# Annual Report 1982

SECURITIES INVESTOR PROTECTION CORPORATION

SECURITIES INVESTOR PROTECTION CORPORATION
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WASHINGTON, D.C. 20006
202-223-8400

April 29, 1983

The Honorable John S. R. Shad
Chairman
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D.C. 20549

Dear Sir:

On behalf of the Board of Directors I submit herewith the Twelfth Annual Report of the Securities Investor Protection Corporation pursuant to the provisions of Section 11(c)(2) of the Securities Investor Protection Act of 1970.

Respectfully,

James G. Stearns
Chairman

*"SIPC shall not be an agency or establishment of the United States Government . . . SIPC shall be a membership corporation the members of which shall be all persons registered as broker-dealers* . . ."*

—Securities Investor Protection Act of 1970
Sec. 3(a)(1)(A) & (2)(A)

* Except those engaged exclusively in the distribution of mutual fund shares, the sale of variable annuities, the insurance business, furnishing investment advice to investment companies and insurance companies, and those whose principal business is conducted outside the United States.

# Contents

# Securities Investor Protection Corporation

## Directors

James G. Stearns
*Chairman*

Roger A. Yurchuck, Esquire
Vorys, Sater, Seymour & Pease
Columbus, Ohio
*Vice Chairman*

David F. Goldberg,
Partner
Goldberg Securities
Chicago, Illinois

Ralph D. DeNunzio
President and Chief
Executive Officer
Kidder Peabody & Co., Inc.
New York, New York

James L. Kichline
Director, Division of Research
and Statistics,
Board of Governors of the
Federal Reserve System
Washington, D.C.

James W. Fuller
Senior Vice President
Charles Schwab & Co., Inc.
San Francisco, California

Roger W. Mehle
Assistant Secretary for
Domestic Finance
Department of the Treasury
Washington, D.C.

## Staff Officers

Lloyd W. McChesney
Vice President—Finance

John B. Bourne
Assistant Vice President—Finance

J. H. Moelter
Assistant Vice President—Finance

Theodore H. Focht
General Counsel & Secretary

Michael E. Don
Associate General Counsel

William H. Seckinger
Associate General Counsel

# Introduction

The Securities Investor Protection Corporation (SIPC) had its origins in the difficult years of 1968-70, when the paperwork crunch, brought on by unexpectedly high trading volume, was followed by a very severe decline in stock prices. Hundreds of broker-dealers were merged, acquired or simply went out of business. Some were unable to meet their obligations to customers and went bankrupt. Public confidence in our securities markets was in jeopardy.

Congress acted swiftly, passing the Securities Investor Protection Act of 1970 (SIPA). Its purpose is to afford certain protections against financial loss to customers of broker-dealers which fail and, thereby, promote investor confidence in the nation's securities markets. Currently, the limits of protection are $500,000 per customer, except that claims for cash are limited to $100,000 per customer.

SIPC is a nonprofit, membership corporation. Its members are, with some exceptions, all persons registered as brokers or dealers under Section 15(b) of the Securities Exchange Act of 1934 and all persons who are members of a national securities exchange.*

A board of seven directors determines policies and governs operations. Five directors are appointed by the President of the United States, subject to Senate approval. Three of the five represent the securities industry and two are from the general public. One director is appointed by the Secretary of the Treasury and one by the Federal Reserve Board from among the officers and employees of those organizations. The Chairman, who is the Corporation's chief executive officer, and the Vice-Chairman are designated by the President from the public directors.

The SIPC staff, numbering 29 is composed of the Finance Department, headed by a Vice-President, and the Legal Department headed by the General Counsel. Their functions include initiating the steps leading to the liquidation of a member, advising the trustee, his counsel and accountants, reviewing claims, auditing distributions of property, and other activities pertaining to the Corporation's purpose. In cases where the court appoints SIPC or a SIPC employee as Trustee and in direct payment proceedings, the staff responsibilities and functions are all encompassing—from taking control of customers' and members' assets to satisfying valid customer claims and accounting for the handling of all assets and liabilities to the courts having jurisdiction.

The money required to protect customers beyond that which is available from the property in the possession of the failed broker-dealer is advanced by SIPC from a fund maintained for that purpose. The sources of money for the SIPC Fund are assessments collected from SIPC members and interest on investments in United States Government securities. If the need arises, the Securities and Exchange Commission has the authority to lend SIPC up to $1 billion, which it, in turn, would borrow from the United States Treasury.

The self-regulatory organizations—the exchanges and the National Association of Securities Dealers, Inc. (NASD)—and the SEC report to SIPC concerning member broker-dealers who are in or approaching financial difficulty. If SIPC determines that the customers of a member require the protection afforded by the Act, the Corporation initiates steps to commence a customer protection proceeding. This requires that SIPC apply to a Federal District Court for the appointment of a trustee to carry out the liquidation. Under certain circumstances, SIPC may pay customer claims directly.

***Further information about the provisions for customer account protection are contained in a booklet, "An Explanation of the Securities Investor Protection Act of 1970 as Amended through 1980," which is available in bulk from the Securities Industry Association, 20 Broad Street, New York, New York 10005, and from the National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006.***

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* Section 3(a)(2)(A) of SIPA excludes:

(I) persons whose principal business, in the determination of SIPC, taking into account business of affiliated entities, is conducted outside the United States and its territories and possessions; and

(II) persons whose business as a broker or dealer consists exclusively of (I) the distribution of shares of registered open end investment companies or unit investment trusts, (II) the sale of variable annuities, (III) the business of insurance, or (IV) the business of rendering investment advisory services to one or more registered investment companies or insurance company separate accounts.

# A Message from the Chairman

*". . . continuity with the past as we prepare for the future."*

## In Brief

It's a pleasure to report that during 1982 member failures dropped to eight from ten in 1981 and the SIPC Fund recorded a gain for the year. Moreover, except for two small cases, substantially all customer claims have been satisfied in the 18 customer protection proceedings commenced during 1981 and 1982. During the second half of 1982, no additional proceedings were commenced and the SIPC Fund gained $6 million over the full year, totaling $173 million at December 31, 1982.

More than $37.8 million in cash and securities were distributed to customers in 1982 ($100 million in 1981) from SIPC advances and from property in debtors' estates. Despite the heavy demands on the SIPC Fund, customer claims were satisfied without the need for additional assessments on SIPC members. The SIPC Fund had declined from a high of $218.9 million in September 1981 to $166.3 million in February 1982.

For the securities industry, 1982 was a year of challenge. The continuing evolution of highly competitive "financial services" companies, the development of new products and services, and the task of accommodating record-breaking trading volume are but a few of the factors leading creative change on Wall Street.

On February 10, 1983 a trustee was appointed to liquidate Bell & Beckwith, Toledo, Ohio. SIPC advances required in this proceeding reduced the SIPC Fund balance below $150 million as of April 13, 1983. As a result, member assessments at the rate of ¼ of 1 percent of each member's gross revenues from the securities business will commence May 1, 1983.

## Ensuring Preparedness

SIPC is also adapting to such changes, drawing on the experience of the last 12 years to help set the course for the future. We are evaluating SIPC's capabilities, and looking to the example of the securities industry's data handling systems as we seek to ensure our preparedness in today's climate.

In 1982, advanced techniques were applied in protection proceedings, where individual circumstances permitted. In the year's largest customer protection proceeding, the books and records were in good condition and customer securities were available. Portable micro computers were used to help calculate customer net equities and related reports, thereby helping customer claim satisfaction to proceed rapidly.

## Ongoing Evaluation

Improvements in applying computers to liquidation procedures have continued since computers were used in 1973 in SIPC's largest case to-date, Weis Securities Inc. We are currently studying the feasibility of utilizing in-house computers for internal accounting, processing claims and related data in customer protection proceedings, and file storage and retrieval.

As part of this ongoing corporate evaluation, SIPC's Board is studying the Corporation' Public Information Program, an effort started in 1979 to increase awareness of SIPC and enhance confidence in securities markets. At year-end, a Board committee was reviewing the program in light of current industry trends.

## Chairman Owens Resigns

Hugh F. Owens, the man who spearheaded the task forces, Securities Investor Protection Act (SIPA) amendments, and Public Information Program, resigned as Chairman of SIPC on February 28, 1982 to return to the private practice of law in Oklahoma City. During his eight years of able and dedicated service, protection procedures were streamlined, costs reduced and investor protection substantially increased. He was largely responsible for passage of the 1978 SIPA amendments which, among other things, authorized the transfer of customer accounts procedure which has played a major role in speeding satisfaction of customers in many of the proceedings commenced since 1978.

The terms of two other Board members expired: Adolph P. Schuman and Brenton H. Rupple. Mr. Schuman, President of Lilli Ann Corporation, served with distinction as a public member and SIPC's Vice Chairman for four years.

