

Mr. COHEN. Well, you have two questions in that, two points you make in that question. It is true, as I stated before, that a number of funds were created by investment counselors in order to take care of persons who did not have the amount of cash available that they thought appropriate for handling that person's problems or plans on an individual basis. They therefore set about to create a corporation in which the individual's wishes would not have to be dealt with, but they created an institution whereby some person could come in and obtain a participation in the institution, without any choice on his part, once he is in there, as to the nature of the securities, as to the management activities of the company. But while this is true of certain investment counselors—

Mr. KEITH. Pardon me. I just want to keep it straight as you go along here. At the time that he entered into this contract to acquire the shares in the mutual fund, the management company portfolio, he was advised as to what the financial objectives were, the investment policy. I mean if there was none stated, then it was carte blanche, but generally speaking it would give some indication in the prospectus to comply with customer rules and procedures in this area.

Mr. COHEN. Mr. Keith, I must disagree with that about 1,000 percent. First, I want to complete the answer to your question. While there were a number of investment counselors who set up funds for this purpose, I did indicate when I was here last that a great many other funds were created by broker-dealers, in order to have a vehicle that would be available and also perhaps to partake of the brokerage. It is interesting to note that a great many of these investment counselors who did set up these organizations set up an organization which would provide its shares to the general public at no load, no charge, and I think you heard from representatives of that group.

In addition to that, mutual funds were set up by business people, some of whom had no experience whatsoever in this field at all, because this as I indicated has provided for those who have created these things, sold them, managed them, something in the nature of a money tree, and this is found to be the fact today.

There is a rubber company, at least one, that owns a management firm; I.T. & T. owns one. There is a brewery company. It is just good business. In fact, many of them are so incapable of running the fund that they subcontract it out, and I introduced as an exhibit tables which showed that where that existed and where there was arm's length bargaining for the provision of the services, the charges made to the investment adviser, who is receiving the typical charge, were very very substantially less than that. I think I have an extra copy of that exhibit here today, and I can illustrate that at some length.

But now coming back to your question as to the structure, it seems to me that at various times the industry goes one way and says, "Why, this is a corporation, and if we are to be tested in what we do, we must rely on the traditional corporate waste doctrine to protect us from everything."

At another time they say, "Well, that is just in the way somehow, and this is really a shell, and it is a direct relationship."

Well, it isn't a direct relationship. It is a corporation. It is deliberately chosen as such, and the Congress recognized that in 1940, and because it is a corporation and because it is an institution, you get institutionalized services. I think it should be viewed that way.