
INVESTIGATIVE MEMORANDUM ON MANAGEMENT ISSUES

September 17, 2007

To: Lori Richards

From: Nelson Egbert 

Re: Requests to registrants for documents (OIG-449)

During an investigation conducted by the Office of Inspector General (OIG-449), we learned that a regional office did not have written guidance for issuing letters to registrants when they fail to produce documents requested during examinations. The need for such guidance was illustrated by an instance we investigated where examination staff issued a "failure to produce" letter that later was rescinded. The letter contained language regarding a possible referral to the Division of Enforcement for possible action against the registrant.

We brought this matter to the attention of the Office of Compliance Inspections and Examinations (OCIE). We understand that OCIE is now preparing guidance establishing procedures governing when and how examiners should inform a registrant of the possibility or fact of an Enforcement referral. These circumstances may include when the registrant is slow to produce records, the registrant declines to undertake remedial action, or an Enforcement referral has already been made.

Recommendation A

OCIE should issue written guidance to its staff and regional offices describing the policies and procedures for informing registrants of a possible or actual referral to Enforcement.

Recommendation B

OCIE should incorporate the written guidance into its training materials and programs for examination staff.

cc: Peter Uhlmann
Diego Ruiz
Darlene Pryor
John Walsh
Jim Clarkson
Joan McKown