Brenton H. Rupple, Chairman, Robert W. Baird & Co., represented the securities industry on SIPC's Board from 1978 to 1982. Mr. Rupple, a former Governor of the American Stock Exchange, Inc. and Vice Chairman of the Securities Industry Association, has been active in industry affairs for many years. During his Senate confirmation hearings, Mr. Rupple's "outstanding record of leadership in the industry" was cited by the Banking Committee Chairman.

## New Directors

In addition to my appointment as SIPC's Chairman, Mr. Ralph D. DeNunzio, President and Chief Executive Officer, Kidder, Peabody & Co., Inc. was reappointed to the Board and three new members were appointed by President Reagan.

Roger A. Yurchuck, Esquire of Vorys, Sater, Seymour & Pease, Columbus, Ohio was appointed a public member of SIPC's Board and designated Vice Chairman by President Reagan. James W. Fuller, Senior Vice President, Charles Schwab & Co., Inc., of San Francisco, and David F. Goldberg, a partner in Goldberg Securities, of Chicago, were appointed Board members representing the securities industry.

Though there has been a change in Board members, the same college of interests continues to be represented. Congress wisely created a Board of Directors whose members would always comprise representatives of the Government, the securities industry and the general public.

As SIPC's new Chairman, I am stressing continuity with the past as we prepare for the future. We will continue in the spirit Congress displayed when it created SIPC in 1970. As always, on major policy matters, the Board will confer closely with Congress, the Securities and Exchange Commission, self-regulatory organizations, and the securities industry.

# Customer Protection Proceedings

*"An Act to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges."*

*—Preamble to SIPA*

Customer protection proceedings were initiated for eight SIPC members in 1982, bringing the total since SIPC's inception to 161 proceedings commenced under SIPA. The 161 members represent 1.1 percent of the approximately 15,000 broker-dealers that have been SIPC members during the last twelve years. Currently, SIPC has 8,100 members.

The eight new cases compare with ten commenced in 1981 and an overall average of five per year during the period 1976 through 1980. During SIPC's first five years, 1971 through 1975, the number of proceedings commenced averaged 23 per year.

Trustees other than SIPC were appointed in each of the cases commenced during the year. SIPC members for which customer protection proceedings were undertaken are:

| Member | Date Trustee Appointed |
|---|---|
| The Income Builders, Inc.<br>Houston, Texas | 1/06/82 |
| A. E. Pearson, Inc.<br>New York, New York | 1/13/82 |
| Stalvey & Associates, Inc.<br>Jackson, Mississippi | 2/18/82 |
| T. E. Slanker Co., Inc.<br>Portland, Oregon | 2/24/82 |
| International Securities, Inc.<br>Denver, Colorado | 2/25/82 |
| G. S. Omni Corporation<br>Denver, Colorado | 3/08/82 |
| G. V. Lewellyn & Co., Inc.<br>Des Moines, Iowa | 4/15/82 |
| OTC Net, Inc.<br>Denver, Colorado | 6/09/82 |

## 119 Proceedings Completed

Of the 161 proceedings begun under SIPA to date, 119 have been completed, 40 involve problem claims and/or litigation, and claims in 2 are being processed (See Figure 1).

During SIPC's twelve-year history, cash and securities distributed for accounts of customers aggregated approximately $438 million. Of that amount, approximately $320 million came from debtors' estates and $118 million from the SIPC Fund (See Appendix III).

Table I shows that the 20 debtors for which net advances from the SIPC Fund of more than $1 million have been made accounted for about 77 percent of the total advanced in all 161 customer protection proceedings. The largest net advance in a single liquidation is $27 million for Stix & Co., Inc. This is almost equal to the net advances in the 141 smaller proceedings.

In seven proceedings SIPC advanced $80 million, or 60 percent of net advances from the SIPC Fund for all proceedings.

Table I

Net Advances from the SIPC Fund
As of December 31, 1982
161 Customer Protection Proceedings

| Net Advances From | Net Advances To | Number of Proceedings | Amounts Advanced* |
|---|---|---|---|
| $10,000,001 | up | 3 | $ 55,402,405 |
| 5,000,001 | $10,000,000 | 4 | 24,128,152 |
| 1,000,001 | 5,000,000 | 13 | 22,422,928 |
| 500,001 | 1,000,000 | 19 | 13,788,136 |
| 250,001 | 500,000 | 20 | 6,828,386 |
| 100,001 | 250,000 | 47 | 7,698,790 |
| 50,001 | 100,000 | 33 | 2,310,689 |
| 25,001 | 50,000 | 14 | 534,454 |
| 10,001 | 25,000 | 4 | 59,377 |
| -0- | 10,000 | 4 | 24,581 |
| | | | $133,197,898 |

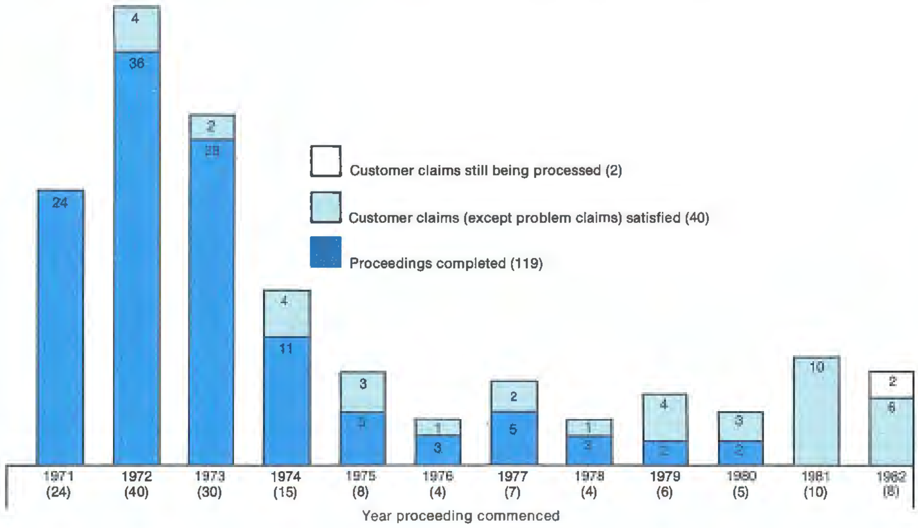
*Consists of advances for accounts of customers ($118,175,625) and for administration expenses ($15,022,273)

## Claims Over The Limits

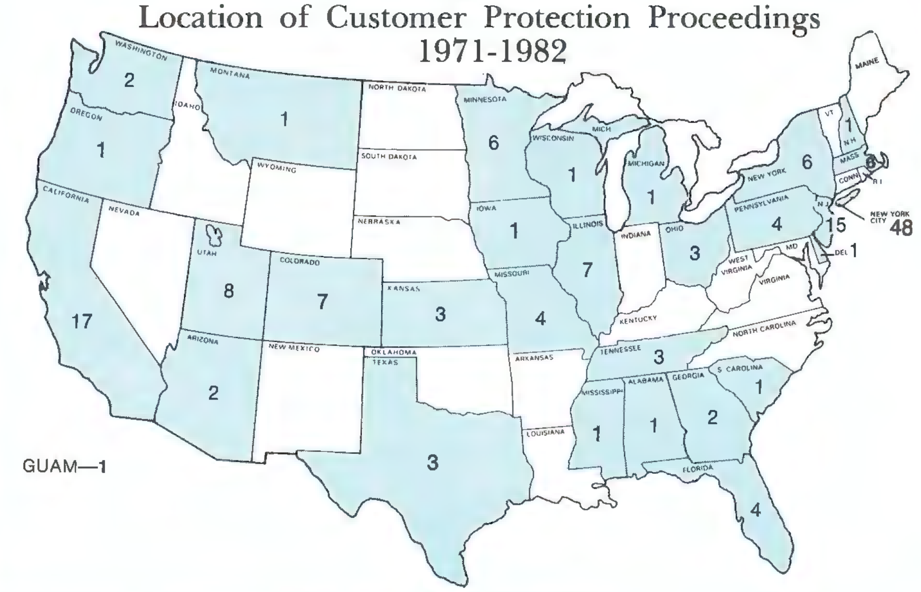
Of the more than 150,000 claims satisfied as of December 31, 1982, a total of 260 were for cash and securities whose value was greater than the limits of protection by SIPA.

The 260 claims, a net increase of 13 during 1982, represent approximately two tenths of one percent of all claims satisfied. The unsatisfied portion of claims, $8.7 million, increased approximately $3.1 million during 1982. These remaining claims approximate 2 percent of the total value of securities and cash distributed for accounts of customers.

## Figure 1
## Status of Customer Protection Proceedings




## Figure 2
## Location of Customer Protection Proceedings 1971-1982



# Membership and the SIPC Fund

*"SIPC shall . . . impose upon its members such assessments as, after consultation with self-regulatory organizations, SIPC may deem necessary . . ."*

—SIPA, Sec. 4(c)(2)

The net increase of 906 members during the year brought the total membership to 8,082 at December 31, 1982. Table II shows the members' affiliation for purposes of assessment collection, as well as the year's changes therein.

