
Margolis, McTernan, Scope & Epstein

A Law Corporation

4221 Wilshire Boulevard, Suite 480

Los Angeles, California 90010

(213) 937-6820

Ben Margolis
John T. McTernan
Sol Scope
David B. Epstein
Barbara Enloe Hadsell
Charles Marshall
William Blum
Jerry P. Gordon

of counsel:
Robert D. Katz
Elizabeth B. Spector
Ronald Dean
Richard W. Bryson

July 11, 1985

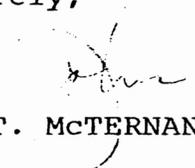
Honorable George W. Crockett, Jr.
U. S. Congress
House Office Building
Washington, DC 20151

Dear George:

As you may recall, Amherst is my alma mater. It, like many other institutions of learning has been wrestling with divestments for many years now. The enclosed is my latest suggestion to them. It was prompted by my perception that their most recent pronouncement has left them stodgily balanced precisely in the middle.

Anne and I read your reports with continued interest and much satisfaction. Carry on. Our love to you and Harriet.

Sincerely,


JOHN T. McTernan

JTMcT:sd

Enclosure

Margolis, McTernan, Scope & Epstein
A Law Corporation
4221 Wilshire Boulevard, Suite 480
Los Angeles, California 90010
(213) 937-6820

Ben Margolis
John T. McTernan
Sol Scope
David B. Epstein
Barbara Enloe Hadsell
Charles Marshall
William Blum
Jerry P. Gordon

of counsel:
Robert D. Katz
Elizabeth B. Spector
Ronald Dean
Richard W. Bryson

July 10, 1985

Dr. Peter R. Pouncey, President
Amherst College
Amherst, MA 01002

Dear Dr. Pouncey:

Only recently have I seen the Statement of the President and Trustees on the Policy of Investment in South Africa. It leaves me less than satisfied, and it causes me to suggest a new approach to the ending of South African apartheid.

My dissatisfaction arises from ambiguities in the Statement and the College's too heavy reliance on the Sullivan Principles. It endorses Rev. Sullivan's amplification calling for U.S. entities in South Africa to work for full black citizenship and equality in the political process as well as his two-year deadline for achieving "significant progress" toward eliminating apartheid. But it then declares that "prompt and substantial progress" (whatever that may be) must be achieved "within a limited period of time" (however long that may be). It further says that there is a "possibility" that the College "may" change its policy to one of complete divestment. I don't know whether Gilbert & Sullivan or the proverbial Philadelphia lawyer would have more sport in exploring this statement. In any event it seems to convey no sense of determination either to the government of South Africa or to U.S. entities doing business there.

Moreover, in my judgment, realization of the Sullivan Principles is not the measure of the College's responsibility. They are directed to business managers in a business setting. While this may produce improvement in the working and living conditions for the black workers in South Africa (a minute portion of the black work force there), beyond that they ask only that the U.S. entities operating there work for black citizenship and equal participation in the political process. I draw from U.S. history the conclusion that few business managers concern themselves with such things. American business made precious little progress toward racial equality in the United States before passage of the Civil Rights Act. This, notwithstanding the Fourteenth Amendment and the post Civil War legislation. In addition, in South Africa, U.S. business entities are foreigners subject to governmental permission to be there and government approval of their plants and methods of operation. So situated, they are not

July 10, 1985

Page 2

likely proponents of revolutionary change on the part of the host government. It should be observed that the end of apartheid means for black workers, among other things, unionization, collective bargaining and a marked increase in earnings and benefits. Avoiding these costs was in all likelihood a major reason why U.S. entities initially engaged in business there. It is not reasonable to expect that as a class they will be willing to work for change that so immediately affects their profits.

But I urge a different role for the College in the effort to end apartheid. It is an institution of learning. It cultivates the ageless effort to know the human condition, to search and draw conclusions from increased knowledge, to eliminate restrictions upon the dissemination and exchange of such knowledge, to strike down disabilities in learning and dissemination based upon race and nationality, to open the arena of discussion and debate to all regardless of content, to achieve dignity and respect for all people. Apartheid is a negation of such purposes. It brutalizes the individual, both white and black, and it denies blacks a country in their own land. It eliminates people from the search for and use of knowledge simply because of their race. I would focus the College's opposition to apartheid on this contradiction.

Thus I suggest that the College declare its opposition to apartheid as a function of its obligation as an institution of learning, a teacher and propagator of the humanities. I would further urge that its declaration be broadcast to the entire American academic community enlisting its joining in the call for an immediate end to apartheid as an expression of academia's role in teaching and propagating the values of a humane society directed at the constant improvement of individual liberty and dignity. The collective voice of American institutions of learning can have an important effect in the national and world debate over what to do about apartheid. Amherst has an unrivaled opportunity for leadership in this area. It could awaken the consciousness of America and beyond. It might be instrumental in avoiding a bloodbath in South Africa and terribly devastating wars in South Africa as an outcome of the unavoidable revolution against apartheid.

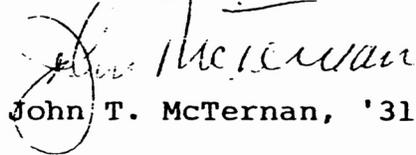
In this context divestment will take its proper role: Not as a means of placing effective pressure upon multi-national corporations but rather as a symbol of opposition to the blighting of the human spirit, of determination to end the tyranny that threatens liberty even beyond its own borders. Handled in this light divestment can be managed so as to

July 10, 1985

Page 3

orchestrate the pressure of aroused opinion and to emphasize its voice. Because it could be effected over a longer period of time (Sullivan's two years are a pipe dream), more attention could be given to the fiduciary responsibility of investment managers to preserve principal and maximize return. Indeed these circumstances could assist the formulation of a third prong to fiduciary responsibility in this context: abjuring profit derived from grossly underpaid labor in a brutally repressed labor market.

Sincerely,



John T. McTernan, '31

JTMcT:sd