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Section	5
Rule	145
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Myron Winegarden, Esq.
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 501 Citizens Bank Building
 Flint, Michigan 48502

Washington Service Bureau, Inc.
 1225 Conn. Ave., N. W., Suite 600
 Washington, D. C. 20036
 (202) 833-9200

Re: Citizens Commercial and Savings Bank

Dear Mr. Winegarden:

This is in reply to your letter of February 26, 1973 concerning the definition of the term "party" as used in Rule 145(c). The term is defined in Paragraph (e) to mean "the corporations, business entities, or other persons, other than the issuer, whose assets or capital structure are affected by the transactions specified in paragraph (a)." (Emphasis supplied.) You question whether the Paragraph is intended to bring within the definition of an underwriter, a natural person who is not an affiliate of the recapitalizing, acquired, or transferring person indicated in Paragraph (a).

It is the view of this Division that such non-affiliated persons are not deemed to be underwriters within the meaning of the Rule. (See Securities Act Release No. 5316 at p. 9.) On the basis of the facts presented, this Division cannot concur with your statement that no shareholder of Citizens can be deemed to be an affiliate thereof, exception noted. The Act contemplates that some person or group of persons will be in control of every corporation or business entity. The determination whether or not an individual shareholder is an affiliate of the issuer is a factual one. Since the staff is not in a position to make the investigation necessary to ascertain the requisite factual information, and since this information is more readily available to the issuer and its counsel, we are unable to express any opinion as to whether the individual bank shareholders would be affiliates of the issuer. In this connection your attention is directed to Rule 405 under the Securities Act of 1933.

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With respect to your presumption concerning sales by the Bank's Trust Department of the Bank's securities under Rule 144, your attention is directed to the Division's letter of March 14, 1973 to the New York Clearing House which addresses itself to that question.

Sincerely yours,

William E. Morley
William E. Morley
Attorney Adviser

Enclosures

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