Nat., L. A.	[illegible]
6.	Williamsburg, Brooklyn	[illegible]
7.	Bank of Savings, N. Y.	[illegible]
8.	Dime Savings, Brooklyn	[illegible]
9.	Central Savings, N. Y.	[illegible]
10.	Dry Dock Savings, N. Y.	[illegible]

BANK AMERICA TELLS LENDING POLICIES

Bank of America has inaugurated an advertising campaign to explain the comprehensive lending services for individuals, commerce and industry that the bank makes available.

A. P. Giannini, chairman of the board of directors, stated:

"The lending policy of the Bank of America is to provide the soundest type of credit best suited to the need of every individual and of every established business, no matter how large or small.

"If any man or woman of good character and proved ability requires money for any worthy purpose—for business or for personal uses, no matter how specialized the need—Bank of America has, or will endeavor to provide, the type of credit that will be most helpful."

RFC POLICIES

It is interesting to note, financial observers say, that Bank of America has substantially anticipated the recommendations as to lending policies advanced recently by Jesse H. Jones, chairman of RFC.

[illegible] loans to large and small [illegible] have [illegible] under the new rules and are calling attention to the [illegible] program of lending [illegible] the Bank of America [illegible].

Deriving [illegible] the large-scale [illegible] the field of personal loans and automobile [illegible] the bank has [illegible] methods [illegible] and [illegible].

EXPANSION LOANS

For large firms there is provided a convenient method of making amortized loans in bond or note form, such loans being particularly fitted for expansion of operation or the refinancing of present indebtedness.

For small businesses term loans are available in amounts from $500 to $5000, repayable in from one to five years depending upon the circumstances. Primary purpose of these loans is to furnish working capital for established businesses, not to finance new ventures or liquidate past-due indebtedness to creditors. They do not replace ordinary seasonal financing, which will be handled as in the past.

An "accounts receivable" plan also is offered to provide working capital in any amount to manufacturers, wholesalers and jobbers. Customers of firms using this plan are not notified and there is no interruption of regular routine. But because cash invested in receivables is thus freed, borrowers are placed in a position to take advantage of cash discounts, expand sales into new territories, launch new projects, reduce costs through greater volume of production and provide money to pay the various taxes and other fixed charges.

Los Angeles Evening News

August 19, 1938

Bank announces educational campaign on lending policies

Bank of America has inaugurated an advertising campaign to explain the comprehensive lending services for individuals, commerce and industry that the bank makes available.

A. P. Giannini, chairman of the board of directors, stated:

"The lending policy of Bank of America is to provide the soundest type of credit best suited to the need of every individual and of every established business no matter how large or small.

"We have always made sound capital loans to large and small businesses to the maximum amount permitted by government regulations," Giannini declared. "Now we have broadened our services under the new rules and are calling attention to the full program of lending services available at all Bank of America branches."

For large firms there is provided a convenient method of making amortized loans in bond or note form, such loans being particularly fitted for expansion of operations or the refinancing of present indebtedness.

For small businesses term loans are available in amounts from $500 to $5000, repayable in from one to five years, depending upon the circumstances. Primary purpose of these loans is to furnish working capital for established businesses, not to finance new ventures or liquidate past-due indebtedness to creditors. They do not replace ordinary seasonal financing, which will be handled as in the past.

An "accounts receivable" plan also is offered, to provide working capital in any amount to manufacturers, wholesalers and jobbers.

"The *Lending Policy* of Bank *of* America is to provide the soundest type of credit best suited to the need of every individual and of every established business no matter how large or small.

If any man or woman of good character and proved ability requires money for any worthy purpose—for business or for personal uses, no matter how specialized the need, Bank of America has, or will endeavor to provide, the type of credit that will be most helpful."

A. P. Giannini

Chairman of the Board of Directors

Bank of America has always made sound capital loans to large and small business to the maximum amount permitted by government banking regulations. Now Bank of America is pleased to be able to offer, through its 493 California-wide branches, a new, more liberalized lending service.

LONG TERM LOANS
for *Commercial or Industrial* enterprises

Bank of America has a convenient method of making amortized time loans in bond or note form to business and industry. This type of loan is particularly well adapted to the concern desiring to expand its operations as well as those desiring to refinance existing obligations.

COMMERCIAL LOANS

Commercial loans and lines of credit are available to any and all businesses with satisfactory credit to justify the required accommodation. Bank of America's commercial loan department offers many exclusive features of service in this type of accommodation.

MODERNIZATION LOANS THROUGH FHA

In addition to Bank of America capital loans for carrying stock and receivables, loans may be made under FHA for the purchase of new store fronts, fixtures, alterations and repairs. FHA also provides for the financing of painting, decorating, additions, etc. Bank of America leads the nation in this type of loan.

LOANS FOR SMALL BUSINESS

Small businesses may be generally divided into two classes—retailers and manufacturers. Bank of America has a special loan plan designed to meet the needs of both. The most pressing need of the small manufacturer is for working capital and capital for plant improvements. The retailer's problem is primarily one of ready cash to carry stocks, receivables and a sufficient inventory. The manufacturer may avail himself of both the accounts receivable plan and the small capital loan plan outlined below. The retailer's principal problem may be solved by use of the small capital loan plan or a combination of this plan and FHA financing which, under Title I, permits modernization of property, the installation of new store fronts, fixtures, and similar improvements. Small capital loans for either retailers or manufacturers are available only to concerns which have been established for at least one year. For loans over $1000 a concern must have been established for a longer period. Loans may be made with or without security or endorsement, depending upon the amount and maturity of the loan. Loans of this type, however, cannot be made for the purpose of starting new ventures.

TERM LOANS FOR SMALL BUSINESS

Amount of Loan Desired	Maximum Repayment Period	Minimum Annual Net Income Requirement*
$ 500	1 Year	$ 2,500
$ 500-$2,000	2 Years	$ 5,000
$2,001-$3,000	3 Years	$ 5,000
$3,001-$5,000	5 Years	$10,000

*The term Minimum Annual Net Income Requirement means the net cash income of the business before depreciation and owner's withdrawals.

ACCOUNTS RECEIVABLE FINANCING
Flexible Working Capital in Any Amount for Manufacturers, Wholesalers, Jobbers

Bank of America's plan of financing accounts receivable is especially designed to meet the working capital needs of manufacturers, wholesalers and jobbers. The entire procedure is a dignified banking transaction. Debtors are not notified and there is no interruption of regular routine. If you are not now discounting you can free the cash you have invested in receivables and provide flexible working capital for all your requirements at a profit, and at the same time [illegible] capital when sales expand. Loans for capital purposes are also available to manufacturers, wholesalers and jobbers.

COMPLETE DEALER FINANCING SERVICE

The establishment of a complete dealer financing service has proved extremely beneficial to automobile and equipment dealers throughout the State. This department renders services never before [illegible]

BANK OF AMERICA IS THE FARMER'S BANK

Loans for every need of agriculture—production of crops and livestock; marketing and processing of agricultural products [illegible]

DOCTORS, DENTISTS, HOSPITALS

Capital financing is also available to doctors, dentists, hospitals and many other professional and service enterprises. Bank of America [illegible]

COMMODITY AND WAREHOUSE LOANS

Loans may be arranged through Bank of America on commodities and many types of inventory stored in public or field warehouses. [illegible]

TIMEPLAN AUTOMOBILE FINANCING

[illegible]

HOME OWNERS

[illegible]

LOANS TO BUY OR BUILD

[illegible]

TIMEPLAN PERSONAL LOANS

[illegible]

Bank *of* America
NATIONAL TRUST AND SAVINGS ASSOCIATION

This ad appeared in California metropolitan dailies during the week of August 22, 1938

October 27, 1938

I talked to Mr. Sedlacek in San Francisco at 3:45 p.m.

He said that he had just gone through a half hour of hell with Herbert who continues to blame him for all of his difficulties.

Sedlacek said that Herbert came down to the bank today all dressed up in his best blue serge suit as if he were going to his own funeral.

He said that Herbert had signed his resignation and handed it to Mortimer Fleishhacker this afternoon. It is expected that the Board will take action on it at the meeting. Sedlacek has not seen the resignation and so does not know that it is immediately effective or not but he will call me later to tell me.

Sedlacek is working on the closing paragraph of the Directors' letter and it is possible that it will be approved in substance at the Directors' meeting this afternoon.

Sedlacek suggested the possibility that some of the representatives of the bank would come to Washington with him. He expects to arrive here on Tuesday morning.

Upm

October 27, 1938

I talked to Mr. Sedlacek in San Francisco at 9:20 p.m. He read me the following headlines from the afternoon San Francisco News:

"HERBERT FLEISHHACKER QUITS ANGLO CALIFORNIA BANK"

"BROTHER TO SUCCEED AS PRESIDENT"

"RESIGNATION ACCEPTED WITH DEEPEST REGRET"

"OFFICES TO BE CONSOLIDATED"

"TWO LAW SUITS HAMPER SERVICE TO BANK"

Sedlacek read me the dispatch which indicated that the Directors fully appreciate the unselfish attitude of Herbert Fleishhacker in resigning after thirty-one years of service for the good of the bank. The dispatch said that the sincere best wishes of all followed him and that he has the highest esteem of Directors, Officers and employees. There was then a long screed about the two law suits pending against Herbert and the bank and the reasons for his resignation to save the bank embarrassment, most of which were taken from Herbert's letter of resignation, which Sedlacek also read to me over the phone. The letter closed with the resignation "forthwith" of Herbert Fleishhacker as President. This resignation was accepted by the Board.

An executive committee was appointed by the Board to meet weekly. It consists of Directors Buck, Kahn and Wayman. They will pass on all loans and renewals over $25,000. A liquidating committee, consisting of Directors Berg, Buck and Haas, responsible to the Board alone, was appointed to liquidate the indebtedness of Herbert Fleishhacker and other Directors and Officers who are indebted to the bank and their corporations.

The Board approved the application for preferred stock heretofore made to the RFC. The report, in the form of a letter to the Comptroller of the Currency in reply to his letter of criticism, which had been prepared by a committee of three Directors of the bank with whom Sedlacek worked was ready for presentation to the full Board. Mortimer Fleishhacker, who had had a preview of the letter, attempted to drag out the meeting so long that it would be impossible to take it up but about ten of the Directors refused to go until it had been given consideration, and so Sedlacek read the letter after telling the Directors that he had worked with the committee of three at their request in preparing it. He told them that it was just his idea and the committee's idea of what ought to be said and that it was being turned over to the Directors for their action and they could change it as they saw fit and couch it in any way they wished but the points were the ones to which the Comptroller of the Currency and the RFC would want answers. The committee of three had approved everything in the letter.

Mortimer Fleishhacker protested violently the things that were set forth in the letter. He said it was full of lies and misrepresentations and that there were many things to which he wouldn't agree and he would never sign such a letter. There then ensued a tirade of abuse by Mortimer Fleishhacker. He claims that the $2.6 million referred to in the letter as the M & H Fleishhacker Line which will have to be removed from the bank should be $2.1 million and said he had an absolute understanding with both Jesse Jones and Sam Husbands that it would be $2.1 million instead of $2.6 million, they having agreed to drop out of the M & H about one-half million bonds. Sedlacek said that if he had known this, he would have insisted on another half million of preferred stock. He thought that Mortimer was trying to get in touch with Jesse Jones on the telephone to confirm the understanding he claims on this and also to get Mr. Jones' agreement to retaining him as President for a couple of years to see what he could do.

Mortimer Fleishhacker said he would have to rewrite the letter to the Comptroller and that some of the things would have to be considered for a month or two before any reply was made. Two members of the special executive committee seemed to think otherwise and seemed to agree with Sedlacek that in whatever letter they sent, the points criticised in the examination report will have to be covered before they can expect to sell any preferred stock to the Government.

One of the things in the letter to which Mortimer took violent exception was that certain other resignations would have to be offered. Mortimer, in speaking to this point, said Mr. Tilden "who has given his life to the bank and who perhaps now isn't doing very much work but has heretofore" should not be removed. Mortimer did not know that Sedlacek had been sent a copy of a letter which Tilden (referred to by Sedlacek as one of the blackmailing Vice Presidents) had today sent to Mortimer. In this letter from Tilden to Mortimer reference was made to the indebtedness of Tilden to the bank and it was explained that his financial difficulties were attributable to Mortimer and that if it were not for his partnership with Mortimer in these deals, he would not be financially entangled as he is. He said the only solution for his financial difficulties is for Mortimer to buy out his holdings in the Fleishhacker companies. He listed the securities which he wanted Mortimer to buy. The letter was full of insinuations that Mortimer hadn't followed Tilden's good advise and that Tilden had been embroiled deeper and deeper because of Fleishhacker operations.

Following my conversation with Sedlacek, I called Sam Husbands at his home to acquaint him with the situation, and Sam told me that Mortimer is "crazy as a bat" when he says that he agreed to a $2.1 million M & H Fleishhacker line. The figure that he arrived at and the figure which he has continued to insist upon is $2.588 million.

Sam told me that Mr. Tuttle of the Standard Oil Company will be here for a conference with Mr. Jones on Monday. I asked Sam how they were getting along with the choice of a President for the bank and he said that they hadn't made any arrangements. I asked him if some names hadn't been suggested to Mortimer and he said there had been unofficial talk of three men. One is Madland, former Chief Examiner for the Comptroller in San Francisco and now a Vice President of the First Seattle National Bank in Seattle; another is William Prentiss, Chief National Bank Examiner in the Twelfth District ; and the third is Judge McCarthy, a former member of the RFC Board.

Upm

HM Jr.

I have drafted a suggested reply to Marriner. The paragraph marked in red pencil should probably be deleted.

Wpm.

Between Oct 28 + Nov 1

Dear Marriner:

I have your letter of October 27 and the accompanying memorandum, with respect to proceedings under Section 30 of the Banking Act of 1933 as contrasted with possible alternative procedure. I note that you felt it would be a great mistake for a certificate to be filed under Section 30 by the Comptroller of the Currency (who, rather than the Secretary of the Treasury would take such action). I assume that you are making your views known to him also.

The memorandum prepared by some of your legal and operating staff suggests four possible alternative procedures: revocation of license; appointment of conservator; institution of suit to forfeit the bank's charter; and the normal exercise of supervisory powers.

The first two of these alternatives are suggested "if the situation is so critical as to require immediate action". May I have the benefit of your views as to whether it is? It is stated in the memorandum that either of these alternatives would be "effective" without delay. I wonder if they would be "effective" in the way we wish - effective in securing the operation of a bank in accordance with safe and sound banking principles. I do not conclude that you are recommending to me or to the Comptroller of the Currency either of these alternatives.

The third alternative - the institution of suit to forfeit the bank's charter - is admitted in your memorandum to be not a measure of prompt relief. You might have added that such action would make necessary immediately the appointment of a conservator or very shortly thereafter the appointment of a receiver. It does not appear to be at any time a very practicable alternative. I do not believe your memorandum seriously advances it as such.

These three very drastic actions have not appeared to me and my associates in the Treasury, particularly the staff of the Comptroller's office, to be either necessary or desirable in the case of the institution which is the subject of your letter and memorandum.

The Comptroller of the Currency is thus left, it seems to me, with but one practical alternative - a certificate under Section 30 - when what you refer to as "the normal exercise of supervisory powers" fails to get needed corrections in a banking institution. We appreciate here that much can be done by "the normal exercise of supervisory powers" and the Comptroller of the Currency assures me that he contemplates a vigorous exercise of those powers in the case under discussion. In that I am confident he will have the cooperation of the Federal Deposit Insurance Corporation and the federal reserve bank. That process, too, takes time; but we believe results can be more quickly obtained by concurrent action under Section 30.

This case was carefully reviewed before action in the nature of a warning under Section 30 was taken. The difficulties and dangers and delays which are referred to in your letter and memorandum were brought out in our conferences. It was our considered view that nothing could be more dangerous than a continuation of the situation which now exists and has existed for some time. "Serious consideration" has been "given to the possibility of effecting correction by other means". We have every desire not to "kill or permanently injure the patient"; but we also wish to prevent the patient from either committing suicide or spreading an epidemic.

From my own knowledge and observation of facts in this case, I am completely convinced that there has been "continued unsafe and unsound practices". It seems to me the memorandum submitted by you exaggerates the difficulties of proof, the procedural delays, and the possible collateral ill effects. The statute reads very simply that if after granting a "reasonable opportunity to be heard" the Board of Governors finds a continuation of violation of law or of unsafe and unsound banking practices, it may order removal from office. Surely such a finding would be an effective aid to the "normal exercise of supervisory powers" by the Comptroller.

Legislation proposed by the President last Spring looking toward correction of some of the evils attendant upon this situation was opposed as "deflationary". You regard the method provided by the Congress "a great mistake". I wonder if the time hasn't come for a little firm courage?

May I say finally that I do not fear honest publicity which may come with this proceeding. I would favor a public hearing, if possible under the law, as I believe it to be.

Sincerely yours,

Secretary of the Treasury.

Dear Marriner:

I have your letter of October 27 and the accompanying memorandum, with respect to proceedings under Section 30 of the Banking Act of 1933 as contrasted with possible alternative procedure. I note that you felt it would be a great mistake for a certificate to be filed under Section 30 by the Comptroller of the Currency (who, rather than the Secretary of the Treasury would take such action). I assume that you are making your views known to him also.

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Sincerely yours,

Secretary of the Treasury.

HJ:JD Given me by Upham Oct 29

October
29th
1938

Dear Mr. Delano:

We have studied with considerable care the report of examination of the Bank of America, National Trust and Savings Association as of April 28, 1938, which was supplied by your office. Comparison of this examination report with those of earlier years has enabled us to gain a general estimate of the condition of this California bank. We wish to take this opportunity to state our reaction to the problem presented.

We have more reason to be interested in the condition of the Bank of America, National Trust and Savings Association than in that of any other bank in the country. This single bank has more than $600,000,000 of insured deposits (total deposits in the bank amount to approximately $1,550,000,000), nearly three times the amount of insured deposits in any other bank, and a half larger than the total assets of this Corporation. The importance of the condition of this bank to us is further increased by the fact that the same controlling interests operate other banks and exercise a dominating influence in the territory in which the bank operates.

As we see it, the following are the chief weaknesses of the bank:

1. Large volume of real estate (approximately $49 million) acquired through foreclosure. This is 51 percent of the net sound capital of the bank.

2. Small net sound capital in relation to the estimated value of the assets of the bank. (A decline of 6.4 percent in estimated value of assets would render the bank insolvent. This compares with possibly 11 percent for the commercial banks of the country as a whole.) This low capital is, in itself, an alarming condition, but its true significance lies in connec-

tion with the fact that an amount more than twice as great as the capital is invested in hazardous and fixed assets.

3. Unsound relations with affiliates and other corporations controlled by the same interests. This includes use of the bank's funds to expand banking activities in other states. Obligations of Transamerica Corporation and its affiliates are held in an illegally large amount.

4. The expansion of activities (particularly opening of new offices) to a degree which is not justified by the asset and capital condition of the bank. Since 1929, the bank has added 150 new branches without adding to capital.

5. Payment of unwarranted dividends. Payments are now at the rate of 19.2 percent of the par capital. Apparently in several recent years dividends have been greater than profits as measured by reasonable accounting standards.

6. The bank appears to be operated primarily with an eye to the effect on market quotations of its stock and the stock of Transamerica Corporation. The management consistently refuses to make charge-offs on items which seem to have but a small chance of realization. Apparently the bank has failed properly to depreciate its bank premises, and these assets are now carried on the books at too high a figure. The public seems to be continually misled concerning the profits of the bank.

We appreciate very much being kept informed concerning the condition of this bank. It is certainly of the utmost importance that the bank shall not continue the violations of law and the unsafe and unsound practices which have characterized its activities in the past. If at any time our organization can be of any help in this connection, do not hesitate to call upon us. The fact that supervisory authorities have in the past permitted this bank flagrantly to violate the law and to operate in an unsafe and unsound manner makes it all the more important that such practices shall not be permitted in the future.

We recognise that no matter what immediate steps are taken to remedy the conditions, it will be necessary to examine and analyze the bank in a more thorough-going manner than has ever been attempted in the past. I have no doubt that the examiners will be able to make a much more enlightening analysis of the situation when they know that the Washington office is genuinely interested and that some use will be made of the results. It is my understanding that no real examinations of Transamerica Corporation, California Lands, and Capital Company have ever been made. It appears to me that such examinations are necessary in order to get a complete grasp of the problem involved. If we can help by loaning personnel or in any other way, we will be only too happy to do so.

We have under our supervision a relatively small bank controlled by the same interests — the Central Bank, Oakland, California - a $50 million organization. The operation of this bank is so closely linked with the Bank of America, National Trust and Savings Association that the rehabilitation of the former must inevitably proceed hand in hand with that of the latter. In this respect, as in others, we wish to collaborate closely with your office.

Very truly yours,

Leo T. Crowley
Chairman

Honorable Preston Delano
Comptroller of the Currency
Treasury Department
Washington, D. C.

102

Treasury Department
TELEGRAPH OFFICE

41W FN TWS PAID 3

WUX LOSANGELES CALIF 1224P OCT 28 38 1938 OCT 28 PM 3 49

HON HENRY MORGENTHAU JR

I CONGRATULATE YOU ON FORCING THE ISSUE WHICH LED TO THE RESIGNATION OF HERBERT FLEISHHACKER MADE PUBLIC YESTERDAY WHILE YOU ARE DOING THIS BELATED HOUSECLEANING I WONDER WHY SOME OTHER OFFICERS WHO WERE PARTICIPANTS IN THE SAME PRACTICES WHICH LED TO HIS RETIREMENT SHOULD REMAIN I HOPE HOWEVER THAT THE INSTITUTION ITSELF DIDN'T HAVE TO UNDERGO SUCH UNPRECEDENTED TREATMENT AS WAS RECENTLY ACCORDED A CERTAIN OTHER INSTITUTION

A P GIANNINI

350P

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350P

FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON

1933

OFFICE OF THE CHAIRMAN

October
29th
1938

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Very truly yours,

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Chairman

Honorable Preston Delano
Comptroller of the Currency
Treasury Department
Washington, D. C.

RE BANK OF AMERICA

October 31, 1938.
12:10 p.m.

Present: Mr. Hanes
Mr. Taylor
Mr. Oliphant
Mrs Klotz

Oliphant: The other thing I had here was this letter to Mr. Eccles. I talked to Upham a little bit on it this morning, on the telephone. I think we're agreed as to the answer. Shall I read it to you?

H.M.Jr: Please.

Oliphant: "Dear Marriner:

"I have your letter of October 27 relating to procedure under Section 30, and the memorandum accompanying it. Will you indulge the mild surprise which your letter gave me, since the matter had been under discussion with Mr. Ransom, representing your Board, for some weeks, on the basis that the procedure under Section 30 was available.

"Here, as elsewhere in similar administrative matters, I am confident that where there is a will there is a way. We have been over the matter in the Treasury and it is our responsibility up to the time of the filing of the certificate. All of that, we are prepared to handle with reasonable promptness and fairness to all concerned. Beyond that, I suggest an exchange of letters between the Comptroller of the Currency and the Federal Reserve Board agreeing upon a wholly fair and expeditious procedure for all cases of this sort.

"This is the tool which Congress has given us to work with and it is for us to adapt it to the use intended. There should be no great difficulty in working out a mutually satisfactory procedure that will operate as expeditiously as is reasonably to be expected in handling such matters and will amply safeguard the interests of the Government as well as those of bank depositors and stockholders.

"I have asked my General Counsel to hold himself in readiness to discuss this matter with your technical people at their earliest convenience."

H.M.Jr: Now, for the benefit of us here, what did Eccles' memorandum to me say, boiling it down?

Oliphant: Well, it just raised every conceivable objection, all sorts of technical objections - how the procedure was slow and all that sort of thing.

H.M.Jr: Does it say it's illegal?

Oliphant: No.

H.M.Jr: It does not.

Now, have you shown this answer to Preston Delano?

Oliphant: No, he's sick today, Henry, can't come in. Doctor told him to stay in bed all day. I discussed it with Upham. Upham had given me a draft, which he may have shown to you.

H.M.Jr: I'm going to wait until Preston Delano - I don't want to send this - I want him to initial it. I suggest you send it out to his house.

Oliphant: All right.

H.M.Jr: What?

Oliphant: All right, if you think so. The doctor had him stay in bed. I thought I wouldn't bother him.

H.M.Jr: Well, let it wait a day. In the meantime, let Hanes read it. Have you (Taylor) seen it?

Taylor: Yes. I don't like it. I think it's unnecessary.

H.M.Jr: Which is unnecessary?

Taylor: The approach. I mean the "mild surprise" and "where there's a will there's a way" and all that stuff. I think you're just wasting your time with it.

H.M.Jr: With him?

Taylor: Yes. And I don't get the impression that his letter is written with anything more in mind than showing how cumbersome the procedure is and saying, "Well, we don't think this is very good and we don't want to do it."

But I think it's a mistake to do the "mild surprise" and "if there's a will there's a way" business. I mean it's just putting unnecessary chips on shoulders that don't have to be there.

H.M.Jr: Well, you can read it, and I'd like you (Hanes) to read it, and I want Preston Delano to see it. I'd like to get it out of my shop by Wednesday morning, one way or the other; let Wednesday morning be the deadline.

Oliphant: Well, I'll make up a folder for Hanes.

H.M.Jr: And have you (Taylor) seen it?

Taylor: Saw it Saturday afternoon.

H.M.Jr: Well, give one to Taylor too. And either of you or both of you make suggestions or comments.

Oliphant: And I'll give them both Upham's draft, which Upham thinks this morning shouldn't go. But I'll give it to them.

H.M.Jr: Give them both, and I'll be glad to accept suggestions from both, say, 10:15 Wednesday morning. Mrs. Klotz, we'll clear it 10:15, and have Upham and Delano here if they're well.

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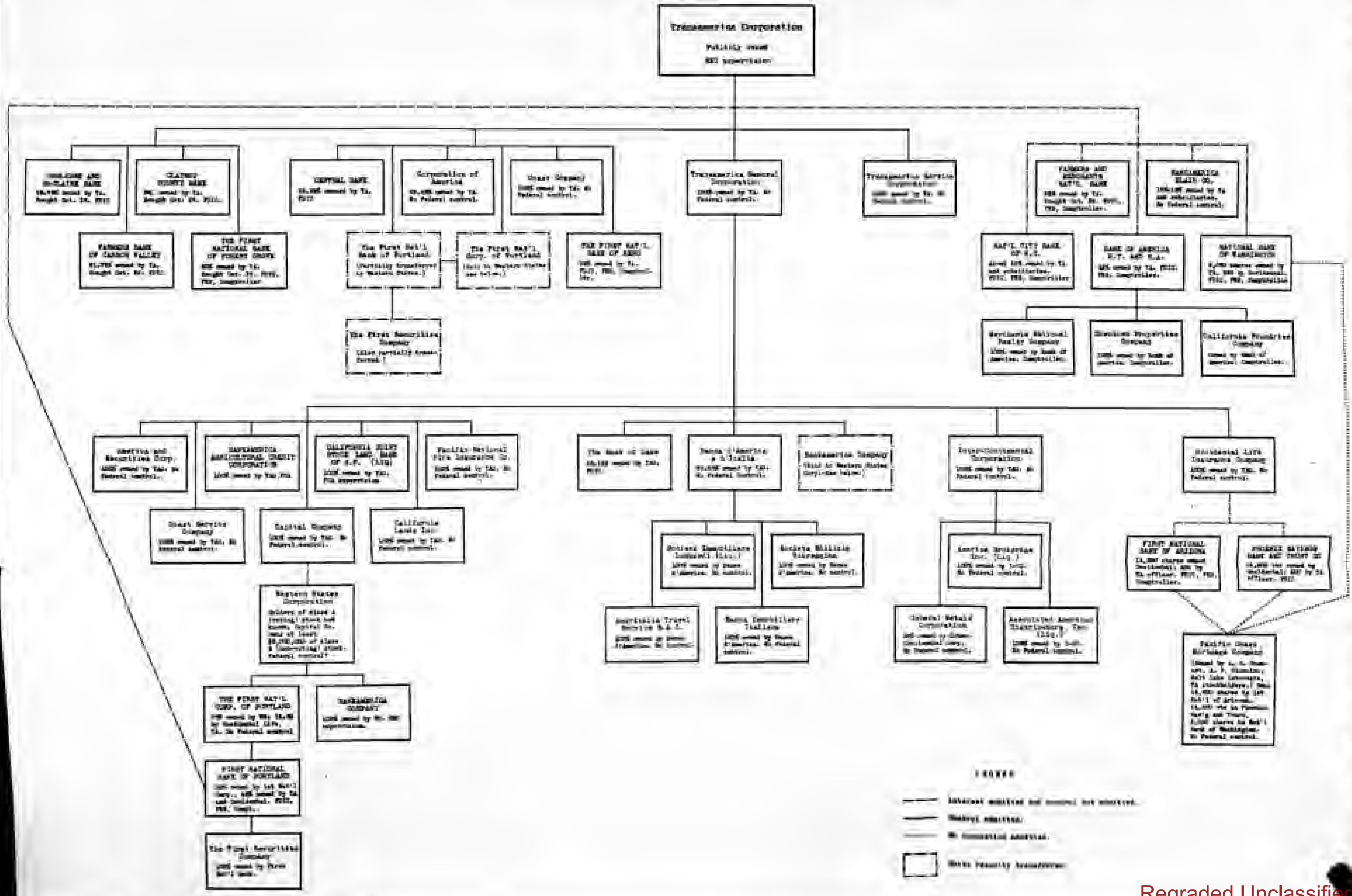
ORGANIZATION OF TRANSAMERICA CORPORATION



November 2, 1938

FOR THE SECRETARY:

On November 29, 1933, Transamerica Corp. applied for a permit from the Board of Governors of the Federal Reserve System allowing it to vote the stock which it holds in banks under its control. The law in this instance defines "control" to mean ownership of 50% or more of the outstanding stock. As applied to Transamerica at this time, this definition means that a permit is necessary for it to vote its stock in the Oregon and Nevada banks. The permit is no longer necessary for the Bank of America N. T. & S. A. stock.

The section of the Banking Act of 1933 requiring bank holding companies to obtain voting permits also requires the holding companies "within five years after the filing" of their application for a permit to divest themselves of any interest in any securities company. Applied to Transamerica, this requirement means that it must either (1) cease to be a bank holding company by distributing its stock in the Oregon and Nevada banks or (2) divest itself of its interest in its securities companies, Bancamerica Blair Corp. and Bankamerica Co. It owns 19% of the stock of the former and 100% of the stock of the latter.

If any bank holding company does not comply with these requirements, the Board of Governors "may, in its discretion" revoke the voting permit of the company.

Reports from the West Coast are that Transamerica is seeking to divest itself of the securities companies because the number of shares of stock it holds in the Oregon and Nevada banks is too small to permit easy distribution of these stocks to the Transamerica stockholders -- as was done with a part of the Bank of America stocks.

Upham knows about this situation, but he has not yet had a chance to ask the Board about it.

ESD

RE BANK OF AMERICA

November 2, 1938.
10:20 a.m.

Present: Mr. Hanes
Mr. Oliphant
Mr. Upham
Mr. Foley
Mr. Duffield

H.M.Jr: Well, what do I write?

Upham: Gave it to you (Oliphant) to answer.

Oliphant: (Hands Secretary draft of reply)

H.M.Jr: This is the latest suggestion.

"Dearest Marriner..."

Upham: Objection.

Oliphant: Objection overruled.

H.M.Jr: "I have your letter of October 27 relating to procedure under Section 30 and the memorandum accompanying it, which I have examined and referred to the Comptroller of the Currency. Sincerely yours....."

That's the latest suggestion,

Oliphant: (Hands another letter to Secretary)

That's from the Comptroller.

H.M.Jr: That's what?

Oliphant: That would be from the Comptroller.

H.M.Jr: Oh, from the Comptroller. Are we writing .....

