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June 24, 1983

Walk with Summar Associates, 1983
History of Pillsbury, Madison &
Sutro by John A. Sutro, Sr.

I have been asked to tell you something of the history of the firm. I guess I am the best qualified because I have been around here the longest.

The history of the firm has to start with Evans S. Pillsbury, who was the founder of the firm. He was born in Maine in 1839. In October 1861, he was commissioned as a Lieutenant in the Maine Calvary. He fought with the Union Army. He was in the battle of Cedar Mountain when he contracted dysentery and he was surveyed out of the Army. He went back to Maine. His doctor in Maine said, "Well young man, if you want to live awhile you'd better go out to California where they've got better weather." So he came out to the San Joaquin Valley, and went to Stockton. He studied law; obviously he was not a lawyer at that point. He took the bar exams--I guess they didn't have bar exams in those days, but he was admitted to practice in 1866.

He lived until 1934 I think it was. So you can see the medical advice he got from the doctor back in 1861 was pretty good.

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He was elected District Attorney of San Joaquin County in the same election as Mr. Lincoln ran for his second term as president.

I think it is on the seventh floor in the east side there are some election tickets that are up there that are really quite historical. They look like they are about an inch or so in width and about that long and they are colored and they said they vote for Mr. Lincoln for president and so forth down the bottom and vote for Mr. Pillsbury for District Attorney. They are historic.

Mr. Pillsbury practiced in San Joaquin County (as I said he was elected District Attorney) until 1873 when he came up to San Francisco to start practicing law. He had a number of partners. He ended up with a firm called, "Pillsbury, Blanding & Hayne." It was around 1888, 1889 or 1890 and the offices of the firm were on the northwest corner of Leidesdorff and Pine. The building is still there, it is a little bit of a thing, about this big, and that was where the offices were. It was not, obviously, a very large office. It consisted of Messrs. Pillsbury, Blanding and Hayne. Mr. Pillsbury was by far and away the most active. In 1889, Mr. Frank Madison came as a law clerk to work for the firm while he studied law in Hastings. He was admitted to practice in 1892. In 1891, my father graduated from Harvard College.

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He came out and was employed as a law clerk by Mr. Pillsbury while he went to Hastings. Mr. Madison and my father had desks in the hall of the office. It was between the business office where a very fine British gentleman named Mr. Barnett ran the business end of the office. At the far end of the office, down the hall past Mr. Madison's and my father's desks, Mr. E. S. Pillsbury had his desk, or I should say had his office.

Mr. Pillsbury was in his office one day and Senator Fair, a client of his, came to see Mr. Pillsbury and told Mr. Barnett that he would like to see him. So Mr. Barnett walked down the hall, he did not realized that Senator Fair was following him, past my father's and Mr. Madison's desks. Mr. Pillsbury, I guess, was reading a book in his office and Mr. Barnett said, "Senator Fair is here to see you, sir." Well, Mr. Pillsbury was known more or less for his profanity. It wasn't bad, but he didn't look up from his book and said, "Send the old son of a bitch in." At which Senator Fair did an about-face and left the office and never came back.

Another incident of Mr. Pillsbury's very practical way of speaking was after the 1906 earthquake and fire, he and Mrs. Pillsbury were walking down the street. Mrs. Pillsbury said to him, "Evans, don't you think this would be an appropriate time to say that you will never take the name of the Lord in

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vain again?" He turned and said, "Hell no, how do I know what He has got up his sleeve!"

But he was a very fine lawyer and very great man. His son, H. D. Pillsbury came into the firm some years later and my father's brother, Oscar Sutro. After the Spanish-American war, Mr. Pillsbury decided that it would be a pretty good idea to open up an office in Manila. So he got my uncle, Oscar Sutro, to go out to Manila to open up an office. He never went to Manila himself but the firm was known as "Pillsbury & Sutro" out in Manila. That lasted for awhile. There were a number of lawyers out there. There was a man named _____ Lawrence who had that firm for years and later came into San Francisco to practice.

When my uncle returned, H. D. Pillsbury, Mr. E. S. Pillsbury's son came into the firm. Mr. Pillsbury decided that it would be appropriate after 1900 to make them partners. The firm became "Pillsbury, Madison & Sutro," but Mr. Pillsbury felt that his four junior partners were really quite junior, so the letterhead said, "Law Offices of Evans S. Pillsbury and Pillsbury, Madison & Sutro." It stayed that way until the four junior partners matured a little and then he knocked off the "Law Offices of Evans S. Pillsbury," and just said, "Pillsbury, Madison & Sutro."

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But he was a very wonderful man.