Table II
SIPC Membership
Year Ended December 31, 1982

| Agents for Collection of SIPC Assessments | Added(a) | Terminated(a) | Total |
|---|---|---|---|
| National Association of Securities Dealers, Inc. | 80 | 113 | 2,931 |
| SIPC(b) | 1,331 | 529 | 1,825 |
| Chicago Board Options Exchange Incorporated | 98 | 16 | 1,606 |
| New York Stock Exchange, Inc. | 33 | 36 | 877 |
| American Stock Exchange, Inc. | 31 | 9 | 413 |
| Pacific Stock Exchange, Inc. | 37 | 2 | 196 |
| Philadelphia Stock Exchange, Inc. | 9 | 3 | 131 |
| Midwest Stock Exchange, Inc. | 10 | 4 | 77 |
| Boston Stock Exchange, Inc. | 1 | 2 | 23 |
| Spokane Stock Exchange | — | — | 3 |
| | 1,630 | 714 | 8,082 |

Notes:

a. Excluding transfers (1,434) of members to successor collection agents.

b. SIPC is the collection agent and the SEC is the examining authority for brokers and dealers that are not members of any self-regulatory organization. The additions in this category reflect the temporary status of many broker-dealers between the date of their registrations under Section 15(b) of the 1934 Act and their becoming members of a securities exchange or association. The large number of terminations reflect the temporary status after broker-dealers terminate their memberships in these self-regulatory organizations and before their withdrawal of registrations as broker-dealers.

## Delinquencies

Members who are delinquent in paying assessments receive notices pursuant to SIPA Section 14(a).[1] As of December 31, 1982, there were 351 members who were subjects of uncured notices, 220 of which were mailed during 1982 (57 in December), 70 during 1981 and 61 during the years 1972 through 1980. SIPC has been advised by the SEC staff that: (a) 100 of these members subsequently paid the delinquencies or their registrations have been cancelled or are being withdrawn; (b) 25 are no longer engaged in the securities business and cancellations of their registrations have been recommended; (c) 13 are either to be recommended for administrative proceedings or otherwise resolved; and (d) 213 are being contacted by its regional offices or the affected examining authorities.

## SIPC Fund

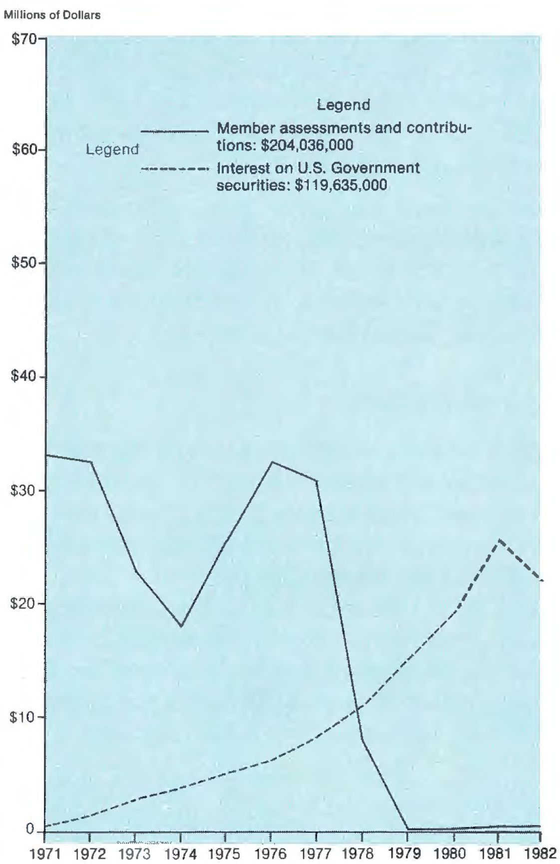
The SIPC Fund, consisting of the aggregate of cash and investments in United States Government securities, amounted to $173 million at year end, an increase of $6 million during the year. Tables III and IV present principal revenues and expenses for the years 1971 through 1982.

Interest from investments was $21 million in 1982, the fifth consecutive year that it was the principal source of revenues. The 1982 member assessments of $203,000 included $79,000 paid by members in settlement of certain commission actions and a uniform annual assessment of $25 that has been in effect since 1979. During the period 1971 through 1977, member assessments were the principal source of revenues and were based on a percentage of each member's gross revenue from the securities business.

For 1982, expenses of $11,859,000 consisted of customer protection proceedings costs of $9,857,000 and administrative expenses of $2,002,000.

[1] 14(a) Failure to Pay Assessment, etc.—If a member of SIPC shall fail to file any report or information required pursuant to this Act, or shall fail to pay when due all or any part of an assessment made upon such member pursuant to this Act, and such failure shall not have been cured, by the filing of such report or information or by the making of such payment, together with interest and penalty thereon, within five days after receipt by such member of written notice of such failure given by or on behalf of SIPC, it shall be unlawful for such member, unless specifically authorized by the Commission, to engage in business as a broker or dealer. If such member denies that it owes all or any part of the full amount so specified in such notice, it may after payment of the full amount so specified commence an action against SIPC in the appropriate United States district court to recover the amount it denies owing.

## Table III
## SIPC Revenues for the Twelve Years Ended December 31, 1982

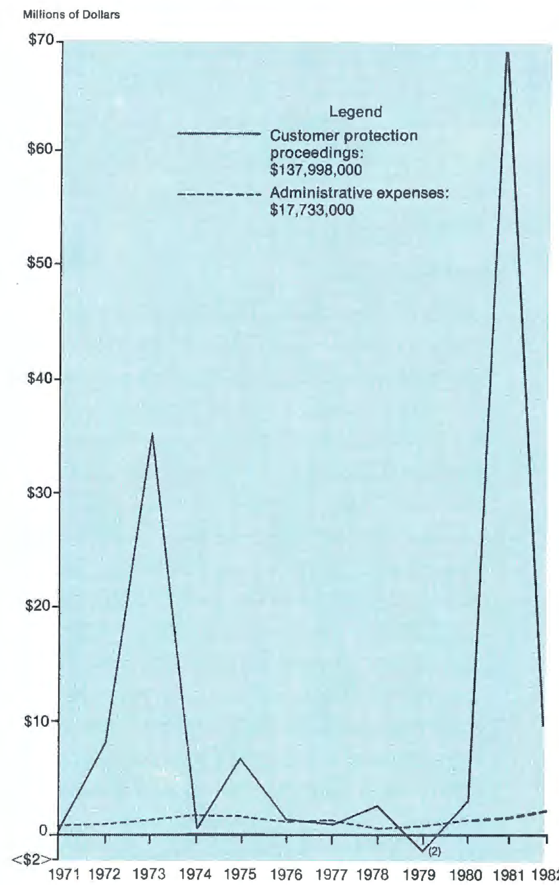



Member Assessments

1971: ½ of 1%* plus an initial assessment of ⅛ of 1%* of 1969 revenues. $150 minimum.
1972-1977: ½ of 1%*
January 1-June 30,1978: ¼ of 1 %
1979-1982 $25 uniform annual assessment

*Rates based on each member's gross revenues from the securities business.

## Table IV
## SIPC Expenses for the Twelve Years Ended December 31, 1982




(1) Includes net advances of $133,198,000 and $4,800,000 of estimated costs net of estimated recoveries.
(2) Net recoveries.

## Assessment Bylaw

On January 13, 1982, the SIPC Board of Directors passed the following resolution amending article 6 of the SIPC Bylaws governing membership assessments:

WHEREAS, Section 4(d)(1)(B) of SIPA requires that this corporation impose an assessment on its membership in such a manner that the aggregate assessments payable by its members shall not be less than ¼ of 1% per annum of the aggregate gross revenues from the securities business for such members during any time that the SIPC Fund (exclusive of confirmed lines of credit) aggregates less than $150,000,000 (or such other amount as the Securities and Exchange Commission may determine pursuant to the provisions of the Act): now be it resolved that SIPC's bylaws with respect to assessments be amended as follows in order to comply with this statutory requirement:

### ARTICLE 6
### Assessments

Section 1. *General*

(a) *Amount of Assessment.*

(1) At any time that SIPC determines that the balance of the SIPC fund (exclusive of confirmed lines of credit) as defined in Section 4(a)(2) of the Act shall aggregate less than $150,000,000 (or such other amount as the Commission has determined pursuant to the Act), the amount of each member's assessment shall be ¼ of one percent of such member's gross revenues from the securities business (with a minimum assessment of $25.00 for each calendar year or part thereof) commencing on the first day of the month following the date on which SIPC announces its determination that the SIPC fund has reached such level and continuing until such time as the Board provides otherwise.

(2) During any calendar year when the assessment rate set forth in (a)(1) above has not been in effect, the amount of each member's assessment shall be $25.00 for each calendar year or part thereof.

(b) *Payments.* Assessments shall be payable at such times and in such manner as may be determined by SIPC's Vice President-Finance with the approval of the Chairman.

(c) *Collection of General Assessments.* Each member of the Corporation who is a member of a self-regulatory organization shall pay assessments to its collection agent. In the case of members who are not members of any self-regulatory organization, assessments shall be paid directly to the Corporation.

