

*Statute  
File*

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July 29, 1992

Carla B. Herwitz, Esq.  
Choate, Hall & Stewart  
Exchange Place  
53 State Street  
Boston, MA 02109

RE: PaineWebber Incorporated

Dear Ms. Herwitz:

On the basis of the facts set forth in your letter of June 29, 1992, and in reliance upon your opinion as counsel, the Securities Division will not recommend enforcement action for violation of A.R.S. §44-1844(A)(8) of the Securities Act of Arizona should the transaction take place as set forth in your letter.

With respect to your inquiry regarding A.R.S. §44-1844(A)(11), only the manuals listed in R14-4-114 are currently recognized for purposes of the statutory section.

As this position is premised upon the facts set forth in your letter, it should not be relied on for any other set of facts or by any other person. Please also note that this position applies only to the registration requirements of the Act; the anti-fraud provisions of the Act continue to be applicable.

We have attached a photocopy of your letter. By doing this we are able to avoid having to recite or summarize the facts set forth therein.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Dee Rid dell Harris".

DEE RIDDELL HARRIS  
Director of Securities

DRH:lb

Attachment

# CHOATE, HALL & STEWART

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June 29, 1992

VIA OVERNIGHT COURIER

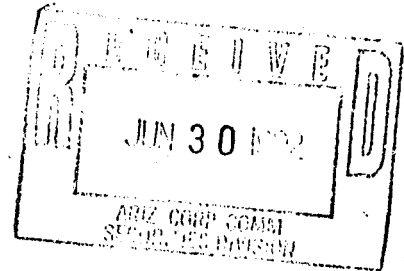
Ms. Sandra Forbes,  
Assistant Director for Law and Policy  
Corporation Commission  
Securities Division  
234 North Central Avenue, Suite 425  
Phoenix, Arizona 85004

Re: PaineWebber Incorporated

Dear Ms. Forbes:

We are acting as special counsel to PaineWebber Incorporated ("PaineWebber") in connection with a "wrap" program which it contemplates offering on a national basis. The participants in the program would be entitled, for a quarterly fee, based on a percentage of assets under management to the investment advisory services of the registered investment adviser chosen by the customer from a list offered by PaineWebber, and to unlimited brokerage commissions on portfolio transactions. An investment adviser participating in the program would be required to have a minimum of \$300 million under management. The investment adviser would have complete discretion to trade securities in the portfolio under management and to choose the executing broker. It would have been furnished with detailed information as to the financial situation of the client, its investment goals and degree of risk tolerance. Although it would be encouraged to trade through PaineWebber, it would not be required to do so in view of the overriding requirement to obtain best execution for the customer.

In order to participate, the customer would be required to commit a minimum of \$100,000 to the program. The subject matter of the portfolio would be entirely American depositary receipts ("ADRs") which might be, but would not necessarily be listed on any stock exchange or traded on either NASDAQ system. Information as to the issuer of the underlying securities would be listed in Moody's International Manual, which information would include, at a minimum, the names of its officers and directors, a balance sheet within 18 months, and an income statement for the two years prior to the date of the balance sheet.



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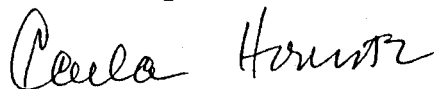
In order to offer this program to residents of a particular state, it is necessary to find a self-executing exemption which would always be available for ADRs in the portfolio. With respect to offering this security in Arizona, we believe that an exemption is available pursuant to Section 44-1844(A)(8) for the sale to a person, a principal part of whose business consists of buying securities, if the exemption were interpreted to include the sale to such a person for the account of another person to whom he owed a fiduciary obligation. On that analysis, the investor would be the registered investment adviser, whose entire business is making investment decisions for others and which would be making the investment in a fiduciary capacity for the account of the PaineWebber customer. The policy of the exemption, presumably that if the investment decision is being made by a sophisticated person the protection of the statute is not necessary for investor protection, would apply equally here.

Independently of that exemption, we believe also that the manual exemption afforded by Section 44-1844(A)(11) should be available. However, Rule R14-4-115 does not include Moody's International Manual. I would, accordingly, appreciate knowing whether you would be willing to recognize that Manual for this purpose.

I look forward to hearing from you as to whether, under the circumstances described, one of the exemptions referred to would be available. I hope that you will have an opportunity to respond to my inquiry in the near future since, as you might expect, PaineWebber is eager to launch this program very soon. Enclosed for your convenience in replying to my inquiry is an additional copy of this letter as well as a self-addressed stamped envelope.

Thank you for your kind attention to this matter.

Sincerely,



Carla B. Herwitz

CBH:kmf  
Enclosures

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