

ALASKA LEGISLATURE COMMITTEE FILES 1983-1988 00/2

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Milt Barker
September 9, 1985
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return than we currently enjoy. Consequently, we would find it necessary to reduce our potential risk by reducing what otherwise would be the size of our common stock portfolios.

The divestment would also affect our bond and money market portfolios by removing much of our potential investment universe; i.e.,

77% of commercial paper issuers,
87% of bank issued paper, and
60% of industrial corporate bonds.

The loss of money opportunities would reduce our yield by .25% in those areas, but the loss of most of the best credits in the corporate bond area would have more pronounced effects. Because the remaining industrial bonds would be substantially more risky, we would have to maintain a smaller, relative position -- although it would cost us 1.1% in yield. Prudence would also demand a smaller utility bond position as well so we would not be overly weighted in that riskier and less call protected area.

Divestment would have similar but somewhat reduced effects on the State's General Fund and on the Public School and University of Alaska Funds. These endowment funds would lose their only equity investments (convertibles) and more than half of their high yielding corporate bonds. The General Fund would be practically trapped into only U.S. Treasury issues for a give-up of about \$1 million a year.

In order to quantify the effects on the Retirement Systems' investments, I have calculated their probable average positions and rates of return for each of the next five fiscal years. Then, after allowing for the divestment effects on the portfolio's positions and yields -- as previously noted in this memorandum -- I have recalculated the rates of return for the same five fiscal years. The results of these calculations are shown in the attached table. The divestment portfolios have smaller common stock and corporate bond positions and larger U.S. Treasury positions, and yields on common stocks are lower. The net result for the sum of the five years is a reduction in returns on investments totalling \$177,890,000.

JRW/gb

Attachment

STATE RESTRICTIONS ON PUBLIC INVESTMENTS
IN COMPANIES DOING BUSINESS IN SOUTH AFRICA

CONNECTICUT (Connecticut General Statutes, Chapter 32, Section 3-13f)

Public Act 82-324 requires the State Treasurer to divest, within a reasonable period of time, all state funds currently invested in any corporation doing business in the Republic of South Africa. The law further provides that no new state funds can be invested in any corporation after the effective date of the law unless the company meets the following conditions:

- a) adoption of the Sullivan principles (a code of business practices relating to equal opportunities for black workers in South Africa promulgated by Reverend Leon H. Sullivan);
- b) attainment of a performance rating for compliance with the Sullivan principles in the top two categories as measured by Arthur D. Little, Inc. (the official compliance monitor);
- c) refusal to supply strategic products or services to the government of South Africa for its use or for use by the military or police in that country; and
- d) recognition of the right of all South African employees to organize and to strike in support of economic or social objectives, free from the fear of dismissal or blacklisting.

For the purposes of this law, the term "doing business in South Africa" includes not only those companies "conducting or performing manufacturing, assembly, or warehousing operations," but also "lending money to the Republic of South Africa or any agency or instrumentality thereof" in the case of a bank or other financial institution.

MICHIGAN (Michigan Compiled Laws, Section 37.2402)

Effective April 1, 1984, the State of Michigan prohibited public institutions of higher education from "knowingly making or maintaining" an investment in any United States' firms or any subsidiary or affiliate of a United States' firm operating in South Africa.

As defined in this section, "investment" means only "money placed in shares of stocks and other equity interests," not bank deposits made in the ordinary course of business.

MASSACHUSETTS (Massachusetts General Laws Annotated, Chapter 32, Section 23(1)(d)(vi))

State law prohibits the State Treasurer from maintaining public employee pension funds in any bank or financial institution which directly, or through its subsidiaries, has outstanding loans to the Republic of South Africa or its instrumentalities (effective January 1, 1983). This statute, which affects funds of the State Employees', Teachers', and Massachusetts Turnpike Authority Employees' Retirement Systems, also barred as of the same date continued investment in the "stocks, securities or other obligations of any company doing business in or with the Republic of South Africa."

MARYLAND (Maryland Annotated Code, Article 95, Section 21)

Since the beginning of this year, a statutory prohibition has been in force which bans the deposit of state funds in any financial institution unless that institution certifies in writing to the Treasurer "that it has no direct loans or foreknowledge of any indirect loans" outstanding to any unit of government or any national corporation of the Republic of South Africa. Direct or indirect loans outstanding prior to January 1, 1985, are not covered by this statute.

NEBRASKA (Nebraska Revised Statutes, Section 72-1270 et seq.)

Acting on a broader scale, Nebraska lawmakers banned several types of state investment activity. Legislation enacted in that state prohibited continued public investment in the stocks of any financial institution which, directly or through its subsidiaries, had outstanding loans to the South African government or its instrumentalities as of January 1 of this year. Divestment could have been avoided if, by July 1, 1984, the financial institution adopted a formal South African investment policy which included:

- a) a complete listing of any outstanding South African public sector loans and the purposes for which such loans were made;
- b) the amortization schedule for such loans; and
- c) a public commitment not to renew any existing loans or make any new loans to the South African public sector.

If at any time in the future the institution adopts such a policy, reinvestment of public funds could occur.

In addition to these restrictions, the 1984 law halts investment of state funds in the bonds of any financial institution which, directly or through its subsidiaries, has outstanding loans to the South African government or in the bonds of any corporation doing business in or with the Republic of South Africa, effective January 1, 1985. New state investments in the bonds of any financial institution would be allowed when an institution met the three criteria described in paragraph one.

New investments in corporation bonds would be authorized, however, if the company "has agreed to abide by, is implementing, and demonstrates that it is making good progress in implementing:

- a) nonsegregation of the races in all eating, comfort, and work facilities;
- b) equal and fair employment practices for all employees;
- c) equal pay for all employees doing equal or comparable work for the same period of time;
- d) initiation and development of training programs that will prepare substantial numbers of black and other nonwhite persons for supervisory, administrative, clerical, and technical jobs;
- e) representation of black and other nonwhite persons in management and supervisory positions in a proportion equal to their percentage of the total population; and
- f) improvement in the quality of employees' lives outside the work environment including, but not limited to, the areas of housing, transportation, education, recreation and health care."

As of January 1, 1987, financial institutions or corporations doing business in South Africa must meet the criteria just discussed or also face divestment of state funds invested in their stocks.

IOWA (Iowa Code, Section 12A.1 et seq.)

Funds under the control of the State Treasurer and the State Board of Regents, as well as monies in the Iowa public employee retirement fund, cannot be invested or deposited after June 30, 1985, in any financial institution which has a loan outstanding to the Republic of South Africa. Moreover, investments in the stocks, securities, or other obligations of such financial institutions or any company doing business in or with the Republic are also prohibited. These restrictions do not apply, however, to any company which has adopted the Sullivan principles and has been ranked in categories one, two, four or five; or to any company which has been a Sullivan signatory for at least five years and has obtained a performance rating in the top two categories during four of the past five years.

Not only are new investments forbidden, the state must also divest itself of securities and other investments in such institutions and corporations by July 1, 1990. At least one fourth of the value of the investments held on July 1, 1985, must be sold beginning on July 1, 1988, unless the general assembly determines that "substantial and fundamental progress" has occurred in establishing human rights policies in the

RHODE ISLAND (Rhode Island General Laws, Chapter 35-10)

Over the four year period beginning July 1, 1985, Public Law 85-336 requires the divestment of state monies and pension funds which, as of that date, are invested in any financial institution lending money to or any corporation doing business in the Republic of South Africa. In addition, no new investments will be allowed after July 1, 1985, in the financial institutions loaning money or the companies doing business in, or with, the Republic. A nine-member commission, composed of legislators and public citizens, will oversee the divestment program.

Notwithstanding this directive, divestment is not required if sales "would not be in accordance with such action as prudent individuals of discretion and intelligence in such matters, who are seeking a reasonable income and the preservation of their capital, would take, or when the market value of the investments... is lower than the purchase price...."

After July 1, 1985, no bank or trust company may serve as a depository of state funds if it provides to the Republic of South Africa, either directly or through a subsidiary or agent, the following services:

- a) the sale, advertising or promotion of the sale of krugerrands, or any other coins minted in South Africa;
- b) the underwriting of securities; or
- c) the making of new loans to the government or private sector, other than loans for certain educational, housing or health facilities.

Furthermore, no state department, agency, authority or instrumentality may purchase any good known to be wholly produced in South Africa.

NEW JERSEY

Awaiting the approval of the Governor, Assembly Bill #1309 halts the investment of pension or annuity funds in any financial institution which, directly or through its subsidiary, has outstanding loans to the Republic of South Africa or its instrumentalities, or in the stocks, securities, or other obligations of any company engaged in business in or with the Republic. Existing investments must be divested within three years of the enactment of the legislation.