(d) *Report of Collection Agents.* Within 45 days after each due date, each self-regulatory organization which is the collection agent shall submit a written report to the Corporation as to any person for which it acts as collection agent whose filing or assessment payment has not been received.

(e) *Interest on Assessments.* If all or any part of an assessment payable under Section 4 of the Act has not been received by the collection agent within 15 days after the due date thereof, the member shall pay, in addition to the amount of the assessment, interest at the rate of 20% per annum on the unpaid portion of the assessment for each day it has been overdue. If any broker or dealer has incorrectly filed a claim for exclusion from membership in the Corporation, such broker or dealer shall pay, in addition to assessments due, interest at the rate of 20% per annum on the unpaid assessment for each day it has not been paid since the date on which it should have been paid.

(f) *Gross Revenues.* The term "gross revenues from the securities business" as set forth in the applicable sections of the Act includes those clarifications as are set forth in the SIPC assessment forms and instructions thereto.

Section 2. *Overpayments.*

If the final annual reconciliation filed by a terminated member reflects an assessment overpayment carried forward that exceeds $25.00, SIPC may refund such excess to the member upon receipt of the member's written request therefor and after the member's SIPC collection agent has confirmed to SIPC that all of the member's assessment form filings and payments and reports required by SEC Rule 17a-5 covering periods through the termination date have been reviewed and accepted.

Section 3. *Interpretation of Terms.*

For purposes of this article:

(a) The term "securities in trading accounts" shall mean securities held for sale in the ordinary course of business and not identified as having been held for investment.

(b) The term "securities in investment accounts" shall mean securities that are clearly identified as having been acquired for investment in accordance with provisions of the Internal Revenue Code applicable to dealers in securities.

(c) The term "fees and other income from such other categories of the securities business" shall mean all revenue related either directly or indirectly to the securities business except revenue included in Section 16(9)(A)-(K) and revenue specifically excepted in Section 4(c)(3)(C).

# Litigation

During 1982, SIPC was actively involved in litigation at both trial and appellate levels. The more important court decisions are summarized below.

In *SIPC v. Ambassador Church Finance/Development Group, Inc.*, 679 F.2d 608 (6th Cir. 1982), the court of appeals affirmed a district court ruling which held that a church, which had used the debtor firm to assist it in selling a new church bond issue, was a "customer" of the debtor, where the debtor failed to forward proceeds from the sale of certain "incentive" bonds entrusted to the debtor by the church. The appellate court held that the transaction in question did not involve a typical issuer/investment banker or underwriter relationship, and that the church, with respect to that transaction, was in the position of an investor desiring to dispose of securities and, therefore, a "customer" under SIPA.

In *Clay v. Sinderson*, 82-0011-CV-W-3 (W.D. Mo. May 10, 1982), the trustee sued the debtor's accounting firm, alleging negligence and breach of contract in the performance of accounting services. To sue the international accounting partnership under Missouri law, the trustee had to name and serve all of the partners. To avoid this burdensome procedure, he sought to certify the suit as a class action under the Federal Rules of Civil Procedure. The defendant accounting partnership moved to deny certification of a class. The court ordered the certification, holding that the local partners were adequate representatives of the class, that there was an absence of conflict between the local partners and other members of the class, and that there was no due process violation.

In *Clay v. Traders Bank of Kansas City*, 81-0954-CV-W-4 and 81-0955-CV-W-4 (W.D. Mo. May 28, 1982), the trustee sued pursuant to the Bankruptcy Code to recover a preference conferred upon the defendant bank. The bankruptcy court found that all the elements of a preference were established except for the insolvency of the debtor and that, although the statutory presumption of insolvency was met because the asset had been transferred within ninety days of the initiation of the liquidation proceeding, the presumption disappeared upon the introduction by the trustee of evidence concerning insolvency. The district court reversed the bankruptcy court's decision, holding that the presumption is not rebutted until the defendant comes forward with evidence establishing the non-existence of insolvency. The defendant bank has appealed to the United States Court of Appeals for the Eighth Circuit.

In *Clark v. Goldberg*, 76-M-961 (D. Colo. June 15, 1982), the district court affirmed the bankruptcy court's findings that a principal of the debtor firm had converted customer funds, had mismanaged customer accounts, and had received fraudulent transfers. The district court also affirmed the bankruptcy court's subordination of the principal's legitimate claim to the claims of other creditors. The district court reversed the bankruptcy court's holding that the debtor's checks drawn to the principal without consideration in furtherance of a check kiting scheme did not constitute a fraudulent transfer.

In the case of *In re John Muir & Co.*, 82 B 11761 (Bankr. S.D.N.Y. September 1, 1982), the bankruptcy court held that the tendering by a customer to the trustee of securities to cover a short position after the filing date is neither contemplated nor permitted.

In the case of *In re G. V. Lewellyn & Co., Inc.*, 82-220-B and 82-766-C (Bankr. S.D. Iowa October 29, 1982), the bankruptcy court ordered the consolidation of the estates of the debtor and the individual principal on the ground that the principal had so commingled his financial affairs with the debtor's that the benefits of consolidation of the two estates into one bankruptcy estate would outweigh any incidental prejudice that might affect the creditors of either party.

In the Weis Securities, Inc. liquidation proceeding, the Weis trustee and SIPC, alleging an improper audit and certification of Weis's financial statements, have sued Touche, Ross & Co., Weis's pre-liquidation accountants. The action is in the discovery stage. *Redington, SIPC v. Touche, Ross & Co.*, 13996/76 (S. Ct. N.Y.Co.).

# Disciplinary and Criminal Actions

"Congress enacted SIPA to . . . restore confidence in the capital markets, and upgrade the financial responsibility requirements for registered brokers and dealers. The Act apportions responsibility for these tasks among the SEC, the securities industry self-regulatory organizations and the SIPC . . ."

—*Supreme Court Justice T. Marshall*
*May 19, 1975**

SIPC routinely forwards to the Securities and Exchange Commission, for possible action under Section 10(b) of SIPA, the names of principals and others associated with members for which SIPC customer protection proceedings have been initiated. Those individuals are also reported to the self-regulatory organization exercising primary examining authority for appropriate action by the organization. Trustees and SIPC personnel appointed to administer customer protection proceedings cooperate with the SEC and with law enforcement authorities in their investigations of possible violations of law.

As a result of SEC and self-regulatory action in 1982, fifteen persons associated with members subject to SIPC proceedings were barred from association with any broker or dealer.

## Criminal and Administrative Actions

Criminal action has been initiated in 59 of the 161 SIPC proceedings commenced since enactment of the Securities Investor Protection Act in December, 1970. A total of 156 indictments have been returned in federal or state courts, resulting in 119 convictions to date. As of December 31, 1982, trial or sentencing was pending against 33 persons who had been indicted or convicted.

*SIPC v. Barbour, 421 U.S. 412.415 (1975)

Administrative and/or criminal action in 148 of the 161 SIPC customer protection proceedings initiated through December 31, 1982, was accomplished as follows:

| Action Initiated | Number of Proceedings |
|---|---|
| 1. Joint SEC/Self-Regulatory Administrative Action | 39 |
| 2. Exclusive SEC Administrative Action | 24 |
| 3. Exclusive Self-Regulatory Administrative Action | 26 |
| 4. Criminal and Administrative Action | 51 |
| 5. Criminal Action Only | 8 |
| Total | 148 |

In the 140 customer protection proceedings in which administrative action has been effected, the following sanctions have been imposed against associated persons:

| | SEC | Self-Regulatory Organizations |
|---|---|---|
| Notice of Suspension[1] | 78 | 60 |
| Bar from Association | 264 | 158 |
| Fines | Not Applicable | $379,000 |

Suspensions by self-regulatory authorities ranged from five days to a maximum of five years. Those imposed by the SEC ranged from five days to a maximum of one year.

Bars against associated persons included exclusion from the securities business as well as bars from association in a principal or supervisory capacity.

The $379,000 in fines assessed by self-regulatory authorities were levied against 47 associated persons and ranged from $250 to $50,000.

[1]Notices of suspension include those issued in conjunction with subsequent bars from association.

## Members in or Approaching Financial Difficulty

Section 5(a)(1) of SIPA requires the SEC or the self-regulatory organizations to immediately notify SIPC upon discovery of facts which indicate that a broker or dealer subject to their regulation is in or is approaching financial difficulty. The Commission, the securities exchanges and the NASD fulfill this requirement through regulatory procedures which integrate examination and reporting programs with an early-warning procedure for notifying SIPC. The primary objective of those programs is the early identification of members which are in or are approaching financial or operational difficulty and the initiation of remedial action by the regulators necessary to protect the investing public.

### Members on Active Referral

SIPC maintained active files on 36 member firms referred under Section 5(a) during calendar year 1982. Twenty-seven new referrals were received during the year and nine active referrals had been carried forward from prior years. Eight of the 36 remained on active referral at year-end.

