

Financier Smith Listed In Fraud Suit by SEC

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The Securities and Exchange Commission yesterday accused California financier C. Arnholt Smith and others of defrauding a San Diego bank and a conglomerate corporation which Smith controlled.

Smith is a long-time friend and financial backer of President Nixon. He is also owner of the San Diego Padres baseball team, pending approval by National League owners of the team's sale to a Washington group headed by Joseph B. Danzansky for a record \$12 million.

Last December it was reported that the Nixon campaign returned a recorded \$50,000 campaign contribution to Smith because of investigations by the SEC, the Justice Department's Antitrust Division and the Civil Aeronautics Board into various business activities.

It was also disclosed yesterday in a deposition made public in one of the Watergate civil suits that Smith also contributed "\$300,000 or possibly less" to Nixon's re-election before the April 7, 1972, reporting deadline went into effect. This money was also returned, according to Eveline M. Hyde, an assistant to Hugh W. Sloan, the former Nixon re-election campaign treasurer, because of the "problem in California." The statement, which was not explained, apparently referred to the government's investigations into Smith's affairs.

The SEC suit, filed in U.S. District Court in San Diego, charges that Smith and other defendants capitalized on their positions "to systematically appropriate the assets"

of the Westgate-California Corp. and the U.S. National Bank of San Diego for their own use while putting out false and misleading financial statements to camouflage their activities.

Smith until he resigned last Saturday was chairman of the bank which has an estimated \$1 billion in deposits and which ranked 87th in size in the country at the end of 1972. He earlier was also the president and chief executive officer.

According to the SEC suit he is chairman and chief executive officer of Westgate, which has more than \$200 million in assets and controls 40 subsidiary companies, including airline, real estate, hotel and fishing interests.

The SEC asked the court to bar the 74-year-old Smith from assuming a position or continuing to act as either an officer or director of any publicly owned company. The commission also asked the court to appoint a receiver to take over the company, investigate its accounts and conserve its assets.

According to the SEC suit, Westgate subsidiaries and assets were sold to companies owned or controlled by Smith and the other defendants. Smith is charged with personally approving loans to finance the purchases through the U.S. National Bank. The suit says the loaned funds were used to inflate or manufacture earnings for Westgate. The SEC said that \$17.5 million in manufactured earnings were included in the company's earnings statements between 1969 and 1972.

The financing role of the bank, the SEC charges, was concealed "by channeling the

borrowings through numerous corporate entities."

"The sales were carefully structured to appear as arm's-length cash transactions," the suit says, but Smith "was on all sides of the transaction," directing the sales, obtaining the nominees to stand in as purchasers, authorizing the loans, and passing on the proceeds.

A spokesman for Smith said that he would have no comment until he had a chance to look at the complaint.

The filing of the suit is not expected to have any effect on the sale of the San Diego Padres. There has been speculation, however, that the reason Smith agreed to the sale of the baseball team at this time was to improve his own cash position. Smith could become the object of various shareholder suits based on the SEC allegations.

Smith and Westgate-California were named last year in a \$300 million shareholder damage suit filed in San Diego.

The office of the U.S. comptroller of the currency, which regulates banks, yesterday announced in conjunction with the SEC suit that directors of the U.S. National Bank of San Diego and Smith had consented to an order to cease and desist from making loans to the Westgate complex. The office also said that no losses had been incurred by the bank in conjunction with past loans.

Other defendants in the SEC suit are Philip A. Toft of San Diego, a director and president of Westgate; M. J. Coen, who has served as board chairman and president of First California, a large San Francisco brokerage firm, and a half dozen companies controlled by the defendants.