"The Secretary of the Treasury has referred to me your letter of October 27 relating to procedure under Section 30 and the memorandum accompanying it. The matter had been under discussion with Mr. Ransom, representing your Board, for some weeks on the basis that the procedure under Section 30 was available. Moreover, I see no insuperable difficulty of our continuing to go forward on this basis.

"The procedure under Section 30 is the responsibility of this office up to the time of the filing of the certificate with your Board. All of that, we are prepared to handle with reasonable promptness and with fairness to all concerned. Beyond that, I suggest an exchange of letters between this office and your Board agreeing upon a wholly fair and expeditious procedure for all cases of this sort. This is the tool which Congress has given us to work with and it is for us to adapt it to the use intended."

Wouldn't you substitute the word "device" for "tool"?

Oliphant: Yes. Any word you want there.

H.M.Jr: I don't like the word "tool."

Oliphant: Implement - procedure.

H.M.Jr: Anything rather than "tool."

"There should be no great difficulty in working out a mutually satisfactory procedure that will operate as expeditiously as is reasonably to be expected in handling such matters and will amply safeguard the interests of the Government, as well as those of bank depositors and stockholders.

"I am advised by the General Counsel of the Treasury Department that he holds himself in readiness to discuss this matter with your technical people at their earliest convenience."

Well, it's all right as far as I'm concerned, but that's up to the Comptroller of the Currency, to do with as he wants.

Anybody see any objection to my writing Marriner this way?

Oliphant: I think that's the thing to do.

H.M.Jr: That was a good idea of yours, Ed.

Foley: It wasn't mine.

Oliphant: Shaving soap idea.

"The procedure under Section 30 is the responsibility of this office up to the time of the filing of the certificate with your Board. All of that, we are prepared to handle with reasonable promptness and with fairness to all concerned. Beyond that, I suggest an exchange of letters between this office and your Board agreeing upon a wholly fair and expeditious procedure for all cases of this sort. This is the tool which Congress has given us to work with and it is for us to adapt it to the use intended."

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Oliphant: I think that's the thing to do.

H.M.Jr: That was a good idea of yours, Ed.

Foley: It wasn't mine.

Oliphant: Shaving soap idea.

H.M.Jr: I think that's all right. (Signs letter) I think that's all right.

Now, Mr. Upham, do you mind if I tell these people the suggestion I made this morning, or would you rather wait on that?

Upham: I don't mind it.

H.M.Jr: In confidence - of course, all this is in confidence - I made the suggestion to the Comptroller's office this morning that for the vacancy of Second or Third Deputy - what is it? - ...

Upham: Well, really Third, but they aren't numbered.

H.M.Jr: ...they appoint one Mr. Currie, and let him build up an economic staff there.

Hanes: That the Federal Reserve Currie?

H.M.Jr: I don't think that there is any question that as far as ability goes, I suppose, he is among bank economists he's about the best man available. Plus the fact that, on the highest authority, he happens to be very much a believer that all this authority should be with the Government and he's quite ill over the fact that he is in an atmosphere where they want to take things away from the Government and give it to the Fed.

So I - I think that the Comptroller's office ought to have a good economic staff, and I'm just suggesting that Currie head it up. I mean it's just purely a suggestion. I only spoke to Upham this morning. Besides everything else, it happens to be damn smart politics in the sense of - not party politics, but "politic."

Oliphant: Generally.

H.M.Jr: That's right. Wouldn't it be smart?

Duffield: Yes, sir.

H.M.Jr: What?

Duffield: Yes, sir.

Duffield: Very smart, yes, sir.

H.M.Jr: It would just take the brains away from them, wouldn't it?

Duffield: Yes.

Hanes: I don't know as it would be very helpful in our relationship with Marriner. He'd be sore as the devil if you take him away.

Oliphant: Do you think he would? I doubt it.

Hanes: Do you? I think so.

Oliphant: But he likes to see people get along.

H.M.Jr: See what?

Oliphant: People around him get up in the world.

H.M.Jr: Well, what do you think, Gene?

Duffield: I think it would be a good idea. His interests have been very wide, of course, and I don't know whether he would want to come down ....

H.M.Jr: I haven't spoken to him.

Duffield: ... whether he'd want to come down to a banking picture. As a newspaperman - ex-newspaperman, I think you better watch his memoranda when he comes in; they have an awful habit of coming into the newspapers. I don't think it's his fault.

H.M.Jr: He was ill over that one.

Duffield: It's not his fault.

Upham: I don't know that the bankers would be too pleased. I don't know whether that's of any great importance. He has a reputation for being a little theoretical and a little unorthodox - sort of a brain truster. But there's no doubt about his competence. He certainly knows the field.

Oliphant: Certainly.

Upham: I have one other difficulty which bothers me a little bit. In 1934 you issued an order putting the statistical and economic division under George Haas.

H.M.Jr: Well, that's been changed.

Upham: I don't ....

H.M.Jr: That's been changed since.

Upham: I haven't seen any ...

H.M.Jr: Well, take Harry White and his whole group. They don't report to Haas.

Upham: But there hasn't been any order changing this particular one about the Comptroller's office.

H.M.Jr: Well, we can change it.

Upham: Well, I didn't think Mr. Currie would want to come in under Haas.

H.M.Jr: No, we'd change that. The way I look at it: here's a fellow and he's damn smart. Jake Viner brought him to town. That's who brought him here, see? And he was brought down here by Viner and then Eccles took him away from me. He was here in the Treasury, see; when Eccles left he took this fellow with him. He wanted to take Cy too and Cy didn't go. But he took Currie away from me, see? And I just think that from a Treasury standpoint - I mean I don't have to have a spot for him; but he'd be there, and I think he'd be a real addition to the Treasury brains. That's the way I feel.

Oliphant: He has a good reputation among discriminating minds around town.

H.M.Jr: I told him he could call up anybody he wanted: Viner, Burgess, Williams, anybody he wanted. But I just kind of thought it was a ....

Oliphant: Ruml, I know, estimates him very highly: men like that, men of maturity.

H.M.Jr: Eccles took him away from me, so it would be just tit for tat. I mean that wouldn't bother me. And if Oliphant is right, and I don't think he is, that Eccles likes to see his fellows go up - because he hasn't been promoted in any way - ....

Oliphant: Well, I don't think he's the type of fellow to stand in a fellow's way.

H.M.Jr: If you're right, he ought to welcome it.

Oliphant: I might be wrong.

H.M.Jr: Now, I'm not going to put any heat on you (Upham); but as I say, I just wanted to tell these men about it and let them think about it, because they might think of some reason they wouldn't do it.

Upham: Certainly worthwhile giving consideration to.

H.M.Jr: And the fact you're thinking - going into this Congress, and the fact that this fellow is so pro-government, as against central bank, I think is very important. But what I mean by pro-government - I mean, you know, as against these various authorities.

Hanes: Yes.

H.M.Jr: And, you know, you're depending on the people over at F.D.I.C., and they aren't as good as Currie - Jones and those people.

Upham: Jones is awfully good. He certainly doesn't have the reputation that Currie does. He certainly isn't as well known.

H.M.Jr: As I say, this is nothing but a suggestion for you to think about.

Upham: Well, it's a very good suggestion.

H.M.Jr: And I'm not going to mention it again. It's up to you fellows to do what you want. I'm not going to force anything on you. The only thing - if he does come, I'd like once in a while to have him do a little work for me occasionally.

Upham: Well, that's your office just as the rest of the Treasury is.

H.M.Jr: But - no, but as I say, I'd like occasionally to have him do a little work for me.

Now, you know what Duffield told us - because Taylor couldn't be here.

Upham: Yes.

H.M.Jr: And I told Taylor to ask Marriner what the status of this is.

Upham: Ask who?

H.M.Jr: Taylor ask Marriner Eccles what's the status of their relationship to this affiliate, and what are they going to do when this - have they extended it or what are they going to do? Taylor is going to ask them. Huh? You people don't know.

Upham: No, we don't know.

H.M.Jr: And do you want to tell us anything on banking?

Upham: Sedlacek is back.

H.M.Jr: He is?

Upham: Yes, he got in yesterday, and he's going over this Bank of America business for us, and I think we can be ready - well, we would be ready this week, but we'll certainly be ready when you get back.

H.M.Jr: To do what?

Upham: To issue a letter of warning, which I am very eager to do promptly.

H.M.Jr: To whom does that go?

Upham: That goes to the Bank of America. It's been held up a little bit because of a meeting we had last week in which it was thought that we better analyze a letter from the Board of Directors of the Bank of America.

H.M.Jr: What does the letter of warning - I don't know what it is.

Oliphant: Under Section 30.

Upham: Under Section 30 - the thing that starts the procedure.

H.M.Jr: That goes to whom?

Upham: The directors, the individual directors of the Bank of America. It's really confirmatory of that telegram we sent last September.

H.M.Jr: And then what's the next step?

Upham: The next step is to wait for them to continue their violations, their unsafe and unsound practices, after that. And then we certify them to the Board.

Oliphant: Federal Reserve Board.

Upham: Federal Reserve Board.

Hanes: Before you can certify them to the Board they have the right under the statute to make such corrections as you have pointed out in your letter of warning..

Upham: Oh, if they made all the corrections, if they didn't continue ....

Hanes: This doesn't mean that you're going to proceed under Section 30; it's just the first step in preparation for proceeding.

Upham: That's right.

H.M.Jr: Now, Cy, what's the status of the Anglo-California situation?

Oliphant: Before you get off this, may I - I'd like to ...

H.M.Jr: Go ahead, Herman.

Oliphant: I don't want to start down that alley and then find later on it's a blind alley.

H.M.Jr: Meaning what?

Oliphant: That Eccles and his crowd won't go through with that Section 30 procedure. So I think that we've pretty nearly got to have an understanding with them before this letter of warning goes out.

Oliphant: How can they escape doing it, if we certify the facts to them?

H.M.Jr: I don't agree with you, Herman.

Oliphant: Huh?

H.M.Jr: I don't agree with you.

Oliphant: Well, you talk about the battle of the century, and you're starting to use a weapon that you know in advance has got wet powder in it.

H.M.Jr: That's all right. That's all right. Our job - I mean talking of the Treasury as all-inclusive - is to carry out the law as we see it. Now, if these fellows won't do it, Congress will be here in two months. That doesn't say that you can't do a little exploring. But I'm - this isn't legal, and I think we've got to go through with the various steps as you, General Counsel of the Treasury, tell me what those steps are. Now, it's just the same if you say to me - would you say to me, because you have a weak judge, that we shouldn't proceed to try a fellow?

Oliphant: No.

H.M.Jr: What?

Oliphant: No, my suggestion relates to the timing of this thing. I think we ought to press your answer to Eccles, get an understanding on the procedure, and have that out of the way. It's a question of timing.

H.M.Jr: I think - well, that's where I disagree with you. I think we should press to do the job as the Comptroller's office and you interpret that it's our responsibility to do. That's what we should press. And I think we should go forward just as fast as the Comptroller's office and my General Counsel advise me that it's the Treasury's responsibility to do it; and we put the pressure on, we go forward just as fast as it is our responsibility, and I'm not going to try to educate the Federal Reserve Board. Now -

I mean I've got a responsibility and I'm going to fill mine. Now the fact that they're weak about it - why, I'm sorry, but I want to be able to go before the Department Committee on the Hill and say, "Gentlemen, I moved just as fast as I could. Now, I've arrived at this point; I can't get any farther. This is the law. Gentlemen, what should I do?" That's the procedure, Herman. I want to go just as far as you fellows advise me we should go, and move - press there. But the hell with the Federal Reserve Board.

You got any doubts, John, on that?

Hanes: No.

H.M.Jr: What? I mean here's the Comptroller here and my General Counsel; they tell me that this is our responsibility under the law. Now, I want to go forward just as fast as I can, step by step.

Oliphant: Well, I want that and I want something more; I want our action to be both prompt and effective.

H.M.Jr: Herman, I agree with you; but if we reach an impasse, we've got Congress.

Oliphant: That's right - if we reach an impasse.

H.M.Jr: And I think the only way we can get anywhere is to just go forward just as fast as is possible, and not worry about the Federal Reserve. I don't - I'm very, very doubtful that we can make any headway, and I hate to say this, in this room, but I think their tactics are to do everything to slow us up, and I'd like to ....

Oliphant: I may be wrong, but I don't think - don't believe the Board will support Eccles on this.

Upham: All the better.

Oliphant: What?

Upham: All the better.

H.M.Jr: I'm saying to you people, unless somebody says to me, no, I'm wrong - to the Comptroller: I want you to go forward just as fast as you can.

Upham: Well, the Comptroller is going to do that unless he's told not to.

H.M.Jr: And I haven't got time, I just can't - I mean I never have made a dent on Mr. Eccles, I've never convinced him of anything. I've never convinced him of anything and I haven't got the physical strength to go through a session trying to convince Eccles. I just haven't got the physical strength.

Oliphant: Well, there have been several tugs of war with Eccles where you ran away with the rope.

H.M.Jr: Let them make up their mind what they're going to do, but I'm not going to put on an educational program for them. They know all this thing backwards and forwards.

I never got your (Upham) memorandum on this fellow A. O. Stewart owning some stock in Kansas City.

Upham: It hasn't been written yet.

H.M.Jr: I'm sorry, Herman, I don't agree with you.

Oliphant: Well, I wonder if - we probably do agree. Do you see any objection to pressing... I want all you want; in addition to that I say I'd like to have the action effective. Do you see any objection to pressing those fellows on the procedure?

H.M.Jr: Well, I've given these two fellows (Upham and Duffield) a job to do a little tunneling over there, see who they can line up, see? Is that what you mean?

Oliphant: (Nods yes)

H.M.Jr: O.K., well they've got the job. They're going to do a little tunneling, see where they can get.

Oliphant: That's what I mean.

H.M.Jr: They've been given that assignment.

Oliphant: I want our action to be prompt and effective.

H.M.Jr: Well, they're going to do a little tunneling, do a little counting of noses.

Upham: I don't think we're in disagreement.

H.M.Jr: But I want to go forward. The only way we're going to go now is just to convince everybody that's got an interest in this thing that we are going to go forward.

Well now, how about this little $500,000 thing?

Oliphant: Do you want that before you get back to Wayne Taylor?

H.M.Jr: I don't care, I'm in no hurry about that.

Upham: It's one of those cases where the F.D.I.C. is going to act to put them out of the fund unless we do something in the way of rehabilitating the bank.

Oliphant: You're talking about ...

Foley: Anglo- - no....

Upham: I'm talking about some little bank.

Foley: Patchogue.

Upham: Patchogue. As I understand, unless we do something in the way of a program to fix it, they're going to put it out of the fund.

Oliphant: Aren't you clear that - my memorandum is finished - we should just carry it through the group in the regular way?

H.M.Jr: There's no need to wait for me.

Upham: I haven't seen this Patchogue case, don't know anything about it; haven't seen any memorandum.

H.M.Jr: What I want to say - I told Preston Delano that before I made any request for any preferred stock issue in the future, he'd have to initial it; that I would make no request for ....

Oliphant: Even though it's a state bank.

H.M.Jr: Anything that I have to do - he's my banking adviser now, and anything that I do in connection with a bank, Preston Delano's got to initial it before I do it; and he knows everything that I do.

Oliphant: That's right.

H.M.Jr: Check, John? Now, I told Preston Delano that before I made any move in the banking field, his initials have got to be on that - approval or disapproval.

Oliphant: We'll work it through - get his initials, send it through in the regular way. You're clear on the question of policy.

H.M.Jr: I am. I don't know any bookkeeping, but I know if you buy 17 million dollars worth of preferred stock, it's 17 million dollars worth of preferred stock, it ain't five.

Upham: Well, I hope you haven't made up your mind definitely on all that without listening to me. I haven't had an opportunity to make any representations on it.

H.M.Jr: You'll have your chance with this group.

Upham: Well, no, I'll never get into it. They'll put through this and turn it down and it will come to me, I guess.

Oliphant: If you refuse to initial it, it will never get to Mr. Delano.

H.M.Jr: Are you for the cut-back, whatever you call it - buy back, re-back.

Upham: No, Mr. Secretary, I am not; been opposed to it from the beginning. Tried with Mr. Coolidge to defeat it; the Comptroller did his best to defeat it. But there are some considerations here that I would like to have you know about before you definitely decide against it.

H.M.Jr: Well, what time tomorrow does this group want to get together and give this fighting cock a chance? What time tomorrow?

Oliphant: Tomorrow afternoon.

H.M.Jr: What time?

Oliphant: Three o'clock.

H.M.Jr: John - I told him no afternoon meetings.

Hanes: That's all right.

H.M.Jr: Will you meet in Hanes' office?

Upham: Three o'clock.

H.M.Jr: Three o'clock.

Oliphant: Cut-back.

H.M.Jr: Cut-back.

Upham: You see, some of these, Mr. Secretary, ...

H.M.Jr: You let Taylor know when to be there.

Hanes: Yes.

H.M.Jr: Be in your office.

Upham: Some of these don't come to you at all. Some of these the Comptroller can cut back himself with the R.F.C., you have nothing to say.

H.M.Jr: Well, Delano's with me on this.

Oliphant: Which ones are those that don't come in here?

Upham: Where you refuse the par value of outstanding preferred stock, but leave it retirable at the higher price.

Oliphant: No new money.

Upham: No new money.

H.M.Jr: What Delano should do is extend me the same courtesy I'm extending him. I mean he doesn't have anything to say about this either. I mean he should extend me the same courtesy. See, Cy?

Upham: Right.

H.M.Jr: But I mentioned it to Mr. Delano. He feels just as strongly as I do.

Upham: We have some people coming in on one of those cases this morning, and two or three in the F.D.I.C. We've been pressing right along on the old idea of getting these banks cleaned up, and we're very eager to get them cleaned up. And we just have to stop all conferences and everything else, because they've all gone ahead right to the point of completion on the basis of a cut-back.

H.M.Jr: Well, that's easy enough. All you can do is specify that after such and such a date any new negotiations started will be on this policy - something like that.

Anyway, you can meet in Hanes' office at three tomorrow.

Upham: Fine.

Dear Mr. Eccles:

The Secretary of the Treasury has referred to me your letter of October 27 relating to procedure under Section 30 and the memorandum accompanying it. The matter had been under discussion with Mr. Ransom, representing your Board, for some weeks on the basis that the procedure under Section 30 was available. Moreover, I see no insuperable difficulty of our continuing to go forward on this basis.

The procedure under Section 30 is the responsibility of this office up to the time of the filing of the certificate with your Board. All of that, we are prepared to handle with reasonable promptness and with fairness to all concerned. Beyond that, I suggest an exchange of letters between this office and your Board agreeing upon a wholly fair and expeditious procedure for all cases of this sort. This is the tool which Congress has given us to work with and it is for us to adapt it to the use intended. There should be no great difficulty in working out a mutually satisfactory procedure that will operate as expeditiously as is reasonably to be expected in handling such matters and will amply safeguard the interests of the Government, as well as those of bank depositors and stockholders.

I am advised by the General Counsel of the Treasury Department that he holds himself in readiness to discuss this matter with your technical people at their earliest convenience.

Sincerely yours,

Comptroller of the Currency.

Hon. Marriner S. Eccles
Chairman
Board of Governors of the
Federal Reserve System
Washington, D. C.

HO:EHFJr/bjs
Typed: 11/1/38

RE ANGLO-CALIFORNIA BANK

November 2, 1938.
10:40 a.m.

H.M.Jr: Now, what about the Anglo-California?

Upham: Well, we're waiting on - there are really two things: (a) the application from the R.F.C., that is, the letter suggesting that you request them to buy some preferred stock; and (b) the letter from the directors of the Anglo-California, which should be here today or tomorrow, indicating the things that they're willing to correct.

The Anglo California National Bank

of San Francisco

November 2, 1938

Comptroller of the Currency
Washington, D. C.

Dear Sir:

Your office has undoubtedly been advised from time to time through Mr. Sedlacek, National Bank Examiner, of the status of negotiations under way with the Reconstruction Finance Corporation in connection with an application made for additional capital for this bank as well as other recent developments affecting the bank.

In order that your office may be fully informed of any major changes, I desire to advise you that the Board of Directors of this bank, by resolution adopted under date of October 27, 1938, appointed a Special Committee of the Board, consisting of Directors William Berg, W. P. Buck and Walter Haas, whose duties are to generally supervise all loans of officers and directors (past and present) and all loans to concerns in which officers and directors may be interested. These directors, incidentally, are not officers; are not indebted to the Bank and are entirely independent-minded substantial citizens of San Francisco.

This Committee, after carefully reviewing the status of certain loans of Herbert Fleishhacker and his financial condition generally, felt that it was for the best interests of the bank that the collateral supporting these obligations be foreclosed and taken over by the bank for disposition through sales as soon as opportunities for such sales are presented.

This Committee of the Board, therefore, authorized the above action and as a result of this authority, this bank, under date of October 31, 1938, became the owner, through formal sale, of the properties, securities, etc., held heretofore as collateral security on the following enumerated Herbert Fleishhacker loans:

H. Fleishhacker	977,567.32
Palo Alto Co. (Guar. H.Fleishhacker)	938,522.48
H.T.Thompson (Guar. H.Fleishhacker)	375,000.00
Pittock Block (Guar. H.Fleishhacker)	125,000.00
A. B. Cahill	62,491.60
Pacific Freighters Co. (Guar. H.Fleishhacker)	162,879.30
	$2,641,460.70

Reply to your letter of October 3rd, 1938, by Board members is in process of preparation and will go forward at the earliest possible moment.

Respectfully yours,

M Fleishhacker

M. Fleishhacker
President

NOV 2 1938

Dear Marriner:

I have your letter of October 27 relating to procedure under Section 30 and the memorandum accompanying it which I have examined and referred to the Comptroller of the Currency.

Sincerely yours,

(Signed) H. Morgenthau, Jr.

Hon. Marriner S. Eccles
Chairman
Board of Governors of the
Federal Reserve System
Washington, D. C.

HO:EHFJr:b
Retyped 11/1/38

THIS NO. ____2____ MUST APPEAR ON GENERAL COUNSEL PINK SLIP SHOWING "ACTION TAKEN

132

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

OFFICE OF THE CHAIRMAN

October 27, 1938.

Dear Henry:

Upon my return from the west just following my visit to San Francisco, I asked some of our legal and operating staff who have had practical experience with Section 30 proceedings to let me have for my own information a brief memorandum on both the legal and practical aspects and the time element involved in such a proceeding, as contrasted with possible alternative procedures, assuming that the case in question related to a large banking institution and that a variety of complaints were alleged, including the question of dividend disbursements.

While I knew in a general way about Section 30 procedure from our experience with minor cases, I was frankly dismayed, on reading this memorandum, at the possibilities of interminable delay and infinite complexity involved in a case such as is envisioned here.

I am particularly impressed by the fact that in dealing with a case that needs prompt correction, this procedure at best means delay after delay--that, first, it must be found that there is a violation of law or that unsafe or unsound practices are being pursued; that a warning must then be issued; that next, "a reasonable time" must be allowed to permit of corrections; that it must then be shown and subsequently proved that the violations or unsound practices were continued, notwithstanding the warning and allowance of a reasonable time for correction; and that all this must precede the filing of a certificate with this Board. Then there must be further time allowances wholly aside from the time wasting tactics that could be employed by a resourceful defendant, to say nothing of the enormously complicated accounting and valuation problems affecting real estate and other assets that would arise if, as must be assumed, defendant attorneys undertook to disprove the Comptroller's charges by the testimony of experts of their own choosing.

On the basis of the facts developed in this memorandum, I have concluded that it would be a great mistake to proceed along these lines and that I ought to let you know how I feel about it personally. I hope you will have an opportunity to look this memorandum over yourself.

Sincerely yours,

M S Eccles

M. S. Eccles,
Chairman.

Honorable Henry Morgenthau, Jr.,
Secretary of the Treasury,
Washington, D. C.

enclosure

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Secretary of the Treasury,
Washington, D. C.

enclosure

Problems of procedure under Section 30.

The following are the steps to be taken in the Section 30 proceeding:

1. There must be a violation of law or unsafe or unsound practices by the officer, employee or director.
2. A warning must be issued by the Comptroller's Office.
3. A reasonable time must elapse after the warning to permit of corrections.
4. Despite the warning the violations of law or the unsafe or unsound practices must have continued.
5. A certificate reciting the above facts and setting forth the specific matters complained of must be filed by the Comptroller's Office with the Board.
6. The accused must be given notice and such reasonable time as will meet the requirements of "due process".
7. The hearing proper.

Comptroller's proof of certificate.

In many of his actions the Comptroller of the Currency acts in a so-called quasi-judicial capacity and, except under certain exceptional circumstances, a court will not look behind his actions. For instance, his determination of losses and his resulting finding of an impairment in a bank's capital or its insolvency, his appointment of a receiver, and the levy of an assessment against shareholders are all actions which the courts have regarded as final. Similarly, it would seem that a finding by him of the necessity to appoint a conservator "in order to conserve the assets of any bank for the benefit of depositors and other creditors" would not be reviewable by the courts. This, however, would not be true with respect to the institution of a proceeding under Section 30. "Certifying the facts" does not prove the facts. Accordingly, there must be evidence to support such charges, not necessarily of the type admissible only under the technical rules of evidence applicable to judicial proceedings but certainly of the type entitled to consideration under the general rules applicable to administrative proceedings.

For instance, the legality or illegality of a dividend payment by a bank, if that should be an issue, would depend upon the amount of the bank's losses and statutory bad debts at a given date. Proof would be necessary with respect to each item of loss and each statutory bad debt until collectively such items aggregated "an amount greater than its net profits then on hand". In many instances it probably would be necessary to fix the value of collateral, real estate and otherwise, concerning which no doubt there would be wide differences and conflicts in the testimony which would have to be resolved. Furthermore, since Section 30 involves a failure to discontinue violations of law and unsafe and unsound practices after warning, it would be necessary to establish the case on at least two dates, to wit, before the warning and after the warning. This would be true with respect to each charge in the certificate and to each asset involved in each charge.

Opportunities for attack and delay by defendant in an important case.

With representation of the accused director or officer in the hands of the best talent available, it is reasonable to expect attacks upon the procedure as a whole, attacks upon each step in the procedure, claims with respect to reasonableness of the time afforded, requests for delay, and other objections, none of which could be lightly considered and the effect of all of which would be to impede and delay action upon the merits. Then, with respect to the merits of the case it is reasonable to expect that repeated attempts would be made to color the entire picture by emphasizing the fact that the bank was licensed as a sound bank subsequent to which the Comptroller's own examinations have shown periodic improvement in the bank's position; and that further, the bank has been permitted, with the approval of the Comptroller of the Currency, to establish approximately fifty de novo branches, which would seem to indicate that at the time of the establishment of each such branch the Comptroller found the bank to be in satisfactory condition else he would not have permitted its establishment. Also, it is to be expected that with respect to each asset involved not only will there be an attempt to establish the value thereof by their own witnesses, but also it is reasonable to expect that the examiner will be cross-examined with respect to each asset, the value placed thereon at each examination by him, and his prior criticism thereof. The amount of time which could be consumed in a proceeding conducted along such lines staggers the imagination, and yet if a hearing is to be conducted so as to meet the test of fairness imposed by the courts, it would be almost impossible to prevent the use of such tactics if chosen to be used.

It may be seen, therefore, that action under Section 30 at best is a long and tedious process. Moreover, it does not operate directly upon the bank but only upon officers and directors of the bank. If the removal of an officer would not have the effect of changing the directors' policies, nothing would be accomplished. And, if removal of the directors would mean only that stockholders would elect directors that would carry out the same policies, nothing would be accomplished. It might be well, therefore, first to consider the situation from a standpoint of control and whether the removal of particular individuals would affect such control before attempting to affect correction by removing such individuals from nominal office.

Other available procedures.

On the other hand, it would seem that if the situation is so critical as to require immediate action the bank's license could be revoked by the Secretary or the Comptroller could appoint a conservator. Either of these alternatives would be effective without delay and would operate directly upon the bank.

Another proceeding of a direct nature would be to institute a suit to forfeit the bank's charter. However, such a suit could not be considered as a measure of prompt relief.

Finally, correction might be obtained through the normal exercise of supervisory powers. Many of the facts which would have to be established by evidence in either a Section 30 proceeding or a suit to forfeit a bank's charter could be determined by the Comptroller of the Currency through the normal processes of examination. For instance, if the examiner should find losses and the Comptroller of the Currency should support him in such findings and determine them so to be, the bank's profit account as a measure for the payment of dividends and its capital and surplus account (if impaired by such determination) as a measure for the bank's loan limit, would be fixed and its earnings absorbed.

Effect of an important Section 30 hearing upon the banking situation.

However important it is to cure the particular ailment, it is equally important not to select a remedy which may kill or permanently injure the patient. In this connection it is important to remember that there are hundreds of thousands of uninformed people involved who, because they are uninformed, may be swayed by extraneous and irrelevant considerations, and that indirect as well as direct repercussions on the banking structure might follow drastic action. It is hard to conceive of any circumstances in which the interest of depositors would best be served if attempted correction is accompanied by wide publicity and long drawn out proceedings during which rights of creditors are constantly changing (which may account for the negligible number of suits to forfeit charters which have been instituted in the past.) Particularly would this seem to be true when it is reasonable to expect that such publicity would include recriminations, charges of persecution, and claims that the action is political in its nature. The ill-effects consequent upon such an open fight might prove very disastrous and far out weigh the possible good sought to be accomplished in pursuing the remedy.

In conclusion, it is difficult to see how a procedure such as one would have to be under Section 30 could remain long without publicity and therefore before initiating it or any other procedure likely or certain to receive wide publicity, serious consideration should be given to the possibility of effecting correction by other means which are available under the law and are within the discretion either of the Secretary of the Treasury or the Comptroller of the Currency.

THE UNDER SECRETARY OF THE TREASURY

WASHINGTON

November 3, 1938

Dear Henry:

This morning at eleven o'clock Messrs. Taylor, Oliphant, Upham, Foley, Duffield and Mulrooney met with me on the preferred stock question, and also to consider the wire from Mr. Giannini.

I am attaching hereto memorandum in reference to the preferred stock cut-backs.

I am also attaching proposed answers to Mr. Giannini based upon the somewhat divided opinion of the group as to the method of handling. Herman Oliphant seemed to feel that this telegram should be handled in a routine manner by your referring it to the appropriate person for answer. One letter which we have drafted represents that viewpoint. Several of us felt very strongly that you should answer the wire yourself since it was apparently intended as a personal attack upon you. I also enclose copy of Mr. Giannini's telegram in order that you may refresh your memory.

When you call on the telephone tomorrow we can discuss this matter further.

Sincerely yours,

John Hanes

Honorable Henry Morgenthau, Jr.

Hopewell Junction, New York

P.S. Since dictating the above we have decided to send you draft of only one letter.

November 3, 1938

Dear Mr. Eccles:

The Secretary of the Treasury has referred to me your letter of October 27th relating to procedure under Section 30 and the memorandum accompanying it. The matter had been under discussion with Mr. Ransom, representing your Board, for some weeks on the basis that the procedure under Section 30 was available. Moreover, I see no insuperable difficulty of our continuing to go forward on this basis.

The procedure under Section 30 is the responsibility of this office up to the time of the filing of the certificate with your Board. All of that, we are prepared to handle with reasonable promptness and with fairness to all concerned. Beyond that, I suggest an exchange of letters between this office and your Board agreeing upon a wholly fair and expeditious procedure for all cases of this sort. This is the method which Congress has provided for cases of this sort, it seems to me. There should be no great difficulty in working out a mutually satisfactory procedure that will operate as expeditiously as is reasonably to be expected in handling such matters and will amply safeguard the interests of the Government, as well as those of bank depositors and stockholders.

I am advised by the General Counsel of the Treasury Department that he holds himself in readiness to discuss this matter with the legal and operating staffs of the Board and of this office.

Sincerely yours,

(Signed) C. B. Upham

Acting Comptroller of the Currency

Honorable Marriner S. Eccles,
Chairman, Board of Governors
of the Federal Reserve System,
Washington, D. C.

