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Speech by SEC Chairman: Remarks at the Securities Industry Association Annual Meeting

Chairman Harvey L. Pitt

Publisher's Note: In Harvey Pitt's last speech as SEC chairman on November 8, 2002 in Boca Raton, Florida, we speak to the issue of investor confidence and how we, as an industry, the private sector, must assume the difficult task of reaining the public's trust. It is clear to former SEC chairman Pitt that advisors are fiduciaries, which is the essential first step in the indsutry regaining the public's trust. The concluding Teddy Roosevelt quote is inspirational in describing the challenge we face in elevating the financial advisor and the counsel they provide. The investor, the financial advisor and the industry has lost a good man in Harvey Pitt.

The following remarks reflect solely the personal views of Chairman Pitt and do not necessarily reflect the views of the Commission, the individual members of the Commission or the Commission's Staff.

I commend the SIA for making Investor Confidence the focus of this 2002 Annual Meeting. A lot of politicians and government regulators have talked about restoring investor confidence. But, those who rely on the federal government, or any government for that matter, to restore investor confidence has lost sight of a fundamental truth – restoring investor confidence is so important, you really must commit to solving it yourself.

Tuesday's *Wall Street Journal* ran an essay by Chuck Schwab, entitled "My Investors, My Responsibility."[1] In it, he said while government can set high standards, it's up to the business world to meet and exceed them. He laid out some thoughtful proposals, including urging the industry to "build upon the regulations and ethical obligations already in place." Chuck correctly advised that doing this "would do much to restore investor confidence."

BUT, IN THE END, IT'S INCUMBENT UPON THE PRIVATE SECTOR – YOU WHO ARE RESPONSIBLE FOR MAKING OUR MARKETS FUNCTION – TO ENSURE YOU MEET AND EXCEED THE HIGHEST STANDARDS FOR PROFESSIONAL CONDUCT

Congress can legislate new legal standards, as it did in Sarbanes-Oxley. Government can engage in regulatory reform and strong enforcement, as the SEC has done with unprecedented vigor over the last year. But, in the end, it's incumbent upon the private sector – you who are responsible for making our markets function – to ensure you meet and exceed the highest standards for professional conduct. Regulation can never substitute for people doing their jobs honestly, dedicated to serving their customers as the fiduciaries they are.

This point is illustrated in the different context of modern medicine. Similar to the securities industry, doctors confront a surfeit of laws, regulations and codes of ethics, designed to make them act the way we expect and want them to act. But no matter how many laws, regulations or codes exist, doctors must do what's right as a matter of habit and ethics – not because someone's looking over their shoulders. There are so many times when no one looks over a doctor's shoulder, frequently involving life and death situations. When doctor and patient are alone, the patient's last and best refuge is the doctor, not the rule book. Regulation can't substitute for doctors doing their jobs honestly, in a manner serving the best interests of their patients.

So it is for your customers. You're charged with taking care of their financial health. Too many Americans – even one is too many – have come to believe our industry doesn't subscribe to or implement this premise. Too many Americans who piled into the stock market at the worst possible time, lured by false expectations of sustained double-digit increases in their personal portfolios, feel fundamentally betrayed by an industry that made them believe unbelievable rises in personal wealth were possible.

To counteract this widely held perception, the securities industry must evidence far greater concern for the well-being of its customers than about profits and take-home pay. Greed isn't new. From time immemorial

human beings have exploited others for their own benefit. But, there's a limit to how much regulation or oversight can correct for greed. Fortunately, it's also good business to have good ethics. So even if your employees don't want to do the right thing for the right reason, they should still do the right thing because it's good business. Either way, in the end the way to restore investor confidence lies in redeveloping an ethos of customer service and commitment.

In the early '90s, a former client referred me to Carl Sewell's book, entitled *Customers for Life*. Sewell is a Texan who became one of the top selling Cadillac dealers in the country by focusing on customer service. Now, you may wonder what a car salesman can teach the securities industry, or even the legal profession, but Sewell's advice has some very poignant applications.

Sewell notes that, at the outset, his was one of three Dallas dealerships and was third in both sales and profits. That bothered him; so he set out to make his dealership the best it could be. "It all starts," he writes, "with the question how good do you want to be?"[2] Tying this back, Sewell decided he wouldn't just meet standards – he'd exceed them.

He thought being the cheapest would make him the best, but he quickly learned price alone isn't the solution. The answer lay, he found, in focusing on his company "from the customer's point of view,"[3] not his own. He embarked on a quest to find out what his customers didn't like about his business. He says, "They told us, quite often without mincing words."[4] Customers found service hours of 8-to-5, Mondays through Fridays, inconvenient. They said some employees were rude or didn't seem to care about customer needs or concerns. They hated being without a car while theirs was in the shop. Most of all, they hated bringing their car back two and three times to get repairs done right. Sewell writes: "They weren't very specific about how we could improve things, but what they didn't like came through loud and clear. They were telling us what [they felt] was important. They were defining service excellence."[5]

Service excellence must be your mantra, too. Ask customers what they don't like about how you do business, what services they'd like you to provide that you don't. You might be surprised. Only if investors truly believe you care first and foremost about serving their needs and interests will they become "customers for life." Like Sewell, you need to be committed to giving customers what they most want – honesty, integrity and genuine concern for their welfare.

