

CHAIRMAN'S OFFICE  
MAILED

SEP 3 1960

Mr. R. W. van de Velde  
Faculty Secretary  
Rockefeller Public Service Awards  
Woodrow Wilson Hall  
Princeton University  
Princeton, New Jersey

Signed by: \_\_\_\_\_

Dear Mr. van de Velde:

In response to your letter of July 15, 1960, I am very pleased to nominate Mr. David Ferber, an Assistant General Counsel of the Securities and Exchange Commission, for a Rockefeller Public Service Award in the area of Law and Regulation.

Mr. Ferber was born at Hoosick Falls, New York, on February 20, 1912. He graduated from Albany Academy, Albany, New York, in 1929. He received a B.S. degree in Economics from the Wharton School, University of Pennsylvania in 1933 and an LL.B. degree from Albany Law School of Union University in 1936, where he served as Editor-In-Chief of the Law Review.

Following his admission to the New York State Bar in 1936, Mr. Ferber engaged in the private practice of law in Albany until 1942 when he joined the staff of the Securities and Exchange Commission. Since that date, he has served in progressively more responsible positions in the Office of the General Counsel. In 1946, he was designated Special Counsel, GS-14, and in 1956 he was promoted to Assistant General Counsel. Although Mr. Ferber's position is in Grade GS-15, the Securities and Exchange Commission is convinced that it merits allocation to Grade GS-16 and the Civil Service Commission has been requested to take such action as soon as space at that level becomes available.

As you know, the general objective of the statutes administered by the Commission is to protect the interests of the public and investors against malpractices in the securities and financial markets. Thus, the laws provide for public disclosure of pertinent facts concerning security offerings to the public and securities listed on exchanges

Mr. R. W. van de Velde  
Princeton, New Jersey  
Page Two

(to enable investors to exercise an informed judgment of their merits); regulation of trading in securities on exchanges and in over-the-counter markets, to the end of eliminating abuses therein; enforcement of sanctions against companies and persons guilty of securities frauds, manipulations, and other violations; integration and simplification of holding company systems of electric and gas utilities, supervision of the purchase and sale of securities, utility properties, and other assets by registered public utility holding companies and their electric and gas utility subsidiaries, and approval of their reorganizations, mergers, and consolidations; qualification of trust indentures pursuant to which large issues of debt securities are sold; supervision of the activities of investment companies engaged in the purchase and sale of securities, and elimination of abuses in the conduct of their businesses; regulation of the activities of investment advisers who render securities advisory services to others; and performance by the Commission of advisory services to courts in reorganization proceedings for bankrupt corporations.

In his capacity as Special Counsel and subsequently as Assistant General Counsel Mr. Ferber has participated with great distinction in much of this Commission's litigation arising under the various statutes administered by the Commission and under Chapter X of the Bankruptcy Act. The Supreme Court briefs in which he has participated include such cases as Securities and Exchange Commission v. American Power & Light Company, 329 U.S. 90, where the constitutionality of the principal regulatory sections of the Public Utility Holding Company Act of 1935 was sustained; Young v. Higbee, 324 U.S. 90, a determination under Chapter X of the Bankruptcy Act which established new law in the field of fiduciary responsibility in corporate reorganization; Ralston Purina Company v. Securities and Exchange Commission, 346 U.S. 119, which upheld the Commission's view that a stock offering to employees was a public offering not exempt from the registration provisions of the Securities Act of 1933; General Stores Corporation v. Shlensky, 350 U.S. 462, upholding the Commission's position that Chapter XI of the Bankruptcy Act could not be used in a case where Chapter X is more appropriate; and Securities and Exchange Commission v. Variable Annuity Life Insurance Company, 358 U.S. 812, where the Commission's view was sustained that variable annuities must be registered under the Securities Act of 1933 and the companies issuing them were investment companies required to be registered under the Investment Company Act of 1940. Mr. Ferber has personally argued appeals in each of the circuits of the United States Courts of Appeals. These have embraced substantially all phases of Commission appellate work varying from such matters as appropriate fees to be awarded in

Mr. R. W. van de Velde  
Princeton, New Jersey  
Page Three

proceedings under Chapter X of the Bankruptcy Act (Finn v. Childs, 181 F. 2d 431 (C. A. 2, 1950), Surface Transit Inc. v. Saxe, Bacon & O'Shea, 266 F. 2d 862 (C. A. 2, 1959)), to upholding the Commission's determination as to the elimination of inflationary items from the accounts of a public utility under the Public Utility Holding Company Act of 1935 (Securities and Exchange Commission v. American Power & Light Company, 158 F. 2d 771 (C. A. 1, 1946)).

Although Mr. Ferber's work in district courts has been for the most part of a supervisory nature, he has also on occasion appeared in injunction actions brought by or against the Commission.

Mr. Ferber also has participated in an outstanding manner in all other phases of the activities of the work of the General Counsel's Office. He has prepared various comments regarding pending legislation. Among others he participated in this connection in the Commission's extensive comments on the bill which became the Administrative Procedure Act, which comments led to various changes in the bill prior to its ultimate enactment. Since that time Mr. Ferber has been active in substantially all administrative procedure problems of the Commission and has also been active in the work of the Administrative Law Committee of the Federal Bar Association, including participation as a speaker at the 1958 Convention.

Mr. Ferber has participated in the drafting of various Commission rules and regulations. He also served as Chairman of a staff committee established to study and review the Commission's Rules of Practice to provide for more efficient and expeditious conduct and disposition of administrative proceedings. The Commission adopted a revision of the Rules on June 30, 1960. In addition, he is generally called upon to advise the various divisions of the Commission and the Commission itself on numerous day-to-day legal problems that arise in the administration of the securities acts. Mr. Ferber also has responsibility for supervising and training junior attorneys with respect to the various problems arising in the Office of the General Counsel.

Mr. Ferber is the co-author of an article in 16 Federal Bar Journal 62: "Chapter X or Chapter XI - Implications of the Supreme Court decision in the General Stores Case," and of an article at 28 George Washington Law Review 319: "Conflicts of Interest in Reorganization Proceedings Under the Public Utility Holding Company Act of 1935 and Chapter X of the Bankruptcy Act." He has participated in most of the FBA-BNA briefing conferences on securities law and regulation.

Mr. R. W. van de Velde  
Princeton, New Jersey  
Page Four

A devoted public servant and a keen student of his profession, Mr. Ferber is a recognized authority in the fields of securities law and regulation, administrative law and reorganization law. He has established an enviable reputation not only within the Commission but also with the bench and the bar. He is indeed deserving of the special recognition which a Rockefeller Public Service Award would accord him and I strongly commend him to the Committee on Selection and to the Trustees of the University as a most worthy candidate for the high honor of a Rockefeller Public Service Award.

If selected, I understand that Mr. Ferber would be most willing to undertake one or more law review articles dealing with the pitfalls of recent trends toward uniformity in administrative procedure as applied to different agencies. This is a field of law in which Mr. Ferber is particularly qualified and the publication of the results of his studies would be most useful to the various administrative agencies and others interested in the development of legislation in this area.

The following persons who are the present General Counsel of the Commission and the previous two occupants of that position - under whom Mr. Ferber has worked for the past eighteen years - would, I believe, join in support of his candidacy:

Thomas G. Meeker  
205 South Aberdeen Avenue  
Wayne, Pennsylvania

William H. Timbers  
256 Brookside Road  
Darien, Connecticut

Roger S. Foster  
185 Gordon Street  
Pittsburgh 18, Pennsylvania

Sincerely yours,

Edward N. Gadsby  
Chairman

H, POLLACK;W, E, BECKER;bsl