July, 1985
The National Conference
of State Legislatures

POINT OF VIEW

Fall, 1985 ■ Vol. 2, No. 3

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American Corporations With Direct Investments In South Africa*

Corporation	Number Of Subsidiaries & Lines of Business In South Africa	Sullivan Signer/ 1984 Category**
✓ AM International Inc.	(1) Communications graphics; information handling	No.
AMCA International Corp.	(1) Cranes and excavation equipment	No.
✓ Abbott Laboratories	(1) Pharmaceutical, consumer & hospital products	Yes-IIA.
Accuray Corp.	(1) Measurement control systems	No.
✓ Air Express International Corp.	(1) Air freight	No.
Air Products & Chemicals Inc.	(1) Industrial gases & equipment	No.
Albany International Corp.	(1) Industrial textiles & fabrics	No.
Alexander & Alexander Serv. Inc.	(1) Insurance brokers	No.
Allegheny International Inc.	(1) Matches; kitchen & hardware products	No.
Louis A. Allen Associates Ltd.	(1) Management consultants; education & research	No.
Allis-Chalmers Corp.	(2) Air pollution control	No.
Amdahl Corp.	(2) Computers; switchboard networks	No.
American Airlines	(1) Travel information office	No.
American Cyanamid Co.	(4) Chemical, agriculture, medical & personal care products; laminated wood products	Yes-I,I,I,IVD.
← American Express Co.	(1) Travelers check distribution	Yes-IVA.
American Home Products Co.	(3) Pharmaceuticals, baby food, household products	Yes-IIA.
✓ American Hospital Supply Corp.	(1) Medical & scientific specialties	No.
American International Group, Inc.	(1) Insurance	Yes-III A.
Applied Power Inc.	(1) Automotive service; industrial hydraulic equipment	No.
✓ Arco Inc.	(1) Particle size monitoring equipment	Yes-IVC.
Ashland Oil Inc.	(3) Lubricating oil; chemical & engineering supplies	Yes-III A, III A, IIIC.
Associated Metals & Minerals Corp.	(1) Metals and minerals	No.
Automatic Switch Co.	(1) NA	No.
Avery International Corp.	(1) Self-Adhesive Labels	No.
BRDO International Inc.	(1) Advertising	No.
Baker International Corp.	(5) Mining tools & equipment; electronic instruments	No.
Bandag Inc.	(1) Rubber equipment & supplies	No.
Bel Bates	(1) Advertising	No.
Worldwide Inc.	(2) NA	Yes-V.
Househ & Lomb Inc.	(1) Health care products	Yes-V.
Water Travenol Laboratories Inc.	(2) Foundation garments	No.
Garance Co. Inc.	(2) Engineering consultants	No.
✓ Calumet Group Inc.	(1) Engineering consultants	No.
✓ Calumet & Howell Co.	(1) Microfilm products	No.
✓ Decker Manufacturing Co.	(1) Power tools	No.

✓ ON STATE OF ALASKA VENDOR LIST 2/3/86

Corporation	Number of Subsidiaries & Lines of Business in South Africa	Sullivan Signer/ 1984 Category**	Corporation	Number of Subsidiaries & Lines of Business in South Africa	Sullivan Signer/ 1984 Category**
Blue Bell Inc.	(1) Casual clothing	No.	Emhart Corporation	(4) NA	No.
✓ Boeing Co.	(1) Commercial aircraft	No.	✓ Englehard Corporation	(1) Ores, precious metals, chemicals	Yes-IVA.
Borden Inc.	(3) Food products	Yes-I, I.I.	Erico Products	(1) Electrical connectors, welding equipment, industrial fasteners	No.
✓ Borg-Warner Corp.	(1) Automotive parts and service	Yes-IIA.	Eriez Magnetics	(1) NA	No.
Born Inc.	(1) Industrial heaters	No.	Euclid Inc.	(1) Off-Highway mining and construction trucks	No.
Bristol-Myers Co.	(1) Consumer, pharmaceutical, nutritional products	Yes-IIA.	✓ Exxon Corporation	(3) Petroleum products	Yes-I, I.I.
Buckman Laboratories Inc.	(1) Industrial chemicals	No.	FMC Corporation, Federal-Mogul Corp.	(1) Food processing equipment (2) Car, truck and tractor parts	Yes-III.A. Yes-IIA, III.C.
Bucyrus-Erie Co.	(1) Mining machinery	No.	Ferro Corporation	(1) Plastics, ceramics, chemicals and engineering tires	Yes-III.A.
Bundy Corp.	(1) Auto & refrigeration tubing	No.	✓ Firestone Tire & Rubber Co.	(1) Commercial, industrial and agricultural tires	Yes-IIB
✓ Burroughs Corp.	(1) Computer & business equipment	Yes-I.	Flow General Inc.	(1) Immunology and biochemistry products	No.
Butterick Co. Inc.	(1) Paper patterns	Yes-IIA.	✓ John Fluke Manufacturing Co.	(1) Electronic test and measurement instruments	Yes-III.A.
CBI Industries Inc.	(1) Metal plate structures	Yes-V.	✓ Fluor Corp.	(2) Engineering, maintenance and services	Yes-I, I.
CBS Inc.	(2) Records, tapes, sheet music	Yes-IIB, IIB.	✓ Foote Cone & Welding Communications Inc.	(1) NA	No.
✓ CIGNA Corp.	(1) Insurance	Yes-IIA.	Ford Motor Co.	(1) Automobiles, trucks and tractors	Yes-IIA.
CPC International Inc.	(1) Consumer products	Yes-IIA.	Foster Wheeler Corp.	(1) Chemical engineering contractors	Yes-V.
Caltex Petroleum Corp. (Jointly owned by Socal & Texaco)	(2) Petroleum products	Yes-I.	Franklin Electric Co. Inc.	(1) Submersible and explosion-proof electric motors	Yes-III.C.
Card Key Systems	(1) Access control & security systems	No.	✓ Fruehauf Corp.	(1) Trailers and containers	No.
Carman Industries Inc.	(1) Vibrating feeders	No.	GAF Corporation	(1) Chemicals, filters, graphic films	No.
✓ Carnation Co.	(1) Milk products, fruit concentrates, pet accessories	Yes-III.B.	GATX Corporation	(2) Cement plant construction, capital equipment financing	No.
Cooper Laboratories Inc.	(1) NA	No.	✓ GTE Corporation	(1) Tungsten carbide and special purpose engineering tooling	No.
Coulter Electronics Inc.	(1) Medical & scientific equipment	No.	Gates Rubber Co.	(1) Automotive and industrial rubber products	No.
Crown Cork & Seal Co. Inc.	(1) Packaging & bottling machinery & equipment	No.	GELCO Corporation	(1) NA	No.
Cummins Engine Co. Inc.	(1) Diesel engines	Yes-IV.C.	✓ General Electric Co.	() Lighting components and industrial equipment	Yes-IIA, IIIA, IIIA.
D'Arcy-MacManus & Masius Worldwide Inc.	(1) Advertising and marketing	Yes-III.C.	General Foods Corp.	(1) NA	No.
✓ Dames & Moore	(1) Environmental & engineering consultants	No.	General Motors Corp.	(2) Automotive products; financial services	Yes-I, I.
Dart & Kraft Inc.	(2) Primary cells and batteries	Yes-III.C, II	General Signal Corp.	(1) Electronic instrumentation and process control systems	No.
✓ Deere & Co.	(1) Farm equipment	Yes-IIA.	A. J. Gerrard & Co.	(1) Steel strapping machines	No.
✓ Deltak Corp.	(1) NA	No.	Getz Corporation	(1) Consumer products distribution	No.
Diamond Shamrock Corp.	(1) Specialty chemicals	No.	Gillette Co.	(1) Blades, razors, toiletries, writing instruments	Yes-IIA.
Do-All Co.	(1) Machine tools and industrial supplies	No.	✓ Goodyear Tire & Rubber Co.	(2) Tires, tubes industrial rubber products	Yes-I, I.
Donaldson Co. Inc.	(1) Air cleaners for internal combustion engines	Yes-III.A.	✓ W. R. Grace & Co.	(1) Chemical sealing compounds and flexible packaging	Yes-IIA.
Dow Chemical Co.	(1) Chemicals, plastics, pharmaceuticals	Yes-IIA.	Grey Advertising Inc.	(1) Advertising	No.
✓ Dow Corning Corp.	(1) Silicones, chemicals & solid lubricants	Yes-IV.C.	Grolier Inc.	(1) Educational books	No.
Dr. Pepper Co.	(2) Carbonated beverages	No.	Harnischfeger Corporation	(1) Mining shovels and construction equipment	No.
✓ Dresser Industries Inc.	(2) Mining, road-building, hydraulic equipment; air compressors & fuel dispensing systems	Yes-V.	Harper Group	(1) International freight and customs brokerage	No.
✓ E. I. Du Pont de Nemours & Co. Inc.	(1) Chemicals, plastics & specialty products	Yes-I.	Hay Associates	(1) Consulting services	No.
Dukane Corp.	(1) Communications and sound equipment	No.	Hayes/Hill Inc.	(1) Management consultants	No.
✓ Dun and Broadstreet Corp.	(2) Credit and marketing information	No.	Healthdyne Inc. Co.	(1) Medical equipment	No.
✓ Eastman Kodak Co.	(1) Photographic equipment	Yes-I.	Heinemann Electric Co.	(1) Circuit breakers and earth leakage protectors	No.
✓ Eaton Corp.	(3) Truck parts; industrial motor control systems	Yes-V.	Walter E. Heller Overseas Corp.	(1) Factoring and leasing	Yes-IV.D.
Echlin Co.	(1) Automotive parts	No.	Henkel Corporation	(1) Specialized mining chemicals	No.
Ecolaire	(1) Power stations	No.			
✓ Emery Air Freight	(2) Air freight	No.			

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✓ ON STATE OF ALASKA VENDOR LIST 2/3/86

Congressional Black Caucus Braintrusts

Friday, September 27, 1985

A Speak-Out On The Black High School Dropout Rate: Reversing The Decline

Hon. Major R. Owens
9:30-12:30 p.m.

AGING BRAINTRUST

Hon. Harold Ford, Chair
9:30 a.m.-12:30 p.m.

BLACK WOMEN: ECONOMIC SURVIVAL

Hon. Cardiss Collins, Chair
9:00 a.m.-12:30 p.m.

CIVIL RIGHTS AND CRIMINAL JUSTICE

Hon. John Conyers Jr.
9:30 a.m.-12:30 p.m.

