

**YOU AND YOUR BROKER:  
YOUR DUTIES AND RIGHTS AS  
CUSTOMER, HIS OBLIGATIONS  
TO YOU AS AN AGENT**

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You and Your Broker: Your Duties and Rights as Customer, His Obligations to you as an agent  
by Robert Lincoln Smitley

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**ROBERT LINCOLN SMITLEY**

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## FOREWORD

**T**HIS booklet is compiled solely for the purpose of educating the broker's client in the intricacies of the brokerage business. There are so many chances for misunderstandings between broker and client, that much of the broker's time is occupied in explanation, and, on the other hand, the customer, not understanding the reasons for certain acts on the part of the broker, decides without due consideration, that he is being taken advantage of. The various chapters in this booklet cover all the recognized subjects of controversy.

In addition, the addenda contains the rules for transfer and delivery, which in the past have been very acceptable to the managers of branch offices and correspondents.

All the information given has appeared in The Magazine of Wall Street at various times. That which was in some of the older numbers has been brought up to date to apply to present conditions in the business.

It is especially valuable for the investor or the trader, as it is the only compilation which goes into the subject from the viewpoint of both client and broker.

In the case where the illustrations do not conform to the particular method of the broker, the basic principles are set forth, so as to be applicable to every situation.

Articles and arrangement by  
**ROBERT L. SMITLEY.**

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## Choosing Your Broker

**T**HE majority of customers of brokerage firms know very little about the firms with which they do business. In most cases, the customer becomes a client on account of his personal acquaintance with the manager or one of the partners; because he is attracted by an advertisement or market letter; because the firm has a reputation for making money for its customers; or the association might come about through banking connections. It makes but little difference how the customer happened to become a client, he should know all there is to know about the firm with which he is dealing.

### Safety First

No sane man deposits his money in a bank until he has made a study of the officers and directors of the bank, noted its latest statements, and assured himself that the bank is a very strong institution. And it is a peculiar fact that very few if any, sane men ever take the precaution to investigate their brokers.

It is a known fact that the firms with large capital, whose business is very large know about the "pools" and the incidentals of some particular stock before the movement up or down is apt to begin. Many of these large firms apportion a participation for each of their customers in these "good things" and it is the desire of every trader to belong to such a clientele. This particular service of the larger firm may offset the desire for the more personal service of the smaller firm.

### The Matter of Personality

Personality often enters into the relation of broker and client to an undesirable degree so far as the interests of the client are concerned. When a client is placing his money for banking, speculation or investment, it is the duty of such client to make an impersonal investigation. He may find that the most unattractive personality offers the safest service and the best information. Neither incorporation of the exchanges, or any governmental control will help the client in solving this problem. He must do it for himself. The old rule, "Let the buyer beware," is as important in the selection of a broker as in any other form of business.

### Suggestions to Follow

The following are a few general suggestions for the client to follow in the investigations as to where it is best to open an account:

1. Decide, according to the nature of the proposed business, whether you desire personal attention with a small firm, or the advantages of a large firm.
2. If the intention is to carry large debit balances in the account, the large firm is preferable.
3. An investigation of the personality of the members of the firm is very necessary. Are they big spenders, or noted as heavy speculators, or are they conservative with good moral reputations and accredited with the ability of discerning financial acumen?

4. How do they treat their employees? Are they well paid and do they work under good physical conditions?

5. What kind of a man is the customer's manager?

6. Is the firm rated with the financial agencies, such as Dun's or Bradstreet's and what is the general opinion of its resources among its competitors? What do the partners tell you about the approximate capital which is invested in the business?

7. What are the facilities for keeping the customers well informed? Does the firm keep up to date in its subscriptions with the financial magazines, the news bureaus, the statistical agencies, and general business conditions? Will the customer be informed regularly regarding dividend periods, assessments reorganizations and other important data, or will the customer be permitted to wander through the financial mazes alone?

8. Is the detail of the office so well organized that the client may get information about his account at once and with accuracy?

9. Has the firm such connections as will enable it to at once locate the best markets, get the earliest data regarding new market movements, and secure participation in new and good investments and speculations?