HO:HMFJr/bja
Revised 11/3/38 UPM:pm

(C O P Y)

November 3, 1938

MEMORANDUM FOR MR. UPHAM:

You have asked for a memorandum setting forth the courses of action that are open to the Comptroller of the Currency in dealing with national banks that are in hazardous condition or that are bordering on insolvency, if the so-called cut-back or sale of preferred stock at a premium are not invoked.

It is difficult to make general statements explaining the above for the reason that the accompanying facts and circumstances surrounding the individual banks in hazardous condition vary to a great extent.

The major factors that are considered when any such bank is being given attention are as follows:

1. The outstanding consideration is the protection of depositors in any proposed action to be taken;

2. The nature of the business of the bank and the effect its liquidation would have upon the community or State in which it is located. (Certain such banks are termed "key banks" because of their wide spread activities such as deposits of other country banks which they hold.);

3. The character of the personnel of the bank and the degree of competence in the management thereof;

4. The ability and willingness of the common shareholders to come to the bank's aid;

5. The past history of the bank, including the causes of its troubles;

6. The determination as to whether or not the bank can continue operations after corrective measures have been taken, and can overcome remaining defects.

The Comptroller of the Currency is empowered by law to take direct action against banks in the manner set out hereafter:

1. He may publish in full the report of examination of the bank;

2. He may attempt the removal of officers and/or directors of the bank who have violated the laws or continued unsafe or unsound practices;

3. He may appoint a conservator for a bank;

4. He may, for certain causes, appoint a receiver and liquidate a bank;

5. He may institute a suit for certain causes to declare a banking association dissolved and the franchise forfeited;

6. He may levy an assessment to restore an impairment in the common capital of the bank.

The first five items listed above are obviously of no aid to the Comptroller of the Currency in the case of a bank in distressed circumstances or a bank bordering on insolvency. As far as item 6 above is concerned, it has been the experience of the office of the Comptroller of the Currency that since the termination of the double liability on the stock of national banks it is a practical impossibility, in the majority of cases, to effect a correction of the impairment of the common stock of a national bank by levying such an assessment.

Other than the foregoing, there remain two primary courses of action for use of the Comptroller of the Currency in dealing with distressed banks if the so-called cut-back provisions of the law are not used.

First, the sale of the particular bank under consideration to a neighboring institution (generally through the aid of a deficiency loan made by the Federal Deposit Insurance Corporation), or the consolidation of that bank with a competitor. (Both of the foregoing require favorable vote of the shareholders.) That manner of eliminating such banks is presently being used wherever possible.

Second, changes in the common capital of the bank such as a reduction of that class of stock to eliminate losses, and the subsequent increase by the sale of that class of stock, if possible, to furnish the desired capital ratio. Again, that course of procedure is not possible in many instances, particularly in the case of banks whose total capital is now the minimum required by law. In many instances the common capital of a bank cannot be reduced in sufficient amount to permit the charging off or elimination of all of the unacceptable assets.

THE SECRETARY OF THE TREASURY
WASHINGTON

November 4, 1938.

Dear Mr. Giannini:

The tone and text of your telegram of November 2, addressed to me, are such that in ordinary circumstances it would not merit either acknowledgment or reply. I am impelled to write to you only by the hope that the tactics of personal vituperation you adopted in this telegram do not represent your considered judgment but were prompted by momentary anger at what you took to be an attack upon your institutions or yourself personally.

I have not seen the "Wilcox letter" referred to in your telegram. I know nothing about the statements made in it or their source. I have authorized no disclosures of any kind about any banking situations. On the contrary, I have enjoined the strictest secrecy as to any and all matters relating to banking which could not, in the public interest, be issued in the form of public statements.

There are matters of grave importance pending between the office of the Comptroller of the Currency, which is a bureau of the Treasury Department, and the financial institutions of which you are the responsible head. Let us not muddy the waters by personal animus or unjust charges.

Sincerely,

Secretary of the Treasury.

Mr. A. P. Giannini,
Chairman, Board of Directors,
Bank of America,
Los Angeles, California.

7w m 133 nl

LOS ANGELES CALIF NOV 1 1938 1938 NOV 2 AM 8 43

HON HENRY MORGENTHAU
SECRETARY OF TREASURY

JUST RECEIVED COPY WILCOX LETTER OCTOBER 30TH AND HAVE PARTICULARLY NOTICED ITEMS C PAGE 1 B PAGE 3 F H AND 1 PAGE 4 DONT YOU THINK MR SECRETARY THAT YOUR CONTINUED UNWARRANTED AND UNJUSTIFIABLE SMEARING HAS GONE FAR ENOUGH I MOST RESPECTFULLY AND EMPHATICALLY PROTEST AGAINST SUCH WHOLLY UNDESERVED REFERENCES AS CRITICAL COMMENTS STOP IN THE WEST STOP ALLEGED CONDITIONS FAR WEST STOP SPECIFIC ATTENTION BEING GIVEN FAR FLUNG ETC ON PACIFIC COAST STOP STUDY SETUP AND CORPORATION DEVICE NOT DENIED STOP AFFILIATES BOTH ANNOYING NEW BOOKKEEPING RULES AND DEVICES ETC NEED FOR PROMPTER CHECK SOME BLAME INADEQUATE BOOKKEEPING STOP SUGGEST YOU CHECK AFFILIATES WEST OF PORTLAND RENO AND PHOENIX AND JUST SEE HOW THEY COMPARE TO INSTITUTION OF NEW JERSEY NEW YORK AND OTHER STATES AM SATISFIED YOU WILL FIND THEM PRACTICALLY PERFECT

A P GIANNINI

822A

November 4, 1938

MEMORANDUM FOR THE SECRETARY:

When the Presidents of the Federal Reserve Banks were here last week there was some hotel lobby discussion among them of the recent resignation of Mr. A. O. Stewart as Chairman of the Board of the Federal Reserve Bank of San Francisco.

You will be interested to know that President Hamilton of the Kansas City Federal Reserve Bank claimed credit for the resignation because of the fact that examiners from the Federal Reserve Bank of Kansas City discovered that Mr. Stewart owned, I think, about 5,000 shares of stock of the Commerce Trust Company of Kansas City, a state member bank.

Upm

RETURN RECEIPT 144

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

G. R. Giannini

(Signature or name of addressee)

J. F. Daniel

(Signature of addressee's agent)

NOV 7 1938

Date of delivery ...., 19......

Form 3811

LOS ANGELES CALIF.
NOV 7
12-30 PM
1938
TERMINAL ANNEX

POSTMARK OF DELIVERING OFFICE

The Secretary of The Treasury

Post Office at Washington

State D.C.

RECEIPT FOR REGISTERED ARTICLE No. 25[illegible]

15 fee paid. 1 class postage paid. 11-5-1938
(Date)

Declared value, $ n.v. Surcharge paid, $

From The Secretary of the Treas.
Washington, D.C.

Addressed to Mr. A. P. Giannini
Chairman, Board of Directors Bank of
Los Angeles, [illegible] America

Accepting employee will [illegible]

Return receipt fee 3

Delivery restricted to addressee in person or order: air mail .06
Fee paid

Special delivery fee

Postmaster, per J

5—6869

NOV 5
6 PM
1938
N.Y.

145

Regraded Unclassified

November 5, 1938.

Dear Mr. Giannini:

The tone and text of your telegram of November 2, addressed to me, are such that in ordinary circumstances it would not merit either acknowledgment or reply. I am impelled to write to you only by the hope that the tactics of personal vituperation you adopted in this telegram do not represent your considered judgment but were prompted by momentary anger at what you took to be an attack upon your institutions or yourself personally.

I have not seen the "Wilcox letter" referred to in your telegram and I had not previously known of its existence. I know nothing about the statements made in it or their source. I have authorized no disclosures of any kind about any banking situations. On the contrary, I have enjoined the strictest secrecy as to any and all matters relating to banking which could not, in the public interest, be issued in the form of public statements.

There are matters of grave importance pending between the office of the Comptroller of the Currency, which is a bureau of the Treasury Department, and the financial institutions of which you are the responsible head. Let us not muddy the waters by personal animus or unjust charges.

Sincerely,

Secretary of the Treasury.

Mr. A. P. Giannini,
Chairman, Board of Directors,
Bank of America,
Los Angeles, California.HEG/mah

November 6, 1935.

Dear Mr. Giannini:

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November [illegible], 19[illegible].

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Mr. A. P. Giannini,
Chairman, Board of Directors,
Bank of America,
Los Angeles, California.HMG/mah

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November 4, 1936.

Dear Mr. Giannini:

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Bank of America,
Los Angeles, California.

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LOS ANGELES CALIF NOV 1 1938 1938 NOV 2 AM 8 43

HON HENRY MORGENTHAU
SECRETARY OF TREASURY

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A P GIANNINI

822A

November 8, 1938.

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Bank of America,
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November 3, 1938

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Sincerely yours,

(Signed) John W. Hanes

Honorable Henry Morgenthau, Jr.

Hopewell Junction, New York

Treasury Department

TELEGRAPH OFFICE

7W M 133 NL

LOS ANGELES CALIF NOV 1 1938

1938 NOV 2 AM 8 43

HON HENRY MORGENTHAU
SECRETARY OF TREASURY

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Treasury Department

TELEGRAPH OFFICE

7w/2

DEVICE NOT DENIED STOP AFFILIATES BOTH ANNOYING NEW BOOKKEEPING RULES AND DEVICES ETC NEED FOR PROMPTER CHECK SOME BLAME INADEQUATE BOOKKEEPING STOP SUGGEST YOU CHECK AFFILIATES WEST OF PORTLAND RENO AND PHOENIX AND JUST SEE HOW THEY COMPARE TO INSTITUTION OF NEW JERSEY NEW YORK AND OTHER STATES AM SATISFIED YOU WILL FIND THEM PRACTICALLY PERFECT

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November 4, 1938.

Dear Mr. Giannini:

The tone and text of your telegram of November 2, addressed to me, are such that in ordinary circumstances it would not merit either acknowledgment or reply. I am impelled to write to you only by the hope that the tactics of personal vituperation you adopted in this telegram do not represent your considered judgment but were prompted by momentary anger at what you took to be an attack upon your institutions or yourself personally.

I have not seen the "Wilcox letter" referred to in your telegram. I know nothing about the statements made in it or their source. I have authorized no disclosures of any kind about any banking situations. On the contrary, I have enjoined the strictest secrecy as to any and all matters relating to banking which could not, in the public interest, be issued in the form of public statements.

There are matters of grave importance pending between the office of the Comptroller of the Currency, which is a bureau of the Treasury Department, and the financial institutions of which you are the responsible head. Let us not muddy the waters by personal animus or unjust charges.

Sincerely,

Secretary of the Treasury.

Mr. A. P. Giannini,
Chairman, Board of Directors,
Bank of America,
Los Angeles, California.

[illegible]

November 4, 1933.

Dear Mr. Giannini:

The tone and text of your telegram of November 2, addressed to me, are such that in ordinary circumstances it would not merit either acknowledgment or reply. I am impelled to write to you only by the hope that the tactics of personal vituperation you adopted in this telegram do not represent your considered judgment but were prompted by momentary anger at what you took to be an attack upon your institutions or yourself personally.

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Sincerely,

Secretary of the Treasury.

Mr. A. P. Giannini,
Chairman, Board of Directors,
Bank of America,
Los Angeles, California.

7/35

Dear Mr. Giannini:

The tone and text of your telegram of November 2 addressed to me are such that in ordinary circumstances it would not merit either acknowledgment or reply. ~~itxisxonlyxbecausexofxthexhope~~ I am impelled to write to you only by the hope that the tactics of personal vituperation you adopted in this telegram do not represent your considered judgment ~~[illegible]~~ but were prompted by momentary anger at what you took to be an attack upon your institutions or yourself personally.

I have not seen the "Wilcox letter" ~~xxxwhichxyou~~ referred to ~~xx~~ in your telegram. I know nothing about the statements made in it or their source. I have authorized no disclosures of any kind about any ~~particular~~ banking situations. ~~thus~~ On the contrary, I have enjoined the strictest secrecy as to any and all matters relating to banking which could not, in the public interest, be issued in the form of public statements. ~~One of the few directions I have issued to the new Comptroller is to suppress "leaks" of unauthorized information out of the Comptroller's office.~~

~~I have written the paragraph above only to correct any misapprehension on your part that might explain and to some extent palliate an act that would otherwise be both shocking and unexplainable.~~

There are matters of grave importance pending between the office of the Comptroller of the Currency, which is a bureau of the Treasury Department, and the financial [redacted] institutions of which you are the responsible head. ~~I ask you most sincerely to consider your own responsibility so that you may discharge it with a clear conscience, as I intend to consider and discharge mine.~~ Let us not [redacted] muddy the waters by personal animus or unjust charges.

Sincerely,

STANDARD FORM NO. 14
APPROVED BY THE PRESIDENT
MARCH 10, 1926

TELEGRAM

OFFICIAL BUSINESS—GOVERNMENT RATES

FROM
BUREAU
CHG. APPROPRIATION

159

November 3, 1938

Mr. A. P. Giannini
Chairman, Board of Directors
Bank of America
Los Angeles, California

I have received your wholly unwarranted ~~and undignified~~ telegram of November 1 in regard to the Wilcox letter.

I have no acquaintance with Mr. Wilcox nor have I read the Wilcox letter of October 30 to which you refer. I have neither given nor have I authorized any other Treasury official to give Mr. Wilcox or anyone else outside of the Government any information whatsoever in regard to the banking situation in the West or any other ~~current~~ banking matter. ~~Nor have I any knowledge which would lead me to believe that the statements alleged to be in the Wilcox letter emanated from the Treasury. Accordingly, I disclaim any responsibility for the statements which you allege are contained in the Wilcox letter of October 30.~~

~~As far as I am concerned~~ your assertion that I or any other Treasury official is of course without foundation. ~~and I demand that you furnish me any information or evidence in your possession which prompted you to make such a statement in order that I may take appropriate steps to stop such practices if the charge can be substantiated.~~

H. MORGENTHAU, Jr.
Secretary of the Treasury.

STANDARD FORM No. 14
APPROVED BY THE PRESIDENT
MARCH 10, 1926

TELEGRAM

OFFICIAL BUSINESS—GOVERNMENT RATES

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Your assertion that I or any other Treasury official is engaged in "smearing" any person or institution is, of course, without foundation.

H. MORGENTHAU, Jr.
Secretary of the Treasury

November 3, 1938

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Chairman, Board of Directors
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Los Angeles, California

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Your assertion that I or any other Treasury official is engaged in "smearing" any person or institution is, of course, without foundation.

H. MORGENTHAU, Jr.
Secretary of the Treasury

November 5, 1938.

FOR THE SECRETARY:

Yesterday I talked privately with three members of the Reserve Board, McKee, Ransom and Szymczak, about the Bank of America situation. I saw each member alone except that Elliott Thurston came in to Ransom's office before my talk with him was well started.

The only hope unanimous among all three was that the problem could be settled between the Comptroller and Bank without involving the Board. I could not tell definitely whether this feeling is so strong that these three members would vote against the Board hearing the case once a certificate against the Bank was presented to the Board, but I believe that at least McKee and Ransom would be in favor of a hearing.

McKee, because of his RFC experience, knows more about the case than either of the other two. He is the only one who said flatly that Giannini "certainly robbed the public", but he also said that Giannini has improved the bank greatly since the banking holiday and that "Giannini is the only one who can straighten the mess out, and nobody else had better try." McKee believes that somebody not involved in the current discussions could persuade Giannini to cooperate; he doesn't know who or how. He says the only two persons with unfailing influence on Giannini are his wife and son.

The real estate problem of the bank McKee shrugged off saying it was hard to appraise the real estate. To criticize concentration in real estate might appear in the public mind to run counter to Administration urging that banks go into this field, he said. The Bank's dividend policy and lending to Transamerica evidently impress McKee as a better grounds for complaint. Believing that Giannini has "robbed the public" to build his "empire", McKee points out that Giannini has never been greedy for money, only for power. He also believes that any public proceeding now will raise the question why the Comptroller's office tolerated the practices in 1933-38 and why the penalty is invoked now especially since, in McKee's opinion, the Bank has improved since 1933.

Ransom, who first had trouble with Giannini and later worked with him on the NRA bankers' code, said he was inclined to believe from that experience that firmness and patience would bring Giannini around especially if he could be made to sit down in a room and go over the problems. He said that he was sure that there are reasonable people both in the Treasury and in the Bank -- even if Giannini himself is not reasonable. Therefore, he expressed the hope that the matter would be settled between the Treasury and the

Bank. Thurston contributed the observation that he thought Chairman Eccles disliked a section 30 proceeding because of the opportunities for delay which it offered.

Szymczak said he was worried about the effect a long hearing, which would become known to the public, would have on public confidence in banks, especially west coast banks. Therefore, he hopes for a settlement between the Treasury and the Bank without public hearings. He added, however, that he found Giannini dictatorial and unresponsive to any treatment except firmness.

I will try to see the other members of the Board soon.

ESD

November 5, 1938

FOR THE SECRETARY:

Mr. Taylor arranged through Chairman Eccles for me to see the Federal Reserve examiners and lawyers who have been handling the Transamerica case for the Board, and I met with three of them Friday afternoon.

Although the Board has warned Transamerica of the legal requirements it must meet, the Board has not been informed by Transamerica of any specific plan for complying with the requirement that the company either (1) cease to be a bank holding company or (2) divest itself of all interest in securities companies. If no plan has been presented by November 29, the deadline, the vice president of the San Francisco Reserve bank in charge of examinations has been instructed to find out what the situation is and report to the Board.

One of the lawyers present Friday expressed the opinion that, if Transamerica failed to comply, the Board would be morally if not legally compelled to revoke the permit under which the corporation votes its stock in the Oregon and Nevada banks. The other lawyer, however, pointed out that this revocation could take place only after hearings and much argument from Transamerica.

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The Board's recent activities on this problem are as follows:

Last Spring the Board reminded Transamerica of the necessity of getting out of the banking business or the securities business by the end of November. Transamerica informed the Board that it had divested itself of one of its securities companies, Bankamerica Company, by selling it to Western States Corporation on December 27, 1937.

Western States Corporation is a mysterious creature. One of Transamerica's subsidiaries had put $5,000,000 into the non-voting stock of this corporation, thereby furnishing the money with which Western States could buy Bankamerica Company. But the voting stock of Western States Corporation, which has a par value of only $50,000, is held by persons whose identity is not known, and the corporation itself was formed, according to the Federal Reserve examiner, by "four stenographers."

Because of these circumstances, the Reserve Board told Transamerica that, in the Board's opinion, the company was not complying with the law. The Board held that Transamerica may have divested itself of "control" of Bankamerica company by the sale to Western States, but "ownership" of Bankamerica company still remained with Transamerica because of its heavy investment in Western States non-voting stock. Transamerica was so informed early in June.

The Board subsequently heard that Transamerica was sticking to its original argument, and the Board, to be as definite as possible, formally ruled in September that Transamerica had not divested itself of its interest in Bankamerica Company. Transamerica expressed surprise at the Board's ruling but said it would endeavor to comply. It asked the Board's lawyers to suggest an acceptable plan, but this request was refused.

No further official action has been taken, but newspaper stories have said that Transamerica has also sold its stock in the Oregon banks to Western States Corporation. I find this sale reported to the SEC. One of the lawyers present Friday said, if these reports are true, he expects that, when the Board checks up on Transamerica at the end of this month, Transamerica may claim that it has turned enough of its bank stocks over to Western States Corporation to escape the bank holding company classification. The Board will then have to determine: (1) whether the sale of bank stock to Western States is bona fide and (2) whether Western States Corporation itself has not become a bank holding company.

ESD

THE WHITE HOUSE
WASHINGTON

Poughkeepsie, New York,
November 6, 1938.

Personal

Memorandum for Secretary Morgenthau:

I should like for you to see this. Please return for my files.

MHM

M. H. McIntyre
Secretary to the President.

Giannini letter was enclosed - photostats in Diary. 11/16/38 - mas

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION
LOS ANGELES

A. P. GIANNINI
CHAIRMAN OF THE BOARD OF DIRECTORS

November 1, 1938

Dear Colonel:

I have your kind favor of the 20th instant. You are absolutely right, Colonel, and it was really very thoughtless of me not to have realized the situation in this particular matter.

The White House, as far as I am personally concerned, is not going to be bothered. It is, as you say, a Treasury Department case and it will be with it alone that I confine my discussions.

You will doubtless recall my stating to you that I did not sign the directors' letter and I am therefore free to act on my own and independently of the bank.

With warmest regards,

Sincerely yours,

A. G.

Hon. Marvin H. McIntyre
Secretary to the President
The White House
Washington, D. C.

November 10, 1938

MEMORANDUM FOR COL. McINTYRE:

I have read the letter to you from Mr. Giannini, dated November 1, and am returning it herewith for your files as requested by you.

HENRY MORGENTHAU, JR.

November 10, 1938

MEMORANDUM FOR COL. McINTYRE:

I have read the letter to you from Mr. Giannini, dated November 1, and am returning it herewith for your files as requested by you.

HENRY MORGENTHAU, JR.

November 7, 1938

At 3:40 Mr. Awalt called from San Francisco to advise me that the committee of three directors of the Anglo-California National Bank has employed its own counsel. He is Allen Chickering, who, Mr. Awalt says, belongs to a very good San Francisco firm which is Counsel for the Crocker Bank. Mr. Awalt said that the committee is acting wholly independently of the management of the bank and that the management is not being consulted at all. They expect to have a letter for presentation to the full board at its meeting on Wednesday.

Mr. Awalt says he expects to meet and talk with Mr. Allen Chickering but that he (Mr. Awalt) is not in on the preparation of the letter.

Wpm

November 7, 1938

FOR THE SECRETARY:

While I was discussing the Transamerica set-up with one of the national bank examiners today, he told me of a conversation he had had with A. P. Giannini in which Giannini had told him that Pacific Coast Mortgage Company was owned by "A. O. Stewart, Giannini, Eccles, Bennett, 'That Salt Lake crowd' and large Transamerica stockholders." Transamerica does not admit any connection with the company.

The examiner further said that he had seen in the Bank of America a document indicating that at least some of the owners of Pacific Coast Mortgage Company were also connected with the newer, mysterious Western States Corp. to which Transamerica is now selling banks and securities companies.

Pacific Coast Mortgage Company itself is an important holder of bank stocks. Together with the Transamerica system, the mortgage company owns 44% of the stock in the National Bank of Washington, Tacoma, Wash., and 70% of the First National Bank of Arizona, Phoenix. In each of these banks the holdings of Pacific Coast Mortgage Company exactly equal those of Transamerica.

ESD

Fleishhackers Sued

SF Chronicle 11/8/38

Stockholder Files Action

Suit for $4,280,530 was filed in Federal Court yesterday against Herbert and Mortimer Fleishhacker and a number of other individuals and corporations by Ernest H. Denicke of Marin county, who described himself as a stockholder in the Anglo-California National Bank.

Mortimer Fleishhacker, president of the Anglo California National Bank, said emphatically that "this is a trumped - up charge."

"It is being used at this time because of other suits directed against Herbert Fleishhacker. The accusations are groundless. The charges are absolutely without foundation in fact."

VIOLATION CHARGED

"Charging violation of the national banking act, Denicke alleged the Fleishhackers gained control of the San Joaquin delta lands of the late George Shima, "potato king," by extending "easy credit to Shima to a point where his ability to satisfy loans would be impaired."

The credits, Denicke alleged, were extended after Shima reorganized his farming enterprises "to defeat the purpose of the California alien law of 1920."

REQUESTS CITED

In addition to asking that the amount of the judgment sought be returned to the bank, Denicke asked the court to declare a trust upon all property accepted by the defendants in matters relating to the alleged transactions; cancellation of various deeds involving the Shima enterprises and appointment of a receiver to take possession of proceeds of any judgment rendered under the suit, to be held for the Anglo-California Bank and shareholders.

With Herbert and Mortimer Fleishhacker, defendants named included George I. Cochran of the old Pacific Mutual Life Insurance Company, Empire Farms, Inc.; Charles K. Maclean, R. H. Holmberg, Bouldin Land Company, Mandeville Island Farms, Inc.; Roscoe D. Zuckerman, Sol D. Klein, Jack Klein, 26 John Does and two John Doe corporations.

November 8, 1938

M

For the Secretary:

You may want to see this letter from T. C. Tilden, Vice President of the Anglo California National Bank, who has been described as "a blackmailing Vice President."

Upm

Enclosure

C
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Y

THE ANGLO CALIFORNIA NATIONAL BANK
of San Francisco

October 26th
1 9 3 8

Mr. L. H. Sedlacek
155 Montgomery Street
San Francisco, Calif.

Dear Mr. Sedlacek:

I believe I owe it to myself and to yourself as well, to send you a copy of my letter today written to Mr. Mortimer Fleishhacker concerning my indebtedness to the Bank and to other matters criticised by you in your last report.

Yours very truly,

(Signed) T. C. Tilden
T. C. Tilden

THE ANGLO CALIFORNIA NATIONAL BANK

C
O
P
Y

October 26th
1 9 3 8

Mr. Mortimer Fleishhacker
San Francisco
California

Dear Mortimer:

In connection with my indebtedness to the Bank, contracted largely in the interest of the Bank itself and with my partnership interests with you, which also have a large bearing upon my present financial condition and by reason of which I am also being singled out in the terrible indictment recently issued by the Bank Examiner, I have the following to offer as an explanation and only solution for my problem.

Inasmuch as it now seems necessary to either pay up or leave the institution to which I have devoted a lifetime, and as the former I can do only if I could unravel my intanglements with you, I am going to ask you if you would consider buying out my interest in the following enterprises, in which I have sunk the amount of money set opposite each:

Tilden Investment Co.	$91,781.26
Western American Realty Co. (788 shares left)	63,826.00
Anglo National Corp. (500 shs.)	25,000.00
557 Market St. Material Exhibit Building - approximately	40,000.00
Buttle Valley Land Co. 1/6th interest in - approximately 14,000 acres left -	87,050.00

I am fully and well a ware of your problems and the source of both.

Regarding the other matters referred to in the Examiner's Report and for which I am jointly charged up with, viz:-

Robert Morton Organ Company
Dodge Land Co.
Silvanus Land Co.
Western American Realty Co.

C
O
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Y

-2-

Mr. Mortimer Fleishhacker, - #2 October 26, 1938

I need not explain nor enlarge upon the origin nor the reason for their being and predicament, expect perhaps to say that these also have cost me another fortune - in addition to a large impairment of my work and position in the Bank and for which the Examiner says I am now being paid a generous compensation.

The Examiner does not know that, had I been allowed to resign on several occasions when I was being paid twice as much, I might have saved myself a lot of money, humiliation and this punishment.

You'll admit that had my counsel and advice in many matters and on many occasions been better listened to and followed, a lot of money and troubles might have been saved and for all of which the Examiner, without any further consideration, now says I am still being paid a generous salary.

I will not attend the Special Meeting called for the purpose of passing judgment on fellow Officers, as under the circumstances I feel I could not very well do so.

T. C. Tilden

CABLE ADDRESS—BAMERICAL

13044

Bank of America
NATIONAL TRUST & SAVINGS ASSOCIATION

SAN FRANCISCO HEADQUARTERS

SAN FRANCISCO, CALIFORNIA
November 9, 1938.

Comptroller of the Currency,
Treasury Department,
Washington, D. C.

Dear Sir:

At the direction of the Board of Directors of Bank of America N. T. & S. A., I am enclosing a copy of a letter which was read to the Board at its regular meeting held today.

Respectfully,

R. P. A. Everard
Secretary
Board of Directors

Enclosure

CABLE ADDRESS - BANKERICAL

13044

C
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Bank of America
NATIONAL TRUST AND SAVINGS ASSOCIATION

C
O
P
Y

SAN FRANCISCO HEADQUARTERS

SAN FRANCISCO, CALIFORNIA

November 7, 1938.

Mr. L. M. Giannini, President,
Bank of America N. T. & S. A.,
San Francisco, California.

Dear Mr. Giannini:

Total net actual income of the bank for the month of October was $2,482,000 before provision for amortization of bond premiums and depreciation on banking premises, but after accrual for taxes and all other expenses. This brings the total net actual income for the ten months' period since January 1, 1938, to $20,329,000.

On the basis of ten months' actual income and estimates for November and December, it is estimated that the total actual income for the year 1938 will be $25,125,000.

Of the estimated total of $25,125,000 of net actual income for the year, $9,020,000, or approximately 36½% will be allocated to provide for the write-down of assets. This provision will include the following:

Losses as classified in examination reports	$5,900,000
Amortization of bond premiums	2,000,000
Depreciation on banking premises	1,120,000

After payment of dividends amounting to $9,600,000, or 38%, and the allocation of $1,200,000 to employees under the profit-sharing bonus plan, $5,305,000 will be added to capital funds for this year.

Provision has been made for all of the loss classification in the latest examination report with the exception of $2,484,331.40 which includes the following:

Real Estate loans in process of foreclosure These losses will be charged off as the individual foreclosures are completed. This procedure was approved by the Chief National Bank Examiner in connection with the last previous examination.	$667,746.15
Admitted loan losses at branches being charged off in the regular routine	316,500.60
Bonds, Securities, etc., upon which we have requested review by the examiner	1,424,296.19
Furniture & Fixtures, Other Real Estate and other assets upon which we have requested review	75,788.46

The following amounts have been charged off, or eliminated through the sale of securities or real estate:

Loans and Discounts, including $2,000,000 on German credits	3,352,471.18
Overdrafts	11,071.49
Bonds, Securities, etc.	918,984.93
Banking Houses	21,486.58
Furniture & Fixtures	63,641.14
Other Real Estate Owned	207,851.28
Other Assets	356,043.08
Merchants National Realty Corporation	440,695.41
	$5,472,245.09

On October 31, 1938 the total of the capital accounts of the bank was $113,108,000. After deducting the remaining loss classification of $984,000 and one-half of the doubtful classification amounting to $2,548,000, the net capital position is $107,808,000. With the addition of bond appreciation of $8,500,000 the net sound capital position is $118,076,000. This is an improvement of $2,000,000 since September 30.

Yours very truly,

(Signed) R. G. Smith

Russell G. Smith,
Vice President and Cashier.

277
217

The Anglo California National Bank
of San Francisco

November 9th,
1 9 3 8

Comptroller of the Currency,
Treasury Department,
Washington, D. C.

Dear Sir:

Enclosed please find reply to letter of Deputy Comptroller, Cyril B. Upham of October 3rd, 1938.

A few of the Directors were absent, and we hope to have each of these gentlemen sign a similar letter and forward to you as soon as possible.

Very truly yours,

R. W. Holmberg

Assistant Secretary.

The Anglo California National Bank
of San Francisco
November 9, 1938

Comptroller of the Currency
Treasury Department
Washington, D. C.

Dear Sir:

Under date of October 3, 1938, Mr. Cyril B. Upham, then Acting Comptroller of the Currency, addressed a letter to the Board of Directors of The Anglo California National Bank, criticizing conditions in that Bank revealed in the then current report of its examination.

The Comptroller is no doubt aware that examination of his letter upon its receipt was the first knowledge or notice to many of the Directors that the matters specified in this letter were subject to criticism, and in many instances was the first knowledge on the part of many of the Directors of the existence of the matters criticized. Also, the report of examination to which you refer is very voluminous, consisting of over 600 pages.

However, following receipt of your letter, a special meeting of the Board was held for the purpose of considering and studying the same and taking measures to meet its suggestions, at which a Committee of three was appointed to consider and draft a reply to your letter. At a later meeting an Executive Committee was appointed by the Board, consisting of three Directors, together with the President as an ex-officio member, which is to meet weekly and deal with major problems, policies and loans of the Bank. Likewise, a Committee of three Directors was appointed at this meeting to handle the liquidation of all loans of Directors and officers. None of the members of these Committees is an officer or employee of the Bank.

At a meeting held October 27th the resignation of Mr. Herbert Fleishhacker as President of the Bank was tendered and accepted. Mr. Mortimer Fleishhacker was elected to serve as President in his place, the By-Laws of the Bank having first been amended to eliminate the office of Chairman of the Board, which had been theretofore filled by him.