CORPORATE AFFAIRS

Hon. Julian C. Dixon, Chair
9:30 a.m.-12:30 p.m.

FOREIGN AFFAIRS BRAINTRUST

Hon. William H. Gray, III
9:30 a.m.-12:30 p.m.

HEALTH BRAINTRUST

Hon. Louis Stokes
9:00 a.m.-5:00 p.m. - Thursday, September 26, 1985
9:00 a.m.-12:30 p.m. - Friday, September 27, 1985

HOUSING BRAINTRUST

Hon. Parren J. Mitchell, Chair
9:00 a.m.-12:30 p.m. - Thursday, September 26, 1985

MINORITY BUSINESS BRAINTRUST

Hon. Parren J. Mitchell, Chair
9:00 a.m.-12:30 p.m.

TAX REFORM: BURDEN ON BLACK FAMILIES?

Hon. Alan Wheat, Chair
9:30 a.m.-12:30 p.m.

THE EFFECTS OF DRUG ABUSE ON THE BLACK COMMUNITY

Hon. Charles B. Rangel
9:30 a.m.-12:30 p.m.

THE STATUS OF THIRD WORLD PEOPLE IN THE WESTERN HEMISPHERE

Hon. Mervyn M. Dymally
9:30 a.m.-12:30 p.m.

YOUTH BRAINTRUST

Hon. Walter E. Fauntroy
9:30 a.m.-12:30 p.m.

Friday, September 27, 1985: Members Joint Plenary Session

8:30 a.m.-9:30 a.m.

"Africa: A Continent in Crisis"

American Corporations With Investments in South Africa

(continued from page 13)

Corporation	Number of Subsidiaries & Lines of Business in South Africa	Sullivan Signer/ 1984 Category**
✓ Hewlett-Packard Co.	(1) Computers, electronic calculators, medical and chemical analysis instruments	Yes-I.
✓ Honeywell, Inc.	(1) Process control instruments	Yes-IIA.
✓ Hoover Co.	(1) Electrical appliances	Yes-IIIA.
Houdaille Industries Inc.	(1) Engineering, packaging, industrial seals	No.
✓ Hughes Tool Co.	(1) Rock drill bits	No.
Hydro-Air Engineering Inc.	(1) Roof truss machinery	No.
I.M.S. International Inc.	(1) Market research	No.
Illinois Tool Works Inc.	(1) Processing orders for items manufactured outside South Africa	No.
Ingersoll-Rand Co.	(1) Industrial machinery	No.
✓ International Business Machines	(1) Information processing equipment	Yes-I.
International Flavors & Fragrances Inc.	(1) Flavors, fragrances and aroma chemicals	No.

Corporation	Number of Subsidiaries & Lines of Business in South Africa	Sullivan Signer/ 1984 Category**
International Harvester Co.	(2) Farm implements	Yes-IIIA, IIIA.
International Minerals & Chemical Corporation	(2) Chrome Ore	Yes-IIA, IVC.
International Staple & Machine Co.	(1) Stapling machines	No.
International Telephone & Telegraph Corp.	(4) Brake parts; radio products; advertising; communications cables	Yes-IIA, IIA, IVD, NA.
Interpublic Group of Companies Inc.	(3) Advertising	Yes-IIIB, IIIA, IIIB.
JWT Group Inc.	(1) Advertising	No.
Johnson & Johnson Co.	(3) Baby products; pharmaceuticals; medical devices	Yes-IIIA, NA.
S.C. Johnson & Son Inc.	(1) Home care, auto, industrial and personal care products	No.
✓ Johnson Controls Inc.	(1) Environmental and security systems	Yes-IIIC.
Joy Manufacturing Co.	(1) Mining equipment	Yes-IIIC.
✓ Kellogg Co.	(1) Cereal products	Yes-IIA.
Kendavis Industries International Inc.	(1) Heavy-duty off-highway trucks	No.
Kimberly-Clark Corporation	(1) Disposable paper	No.

✓ ON STATE OF ALASKA VENDOR LIST 2/3/86

Corporation	Number of Subsidiaries & Lines of Business in South Africa	Sullivan Signer/ 1984 Category**	Corporation	Number of Subsidiaries & Lines of Business in South Africa	Sullivan Signer/ 1984 Category**
Estee Lauder Inc.	(1) Cosmetics	No.	Norton Co.	(5) Abrasives, hand tools, buffs, polishing media; mining and engineering	Yes-I.I.I.I.I.
Leco Corporation	(1) Analytical instruments	No.	Oak Industries	(2) Electrical products; electric transformers and substations	No.
Libbey-Owens-Ford Co.	(2) Automotive, aerospace and industrial materials; hydraulic and pneumatic equipment	No.	Ogilvy & Mather International	(1) Advertising	No.
Eli Lilly and Co.	(2) Manufacture of pharmaceuticals and agricultural products; cosmetics	Yes-I. IIA.	Ohm Corporation	(3) Water purification and chemical products; construction fastening systems	Yes-E,II,NA.
Loctite Corporation	(1) Distribution/sale of industrial/consumer adhesives	No.	Opico Inc.	(1) Agricultural equipment	No.
Longyear Co.	(1) Industrial drills, mineral exploration	No.	Pan American World Airways	(1) Airline sales office	No.
Lubrizol Corporation	(1) Lubricant additives	No.	Parker Hannifin Corporation	(1) Assembly/sale of components for connecting fluid power systems	No.
Lykes Bros. Steamship Co. Inc.	(1) Ocean Shipping	No.	Parker Pen Co.	(1) Pens, pencils and related service items	Yes-IIA.
✓ MacMillan Inc.	(1) Publishing	No.	Pennwalt Corporation	(3) Capital process separation equipment; agriculture chemicals	Yes-IVC,IVC,IVC,IVC.
Maremont Corporation	(1) Mufflers, exhaust pipes, shock absorbers	No.	Pepico Inc.	(1) Soft drink products	Yes-V.
Marriott Corporation	(1) Aviation and industrial catering	Yes-III.A.	✓ Perkin-Elmer Corporation	(1) Scientific instruments	No.
✓ Marsh & McLennan Cos. Inc.	(1) Insurance	Yes-IV.D.	✓ Pfizer Inc.	(2) Pharmaceutical and consumer products	Yes-I.I.
Martin Marietta Corp.	(1) Construction materials	No.	Phelps Dodge Corp.	(2) Metal mining; mineral exploration	Yes-IIIC,IIA.
McLean Industries	(1) Ocean shipping	No.	Phibro-Salomon Inc.	(1) Marketing of metals, minerals, chemicals, fertilizers	Yes-IIIC.
✓ McGraw-Hill Inc.	(1) Textbooks for schools and college	Yes-I.	Phillips Petroleum Co.	(1) Production of carbon black	Yes-I.
Measurex Corporation	(1) Computer process control systems	Yes-IIIC.	Pizza Inn Inc.	NA	No.
Medtronic Inc.	(1) NA	No.	Precision Valve Corp.	(1) Aerosol valves and components; plastic moldings and extrusions	No.
✓ Merck & Co Inc.	(3) Health Products; cooling equipment; water treatment chemicals	Yes-I,IIA,V.	Preformed Line Products Co.	(1) Fittings for overhead power lines	No.
Metallurg Inc.	(1) Metallurgical alloys	No.	Quaker Chemical Corp.	(1) Industrial process chemical specialties	No.
Midland Ross, Inc.	(1) Sensors for iron and steel industry	No.	✓ Raytheon Co.	(1) Petroleum/petrochemical engineering services	Yes-IVB.
✓ Millipore Corporation	(1) Precision filters	No.	✓ Reader's Digest Association Inc.	(1) Publishing	Yes-III.A.
✓ Mine Safety Appliances Co.	(1) Air filtration and fire protection equipment, safety products	Yes-III.A.	Redland Brass Corp.	(1) Prefab building products	No.
Minnesota Mining & Manufacturing Co.	(2) Adhesives, abrasives, audio recording tape, health care products	Yes-I,I.	Revlon Inc.	(3) Beauty products; pharmaceuticals; chemical analysis	No.
Mobil Corporation	(6) Petroleum products; insurance	Yes-I,I,I,I,I,I.	✓ Rexnord Inc.	(2) Mining machinery; specialty chemicals	Yes-IIA,IIA.
Mohawk Data Sciences Corp.	(1) Computer marketing	No.	R. J. Reynolds Industries	(2) Fast foods, fruit canning and exporting	Yes-IIA,I.
✓ Monsanto Co.	(2) Textile fibers, plastics, agricultural products, industrial chemicals; process control valves	Yes-IIA,No.	Richardson-Vicks Inc.	(1) Health and personal care products	Yes-IIA.
✓ Motorola Inc.	(1) Two-way radio, semiconductor and automotive products, data and control systems	Yes-III.A.	Robbins Co.	(1) Mining and tunneling machines	No.
NCNB Corporation	(1) Banking	Yes-IVC.	H.H. Robertson Co.	(1) Steel building material supplies	No.
✓ NCR Corporation	(1) Business systems, computers and data terminals	Yes-III.A.	A.H. Robins Co., Inc.	(1) Pharmaceuticals	No.
Nabisco Brands Inc.	(1) Candies, roasted peanuts, baking powder	Yes-IIA.	Rohm & Haas Co.	(1) Specialty and industrial chemicals	Yes-IIA.
Nalco Chemical Co.	(1) Water treatment and specialty chemicals	Yes-III.A.	SPS Technologies Inc.	(1) High tensile threaded socket fasteners	No.
National Education Corp.	(1) Correspondence courses	No.	Salsbury Laboratories Inc.	(1) Biological, chemical, pharmaceutical, agricultural products	No.
National-Standard Co.	(1) Tire and cycle beadwire, welding wire, copperply	No.	Schenectady Chemicals Inc.	(1) NA	No.
National Starch & Chemical Corporation	(1) Industrial adhesive for packaging and woodworking	No.	✓ Schering-Plough Corporation	(2) Cosmetics, toiletries, footwear; pharmaceuticals	Yes-IIA,III.A.
National Utility Service Inc.	(1) Fuel and energy cost analyses	No.	Scovill Inc.	(2) Auto tire valves; automation products; apparel fasteners	No.
Newmont Mining Corp.	(4) Mining and processing	No.	G.D. Searle & Co.	(1) Pharmaceuticals	No.
A. C. Nielsen Co.	(1) Market research	No.	Sentry Corporation	(1) Insurance	Yes-III.A.
			Signalform Corporation	(1) NA	No.