If financial goals aren't possible – and who doesn't want to believe in guaranteed profits and sustained bull markets – then it's important to explain, honestly and forthrightly, the critical facts they need so that, together, you can meet their savings and investing goals. Your sales force must sell your customers the products that are right for their personal needs and goals, whether or not those products generate the largest profits for your firm. It's not easy. In fact, Sewell says, it's "hard as hell."[6] But it's the right thing to do and, in the end, it will profit you because you'll develop "customers for life."

When I spoke here last year, I said the securities industry is unique. For one thing, it's the lifeblood of our capitalist system and the engine that drives our standard of living, corpo-

rate competition and delivery of all the products and services that make up our free economy. For another, Congress gave it the privilege of regulating itself in the first instance. This is a rare public trust, bestowed on precious few industries. It's a trust to which this industry must constantly be devoted and against which it will continuously be measured.

I also said government has a role to play. We can ensure that all market participants operate in an environment in which certain fundamental principles apply. These are the principles that Congress set out for us because of a belief that they would benefit the markets and our economy as a whole – fair and orderly markets, transparency, best execution of orders and investor protection. No one can doubt these principles serve our markets and America's investors well. But it's up to you to make sure you don't just meet these fundamental standards; you should exceed them. And you must convince investors you've exceeded them. Only then will investors believe Wall Street has their best interests at heart.

My tenure at the SEC has been shorter than I anticipated, but nonetheless it's been enormously rewarding. The SEC is imbued with wonderful people, great spirit and a critical mission. And it's been my honor to serve the agency over the past 15 months. I'm extremely proud of what we've accomplished.

Following the terrorist attacks of September 11th, we did our part to help our country by overseeing the reopening of our markets. When the markets reopened on September 17th, it was a day of record volume, without incident. All market and investor protections were squarely in place. Investors had the freedom to buy or sell. The message sent around the world was simple but poignant: Our markets are the most resilient in the world, and they represent freedom and a way of life – things terrorists can never destroy.

The crisis of terrorism was followed by a crisis of corporate collapses. Even before these long-percolating scandals erupted, we knew the efficacy of our system of regulation needed substantial improvements. Last fall, we launched the most aggressive reform agenda in our history. The corporate scandals and collapses spurred us to accelerate and broaden our efforts.

I'm proud we forced executives to be more accountable to investors. By demanding sworn certification of past financial statements, we got executives' attention and helped reduce the constant fear that additional shoes were about to drop. Now, new rules require sworn certifications of all future statements; executives must know not just the bottom line but how the company got there.

I'm proud of real-time enforcement and the staff dedication that makes it possible. We began focusing on how our enforcement initiatives could help investors, and that became our principal goal. We were in court with fraud charges against WorldCom within 24 hours of the company's restatement and won a freeze on executive bonuses and departure compensation within 72 hours. That meant more money for investors and creditors. And, we're doing that in scores of cases.

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Most important, I'm proud of the SEC staff for going above and beyond the call of duty in a trying year for the agency. They've worked long and hard hours to address record numbers of corporate failures, and to put rules and systems in place to ensure that investors and our markets have more protection from such failures. And, no matter what people think or say about our appointed members, our staff deserves only kudos. As Commissioner Glassman said yesterday in a statement, "it is important for investors to understand that the work of the Commission will continue. [The SEC has] an excellent, dedicated and hard working staff."

Unfortunately, turmoil surrounding my chairmanship makes it very difficult for the Commissioners and staff to perform critical assignments. I hope my successor isn't greeted with the same climate of attack and partisanship. It's easy to find fault, and it's easy to criticize. In a partisan environment, criticism often devolves into attack. This doesn't help anyone. In fact, it's not just unproductive; it's counterproductive.

When a single mother struggles to save for her children's education or a retired person struggles to accumulate enough money to keep a roof over his head and pay for prescription drugs, that is the time when partisan political advantage must be eschewed. Real Americans, who invest their blood, sweat and tears to amass a share of the American dream, are only helped when we work together, constructively, to solve problems. President Bush has worked hard to change the tone in Washington. On Tuesday, voters clearly rejected the existing climate of negativity in favor of his approach.

After I announced my decision to resign, a dear friend sent me a quotation from a Teddy Roosevelt speech that I find particularly apt: "It is not the critic who counts, nor the man who points out how the strong man stumbled or where the doer of deeds could have done better. [C]redit belongs to the man who is actually in the arena; whose face is marred by dust, sweat and blood; who strives valiantly; who errs and comes up short again and again, because there is no effort without error and shortcoming; who knows the great enthusiasm, the great devotion; who spends himself in a worthy cause; who at best, knows in the end the triumph of high achievement; and who, if he fails, at least failed while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."[7]

To best serve America's investors, that's the standard to which we all should aspire. Thank you. ■

Notes:

[1]Charles R. Schwab, "My Investors, My Responsibility," *The Wall Street Journal,* November 5, 2002, p. A22.

[2]Carl Sewell, *Customers for Life,* 1990, p. xvii.

[3]*Id.,* p. xviii.

[4]*Id.,* p. xix.

[5]*Id.,* p. xix (emphasis in original).

[6]*Id.,* p. xx.

[7]Theodore Roosevelt, Paris Sorbonne, 1910.