10. Will the firm permit trading with inadequate margin—the greatest of all financial sins—and will the rules ever permit an account to fall below a ten per cent. basis?

11. Does the firm enjoy easy access to all good markets for the purchase or sale of securities, or does it have to charge an extra commission to effect a proper execution of orders?

12. Is the "Floor Member" efficient, always at his post, reporting your transactions at once, or will you suffer delay? Does the ticker, or official report of transactions, correspond with the reports of your broker?

13. When you have stocks or bonds paid for, does your broker put them in an envelope marked as your personal property until such a time as you contract a debit account with him, or does he use what you own "outright" to carry on his business?

14. What is the character and standing of the other customers whom you may happen to meet? Are they investors, speculators, or chance takers?

Ask the above questions, and more of a like nature, if you desire, but always remember the old motto, "Caveat Emptor."



## Transfer of Securities

The old saying that "Possession is nine points of the law," was and is never more applicable than in the case of owners of stocks and bonds. There are few, however, who realize just what "possession" means in this case. The fact that one may have the actual securities in his safe deposit vault or have his broker's account show him to own such securities, is not nearly so determinate a meaning of the word as when the securities are actually registered in his name and such registry appears upon the books of the company.

Whenever securities are really owned, they should, without exception, be transferred on the books of the company and registered on their face in the name of the owner.

If a controversy should occur between broker and client, the broker has the burden of proof on his shoulders in making any claim; for the company recognizes as owner only the name on its books, corresponding to the number on the certificate. If the owner neglects to have the stock transferred to his own name the legal burden of proof rests with him. It is universally recognized that the defendant in any action, whether of a legal or merely arbitrary nature, has the advantage of the aggressor. The registration of securities, therefore, is a distinct insurance in favor of the owner, and it does not cost him one cent.

### Penalty of Non-Transference

The brokerage clerk will tell any stock owner that about the most difficult feature of his work is to collect dividends for customers who have refused or neglected to have the certificates transferred. An instance recently occurred in the case of a holder of Nipissing Mines stock. A customer held two thousand shares and received it from his broker just before the dividend paid previous to that declared as of December 31, 1915. The certificates were in forty or more different names, all unknown to the present holder. The company paid the dividend to its registered holder, not recognizing the real owner, because the latter had not transferred the stock. The owner realized his misfortune too late, for the company will not collect the dividends for him. The broker succeeded in collecting all except for two hundred and twenty shares. The owner of two hundred shares had disappeared in Alaska and the twenty share man could not be found at any registered address.

It should not be necessary to point out the moral in the above case. To make matters worse, the broker always charges a commission of one per cent. of the dividend when he does collect for the client. Suppose the stock had been American Tobacco, which pays 5 per cent. quarterly. The loss to the owner would have been in the nature of a disaster.

### Chances In Not Transferring

The chances in not transferring non-dividend stocks—that is the chances for loss—are not so great; nor do they come often, but when they do come they are serious. An example is the case of the Wabash stocks, before the recent re-organization. Let it be supposed that Brown owned 500 Wabash common. He knew that the stock did not pay a dividend and never would, so he never bothered to have it transferred to his name. When

Wabash went into the receiver class, Brown was in British Columbia, or very ill in a hospital. The company sent out announcements and the receiver sent out his plan for re-organization to the *registered* stockholders of the 500 shares but nary a word did Brown see. In consequence he did not pay his assessments or go into the new company and his stock became worthless. (It so happened that in the Wabash case it was cheaper for the owner to allow his holdings to pass as worthless and buy the "when issued" stock), but this was not the case in the Missouri Pacific situation or many others. There are some non-dividend paying stocks which combine with other concerns and issue rights. Unless the owner is accustomed to scan all newspaper advertisements and to frequent brokerage offices, he stands a chance of missing a valuable document from the company, unless the stock is in his name. Recent instances of this nature are the Driggs Seabury-Savage Arms combine and the United Fruit Co. rights. How many owners of Braden Copper, who have neglected to transfer the stock, could tell just how much Kennecott or cash they were entitled to? How many holders of Guggenheim stock could tell how much Kennecott, cash, Smelters, Ray and Chino they should get, or how much cash was left with the company representing equity in their stock? The importance of registering every share of stock owned in the owner's name cannot be emphasized too strongly.