(continued on page 22)

American Corporations With Investments in South Africa

(continued from page 21)

Corporation	Number of Subsidiaries & Lines of Business in South Africa	Sullivan Signer/ 1984 Category**	Corporation	Number of Subsidiaries & Lines of Business in South Africa	Sullivan Signer/ 1984 Category**
Simplicity Pattern Co. Inc.	(2) Paper dress patterns	No.	Warner-Lambert Co.	(2) Pharmaceuticals; scientific instruments and fiber optics	Yes-IIA, IIB.
✓ Singer Co.	(1) Sewing and knitting machines	No.	Wean United Inc.	(1) Rolling mills for steel industry	No.
Skok Systems Inc.	(1) Computer-aided design software	No.	West Point-Pepperell Inc.	(1) Non-woven materials and products	No.
Smith International Inc.	(1) Mining equipment and tools	No.	✓ Westinghouse Electric Corp.	(2) Electrical products	Yes-IVC, IIA.
Smithkline Beckman Corp.	(2) Pharmaceuticals: diagnostic and analytical instruments	Yes-IIA, IIA.	✓ Wilbur-Ellis Co.	(1) Foodstuffs, engineering and marine goods	Yes-III A.
✓ Sperry Corporation	(1) Mainframe computer equipment	Yes-I.	✓ John Wiley & Sons Inc.	(2) Human performance systems	No.
Square D Co.	(1) Motor control and distribution equipment	No.	Wynn's International Co.	(1) NA	No.
Stanley Works	(1) Tools; light assembly	No.	✓ Xerox Corporation	(1) Copiers	Yes-I.
Stauffer Chemical Corp.	(1) Pesticides and herbicides	No.			
Steiner Corporation	(2) NA	No.			
Sterling Drug Inc.	(1) Pharmaceuticals and household products	Yes-IIA.			
✓ Stone & Webster Inc.	(1) Engineering services	No.			
Sullair Corporation	(1) NA	No.			
Sun Chemical Corp.	(1) NA	No.			
✓ Sybron Corporation	(1) Specialty chemicals	No.			
Tambrands Inc.	(1) Tampons	Yes-I.			
Tenneco Inc.	(2) Construction and agricultural equipment; paper and chemicals	Yes-IIA, No.			
Tidwell Industries Inc.	(1) Mobile homes and single family prefabricated units	No.			
Timken Co.	(1) Tapered roller bearings, specialty alloy steel, percussion rock bits	No.			
Titanium Industries Corporation	(1) Titanium marketing and fabricating	No.			
Tokheim Corporation	(2) Gasoline dispensing equipment	No.			
Trane Co.	(1) Air conditioning, heating, and refrigeration systems	Yes-IVD.			
Trans World Corporation	(1) Airline sales office	Yes-V.			
Twentieth Century-Fox Film Corporation	(1) Motion picture distributors	No.			
Twin Disk Inc.	(1) Power transmission equipment	No.			
UAL Inc.	(1) Hotel	Yes-V.			
✓ Union Carbide Inc.	(5) Imported Union Carbide products; vanadium mining; chrome mining; graphite electrodes; NA	Yes-I, IIA, IVA, IIA, IIA.			
Uniroyal Inc.	(1) Rubber chemicals	No.			
United States Gypsum Co.	(1) Hardboard and forestry products	Yes-IIA.			
United States Steel Corp.	(6) Copper and zinc mining; iron and manganese mining; ferromanganese furnaces	No.			
United Technologies Inc.	(2) Elevators and escalators; air conditioning and refrigeration equipment	Yes-IIA, IIIA.			
✓ Upjohn Co.	(2) Pharmaceuticals; plant breeding and agricultural products	Yes-IIA, IIIA.			
VF Corporation	(1) Ladies hosiery and knitwear	No.			
✓ Van Dusen Air Inc.	(1) Aircraft parts and supplies	No.			
✓ Wang Laboratories Inc.	(1) Computers, office equipment	No.			
Warner Communications Inc.	(3) Film distribution; records; music publishing	Yes-IIA, I, NA.			
Warner Electric Brake & Clutch Co.	(1) Electromagnetic clutches and brakes, ballscrews	No.			

* From "US Investments and Bank loans in South Africa," Staff Report for the Committee on the District of Columbia, House of Representatives, April 25, 1985

** For 1984, signers of the Sullivan Principles were rated by Arthur D. Little in the following categories:

Category I - Making good progress

Category II - Making progress

Category III - Needs to become more active

Category IV - Endorses principles, few or no employees.

Chronology of Middle East Peace Initiatives

(continued from page 19)

1) that the U.S. pledge to establish talks with the P.L.O.

2) that the U.S. guarantee a P.L.O. role equal to that of other Arab parties in Middle East peace negotiations.

V. February 23, 1985

A joint action agreement is released to the press by Jordan and the P.L.O. It is not seriously discussed by the U.S. until King Hussein's visit to the United States on May 30. The points included are:

1) "Total withdrawal from the territories occupied in 1967 for comprehensive peace as established in United Nations and Security Council Resolutions."

✓ ON STATE OF ALASKA VENDOR LIST 2/3/86



Alaska Permanent Fund Corporation

Pouch 4-1000 Juneau, Alaska 99802

(907) 465-2047 Telex 099-46-323

MEMORANDUM

DATE: January 24, 1986

TO: David A. Rose
Executive Director

FROM: Jim Kelly *JK*
Research & Liaison Officer

SUBJECT: List of all U.S. corporations that do business in South Africa
and Alaska

Listed below are the names of all U.S. corporations doing business in South Africa who are also registered with the state Department of Commerce & Economic Development to do business in Alaska. This information is correct as of November 1985.

- | | |
|-----------------------------|----------------------------|
| 1. AT&T | 21. Chase Manhattan |
| 2. Air Products & Chemicals | 22. Chicago Pneumatic Tool |
| 3. Alexander & Alexander | 23. Citicorp |
| 4. Allis-Chalmers | 24. Control Data Corp. |
| 5. American Brands | 25. Cooper Industries |
| 6. American Home Products | 26. Diamond Shamrock |
| 7. American Hospital Supply | 27. Dow Chemical |
| 8. American Standard | 28. Dresser Industries |
| 9. Armco | 29. Eastman Kodak |
| 10. Ashland Oil | 30. Eaton Corp. |
| 11. Bandag Inc. | 31. Emery Air Freight |
| 12. Bechtel Group | 32. Exxon |
| 13. Bell & Howell | 33. FMC Corp. |
| 14. Black & Decker | 34. Firestone |
| 15. Borg-Warner | 35. Fluor Corp. |
| 16. Burroughs Corp. | 36. Ford Motor |
| 17. CBS Inc. | 37. Foster Wheeler |
| 18. Cigna Corp. | 38. Fruehauf |
| 19. Carnation Co. | 39. GAF Corp. |
| 20. Caterpillar Tractor | 40. GATX Corp. |

U.S. corporations that do business in South Africa and Alaska
January 24, 1986
Page 2

41. GTE Corp.
42. Gelco Corp.
43. General Electric
44. General Motors
45. General Signal
46. Goodyear
47. W.R. Grace
48. Hewlett-Packard
49. Honeywell Inc.
50. Hughes Tool Co.
51. IBM
52. ITT
53. Ingersoll-Rand
54. Intergraph
55. Int'l Minerals & Chemical
56. Interpublic Group
57. Johnson Controls
58. Joy Manufacturing
59. Kimberly-Clark
60. Koppers
61. Longyear Co.
62. Marriott Corp.
63. Marsh & McLennan
64. Medtronic Inc.
65. Minn. Mining & Mfg.
66. Mobil Corp.
67. Monsanto Co.
68. NCR Corp.
69. Nalco Chemical
70. National Utility
71. Newmont Mining
72. Phelps Dodge
73. Phillips Petroleum
74. Raytheon Co.
75. Rexnord Inc.
76. R.J. Reynolds
77. Robbins Co.
78. Schlumberger
79. Scovill Inc.
80. Sperry Corp.
81. Standard Oil (Ohio)
82. Sterling Drug
83. Stone & Webster
84. Sun Chemical
85. Sybron Corp.
86. Union Carbide
87. Uniroyal
88. U.S. Steel
89. United Technologies
90. Upjohn Co.
91. Utah International
92. Van Dusen Air
93. Warner
94. Westinghouse
95. Xerox Corp.



Alaska Permanent Fund Corporation

Pouch 4-1000 Juneau, Alaska 99802

(907) 465-2047 Telex 099-46-323

February 6, 1986

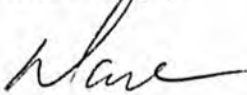
The Honorable
Katie Hurley
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear ~~Representative~~ ^{Katie} Hurley:

Please find attached a listing as of December 31, 1985, of all stocks the Permanent Fund owns in U.S. companies doing business in South Africa.