In addition to the formal referral of members under Section 5(a), SIPC received periodic reports from the SEC and the self-regulatory organizations identifying those members which, although not considered to be in or approaching financial difficulty, had failed to meet certain pre-established financial or operational criteria and were under closer-than-normal surveillance.

# Administration

### Board of Directors

On July 14, 1982, the United States Senate confirmed **James G. Stearns** as a public member of SIPC's Board of Directors. Mr. Stearns, previously Director, Office of Alcohol Fuels, U.S. Department of Energy, was designated SIPC's Chairman by President Reagan. On that same date, **James W. Fuller,** Senior Vice President, Charles Schwab & Co., Inc., was confirmed by the Senate as an industry member of the Board.

**Roger A. Yurchuck,** Esquire of Vorys, Sater, Seymour & Pease was confirmed by the Senate as a public director on August 16, 1982 and designated Vice Chairman by President Reagan. On that day, **Ralph D. DeNunzio,** President and Chief Executive Officer, Kidder, Peabody & Co., Inc. and **David F. Goldberg,** Partner, Goldberg Securities were confirmed as industry members of the Board.

### Public Information Program

SIPC's Board of Directors formed a Public Information Committee in September to review public information issues and advertising policies and procedures. This committee is to recommend any needed changes or initiatives to enhance awareness and understanding of SIPC and its role in promoting investor confidence in U.S. securities markets.

**Jeffrey R. McCord,** Director of Public Information since 1979, was designated Executive Assistant to the Chairman and serves as staff to the Public Information Committee. In addition to handling corporate communications, Mr. McCord will represent and assist the Chairman on administrative and operational matters.

Six public information trips were arranged and executed during the first six months of 1982. SIPC General Counsel, **Theodore H. Focht,** addressed six civic clubs and, with the cooperation of a number of broker-dealers, met with groups of registered representatives in three cities. Coverage in daily newspapers was secured in each and television coverage garnered in five.

SIPC initiated and/or developed stories with editors of several general or investor publications including **MONEY** Magazine and **GOOD HOUSEKEEPING** and the following regional newspapers:

- The Florida Times-Union
- Savannah Evening Press
- Augusta Chronicle
- Jackson Daily News
- Jackson Clarion-Ledger
- Orlando Sentinel
- Deseret News
- The National OTC Stock Exchange
- Penny Stock News

# Financial Statements

## Accountants' Report

Board of Directors
Securities Investor Protection Corporation
Washington, D.C.

We have examined the statement of financial condition of Securities Investor Protection Corporation as of December 31, 1982, and the related statements of operations and fund balance and of changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of Securities Investor Protection Corporation at December 31, 1982, and the results of its operations and the changes in its financial position for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

ERNST & WHINNEY

New York, N.Y.
March 1, 1983

# Securities Investor Protection Corporation

## Statement of Financial Condition

December 31, 1982

### ASSETS

| | |
|---|---|
| Cash | $ 159,508 |
| U.S. Government securities, at amortized cost and accrued interest receivable ($4,661,030); (approximate market $177,044,000) | 172,722,874 |
| Advances to trustees for customer protection proceedings in progress, less allowance for possible losses ($96,707,509) (Note 5) | 8,000,000 |
| Other | 81,958 |
| | $180,964,340 |

### LIABILITIES AND FUND BALANCE

| | |
|---|---|
| Advances to trustees—in process (Note 5) | $ 49,777 |
| Accounts payable and accrued expenses | 174,240 |
| Estimated costs to complete customer protection proceedings in progress (Note 5) | 12,800,000 |
| | 13,024,017 |
| Commitment (Note 4) | |
| Fund balance | 167,940,323 |
| | $180,964,340 |

## Statement of Operations and Fund Balance

for the year ended December 31, 1982

| | |
|---|---|
| Revenues: | |
| Interest on U.S. Government securities | $ 20,808,799 |
| Member assessments, net of refunds of prior years' overpayments ($1,467) (Note 3) | 282,096 |
| | 21,090,895 |
| Expenses: | |
| Administrative: | |
| Salaries and employee benefits (Note 6) | 1,195,920 |
| Legal and accounting fees | 183,411 |
| Rent (Note 4) | 306,440 |
| Other | 316,358 |
| | 2,002,129 |
| Provision for estimated costs to complete customer protection proceedings (Note 5) | 9,856,599 |
| | 11,858,728 |
| Excess revenues | 9,232,167 |
| Fund balance, beginning of year | 158,708,156 |
| Fund balance, end of year | $167,940,323 |

See notes to financial statements.

# Statement of Changes in Financial Position
## for the year ended December 31, 1982

| | |
|---|---|
| Cash provided from (used in) operations: | |
| Provided: | |
| Interest on U.S. Government securities | $ 20,264,008 |
| Member assessments | 282,096 |
| | 20,546,104 |
| Used: | |
| Administrative expenses | (1,926,093) |
| Advances to trustees and direct payments, net of recoveries ($4,474,709) | (12,956,322) |
| | (14,882,415) |
| | 5,663,689 |
| Other uses of cash: | |
| Purchases of U.S. Government securities, net | (7,087,864) |
| Miscellaneous | (56,969) |
| Decrease in cash | (1,481,144) |
| Cash, beginning of year | 1,640,652 |
| Cash, end of year | $ 159,508 |

See notes to financial statements.

# Notes to Financial Statements

### Organization

The Securities Investor Protection Corporation (SIPC) was created by the Securities Investor Protection Act of 1970 (SIPA), which was enacted on December 30, 1970 primarily for the purpose of providing protection to customers of its members. SIPC is a nonprofit membership corporation and shall have succession until dissolved by an Act of Congress. Its members include all persons registered as brokers or dealers under Section 15(b) of the Securities Exchange Act of 1934 and all persons who are members of a national securities exchange except for those persons excluded under SIPA.

### 2. The "SIPC Fund"

The "SIPC Fund," as defined by SIPA, consists of cash and U.S. Government securities aggregating $172,882,382.

In the event the SIPC Fund is or may reasonably appear to be insufficient for the purposes of SIPA, the Securities and Exchange Commission is authorized to make loans to SIPC and, in that connection, the Commission is authorized to issue notes or other obligations to the Secretary of the Treasury in an aggregate amount not to exceed $1,000,000,000.

### 3. Member assessments and subsequent event

Each member's assessment for 1982 is $25. Assessment revenues include $78,914 paid by members in settlement of certain Commission actions.

On February 10, 1983 a customer protection proceeding was commenced that is expected to require advances that would reduce the SIPC Fund to less than $150,000,000. Pursuant to SIPA and SIPC's bylaws, assessments of ¼ of 1% per annum on each member's gross revenues from the securities business apply during any period when the SIPC Fund is less than $150,000,000 and shall continue until such time as the SIPC Board provides otherwise.

### 4. Commitment

SIPC occupies office space under a lease expiring December 31, 1987 and renewable for five years. Future minimum annual rentals, $292,015 for 1983 through 1987, aggregate $1,460,075. Additional rental based on increases, over 1981 levels, in operating expenses and real estate taxes, as well as increases over the November 30, 1982 level, in the Consumer Price Index are required by the lease. Rent expense for 1982 totalled $306,440.

### 5. Customer protection proceedings

Customer protection proceedings (proceedings) include liquidations conducted by court appointed trustees and direct payment proceedings conducted by SIPC. There are 42 liquidations in progress at

December 31, 1982. Customer claims, except problem claims, have been satisfied in 40 of these proceedings and in 2 proceedings customer claims are still being processed.

Advances to trustees represent net amounts disbursed and amounts currently payable for proceedings in progress, less an allowance for possible losses.

Estimated costs to complete proceedings are accrued based upon the costs of completed cases of comparable size and complexity and other costs that can be reasonably estimated. Future recoveries are estimated based upon the expected disposition of the debtors' estates.

The following table summarizes transactions during the year that result from these proceedings:

| | Customer Protection Proceedings | |
|---|---|---|
| | Advances to trustees, less allowance for possible losses | Estimated costs to complete |
| Balance, beginning of year | $11,700,000 | ($19,400,000) |
| Add: | | |
| Provision for estimated costs to complete proceedings | | (9,856,599) |
| Less: | | |
| Advances to trustees and direct payments, net of recoveries not estimated previously ($774,709) | | 16,456,599 |
| Recoveries estimated previously | (3,700,000) | |
| Balance, end of year | $ 8,000,000 | ($12,800,000) |

Customer payments and related expenses of direct payment proceedings are recorded as expenses as they are incurred.

These financial statements do not include accountability for assets and liabilities of members being liquidated by SIPC as Trustee. Such accountability is reflected in reports required to be filed with the courts having jurisdiction.

## 6. Retirement Plan

SIPC has a non-contributory retirement plan covering all employees. SIPC's policy is to fund retirement expenses accrued. Retirement expense, $101,000 for 1982, is actuarially determined using the projected benefit method.

