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Vesco's Luck Remains Astonishing in Court

NEW YORK—The courtroom luck of Robert L. Vesco continues to be astounding. Even when he loses, it seems, the fugitive financier comes out a winner.

Vesco's peculiar courtroom batting average goes back to 1971 and it raises all kinds of questions about the way the courts operate—or, rather, the way they sometimes don't seem to operate at all.

In May 1971, Vesco sued the Securities and Exchange Commission, which was then investigating his affairs, charging that the questions they wanted to ask him would get him in trouble in Switzerland. At the time, he was a director of a Swiss bank. He claimed he was bound by the well-known Swiss bank secrecy laws.

The court, in the person of a burly judge more than 70 years old, cut off the argument in the middle of the hearing. He waved Vesco's attorney back to his seat and told him, in effect, that he had no case. In U.S. courts, he said, U.S. law obviously prevails and Vesco

had to answer the SEC's lawful questions.

That seemed to take care of the problem, only it didn't. Even with the decision from the bench, the SEC could do nothing. Vesco's lawyers immediately told the court they would appeal the ruling—which also granted the SEC's request that Vesco be ordered to testify—and they were granted a stay.

That meant that everything had to wait until a written ruling was issued so it could be presented to the appeals court in Philadelphia.

The judge, who had thrown Vesco's case out after less than an hour of oral argument, then took more than two months to write his decision. Meanwhile, the SEC's investigation—which later resulted in the largest fraud suit the commission ever filed—had to wait. Chalk up a battle won for the SEC, but an important victory for Vesco, who later said the suit was intended only as a delaying action anyway.

There's an even better one now. Last spring, in fed-

eral court here, that big SEC case came up for a preliminary hearing. For ten weeks, Judge Charles E. Stewart Jr. listened to testimony. It then took him more months to issue an oral ruling from the bench. That was on Sept. 21, when he told the lawyers he would have written findings ready in a week to ten days. It is now almost mid-June and the findings haven't come yet.

Once again, Vesco's lawyers have said they will appeal, so the appeal has to wait until Judge Stewart decides to take pen in hand. The actual trial of the SEC case is, at the least, months and months away, and the job of putting it all together is made much more difficult by the lack of a definitive ruling from the judge.

The current hangup is more important than the first delay, both to the SEC and to shareholders of the mutual funds that Vesco and his group are accused of bilking.

In his oral ruling, Judge Stewart granted the SEC requests for preliminary in-

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junctions against all but five of the individual defendants and appointed a receiver for the corporate defendants. The receiver is permanent on the basis of a default judgment entered because the corporations never bothered to answer the charges.

The receiver's job is to gather all the assets he can and either safeguard them or distribute them to shareholders. Since the money in question formerly belonged to the IOS, Ltd., empire, it is spread all over the world and law suits have been instituted to get the help of foreign governments in protecting the funds. All of this, too, is hampered by the fact that there are no final findings from Judge Stewart.

Since hearing the Vesco case, the judge has had some other things to do. He presided over the trial of Dr. Kenneth Riland, physician for both President Nixon and Former Governor Nelson Rockefeller, who was acquitted of income tax evasion. So he's been a little busy. But it's been more than eight months since the judge promised to wrap things up. Meanwhile, Vesco proclaims to the world that he's never been convicted of anything — he hasn't — and the people trying to pick up the pieces find their job much more complicated than it has to be. The charm is still working.