If there is anything else we can provide, please let me know.

Sincerely,


David A. Rose
Executive Director

DAR:ep

ALASKA PERMANENT FUND CORPORATION
 Total South Africa Holdings
 By Manager
 As of 12/31/85

<u>Manager</u>	<u>Shares</u>	<u>Cost</u>	<u>Market</u>	<u>Gain(Loss)</u>
Bankers Trust Company	6,781,723	\$277,218,245	\$336,149,705	\$58,931,459
Batterymarch	751,814	21,886,491	23,759,734	1,373,243
Eaton/Vance Inc.	486,300	19,722,987	24,590,750	4,867,763
Lehman Management	946,700	41,749,426	47,955,513	6,206,086
Rosenberg Capital Mgmt.	<u>771,996</u>	<u>35,729,063</u>	<u>43,372,125</u>	<u>7,641,011</u>
Totals:	<u>9,738,533</u>	<u>\$396,306,213</u>	<u>\$455,827,826</u>	<u>\$79,019,563</u>

Note: Discrepancies in totals due to rounding.

Source: The source for U.S. corporations doing business in South Africa is "Foreign Investment in South Africa" published in December 1984 by the Investor Responsibility Research Center Inc. (IRRC) and updated by IRRC in November 1985.

ALASKA PERMANENT FUND CORPORATION
Total South Africa Holdings
As of 12/31/85

Bankers Trust Company

<u>Company</u>	<u>Shares</u>	<u>Cost</u>	<u>Market</u>	<u>Gain(Loss)</u>
Abbott Labs	63,900	\$ 3,081,739	\$ 4,369,163	\$ 1,287,423
Air Products & Chem	25,500	1,349,157	1,635,188	286,031
Amer Home Products	81,400	4,463,334	5,118,025	654,691
Amer Intl Group Inc.	39,600	2,866,546	4,197,600	1,331,054
Amer Tel & Teleg Co.	546,717	10,766,268	13,667,925	2,901,657
American Cyanamid Co.	23,500	1,179,159	1,351,250	172,091
American Standard Inc.	44,500	1,456,734	1,724,375	267,641
Amsted Inds, Inc.	11,400	439,226	490,200	50,974
Armco Inc.	30,900	467,892	289,688	(178,204)
Baker Intl Corp.	102,500	1,764,970	1,832,188	67,218
Baxter Travenol Labs	131,543	1,932,993	2,071,802	138,809
Beatrice Comp. Inc.	56,500	1,843,626	2,599,000	755,374
Black & Decker	61,300	1,380,584	1,317,950	(62,634)
Borden Inc.	34,800	1,140,434	1,796,550	656,116
Borg Warner Corp.	67,400	1,476,255	1,659,725	183,470
Bristol Myers Co.	72,300	3,780,369	4,856,125	1,075,756
Burroughs Corp.	28,100	1,570,590	1,780,838	210,247
Caterpillar Tractor	47,300	1,757,250	1,986,600	229,350
CBS Inc.	12,127	1,079,017	1,405,216	326,199
Chase Manhattan	23,049	1,123,610	1,673,934	550,323
Chesebrough Ponds	36,400	1,284,883	1,542,450	257,567
Chevron Corp.	196,200	6,895,786	7,480,125	584,339
Cigna Corp.	35,000	1,533,570	2,248,750	715,180
Citicorp.	62,100	2,455,005	3,066,188	611,182
Coca Cola	69,700	4,380,865	5,889,650	1,508,785
Colgate Palmolive	45,949	1,188,889	1,504,830	315,941
Control Data Corp.	37,400	1,305,756	776,050	(529,706)
Cooper Inds Inc.	33,700	1,032,585	1,415,400	382,815
CPC Intl.	26,000	1,045,744	1,326,000	280,256
Cummins Engine Co.	8,200	580,143	590,400	10,257
Dart & Kraft Inc.	71,700	2,031,838	3,118,950	1,087,112
Deere & Co.	49,200	1,457,568	1,414,500	(43,068)
Diamond Shamrock Corp.	37,900	761,790	525,863	(235,928)
Dow Chemical Company	94,500	2,930,358	3,874,500	944,142
Dresser Industry	78,600	1,514,327	1,424,625	(89,702)
Dun & Bradstreet Corp.	36,900	2,411,704	3,090,375	678,671
Dupont (E.I.)	119,900	6,183,953	8,138,213	1,954,260
Eastman Kodak Co.	120,200	5,657,929	6,085,125	427,196
Eaton Corp.	20,401	1,100,918	1,308,214	207,296
Emery Air Freight	42,200	727,685	717,400	(10,285)
Exxon Corp.	402,300	17,633,947	22,176,788	4,542,841
Firestone T & R	17,700	350,752	422,588	71,835
Fluor Corp.	126,000	2,202,026	1,953,000	(249,026)
FMC Corp.	20,500	1,300,745	1,342,750	42,005
Ford Motor Co.	100,750	4,369,273	5,843,500	1,474,227
Foster Wheeler Corp.	25,600	368,064	326,400	(41,664)

<u>Company</u>	<u>Shares</u>	<u>Cost</u>	<u>Market</u>	<u>Gain (Loss)</u>
Fruehauf Corp.	27,150	\$ 626,580	\$ 685,538	\$ 58,958
General Electric	242,400	13,986,203	17,634,600	3,648,397
General Signal Corp.	27,800	1,266,691	1,289,225	22,534
Gillette Co.	20,200	1,115,157	1,403,900	288,743
Goodyear Tire	67,222	1,836,953	2,100,688	263,735
GTE Corp.	108,500	4,455,367	4,991,000	535,633
Hewlett Packard Co.	132,900	4,895,630	4,884,075	(11,555)
Honeywell Inc.	34,200	2,126,835	2,535,075	408,240
Hughes Tool Co.	58,100	1,002,643	769,825	(232,818)
Ingersoll Rand Co.	21,900	1,126,120	1,171,650	45,530
Intl Business Machs.	332,300	40,922,276	51,672,650	10,750,374
Intl Flv. & Fragrnc.	39,000	1,154,433	1,560,000	405,567
Intl Mineral & Chem.	10,400	462,720	361,400	(101,320)
ITT Corp.	74,700	2,513,230	2,838,600	325,370
Johnson & Johnson	97,400	3,943,201	5,125,675	1,182,474
Joy Mfg Co.	13,300	368,841	315,875	(52,966)
Kellogg Inc.	31,800	1,253,293	2,210,100	956,807
Kimberly Clark	22,800	1,091,395	1,527,600	436,205
MacMillan Inc.	36,200	669,170	1,375,600	706,430
Marriott Corp.	13,300	1,008,204	1,449,700	441,496
McGraw Hill Inc.	29,100	1,246,819	1,396,800	149,981
Merck & Co. Inc.	37,300	3,655,912	5,110,100	1,454,188
Minnesota Mng & Mfg.	60,900	4,903,651	5,465,775	562,124
Mobil Corp.	233,800	6,857,275	7,072,450	215,175
Monsanto Co.	37,200	1,740,872	1,776,300	35,428
NCNB Corp.	28,600	1,137,593	1,294,150	156,557
NCR Corp.	71,900	2,131,670	2,893,975	762,305
Newmont Mining Corp.	31,800	1,425,217	1,498,575	73,358
Owens Ill Inc.	23,500	1,209,218	1,503,375	294,157
Pfizer Inc.	81,500	3,287,040	4,125,938	838,897
Phillips Pete Co.	147,602	1,788,389	1,789,674	1,286
Raytheon Co.	39,300	1,738,944	2,107,463	368,519
Revlon Inc.	26,500	888,384	1,537,000	648,616
Reynolds (R.J.) Inds.	133,237	3,484,863	4,180,311	695,448
Rohm & Haas Co.	10,300	673,353	789,238	115,884
Schering Plough	22,700	896,884	1,319,438	422,554
Smithkline Beckman	41,000	2,505,633	3,100,625	594,992
Sperry Corp.	37,892	1,672,651	2,065,114	392,463
Square D Co.	33,000	1,247,682	1,410,750	163,068
Squibb Corp.	24,000	1,293,280	1,920,000	626,720
Standard Oil Ohio	134,608	6,096,807	6,713,574	616,767
Stanley Mfg.	8,800	251,115	281,600	30,485
Sterling Drug Inc.	39,000	1,102,280	1,467,375	365,095
Tenneco Inc.	76,298	3,021,433	3,032,846	11,413
Texaco Inc.	142,400	5,085,785	4,272,000	(813,785)
Timken Co.	11,100	622,681	499,500	(123,181)
U.S. Steel	61,600	1,726,354	1,626,788	(99,567)
UAL, Inc.	25,800	1,226,174	1,283,550	57,376
Union Carbide	35,500	1,835,823	2,516,063	680,239
VF Corp.	32,400	1,139,726	1,680,750	541,024

<u>Company</u>	<u>Shares</u>	<u>Cost</u>	<u>Market</u>	<u>Gain(Loss)</u>
Warner Comm. Inc.	38,878	\$ 922,539	\$ 1,453,065	\$ 530,527
Warner Lambert Co.	35,500	1,263,885	1,686,250	422,365
Westinghouse Corp.	93,000	2,727,602	4,138,500	1,410,898
Xerox Corp.	<u>63,800</u>	<u>2,959,911</u>	<u>3,812,050</u>	<u>852,139</u>
	<u>6,781,723</u>	<u>\$277,218,245</u>	<u>\$336,149,705</u>	<u>\$58,931,459</u>