As a result of the recommendation of the Committee on Loans of Directors and Officers, the Bank has foreclosed on the collateral to the loans of Mr. Herbert Fleishhacker and reduced it to ownership.

Your criticism concerning real estate loans has been substantially remedied since the examination by revised rulings of your office correcting $4,765,870.21 and in addition liquidation amounting to $991,000 has taken place. It should further be borne in mind that this Bank is the result of a consolidation between The Anglo & London Paris National Bank of San Francisco and the Anglo-California Trust Company, a state institution. Prior to the consolidation, the Trust Company had made real estate loans in accordance with the state law governing at that time, which permitted loans up to 60% of the value of the real estate. These loans, which would have been improper for a national bank, came over to the consolidated institution with the approval of your office.

The recent loan of $250,000 to the Dollar Steamship Lines mentioned in your letter was fully covered by collateral and was made in a compelling emergency. Since the reorganization of the Dollar Steamship Lines by the United States Government, it is believed that the position of this entire line of credit has been improved as indicated by the recent payment of the interest on the entire line so that the same is now current. We are studying means to meet your other criticism of this account.

We are giving careful consideration to your criticism of the item "Other Real Estate", and the plan of selling other real estate on definite contract terms providing for annual payments will probably be adopted. Since the date of the examination approximately $750,000 of this item has been liquidated.

A study is now being made of plans to eliminate affiliates and to take out of the Bank any of the Bank's own stock and the stock of the Anglo National Corporation. It is expected that as a result of this study a satisfactory plan will be evolved to meet the criticisms in your letter.

Comments in your letter concerning report of Executive Officers' outside borrowings, submission of reports of examination to the Board of Directors, as well as important letters from your office, and attendance at meetings by members of the Board, have been noted and correction of these practices will be made.

We note your request that we report in detail setting out the corrections effected in each of the criticized matters and our plan for the complete elimination of the same. We intend to cooperate earnestly to eliminate all criticizable items. We have already made considerable progress toward correction of many items criticized by you and not mentioned in this letter, but it is our feeling that the discussion of further plans will require more time and much study on our part. We have, however, taken one step of which we think we should advise you, to-wit, that we applied on October 13, 1938, to the Reconstruction Finance Corporation for the purchase by it of our preferred stock for the price of $17,000,000, of which $5,000,000 would retire our present preferred stock, and $12,000,000 would furnish us with funds out of which might be created reserves to offset any ultimate losses in items criticized by you. This will, we believe, also provide the Bank with in excess of $20,000,000 of absolutely sound capital and provide the required ratio of capital to deposits. The Reconstruction Finance Corporation has already made examination of the Bank and we understand is favorable subject to your approval. We will appreciate your cooperation in this connection.

Assuring you of our continued and earnest cooperation, we are

Yours very truly,

Samuel [illegible] — Wm [illegible] Jr.
W B Wayman — M H Fleishhacker
[illegible] — M H Fleishhacker Jr.
W. E. Buck — [illegible]
Walter [illegible] — T. O. Tilden
[illegible]
[illegible]
Jas McKinley
William F. Humphrey
J. E. Moore
Philip [illegible]
R. D. Brigham

RE BANK OF AMERICA SITUATION

November 9, 1938.
4:00 p.m.

Present: Mr. Hanes
Mr. Taylor
Mr. Gaston
Mr. Duffield
Mr. Upham
Mr. Oliphant

H.M.Jr: Now, Professor Duffield, if you'll take the floor, we'll all listen to you.

Duffield: Do you want to look at this chart first or do you want to hear some other matters?

H.M.Jr: It's entirely up to you.

Duffield: Well, the chart is just academic. But you asked me to look into this delisting thing again - S.E.C.

H.M.Jr: Yes.

Duffield: And Ted Sheridan, who is Mr. Douglas's assistant up there and a friend of mine, said that evidently they sent two men back out to the Coast to look into the Trans-America thing again and that the Commission took it up late yesterday afternoon.

H.M.Jr: Well, that's hot off the griddle, isn't it?

Duffield: And they probably will take it up again today or tomorrow. They didn't act yesterday because one of the Commissioners, Judge Healy, I think, hadn't read the report.

H.M.Jr: Between us we might make a good reporter.

Duffield: Maybe you know of this.

H.M.Jr: I don't know.

Duffield: Well, they said - or Ted said - said that in all probability they would either act publicly, that is, call a hearing, or order a full-dress investigation, which would be private and on their own; but whatever they did, they wouldn't do anything until they talked to you.

H.M.Jr: Fine.

Duffield: And that's that situation.

H.M.Jr: May I just interpolate here. I go back to my original idea, and that's this. This is what's going through my mind. This is what I told Gene.

(Upham comes in)

Professor Upham, we are now holding class. Meet Professor Duffield.

Upham: How do you do.

H.M.Jr: If S.E.C. will not move on Trans-America, for any one of many reasons, see - and I wanted to find out what they were doing, and that's why Gene went over - then I was coming back to that suggestion I made to you about a month ago of putting it up to Martin, President of the Stock Exchange, to move, and we'll recognize that he is a forthright fellow and we'll turn all our stuff over to him.

Hanes: When you spoke to me about that, I talked to Martin about it.

H.M.Jr: Oh, did you? You didn't tell me that.

Hanes: Martin - I didn't have anything to tell. And I said - I put up a hypothetical case to him. I said, "In case we had something on a company which is listed on the New York Stock Exchange, which we thought ought to be investigated by somebody - by somebody: don't care who does the investigating or who throws them off - would you act on that without bringing the Treasury into the case? Would you act purely independently, and so forth?" And he said, "I certainly would. Any time, if you'll tell me what the company is, I'll go after them myself." So he's a vigorous fellow and he'll do just that.

H.M.Jr: Well, you didn't say what it was.

Hanes: I didn't think it was necessary; I didn't call any names.

H.M.Jr: Well, I'm getting a little impatient with S.E.C., so

I asked Gene to find out and we'll hear from them within a few days.

Duffield: Should. Well, if I don't hear from Ted again - he promised to call me too - if I don't hear from him by tomorrow or the next day, I'll talk to Bill Douglas.

H.M.Jr: What we'll do: get a clear-cut answer that they either will or won't. If they won't, then, in order to play ball, I'll ask Douglas to come over here, tell him that this is what we propose to do. That would be playing fair, wouldn't it?

Hanes: Surely.

H.M.Jr: But before we did anything of this sort we'd all sit around and discuss it, whether it's advisable. I just wanted to tell what I had in mind, because I just don't want to leave a stone unturned. And after all, months have passed since we first took this up with S.E.C., and last time I think we spoke to them they said it would take their total appropriation to make this investigation. Just like what you (Hanes) said at lunch: they've got so many irons in the fire. But I think if we put the heat on and if they knew - I wouldn't say that yet - if they didn't, we propose to place the facts before Martin, that might make a difference, huh?

Hanes: That would make a difference with Douglas too. He wouldn't want you to do that.

H.M.Jr: He wouldn't?

Hanes: No.

H.M.Jr: Well - and then you might also be thinking of what the hell facts have we got to put before Martin?

Duffield: Well, the thing seems to me to come down to whether the statements of Trans-America earnings - or I mean of the Bank of America earnings or what not incorporated in the Trans-America picture are sufficient to make the Trans-America picture misleading for purchasers of stock; and it seemed to me that you might have to make ....

Hanes: I don't think - you couldn't give them information, but we could give them a steer to the effect that they ought to investigate the thing, find out the facts for themselves.

H.M.Jr: Well, we could tell them where to look. What?

Hanes: I don't know; Herman would probably object to our giving out information.

Oliphant: I'm getting a bad reputation here.

Hanes: Would that be violating the law, if we told them where to look?

Oliphant: No.

H.M.Jr: Well, anyway, before you go any further, I want this crowd to think over the possibility of Gene dropping a hint to - what's this fellow's name? - ...

Duffield: Sheridan.

H.M.Jr: ... Sheridan that - I mean I wouldn't do it until after I give this group a chance - that I'm getting a little impatient and there is the possibility that if they don't I might ask Martin to.

Duffield: Well, evidently they're doing something.

H.M.Jr: Well, I mean just .....

Duffield: Yes. Yes.

The other thing is perhaps more interesting and disturbing and significant. Working on this thing down at the Federal Reserve, I find that Trans-America bought five more banks at the end of October.

H.M.Jr: Trans-America?

Duffield: Yes.

Hanes: I can't see just why the Trans-America Company can hold off answering a direct charge against them by the Federal Reserve from June until - what is it now? - November, and they haven't got an answer even from them yet.

Duffield: Maybe I can explain that a little bit with this chart, Mr. Hanes. This chart is very rough and not always clear, but this is generally what's going on in this picture. This has got everything on it. It's kind of clumsy; but this is Trans-America up at the top and Bank of America now is over here, way over here. And this dotted line means that they don't admit any control; admit an interest. Trans-America admits an interest in the Bank of America, but doesn't admit any control, under the Federal Reserve law.

Now, as to these other banks that are stuck out here. These are four that they bought recently, and this is the fifth.

Gaston: The old National outfit in Spokane.

Duffield: Little banks.

Upham: Three of them are state banks.

Duffield: And another Oregon bank - Clatsop County; Farmers Bank of Carson Valley - that's in Nevada; and First National Bank of Forest Grove.

H.M.Jr: But nothing in Idaho and Utah.

Duffield: No.

H.M.Jr: I thought I might get a smile out of Cy. He's very - he's getting very "Comptrollerish."

Upham: Well ....

Hanes: This was formerly a hundred percent, and now it's down to 42 percent.

Duffield: 42 - that's what they claim in their S.E.C. statement.

Hanes: That, they claim, takes them out of control.

Duffield: As far as the Federal Reserve Act is concerned. Now, to get out of this thing further, what has happened is that they have taken this so-called Capital Company, which is wholly owned by a wholly-owned subsidiary, and from that company they have invested five million dollars in this new unit mysteriously formed, called Western States Corporation, and they have been selling to Western States Corporation just enough of their bank stocks to get them under the 50 percent requirement of the Federal Reserve.

Now, the legal question comes up - Trans-America claims that they do not know who owns the voting stock in Western States Corporation.

Hanes: The one that was formed by stenographers.

Duffield: But they've put the five million dollars in there with which the company is evidently buying these Trans-America assets. I suspect that by the time the voting question - permit question comes up at the end of the month, that a good many of these bank units will have been transferred down here. That seems to be the program.

Oliphant: But this is wholly-owned.

Duffield: This is wholly-owned.

H.M.Jr: How do you spell "wholly"?

Duffield: "Unholy-owned."

Gaston: "Holey." H-o-l-e-y.

Oliphant: Not bad.

Duffield: The banks are scattered all the way through here - some of them owned directly, like these here, and some of them owned through a subsidiary. This is owned directly. And there are all these over here which they don't admit they control, but in which they have an interest.

Upham: What've you got over there besides Bank of America?

Taylor: National Bank of Washington, National City Bank of New York, Farmers and Merchants National Bank.

Duffield: Pacific Coast Mortgage Company, together with Trans-America, controls about three banks; and Pacific Coast Mortgage Company is another company ownership of which is a little obscure.

H.M.Jr: That's a nice job. But then, now who can - who has Federal supervision?

Duffield: I've checked the various ones over which there is Federal supervision. Every one of the banks in the System is insured, so at least the F.D.I.C. has jurisdiction over every bank in the System. Now, there are about four or - about six banks which are state banks and therefore are not under any other Federal supervision. The rest of them are national banks.

Gaston: State non-member.

Duffield: State non-member, right.

There are two other Federal agencies concerned. One is the Farm Credit Administration, because they've got an Agricultural Credit Corporation out there, and likewise a joint stock land bank. S.E.C. has jurisdiction through listing on the stock exchange of Trans-America.

H.M.Jr: Is that all Trans-America?

Duffield: This is all Trans-America, its subsidiaries and interests.

H.M.Jr: Where is Bank of America?

Duffield: Bank of America is way over here. They now claim they don't control it, just have an interest in it. On the bottom of that they've got three or four - really the companies which are wholly owned by the Bank.

The S.E.C. also has registered with it this company, Bankamerica Company, which is a securities and brokerage company, which is now transferred down here to Western States Corporation. Just put it in with a dotted line where they used to be.

H.M.Jr: I see. Have you done Bank of America?

Duffield: Only this.

H.M.Jr: I mean you couldn't do a similar chart with Bank of America?

Duffield: I think, as far as I could find out, those three are the only ones that are under it. Of course, it has its branches, which are how many?

Upham: Five hundred.

H.M.Jr: But hasn't it got other companies?

Duffield: Just these three.

H.M.Jr: These are the only three. I see.

So really, when you get down to it - I mean the biggest thing is Trans-America.

Duffield: Right. That's at the top of the heap.

H.M.Jr: Well, this is a good job. But let me just tell you again how my mind is working over the last four or five days. Sit down, Gene.

This is what I envisage. I thought that I'd take something like this and ask Senator Wagner, who is Chairman of Banking and Currency, and Senator Carter Glass, who is Chairman of the Sub-committee - and then I'd like to look up who is ranking Republican member - ...

Upham: John Townsend of Delaware.

H.M.Jr: ... - Townsend of Delaware ....

Upham: Very good man. Big white hair.

H.M.Jr: Yes. Good?

Upham: Yes.

H.M.Jr: Well, those three. Then go in and say, "Now gentlemen, here's the position that we find ourselves in. I don't know whether the United States Government is licked or not, but here's the picture. Now, the way the thing is now, I just don't think we've got the necessary legislation to cope with it." I mean this is what I am looking forward to. "But if you people after studying this and asking me questions say that this is an institution which is dangerous for the welfare of the community, we have the following possible suggestions, as to possible ways of regulating this sort of thing." And then we'd have prepared a possible way of handling this kind of a situation and I'd ask Carter Glass to give me one morning or two mornings, or whatever is necessary, and just put it up to these three, see? And - but be prepared to answer all questions. I'm just looking forward, I mean, to the possibility we don't get anywhere; that this thing, say, should be too big for anybody to tackle under the present law; that the present law is too vague, let's say.

Oliphant: Want to get the House Committee in it?

H.M.Jr: What?

Oliphant: Want to get the House Committee in it?

H.M.Jr: I couldn't work with the House Committee. I'm sorry; it's impssible. I mean you just can't work with that fellow.

Upham: Steagall and Goldsborough - very tough.

Oliphant: No change.

H.M.Jr: I just can't work with them, I mean. Glass and Wagner - I don't know Townsend, but Glass and Wagner are honorable people. You say Townsend is?

Upham: Townsend is; yes, I have very high regard for Townsend.

H.M.Jr: Then we can put it on a non-partisan basis. But I couldn't waste my time with Steagall.

Oliphant: Let the leaders take care of it.

H.M.Jr: What?

Oliphant: Let the leaders take care of it.

H.M.Jr: I just can't waste my time with Steagall. I mean I'm just looking forward, you know. I mean we may be driven to that.

Do you think - let's put it this way first: do you think S.E.C. is equipped to handle Trans-America?

Hanes: No. It's just in line with what I was talking about at lunch. They haven't got the personnel; got more to do now than they can handle. The reason they ducked it in the first place was that they didn't have any appropriation from Congress to do it. You see, the Trans-America thing - they figured out the hours of labor - is about as big as the whole investment trust study, the one thing by itself. And for that reason they didn't want to tackle it, because they didn't have the manpower. And they've been two and a half years getting out the investment trust report; terribly, terribly slow, to be sure. Just didn't have the manpower, Congress didn't give them enough money to do it; so they've been working their help day and night on that thing. Just too big a job.

H.M.Jr: How ....

Hanes: I don't think they're equipped to do it.

H.M.Jr: How about the New York Stock Exchange?

Hanes: New York Stock Exchange, of course, would demand that the other side bring in proof that this information which they have given to them to justify the listing of Trans-America was not misleading. And then, I should think the Stock Exchange would have - it would cost them some money to make that investigation, but they wouldn't have to go at it nearly to the extent that the S.E.C. would. Being a governmental body, I think they'd have to go into it more carefully than a private institution would.

H.M.Jr: I mean the New York Stock Exchange could cut corners in the sense ....

Hanes: They'd say - they have the power to delist, or demand that they take the stock off the Stock Exchange, unless they can prove to them that this information is not misleading. They can cut right across the red tape if they find it's misleading.

Oliphant: Burden of proof is on them (Trans-America).

Hanes: Burden of proof is on them. The S.E.C. couldn't attack it on that basis. I don't think that would be judicial procedure, would it be, Herman?

H.M.Jr: Well, of course, it would be nice if S.E.C. would say, "We just can't handle this. You take it," to the New York Stock Exchange. I mean let them suggest it.

Hanes: They know it's a hot potato, and they don't want to get into it unless they can get an appropriation to work on it.

H.M.Jr: Then they'd be two or three years.

Hanes: They will, yes - terribly, terribly slow.

H.M.Jr: I mean if we could get them in the frame of mind so the suggestion would come from them - huh?

Hanes: I don't believe they're going to make any - I don't believe they want to; might be able to push them into it - I don't believe they want of their own volition to go out and attack anything as big as this at this particular time, because they've got - it really isn't any fault of theirs; I'd say in all justice and fairness to those fellows, there's just not five men in the world that have got the time, 24 hours a day, to put on that job that they've given them to do, in so many different fields.

H.M.Jr: Well, before we took it to the New York Stock Exchange we'd want to be awfully sure that we were handing them - they'd have a 75 percent chance of winning. I mean we'd want to give them something that had a 75 percent chance of winning, huh?

Duffield: As I worked on this, Mr. Secretary, the thing that comes to my mind is that there are at least four Federal agencies that have authority to move against the bank for unsafe and unsound practices.

H.M.Jr: The bank.

Duffield: The bank. The fact that the Treasury is the only one that does move against them - does that create any inference that these practices aren't considered by the Federal Deposit or Federal Reserve sufficient to act on under their own laws? I mean is there any benefit in at least starting that machinery to work? The Federal Deposit can begin a rather long series of steps looking toward termination of insurance.

H.M.Jr: Well, may I answer that. There is a letter, which I take it that Crowley signed, saying that he was standing by until the Comptroller called on him, but anything that he had in his shop, including any manpower, was at the disposal of the Comptroller of the Currency, to assist him in this work.

Duffield: Yes. Well ...

H.M.Jr: Is that right?

Upham: Yes.

H.M.Jr: And under that I think we might ask him to do what Gene suggested possibly for them to do.

Oliphant: Do you think so? I thought we'd talked about this one and decided what we were doing, moving under Section 30, didn't look in the direction of the closing of the bank, and we thought it was unsafe - now, for instance, the Comptroller could appoint a receiver - and we were trying at this stage to avoid steps looking in the direction of closing the bank. You couldn't take away insurance without closing the banks.

Duffield: Well, they have done that: taken away insurance in the case of one bank which I believe is still open; I'm not sure. But in any case that procedure, Mr. Oliphant, seems to be so long that at the time the letter of warning, if there is a letter of warning, goes to San Francisco, it seems to me there might also be a letter from the Federal Deposit to the bank saying, "We have notified the Comptroller of what we believe to be unsafe and unsound practices," and that's the first step they take.

Upham: They have a similar proceeding for removing officers. Don't necessarily have to.

Duffield: If they did that, they needn't ever go beyond that, but at least it puts that bank on notice that that government agency, as well as the Comptroller's office, is aware of and has taken cognizance of their unsafe and unsound practices.

Now, as to the Federal Reserve, they can suspend them from membership if they believe that the practices are unsafe and unsound, but whether they do or not I don't know.

H.M.Jr: Well, what I thought was this. When we get this Section 30 thing all ready and all polished so the Comptroller is satisfied with it, so that we're satisfied with it, then I was going to invite Tom Smith to come back here and spend a week, two weeks, whatever is necessary, and go into this whole thing as an - now shall I say - expert, look into it very carefully, and then look at this whole thing; then he could take a look at what you suggest and all that.

As to my objective, I want to do everything possible to put this bank into good shape without closing it. That's the last thing I want to do. I don't want to close it. I want to see that it has honest, able management, which I don't think it has now.

And so I think, as I say, that when we get all ready up to the point that we can go as far as we can, then I'm going to ask Tom to come down, just take this thing and just go through it with a fine tooth comb backwards and forwards, to make sure we haven't overlooked any bets, see?

Duffield: My thought was, if they were on notice from each of three Federal banking agencies, so that all of those agencies joined in condemning these practices as unsafe and unsound, then it would become obvious that there was nothing the bank could do, no place it could go down here to dicker, but it would have to meet the program.

H.M.Jr: I'm not brushing it aside.

Duffield: I just wanted to tell you what I had in mind. I didn't think of closing the bank.

H.M.Jr: At least we have eliminated two places they can look to.

Duffield: Right.

H.M.Jr: What?

Duffield: Right.

H.M.Jr: Two places.

Now let's just take - who will - who - can you continue making this study of Trans-America, getting all the help from everybody that has got anything, to see what we have to put before the S.E.C. or the Stock Exchange, on which to act?

Duffield: Yes, I can.

H.M.Jr: What?

Duffield: I can. That's a pretty ....

Upham: Of course, that kind of material the S.E.C. has more of than we do.

Duffield: Well, I can go up there and talk ...

Hanes: They've got - I haven't seen the memorandum, but I understand from the two fellows that were over here it's about a 50 to 150-175 page memorandum.

H.M.Jr: Haven't we got a copy of that?

Hanes: This is the one they took off. They got permission to come over and examine the reports we made available: the last two reports of examination.

H.M.Jr: Oh, they've taken stuff off of us.

Upham: They've sucked us pretty dry.

Hanes: They've got all the information that we've got; apparently they've had those two reports in the works over two weeks.

H.M.Jr: Couldn't we have a copy of that?

Upham: We were to get a copy of that when it was submitted to the Commission.

Hanes: Yes.

H.M.Jr: Hanes, do they have anything they've gone out and got themselves?

Hanes: Of the most superficial kind. Supplied to the Treasury everything they had on Trans-America at one time.

Oliphant: Sort of speculative.

Upham: A history.

Hanes: More superficial kind of examination.

H.M.Jr: Would you be willing to ask them to let us have a copy of what they took?

Hanes: I did ask.

H.M.Jr: Well, will you ask them again? Make a note.

Duffield: Mr. Hanes, I saw that in Dave Schenker's office - I mean I take it to be the last one, because it said the Treasury didn't have a copy of it. But there on that same day I didn't have time to go through it. It's bulky.

Hanes: It's a big document.

H.M.Jr: Well, would you ....

Upham: Of course, it won't be of any particular value to us; we ought to have it.

H.M.Jr: It gives Gene a chance to see it, and then - I'll change my remarks to this. Let's put it this way. Let's get everything we can on Trans-America so that you can study it, plus the help of everybody here, to see: what have we got to place before the New York Stock Exchange? Not before the S.E.C. They have everything we've got.

Hanes: This will save Gene an awful lot of time, because they examined this report with the one idea in mind to take off everything that might be misleading in the statements made by Trans-America as to the value of Bank of America, you see.

H.M.Jr: Well, would you get that for Gene?

Hanes: Save him a lot of time.

H.M.Jr: What do you think, Wayne?

Taylor: Well, I have sort of an over-all impression that what we are really talking about is Trans-America far more than we're talking about Bank of America.

H.M.Jr: You mean altogether or just today?

Taylor: No, altogether; that when we get down to what we are, let's say, looking for, it's going to be far more Trans-America than Bank of America.

Duffield: That is what's sour in Trans-America.

Gaston: I don't think that's the ultimate thing, Wayne, as it appears to me. I think the ultimate thing is the influence that this whole conglomerate corporation has on the banking structure.

Taylor: Well, that's ...

Upham: And on that bank in particular.

Taylor: I think where you're going to find it is over in that end of it rather than in the Bank of America picture itself.

H.M.Jr: You see, what I'm trying to do, I'm telling you people everything I've got in my mind; I'm trying to exhaust every single angle to make this thing an honest, controllable, workable thing. Then I'm going three or four jumps ahead and saying, "Well, we won't be able to do anything." Then the next step is to go before these gentlemen, Banking and Currency, in the Senate and say, "Now gentlemen, here's the history; we've tried for one year to do something about this and, frankly, we're licked. Now, we've taken and analyzed this thing and here's one, two, three, four different methods of controlling this thing if after you study it you agree with us that something must be done about it."

But in the meantime, I don't want Carter Glass to say, "Well, did you try this, Henry?"

"No."

"Well, did you try that?"

"No."

In other words, I want to be able to say, "Yes, Senator, before I came to you my associates and I have tried everything possible under existing law and, by God, we're licked." See?

I mean I want to be in that position that I can say, "We've tried every single thing, including going on the QT to the New York Stock Exchange but, by God, we're licked. Now we've come here, frankly, to dump this in your lap."

Hanes: I'd like to explore the possibility some time of getting the other people in the industry to assist in getting this legislation drawn, because there is a great feeling of nervousness amongst the other bank holding companies in the country, who are - they say they think they're relatively clean of this sort of practice; and they've come out right flatly and said, "We know there's trouble on the Pacific Coast and we're scared to death that that Pacific Coast thing is going to blow up in our face, and we're going to be caught the same way because we're a bank holding company."

Therefore, isn't it good sense for us to write down a code of ethics and say to Congress, "Enact this code of ethics into the law because it's for the general welfare. We agree to it. We want so forth."

H.M.Jr: Well, I'll listen to anything.

Hanes: I mean it seems to me that there are some of them that are doing a good job. I think the Bank of the Northwest is doing a good job. I think Marine Midland is probably doing a fair job. I don't know, but it would seem that that ought to be explored, that possibility.

H.M.Jr: I agree with you.

Hanes: If we could work out something really constructive for the whole banking community, it would be a god-send to all the fellows who are sitting on the nervous bench.

H.M.Jr: But also see how serious this is. And I don't know whether this kind of an animal can exist or should exist, but I'm more than willing to sit down with the fellows and give them a hearing. They can't - that's fair enough, isn't it?

Hanes: Couldn't be fairer than that.

H.M.Jr: I don't know whether Marine Midland is good or bad for the community that they serve. I don't know.

Hanes: I don't know either.

H.M.Jr: And I don't know whether the Northwest is good or bad.

Hanes: Three of them have been here to see me. Cy has talked with them a good deal too. And Marine Midland came down and talked to me the other day. I took them back to Cy. And the Bank of the Northwest - Thompson and Woll - both talked to me when I was up in Minneapolis. They came right up flat and said, "Listen, we're scared to death about this thing on the Pacific Coast."

Taylor: They are, too.

H.M.Jr: Well, nobody could be more frank than I am, and I'm simply - I want to explore everything. Now, if we can do this thing - don't think for a minute that I don't hate to admit that the Secretary of the Treasury - that a thing like this can exist and I can't do anything about it. But if that's the case, then I want to go before these gentlemen and say so. And then I'm perfectly willing that when we have these suggestions as to how to regulate these things, we give these fellows a chance to sit in.

Hanes: What we're really trying to do here, as I see it, is to stop this kind of practice, subterfuge through these holding companies of getting around the law, which you think is a definite evasion of the - certainly an avoidance of the law.

Duffield: Certainly avoidance of the law. Got bank stocks scattered around in insurance companies, real estate companies, everything else, in order to get under the 50 percent requirement.

H.M.Jr: Ed Foley is available for this, isn't he? Gene, you're carrying the ball, and Cy is. You just keep burrowing; you're doing a good job. And call anybody around here, and when you don't get cooperation, come and see me. But I'm sure you'll get it, see?

Duffield: Sure.

H.M.Jr: But just follow it the way I suggest.

Duffield: As to this chart itself, I think the only other thing to be done with it is to try to keep it up-to-date. The thing keeps moving all the time.

H.M.Jr: Well, that's the shocking thing about this thing. While we sit here ....

Hanes: ... it's twisting away from you all the time.

H.M.Jr: Yes. And the thing I don't know how to handle - I just believe that out of the six or seven members of the Federal Reserve Board, there must be at least one man who will get as excited about this as I am. There must be at least one.

Gaston: Must be Chester Davis.

Upham: Either be Chester Davis or John McKee.

Hanes: What's Draper over there? Is he a new member?

Upham: Yes.

Hanes: I don't know anything about Draper.

H.M.Jr: I've done a little talking; let's go around the room.

Herman, you want to say anything? Any suggestions or criticisms?

Oliphant: I want a copy of that chart.

H.M.Jr: You want a copy of that chart. The usual price.

Upham: Have it photostated.

H.M.Jr: Yes, that's the easiest way. They can photostat it.

Duffield: It's not a very elegant chart.

H.M.Jr: John?

Hanes: No, I haven't anything to add. There's another thought that is extraneous to this matter, after you get through with it.

H.M.Jr: All right. Cy?

Upham: Well, the only thing I have on this particular situation is that I can't wait much longer, I think, to answer the letter that we got from the directors, dated October 11.

H.M.Jr: Well, why are you waiting at all?

Upham: Because the theory was that we would combine it with the letter of warning, or make it the letter of warning. And we had a little meeting in Mr. Taylor's office, where it seemed to be the opinion that we should have an analysis of the letter before we did anything on the letter of warning. Now, I have just about ready the answer which I'd like to make to that letter of October 11, and we'll have to face the decision, I guess, pretty soon whether the letter of warning goes into that or whether we have two.

H.M.Jr: Well, hell, as soon as you're ready ask this group to meet with you; then when you get somewhere, then come and see papa. But we're waiting on you. Right?

Oliphant: That discussion in Wayne's office, as I remember, as it was reported to me, resulted in the feeling in some people's minds that this letter that you had had from the Board of Directors raised the question as to whether there weren't a lot of air-holes in the examination report.

Upham: Yes.

Oliphant: And what I said was that - now, let's don't go ahead and stick our neck out any farther until we're sure of our facts.

Taylor: That's right.

Oliphant: And I suggested the desirability of a very careful analysis of the letter of the directors, to see whether or not there were air-holes in the examiner's report. I don't want to wake up some day and find the examiner was all wrong and we've been acting on a false basis, because some day the legal department may have to go and argue and prove these things.

Upham: Of course, that was made and distributed some weeks or so ago.

H.M.Jr: Well, Cy, who's waiting on who?

Upham: Well, let's leave it that you're waiting on me. I'm going out to see Mr. Delano in a little while at his home, and I think we can proceed after that.

H.M.Jr: Well, will you get in touch with Mr. Hanes when you're ready, and he'll call a meeting for you within the day.

Upham: Surely.

H.M.Jr: All right?

Upham: Surely.

H.M.Jr: Now, what else?

Upham: That's all I have on this, I think.

H.M.Jr: Herbert?

Gaston: Well, I think substantially what Cy said; I should think the procedure in the Comptroller's office ought to go right ahead regardless of anything that is developed by Gene in that study.

But I do think that this thing of the branch banking and the prohibition of holding companies in the banking field - that legislation - has got to go ahead, and I think a great help in that line of legislation will be to let a few of the most responsible people on the Hill in on some of these situations.

H.M.Jr: Anything else?

Gaston: Nothing.

H.M.Jr: Wayne?

Taylor: No; I think that the question of answering the letter - the letter signed by the Board of Directors of the Bank of America, is the most important piece of business before the House. But I think that that happens to be a remarkable letter. It was written for that purpose. But to have us issue a letter of warning without having discussed the points that are raised in there and without our saying, "All right, this isn't good enough" - because their whole approach is, "You've criticized these things and this is our liquidation program for each one of these items. This is what we've done and this is what we intend to do. Please let us know if that isn't right" - .....

H.M.Jr: I see.

Taylor: - ... now, that leaves us in an awful position if we issue a letter of warning in the face of that approach.

H.M.Jr: I see.

Upham: May I characterize that letter from the Board of Directors a little differently? It is a repetition of the repeated-through-the-years rejections of every criticism that the examiners have made. There is very little validity to the entire letter.

H.M.Jr: Well, that would - may I just say, because I see which way this is headed - if I may suggest, let's have that discussion in Mr. Hanes's room before you come to me, huh? O.K.? And inasmuch - if there's some doubt, then again I want Tom Smith to come down and go over the whole thing before whatever we do goes out. So give me - I've got to give Tom two days' notice if you think you want him.