The firm went from the Dividend Building over here, as I mentioned, on Pine and Liedesdorff at Crocker Building and then to the Nevada Bank Building which is now the Wells Fargo Bank at 44 Montgomery, where it was housed in 1905 when the earthquake came. In 1906, I should say. The office had one of the finest law libraries anywhere, really historic, and the whole darn thing was destroyed. It was just a shame.

Here's perhaps one of the more interesting incidents arising out of the 1906 fire and earthquake. We, meaning Pillsbury, Madison & Sutro, represented the California Wine Association, which was a valued and by far the largest client of the firm. Bear in mind that after 1906 there were two offices, one in Oakland which was manned by Frank Madison and Oscar Sutro and one in San Francisco, which would be manned by E. S. Pillsbury, H. D. Pillsbury, and my father. It was a question of finding an office. My father often told the story about how he and Mr. Pillsbury drove around town in a horse and wagon looking for an office and they ended up out on Pine and Webster Streets, which is near the Fillmore District. They found an office space there. I have often heard my father tell the story of how, when they

found a place and rented the office, that he leaned out the window with a sign that said, "Law Offices of Pillsbury, Madison & Sutro," and he tacked it up while Mr. Pillsbury hung onto his feet. That office building later became known as the Little Mills Building. For those of you who are not too familiar with San Francisco, the Mills Building is up the street here; for years it housed many law offices. I do not know how many it houses today, because law offices have gotten so much bigger. For a long time, the building at Pine and Webster Streets was full of so many lawyers, that it was referred to as the Little Mills Building.

The firm then moved to the Kohl Building, which is at the corner of California and Montgomery Streets. That's my first recollection of it. It was there until a few years later when it moved to 200 Bush Street, which is right across the street from here. It's this little building right around the corner. That was the original Standard Oil Building, and Pillsbury, Madison & Sutro had the top floor. If you look at the Standard Oil Company of California today with 225 Bush and the building on Market Street and everything out there in Contra Costa, think of what Standard Oil was in those days at 200 Bush Street. When I said "look at it," you will see what I am talking about. It housed the whole company, including Pillsbury, Madison & Sutro.

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This is to show you how things have changed. I worked there as an office boy a few times. There was a library with a fireplace in it. Mr. Pillsbury, who was very conscious of security and not having documents get spread around, had a rule that the office boys would go to all the offices at 4:30 or quarter to five in the afternoon, collect all the wastebaskets, put them in a bag and take them into the fireplace in the library and burn it up. Can you conceive that being done today? That's the way it was.

When 225 Bush was built, if you look at it, it is two buildings, really. The first building was built in the 1920's and, as I said, it was less than half of what 225 Bush is today, if you look at the building. Pillsbury, Madison & Sutro had part of the 19th Floor. I emphasize "part of the 19th floor." That included our library and we had what we called the outside office which would be the business office today. To give you an idea of the difference between what things were then and what they are now, there was one man who ran all the business end of the office; his name was Draycott. There was one young man who kept the calendar, Jerry MacMillan. He kept calendar for the whole office: when you had to plead, when you had to go to trial, and when the statute of limitations is run, and so forth. There was one office boy. The telephone system was handled by a lovely lady named Mrs. Townley, who had a switchboard in

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one corner of this office, and she handled all incoming and outgoing calls. You couldn't call from your own office. You had to go through what was called the PBX, Private Branch Exchange Board. She handled all the calls. So you can visualize the size of the office then and what it is now. Then, as I said, Pillsbury, Madison & Sutro had only part of the 19th Floor. Along came the thirties and Franklin Roosevelt and the New Deal legislation, and things began to change.

When I came into the office in 1929, every lawyer did everything. You wrote wills, you filed petitions to probate wills, you tried and defended cases, you incorporated incorporations, you wrote the leases--you did everything. But bear in mind there was no National Labor Relations Board, no Securities Exchange Commission and no Federal Communications Commission. There were none of those regulatory agencies, and the taxes were not the taxes they are today. I will never forget one time, I was in the office of Felix Smith, who was a very able, outstanding lawyer in our firm who unfortunately died at an early age, and somebody came in and was kicking about the "blankity blank Federal laws that have been enacted by the Congress during the New Deal Franklin Roosevelt years." Mr. Smith said, "Don't be a damn fool, you've never had it so good." And if you look at the laws of today, and you see what had been done in the

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areas of Securities and Exchange Commission, Federal Communications Commission, National Labor Relations Board, tax laws--you can see what it did for the lawyers--made a lot of business!

Things were different. Now we have seven floors of the Standard Oil Building. We have space here, we're getting some space in the Russ Building.