Batterymarch Financial Management

<u>Company</u>	<u>Shares</u>	<u>Cost</u>	<u>Market</u>	<u>Gain(Loss)</u>
Allis Chalmers	18,800	\$ 315,276	\$ 77,550	\$(237,726)
Amsted Inds, Inc.	5,400	199,233	232,200	32,967
Armco Inc.	52,600	567,162	493,125	(74,037)
Baker Intl Corp.	28,000	563,698	500,500	(63,198)
Black & Decker	11,000	225,720	236,500	10,780
Caterpillar Tractor	27,200	1,078,244	1,142,400	64,156
Chesebrough Ponds	21,100	709,722	894,113	184,391
Chevron Corp.	27,700	998,841	1,056,063	57,222
Chicago Pneum. Tool Co.	24,500	585,428	496,125	(89,303)
Control Data Crp.	26,500	356,680	549,875	(306,805)
CPC Intl.	19,800	844,196	1,009,800	165,604
Crown Cork & Seal	10,900	619,922	966,913	356,991
Cummins Engine Co.	8,300	533,841	597,600	63,759
Deere & Co.	27,400	787,798	787,750	(48)
Diamond Shamrock Corp.	41,600	791,507	577,200	(214,307)
Diamond Shamrock Ltd.	894	18,323	16,535	(1,788)
Dresser Industry	41,300	826,339	748,563	(77,776)
Dupont E.I.	21,800	972,036	1,479,675	507,639
Eaton Corp.	12,000	562,640	769,500	206,860
FMC Corp.	500	33,010	32,750	(260)
Foster Wheeler Corp.	500	6,010	6,375	365
GATX Corp.	25,000	743,700	850,000	106,300
General Mtrs Corp.	10,400	758,616	731,900	(26,716)
Goodyear Tire	21,501	535,243	671,906	136,664
Honeywell Inc.	11,000	647,808	815,375	167,568
Hughes Tool Co.	1,500	34,343	19,875	(14,468)
Koppers Co.	32,700	584,929	686,700	101,771
Libby Owens Ford	14,700	702,072	723,975	21,903
Mobil Corp.	28,800	805,301	871,200	65,899
Monsanto Co.	7,000	361,515	334,250	(27,265)
NCR Corp.	22,600	635,352	909,650	274,298
Newmont Mining Corp.	20,100	926,384	947,213	20,829
Norton Company	20,300	747,119	784,088	36,969
Phelps Dodge	30,100	736,497	692,300	(44,197)
Phillips Pete Co.	17,619	185,353	213,630	28,277
Robins (A.H.) Inc.	28,300	571,766	321,913	(249,854)
Standard Oil Ohio	16,000	750,495	798,000	47,505
Stone & Webster	9,600	386,592	525,600	139,008
U.S. Steel	6,800	177,786	181,050	3,264
	<u>751,814</u>	<u>\$21,886,491</u>	<u>\$23,759,734</u>	<u>\$1,373,234</u>

Eaton/Vance Inc.

<u>Company</u>	<u>Shares</u>	<u>Cost</u>	<u>Market</u>	<u>Gain(Loss)</u>
Alex. & Alex. Svc.	115,000	\$ 2,961,966	\$ 3,823,750	\$ 861,784
Amer Tel & Teleg Co.	80,000	1,853,344	2,000,000	146,656
Bausch & Lomb	75,000	1,911,289	2,409,375	498,086
Coca Cola	25,000	1,530,695	2,112,500	581,805
Fluke (John) Mfg.	3,300	90,105	94,875	4,770
Intl Business Machs.	25,000	3,256,270	3,887,500	631,230
Loctite Corp.	45,000	1,553,660	1,530,000	(23,660)
McGraw Hill Inc.	33,000	1,524,194	1,584,000	59,806
Merck & Co. Inc.	20,000	1,985,650	2,740,000	754,350
Raytheon Co.	30,000	1,340,224	1,608,750	268,526
Squibb Corp.	35,000	1,715,590	2,800,000	1,084,410
	<u>486,300</u>	<u>\$19,722,987</u>	<u>\$24,590,750</u>	<u>\$4,867,763</u>

Lehman Management Company

<u>Company</u>	<u>Shares</u>	<u>Cost</u>	<u>Market</u>	<u>Gain (Loss)</u>
Amer Intl Group Inc.	6,100	\$ 517,738	\$ 646,600	\$ 128,863
Black & Decker	36,700	755,479	789,050	33,571
CBS Inc.	9,400	1,061,195	1,089,225	28,030
Chase Manhattan	8,000	446,852	581,000	134,148
Citicorp	48,800	1,950,003	2,409,500	459,497
Coca Cola	6,400	435,396	540,800	105,404
Dart & Kraft Inc.	76,100	2,869,294	3,310,350	441,056
Deere & Co.	53,900	1,537,541	1,549,625	12,084
Dupont E.I.	25,000	1,343,186	1,696,875	353,689
Eastman Kodak	16,000	687,099	810,000	122,901
Exxon Corp.	33,000	1,555,316	1,819,125	263,809
Ford Motor Co.	9,800	392,645	568,400	175,755
General Electric	47,400	2,685,436	3,448,350	762,914
General Mtrs Corp.	13,800	987,414	971,175	(16,239)
Goodyear Tire	42,000	1,137,312	1,312,500	175,188
GTE Corp.	68,300	2,741,796	3,141,800	400,004
Intl Business Machs.	37,600	4,523,931	5,846,800	1,322,869
ITT Corp.	45,500	1,688,159	1,729,000	40,841
Johnson & Johnson	34,500	1,352,314	1,815,563	463,248
NCR Corp.	1,800	43,388	72,450	29,062
Sperry Corp.	69,400	3,420,889	3,782,300	361,411
Tenneco Inc.	78,500	3,132,193	3,120,375	(11,818)
Texaco Inc.	80,300	2,436,826	2,409,000	(27,826)
UAL, Inc.	16,900	850,883	840,775	(10,108)
Untd Tech. Crp.	57,700	2,325,864	2,524,375	198,511
Warner Lambert Co.	23,800	871,279	1,130,500	259,221
	<u>946,700</u>	<u>\$41,749,426</u>	<u>\$47,955,513</u>	<u>\$6,206,086</u>

Rosenberg Capital Management

<u>Company</u>	<u>Shares</u>	<u>Cost</u>	<u>Market</u>	<u>Gain (Loss)</u>
Abbott Labs	17,000	\$ 776,129	\$ 1,162,375	\$ 386,246
Amer Intl Group Inc.	30,000	2,022,823	3,180,000	1,157,177
Amer Tel & Teleg Co.	30,000	687,112	750,000	62,839
American Cyanamid Co.	10,000	500,621	575,000	74,379
Avery Int'l Corp.	20,000	494,750	737,500	242,750
Baxter Travenol Labs	107,496	1,512,505	1,693,062	180,557
Bristol Myers Co.	6,500	297,927	430,625	132,698
Caterpillar Tractor	20,000	701,312	840,000	136,688
Chevron Corp.	20,000	714,108	762,500	48,392
Coca Cola	25,000	1,691,661	2,112,500	420,839
Dart & Kraft Inc.	21,000	805,633	913,500	107,868
Dun & Bradstreet Cor.	6,000	357,199	502,500	145,301
Eastman Kodak Co.	13,500	596,428	683,438	87,010
FMC Corp.	15,000	932,980	982,500	49,520
General Electric	43,500	2,505,274	3,164,625	659,351
Gillette Co.	25,000	1,516,152	1,737,500	221,348
Intl Business Machs.	31,000	3,903,565	4,820,500	916,935
Johnson & Johnson	20,000	994,320	1,052,500	58,180
JWT Group	11,500	264,415	350,750	86,335
Merck & Co. Inc.	13,000	1,308,167	1,781,000	472,834
Minnesota Mng & Mfg.	35,000	2,773,211	3,141,250	368,039
NCR Corp.	57,500	2,179,493	2,314,375	134,883
Parker Hannefin	25,000	776,064	962,500	186,436
Pfizer Inc.	38,000	1,791,252	1,923,750	132,498
Phelps Dodge	20,000	412,425	460,000	47,575
Schering Plough	14,000	610,701	813,750	203,049
Squibb Corp.	12,000	772,285	960,000	187,715
Tambrands	5,000	259,884	450,625	190,742
Warner Lambert Co.	32,000	1,403,278	1,520,000	116,722
Westinghouse Corp.	18,000	63,621	801,000	165,379
Xerox Corp.	30,000	1,531,772	1,792,500	260,729
	<u>771,996</u>	<u>\$35,729,063</u>	<u>\$43,372,125</u>	<u>\$7,641,011</u>

American
Committee
On
Africa

SOUTH AFRICA:

Questions and Answers On Divestment

There is a growing debate about whether US investments in South Africa help or hinder efforts to abolish the system of white minority rule known as apartheid. Corporations have claimed that investment provides job opportunities and helps promote positive change. Opponents of investment contend that US involvement provides capital and technology needed by the white minority to maintain its absolute domination over the black majority.

A movement for divestment of funds from corporations that invest in South Africa is growing throughout the United States. It involves leaders of civil rights organizations, labor unions, churches, universities, community groups, and state and municipal legislators. They argue that ending South Africa-related investments will make new funds available for mortgages, home improvements, and community development. The following questions and answers on divestment have been prepared to help deal with the issues that are being raised by this debate.