Upham: Well, you see, next week is the A.B.A. convention in Houston. I've talked with him. He's leaving Friday. He said he would be glad to come here immediately after the convention. That would be the end of next week.

H.M.Jr: Well, let's work toward having this thing ready.

Gaston: I think there is some significance in the fact that Giannini in that letter to McIntyre disavows his connection with the others.

H.M.Jr: You know about that.

Gaston: It seems to me Giannini is evidently getting ready to deal direct. He'll bear watching.

H.M.Jr: You mean you ought to watch Cy.

Gaston: Watch everybody, because he's a smart trader.

Upham: I wish you would.

Gaston: He calls attention to the fact he didn't sign the letter. He's going to come down here and say, "Maybe in some places we've been wrong. How we going to fix this up?"

Upham: He says he's free to act independently of the rest of the Board.

Taylor: Because he didn't sign it?

Upham: Because he didn't sign it.

H.M.Jr: You want this read?

Upham: I have no secrets. Anything you say is all right with me.

H.M.Jr: Just this - I mean this is so - all of this is so important; then I think we tell everything we know, then out of that a team. It is drawn to my attention that Larry Clayton, who I take it is Mr. Eccles' confidential assistant? - ....

Upham: Yes.

H.M.Jr: - ...that his brother is a high official of the Western States Corporation.

Duffield: You're not taking that on my say-so? Did you check that?

Upham: Did you tell me that?

Duffield: Yes. I told you. But somebody else might have.

Upham: No, I'm not taking it on your statement. I'd forgotten, as a matter of fact, that you told me that.

Duffield: Well, it came in my conversation with the examiner. I didn't know anything more about it.

H.M.Jr: Cy lets us know when he wants to meet.

Upham: All right, be glad to.

H.M.Jr: Anything else?

Duffield: No.

H.M.Jr: Then I would suggest that you have one, two, three, four, five, six, seven photostats made of this.

Duffield: Could I get that drawn up by Mr. Arno, have that photostated?

H.M.Jr: Well, George will have that reproduced. Tell him to be terribly careful.

Upham: Eight, so we can have one.

Hanes: Can I make one suggestion before we break up: that we all continue to be very careful in anything we say to anybody, because I'm thinking in terms of that Wilcox letter. That bothers me - knowing that these people are selling that information that they're gathering through the government departments.

H.M.Jr: Do you (Gaston) know about that?

Gaston: Only that Hanes mentioned it just as I was running in here.

H.M.Jr: Well, what I said is this. I say all lobbyists on the Hill have to register, don't they, and I was saying that all people who send letters out of Washington containing governmental information should have to register also before Congress. See? That covers a multitude of sins.

Oliphant: Don't want to censor the press, do you?

H.M.Jr: No more than you censor - what do you have to do to get in the press gallery?

Duffield: Well, you have to state your connections, and I think at the White House now, in addition to that, you're not allowed in any of the press conferences if you represent in addition to your legitimate newspaper connections any confidential letter.

Gaston: You're not allowed in the press conference if you're a confidential letter writer.

H.M.Jr: No. So in other words, these confidential letter writers - they're not allowed in the press gallery, are they? - ...

Duffield: That's right.

H.M.Jr: ... they're not allowed in the White House press conferences.

Upham: But they do come to your press conference. Wilcox does.

H.M.Jr: He does.

Gaston: He comes as the correspondent of the Daily American Banker.

Duffield: Of course, under the White House rules he wouldn't be allowed to come in here unless he got rid of this letter.

Upham: This fellow puts some of your off-the-record statements in his letters.

Oliphant: What's this, another Kiplinger letter?

H.M.Jr: (Laughs) Oh boy! Now you're interested.

Gaston: Did you get that point that Cy mentioned? I haven't seen any Wilcox letters, but Cy just now says that he puts off-the-record statements that you make to the newspaper correspondents in his letters.

H.M.Jr: Well, so help me, I've never seen the Wilcox letter.

Gaston: I've never seen the Wilcox letter.

H.M.Jr: Let's see one now.

Duffield: They're hard to come by. I've been trying to. I can't get one.

Gaston: His using those off-the-record statements would justify barring him from the press conferences.

H.M.Jr: You've got to have the letter first.

Hanes: Just get hold of a bank and give them seventy-five bucks, and tell them to subscribe to it and send it to us.

Duffield: The Federal Reserve Bank people told me the Federal Reserve Bank of Chicago heard of this thing and tried to subscribe to it, were told they couldn't. Evidently you have to be a certain shade of character before you can get it.

H.M.Jr: Well, your (Hanes) brother can get it.

Upham: With us giving him seventy-five dollars.

Oliphant: Riggs Bank get it?

Upham: I don't think so.

H.M.Jr: Well, you're going to try it. And when you call up Tom, Cy, tell him I want to see him the end of the week. Ask him when he's down there - we want to get a copy of this Wilcox letter; go back - like to get a file.

Gaston: I think Tom is getting it. He spoke about it to me.

H.M.Jr:	Are you (Upham) going to call him up when you go back?
Upham:	Yes, I am.
H.M.Jr:	Well, ask him whether - may I use the file, if he's getting it, on the Wilcox letter.
Gaston:	I'd just as soon call Wilcox in and tell him if he's writing a confidential letter he isn't eligible to come into the press conferences at all, any more than Kiplinger or Waley-Eaton.
H.M.Jr:	Wouldn't you have a much stronger ....
Gaston:	"ould be very much stronger to get the letter, yes.

November 10, 1938

MEMORANDUM TO: Secretary Morgenthau
John Hanes
Wayne Taylor
Herman Oliphant
Herbert Gaston
Eugene Duffield

From: C. B. Upham

I have prepared the attached as my idea of the kind of response which should be made to the letter of October 11th received from the Board of Directors of the Bank of America, N.T. & S.A. of San Francisco. To it would be appended a discussion of the specific items criticised in our report of examination.

Upm
Upm

Enclosure

CABLE ADDRESS—BAMERICAL

13044

Bank of America
NATIONAL TRUST AND SAVINGS ASSOCIATION

SAN FRANCISCO HEADQUARTERS

A. P. GIANNINI
CHAIRMAN OF THE BOARD OF DIRECTORS

SAN FRANCISCO, CALIFORNIA
November 10, 1938.

Honorable Henry Morgenthau, Jr.,
Secretary of the Treasury,
Treasury Department,
Washington, D. C.

Dear Secretary Morgenthau:

This will acknowledge your letter of November 5, responding to my telegram sent to you on November 2.

In order that you may clearly understand why I sent you the telegram referred to, let me suggest that you review briefly the relevant circumstances which preceded my action.

Under instruction of your Department, Mr. Palmer, National Bank Examiner in Los Angeles, appeared before our Board of Directors on September 13, 1938, on short notice and without previous correspondence, and read a certain telegram which contained unwarranted criticisms and a threat of legal action against officers and directors of the Bank.

A copy of the telegram was mailed to each director personally, and under date of September 23, the Comptroller's office addressed a lengthy letter of criticism and threat to our Board of Directors and sent a copy of the letter to each director in an envelope which was marked neither "personal" nor "confidential."

Shortly following these happenings, there appeared in several periodicals news items linking the office of the Secretary of the Treasury with reported disciplinary measures employed against certain California banks. I regret that you did not take time to read some of the articles to which I refer. Had you read those articles, you would have been convinced, as any reasonable person would be, that unwarranted criticisms of your Department were divulged to the press instead of being keptin strict confidence, at least until we had an opportunity of being heard. Articles, the source of which is attributed to your Department, which appeared in certain news services having a broad circulation among business men throughout the country, prompted some of our most valued clients, such as Woolworth's, Penney's, Safeway, Montgomery Ward, and certain railroads, to make direct and indirect inquiry as to their meaning.

As a result of the publicity given to these matters, a whispering campaign against the Bank got under way, and the rumor was circulated that the Bank would discontinue dividend payments. To meet a possible emergency arising in consequence of prevalent gossip, recently the management was obliged to accumulate excessive cash reserves by selling large blocks of government bonds and restricting lending activity, thereby suffering, unnecessarily, a loss in income and prestige.

Therefore, when I recently read that portion of the "Wilcox" letter of October 30, 1938, carrying a blunt reference to the controversial matters under discussion between your office and our bank, I decided it was high time that I did something personally to put an end to the insidious gossip, verbal and printed, that is causing so much damage to our bank.

In the final analysis, Mr. Secretary, someone must accept responsibility for the damage caused to Bank of America by reason of the unwarranted and damaging method of attack upon the Bank and its management, and the making public of erroneous information concerning the affairs of the Bank which, even had it been correct, should have been treated as strictly confidential by your Department.

Some of the publicity to which I refer appears in the American Banker, October 4th issue, page 4, and in the following news services:

"Washington Banking Trends and Backgrounds" (Wilcox and Associates)

Issue of	September 4, 1938	Page 5	Item (3) (a)	
" "	October 16, 1938	" 3	" (1) (f) (g)	
" "	October 23, 1938	" 3	" (1) (k)	
" "	October 30, 1938	" 2	" (1) (c)	Page 4
		" 3	" (2) (b) (f) (g) (i)	
		" 6	" (4) (b)	
" "	November 6, 1938	" 3	" (2) (c)	

"The Kiplinger Washington Letter"

Issue of	October 1, 1938	Page 4	Paragraph 8
" "	October 8, 1938	" 2	Paragraph 5
" "	October 15, 1938	" 2	Last 6 Paragraphs
" "	October 22, 1938	" 2	Last 5 Paragraphs

In case you have any difficulty in securing these articles for reference, I shall be glad to send you photostatic copies of them.

I did not communicate with you in my capacity as an officer of the Bank, but it was my sense of responsibility as founder of the institution that impelled me to act and to now write this letter. I have already undertaken, and succeeded in, one tremendous task of rehabilitation, and I do not propose to sit idly by while thoughtless and inexperienced persons take proceedings which tend to destroy this bank, which is a great public service institution and represents my life's work. I say it is a public institution because it serves over 2,000,000 depositors whose accounts average less than $675.

I am not concerned about any damage to myself, personally; the Bank of America is my real concern, and I felt that I had carried out my duty when I sent you the telegram on November 2. I wanted to protect the Bank from further damage and to give warning that those responsible for said damage would be held strictly accountable.

I feel sure that had you been in my place, Mr. Secretary, you would have acted as I did in order to protect the institution for which you felt responsible.

Sincerely,

A.P. Giannini

P.S. Please understand, Mr. Secretary, that in addressing you unofficially I'm not fighting for my job in the Bank, for I have not been on its payroll since my retirement as President in 1934, and incidentally, while past retirement age, I draw down no pension nor am I reimbursed my expenses in connection with it.

A.P.G.

November 10, 1938

FOR THE SECRETARY:

At the group meeting yesterday I raised the question of all the Federal banking agencies moving against Bank of America together, suggesting that grounds for action by one agency should be grounds for action by the others and that Giannini might thus be convinced that he had no way out but to accept the program laid down for him.

My suggestion is that the FDIC, for the time being, take the first step only toward termination of the bank's insurance. That step is to cite the unsafe and unsound practices of the bank to the Comptroller, and the Bank could be told that this was being done. Thereafter, the FDIC need not do anything under the law for four months. At the end of the four months, it is required to be set a hearing which can be as far distant in the future as the FDIC wishes.

Similarly, the Federal reserve system could take the first step toward suspension of the Bank from the system. This step is for the San Francisco reserve bank to report the Bank's unsound practices to the Board of Governors in Washington. The Board is free to set a hearing for the Bank at any time.

If the FDIC and the Federal reserve would take these first steps when the Comptroller warns or cites the Bank under section 30, the Bank would then be on notice from all Federal agencies. From that point on, the section 30 proceedings could be pressed while the ~~the~~ FDIC and reserve bank complaints were left temporarily suspended in mid-air.

If the section 30 action succeeds, the FDIC and the reserve system could drop their suspension proceedings on the grounds that the section 30 settlement had removed the unsafe and unsound practices complained of.

If the section 30 action fails, Congressional leaders could be told that not only the Comptroller, but the entire executive branch of the Government, had used all the powers of suasion at its command and had taken all concrete action except to suspend the Bank, a final step which might mean closing the Bank. The leaders could be asked: Should this final step be taken in spite of the risks, or will Congress try to deal with such situations through new legislation?

HSD

November 12, 1938

FOR THE SECRETARY:

At the group meeting on November 9 I suggested united action by all Federal banking agencies against the Bank of America as opposed to action by the Comptroller alone. The object of united action would be to put the Bank on notice that all Federal agencies considered its practices unsafe and unsound and to impress Giannini with the futility of further temporizing. The purpose would not be to proceed so harshly that the Bank would have to close.

I suggest that the FDIC be asked to take only the first step in the lengthy process of terminating the Bank's deposit insurance, informing the Bank that the process has been started. The first step is for the FDIC to cite the Bank to the Comptroller. The law requires no further FDIC action for four months. At the end of the four months, the FDIC must fix a hearing, but this hearing can be as far distant in the future as the FDIC wishes to make it.

Similarly I suggest that the Federal Reserve System take only the first step toward suspending the Bank from the System. That step would be for the Federal Reserve Bank of San Francisco to cite the Bank of America to the Board of Governors in Washington, notifying the Bank of the citation. The Board can then call a hearing at any time it wishes.

If these two actions were taken when the Comptroller warns or cites the Bank, the Bank would be on notice from all Federal banking agencies. Thereafter the Comptroller's action under section 30 could be pressed while the FDIC and Reserve proceedings were left temporarily suspended in mid-air.

If the section 30 action succeeds, the FDIC and Reserve System could drop their proceedings on the grounds that the section 30 case had removed the unsafe and unsound practices which were the basis for their citations of the Bank.

If the section 30 action fails, Congressional leaders could be told that not only the Comptroller, but all the Federal banking agencies, had used all the persuasive powers at their command and had taken all concrete action except to suspend the Bank from the reserve system and from insurance, final steps which might mean closing of the Bank. The leaders could be asked: Should this final action be taken in spite of its risks, or will Congress supplement the existing law so that Transamerica-Bank of America can be cleaned up?

Unless the FDIC and Reserve System go at least part way with the Comptroller, Congressional leaders might point out that these two agencies still had disciplinary powers which had not been invoked against the Bank.

ESD

C O P Y

BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM

Washington

November 14, 1938

My dear Mr. Comptroller:

This is to acknowledge receipt of the letter of November 3d from your office advising that the Secretary of the Treasury has referred to your office my personal letter to him of October 27th and the accompanying memorandum relative to the legal and practical aspects and the time element involved in a Section 30 procedure as contrasted with possible alternative procedures in dealing with an important and complicated banking situation requiring prompt correction.

Much to my regret, there seems to be some misunderstanding of my purpose in transmitting this memorandum to the Secretary. Neither the memorandum nor my letter questioned the fact that a Section 30 procedure is available and that the prerogative and responsibility for determining what procedure is to be followed rests entirely with the Comptroller's office. Such discussion as I have had respecting the matter in question was with the Secretary rather than with your office, and consequently I knew of the Secretary's deep interest in the situation. It was, therefore, natural that I should transmit this informal memorandum to him since it seemed to me to bring out a number of important considerations, and that I should express to him likewise my personal opinion that the situation could be met most effectively and expeditiously by other procedure.

While the responsibility for determining what procedure shall be followed is, of course, that of the Comptroller's office, such responsibility does not end with the filing of a certificate with the Board, because the Board does not make the examinations on which charges are based and is not in a position, therefore, to present the evidence necessary to sustain the charges or to rebut opposing evidence. It seems to me that after the filing of such a certificate there is a joint responsibility for the conduct of a case from that point on. I agree that there should be no difficulty in carrying out a mutually satisfactory procedure in the event that Section 30 is invoked since such proceedings have heretofore been held and some experience has been gained by both our offices.

I see no reason, however, why an exchange of letters should be necessary, nor do I think this would solve the questions of procedure. This could best be accomplished, it seems to me, by your calling together the legal and technical staff from time to time as occasion arises, and I need not assure you that the Board and its staff are ready to cooperate to the fullest extent possible to expedite the proper disposition of any Section 30 proceeding instituted by your office, should that course be decided upon.

Sincerely yours,

/s/ M. S. Eccles

M. S. Eccles,
Chairman.

TO: Mr.Hanes
Mr.Taylor
Mr.Carter
Mr.Oliphant
Mr.Foley
Mr.Upham

November 14, 1939.

FROM: Mr. Duffield

The following is suggested, subject to discussion at the Wednesday Banking Group meeting, as a reply to the Giannini letter for November 10.

"Thank you for your letter of November 10.

I must repeat that the issues between your Bank and the Comptroller of the Currency, which you review, are very grave and are to be settled with that office. The welfare of the Bank's depositors has always been foremost in my mind, and I am pleased that you should say that you too believe it is the most important consideration. ~~Agreement on this fundamental point might open the way for settlement of the case.~~ a mutually satisfactory. I hope the Bank, acting in the best interests of the depositors, will make a sincere effort to meet the Comptroller's criticisms, ~~and not try again to complain [illegible]~~

As to the reports about this case which you may have been published, I reiterate that responsibility for them does not rest with my office. I assume you recognize this fact by your reply. May I suggest that, if the Bank believes the reports maliciously or falsely cause it harm, it has remedies at law against the authors which might very quickly fix responsibility for these reports.

?

END

November 15, 1936

MEMORANDUM

At 7:30 P.M. Mr. Mortimmer Fleishhacker called from San Francisco. He began his conversation with the statement that I would remember that when he was in Washington we requested that the resignation of Mr. Herbert Fleishhacker as President of the bank be secured. I told Mr. Mortimer Fleishhacker that I had no such recollection and that, as a matter of fact, I had not discussed that resignation with him while he was here. He continued nevertheless with the statement that that resignation had now been secured and that the directors of the bank were working on other plans.

Mr. Fleishhacker explained to me that the committee of three directors had hired their own counsel and had written a letter which he assumed was in my hands. I replied that it had been received and was,in the process of being answered. He said he understood that we wanted more information than was in that letter and called my attention to the fact that it was stated in the letter that we would get more information later. He told me that another letter would be sent, supplementing that already received.

Mr. Fleishhacker asked me if I wanted to give him any ideas or suggest any additional information that we might want. I reminded him that our examiner had been with them for some time, working with them and helping them to give us the information that we wanted and the assurances that corrections would be made in accordance with our letter of criticism. I expressed the view that we certainly ought to have a fuller report than was included in the letter already received. He said that it was easier to get the committee of three to agree on something than to get the whole Board of Directors to sign and wanted to know if it would be agreeable if a letter came from the committee of three. I told him the only thing we could rely on as being the view of the Board of Directors was a letter from the entire Board. Mr. Fleishhacker said that the committee is now working, at his request, on additional data, that he is anxious to comply in every way but it is pretty hard to convince the directors. He repeated that he would appreciate any suggestions, and closed the conversation with the statement that he will have something for us soon which he hopes will suit us.

Upm

November 15, 1938

For the Secretary:

In transferring to the FDIC the voluminous personal and semi-personal files of former Acting Comptroller Diggs, Mr. Gough brings to my attention a file of correspondence with Zach Lamar Cobb. There are two or three things in this which might be of interest to you:

(1) A letter from Mr. Cobb to Mr. Diggs on March 26, 1938 says: "The Comptroller phoned Mr. Giannini, and told me, of the part he had taken in getting the Central Bank permits from the FDIC. He had also told me that he would grant the Bank of America permits when the former had cleared the FDIC."

(2) Under date of April 30, 1938 Mr. Diggs wrote to Mr. Cobb: "Your wire regarding the branch bank applications has been received. I called Mr. Prentiss in order to have him tell you our situation as it did not seem advisable to put this information into a wire, and I felt sure you would not want me to be embarrassed on account of anything I might say."

(3) On May 12th Mr. Diggs sent a wire marked "Personal" (but which was charged to the office) reading "Things still terribly upset will try get Galt through tomorrow your suggested call might be helpful."

(4) On June 22nd Mr. Diggs wired to Mr. Cobb: "Please call me home tonight after seven thirty our time."

(5) On June 23, 1938 Mr. Cobb wired Mr. Diggs: "Please be sure to airmail one copy to me here care bank and other copy to Los Angeles. Russ will prepare statement as President National Bank Division American Bankers Association for publication immediately after official release there which I think may be helpful and beneficial."

(6) On June 23rd Mr. Diggs wrote to Mr. Cobb: "It was good to talk with you last night, and I am getting off to you a copy of the Regulations which I am sure you will keep secret until they are officially released here. The plan now is to do that on July first. However, things are so hectic around here that it may not be carried out just that way.

"I have not been able to get anything done on your Branches today, and it looks as though it will have to go over until Monday. I am very sorry about this but there are just so many hours in a day and the times that I was free, the Secretary was not."

Upm

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON

OF THE CHAIRMAN

November 17, 1938

The Honorable
John W. Hanes
Under Secretary of the Treasury

My dear Mr. Hanes:

This is in reply to your letter of November 10, 1938. I enclose a copy of the Report on Transamerica Corporation to which I assume you have reference.

Yours faithfully,

Wm O Douglas
William O. Douglas
Chairman

orig- filed "extra"

This report is a result of a study made of certain information concerning the Transamerica Group companies, principally the Bank of America, N. T. & S. A.

The study was made for the purpose of determining how if any such information affected the financial data as filed with the Commission on Form 24, under the 1934 Act for the years 1936 and 1937.

In order to understand the reasons underlying the various complicated intercompany transactions and the employment of unusual accounting practices, which will be related here, it is necessary to understand the motive of the management. First, it should be said that the management of the Group companies, including the Bank of America, N. T. & S. A., is actually in the hands of one man, A. P. Giannini, who exercises absolute control over its policies. The Board of Directors of the Bank of America N. T. & S. A. and of Transamerica Corporation may for all practical purposes be nonexistent in so far as formulation of major policies is concerned. In numerous instances the execution of matters of major importance requiring the approval of the Board of Directors were only vaguely referred to in the minutes or not at all, indicating lack of knowledge on the part of the directors as to such matters, although their execution definitely placed individual responsibility on the directors subjecting them to liability if anything went wrong. The real motive for the practices perpetrated was Mr. A. P. Giannini's ambition to restore the Bank of America, N. T. & S. A. and Transamerica Corporation to their former prominence by way of displaying enormous assets, and earnings, and the payment of liberal dividends. To accomplish this end, constant juggling of intercompany accounts and unusual accounting practices were resorted to which caused the inflation of assets and earnings.

Intercompany sales of securities, real estate and other assets were made resulting in the capitalization of unrealized appreciation on the books of the vendee company and the creation of an intercompany profit to the vendor company thus inflating assets and creating fictitious earnings. A more glaring method of increasing assets and earnings was the direct capitalization by the Bank of America N. T. & S. A. of a vast amount of unrealized appreciation of securities. Insufficient provisions for losses and depreciation were also resorted to to overstate earnings. The earnings so created would ultimately redound to Transamerica Corporation. While the financial statements filed with the Commission give information as to certain intercompany profits, the stockholders, however, knew little of such intercompany transactions. Furthermore, no orthodox consolidated income statement is presented which would eliminate all such intercompany profits.

To substantiate the foregoing statements and to illustrate the complicated process through which certain means were obtained the following is submitted.

In the examination of the Bank of America, N. T. & S. A. by national bank examiners during the year 1931, approximately $[illegible] face amount of assets of the Bank have been classified by the examiners as losses or doubtful, or as assets of such unsatisfactory character as to require their elimination from the Bank's assets.

As a result of the above, the Bank of America N. T. & S. A. entered into three contracts with Corporation of America, an affiliate, for the sale of the aforementioned assets to the latter. These contracts were dated June [illegible], 193[illegible], December 31, 193[illegible], and February [illegible], 193[illegible], and matured respectively one year from the contract date. The aggregate face amount of the assets covered by these contracts was $[illegible]. On October 2, 19[illegible], the contracts were assumed by Transamerica Bank Holding Co. (later the Inter-America Corporation), a wholly owned subsidiary of Transamerica Corporation. By various agreements of extension the maturity of these contracts were extended to December 31, 1938.

The nature of the assets constituting the subject matter of the contracts was as follows:

Notes receivable and interest accrued	$[illegible],177,[illegible]
Real estate losses	1[illegible]
Depreciation on bank premises	[illegible]
U. S. Dollar Bond losses	1,[illegible]
Foreign currency bond losses	[illegible]
Loss on real estate foreclosures	[illegible],149.37
Losses on loans	[illegible]
Depreciation on securities	4,1[illegible]
Losses on securities	1[illegible]
Total included under the contracts of sale	[illegible]

Note: Special attention is directed to the character of the above items.

The contracts recited among other things that the "Bank agrees to sell, transfer and set over, and does hereby sell, transfer and set over to the Corporation, and the Corporation agrees to purchase and does hereby purchase from Bank all those certain notes, portions of notes, obligations, claims, demands, causes of action, equities, future appreciation in bonds and other written down accounts and recoveries on losses and other assets, together with all mortgages, deeds of trust, collateral or other security securing the same, and all the right, title and interest of the Bank therein and thereto as set forth and listed in Schedule 'A' annexed hereto and made a part hereof . . . The Corporation also agrees to assume, and does hereby assume all obligations and liability in respect to the losses and depreciation specified in said Schedule 'A' and hereby agrees to pay Bank the amount of such losses and depreciation as part of the purchase price hereunder . . ."

In order to secure performance by the buyer of its obligations under the three contracts it has pledged with the Bank:

(a) All the assets under said contracts, and

(b) Certain other collateral consisting of listed and unlisted securities.

It is presumed that upon the execution of these contracts the Bank of America, N. T. & S. A. merely eliminated from its balance sheet the assets sold and substituted on them in a corresponding amount as a receivable from Inter-American Corporation, thereby complying technically with the Bank examiner's recommendations.

Notwithstanding the terms of the contracts which clearly indicated a purchase and sale agreement of the above [illegible], the Bank [illegible] undisclosed person has [illegible] [illegible] a guarantee agreement by Inter-American Corporation [illegible] collaterally [illegible] the Bank against [illegible]

The manner in which reduction of the afore-mentioned receivable was effected by the Bank was as follows:

1. Recoveries on loans from date of contracts to October 1, 1936.................................. $ 6,968,919.49

   (A substantial portion of the recovery is represented by the write-up of collateral securing the loans, primarily Transamerica stock, which had been carried as low as $2.50 per share, and was written up during 1935 to approximately $12 per share and subsequently to as high as $18 per share.)

2. Payments made by Capital Co. and California Lands, Inc., under contracts assigned to them on October 1, 1936 .... 1,486,186.67

   (See page 7 of this memorandum for comments regarding this item.)

3. Recoveries on miscellaneous assets 276,926.90

4. Cash payments made due to collateral changes 5,644,387.36

5. Reduction made through the write-up of the Bank's assets and forgiveness of the debt due under the contracts:

   Write-up of U. S. and municipal securities:
   Year 1935 .... $ 8,000,000.00
   Year 1936 .... 6,007,786.34 — 14,007,786.34

6. Write-up of loans purchased 70,707.48

7. Funds transferred from Reserve for Contingencies Special 800,000.00

8. Purchase of 86,600 shares of National City Bank of New York 2,716,000.00

9. Payment by Transamerica Corporation for balance of contracts on July 14, 1937 .... 3,044,387.97

[illegible]

(See pages 7 & 8 of this memorandum for comments regarding Items 8 and 9 above.)

In order to clarify the origin of Items 2, 6, and 9 (totaling over $10,000,000.00) used to reduce the contract liability it will be necessary to refer briefly to another transaction. This transaction commenced on February 1, 1933, when the Bank of America, N. T. & S. A. entered into an agreement with Corporation of America whereby the Bank sold to the Corporation all of the Bank's charged off assets including those to be charged off to July 1, 1933, for a consideration of $250,000.00. This agreement was subsequently transferred to Transamerica General Holding Co. and then to Transamerica Bank Holding Co. (later Inter-America Corporation). The consideration remained at the original amount of $250,000.00.

On January 2, 1934, through an additional agreement between the Bank of America N. T. & S.A. and Transamerica Bank Holding Co. the Bank sold to the Company all of the Bank's charged off assets from July 1, 1933, to July 1, 1937, for a consideration of $80,000.00.

On October 1, 1936, Inter-America (formerly Transamerica Bank Holding Co.) by an agreement sold all its interest in the Bank of America, N. T. & S. A.'s charged off assets, covered by the two contracts above referred to, to two affiliates, the Capital Co. and California Lands, Inc., on the basis of a 1/2 undivided interest for each company. The consideration for this sale was $800,000.00 plus an additional $200,000.00 to be paid out of 50% of the collections and recoveries on the charged off items.

On July 14, 1937, Capital Co. and California Lands, Inc., by agreement sold all of their interests in the above-mentioned charged off assets back to the Bank for a consideration of $6,500,000.00. The Bank of America, N. T. & S. A. made payment of $3,250,000.00 to each of the companies.

The aggregate profit (recorded by additions to earned surplus) to Capital Co. and California Lands, Inc., under the above transactions during the period October 1, 1936, to July 14, 1937, was $7,786,077.59.

The $1,486,156.67 under Item 2 on page 5 represents recoveries collected by Inter-America Corporation for Capital Co. and California Lands, Inc., on the charged off assets sold by it to the latter. This amount through intercompany accounts was applied as an advance to Inter-America Corporation, Capital Co., and California Lands, Inc., receiving credit therefor. Of the $1,486,156.67, $1,308,077.59 forms part of the $7,786,077.59 profits shown above, the difference presumably being applied on the purchase price of these assets.

Inasmuch as Transamerica Corporation owns 100% of Capital Co. and California Lands, Inc., it has entered into an agreement with the Bank of America, N. T. & S. A. on July 14, 1937, to guarantee the Bank against losses on the charged off assets repurchased, to the extent of $6,500,000.00. Transamerica Corporation guarantees to the Bank that said sum will be realized within a five-year period at the rate of $1,300,000.00 per year and agrees to make up the deficiency in any one year by a cash payment. If in any one year the collections exceed $1,300,000.00, the excess is to apply to subsequent years. Under the terms of this agreement Transamerica Corporation supports the guarantee with a pledge of collateral, and participates with the Bank, share and share alike, for a period extending to July 14, 1947, in all recoveries on the assets in excess of $6,[illegible].00. In the event of Transamerica Corporation's failure to make up the deficiency in any one year the Bank has the right to sell without notice sufficient of the securities pledged to make up such deficiency.

The proceeds of this repurchase amounting to $6,[illegible] to be received by Capital Co. and California Lands, Inc., were applied through intercompany channels as follows:

$[illegible] was applied by the Bank on real estate contracts held by the Bank with California Lands, Inc., against losses on specific properties sold by California Lands, Inc., to Capital Co.

$[illegible] (Item 9, page 5) was applied by the Bank on the Inter-American Corporation contracts previously referred to.

Note: Reason for difference of $1,[illegible] is not known.

After applying for $[illegible] on the contract price due from Inter-America there still remained a balance due on these contracts of $2,716,900.00.

This balance of $2,716,900.00 was eliminated by the Bank purchasing from Transamerica [illegible] shares of stock in National City Bank of New York at the market price as of that date of $[illegible] per share.

In the purchase of these shares the Bank of America, N. T. & S. A. granted an option to Transamerica Corporation to repurchase same within a five-year period at $[illegible] per share in the amount of not less than [illegible] shares per year. In consideration of such option Transamerica pledged as makeweight an additional [illegible] shares of the National City Bank stock. Under the terms of the option, in the event [illegible] shares [illegible] not repurchased by Transamerica Corporation in any one year the Bank may sell at market any additional shares necessary to make up the quota, provided that any excess purchased by Transamerica Corporation in any one year shall apply to the purchase of any succeeding year. If the sale of additional shares by the Bank of America N. T. & S. A. at market is less than $48 per share, the Bank may also sell sufficient shares out of the 18,400 shares, pledged in safekeeping, to make up the market value difference. When the Bank of America N. T. & S. A. has realized through payments under option or through market sales the amount of $2,716,800 the obligation of Transamerica Corporation shall cease and all remaining shares shall be returned to it. However, if there is a net deficiency after the sale of all shares held, Transamerica Corporation shall in no wise be liable.