As of January 1, 1983, the most recent actuarial valuation date, the market value of plan assets was $1,555,266, and the present value of accumulated plan benefits based on an assumed interest rate of 9.5 percent per annum, calculated in accordance with Statement No. 36 of the Financial Accounting Standards Board, was as follows:

| | |
|---|---|
| Vested: | |
| Retired members and survivors currently receiving payments | $229,365 |
| Other members | 534,280 |
| | 763,645 |
| Non-vested | 83,124 |
| | $846,769 |

APPENDIX I

# Customer Protection Proceedings

## PART A: Customer Claims and Distributions Being Processed

| Member and Trustee By Date of Appointment | Date Registered as Broker-Dealer | Filing Date | Trustee Appointed | Customers[a] To Whom Notices and Claim Forms Were Mailed | Responses[a] Received |
|---|---|---|---|---|---|
| A.E. Pearson, Inc.<br>New York, New York<br>(William J. Rochelle, III, Esq.) | 10/13/76 | 1/13/82 | 1/13/82 | 115 | 8 |
| G.V. Lewellyn & Co., Inc.<br>Des Moines, Iowa<br>(Paul R. Tyler, Esq.) | 3/30/81 | 4/ 8/82 | 4/15/82 | 600 | 50 |
| **TOTAL 2 MEMBERS: PART A** | | | | 715 | 58 |

December 31, 1982

| Distributions From Debtors' Estates | | SIPC Advances | | | | | |
|---|---|---|---|---|---|---|---|
| Value | Number of Customers | Total Advanced | Administration Expenses | Contractual Commitments | Securities | Cash | Number of Customers |
| | | $ 48,906 | $10,000 | | | $ 38,906 | 1 |
| | | 357,352 | 36,461 | | $61,792 | 259,099 | 13 |
| | | $406,258 | $46,461 | | $61,792 | $298,005 | 14 |

APPENDIX I

# Customer Protection Proceedings

## PART B: Customer Claims (Except Problem Claims) Have Been Satisfied

| Member and Trustee By Date of Appointment | Date Registered as Broker-Dealer | Filing Date | Trustee Appointed | Customers[a] To Whom Notices and Claim Forms Were Mailed | Responses[a] Received |
|---|---|---|---|---|---|
| C. H. Wagner & Co., Inc., Boston, Massachusetts (Thomas J. Carens, Esq.) | 6/23/69 | 2/22/72 | 2/28/72 | 14,000 | 839 |
| Equitable Equities, Inc., New York, New York (Robert E. Smith, Esq.) | 2/ 4/70 | 10/13/72 | 10/13/72<br>2/15/78* | 134 | 69 |
| Havener Securities Corp., New York, New York (Ezra G. Levin, Esq.) | 11/13/59 | 10/13/72 | 10/24/72 | 900 | 533 |
| C. I. Oren & Co., Inc., New York, New York (Martin R. Gold, Esq.) | 11/10/68 | 10/13/72 | 10/26/72 | 345 | 61 |
| Pacific Western Securities, Inc., Los Angeles, California (Edwin M. Lamb) | 8/ 7/66 | 3/26/73 | 3/28/73 | 3,023 | 521 |
| Weis Securities, Inc., New York, New York (James W. Giddens, Esq.) | 8/ 1/65 | 5/24/73 | 5/30/73<br>7/28/80* | 55,026 | 34,000 |
| †In the administration of the estate, advances to pay customers' free credit balances or cash in lieu of securities were not separately identified. | | | | | |
| Christian-Paine & Co., Inc.<br>Carlton Cambridge & Co., Inc.<br>Hasbrouck Heights, New Jersey (Irwin Weinberg, Esq.) | 6/24/70<br>7/21/68 | 4/10/74 | 4/18/74 | 17,500 | 7,884 |
| Llorens Associates, Inc., New York, New York (Lloyd Frank, Esq.) | 4/ 1/70 | 6/18/74 | 7/ 1/74 | 548 | 93 |
| Financial House, Inc., Detroit, Michigan (David Robb, Esq.) | 3/ 9/55 | 9/17/74 | 9/18/74 | 1,958 | 708 |
| Henry C. Atkeison, Jr., d/b/a Ambassador Church Finance Development Group, Inc.; d/b/a Atalbe Christian Credit Association, Inc., Brentwood, Tennessee (Fred D. Bryan) | 4/18/70 | 11/ 7/74 | 12/17/74 | 531 | 115 |
| Executive Securities Corp., New York, New York (Cameron F. MacRae III, Esq.) | 11/ 8/67 | 2/14/75 | 2/14/75 | 8,740 | 2,757 |
| G. H. Sheppard & Co., Inc., New York, New York (Jerome M. Selvers, Esq.) | 4/ 4/73 | 3/ 4/75 | 3/25/75 | 175 | 27 |
| Investors Security Corp., Monroeville, Pennsylvania (Thomas P. Ravis, Esq.) | 5/ 8/66 | 9/15/75 | 9/15/75 | 4,300 | 244 |

*Successor Trustee

December 31, 1982

| Distributions From Debtors' Estates | | SIPC Advances | | | | | |
|---|---|---|---|---|---|---|---|
| Value | Number of Customers | Total Advanced | Administration Expenses | Contractual Commitments | Securities | Cash | Number of Customers |
| $ 54,889 | 8 | $ 1,140,300 | $ 69,312 | $ 9,887 | $ 72,846 | $ 988,255 | 253 |
| 131,585 | 45 | 116,867 | 36,402 | 27,604 | 16,034 | 36,827 | 33 |
| 814,261 | 491 | 552,753 | 338,770 | 24,044 | 16,368 | 173,571 | 233 |
| 1,800 | 1 | 355,844 | 219,639 | 59,071 | 33,710 | 43,424 | 45 |
| 360,006 | 276 | 1,558,458 | 435,943 | 18,163 | 980,074 | 124,278 | 361 |
| 182,625,657 | 32,000 (Estimated) | 7,189,373 | | | 7,189,373† | | 31,500 (Estimated) |
| 776,386 | 12,572 | 3,530,886 | 1,224,504 | 3,125 | 2,044,056 | 259,201 | 6,571 |
| 31,174 | 40 | 130,579 | 74,337 | 214 | 17,823 | 38,205 | 30 |
| 431,422 | 226 | 972,499 | 33,939 | 38 | 811,405 | 127,117 | 284 |
| 6,860 | 11 | 180,067 | 65,507 | | 22,243 | 92,317 | 18 |
| 2,271,501 | 1,219 | 2,121,009 | 25,531 | 30,535 | 1,449,655 | 615,288 | 1,341 |
| 11,071 | 6 | 154,456 | 60,436 | 8,950 | 26,866 | 58,204 | 15 |
| 800 | 1 | 574,291 | 243,186 | | 165,857 | 165,248 | 21 |

APPENDIX I

# Customer Protection Proceedings

## PART B: Customer Claims (Except Problem Claims) Have Been Satisfied

| Member and Trustee By Date of Appointment | Date Registered as Broker-Dealer | Filing Date | Trustee Appointed | Customers[a] To Whom Notices and Claim Forms Were Mailed | Responses[a] Received |
|---|---|---|---|---|---|
| Institutional Securities of Colorado, Inc., Denver, Colorado (Ralph M. Clark, Esq.) | 4/27/71 | 9/29/76 | 10/ 4/76 | 9,000 | 1,780 |
| Swift, Henke & Co., Inc., Chicago, Illinois (J. William Holland, Esq.) | 5/30/65 | 3/14/77 | 3/15/77 | 1,350 | 186 |
| I.E.S. Management Group, Inc., Irvington, New Jersey (Michael R. Griffinger, Esq.) | 6/17/70 | 6/ 9/77 | 9/27/77 | 3,600 | 1,682 |
| Douglas F. Brown Financial Services, Inc., Longview, Washington (James E. Newton, Esq.) | 7/15/77 | 6/14/78 | 7/18/78 | 419 | 38 |
| Francis Eugene Mooney, Jr., d/b/a Bach Planning Co., Knoxville, Tennessee (SIPC) | 8/ 5/69 | 5/25/77 | 5/23/79 | 188 | 23 |
| Link-Up + 1 Securities, Inc., Denver, Colorado (SIPC) | 12/22/78 | 5/17/79 | 8/ 9/79 | 117 | 25 |
| Hamilton/Cooke & Co. of Florida, Inc., Miami, Florida (SIPC) | 4/10/78 | 9/25/79 | 10/ 2/79 | 946 | 244 |
| P. J. Kisch & Co., Inc., Minneapolis, Minnesota (SIPC) | 6/15/78 | 11/ 5/79 | 11/ 9/79 | 1,407 | 769 |
| Simpson, Emergy & Company, Inc., Pittsburgh, Pennsylvania (Carl F. Barger, Esq.) | 2/ 2/54 | 3/ 3/80 | 3/ 3/80 | 3,500 | 616 |
| Perry, Adams & Lewis Securities, Inc., Kansas City, Missouri (George H. Clay, Esq.) | 12/ 4/75 | 4/ 2/80 | 4/11/80 | 259 | 18 |
| Yasin Jaffer, Chicago, Illinois (SIPC) | 1/13/78 | 2/28/80 | 8/28/80 | 255 | 16 |
| Dennis Lee Mirus, Lake Forest, Illinois (Robert D. Glick, Esq.) | 1/11/79 | 10/10/80 | 3/17/81 | 19 | 15 |
| Gallagher, Boylan & Cook, Inc., Beverly Hills, California (Charles D. Axelrod, Esq.) | 11/ 3/67 | 3/17/81 | 3/17/81<br>4/ 9/82* | 3,000 | 1,363 |
| The Investment Bankers, Inc., Denver, Colorado (James H. Turner, Esq.) | 10/23/80 | 7/10/81 | 7/15/81 | 2,500 | 1,939 |
| First State Securities Corp., North Miami, Florida (John L. Britton, Esq.) | 6/19/75 | 7/24/81 | 7/24/81 | 3,064 | 926 |