1. Why focus on South Africa?

"Attention is focused on South Africa not because it has quantitatively less freedom, less justice or less democratic government than a hundred other countries one could name," according to Sydney Kentridge, a prominent South African lawyer. "Those goods do exist in South Africa but they are strictly rationed on the sole basis of color — not of citizenship or birth or merit, but color alone."

While South Africa does not hold the monopoly on racism, this is legalized racism at its most brutal. Color determines every facet of human life and death in South Africa.

- ▶ The African population is 22.7 million. The white population is only 4.7 million. Whites vote; Africans are not permitted to vote. Comprising over 72 percent of the population, Africans may live permanently on only 13 percent of the total land area.
- ▶ The average monthly wage in 1982 was \$1136 for whites, and \$250 for Africans. For every \$1.00 that a white employee earns, an African earns 22c.
- ▶ In 1981-82 the government spent \$1199 on education for every white child, and \$145 for every African child.
- ▶ In 1980, of every 1,000 white children born, 13 died in infancy. In some rural areas, 240 out of every 1,000 African children born die in infancy.

2. Isn't economic involvement in South Africa a foreign policy issue that should be handled by the federal government?

In an important opinion of May 1984, the Attorney General of Maryland, one of the 29 states to have considered the enactment

of divestment legislation, stated that there is no conflict between divestment legislation and the US Constitution, federal law and federal foreign affairs powers.

A separate opinion prepared for the prestigious Lawyers Committee for Civil Rights Under Law in August 1984 agreed.

State divestiture legislation violates no statute, treaty or executive agreement of the United States, and so transgresses none of the grounds upon which state action has traditionally been deemed violative of national foreign policy."

Beyond the legal question, many state and city officials have been adamant that divestment not be relegated to the realm of "foreign affairs." New York City Mayor Ed Koch endorsed the July 1984 report on "City Policy With Respect to South Africa" which stated that: "The issue is the relationship between the City's finances and an unjust system. We believe that there is no legal or constitutional requirement that the City support apartheid in any way. It is simply not accurate to say that South Africa's governmentally supported policy of massive and sustained discrimination is none of our concern."

3. Why is corporate withdrawal necessary?

The net effect of American investment has been to strengthen the economic and military self-sufficiency of South Africa's apartheid regime. (Report of the Senate Subcommittee on Africa, January, 1978.)

Total US financial involvement in South Africa, including direct investment, bank loans and shareholdings, totals some \$14 billion. There has been a tripling of direct US investment to over \$2.6

billion since 1970. In March 1984, US banks had \$4.6 billion in outstanding loans to South Africa.

General Motors and Ford manufacture cars and trucks used by the police and military. Secret General Motors contingency plans prepared in 1977 indicate that the company would cooperate with the South African government "in the event of civil unrest" and that "vehicles may be taken over for Civil Defense purposes."

Fiur Corporation of California, on contract with SASOL, the South African Coal, Oil, and Gas Corporation, provided \$4.2 billion worth of coal-to-oil conversion plants to help South Africa achieve energy self-sufficiency and withstand an oil embargo. Major US oil companies like Exxon, Mobil, Texaco, and Standard Oil of California are supplying oil to South Africa in violation of the OPEC embargo.

Control Data Corporation sold equipment to the South African police in violation of US Commerce Department regulations. Other firms such as IBM have supplied computers to the government for streamlining South Africa's racist population controls.

4. What effect does US investment and lending have on South African blacks?

US corporations and the US government put forward the argument that US investment is a positive force for change in South Africa. Exxon spokesperson, Philip Wetz, said in August 1984: "We feel we can do more good by staying in South Africa." If US investment were an agent for change, then this should have been proved over the past 25 years. In fact, their presence and increasing involvement have not prevented the growth of the highly repressive apparatus of the apartheid state.

► An African is arrested for a pass offense every 2.5 minutes. This is a crime that no white can ever commit. Pass laws govern all movement of Africans in and out of the urban areas.

► A computer system has been installed in one bantustan that classifies black workers as "trouble makers," "good boys," "trade unionists," etc., and monitors the migration of workers into the urban areas.

► According to Amnesty International "torture is extensively inflicted on political detainees, and . . . the Government sanctions its use." Over 65 detainees are known to have died while being held in solitary confinement, without charge, trial, without access to family or lawyers. In 1977 police killed Steve Biko, Black Consciousness leader, while in detention. In 1982, trade union leader Neil Aggett died while in detention.

► Over 4,500 people have been convicted since 1961 under the Suppression of Communism Act (1950), the Unlawful Organization Act (1960), the Public Safety Act (1933), the Terrorism Act (1967), and the General Law Amendment Act (1962). Recently the Internal Security Act (1982) supplanted some of these acts and entrenched repressive measures. It allows for detentions without charge or trial and the outlawing of any organization or publication.

► In the 1984 protests sparked by fraudulent elections under the new constitution, over 160 anti-apartheid demonstrators were killed between September and mid-November. In one African township, unarmed residents found themselves sealed off by 7,000 troops and armed police who proceeded to conduct house to house searches and arrest residents.

The apartheid regime uses funds from corporate taxes and inputs of foreign equipment such as computers, cameras, and police trucks to keep track of pass offenses and political detentions, and to keep the repressive machinery of the South African state running smoothly. US companies help fill the gap between what the South Africans can themselves provide, and what they need.

5. What do South African blacks say about foreign investment?

"Those who invest in South Africa," said Bishop Desmond Tutu, winner of the 1984 Nobel Peace Prize and head of the South African Council of Churches, "should not think they are doing us a favor; they are here for what they get out of our cheap and abundant labor and they should know that they are buttressing one of the most vicious systems." (1984)

There is of course a variety of opinion on this subject within the black community of South Africa. Those who advocate increased foreign investment are most often members of the tiny black middle class or are employed by a branch of the government such as the civil service of one of the bantustans. They are people who have become dependent on the system and fear the cost of fundamental change.

According to the Internal Security Act (1982), any person in South Africa or outside who supports divestment commits the crime of "subversion" ("terrorism" under the predecessor law), for which the penalty is up to 20 years in prison. In spite of the danger, leaders of the trade union movement, the South African churches, and black political organizations continue to call for divestment.

FOSATU, the largest federation of black trade unions, declared in its 1984 International Policy Statement: "It is FOSATU's considered view that the pressure for disinvestment has had a positive effect and should therefore not be lessened. FOSATU is definitely opposed to foreign investment that accepts the condition of oppression maintained by this regime." This position was thoroughly debated at all levels before being adopted by the National Executive.

The South African liberation movements have consistently called for divestment. As long ago as 1959, Nobel Peace Laureate Albert Luthuli, then president of the African National Congress (ANC), urged the international community to impose economic sanctions on South Africa. He argued that: "The economic boycott of South Africa will entail undoubted hardship for Africans. We do not doubt that. But if it is a method which shortens the day of bloodshed, the suffering to us will be a price we are willing to pay."

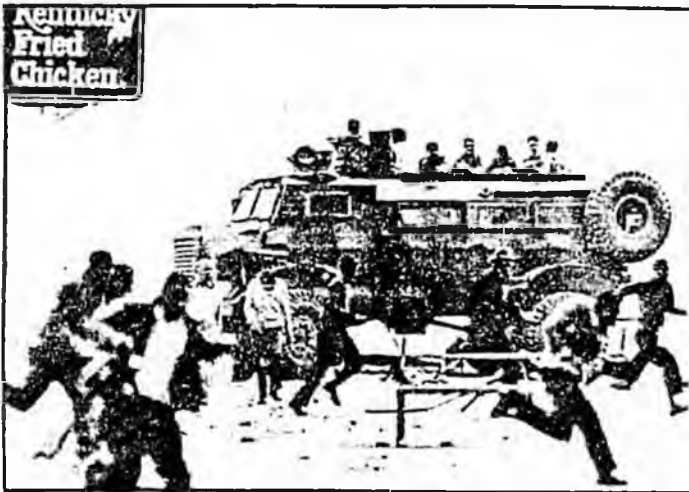
Stating it strongly, Steve Biko, shortly before his death, said, "The argument is often made that the loss of foreign investment would hurt blacks the most. It would undoubtedly hurt blacks in the short run, because many of them would stand to lose their jobs. But it should be understood in Europe and North America that foreign investment supports the present economic system of injustice . . . We blacks are perfectly willing to suffer the consequences! We are quite accustomed to suffering."

6. What is the most effective way to achieve corporate withdrawal?

Many hundreds of millions of dollars worth of investments and bank deposits have already been affected by the divestment campaign.

Since the State of Connecticut passed its South African divestment law in September 1982, securities in twenty-five corporations who were found not to be in compliance with the State's South African divestment law, have been sold. Philadelphia's action involved the divestment of over \$65 million, and Massachusetts, \$90 million. Since July 1984 the City of Boston and New York City's largest pension fund have begun a divestment process which will move nearly \$700 million in stocks and bank deposits from companies involved in South Africa.

By late 1984 divestment legislation had been passed by five states and 20 cities. Legislators have been joined in divestment action by trade unionists, investment experts, students and



Over 160 killed, over 1,000 detained as anti-apartheid protests swept South Africa in 1984.

church activists to end American complicity with the apartheid regime.

In 1977, this campaign was already having an effect. The Polaroid Company, after 29 years of involvement in South Africa, pulled out. It did so only after it had nominally attempted to improve working conditions. Polaroid took the step in direct response to public disclosure of surreptitious sales of Polaroid products to the South African government and military by the South African distributor. However, this move followed a vigorous campaign mounted against the company by Polaroid workers and anti-apartheid groups, pressuring them to withdraw.