#### **Sanitary Considerations**

Before leaving this phase of the subject, there is one other element which should induce every owner to register stock in his name. It is that of cleanliness and newness. A clean, new certificate, without powers-of-attorney stamped all over its back, is a much better possession than a dirty crumpled, indistinct piece of parchment, on which the reading is recognized with difficulty. This feature is an added phase of the insurance.

#### **In Case of Death**

The owner must desire to protect his heirs in case of death. Not long ago the owner of 100 shares of a non-dividend paying stock brought it to a broker for sale. He had held the stock for a period of five years, and as the stock did not pay a dividend and never promised to, had not transferred it to his own name. When the broker made delivery of the stock to the purchaser, the latter at once recognized the name in which the certificate stood to be that of one of the Wright brothers who had died some months previously.

It required many months of legal red tape to elapse before the real owner could get his money from the sale. This is but one of the pitfalls for the careless owner. If he had died also, in the above case, the complications would have been serious. Transfer the stock to your own name *at once* and sign it, in blank, on the back, if you wish to make things easy for either yourself or your heirs.

#### **In Case of Sale**

A fourth kind of insurance by having stock in your name is in the matter of the sale. There is no question then as to forgery, and no doubt as to the right of the individual, on the face of facts, to dispose of the security in any way that he sees fit to do so. It is only a few years ago that the newspapers were full of the accounts of the forgery of some Laclede Gas stock. It is easy to imagine an innocent purchaser having one

of these forged certificates delivered to him on a purchase, not selling it for five years, and then having the purchaser find it to be a forgery. If he had made efforts to have the stock transferred at once to his own name, the loss, if any, would not fall upon him; for he could at once return the stock to his broker, who has ten days in which to return a "bad" delivery to the original seller, before he can be forced to participate in any loss of this nature.

### Lost Certificates

But there is a fifth kind of insurance and really a very important one: lost certificates. How much easier it is to get a new certificate from the company if it is lost in the owner's name, than if lost in someone else's name! The various corporations have different rules in the matter of a lost certificate, but in a general way they are: notification to the transfer office to have the transfer stopped; notification to the various exchanges on which the stock is traded; advertisements in various newspapers, and finally a bond covering double the value of the certificate.

These rules are easily complied with in case the stock is in the owner's name. If it is not, proof of legal ownership must be rigidly established, the owner must notify the registered owner, even if he be in the trenches in Flanders, and various other legal steps must be observed in addition to the ordinary usages. It is inconceivable how any owner of stock can refrain from having the securities transferred at once to his own name, after realizing the chances he takes in not doing so.

### Matter of Expense

The large odd lot brokerage firms have forced the general brokerage firms to accept stock sold to them by transfer. This uses up the original sales tickets on which the revenue stamps are affixed. Unless the customer permits the broker to give his—the customer's name—to the seller, the stock will be delivered to the broker in the broker's name. If at a later date the customer instructs his broker to transfer the stock to his own name from that of the broker's, additional revenue stamps are required.

The stock exchange does not permit the broker to pay for these additional stamps, so that a second charge must fall upon the customer. It is therefore advisable for the customer, if he intends to pay for the stock, to have it transferred to his own name immediately upon information of the purchase by his broker. This is a very important feature of the brokerage work in Wall Street today but very few customers take advantage of the situation and delay in instructing the broker to use their names. If all such cash customers lived up to their duty, which duty is to their own advantage, the broker and customer would be better satisfied. This act upon the part of the customer also insures him against the so-called "bucketing" of his orders in a questionable broker's office, and insures him against any loss in case of the failure of the firm with which he is dealing.

The situation in bonds is somewhat distinct from that of stocks, because there is always a better market for bearer, coupon bonds than for registered bonds. But there is also a way for protection in bonds in most cases. Almost all issues of bonds provide for the registering of the principal only. The broker can take any ordinary coupon, bearer bond purchased and have the principal of the bond registered. The coupons remain as they