*Successor Trustee

| Distributions From Debtors' Estates | | SIPC Advances | | | | | |
|---|---|---|---|---|---|---|---|
| Value | Number of Customers | Total Advanced | Administration Expenses | Contractual Commitments | Securities | Cash | Number of Customers |
| $ 2,984,334 | 911 | $ 284,060 | | | $ 181,104 | $ 102,956 | 484 |
| 2,393,049 | 88 | 503,693 | | | 218,924 | 284,769 | 106 |
| | | 5,550,552 | $ 539,503 | | | 5,011,049 | 519 |
| | | 235,538 | 43,712 | | 580 | 191,246 | 20 |
| | | 261,521 | 346 | | 75,525 | 185,650 | 15 |
| 660 | 1 | 175,332 | 11,830 | | 114,962 | 48,540 | 18 |
| 2,364,648 | 204 | 175,658 | | | 175,658 | | 102 |
| 1,581,316 | 697 | 182,023 | 4,964 | | 91,700 | 85,359 | 92 |
| 4,589,216 | 493 | 825,815 | 45,302 | | 349,374 | 431,139 | 300 |
| | | 1,121,704 | 498,989 | | 570,123 | 52,592 | 13 |
| | | 54,517 | 2,017 | | 47,500 | 5,000 | 3 |
| | | 4,000 | 4,000 | | | | |
| 3,000,000 (Estimated) | 1,363 | 3,520,670 | 494,670 | | 3,026,000 | | 1,363 |
| 2,128,941 | 883 | 5,559,522 | 467,478 | | 153,106 | 4,938,938 | 1,189 |
| | | 670,325 | 70,353 | $ 60,804 | 329,980 | 209,188 | 209 |

APPENDIX I

# Customer Protection Proceedings

## PART B: Customer Claims (Except Problem Claims) Have Been Satisfied

| Member and Trustee By Date of Appointment | Date Registered as Broker-Dealer | Filing Date | Trustee Appointed | Customers[a] To Whom Notices and Claim Forms Were Mailed | Responses[a] Received |
|---|---|---|---|---|---|
| Joseph Sebag, Incorporated, Los Angeles, California (Eugene W. Bell, Esq.) | 3/ 7/68 | 7/27/81 | 7/27/81 | 8,000 | 4,307 |
| John Muir & Co., New York, New York (Harvey R. Miller, Esq.) | 10/28/37 | 8/16/81 | 8/16/81 | 54,500 | 10,000 (Estimated) |
| M. S. Wien & Co., Inc., Jersey City, New Jersey (Michael R. Griffinger, Esq.) | 11/15/74 | 9/10/81 | 9/10/81 | 45,000 | 9,186 |
| Langheinrich & Fender, Inc., Salt Lake City, Utah (Herschel J. Saperstein, Esq.) | 2/ 2/78 | 9/14/81 | 9/22/81 | 4,330 | 2,750 |
| Stix & Co., Inc., St. Louis, Missouri (Harry O. Moline, Jr., Esq.) | 3/12/70 | 11/ 5/81 | 11/ 9/81 | 4,300 | 1,092 |
| Morton Paul Kominsky, North Bergen, New Jersey (Richard D. Shapiro, Esq.) | 2/13/70 | 12/18/81 | 12/18/81 | 424 | 76 |
| The Income Builders, Inc., Houston, Texas (Thad Grundy, Esq.) | 8/10/61 | 12/10/81 | 1/ 6/82 | 2,229 | 22 |
| Stalvey & Associates, Inc., Jackson, Mississippi (Henry E. Chatham, Jr., Esq.) | 2/18/78 | 2/18/82 | 2/18/82 | 229 | 52 |
| T. E. Slanker Co., Inc., Portland, Oregon (Douglas M. Thompson) | 8/20/69 | 2/ 4/82 | 2/24/82 | 9,000 | 2,100 |
| International Securities, Inc., Denver, Colorado (William D. Scheid, Esq.) | 1/ 6/76 | 2/25/82 | 2/25/82 | 5,000 | 1,262 |
| G. S. Omni Corporation, Denver, Colorado (James H. Turner, Esq.) | 2/25/80 | 2/24/82 | 3/ 8/82 | 8,500 | 3,347 |
| OTC Net, Inc., Denver, Colorado (Glen E. Keller, Jr., Esq.) | 8/10/78 | 6/ 3/82 | 6/ 9/82 | 38,500 | 15,086 |
| **TOTAL 40 MEMBERS: PART B** | | | | 316,816 | 106,771 |

December 31, 1982

| Distributions From Debtors' Estates | | SIPC Advances | | | | | |
|---|---|---|---|---|---|---|---|
| Value | Number of Customers | Total Advanced | Administration Expenses | Contractual Commitments | Securities | Cash | Number of Customers |
| $ 15,245,632 | 2,417 | $ 12,020,877 | $ 310,076 | | $ 5,181,095 | $ 6,529,706 | 1,328 |
| 15,841,391 | 10,000 (Estimated) | 15,724,555 | 225,000 | | 15,499,555 | | 10,000 (Estimated) |
| 2,021,725 | 2,053 | 5,828,706 | 50,000 | $281,936 | 2,405,920 | 3,090,850 | 3,495 |
| 1,531,773 | 2,267 | 969,810 | 309,474 | 3,558 | 180,768 | 476,010 | 1,306 |
| | | 27,656,974 | | | 17,477,158 | 10,179,816 | 841 |
| 5,978 | 10 | 46,174 | 3,894 | | 27,093 | 15,187 | 46 |
| | | 158,274 | 5,000 | | | 153,274 | 10 |
| | | 1,319,211 | 61,838 | | 1,069,850 | 187,523 | 51 |
| | | 187,976 | 59,981 | | 127,995 | | |
| | | 132,606 | 105,751 | | 10,479 | 16,376 | 29 |
| 3,707,691 | 2,447 | 1,140,743 | 490,611 | | 11,138 | 638,994 | 516 |
| 15,575,600 | 12,858 | 1,413,032 | 923,244 | | 39,788 | 450,000 | |
| $260,489,366 | 83,588 | $104,301,250 | $7,555,539 | $527,929 | $60,211,685 | $36,006,097 | 62,760 |

APPENDIX I

# Customer Protection Proceedings

## PART C: Proceedings Completed in 1982

| Member and Trustee By Date of Appointment | Trustee Appointed | Number of Customers For Whom Trustees Have Distributed Securities and Cash | Total |
|---|---|---|---|
| JNT Investors, Inc., New York, New York (Jerry B. Klein) | 2/15/72 | 897 | $ 2,574,137 |
| Custodian Security Brokerage Corp., New York, New York (Lyonel E. Zunz, Esq.) | 3/ 7/73 | 21 | 33,753 |
| Memme & Co., Inc., New York, New York (Edward Farman, Esq.) | 4/15/74 | 20 | 77,386 |
| Benchmark Securities, Inc., Los Angeles, California (Direct Payment) | 9/22/78* | 9 | |
| Paul Kendrick & Co., Inc., San Francisco, California (SIPC) | 4/17/79 | 3 | 129,666 |
| Mister Discount—Stockbrokers, Inc., Chicago, Illinois (Robert E. Ginsberg, Esq.) | 6/ 4/80 | 541 | 4,949,347 |
| Monterey Securities Corporation, San Francisco, California (SIPC) | 11/ 4/80 | 20 | 12,593 |
| **TOTAL 7 MEMBERS 1982** | | 1,511 | 7,776,882 |
| **TOTAL 112 MEMBERS 1973-1981[b]** | | 50,591 | 61,935,933 |
| **TOTAL 119 MEMBERS 1973-1982** | | 52,102 | $ 69,712,815 |

*Date notice published

## PART D: Summary

| | Responses Received/ Customers Receiving Distributions | |
|---|---|---|
| **Part A:** 2 Members—Customer Claims and Distributions Being Processed by Trustees | 58 | |
| **Part B:** 40 Members—Customer Claims (Except Problem Claims) Have Been Satisfied | 106,771 | $260,489,366 |
| Sub-Total | 106,829 | 260,489,366 |
| **Part C:** 119 Members—Proceedings Completed | 52,102[c] | 69,712,815 |
| **TOTAL** | 158,931 | $330,202,181 |

Notes:

[a] Notices and claim forms are commonly sent to all persons who, from the debtor's records, may have been customers. This is done so that potential claimants may be advised of the proceeding.