The result of the foregoing transactions was the elimination of the $8,561,087.07 balance due on the Inter-America Corporation contracts ($5,844,287.07 and $2,716,800) which liability was fully secured by marketable securities. In lieu of this obligation the Bank now holds in its active assets the following:

1. All of its previously charged off assets capitalized to the extent of $6,800,000 (reduced to approximately $6,200,000 by April 1939), following the repayment of which Transamerica Corporation participates share and share alike in further recoveries for a period extending to July 14, 1937.
2. An investment in the bond account of 56,600 shares of National City Bank stock carried at $2,716,800, the

present market value of [illegible] than half of the above carrying values.

An analysis of the afore-mentioned transactions in the light of their applicability to the financial statements contained in the annual reports for the years [illegible] and 1937 filed with the Commission on Form [illegible] by Transamerica Corporation brings out the following salient facts:

1. That the original three contracts entered into by the Bank in [illegible] and [illegible], portions of which are quoted on page [illegible] , were by their terms, agreements of outright purchase and sale and not merely contracts of guarantee as has been contended.

2. That the previously mentioned sale by Inter-America Corporation of certain of the Bank of America, N. T. & S. A.'s charged off assets to Capital Co. and California Lands, Inc., (later repurchased by the Bank from the latter two companies) was on its face not a bona fide sale but was made for certain reasons believed to be as follows:

    (a) To extinguish the unpaid balance remaining on July 14, 1937, on the Inter-America Corporation contracts thereby releasing to Transamerica Corporation and its subsidiaries listed securities pledged as collateral under the Inter-America Corporation contracts, which collateral was apparently urgently needed for pledging under new loans.

    (b) To create a substantial earned surplus (to which account the profit was added) on the balance sheets of Capital Co. and California Lands, Inc. (The earned surplus accounts of both companies were increased by an aggregate amount of approximately $7,800,000.00 from October 1, 1936, to December 31, 1937.)

(c) To evade income tax payments. To clarify this statement, it is reasoned that if Inter-America Corporation had not sold such contracts, it would have to take into income any excess over the purchase price recovered on these assets, which would be considered taxable income. However, by selling the assets to the two companies, the latter would take in such excess as income which would be offset against losses and write-offs considerably in excess of any taxable income they may receive during the period covered by the transactions.

3. That in order to reduce in part the contract liability due from Inter-America Corporation, the Bank resorted to unorthodox means of writing up its bond account and collateral held for previously written-off loans and taking in such unrealized gains into its current income account.

4. That the bond account is overstated to the extent of the unrealized appreciation remaining therein as of December 31, 1936.

A summarization of the result of the study and its applicability to the financial data of Transamerica Corporation and its subsidiaries on file with the Commission follows.

Note: It should be noted that the dates of the information studied do not coincide with the dates of the financial data as filed with the Commission as shown in footnotes 1/ and 2/ on pages 15, 16 & 17. Therefore certain of the figures to follow are subject to such footnotes. The adjustments necessary are not believed material to affect the conclusions.

BANK

Combined Report of Condition as of December 31, 1936:

Loans and discounts .... $[illegible]

As of October 14, 1936, the books of the Bank showed total loans and discounts of $456,[illegible],046.06. Of this amount $12[illegible],668,973.40 or over 27% of the total loans was considered by the bank examiners as slow, doubtful and losses as follows:

Slow..	$12[illegible]
Doubtful......................................	6,[illegible]
Loss..	[illegible]
	$12[illegible]

Included in the total loans were approximately $79,000,000.00 loans to Transamerica Corporation and subsidiaries (of which amount approximately $60,700,000.00 was considered slow) and approximately $8,800,000.00 of impounded German and Austrian credits carried at face value. It was considered that of the $8,800,000.00, $[illegible].76 was slow, $4,[illegible].14 doubtful and $1,000,000.00 loss.

The concentration of capital in the above loans of approximately $[illegible],000,000.00 represented as of the date indicated the major problem of the Bank. This concentration has been constantly criticized by the bank examiners. The amount of these frozen assets was in excess of the Bank's capital and surplus which totaled as of October 14, 1938, $84,100,000.00.

No reserves have been provided for the doubtful accounts and losses above referred to, $6,236,972.75.

The above comments are applicable to Supplementary Schedule E supplementing the Report of Condition and to the Schedule furnished in accordance with Instruction I (8) of Instructions as to Financial Statements (Form 24).

United States Government Obligations.........	$478,019,771.50
Other bonds, stocks and securities [Includes amounts applicable to First National Bank in Roma and Bank of America (California)].	175,076,108.60

As related heretofore, the Bank of America, N. T. & S. A. had written-up its U. S. Government and municipal securities by over $14,000,000.00. As of October 14, 1938, approximately $9,000,000.00 of the $14,000,000.00 was unrealized. Therefore, the above accounts are overstated by $9,000,000.00 and the "Undivided Profit" account is also overstated by a like amount.

The above comments are applicable to Supplementary Schedules F and G and to the Schedule furnished in accordance with Instruction I (8) of Instructions as to Financial Statements (Form 24).

Undivided profits @ net (For Bank of America, N.T. & S.A. only)........................(approximately)	$21,000,000.00

As a result of the deficiencies (referred to in a latter part of this report) in the amount of earnings reported for 1936 and 1937 and the accumulated provisions for possible losses and depreciation that should have been made for prior periods (prior to January 1, 1936, for possible losses, and since January 1, 1932, to December 31, 1935, for depreciation) the undivided profits of the Bank would be reduced by approximately $[illegible] thereby extinguishing the balance of the "Undivided profits account" leaving a balance of $1,[illegible] as a deduction from the "Surplus" account of the Bank of America, N.T.& S.A.

Note: As of October 14, 193[illegible], there was an appreciation in the book value of bonds, securities, etc., of $12,[illegible] and other assets of $[illegible].

Reserve for Contingencies........................... $[illegible]

Of the above amount, $1,971,[illegible].41 1/ represents the reserve applicable to the Bank of America, N.T. & S.A. As related previously, the Bank of America N. T. & S. A. did not make provisions for doubtful loans and discounts which as at October 14, 193[illegible], showed an accumulated deficiency of approximately $10,700,000.00; similarly, as stated heretofore, the reserve for depreciation of bank premises, furniture, fixtures, etc., is insufficient by approximately $[illegible].

1/ Note: Of this amount, approximately $1,[illegible] as of October 14, 193[illegible], represented a reserve for self-insurance.

__Combined Report of Earnings and Dividends:__

The net earnings for the years 193[illegible] and 193[illegible] are highly inflated and should be adjusted to give effect to the following:

1. The unrealized appreciation of over $14,[illegible],000 on written-up U. S. Government and municipal securities previously credited to income ($[illegible],000 in 193[illegible] and $[illegible],000,000 in 193[illegible]). Of the above write-up approximately $7,[illegible] and $[illegible],000,000 remained unrealized as of December 3[illegible], 193[illegible], and October 14, 193[illegible], respectively.

The effect upon net earnings of the unrealized appreciation on bonds as shown above is that the net income was overstated by approximately $7,000,000 and $2,000,000 for 1939 and 1938, respectively. The term "Recoveries on bonds, stocks, etc." which includes the write-ups is misleading.

2. No provision from earnings has been made for doubtful accounts and impounded credits of approximately $5,800,000 for 1938. The necessity for such provision has been constantly stressed by the bank examiners.

3. Insufficiency of deduction for depreciation for bank premises, furniture, fixtures, etc., of approximately $480,000 for 1939 and $470,000 for 1938. The alleged insufficiency is based upon the fact that the management uses higher rates for income tax purposes than for book purposes. It appears that the former rates are computed on a more accurate basis.

A summary of the above deductions from income is as follows:

	Approximate Amount	
	1939	1938
Approximate Unrealized Appreciation of Securities	$7,000,000.00	$2,070,000.00
Estimated provision for Doubtful Loans and Impounded Credits	1/	5,800,000.00 2/
Insufficient Depreciation	480,000.00	470,000.00
Total	$7,480,000.00	$8,340,000.00

Notes:

1/ None appears to be required.

2/ As the dates of the information examined were other than as of December 31, the year end date for the financial statements filed on Form 24, this item was approximated on the basis of the changes between October 7, 1937, and October 14, 1938, the dates of the only information available.

It is obvious from the above that the primary intent of the management was to inflate the earnings, by whatever means, for the purpose of displaying favorable earning statements. Also, as previously mentioned, the credits to income resulting from write-ups of bonds were utilized to charge off a portion of the liability on the contracts due from Inter-America Corporation.

The fictitious profits thus disclosed, together with a liberal dividend policy, had their effect market-wise on the value of the capital shares of the Bank of America N T & S A and Transamerica Corporation. The latter Corporation owned as of December 31, 1936, over 90% of the capital shares of the Bank.

The effect on earnings of the aforementioned adjustments is shown by the following table:

	Year 1935	Year 1936
Net additions to profits as shown by Bank of America N T & S A and forming part of amount shown in Form 24	$[illegible]	$[illegible]
Less deductions shown above	[illegible]	[illegible]
Approximate adjusted net income	[illegible] 1/	[illegible] 1/
Dividends paid on common	[illegible]	[illegible]
Approximate excess of dividends paid over current earnings	[illegible] 1/	[illegible] 1/

Note:

1/ Subject to adjustments for realized profits on securities written up and sold during the periods October 7, 1935, to December 31, 1935, on $[illegible] write-up and from December 31, 1935, to December 31, 1936, on $[illegible]; also, for the period October [illegible], 1936, to December 31, 1936, on balance of write-up of $[illegible].

In addition to the above it is believed that the profits on sale of securities shown by the Bank of America N T & S A include inter-company profits resulting from sales made to companies in the Group for the obvious purpose of bolstering the income of the Bank. Since no consolidated statements are prepared, such profits would not be eliminated.

No financial statements relative to the Bank of America N T & S A were required to be filed under the 1934 Act by Transamerica Corporation for the year 1937 for the reason that Transamerica Corporation was technically no longer a holding company, having distributed approximately 58% of its holdings of the Bank's shares to its stockholders in the form of a property dividend. However, to give some light of the Bank of America N T & S A's net earnings and dividends paid for the year 1937, the following is presented:

Net additions to profits (Adjustments to bring this on a comparable basis with the adjusted earnings for 1935 and 1936 shown on page 16).	$12,940,120.00
1/ Add approximate realized profit on sale of securities which was anticipated in 1935 and 1936	2,750,000.00
	15,690,120.00
Less insufficient provision for depreciation of bank premises, furniture and fixtures, etc.	800,000.00
Approximate adjusted net additions to profits	14,890,120.00
Dividends paid on common	8,800,000.00
Approximate excess of current earnings over dividends paid	$6,090,120.00

Note:

1/ The unrealized profits as of October 14, 1936, and September 18, 1937, on the securities written up as remarked upon heretofore were approximately

> $[illegible] and $[illegible], respectively, or an approximate realized profit of $[illegible] on the sales of a portion of such securities during the period. If the bank had not anticipated in [illegible] and [illegible] the profits thereon when it wrote up the securities, the net profits for the year 1937 would have increased. The amount is considered in the above table to bring the table on a comparable basis with the adjustments considered for the years [illegible] and [illegible]. The figures used are the only ones available and, therefore, the amount shown does not represent the exact amount that was earned during the period January 1, 1937, and December [illegible], 1937.

It is to be noted that as of August [illegible], 1937, Bank of America N T & S A had an unrealized depreciation of over $[illegible] on the balance of bonds on hand which were previously written up. No provision was made for this depreciation.

INTER-AMERICA CORPORATION

Financial Data included in the 1936 and 1937 Annual Reports of Transamerica Corporation:

Reference is made to page 4 of this report concerning certain contracts entered into between the Bank of America N T & S A and Inter-America Corporation. It was concluded that these contracts were by their terms purchase and sale agreements rather than guarantees, as contended. Therefore, the remaining assets taken over by Inter-America Corporation under the agreements should have been recorded on its books as assets with a corresponding contra direct liability. By reason of the character of assets taken over, a reserve for the amount of the immediate losses to be borne by Inter-America Corporation, rather than the Bank of America N T & S A, should have been provided. Obviously as the assets were realized upon, the asset account would be reduced; also, as payments were made by Inter-America Corporation on their liability for the assets acquired, the liability account would be reduced. Thus, in this manner, it would be possible at all times to readily determine the assets still on hand, the reserve set up for possible losses, and the balance of the liability due to the Bank of America N T & S A. However, Inter-America Corporation did not reflect the contracts in the foregoing manner but merely shows a "reserve for liability and possible losses under the contracts." In tracing this reserve, it appears that it originated on the books of Corporation of America, a wholly owned subsidiary of Inter-America Corporation, and was created from capital surplus. The reserve after certain changes thereto was successively transferred from Corporation of America to Transamerica General Holding Company and finally vested with Inter-America Corporation. By reason of the terms of the contracts, being contracts of purchase and sale, the remaining assets and the direct liability due to the Bank of America N T & S A should appear on the books of Inter-America Corporation. The balance sheet contained in Form 86 is therefore is incorrect and misleading. It is incorrect in that the asset and direct liability are not disclosed and misleading as to the reserve in that it conveys the idea of the potentiality that part of such reserve may become part of earned surplus. Furthermore, fault is found in the manner in which the reserve was kept. This reserve did not record at all times the true possible losses to be sustained; also let it be assumed that the reserve was to reflect the liability due to the Bank of America N T & S A, even on this assumption the reserve did not reconcile with the entries recorded in the related asset account on the books of the Bank of America N T & S A. Moreover, the reduction of these contracts on the books of the Bank of America N T & S A was accomplished in most part in a rather unorthodox manner as to create suspicion of the method adopted in recording other unknown transactions. Some of the unorthodox reductions of the contract liability of Inter-America Corporation as previously shown are as follows:

1. The write-up of U. S. and Municipal securities during 1935 and 1936 in the amount of over $14,000,000.00.

2. The write-up during the period from date of original contract to October 1, 1936, of capital shares of Transamerica Corporation held as collateral under written-off loans. The exact amounts of such write-ups are not ascertainable but it is reported that a substantial portion of the recoveries of $6,666,810.00 (Item 1, page) represents write-ups of Transamerica Corporation. Further, it is surmised that such write-ups were taken into income the same as was done with the $14,000,000.00 write-up.

As to the nature and origin of these reductions there is no inkling with respect thereto either to the financial statements of the Bank of America, N.T. & S.A. or Inter-America Corporation. Schedule V - Reserves, filed with the Balance Sheet of Inter-America Corporation shows the amount in such reserve as of January 1, 1934, at approximately $32,000,000. The adjustments of this reserve for the years 1934, 1935, and 1936 show substantial charges occasioned by "recoveries" of assets previously provided for to the extent of approximately $17,000,000 for the three-year period. These "recoveries" supposedly correspond to the reductions made by the Bank of America, N.T. & S.A. on the contracts with Inter-America Corporation, although it is impossible to check the amounts. It is submitted that the above method of reflecting the transactions in question is irregular and that the use of the term "recoveries" as relating to charges to the reserve is misleading in that it fails to indicate the true nature of such recoveries; also the term conveys the impression of actual cash recoveries on assets written down rather than recoveries accomplished by write-ups of unrelated assets, write-ups of collateral, etc.

The amount of the liability due to the Bank of America, N.T. & S.A. as reflected by the Reserve appears incorrect due to the variance in the items recorded in the related accounts of the Bank and Inter-America Corporation.

CAPITAL COMPANY
CALIFORNIA LANDS, INC.

Financial Data Included in the 1936 and 1937 Annual Reports of T.

The financial data of the above companies appear to be incorrect and misleading by reason of the inclusion therein of fictitious profits (of approximately $7,200,000.00 for 1937 and $600,000.00 for 1936) resulting from the purchase and sale of certain assets referred to in more detail on pages 7 of this report.

In this connection it is interesting to note the details used in offsetting the above profits against losses, real or fictitious. The Capital Company charged all its losses on sales and write-offs on real estate to a reserve for losses created from capital surplus (except for a comparatively small portion arising from charges to income) carried on the books of Transamerica General Corporation—parent. In this manner the "profits" realized from the contract sold to the Bank of America, N.T. & S.A. were retained by an addition to earned surplus, while for income tax computations the losses charged to the reserve were apparently used to offset such profits. The California Lands, Inc., in addition to using the same procedure created an additional "loss" by selling properties to the Capital Company at a loss of approximately $3,000,000.00, using the latter in computing the offset against profits.

Transamerica Corporation

Financial Data Included in the Annual Reports for the Years 1936 and 1937

No specific comments are submitted with respect to the financial data of Transamerica Corporation proper. All the practices and procedures followed by the Group as hereinbefore discussed, naturally have an effect on the financial structure of the top company. However, in view of the fact that the investments in subsidiaries and affiliates and other investments are carried by Transamerica Corporation at the 1931 written-down market or net asset values (except for subsequently acquired investments carried at cost), and further in view of the fact that no true consolidated financial data are prepared for Transamerica Corporation and its subsidiaries, it is impossible to comment upon the extent to which the various practices among the Group affect the financial statements of Transamerica Corporation proper. Attention, however, is called to the possibility that the investments acquired subsequent to 1931 may include in their carrying values large amounts of intercompany profits. As an example of the above, during 1935 Transamerica General Corporation, a wholly owned subsidiary of Transamerica Corporation, sold to the latter 734,101 shares of Bancamerica Blair Corporation at a profit of $4,386,908.70. It is true that this profit is eliminated in consolidation, nevertheless the fact remains that the amount of such profit will eventually be reflected as income on the books of Transamerica Corporation from dividends on the Transamerica General Corporation stock and at the same time serve to inflate the asset values on the balance sheet of Transamerica Corporation. Such practices serve to illustrate the means used by an ambitious management to show large asset values and earnings. To illustrate the length to which the management will go to show large earnings, attention is directed to the following:

The published statement for the year 1934 included in the annual report to the stockholders of the Transamerica Corporation, prepared by Ernst & Ernst (not audited by Ernst & Ernst as to banks), showed a consolidated net profit for the Group, including Bank, of $11,480,887.88. As a matter of fact, the net profits after dividends should have been $410,896.96 in red. This difference is accounted for largely by the fact that the report submitted by the Bank of America, N.T. & S.A. to the Federal Regulatory Authorities showed as red figure of $3,087,887.37 while according to the Ernst & Ernst report the net profit of the Bank was $8,869,108.37. This tremendous discrepancy of approximately $11,880,000 arose by reason of the fact that for public consumption the amount of losses on loans, investments, etc., properly chargeable against income was instead charged to a reserve for contingencies not created from income.

The net earnings of the Bank of America N.T.& S.A. as shown by Ernst and Ernst, and as submitted to the Federal Regulatory Authorities for the years 1935 and 1936 were as follows.

Shown By	1935	1936
Ernst & Ernst	$14,11[illegible].[illegible]	$10,[illegible]
Federal Regulatory Authorities	[illegible]	10,4[illegible]
Difference	[illegible]	[illegible]

The major discrepancies between the amounts shown were due to the write-off of loans, etc. during 1935 of approximately $11,800,000.00 which was offset in part by the write-up of bonds of $6,000,000.00; the write-off of loans during 1936, were approximately $11,800,000.00 which amount too was partly offset by the write-up of bonds of $6,000,000.00.

In connection with the Balance Sheet of Transamerica Corporation included in the Annual Report for 1937 the following is noted:

Note B appended to the balance sheet refers vaguely to certain securities pledged in connection with a contract of guarantee and an option to purchase certain securities. Note I also appended to the balance sheet refers briefly to a contingent liability of the company "under certain conditions of contract ***."

These references apparently relate to the repurchase agreement between the company and the Bank concerning the [illegible] shares of National City Bank and the [illegible] by the company of [illegible] contract repurchased by the Bank from Capital Company and [illegible] Lands, Inc. (See page 7 of this report). If such is the case it appears that the Notes appended to the balance sheet are [illegible] inadequate to reflect the material provisions of the two agreements.

__Condition of Bank of America, N.T.& S.A. as of April [illegible], [illegible]__

The major difficulty confronting the Bank of America, N.T.& S.A. appears to be the concentration of assets having a book value of approximately $[illegible] (representing 16% of the total assets of $1,[illegible]). Of this amount, approximately $[illegible] are solidly frozen assets, which amount is about $[illegible] in excess of the capital, surplus, and reserves of the Bank. Therefore, the $[illegible] excess represents funds of the depositors. Further, the $[illegible] includes $[illegible] representing loans to Transamerica Corporation and its subsidiary companies, a major portion of which is classified as "slow". This above highly frozen condition is considered very unsatisfactory.

Notwithstanding the foregoing condition, the Bank is considered to be solvent in having collectable assets to pay depositors and other creditors and its ability to meet maturing and the usual demands __in the ordinary course.__

__GENERAL__

No study was made for the year 1944, except for remarks on page [illegible] explaining difference of $11,[illegible] in net income between amount shown on financial statements submitted to Federal Authorities and amounts included in consolidated balance of Transamerica Corporation as published.

The deficiencies as commented heretofore relate principally to the financial data included in the Annual Report for 1936 and with certain exceptions noted do not include those that may arise from an examination of the 1937 financial statements. The reason for lack of specific comments on the 1937 Report is due to the fact that the information studied relates principally to the Bank of America N T & S A and is not concerned, except indirectly, with the other companies in the Transamerica Group. Therefore, since no financial statements of the Bank of America N T & S A are included in the Annual Report for 1937 filed with the Commission, no specific comments relating to that year are made in this report. It is hoped, however, that the comments made regarding the 1936 Annual Report will give the examiners of the 1937 report a better understanding of the financial condition of the Transamerica Group.

In conclusion, the following quotation from the latest report (April 1938) on the condition of the Bank of America N T & S A is submitted:

> "The attitude of the management in refusing to recognize or admit the unsatisfactory condition of the bank, whichever the case may be, must be changed if an adequate program is to be developed having the end in view of placing the bank in a satisfactory condition within a reasonable period of time. The past practice of capitalizing both losses and unrealized profits must cease. A conservative policy of charging off depreciation and unbankable assets must be adopted instead of endeavoring to defer such charge off until all hope of any recovery has been abandoned. The desire to publish ever increasing earnings without allocating sufficient

of such earnings toward keeping the bank in a sound condition cannot be permitted to continue. The bank is the largest single producing unit of the Transamerica Corporation set-up and the past practice of draining the bank too dry of its earnings in order to enhance the dividend payments to Transamerica Corporation shareholders must be discontinued. The management must draw a clear distinction between the shareholders of the bank and of Transamerica Corporation. It is the duty of the directors to see that this is done, and this is more especially true since the shareholders are no longer identical. More consideration must be given to the enhancement of the actual value of the bank stock than that of the Corporation, and that is the basis upon which this report has been written."

* * * * *

The foregoing report is submitted to the Commission for its consideration. The undersigned for obvious reasons make no recommendation as to the action to be taken by the Commission in this matter.

November 17, 1938

The Banking Group - Messers. Hanes, Taylor, Gaston, Oliphant, Upham, Foley and Duffield - met in Mr. Hanes office to consider preferred stock cut-back, a reply to the Giannini letter of Nov. 10, a reply to the Bank of America directors' letter of Oct. 15, and the "Wilcox Letters".

Cut-back: Members of the group unanimously agreed the memorandum to the Secretary dated Nov. 3 on cut-backs of preferred stock still expressed the opinion of the group. Therefore, the group asks for an opportunity to discuss the problem with the Secretary. The question needs to be settled so that the Comptroller of the Currency can reply to the directors of Anglo-California on a cut-back procedure. (Messers. Oliphant and Gaston were absent during this discussion, but Mr. Gaston subsequently indicated his assent to the decision.)

Giannini letter: A reply to the Giannini letter of Nov. 10 was agreed to and prepared for the Secretary's signature.

Bank of America letter: Mr. Upham reported that he had a 30-page draft of a reply to the Bank's directors but that he was dissatisfied with it and had another group working on another draft which would be completed by the end of the week. He asked the opinion of the group on whether the letter should be a broad rebuttal of the directors' letter or a point-by-point refutation of each statement made by the directors. He also asked whether the reply should be made the formal letter of warning under section 30.

Concensus of the group was that the reply to the directors should be one stressing the few fundamental points in the Comptroller's position and that a separate, more detailed letter of warning should be prepared and sent as soon as possible after the reply to the directors. This letter of warning, it was pointed out, should reach the Bank before the end of the year so that the regular examination of the Bank, which will begin early in 1939, can be used to determine whether the letter of warning has been heeded.

<u>Wilcox Letters</u>: Portions of the letters referring to the Bank of America case are to be photostated.

ESD

November 17, 1938

FOR THE SECRETARY:

Yesterday I had a brief talk with Mr. Crowley during which he brought up the matter of banking legislation. He said he had no legislative plans and desired no new laws. He had heard that Mr. Eccles was thinking about suggesting that the Comptroller's office be transferred to the FDIC. Mr. Crowley said that his relations with the Comptroller's organization were now fine, that he had no designs on the office, and that he hoped you would understand that he is not "trading" with Mr. Eccles or anyone else to get such legislation.

Apparently thinking along the lines you suggested to me the other evening, Mr. Crowley volunteered the suggestion that the inter-departmental committee be called together and that each member be asked to state plainly what his legislative plans are. He thinks members of the committee should be admonished not to "inspire" the introduction of bills by Congressmen unless these bills are first talked over with the group.

- - - - - - -

As to the Bank of America, Mr. Crowley said that he is more determined than ever to help clean it up and offered to help put pressure on the Bank at the proper time. He suggested the following procedure:

1. A letter of warning be sent by the Comptroller as much before the first of the year as possible.

2. Shortly after the first of the year the Comptroller begin a most searching examination of the Bank to determine whether

the abuses mentioned in the warning letter are still continuing. He offered to lend the Comptroller all the FDIC examiners necessary to make the examination as quickly and as thoroughly as possible.

3. If the examination shows continued unsafe and unsound practices in the Bank, the Comptroller should use section 30 against the management.

4. At the same time that the Comptroller invokes section 30, the FDIC will notify the Bank that, unless it meets the Comptroller's criticisms, the FDIC will take up the question of suspending it from insurance.

ESD

Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

REGISTERED ARTICLE

No. 165762

SAN FRANCISCO, CALIF. 19 PM 1938

INSURED PARCEL

No. ....

RED CROSS
+
ROLL CALL
-JOIN-

POSTMARK OF DELIVERING OFFICE

266

Return to Office of Secretary
(NAME OF SENDER)

Street and Number, or Post Office Box, Cr & Pa Aves -

Mailed Nov. 17, 1938

WASHINGTON,

D. C.

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original *nber of which appears on the face of this Card.*

BANK OF AMERICA N.T.& S.A.
CENTRAL CLEARING OFFICE #1
550 MONTGOMERY STREET
SAN FRANCISCO, CALIF.

(Signature of addressee's agent)

NOV 19 1938

Date of delivery ...., 19......

Form 3811 U. S. GOVERNMENT PRINTING OFFICE c 5—6119

Form 3806 (Rev. Jan. 21, 1935)

(POSTMARK OF)

Receipt for Registered Article No. 165762 2267

Registered at the Post Office indicated in the Postmark

Fee paid 15 *cents* *Class postage* 1

De[illegible] value m Surcharge paid, $

Ret[illegible] Receipt fee 3 Spl. Del'y fee

Delivery restricted to addressee:

In person........., or order.......... *Fee paid*

Accepting employee will place his *initials* in space indicating restricted delivery.

POSTMASTER, per [signature]

WASHINGTON, D. C. (TREASURY STA.)
NOV 17 1938
REGISTERED

(MAILING OFFICE)

The sender should write the name of the addressee on back hereof as an identification. Preserve and submit this receipt in case of inquiry or application for indemnity.

Registry Fees and Indemnity.—Domestic registry fees range from 15 cents for indemnity not exceeding $5 up to $1 for indemnity not exceeding $1,000. The fee on domestic registered matter without intrinsic value and for which indemnity is not paid is 15 cents. Consult postmaster as to the specific domestic registry fees and surcharges and as to the registry fees chargeable on registered parcel-post packages for foreign countries. Fees on domestic registered C. O. D. mail range from 25 cents to $1.20. Indemnity claims must be filed within one year (C. O. D. six months) from date of mailing.

U. S. GOVERNMENT PRINTING OFFICE

November 17, 1938.

Mr. A. P. Giannini,
Bank of America National Trust
and Savings Association,
San Francisco Headquarters,
San Francisco, California.

Dear Mr. Giannini:

This is to acknowledge your letter of November 10th. I must repeat that the issues between the Bank and the Comptroller of the Currency, which you review, are very grave and are to be settled with that office. The welfare of the Bank's depositors has always been foremost in my mind and I am pleased that you should say that you too believe it is the most important consideration. I hope that the Bank of America N. T. & S. A., acting in the best interests of its depositors, will make a sincere effort to meet the Comptroller's criticisms.

Sincerely yours,

Secretary of the Treasury.

AIR MAIL
R E G I S T E R E D

Return Receipt Requested

E.H. W.S. T.W.H. W.L. E.H.F. Upson

ESD:tew

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Sincerely yours,

Secretary of the Treasury.

AIR MAIL
R E G I S T E R E D

Return Receipt Requested

ESD:tew

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON

THIS NO. [illegible] MUST APPEAR ON GENERAL COUNSEL PINK SLIP SHOWING "ACTION TAKEN

OFFICE OF THE CHAIRMAN

November 17, 1938

The Honorable
The Secretary of the Treasury

My dear Mr. Secretary:

This Commission has before it a registration statement and annual report filed by Transamerica Corporation pursuant to Section 12 and Section 13 of the Securities Exchange Act of 1934, as amended. From an examination of the material filed, it appears to the Commission that the registration statement and annual report contain false and misleading information in the financial statements set forth therein with respect to Transamerica Corporation and its subsidiaries, including Bank of America N.T.& S.A.

In connection with a further examination by the Commission, may I respectfully request that certain records on file with the Comptroller of the Currency or copies thereof be made available to representatives of the Commission for inspection and use in any public hearing which may be authorized by the Commission to determine whether Transamerica Corporation has failed to comply with any provision of the Securities Exchange Act of 1934, as amended. The information desired at this time consists of the reports of the national bank examiners on Bank of America N.T.& S.A. for the period 1931 to 1938 inclusive, together with such copies of any contracts, agreements and other source material referred to in such reports as may be available in the files of the Comptroller of the Currency.

Yours faithfully,

Wm O. Douglas
William O. Douglas
Chairman

November 17, 1938

To: The Secretary

From: Mr. Hanes

The following men from the Securities and Exchange Commission will be present at the 3:30 conference this afternoon: Chester Lane, O. J. Rogge, Herbert Cohn, David Ginsburg, and possibly the Chairman, William O. Douglas, if he can so arrange his schedule.

J. W. H.

RE BANK OF AMERICA AND TRANS-AMERICA

November 17, 1938.
3:15 p.m.

Present: Mr. Hanes
Mr. Taylor
Mr. Upham
Mr. Duffield
Mr. Oliphant
Mr. Foley
Mr. Gaston
Mr. William O. Douglas
Mr. Cohen
Mr. Ginsberg
Mr. Lane
Mr. Rogge

Douglas: Well, I assume this is on Trans-America. I've just come in very late on it.

H.M.Jr: So Mr. Hanes informs me. Also I assume this is strictly S.E.C. and Treasury business.

Douglas: That's right. Well, on that, Mr. Secretary, I have for the S.E.C. one matter to state and two questions to ask.

H.M.Jr: Is that fair? Well, let's see.

Douglas: Well, as to the first, the Commission has authorized the issuance of an order under Section 19 A-2 of the Securities and Exchange Act of 1934 for the purpose of institution of a delisting proceeding of the securities of Trans-America presently listed on national securities exchanges. That is, we have decided to go ahead.

H.M.Jr: You have voted?

Douglas: We have voted, that is, authorized it. The order has not as yet issued. It will issue forthwith on getting the answers to the two questions.

The first question is whether or not the Treasury sees any reason why we should not go ahead. If the Treasury sees no reason why we should not go ahead forthwith ....

