

File - CRIMINAL

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MEMORANDUM

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CHAIRMAN CARY ✓
COMMISSIONER HASTINGS ✓
COMMISSIONER WOODSIDE
COMMISSIONER FREAR

For Commission
calendar on: OCT 12 1961

To : The Commission
From : The Division of Corporation Finance
Atlanta Regional Office
Re : Nylonet Corporation
24A-1230

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Orval L. DuBois
Secretary

Subject: Procedure proposed by Atlanta Regional Office in connection with temporary suspension of Regulation A exemption of Nylonet Corporation.

On October 3, 1961, the Commission issued a temporary suspension order for the Regulation A exemption for Nylonet Corporation in accordance with Rule 261 of the General Rules and Regulations under the Securities Act. In the course of the discussion with the staff concerning the suspension, the Commission requested that the staff report on the plans of the Atlanta Regional Office with respect to setting a hearing for the suspension upon the Commission's own motion and possible criminal reference.

Based upon information obtained in the investigation by the Miami Branch Office and the Atlanta Regional Office pursuant to the Commission Order for Formal Investigation dated May 31, 1961, facts have been disclosed which indicate the principals of the company prepared and filed fictitious sales memoranda and false figures of gross sales and net profit to hide an operating loss. The Atlanta Regional Office, with the concurrence of the staffs of the Division of Trading and Exchanges, the Office of the General Counsel, and the Division of Corporation Finance, has under active consideration criminal reference to the United States Attorney in Atlanta for prosecution of principals in Nylonet Corporation under Section 1001, Title 18, United States Code.

It is the opinion of the Atlanta Regional Office that the serious nature of these actions, the fact that the securities have already been sold, and the deterrent effect which may be obtained make criminal prosecution under Section 1001 of the Code preferable to injunctive proceedings under the Securities Act of 1933. It is the opinion of the Office of the United States Attorney that, in criminal cases of this type, it is easier to draw an indictment and prove a criminal violation under the broader language in Section 1001 of the Code than is the case under the Securities Act.

It was the intention of the Atlanta Regional Office to let the temporary suspension proceed in its normal course and become permanent in accordance with Rule 261, if no hearing is requested. The Atlanta Office hopes that the Commission will not have to prove its case for a permanent suspension in a hearing because such hearing will disclose facts and witnesses necessary in a criminal action against defendant corporation and its principals. Therefore, it is the recommendation of the Division of Corporation Finance and the Atlanta Regional Office that the matter not be set down for hearing upon the Commission's own motion and that the suspension be permitted to become permanent by lapse of time unless the issuer requests a hearing. In any event, the Atlanta Regional Office will continue to work as quickly as possible with the United States Attorney's office in Atlanta for prosecution under 18 U.S.C. Sec. 1001.

18 U.S.C. § 1001, 62 Stat. 749 (1948)

"Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

Section 24 - Securities Act of 1933

"Any person who willfully violates any of the provisions of this title, or the rules and regulations promulgated by the Commission under authority thereof, or any person who willfully, in a registration statement filed under this title, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than \$5,000 or imprisoned not more than five years, or both."

cc: Messrs. Cohen
Worthy
Risk
Shreve
Lese
Loomis
Saul
Holden
Dammann
Conwill