[b] Revised from previous reports to reflect subsequent recoveries, disbursements and adjustments.

[c] Number of customers receiving securities and/or cash.

[d] To be reported at completion of liquidation.

December 31, 1982

| Distributions From Debtors' Estates | | SIPC Advances | | | | |
|---|---|---|---|---|---|---|
| For Accounts of Customers | Administration Expenses | Total Advanced | Administration Expenses | Contractual Commitments | Securities | Cash |
| $ 2,209,043 | $ 365,094 | $ 531,861 | $ 337,432 | | $ 20,848 | $ 173,581 |
| 1,218 | 32,535 | 161,358 | 108,720 | | 29,927 | 22,711 |
| 12,706 | 64,680 | 149,368 | 118,064 | $ 7,563 | 4,300 | 19,441 |
| | | 75,059 | 5,924 | | | 69,135 |
| 90,153 | 39,513 | 49,281 | 846 | | | 48,435 |
| 4,834,205 | 115,142 | 59,706 | 59,706 | | | |
| 12,375 | 218 | 192,963 | 63,700 | | 63,188 | 66,075 |
| 7,159,700 | 617,182 | 1,219,596 | 694,392 | 7,563 | 118,263 | 399,378 |
| 52,064,140 | 9,871,793 | 27,270,794 | 6,725,882 | 821,291 | 11,440,300 | 8,283,321 |
| $ 59,223,840 | $10,488,975 | $ 28,490,390 | $ 7,420,274 | $ 828,854 | $11,558,563 | $ 8,682,699 |
| | | | | | | |
| | (d) | $ 406,258 | $ 46,461 | | $ 61,792 | $ 298,005 |
| $260,489,366 | (d) | 104,301,250 | 7,555,539 | $ 527,929 | 60,211,685 | 36,006,097 |
| 260,489,366 | | 104,707,508 | 7,602,000 | 527,929 | 60,273,477 | 36,304,102 |
| 59,223,840 | $10,488,975 | 28,490,390 | 7,420,274 | 828,854 | 11,558,563 | 8,682,699 |
| $319,713,206 | $10,488,975 | $133,197,898 | $15,022,274 | $1,356,783 | $71,832,040 | $44,986,801 |

APPENDIX II

# Analysis of SIPC Revenues and Expenses for the Five Years Ended December 31, 1982

| | 1982 | 1981 | 1980 | 1979 | 1978 |
|---|---|---|---|---|---|
| Revenues: | | | | | |
| Interest on U.S. Government securities | $20,807,973 | $24,001,865 | $19,501,245 | $15,342,696 | $11,168,387 |
| Member assessments and contributions | 282,096 | 259,506 | 154,169 | 64,321 | 8,235,672 |
| Interest on assessments | 826 | 7,063 | 76 | 8,728 | 6,493 |
| | 21,090,895 | 24,268,434 | 19,655,490 | 15,415,745 | 19,410,552 |
| Expenses: | | | | | |
| Administrative: | | | | | |
| Salaries and employee benefits | 1,195,920 | 1,113,512 | 1,069,755 | 1,009,117 | 1,032,237 |
| Assessment collection direct costs | 2,935 | 1,851 | 680 | 2,080 | 4,800 |
| Legal fees | 142,411 | 12,813 | 50,733 | 19,850 | 22,814 |
| Accounting fees (includes in 1982 $25,000 related to a customer protection proceeding) | 41,000 | 13,258 | 12,200 | 7,400 | 7,200 |
| Other: | | | | | |
| Printing and mailing annual and interim reports | 16,322 | 16,735 | 15,601 | 12,715 | 11,505 |
| Directors fees and expenses | 11,200 | 3,098 | 2,160 | 2,242 | 2,517 |
| Travel and subsistence | 135,786 | 118,220 | 44,556 | 36,446 | 37,281 |
| Personnel recruitment | 2,998 | 3,691 | 8,920 | 5,787 | 1,855 |
| Rent—office space | 306,440 | 158,394 | 130,725 | 131,302 | 112,844 |
| Depreciation and amortization | 12,866 | 12,705 | 11,979 | 11,474 | 12,320 |
| Insurance | 9,792 | 11,265 | 8,284 | 8,597 | 7,615 |
| Postage | 9,950 | 8,527 | 7,712 | 5,021 | 7,763 |
| Office supplies and expense | 52,534 | 53,784 | 50,226 | 46,716 | 56,842 |
| Telephone and telegraph | 23,646 | 25,278 | 24,006 | 22,191 | 22,783 |
| Custodian fees | 9,164 | 11,333 | 11,207 | 9,861 | 14,230 |
| Miscellaneous | 29,165 | 31,907 | 26,503 | 19,100 | 23,442 |
| | 619,863 | 454,937 | 341,879 | 311,452 | 310,997 |
| | 2,002,129 | 1,596,371 | 1,475,247 | 1,349,899 | 1,378,048 |
| Public information program consultant's fees | — | 101,411 | 150,503 | 44,383 | 5,000 |
| | 2,002,129 | 1,697,782 | 1,625,750 | 1,394,282 | 1,383,048 |
| Customer protection proceedings: | | | | | |
| Net advances to: | | | | | |
| Trustees other than SIPC: | | | | | |
| Contractual commitments (net recoveries) | 277,399 | 47,195 | (29,814) | (49,850) | (128,449) |
| Securities (net recoveries) | 5,898,713 | 51,526,215 | 818,362 | (6,000,106) | 75,688 |
| Cash | 7,134,544 | 11,585,507 | 1,030,140 | 608,402 | 2,545,722 |
| | 13,310,656 | 63,158,917 | 1,818,688 | (5,441,554) | 2,492,961 |
| Administration expenses | 3,331,870 | 1,292,915 | 987,077 | 255,375 | 236,647 |
| | 16,642,526 | 64,451,832 | 2,805,765 | (5,186,179) | 2,729,608 |
| Estimate of future recoveries* | — | (10,000,000) | — | (1,500,000) | — |
| | 16,642,526 | 54,451,832 | 2,805,765 | (6,686,179) | 2,729,608 |
| SIPC as Trustee: | | | | | |
| Securities (net recoveries) | (276,412) | 40,425 | 1,355,679 | 75,525 | — |
| Cash | 32,500 | 38,687 | 417,275 | 336,817 | — |
| | (243,912) | 79,112 | 1,772,954 | 412,342 | — |
| Administration expenses (net recoveries) | 62,718 | (159) | 19,695 | 1,449 | — |
| | (181,194) | 78,953 | 1,792,649 | 413,791 | — |
| Estimate of future recoveries* | — | — | (1,000,000) | — | — |
| | (181,194) | 78,953 | 792,649 | 413,791 | — |
| Direct payments: | | | | | |
| Securities | — | — | — | 34,140 | — |
| Cash | — | — | 47,250 | 216,099 | 25,000 |
| | — | — | 47,250 | 250,239 | 25,000 |
| Administration expenses (net recoveries) | (4,733) | — | — | 1,330 | 3,031 |
| | (4,733) | — | 47,250 | 251,569 | 28,031 |
| Net change in estimated costs to complete proceedings* | (6,600,000) | 15,400,000 | (500,000) | 4,500,000 | — |
| | 9,856,599 | 69,930,785 | 3,145,664 | (1,520,819) | 2,757,639 |
| | 11,858,728 | 71,628,567 | 4,771,414 | (126,537) | 4,140,687 |
| Excess revenues (expenses) | $ 9,232,167 | ($47,360,133) | $14,884,076 | $15,542,282 | $15,269,865 |

*SIPC was able to estimate costs (recoveries) commencing in 1979.

APPENDIX III

# Distributions for Accounts of Customers For the Twelve Years Ended December 31, 1982

(In Thousands of Dollars)

| | From Debtors' Estates (Including Securities) | From SIPC | Total |
|---|---|---|---|
| 1971 | $ 271 | $ 401 | $ 672 |
| 1972 | 9,300 | 7,343 | 16,643 |
| 1973 | 170,672 | 31,706 | 202,378 |
| 1974 | 21,582 | (222)* | 21,360 |
| 1975 | 6,379 | 4,746 | 11,125 |
| 1976 | 19,901 | 764 | 20,665 |
| 1977 | 5,462 | 254 | 5,716 |
| 1978 | 1,242 | 2,518 | 3,760 |
| 1979 | 9,561 | (4,779)* | 4,782 |
| 1980 | 10,163 | 2,848 | 13,011 |
| 1981 | 36,738 | 63,238 | 99,976 |
| 1982 | 28,442 | 9,359 | 37,801 |
| | $319,713 | $118,176 | $437,889 |

*Net recoveries.