I was the 24th lawyer in Pillsbury, Madison & Sutro when I went to work in 1929. After World War II, we had 25 or 50 lawyers. I remember at a firm lunch there was some discussion whether we should stay the size we are or should we grow with our clients. We concluded that it would be in the best interest and more fair to the younger lawyers if we grew with our clients, which we have done, and you can see where we are today. I got some figures from the business office this morning: we have 297 lawyers, 77 legal assistants, and 19 paralegals, counting the secretaries and other service departments. There are a total of 890 people working at Pillsbury, Madison & Sutro. In addition to which, I was advised that we've got 20 new associates coming this fall. So you can see what's happened to Pillsbury, Madison & Sutro. The business has grown. The clients of Pillsbury, Madison & Sutro before Prohibition were United States

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Smelting, Mining and Refining, one of the largest mining companies in the world--it no longer exists--and California Wine Association, which was our largest client. Prohibition killed it. There was no telephone business in the early days. It developed. Standard Oil came in later. Things have changed now. Look at what's happening in Silicon Valley and all the law that is coming out there today, which a couple years ago did not exist. The size is hard to believe. When I first became a partner, there was a stock exchange club which some of you may be familiar with, and the firm meetings consisted of the partners of whom there were Frank Madison and my father. Oscar Sutro went down to Standard Oil because Mr. Kingsbury, who was CEO there, wanted him as an executive vice president. Mr. H. D. Pillsbury left to become president of the telephone company. Felix Smith, who I mentioned was an outstanding lawyer, was there along with Marshall Madison and Gene Prince--I guess I was the eighth partner, or something like that--and the firm's meetings were held in the main dining room of the Stock Exchange Club. Today we have our firm's meeting at the Banker's Club in the boardroom. We had 100 people there for lunch, or so. Things have changed. I can remember a case, just to give you an example of how things are different. I guess you heard of a movie actor named Harold Lloyd. He had a movie called, "The Freshman." He was sued for plagiarism

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in the Federal court in Los Angeles, United States District Court in Los Angeles. He lost the case and he decided he wanted to take an appeal which was quite obvious. It would have busted us if he had not. He was recommended to our firm. I remember the day that case came in, we were may be 40 lawyers in the office then, or 30-odd. Practically every lawyer in the office was assigned some part of that case to go to work on in the library. You just couldn't conceive of anything like that today. I am very happy to say that the case was reversed and Mr. Lloyd won the case and he was very happy.

Another interesting assignment for young lawyers which regrettably no longer exists was what we called the roadman. They now have what I think they call roadpersons. They do the filings. But when a young lawyer passed the bar examinations, he was assigned to be the roadman. That meant he did all the filings of all papers and all courts, Ninth Circuit Court, United States District Court, Supreme Court of California, Court of Appeals, Superior Court and so forth. He argued all demurrers in the run-of-the-mill case. He handled the petitioners for probates of wills, he handled distributions, he argued demurrers--he argued most in the Federal and state courts--it was really a wonderful experience for a young lawyer. But unfortunately, again because of size, today it wouldn't work. Today a lawyer who is in litigation

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has a case, he goes out to court and argues the demurrer or argues a motion and takes the depositions and whatnot. Our roadperson is the one that carries the paper to the clerk's offices. So you just can't have it today like it used to be. I think that that roadman job, which is what we called it, was a wonderful training job to give a young lawyer the feeling of being at home in court.

I used to do all the defense work in seaman suits, they were called Jones Act cases. When a seaman on a tanker got hurt, he would sue under the Jones Act. H. D. Collier was the vice president in charge of the marine department. There was no Chevron Shipping in those days. It was the marine department of Standard Oil. I handled the defense of the seaman suits. I'd go to see Mr. Collier, vice president of the marine department, to discuss the case before trial to find out whether we ought to try it or settle it. One day when we got to talking about a case, Mr. Collier began whooting the breeze with me--bear in mind he became the chief executive officer of Standard Oil. He was in World War II or soon thereafter. He told me that his first job working at Standard was driving a horse and wagon delivering kerosene.

There are a couple of incidents which I might mention because they are amusing, one she does not know

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about, or do you? About the furrier, Western Union? There was a furrier on Geary Street, who had a lady come in with a repair. So he took it and he sent it to the repairshop in the Mission District and have the repair work done. When it was done, the repair furrier of the Mission District called Western Union, who was a client of ours, and had the fur delivered C.O.D. to the furrier down here on Geary Street. When the Western Union messenger arrived at the furrier on Geary Street, the furrier said "Let me take a look at it," and he opened the package and found the fur and \$31.32 to pay. So the repairman from there said, "That's fine, now get out of here." He didn't pay him the \$31.32 he owed. So the fur repairman out of Mission Street, instead of suing the furrier on Geary Street, sued Western Union in the small claims court. For some reason that I could not never understand, the judgment was against Western Union. They should have brought it in for the other guy. But they didn't. So, Western Union, as a matter of principle, told our office to get a trial in the Superior Court. And I was assigned the case, \$31.32.

