In October, 19X4 Alpha Corporation was incorporated in Kentucky. The purpose of the corporation was to provide investment advice and other necessary services for any American corporation wishing to do business in Brazil. Specifically, the intent of the promoters was that Alpha would advise American Companies concerning the acquisition of political concessions, raw materials, labor, etc.

The idea for the corporation was conceived a couple of years earlier by two young men, Mr. Begley and Mr. Chavez. These two men met while graduate students in Geology at the University of Kentucky. Since the family of Mr. Chavez was very prominent in Brazil, and since the Chavez family had been in the Brazilian ministry of foreign commerce for a number of years, the two young men believed that the Chavez connections could be commercially exploited. Accordingly, they agreed to begin the company when it became commercially feasible.

When Chavez and Begley finished their course work at the University, they decided it was time to act. They contacted Mr. Davis, a Lexington attorney who had been recommended by the father-in-law of Mr. Begley. Mr. Davis completed the incorporation process for Alpha Corporation. From the date of incorporation, which was October 15, 19X4, to the present, Alpha has sold 10,000 shares of common stock to approximately 12 persons. (This does not include stock taken down by Begley and Chavez. Those transactions are described below.) The offering price of the securities has been $1.50 per share. Among the purchasers were the following individuals:

1. Mr. Evers. He was a fraternity brother of Mr. Begley and is still a close personal friend to him. They have lunch together at least twice a week. Mr. Evers purchased one-thousand shares for a total price of $1,500.

2. Mr. Frank. Mr. Frank is the father-in-law of Mr. Begley. He also has been business advisor to Mr. Begley during the early stages of Alpha's existence. Mr. Frank lives in Lexington, Ky.

3. Mr. Golf. He is Mr. Begley's brother-in-law and son of Mr. Frank. He lives in Hazard, Ky.

4. Mr. Hester. He is a third-year law student at the University of Kentucky College of Law. He was originally from Dayton, Ohio but has been in Lexington for three years. He is uncertain as to whether he will remain in Lexington after graduation.

All the stock certificates have been issued to the above persons. The certificates contained no legend.

In July of 19X5, the corporation met and approved the issuance of 50,000 shares of common stock to Mr. Begley and 25,000 to Mr. Chavez. The stock was issued for promotional services. As with the prior stock transactions, those shares were issued after Mr. Davis indicated the action was legal.

On September 1, 19X5 Mr. Begley and Mr. Chavez came to your office. They expressed a desire to sell an additional 40,000 shares of stock. They disclosed to you that two individuals had called them concerning the possibility of purchasing some Alpha stock. Those individuals are:
1. Mr. Ink. He is a businessman who lives in Ashland, Ky. Mr. Ink has had considerable experience with various businesses and investments. He has a present net worth of approximately one million dollars.

2. Mr. Jones. He is in the last week of his residency at the University of Kentucky Medical Center. His residency is in cardio-thoracic surgery. Mr. Jones' wife teaches investment analysis at the Business School. The Jones' are originally from California.

**QUESTION I**

Can Alpha make sales to Ink and Jones? (Discuss the various theories that could be used to justify the sales. Discuss all legal issues that will be encountered under all theories selected.)

**QUESTION II**

Assume Mr. Jones purchases 20,000 shares of the stock. Discuss fully the constraints applicable to his reselling the securities.

**QUESTION III**

Apex Corp., incorporated in Delaware, has its plant and principal executive offices in Illinois. Its common stock, $10 par value, is listed on the Midwest Stock Exchange and is currently selling at about $30 per share. There is also outstanding 25,000 shares of non-participating 7% preferred stock which is traded over the counter. The company had net income of $400,000 in each of the last five fiscal years. It proposes to amend its certificate of incorporation to increase the authorized common stock and to sell 200,000 shares to the public to be used for plant additions and for working capital.

A. Prior to the time the registration statement is filed Able, the President of Apex, makes a telephone call from Peoria, Illinois to the Chicago office of Hazard & Co., investment bankers, and opens negotiations to have Hazard & Co. serve as principal underwriter of the issue. Shortly thereafter and without authorization from Apex, Hazard & Co. distributes a press release to the New York papers and to the principal wire services announcing the forthcoming offering of 200,000 common shares of Apex Corp. to be distributed through a nation wide investment banking group that it will head as managing underwriter. The release also describes the use of the proceeds, the plans of management and indicates that the offering will be at or near the market price when a registration statement with respect to the securities has become effective.

B. After the registration statement has been filed, but prior to the effective date, a shareholder of Apex, having learned of the offering from an article in the Wall Street Journal, writes a dealer and offers to sell him some of the stock on a when-issued basis. The dealer calls the shareholder and accepts the offer.

Discuss all legal issues raised by the foregoing.