H.M.Jr: Well, without advice from anybody, I would say the sooner the better.

Douglas: Well, if Treasury had any feeling on the matter that we should not, we of the Commission would like to know, because ....

H.M.Jr: Well, we'll settle it right now. Now, I'm talking for myself.

The representative of the Comptroller of the Currency - have you got any objection?

Upham: I would see no objection at all. I was wondering if what Mr. Douglas has in mind as a possible objection would be a bank run?

Douglas: Well, that or any other kind of seismographic result.

Oliphant: Upheaval.

H.M.Jr: Well, unless Mr. Upham wants to take the position - do you ....

Upham: I would see no objection to their going ahead as far as we are concerned.

Douglas: See, our decision does not involve deciding that there will or there will not be favorable or unfavorable reactions of that kind. That's not our job.

H.M.Jr: Well, knowing what I do of the whole picture, I would say that the Treasury would be delighted to see you do this, because we think it should be done. From what I know - I mean I don't know - from what I know, I'd be delighted to see you do it.

Douglas: Well, then, that's the answer to the question that we wanted to have before we actually took this public step; that we are prepared to do forthwith.

Now, the second question that I've asked ....

H.M.Jr: Now, just - I think I better - wait a minute, better ask these people. Don't usually do that. Herman, any objections?

Oliphant: Well, I'd defer to John. I have no comment to make.

H.M.Jr:	John?
Hanes:	I see no objection at all.
H.M.Jr:	I mean from the standpoint of the Treasury.
Hanes:	None at all.
H.M.Jr:	Herman?
Oliphant:	I have - No, I haven't anything. I assume that ...
H.M.Jr:	I'm asking for the Treasury, from our standpoint.
Oliphant:	Oh, from the Treasury standpoint.
H.M.Jr:	From the Treasury standpoint. Not whether it's good or bad in the ....
Oliphant:	My answer has to assume that the thing that Upham mentioned is not serious, or if serious has been safeguarded.
H.M.Jr:	Well, I asked Upham first.
Oliphant:	I haven't anything to add to what's been said. I heartily agree.
H.M.Jr:	From the Treasury standpoint. Ed?
Foley:	I think it's the thing to do, Mr. Secretary.
H.M.Jr:	Wayne?
Taylor:	(Nods approval)
H.M.Jr:	You've got ... - well, all right.
Douglas:	There as a collateral question to the first question may I ask this? Should we independently seek the views of F.D.I.C.?
H.M.Jr:	We'd be glad to do it for you.
Douglas:	Could you do that?

H.M.Jr: We can do it within the hour.

Douglas: All right.

Now, the second question ....

Upham: Crowley's not in town.

H.M.Jr: Well, somebody is there, isn't he? Isn't anybody there?

Upham: Well, of course, I'm a member of the Board today. I suppose the Senator is in town. Mr. Crowley is the executive. I can call him up. He's out in Chicago.

H.M.Jr: Well, do it before ...

Upham: He'd be the one to consult.

H.M.Jr: Well, before sunset give them a yes or no; let Mr. Douglas know.

Upham: Surely.

H.M.Jr: Talk it over with yourself. I think before sunset....

Upham: All right.

H.M.Jr: I might say for your information that the Bank of America and this whole thing was originally brought to our attention by Mr. Crowley. See? It was originally brought to us by Mr. Crowley.

Douglas: Well, Mr. Secretary, the second question that we have to ask is this. Can we get from the proper officials here authority to use, first, in our order, and second, at our public hearings on this matter, the data which we have with the permission of the Treasury examined, which has been obtained by the Bank Examiners?

H.M.Jr: Well, do you (Upham) know any reason why they can't?

Upham: Well, my disposition would be to say yes, but I would want to have legal counsel on that.

Oliphant: Want to check that, the exact legal status of the Examiner's records.

H.M.Jr: Give him an answer by tomorrow?

Oliphant: Yes, by tomorrow. By tomorrow noon he'll have an answer.

Douglas: We've been thinking about it from two angles: first, our angle, because the facts which we have been working on and the key facts on which the order will be based are facts that normally we would not have access to, coming from Bank Examiners. For our own protection, so as not to make our proceeding vulnerable or to any way impeach us, we would like that authorization, if it is proper to get it.

H.M.Jr: Well, I'll say this for the benefit of my own people. I'd like you to have it, and there would have to be an awfully airtight legal opinion which would influence me not to give it to you, see? Now, after all, if we can give these people access to income tax records to help them, I don't see why we can't - which is much more confidential, I don't see why we can't give them the Bank Examiner's reports.

Douglas: Without that data available to us, legally available to us for public use, we could not forthwith issue an order, because the facts independent of that Bank Examiner data would not be sufficient.

Upham: May I ask, Mr. Secretary, if we have a copy of the data which they took off and the report which was made by S.E.C. men to the Commission, so that we would know just what it is.

H.M.Jr: No, we haven't.

Upham: That you want.

H.M.Jr: No, we haven't got that. We've asked for it, but we haven't got it.

Douglas: I'm not sure whether it's been sent.

Lane: It has not.

Douglas: It has not been sent.

Lane: It can be sent over.

Douglas: That can be sent and the opinion made on the basis of that.

H.M.Jr: Yes.

Douglas: Conceivably before we get through with the public hearing, our request for that specific information might not be the last request.

H.M.Jr: That's all right.

Douglas: There might be other supporting material that we would need from you under similar release.

H.M.Jr: Well, if you will send that to me officially, I will see that it goes to Mr. Oliphant and to Mr. Upham.

But just let me tell you, there's always - there's an attitude and there's a legality. My attitude is that I'll do everything possible to give you anything in the Treasury; and the thing that you may want before you get through, that you haven't asked for, is the income tax of some of these people. See?

Douglas: Oh yes, that's why I mentioned the fact that there may be collateral supporting material that we may need, that would not be embraced in our original request.

H.M.Jr: But as to our attitude, we'll do everything we can. We will not only give you material, but we will lend you people, see, to assist you, because, as I said before, I consider it one of the most difficult and one of the most important problems that affect the Administration. And I've asked myself the question as to whether - who's running the financial affairs of the West Coast, the United States Government or Mr. Giannini, and I don't know; I don't know. So the attitude here will be that anything that we can give you, you can have, unless there is some specific statute which forbids us to do it, see?

Douglas: We appreciate that. This proceeding of ours is premised upon clean-cut violations of the Securities and Exchange Act, and our decision is on the merits of the specific violations; no question about it. But we are at the same time extremely sensitive to handling it in such direct public manner without consulting you here to see if there were other untangibles in the situation that would be ...

H.M.Jr: Well, I appreciate that.

And also for the people here, right from the beginning when we started - was it last January or February? - ...

Upham: February, I believe.

H.M.Jr: ...I've kept the President constantly informed. He knows just what the situation is and he is keenly interested in the situation. He wants it cleaned up.

Douglas: On the use of this information, I might say this, that many people, immediately our order is published, as it will be, would know instantly where that information came from.

H.M.Jr: That's all right. They know now. If you want to see my files - Mr. Giannini sends me telegrams and letters - he knows. And so I'm prepared for that, if that's what you mean.

Douglas: Yes.

H.M.Jr: I'll take the brunt of this personally, Bill; I'll take it personally. They'll take it for granted that I instigated it. But that's all right; it's a good fight and it's worth fighting for. And the only thing that I regret is that it wasn't done five years ago. I appreciate your saying that, but I'm prepared personally to take it.

Douglas: Well, that just about covers the thing from our ...

H.M.Jr: Have you (Duffield) given them a copy of that chart which you prepared on Trans-America?

Duffield: I ran out and I'm getting some more.

H.M.Jr: Well, get one out of Miss Chauncey.

Hanes: Ask my secretary; get it right out of the office there.

Douglas: Anything else to be added, Chester?

Lane: No, that's all.

H.M.Jr: Just a moment, I want to give you a copy of this.

I suppose if we give you this answer you'll get it out by Monday, something like that.

Douglas: We've gone over already a first draft of the order. We've given certain instructions to the staff for revision of the order. It will take a relatively short time to get it out.

Lane: I think perhaps it should be understood that the type of investigation we can make would be a very different type of investigation from what would be made by the Treasury if it were going into the situation. I mean we have to deal with accounting deficiencies on the registration statements filed with us, primarily. We expect that when we get into those accounting deficiencies, they will open up the conditions of the whole system very widely. But our immediate legal problem is whether they have told the truth about their situation in their statements that are filed with us.

H.M.Jr: But I take it from what Mr. Douglas said that you've crossed the bridge, that you're convinced that they have broken the rules which they should live up to.

Lane: That's right, yes.

Douglas: That's correct. I mean we're operating on a different level than you may be operating on. We're operating on the legal level of our own statute, violations of our statute.....

H.M.Jr: Well, aside - I want you ...

Douglas: ... which may give a much narrower orbit to our inquiry than Treasury would make in a different kind of proceeding, because this is just for the purpose of delisting.

Lane: And particularly as the respondent in our proceeding will not be the Bank but be Trans-America Corporation which is registered with us.

H.M.Jr: Well, you see that, which Duffield did - I don't know whether you've seen that already, but Duffield did that for me last week. First time ...

Douglas: Yes.

H.M.Jr: ... I've ever seen it put together.

Douglas: A number of these companies on this chart are drawn into our accounting picture at the top.

H.M.Jr: And you'd be interested - Duffield is doing nothing but this for me. I mean he's concentrating on that, so - and he's available also. I mean he's just - this is his job; that's all he's doing. He's busy, too.

Douglas: Anything else, Mr. Secretary?

H.M.Jr: No, I think this is fine, and as I say, we'll turn ourselves inside out; that goes for you, Cy.

Upham: Yes, sir.

H.M.Jr: And we have a letter from Mr. Crowley - of course, it was the Bank of America, which is the same picture - he said that he would give us any of his staff to help on this thing. So what you've got - I can say that you could draw on F.D.I.C. for anybody that you want, you could draw on the Comptroller's office, you can draw on the Treasury proper.

Douglas: In return we will issue some complimentary tickets to the public hearing.

Duffield: I'll be there.

Douglas: Have a reserved seat for you right in front.

H.M.Jr: If you'll supply the bodyguard, I'll go.

Douglas: May I keep this (Trans-America chart)?

H.M.Jr: Yes, that's for you.

Douglas: Good-bye.

H.M.Jr: Good luck.

Have not Duffield seen this

November 17, 1938

For the Secretary:

At about 5 P.M. I succeeded in getting Mr. Crowley on the phone by long distance to Madison, Wisconsin.

I explained to him that the SEC planned within a few days to cite Transamerica to show cause why their stock should not be delisted for violation of the Securities Act of 1934. I told him that the citation by the SEC depended upon the willingness of this office to make available to them for use as evidence certain material which their statisticians had taken from reports of examination of the Bank of America NT&SA made by the Office of the Comptroller. I told Mr. Crowley that the question of making such material available to the SEC is being examined by our counsel and will probably be determined tomorrow.

I told Mr. Crowley that Mr. Douglas had stated that if the Treasury had any objection to the citation he would not make it. I stated that Mr. Douglas had said that they were fully convinced that the provisions of their law had been violated, but that certain material gathered from this office was necessary to the proof. I told Mr. Crowley that Mr. Douglas stated that his reason for asking whether there was

Treasury objection to the citation lay in the fact that he considered it possible that there would be banking disturbances, and possibly bank runs, on the Pacific Coast. I told Mr. Crowley that the Treasury, including the Comptroller's Office, had assured Mr. Douglas that we had no objection to his action in citing the Transamerica Corporation, and that we were disposed, if we legally could do so, to make available to him any and all information that we had.

I told Mr. Crowley that Mr. Douglas had asked us to ascertain if the FDIC had any objection, which was the reason for my call. Mr. Crowley assured me that he had no objection. He said that he thought the Comptroller of the Currency and the FDIC are on sound ground in their own contemplated action against the Bank of America. He said that if the SEC, by using our material, can make their action stick he is in favor of their going ahead. He stated that he is absolutely in accord with the action contemplated.

A few moments after Mr. Crowley and I had concluded our conversation I was called on the telephone by John Nichols, Chief Examiner for the FDIC, who told me that Mr. Crowley had talked to him subsequent to his conversation with me and that he, at Mr. Crowley's request, was calling me to reaffirm the position Mr. Crowley had taken, and to assure me that it was the view of both of them that plans should move forward as agreed upon.

Upm

TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE November 18, 1938.

TO Secretary Morgenthau

FROM Mr. Taylor

I spent quite a lot of time with Allen Sproul today and I think you are going to find him very easy to work with. He is a very thoughtful, human person, and in addition has a pretty full grasp of the whole financial field.

I had a call from E. H. LeMasters, whom you probably remember from Farm Credit days. He is now Vice President and Cashier of the Pacific National Bank, San Francisco. In our conversation I asked him how Herbert Fleishhacker's resignation had been received. He said that the best informed people felt that it was long overdue; that those who were not so well informed felt that Mortimer ought to go too, but that the general impression was that as long as Mortimer was still in the bank, Herbert would also be in it, and probably the dominating factor. He said that, on the whole, the changes in the Comptroller's Office were very welcome and had had a salutary effect not only on the banking community itself, but also on the examining staff.

W.T.

November 18, 1938

For the Secretary:

In view of the fact that Mr. Jesse Jones has been apprised of the contemplated action by the SEC in connection with Transamerica, and in the likelihood that the information has been communicated to Mr. Eccles as well, you might want to consider making a gesture of cooperation by communicating with them yourself.

Upm

EHD

Originals in official file in Foley's office.

McGuire

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ADDRESS REPLY TO
THE GENERAL COUNSEL
AND REFER TO

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON

OFFICE OF THE
GENERAL COUNSEL

November 18, 1938.

Herman Oliphant, Esq.,
General Counsel,
Treasury Department,
Washington, D. C.

Dear Mr. Oliphant:

Referring to our telephone conversation this morning, I hand you herewith a copy of a report prepared by the staff on certain aspects of the Transamerica situation.

Very truly yours,

Chester T. Lane

Chester T. Lane,
General Counsel.

Enclosure.

This report supplements the report of a study made of certain information concerning the Transamerica Group companies.

In the course of such study, it was disclosed that a certain Mr. A. C. Stewart and his affiliated interests were being extended large lines of credits which credits were collaterized to a large extent by securities of the Transamerica Group companies and securities of companies in which Transamerica Corporation and its subsidiary companies are interested.

With a view of determining the relation between Transamerica Corporation and Mr. A. C. Stewart, it was learned that Mr. Stewart seemed to have entered the picture in 1930 at which time he entered into an agreement with Transamerica Corporation in connection with the acquisition and reorganization of Kansas City Joint Stock Land Bank on the basis of sharing equally the resulting profits therefrom. Mr. Stewart was to promote the transaction actively and Transamerica Corporation was to assist financially and to lend advice and the services of its staff. The reorganization was effected under the name of the Farm Mortgage Holding Company. The Farm Mortgage Holding Company issued 443,765 shares of capital stock of which Mr. Stewart received 201,423.9 shares and Transamerica Corporation 201,423.9 shares. In the latter part of 1931, Mr. Stewart acquired the 201,423.9 shares of Farm Mortgage Holding Company from Transamerica Service Company (formerly National Commercial Properties), an affiliate of Transamerica Corporation, for an amount in excess of $3,000,000.00. The $1,946,126.94 shown on page __4__ represents the balance due on this original transaction with the Bank of America N T & S A.

The A. O. Stewart "Bond" accounts as shown also on page __4__ is occasioned by Mr. Stewart's activities in acquiring bonds of distressed railroads. The Bank of America N T & S A would advance the full purchase price, taking the bonds purchased as collateral.

The Pacific Coast Mortgage Co. (formerly the Bankitaly Mortgage Co.) was acquired from Transamerica Corporation by Mr. Stewart under an agreement dated December 24, 1932, at a purchase price of $3,200,000.00 which was liquidated in 1935. The shareholders in addition to Mr. Stewart who controls the policies of the company, appear to be the officers and employees of the Bank of America N T & S A and shareholders of Transamerica Corporation. The Bank of America N T & S A has no information concerning the credit standing of the company. The purpose of the loan is not known. Particular attention is directed to the loans by this company aggregating $5,725,000.00, of which $2,925,000.00 is due the Bank of America N T & S A, and $2,800,000.00 to Transamerica General Corporation and Transamerica Service Company. The loans, it is to be noted, are collateralized partially by 267,599 shares of Transamerica Corporation and 4,456 shares of Bank of America N T & S A. In view of this large block of Transamerica Corporation shares, it would lead one to believe that this corporation is being used to acquire the shares to support the market, as it is well known that to support the market has always been Mr. A. P. Giannini's practice.

It is interesting to note too that the collateral pledged contains many securities in which the Transamerica Group companies are interested, among which are the following:

Pledged Under Loan from Bank

	Shares
General Metals Corporation	25,250
First National Corp.-Class A	3,000
Bancamerica-Blair	20,000
Firemans Fund Insurance	3,000
National City of N.Y.	16,000

It would seem that by reason of the close relation of the Pacific Coast Mortgage Company to the Transamerica Group companies, that this company to whom large loans are being extended, is being used by Transamerica Group companies to dispose of securities previously held by them, thereby enabling them to create profits and at the same time to retain control over the securities.

Mr. Stewart is the sole owner, partner, or controls stockholders of the following companies:

Anglo American Mining Company
Bennet Bros. and Johnson
Farmers Developed Lands Co.
Knobb Hill Mining Co.
Pacific Coast Holding Co.
Reclaimed Island Lands Co.
Southern Holding Co.
West Coast Securities Co.

The total amount of all loans to A. O. Stewart and his affiliated interests was as of April 28, 1938, $14,671,637.36.

The details to whom such aggregate loans were made and through whom made are shown by the following summary:

SUMMARY OF LOANS TO A. O. STEWART AND HIS AFFILIATED INTERESTS AND COLLATERAL PLEDGED THEREUNDER AS OF APRIL 26, 1934

Through Bank:	Amount of Loan	Total	Value of Collateral or Estimated Value of Loan (Details of Collateral Shown on Schedules hereafter)	Total
Loans to A. O. Stewart - Direct (See Schedule 1 for detailed collateral):				
A. O. Stewart - Stock	$1,946,126.94		$2,073,803.60 1/	
Do - "A" Bond account	106,304.48		180,947.00	
Do - "B" Bond account	2,289,258.52		675,918.00	
Do - "C" Bond Account	-		103,500.00	
Do - "D" Bond account	-		62,100.00	
Do. - "E" Bond account	499,687.50		436,160.00	
Additional collateral held for all lines of credit			6,471,824.00 3/	
Total		$4,841,377.44		$10,004,252.60 2/
Loans to Affiliated Interests whose notes are endorsed by A. O. Stewart (See Schedule 1 for detailed collateral)				
Anglo American Mining Co.	429,282.50		200,160.00	
Bennet Bros. & Johnson	836,113.36		511,894.00	
Farmers Developed Lands Co.	58,818.43		18,292.00	
Knob Hill Mining Co.	260,000.00		-	
Pacific Coast Holding Co.	197,886.86		84,582.00	
Reclaimed Island Land Co.	1,040,650.37		496,538.50	
Southern Holding Co.	56,000.00		65,525.00	
West Coast Securities Co.	367,875.00		360,000.00	
Total		3,246,626.52		1,736,991.50 2/
Total		8,088,003.96		11,741,244.10
Loan to Pacific Coast Mortgage Company (See Schedule 2 for detailed collateral)		2,925,000.00		1/
Total loans through Bank		11,013,003.96		
Through Transamerica General Corporation and Transamerica Service Company:				
Loans to A. O. Stewart - Direct (See Schedule 3 for detailed collateral)	111,000.00		111,000.00	
Loans to Affiliated Interests (See Schedule 3 for detailed collateral)				
Pacific Coast Mortgage Co.	2,800,000.00		2,800,000.00	
West Coast Securities Co.	103,096.20		103,096.20	
Western Land Securities Co.	644,537.20		644,537.20	
Total	3,547,633.40		3,547,633.40	
Total loans through Transamerica General Corporation and Transamerica Service Company		3,658,633.40		3,658,633.40
Total loans through Bank, Transamerica General Corporation and Transamerica Service Company		$14,671,637.36		

Notes: 1/ See note on detail schedule of collateral as to valuation of collateral.

2/ The detail collateral applicable to each loan comprising these totals are not available; such collateral is part of the aggregate amount of $11,741,244.10. The allocations shown are those of certain Federal Regulatory authorities.

3/ Includes collateral deposited by the Western Land Securities Co. as follows:

13,900 sh. Pacific Coast Joint Stock Land Bank - San Francisco - Valued at	$2,902,500.00
402,844.8 sh. Farm Mortgage Holding Co. - " "	3,625,641.00
647 sh. Pacific Coast Joint Stock Land Bank of Salt Lake City - " "	116,460.00
	$6,644,601.00

The collateral pledged against the loans shown on previous summary is submitted on the following schedules;

Schedule I

Collateral Pledged to Secure Loans as follows:

A. O. Stewart	$4,841,377.44
Loans to affiliated interests	3,246,626.52
	$8,088,003.96

Par Value or Shares Held	Description	Value
32,491 ½ sh.	Transamerica Corporation	$334,915.00
5,818.3 sh.	Bank of America N T & S A	244,368.60
	Other listed stocks at market	168,251.00
1,364,800	U. S. Treasury Bonds	1,371,338.00
573,500	Federal Farm Mortgage Bonds	593,572.00
	Total Market Value	$2,702,444.60
7,290,500	Defaulted Railroad Bonds - Market value	1,049,106.50
2,712,000	Chicago Joint Stock Land Bank - Receiver's Certificates - at market value	
1,133,000	Nevada Irrigation Dist. Bonds - Market value	155,940.00
117,700	Other defaulted bonds - market value	657,140.00
1,000 sh.	San Antonio Joint Stock Land Bank - Market	49,025.00
500 sh.	Pacific Greyhound Corp. Pfd.-Market	50,000.00
90 sh.	Hollywood Knickerbocker Corp.-Market	21,500.00
1,251,000 sh.	Carson Hill Gold Mining Co. -Market	405.00
402,848.8 sh.	Farm Mortgage Holding Co-estimated by bank	300,160.00
13,848 sh.	Pacific Coast Joint Stock Land Bank of San Francisco - estimated by bank	3,625,641.00
1,632 sh.	Pacific Coast Joint Stock Land Bank of Salt Lake City - estimated by bank	2,834,320.00
		295,560.00
	TOTAL MARKET AND ESTIMATED VALUE	$9,038,799.80
	TOTAL VALUE OF ALL COLLATERAL PLEDGED	$11,741,244.10

Schedule 2

Collateral Pledged to Secure Loan to Pacific Coast Mortgage Company $2,925,000.00

Shares Held

*25,950 sh.	General Metals Corp.
* 3,000 sh.	First National Corporation of Portland, Class "A"
*20,000 sh.	Bancamerica - Blair Corp.
#3,085 sh.	National Bank of Washington, Tacoma, Wn.
* 3,000 sh.	Firemans Fund Insurance Co.
#14,500 sh.	First National Bank, Phoenix, Arizona
#14,500 sh.	Phoenix Savings Bank, Phoenix, Arizona
**39,684 2/3 sh.	American Medical Life Ass'n. Pfd. Com.
**50,000 sh.	" " " " Founders Com.
4,000 sh.	Commerce Trust Company, Kansas City, Mo.
*15,000 sh.	National City Bank of New York
58,824 sh.	Filtrol Company of California

* Indicates listed collateral with a market value of $1,074,300.00

\# Indicates stocks of "so-called Transamerica Corporation Banks" with an estimated value of $976,130.00.

** Indicates collateral acquired by the Pacific Coast Mortgage Company on October 8, 1934 after a takeover of the insurance business of the America Medical Life Ass'n. by Occidental Life Insurance Company, a Transamerica Corporation subsidiary. Bank of America N.T.&S.A. has previously estimated the value of this stock at $601,216.04.

The balance of the loan is secured by the shares of Filtrol Company of California which represent approximately a 25% interest in the company and have an over the counter market of $5.00 ask and $7.00 bid.

Schedule 3

Collateral Pledged to Secure Loans as Follows:

Loans through Transamerica General Corporation
and Transamerica Service Corporation

	Book Value	Estimated Value
Stewart, A. C.	$111,000.00	$111,000.00
250 Bank of America		
Pacific Coast Mortgage Company	2,800,000.00	2,800,000.00
44,999 T A C		
222,600 T A C		
4,458 Bank of America		
100 Nat'l. City Bk. of N Y		
200 Manufacturers Trust Co.		
100 Irving Trust Co.		
100 Chemical Bank & Trust Co.		
100 Chase Nat'l. Bank of City of N Y		
2,000 Bessemer Limestone & Cement		
3,986 Puget Sound Pulp & Timber		
West Coast Securities Co.	103,096.20	103,096.20
Unsecured		
Western Land Securities Company	644,537.20	644,537.20
457,793 Misc. Notes Receivable - Secured by: 2,666 sh. Pac Coast Mtg. Co.; 100 General Metals 2.50 Par; 570 Do Do No Par		
105 T A C		
100 Bk. of America		
1,500 Ins. Center Bldg. Bds. 6½ - 39-42		
810 Bank of America		
4 Pac. Coast Jt. Stock Land Bank		
100 Otis Steel		
95 Pac. Coast Mtge. Co.		
4,560 General Metals		
36,000 U S Treasury Bds.		
TOTAL	$3,547,633.40	$3,547,633.40
TOTAL	$3,658,633.40	$3,658,633.40

It was also noticed in connection with the study that in addition to the loans of $3,658,633.40 by Transamerica General Corporation and Transamerica Service Corporation, page 4, to Pacific Coast Mortgage Co., affiliated interest of A. O. Stewart and to other of his interests (which loans were collateralized in part by 267,599 shares of Transamerica Corporation and 5,498 shares of Bank of America N T & S A) there were numerous other loans made by Transamerica General Corporation and Transamerica Service Corporation which were also collateralized entirely or in part by shares of Transamerica Corporation and Bank of America N T & S A.

The total amount of loans held by Transamerica General Corporation and Transamerica Service Corporation as of April 28, 1938, was $9,841,415.01. Of this amount, $9,206,050.98 (including the $3,658,633.40 mentioned on page 10) represented loans which were collateralized to a large extent by shares of Transamerica Corporation and Bank of America N T & S A. The total shares of these two companies which were held as security under the loans were as follows:

Transamerica Corporation	580,402 shares
Bank of America N T & S A	35,531.9 shares

Note: The above shares include the 267,599 shares of Transamerica Corporation and 5,498 shares of Bank of America N T & S A, mentioned under loans to A. O. Stewart and his interests but are exclusive of 32,491½ shares of Transamerica Corporation and 5,818.3 shares of Bank of America N T & S A under the loans from the Bank of N T & S A.

With regard to the above loans and collateral shares, there is the possibility that some of the loans were made to enable certain persons (contained in lists to follow),who were acting in a dummy capacity, to purchase the Transamerica Corporation and Bank of America N T & S A shares on behalf of Transamerica Corporation for the purpose of upholding the market prices of their shares. This contention is somewhat substantiated by the fact that in the early part of the year the San Francisco Office of the Commission refused to allow Mr. Paganucci, who now holds 16,250 shares of Transamerica Corporation (see page 29) to dispose of his shares through a dealer without registering the shares. It developed that Mr. Paganucci was apparently acting in a dummy capacity for Transamerica Corporation.

A summary of the notes receivable (loans) by Transamerica Corporation and Transamerica Service Corporation to persons listed hereafter and the estimated value of collateral thereunder is shown by the following:

SUMMARY OF NOTES RECEIVABLE OF TRANSAMERICA GENERAL CORPORATION AND TRANSAMERICA SERVICE CORPORATION SHOWING THE BOOK VALUE OF LOANS AND ESTIMATED VALUE OF COLLATERAL AS OF APRIL 28, 1938

	Book Value	Estimated Value of Collateral
Loans to officers, directors and Employees of Bank of America N.T. & S.A.	$1,630,142.66	$1,291,560.40
Loans to former officers and employees of Bank of America N.T. & S.A.	593,257.01	429,975.82
Loans to officers and employees of Transamerica Corporation	251,480.19	248,527.52
Loans to outside individuals who are also borrowing from Bank of America N.T. & S.A.	1,206,433.79	1,021,901.26
Loans to other customers of Transamerica Corporation in excess of $25,000.00	1,627,491.91	1,084,741.47
Loans to and endorsed by D.O.Hood - Mr. Hood is nominally recognized as a bank buyer in the Northwest for Transamerica Corporation. The collateral, consisting of stocks in present independent banks, illustrates the Corporation's activity in acquiring additional banks in that territory	240,612.02	
	$5,549,417.58	$4,076,706.47
Loans to companies in which A. O. Stewart is interested as shown in Schedule ____, page ____.	3,658,633.40	3,658,633.40
TOTAL	$9,208,050.98	$7,735,339.87

Some of the larger loans shown on lists hereafter (and collateral thereunder) which may arouse some suspicion are as follows:

Name and Collateral	Position	Book Value	Estimated Value
Bank of America N T & S A As Trustee - Executed by A. P. Giannini, et al.	Chm. of Board	$110,000.00	$110,000.00
10,000 shs. T A C (Old Stock) 1,000 Shs. Pac. Coast Mtg. Co.			
Caglieri, Guido E.	Director B of A	276,311.65	243,607.00
20,322 shs. T A C 850 shs. Bank of America 160 shs. Bancamerica-Blair			
Chiappari, A.	Ass't. Vice Pres.	26,233.48	26,233.48
2,400 shs. T A C 423 shs. Bank of America			
Fugazi, Louise	File Clerk	10,460.30	10,000.00
1,000 shs. T A C			
Glass, W. V.	Ass't. Cashier	5,230.14	5,000.00
500 shs. T A C			
Grace, Jos. T.	Vice Pres.	26,000.00	26,000.00
2,000 shs. T A C 400 shs. Bank of America			
Maurer, A.G.	V.P. of B. A.	36,561.99	28,347.00
2,453½ shs. T A C 90 7/10 shs. Bank of America 18 7/50 shs. Bancamerica-Blair			
Main, W. Wallace	Director	29,774.98	29,774.98
1,000 shs. T A C			

Name and Collateral	Position	Book Value	Estimated Value
McGuigan, J.E.	V.P. & Tr. Officer	$49,084.94	$28,177.00
2,326½ shs. T A C 115 3/10 shs. Bank of America 13 3/50 shs. Bancamerica-Blair			
Raggio, James	Ass't. V.P.	19,200.00	19,200.00
1,725 shs. T A C 344 shs. Bank of America 50 shs. Pac. Coast Mtg. Co.			
Robinson, C.E.	V.P.	10,381.31	10,000.00
1,000 shs. T.A.C			
Solan, George	Ass't. V.P.	16,039.46	13,375.00
1,000 shs. T.A.C 25 shs. Pac. Coast Mtg. Co.			
Stevenot, F.C.	Pres. B A C C	23,689.33	23,689.33
1,300 shs. T A C 260 shs. Bk. of America			
Wolf, Kathleen M.	Ass't. Tr. Officer	18,165.55	16,350.00
1,500 shs. T A C 10 shs. Pac. Coast Mtg. Co.			
Birge, F.A.	V.P.	72,383.23	54,327.00
4,323 shs. T A C 264 shs. Bk. of America 52 shs. Bancamerica-Blair			
Nolan, E.J.	Pres. of B of A	481,949.00	338,745.00
18,538⅛ shs. T A C 3,707 3/10 shs. Bk. of America 50 shs. Mtg. Guaranty Co.			
Cuneo, Clarence P.	Capital Co.	155,705.06	155,705.06
15,441 shs. T A C 2,580 shs. Bk. of Am. 115 shs. Coast Mtg. Co.			