On Christmas Eve of 1931, the case was set for trial, (I say Christmas eve, but maybe December 22 or so), the trial was set in the Superior Court of Judge Michael Roach. When I got to the court I was there a few minutes

early. It was quite entertaining, lawyers those days wore a stiff collar and they wore derbys. It was a very formal attire. The lawyers were all standing around talking about about Christmas and Christmas cheers and derbys and stiff collars and so forth and the bailiff knocked on his gavel and Judge Roach came in and called the calendar and my case was the first case on the calendar. So I stated the facts and told the court that I have made a careful search of the cases in California and I could not find a case which was directly in point but I did have a New York supplement case. Judge Roach said, "Counsel, I am not interested in New York supplement cases, have you a California case?" I said, "No, Your Honor, I did my best to find one, but I couldn't find one. But I would like to tell you about this New York case." He said, "I am not interested. Furthermore, it is Christmas eve and I feel like giving and judgment affirmed." I tell you I walked out of that courtroom about to blow up. And I did not hesitate to express my opinion of Judge Roach to everybody I saw for quite awhile.

Some six or seven years later, I had a Jones Act case, a seaman suit, in the Federal court, and by golly it was in Judge Roach's courtroom. By then he had become a United States District Judge. We had a jury in this court. I've never had such an experience in the trial. Everytime I

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objected, he overruled my objection. Every time plaintiff's counsel objected, he sustained it. In those days you had to object to instructions in cite cases, and I did that and he overruled them all. Plaintiff, he sustained. I said, "What the hell has that guy got against me. He has never seen me before that Western Union case in the Superior Court." After the jury had returned its verdict, I am very happy to say it was for Standard Oil. Everybody left the court except Judge Roach, a fellow named Jack S _____ who was the clerk, and myself. Judge Roach said to me, "Now let them take it upstairs and try to get it reversed." He would rule against me on everything. And then he said, "Have you ever tried a case in my court before?" And I said, "Yes, Your Honor, but it was not in this court, it was in the Superior Court." He said, "Was justice done that day?" And I said, "No, Your Honor, I don't think it was." He said, "That case has been in my mind ever since because I don't want any young lawyer walking out of court thinking justice has not been done." Isn't that amazing? So I gave him quite an impression, Judge Roach.

This is the one you asked me to tell about them. We had a client called N. W. Ayer Advertising Company with headquarters in Philadelphia. I don't know how many of you are from California and how many know about artichokes, but most of the artichokes in the U.S. are grown in an area

of California literally from San Francisco down to Monterey. In those days, there were practically no sales of artichokes outside California. So N. W. Ayer suggested to the artichokes growers that there might be quite a market for artichokes on the east coast. The artichokes growers were interested and they formed an association solely for the purpose of entering into a contract with N. W. Ayer to advertise and exploit the sale of artichokes on the east coast. N. W. Ayer did a very good job. The artichokes growers were shipping literally refrigerated carloads of artichokes to the east coast during artichoke season. For some reason which nobody understood, the artichoke growers in the southern part of this area between San Francisco and Monterey got the idea that the artichoke growers in the northern area were getting all the artichokes to ship east and they were not getting any benefit of it, so they quit paying their dues to the association and the association could not pay N. W. Ayer because it didn't have the money. And so they ended up owing N. W. Ayer \$40,000 and N. W. Ayer came to our firm and said "Would we help them collect their money?" So I called several lawyers in San Francisco who represented the more wealthy artichokes growers in this area, in the Half Moon Bay Area, if you know what that is, and told them the problem. They said certainly N. W. Ayer was entitled to the money and see what they could do. Time went by and nothing happened. It was apparent

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that one way to protect the interest of N. W. Ayer was to file suit. So I filed the suit in the United States District Court and named as defendant every artichoke grower who was a member of the association. In order to get jurisdiction, the named defendants had to be served. The only way to get them served was to take one of the younger lawyers, younger than me in the office and I wasn't very old, an automobile and take a deputy marshall drive from San Francisco to Monterey, literally stopping in every artichoke growers' place and serving them with summons and complaints. Incidents occurred which I told you about which was rather amusing.