Name and Collateral	Position	Book Value	Estimated Value
Burke, Edward M & Lillian	Outsider	$97,672.69	$63,463.00
5,637 shs. T A C 170 shs. Bank of Am. 18 shs. Bancamerica-Blair			
Camerlo, John B.	Outsider	157,322.04	142,000.00
12,500 shs. T A C 450 shs. Bank of America 90 shs. Bancamerica-Blair			
Guglielmo, Joseph	Outsider	28,258.98	26,000.00
2,600 shs. T A C			
Malati, Jennie C.	Outsider	48,564.63	29,625.00
2,300 shs. T A C 160 shs. Bank of Am. 6 shs. Bancamerica-Blair			
Moskovitz, Maurice	Outsider	25,898.38	25,000.00
2,500 shs. T A C			
Presinzano, Mariano	Outsider	11,903.97	10,994.00
601 shs. T A C 120 shs. Bank of Am.			
Roeber, A.A.	Outsider	28,000.00	16,274.00
1,000 shs. T A C 200 shs. Bank of Am.			
Scatina, Humbert	Outsider	42,667.20	42,667.20
5,000 shs. T A C			
Tsirolias, D.	Outsider	32,032.53	30,000.00
3,000 shs. T A C			
Walston, V.C.	Outsider	33,078.56	30,000.00
3,000 shs. T A C			
Zergo, Attilio	Outsider	68,396.99	55,525.00
5,353½ shs. T A C			

Name and Collateral	Position	Book Value	Estimated Value
Carossio, Natale	Outsider	$66,218.75	$48,740.00
3,771½ shs. T A C 266 5/10 shs. Bk. of America			
Miggioia, Lorenzo	Outsider	82,781.91	56,444.00
5,000 shs. T A C 150 9/10 shs. Bk. of Am. 50 9/50 shs. Bancamerica-Blair			
Matteucci, Rocco	Outsider	354,381.06	214,753.00
15,268 shs. T A C 1,470 shs. Bank of America 71 4/50 shs. Bancamerica-Blair			
Paganucci, A. H.	Outsider	531,351.69	218,138.00
18,250 shs. T A C 650 shs. Bank of America 140 shs. Bancamerica-Blair			
Parker, Meredith	Outsider	39,382.74	36,937.00
3,000 shs. T A C 100 shs. Bank of America 20 shs. Pac Const Mtg. Co.			
Rolandelli, G.	Outsider	237,628.80	207,625.00
20,762½ shs. T A C			
Rosio, Louis J.	Outsider	78,253.50	60,000.00
6,000 shs. T A C			

The detailed loans and collateral securing such loans as shown by summary heretofore are shown by the following lists:

NOTES RECEIVABLE OF TRANSAMERICA GENERAL CORPORATION AND TRANSAMERICA SERVICE CORPORATION - COMBINED AS OF APRIL 30, 1938

LOANS TO OFFICERS, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A

NAME AND COLLATERAL	POSITION	BOOK VALUE	ESTIMATED VALUE
...nk of America N T & S A as Trustee ...ecuted by A P Giannini et al 10 000 Shs. T A C (Old stock) 1 000 Shs. Pac. Coast Mtge Co.	Chm. of Board	110 000 00	110 000 00
...rbieri, E. J. 1 500 Shs. T A C 53 Pac Coast Mtge Co.	Vice Pres	44 129 36	22 156 00
...rnett, Geo E. 820 Shs. T A C 36 4/10 Bk of America 7 14/50 Bancamerica-Blair Corp.	Br. Mgr	21 012 02	10 350 00
...lgrano, F N Unsecured	Pres. of Pac. Nat'l Fire Ins Co V P B of A N T & SA	2 125 00	2 125 00
...uer, W E 50 Shs. Pac. Coast Mtge.Co.	Vice Pres. and Vice Chm of Board	1 100 00	1 100 00
...unschweiger, W. J. 2 800 Shs. T A C 350 Shs. Bank of America 162 Bancamerica-Blair Corp. 60 Shs. Nat'l. City Bank of N Y	Vice Pres. & Manager	58 565 73	44 406 00
...hman, A F 16 Shs. T A C 3 2/10 Shs. Bank of America 32/50 of one Sh. Bancamerica Blair Corp.	Ass't. Cashier	1 271 92	292 00
...hfield, R A 500 Shs T A C	Ass't. V P	5 230 14	5 000 00
...ler, Alma B 300 Shs T A C	Secretary	3 138 09	3 000 00
...lieri, Guido E ...0 322 Shs. T A C 850 Shs. Bank of America 160 Shs. Bancamerica-Blair Corp.	Director B of A	276 311 86	243 607 00

S, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A (contd.)

	POSITION	BOOK VALUE	ESTIMATED VALUE
	V P of T A C	19 519 24	17 312 00
America t Mtge Co.			
	V P	2 385 89	2 385 89
st Mtge Co.			
	Ass't Br. Mgr	3 138 09	3 000 00
	Ass't Vice Pres.	26 233 46	26 233 46
America			
	Ass't Cashier	5 230 15	5 000 00
	V P & Manager	6 791 28	6 791 28
America			
	Ass't Vice Pres.	6 500 00	6 500 00
ca Mtge.			
	S F C C	2 092 06	2 092 06
	V P of B A	6 500 00	4 600 00
lair Corp 'l Bk. ings Bank stment Co.			
	Br Manager	10 968 60	1 180 00
erica h. Bancamerica Blair Corp. Co. ment h Equipment Co. Co.			

LOANS TO OFFICERS, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A (CONTD.)

ND COLLATERAL	POSITION	BOOK VALUE	ESTIMATED VALUE
ch, Paul T A C Bank of America Bancamerica Blair Corp. Pacific Coast Mtge.	Vice President	4 535 16	4 535 16
A C 2/10 Bank of America	V P & Manager	2 140 21	2 140 21
d, R P A T A C Bk of America Pac. Coast Mtge Co.	Secretary to the Board	4 757 01	4 757 01
, H W T A C	Ass't. Cashier	5 229 61	5 000 00
, R J T A C	Br. Manager	3 209 27	3 000 00
, A & Viola M T A C Bank of America Pac. Coast Mtge. Co.	Vice President	7 987 75	7 987 75
ciaro, F. A. Pac. Coast Mtge Co.	V P & Manager	74 135 72	6 750 00
r, J M T A C Bank of America Pac Coast Mtge Co.	Asst. Cashier	3 566 05	3 566 05
, Louise T A C	File Clerk	10 460 30	10 000 00
C F T A C Bank of America	Br. Manager	6 200 00	2 500 00
ri, William & Angela T A C Pac. Coast Mtge. Co.	Br. Manager	2 795 77	2 795 77

LOANS TO OFFICERS, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A (Contd.)

AME AND COLLATERAL	POSITION	BOOK VALUE	ESTIMATED VALUE
iannini, A P 1 120 Pacific Coast Mtge. Co. 200 Guaranty Trust Co. of N Y 300 Continental Illinois N B & Tr. Co.	Chm of Board	161 000 00	161 000 00
iovannetti, A Jos 200 T A C	Br. Manager	2 092 06	2 000 00
lass, W V 500 T A C	Ass't Cashier	5 230 14	5 000 00
ock, A J 50 Pac. Coast Mtge. Co.	Vice Pres & Vice Chm of the Board	6 250 00	6 250 00
race, Jos. T 2 000 T A C 400 Bank of America	Vice President	28 000 00	28 000 00
ary, Raymond 150 T A C 10 Bk of America	Teller	1 495 76	1 495 76
lleher, Gerald F 500 T A C	Ass't Trust Officer	5 230 15	5 000 00
lley, H B & Flora E 25 T A C 5 Bank of America	Vice Pres.	1 076 60	456 00
icks, Emil 7 051½ T A C 410 3/10 Bank of America 82 3/10 Bancamerica-Blair Corp. 20 Standard Oil of Calif. 25 Anaconda Copper 20 General Food 20 General Motors 25 Standard Oil of Ind. 48 Armour & Co. Pfd. 7 Border Bank, San Ysidro, Calif. 1 M P G & E 5-42	Vice Pres.	152 161 05	93 803 00
nig, W C 800 T A C	Asst. Secretary	18 152 13	8 000 00
ardi, J A [illegible]00 T A C	Manager	3 096 77	3 000 00

LOANS TO OFFICERS, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A (Contd.)

AME AND COLLATERAL	POSITION	BOOK VALUE	ESTIMATED VALUE
ochesi, Gino	Calif. Mtge Co.	2 796 51	2 796 51
151 T A C			
30 Bank of America			
10 Pac. Coast Mtge Co.			
rianetti, Fred A & Edith	Manager	5 281 28	5 281 28
541 T A C			
8 Bank of America			
10 Pac. Coast Mtge. Co.			
rston E M	Asst. Secretary	1 500 00	675 00
5 Pac. Coast Mtge. Co.			
ster, William Y.	Res. Manager	1 989 76	1 989 76
100 T A C			
25 Bank of America			
ttison, Evan A	V P of B A	1 150 00	1 150 00
125 T A C			
25 Bk of America			
D/T			
urer A G	V P of B A	36 561 99	28 347 00
2 453½ T A C			
90 7/10 Bank of America			
18 7-50 Bancamerica Blair Corp.			
in, Wm. Wallace	Director	29 774 98	29 774 98
1 000 Bank of America N T & S A			
ller, J. H.	Br. Manager	13 102 19	5 281 00
289 Transamerica Corp.			
57 8/10 Bank of America			
ring, John P. and Marion	Asst. Cashier	18 592 16	9 000 00
717 ½ T A C			
43 5/10 Bank of America			
8 Bancamerica Blair Corp.			
tti, R F	Asst. V P	7 845 23	7 500 00
750 T A C			
row, S G	Clerk	2 483 07	2 413 00
200 T A C			
10 Bank of America			

…ANS TO OFFICERS, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A (Contd.)

…AND COLLATERAL	POSITION	BOOK VALUE	ESTIMATED VALUE
…, Lloyd L	V P of B A	16 450 00	13 950 00
150 Standard Oil Co. Inc.			
100 Continental Oil Co.			
50 Universal Consolidated Oil			
300 Kolster Radio Corp.			
…, John J. and Marion A	V P	10 900 00	9 579 00
125 ½ T A C			
10… Bank of America			
…, G M	V P	11 015 00	11 015 00
… shs. Phoenix Sav. Bk & Tr. Co.			
… shs. 1st N/B - Phoenix			
…, J E	V P & Tr Officer	49 084 94	28 177 00
… T A C			
… 3/10 Bank of America			
… 5/60 Bancamerica Blair Corp.			
…, Thos.	Asst. V P	2 187 32	822 00
15 T A C			
… Bank of America			
…, William F	V P	3 142 01	3 142 01
… Transamerica Corp.			
… Bank of America			
10 Pacific Coast Mtge Co.			
…, Frank J	Asst. Br. Mgr	3 138 08	3 900 00
… T A C			
…, Robert	Asst. V P	25 588 88	17 855 00
263 T A C			
1?3 6/10 Bank of America			
40 35/60 Bancamerica-Blair Corp.			
…, … L	V P of B A	12 412 09	7 400 00
…ity in collateral at San Francisco …in Office			
…, R H	V P	4 990 10	2 192 00
… T A C			
24 Bank of America			
…asso, Mario L	Br. Manager	2 109 52	1 700 00
92½ Transamerica Corp.			
18 5/10 Bank of America			
3 35/60 Bancamerica Blair Corp.			

LOANS TO OFFICERS, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A (contd.)

NAME AND COLLATERAL	POSITION	BOOK VALUE	ESTIMATED VALUE
Pratt, R C 37½ T A C 7 Bank of America	Clerk	1 104 62	664 00
Quayle, James B 200 T A C	Asst. Br Mgr	2 066 02	2 000 00
Raggio, James 1 725 T A C 344 Bank of America 50 Pac. Coast Mtge Co.	Asst. V P	19 200 00	19 200 00
Riordan, J I 450 T A C 30 Bank of America	V P	4 994 53	4 994 53
Risso, Frank F. 273 T A C 120 Bank of America	V P	7 566 92	7 566 92
Robinson, C E 1 000 T A C	V P	10 381 31	10 000 00
Robinson, J B 263½ T A C 25 Bank of America 10 Pac. Coast Mtge Co.	V P	3 882 65	3 882 65
Rusconi, Angelo J 200 T A C	Employee	2 064 81	2 000 00
Russell, A E 149½ T A C 29 9/10 Bank of America	Asst. Cashier	3 192 92	2 732 00
Sbrana, L 5 T A C 1 Bk of America 10 Pac. Coast Mtge. Co.	Asst.Tr.Attorney	1 700 00	1 440 00
Sales, H H 45½ T A C 9 1/10 Bank of America	Br. Manager	1 416 39	831 00
Schaffner, Fred & Violet S. 100 T A C 30 Bank of America 4 Bancamerica-Blair Corp.	Br. Manager	11 925 01	1 840 00

LOANS TO OFFICERS, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A (Contd.)

NAME & COLLATERAL	POSITION	BOOK VALUE	ESTIMATED VALUE
lvey, Warren V 250 T A C 26 Bank of America	Asst. Cashier	3 [illegible]	3 [illegible]
ith, R G 87½ T A C 17 Bank of America 50 Pac. Coast Mtge Co.	V P & Cashier	3 667 [illegible]	3 667 [illegible]
ith, V H & Lylas P 240 T A C 48 Bank of America 9 Bancamerica Blair Corp.	V P of B A	10 672 41	4 416 00
olari, George 1 000 T A C 25 Pac. Coast Mtge Co.	Asst. V P	16 039 46	12 376 00
pears, J A 3 437½ T A C 87 5/10 Bank of America 17 25/50 Bancamerica Blair Corp.	V P	43 [illegible] 97	28 664 00
tevenot, F G 1 300 T A C 260 Bk of America	Pres. B A C C	22 689 [illegible]	22 689 [illegible]
toerner, Grace S 1 119½ T A C 224 Bank of America 45 Bancamerica-Blair Corp. D.T (2nd)	Asst. V P	18 384 06	18 384 06
aylor, J A 150 T A C 30 Bk of America	V P	6 074 57	2 741 00
ownsend, L E 250 T A C 50 Bank of America 14 P G & E	Asst. V P	1 704 76	1 704 76
atson, R W & Juanita May 282½ T A C 50 Bank of America	V P	2 200 00	2 200 00
olf, Kathleen E 500 T A C 10 Pac. Coast Mtge. Co.	Asst.Tr.Officer	18 [illegible]	18 [illegible] 00

[illegible].

LOANS TO OFFICERS, DIRECTORS AND EMPLOYEES OF BANK OF AMERICA N T & S A (contd.)

...ME & COLLATERAL	POSITION	BOOK VALUE	ESTIMATED VALUE
...lman, Jesse B & Helen 500 T A C	Pre-Asst. Cashier	5 240 14	5 000 00
...sseau, Marie E 200 T A C	Clerk	2 082 06	2 000 00
...ite, J Lee & Hannah M. Ross Unsecured	Asst. Cashier	1 446 22	1 446 22
...her Employees loans under $1000 00 (76) 1 586 shares Transamerica Corp 487.1 sh. Bank of America N T & S A 156 sh. Pacific Coast Mtge. Co.		18 804 28	18 804 28
		1 [illegible] 142 06	1 [illegible] [illegible] 40

LOANS TO FORMER OFFICERS AND EMPLOYEES OF BANK OF AMERICA

E AND COLLATERAL	FORMER POSITION	BOOK VALUE	EST'D VALUE
ary, Hugh L.	V P B of A	6 184 82	6 184 82
752½ T A C 150 Bk of America 18 Bancamerica-Blair Corp.			
rge, F.A.	V P	72 385 23	54 327 00
325 T A C 264 Bank of America 52 Bancamerica Blair Corp.			
ian, E.J.	Pres of B of A	481 949 00	338 745 00
536½ T A C 707 3/10 Bank of America 50 Mtge Guaranty Co.			
ttier, Geo. W.	V P	11 392 50	23 789 00
Bk. of America			
rfield, George H.	Retired	21 347 76	6 930 00
376½ T A C 75 3/10 Bank of America 15 3/50 Bancamerica Blair Corp. Life Insurance Policy			
TOTAL		593 257 01	429 975 82

LOANS TO OFFICERS AND EMPLOYEES OF TRANSAMERICA CORPORATION AND SUBSIDIARIES

ME AND COLLATERAL	COMPANY	BOOK VALUE	EST'D VALUE
hapin, W.M.	Transamerica	3 677 83	3 620 00
15 Bank of America			
300 T A C			
ltrin, F.C.	Bankamerica Co.	6 118 78	6 000 00
500 T A C			
25 Bk of America			
nso, Clarence P.	Capital Co.	155 705 05	155 705 05
641 T A C			
580 Bank of America			
115 Pac. Coast Mtge. Co.			
itzgerald, Crellin	Central Bank	1 000 00	1 000 00
Unsecured			
ston, Albert E.	Accountant	4 200 61	4 200 61
300 T A C			
15 Bank of America			
30 Bancamerica Blair Corp.			
4 Pacific Coast Mortgage Co.			
nkins, V.H.	Occ. Life Ins. Co.	18 489 84	18 489 84
700 T A C			
) Bank of America			
000 Kansas City Public Serv. Bonds C/D			
100 Kansas City Public Ser. Co.	Com. D/T		
39 Bancamerica-Blair Corp.			
bson, Kerman	Central Bk.	1 000 00	1 000 00
Unsecured			
rr, H.T. Jr.	B of A Co.	7 078 28	7 000 00
500 T A C			
50 Bank of America			
anchett, H.E.	B of A Co.	1 700 00	1 700 00
18 Pac. Coast Mtge. Co.			
nse, A.H.	Nat'l. Bk. Tacoma	2 000 00	2 000 00
Unsecured			
rte J F & Ann L.	Coast Service Co.	1 082 25	1 000 00
100 T A C			
ylie, T.J.	Coast Service Co.	2 082 08	2 000 00
rk, Sydney S.	B of A Co.	12 418 40	12 000 00
500 T A C			
50 Bank of America			
yton, Walter	Pac. Coast Mtge.	4 940 95	3 000 00
300 T A C			
30 Farmers Bk of Carson Valley			

LOANS TO OFFICERS AND EMPLOYEES OF TRANSAMERICA CORPORATION AND SUBSIDIARIES (Continued)

NAME AND COLLATERAL	COMPANY	BOOK VALUE	EST'D VALUE
lvin, Guy A Ethel E. 100 T A C 70 Bk of America 3 Pac Coast Mtge Co.	Bank of Am. Co.	1 735 00	1 735 00
eckmann, A.M. 100 T A C	T A C Corp.	1 046 05	1 000 00
lsr, H. 40 Pac. Coast Mtge Co. 500 Chicago & Northwestern Bds 5 of 87	Pac. Coast Mtge.	9 597 50	9 597 50
ster, George B. 200 T A C 5 Bank of America	T A C	1 847 00	1 847 00
orenz, C. C. Unsecured	1st of Portland	2 500 00	2 500 00
cClellan, Joseph T. 150 T A C 30 Bank of America	Calif. Lands	2 161 87	2 161 87
ttl, L.B. 50 T A C 10 Bk. of America	T A C	3 529 07	3 413 00
ale, Margaret 100 T A C	T A C	1 046 04	1 000 00
ea, Gertrude F. 250 T A C 50 Bk. of America	Bk. of Am. Co.	4 570 19	4 570 19
ade, R. M. 100 sh. Transamerica Corp. 25 sh. Bank of America N T & S A	Bk. of Am. Co.	1 989 76	1 989 76
TOTAL		251 480 19	248 527 52

LOANS TO PERSONS WHO ARE ALSO BORROWING FROM BANK OF AMERICA N T & S A

NAME AND COLLATERAL	BOOK VALUE	ESTIMATED VALUE
Bankamerica Company Unsecured	397 000 00	397 000 00
Barry, Grace E. & Edward P.	72 637 23	50 233 00
Burke, Edward M. & Lillian 5 637 T A C 170 Bk of America 18 Bancamerica Blair Corp. D/T	97 672 69	63 463 00
Burns, Agnes 200 T A C 40 Bank of America 8 Bancamerica Blair Corp.	6 272 10	3 680 00
Camerlo, John B. 12 300 T A C 450 Bank of America 90 Bancamerica Blair Corp.	157 322 04	142 020 00
...so, Chester 420 Bank of America	3 447 23	3 447 23
Garcia A. M. 70 T A C 14 Bank of America 2 Bancamerica Blair Corp.	7 550 34	1 285 00
Garcia, J.M. 94 T A C 18 8/10 Bank of America 3 Bancamerica Blair	2 444 00	1 726 00
Giusti, S A 5 000 T A C	57 222 43	50 000 00
...lden, Joseph M. 238 T A C 56 6/10 Bank of America 12 American Tel & Tel	5 852 67	5 852 67
...nucci, E.S. 27 T A C 5 4/10 Bank of America 1 4/50 Bancamerica Blair Corp.	2 931 05	496 00
...glielmo, Joseph 2 600 T A C	28 258 98	26 000 00
...lon, D F and Marguerita 274 T A C 54 Bank of America	5 737 69	4 974 00

LOANS TO PERSONS WHO ARE ALSO BORROWING FROM BANK OF AMERICA N T & S A (Continued)

NAME AND COLLATERAL	BOOK VALUE	ESTIMATED VALUE
Hopkins, Leslie J. & Christie L.	27 000 00	?
D/T (2nd)		
Juda, Herbert	3 029 45	2 923 00
160 T A C		
32 Bank of America		
Ligon, Jeanie Aline	2 097 14	1 133 00
62 T A C		
12 4/10 Bank of America		
Malati, Jennie C.	48 564 65	29 625 00
2 300 T A C		
160 Bank of America		
6 Bancamerica-Blair Corp.		
D/T (2nd)		
Moskovitz, Maurice	25 898 38	25 000 00
2 500 T A C		
Pasqualetti, Stella	8 973 91	8 973 91
440 Bank of America		
Prisinzano, Mariano	11 903 97	10 994 00
601 T A C		
120 Bank of America		
6 Bancamerica Blair Corp.		
[illegible]ber, A.A.	28 000 00	18 274 00
1 000 T A C		
200 Bank of America		
Scatena, Humbert	42 687 20	42 687 20
5 000 T A C		
Shurtate, Thos. E.	15 540 00	12 645 00
692 T A C		
138 4/10 Bank of America		
Tilden, Charles L. Jr.	13 527 33	4 588 00
252 T A C		
50 Bank of America		
Tsirolias, D.	32 032 53	30 000 00
3 000 T A C		
Valente, Francesco	1 356 25	1 356 25
257 T A C		
51 Bank of America		
Walston, V.C.	33 078 56	30 000 00
3 000 T A C		
Zerga, Attilio	68 395 99	53 525 00
TOTAL	1 206 453 79	1 021 901 26

OTHER CUSTOMERS LOANS DETAILED FOR ITEMS OF 25 000 00 OR OVER

NAME AND COLLATERAL	BOOK VALUE	ESTIMATED VALUE
aillie, J. K.	140 465 10	140 465 10
5 385 Postal Union Life Ins. Co. L A		
arossio, Natale	66 218 75	46 740 00
3 771½ T A C 266 5/10 Bank of America		
anze, Francesco & Caterina	42 500 00	27 411 00
1 500 T A C 300 Bank of America		
iggiora, Lorenzo	82 781 91	56 444 00
5 000 T A C 150 9/10 Bank of America 30 9/50 Bancamerica-Blair Corp.		
ucci, Rocco	334 381 05	214 753 00
15 268 T A C 1 470 4/10 Bk of America 71 4/50 Bancamerica Blair Corp.		
ranucci, A.H.	331 351 69	218 138 00
15 250 T A C 850 Bk. of America 140 Bancamerica Blair Corp.		
arker, Meredith	59 382 74	36 937 00
3 000 T A C 100 Bk. of America 20 Pacific Coast Mortgage Co.		
landelli, G.	257 828 80	207 625 80
20 762 ½ T A C		
en Fifty Sutter Incorporated	74 328 57	74 328 57
Deed of Trust		
sio, Louis J.	78 253 50	60 000 00
6 000 T A C		
TOTAL	1 487 491 91	1 084 741 47

LOANS TO AND/OR ENDORSED BY D O HOOD

NAME AND COLLATERAL	BOOK VALUE	EST'D VALUE
Hood, D. O.	226 612 02	
450 1st M/B of Forest Grove, Oregon 375 Colliège & McClaine Bk. - Silvertown 225 Clatsop Co. Bk. Seaside, Oregon		
Drake, Chas. B.	1 000 00	
Unsecured		
Galvani, Wm. H.	1 000 00	
Unsecured		
Johnson, M. R.	8 800 00	
Unsecured		
Robertson, H. M.	1 000 00	
Unsecured		
Bailey, E. P.	1 000 00	
Unsecured		
Stafford, E. T.	1 000 00	
Unsecured		
TOTAL	240 612 02	?

Hanes

Not used

November
18th
1938

This office has previously acknowledged your letter of October 11, 1938. I wish here to reaffirm our position with respect to the major points which you discuss in that letter. In order that the problems involved may be perfectly clear, I wish to outline once more the major aspects of your bank which constitute a danger to the public interest.

These aspects center about the two facts that so small a portion of the total funds of the bank is capital funds and that so large a proportion of the total funds is invested in fixed or hazardous assets. Either one of these two facts by itself would be cause for alarm, but existing simultaneously in the same institution, they assume much more serious proportions. Their significance with respect to the public interest is still further enhanced when they exist in such a gigantic institution having such far-flung operations as the Bank of America, National Trust and Savings Association.

The bank has capital funds equal to about 6.4 percent of its total funds. This compares with an estimated 10.9 percent for the banks of the country as a whole. It means that if the assets were to depreciate 6.4 percent in value, or if 6.4 percent of the assets were to prove to be worthless, the bank would be insolvent.

On the other hand, 14.2 percent of the funds of the bank are invested in fixed and hazardous assets. When this percentage is compared with 6.4 percent for the capital, the seriousness of the situation becomes inescapable. Some of the fixed assets and all of the hazardous assets have no place in a good bank.

It is not the function of this office to dictate or even to suggest the specific practices which should be followed by the bank. However, it may be useful for you to have our opinion concerning broad principles which are involved. When a bank is in such a precarious position, every possible step must be taken to improve that position. But in the meantime its operations must be carried on with particular circumspection since it cannot safely bear new risks such as can be assumed by a bank which is in a sound condition.

The main long-run concern of the directors of this bank must be to increase the capital until it bears a reasonable relation to the total funds of the bank and to dispose of the hazardous assets until they are reduced to nominal proportions.

If capital funds cannot be immediately increased adequately from the sale of stock, the earnings of the bank must be used to build up the capital as rapidly as possible. And even if capital can be raised through the sale of preferred stock, earnings must be used to retire that stock.

On the other hand, hazardous assets must be disposed of as rapidly as possible. Assets must not be held with a view to profiting from a problematical rise in value. An asset which could not legitimately be bought cannot legitimately be held. If there are probable losses in the assets of the bank, those losses should be realized now. Orderly liquidation of the hazardous assets of this bank is absolutely necessary.

The affairs of this bank must be disentangled from those of Transamerica Corporation and other corporations dominated by the same management. The present manipulated situation constitutes a violation of the spirit and letter of banking law which can no longer be tolerated.

Finally, if the Board of Directors really wishes to reform the bank and make it a credit to the State of California and the nation, it will make a serious attempt to ascertain the true condition of the bank. Nothing is to be gained by anyone concerned refusing to face the true conditions. I hope that your committee which is studying the situation will be but the beginning of a new era in the history of the bank in which the board will really perform the function of determining and directing the operating policies of the bank. This office will be most happy to confer and cooperate with your committee at any time in determining upon sound future policies.

TO: 320

Miss Nell Chauncey

The letter was given
to Mr. John Rogge (SEC),
together with attachments,
by Mr. Foley in Mr.
Upham's office this morning.

McGuire
Mc

11/19'38

From: MR. OLIPHANT

C
O
P
Y

November 19, 1938

Dear Mr. Douglas:

I have your letter of November 17 in which you request that we furnish the Commission, for inspection and use in public hearings authorized by the Commission, reports of the national bank examiners on Bank of America N. T. & S. A. for the period 1931 to 1938 inclusive together with copies of any contracts, agreements, and other sources of material referred to in the reports as may be available in the files of the Comptroller of the Currency.

Pursuant to your request, I am attaching for the confidential use of the Securities and Exchange Commission the examiners' reports requested on condition, however, that none of the material in these reports will be used in any public hearings without first obtaining my approval in writing.

Sincerely yours,

(Signed) H. Morgenthau, Jr.

Secretary of the Treasury

Mr. William O. Douglas
Chairman
Securities and Exchange Commission
Washington, D.C.

HMJr/met 11-18-38

BARON LONG, PRESIDENT
CHARLES BAAD, MANAGING DIRECTOR
EDWARD S BERNARD, MANAGER

THE BILTMORE HOTEL
LOS ANGELES

Sunday L.A. 11/20 38

Dear Secretary Morgenthau:

It was indeed pleasing, on my arrival here from Houston, to receive your recent courteous communication.

The "matters" now being raised as issues are not in my opinion quite very great [illegible]. Certainly they are much less so than when, after approximately eight years of retirement from active management, I reassumed command in 1932 as [illegible] in my communication to the [illegible] of May 6th and Sept 15th and our Board's Communication of Aug 11th 1938, personally in the comparative [illegible] of the latter.

You can be certain that my [illegible] officers and competent associates and staff, generally, will, along with my own [illegible] efforts, continue to devote their fullest energies to further progress and [illegible]

BARON LONG, PRESIDENT
CHARLES BAAD, MANAGING DIRECTOR
EDWARD S. BERNARD, MANAGER

THE BILTMORE HOTEL
LOS ANGELES

leads me to hope that we may
now have in this endeavor your
cooperation, and in any case not
your active opposition.

Your efforts to stop or guard
against unwarranted smearing by
periodicals and others have done so
much to promote the best interests
of the Institution and have been appreciated.

Sincerely
A. P. Giannini

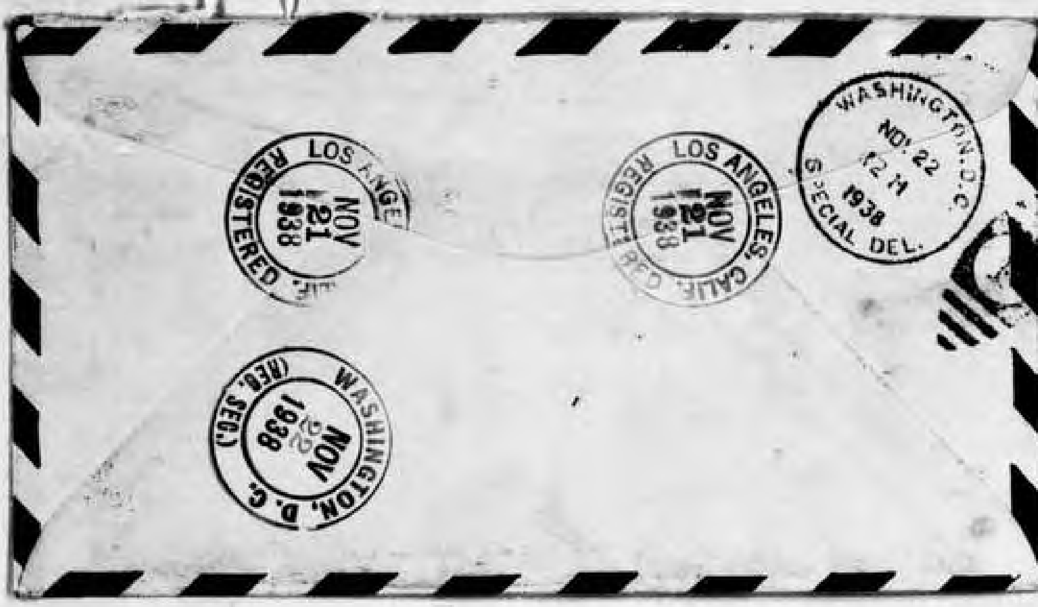
"SEE AMERICA FIRST"

A.P. Giannini
THE BILTMORE HOTEL
LOS ANGELES, CALIFORNIA
Room 7315-6

RETURN RECEIPT DEMANDED

Hon. Henry Morgenthau
Secretary of the Treasury
Washington
D.C.

AIR MAIL
SPECIAL DELIVERY
393694
REGISTERED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