Few corporations are likely to withdraw from South Africa until there are economic reasons to do so. Institutional investors and pension funds hold a key to this withdrawal, because of their economic power. Many state and city governments, trade unions and churches are acting in concert to use this economic power and exert pressure, and it is being felt. The corporations are fighting back. The US Chamber of Commerce in South Africa, along with a group of major South African companies, placed a 10-page supplement in the October 1984 *Fortune* magazine, acknowledging the "gathering momentum" for divestment. It is this pressure that can ultimately lead to corporate disengagement.

7. What would be the effect of disengagement by US corporations and banks?

"Each trade agreement, each bank loan, each new investment is another brick in the wall of our continued existence," stated former South African Prime Minister John Vorster.

US investment provides "the bricks" for certain key sectors of the economy. US firms control 75 percent of the computer market, 23 percent of the automotive market, almost 40 percent of the petroleum producers market, and a sizable share of the electronics market.

Disengagement would be more than a major psychological blow to the confidence of the ruling minority government. The effect of the cut-off of advanced US technology would be enormous.

In August 1984, South Africa's leading financial journal, *The Financial Mail*, commented in a long review of the divestment campaign that "the arguments for foreign disinvestment from South Africa are intensifying — particularly in the US. Though there is no cause for real panic, it would be unwise to disregard the psychological impact of the moves and the effect they could have on the economy." A cable sent in October 1978 by the US Embassy in Pretoria to the State Department confirmed that "a grave problem would be the supply of spares for existing high tech-

nology equipment. SAG [the South African government] has built up a reserve of stocks of more than one year which will act as a cushion, but there is no possibility all replacement parts for imported goods which keep the economy going (even office elevators) can be locally produced."

The US Embassy message went on to point out that lack of access to foreign technology could cripple South Africa, and that large corporations are intent on countering any sanctions measures. "Multinationals, including US subsidiaries, are determined to undercut any sanctions action and have already made plans to camouflage their operation through subterfuges arranged with affiliates in other countries."

8. Is South Africa the place for prudent investment?

According to the managing director of Goodyear Tire and Rubber Company's South African subsidiary, "Foreign companies are going to be the target. That is where dissident blacks will focus. We are right in the tinder box."

The appeal of high profits and fast growth on investment is offset in South Africa by the failure of the government to institute desperately needed labor reforms. Black unemployment and underemployment are estimated at 25 percent creating what the London *Economist* has called "a time bomb of discontent and revolution-fodder"

These factors have already pegged South Africa as an economic risk. BERI SA, which specializes in risk analysis for international corporations, has warned that "operational and socio-political problems will become more acute throughout the 1980's. Therefore, no long term commitments to South Africa are recommended." It sees a decline in the Operational Risks index to "high risk" within five years, while the Political Risk index will deteriorate to the "prohibitive risk" category in the +5 years forecast.

The conditions in South Africa together with pressure from legislators, anti-apartheid groups, churches, universities and other institutional investors in the US make up what has been labeled "the hassle factor." All these factors are making US corporations wary. As Ian Leach, general manager of Caterpillar Africa warned in 1980, "We are secure here for five years. Up to ten years it is a matter of caution. After that it is anybody's guess."

9. Are the Sullivan principles an alternative to withdrawal?

When Ford Motor Company, the largest US employer of black workers in South Africa, asked its workers what they thought of the Sullivan principles, they responded with a hard-hitting four-page document. The Sullivan principles are a "toothless package" and a "piece-meal reform that allows this cruel system of apartheid to survive," the document stated. "... The Code does not demand apartheid to be abolished, but merely to modernize and ensure its perpetuation."

The Sullivan principles are a voluntary code of conduct for US firms operating in South Africa. Drafted in 1976, they call for non-segregation in the work place and fair employment practices. Institutions which have been called on to divest began using the principles to judge companies' performance, with signing of the principles taken as an indication of sufficiently good intentions as to eliminate any reason for action.

In 1984, 122 of the 350 US companies operating in South Africa were signatories of the six principles. US corporations employ 66,000 workers, fewer than one percent of all working people in South Africa. Thus, even if the principles were practiced they would affect an insignificant number of workers.

More important, the Sullivan principles make no demand for

change in the fundamental structure of apartheid, no demand for black political rights. Stated Emma Mashinini, Secretary of the Commercial Catering and Allied Workers Union of South Africa: "This Manifesto is just good cosmetics for the outside world. To us trade unionists, we see no difference between American and South African companies."

Appreciating the fact that the Sullivan principles provide the companies with an opportunity to deflect criticism, many firms were quick to jump on the bandwagon. One subsidiary of a US firm explained that it held off signing for some time — until it realized that "the principles were being used to pacify critics in the States."

10. What are the financial implications of divestment?

"We here in Massachusetts are proud to have been the first state in the nation to vote to sell from our public pension fund portfolio all those investments in firms doing business in South Africa . . . It has been our experience that divestiture makes not only a strong moral statement against apartheid but divestiture has proven to have had no significant impact on our pension earnings . . . Timely and careful divestiture can result in net increases in pension earnings." (Letter from Michael S. Dukakis, Governor of Massachusetts, August 1983.)

This experience of the State of Massachusetts has been repeated by other states and cities divesting from companies that are involved in South Africa. For instance, the Director of the Board of Pensions and Retirement for the City of Philadelphia stated in 1984 that: "We . . . consistently achieved or bettered our assumed actuarial investment return rate of 9 percent in our transactions divesting our portfolio of fixed income securities of firms doing business in South Africa."

The University of Wisconsin Trust Fund found that "divestment of South Africa-related stocks has not hampered or limited our ability to find suitable sources of investment." Michigan State University found in June 1980, within months of passing divestment resolutions, their portfolio had earned an additional \$1 million.

Joan Bavaria, President of Franklin Research Company, has pointed out that fears that divestment will prove costly are groundless. "Rather, [studies] have shown that over time South Africa-free companies have outperformed the restricted stocks with a minimal amount of added risk." This has been borne out by studies conducted by Chemical Bank, the US Trust Co., and Trinity Investment Management Corporation.

Hence, Robert J. Schwartz, Vice President of Shearson/American Express and an expert on socially responsible investment, stressed in 1984: "A decision about divestment should not be cluttered by arguments in regard to investment performance, but be based upon the political, moral issues and as to whether the decision makers believe that divestment will have an effect on ending the system of apartheid."

In September 1984, the Connecticut State Treasurer, Henry Parker, reported that "Connecticut has been able to earn money by selling the holding of socially irresponsible companies. Corporate America must take a strong stand against racism wherever it exists and our divestment law is an important incentive for them to do just that. What is more, we have shown that it is profitable to be socially responsible."

11. Who is joining the divestment campaign?

The list of states considering some divestment action grows steadily. By mid-1984 the number had reached 29, of which Con-

necticut, Massachusetts, Maryland, Michigan and Nebraska have passed divestiture legislation. The campaign continues to gain ground. In 1984 the Executive Council of the National Conference of Mayors passed a resolution calling for cities to divest their pension funds. New York City is considering selective purchasing legislation to make it illegal to purchase any products that originate in South Africa and to give preferential treatment to purchases from US companies which do not invest in South Africa. Numerous other cities are poised for positive action.

The campaigns in the states and cities are supported by a wide coalition of groups including significant trade unions. Unions that have taken a position against economic involvement in South Africa include the Amalgamated Clothing and Textile Workers Union, United Auto Workers, American Federation of State, County and Municipal Employees, United Steel Workers of America, National Education Association, United Electrical Workers, International Longshoreman and Warehouseman's Union, District 1199 RWDSU, District 65 UAW, and Fur, Leather and Machine Workers Union UFCWIU.

Said UAW Vice-president Don Ephlin, "We cannot tolerate public monies being invested in a country which practices institutionalized racism through its laws."

Churches which have voted to end their banking or corporate links to South Africa include the National Council of Churches, the American Lutheran Church, Disciples of Christ, the United Methodist Board of Global Ministries, the Reformed Church in America and the American Friends Service Committee.

At least 40 universities have taken either full or partial divestment action. Those that have passed resolutions to sell all shares in corporations doing business in South Africa include the City University of New York, Antioch and Hampshire Colleges, Ohio University, Michigan State, Indiana Central and the Universities of Massachusetts, Oregon and Wisconsin.

12. What kinds of alternative responsible investment exist?

"There is a mounting consensus that pension fund investments cannot protect retirees' benefits unless they protect employees' jobs and economic interests as well . . . Investments . . . that create jobs, build houses, and return a fair yield could be a model for government pension systems." (Edmund G. Brown, Jr., Governor of California.)

Many of the investors concerned not to support apartheid have not chosen to re-direct their funds to achieving particular social goals. But some have seen the need to use reinvestment as such an opportunity.

Examples of such investment include the Kansas Public Employees' Retirement System program called "Kansas Funds for Kansas Jobs." In the program, the retirement system buys the guaranteed portion of SBA loans. By making capital available for small businesses the economy is improved and jobs are created. Other investments available include affordable housing, health care and human services, and alternative energy resource conservation. The interest in public pension fund investment is growing rapidly and new alternatives to investment in South Africa are multiplying.

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Stephanie Urdang, Research Director

December 1984

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The American Committee on Africa

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South Africa Fact Sheet

Twenty-nine million people live in South Africa today. Only the 4.5 million whites have full rights of citizenship while the nation's twenty-one million Africans are treated as rightless foreigners. The Africans were born in South Africa, work in South Africa, and will die in South Africa—but they are black, and under South African law, the color of their skin makes them non-citizens. Africans cannot vote, buy or sell land, live or work where they choose, or move freely. They have been stripped of power and deprived of control over their lives by an elaborate network of legislation and custom.

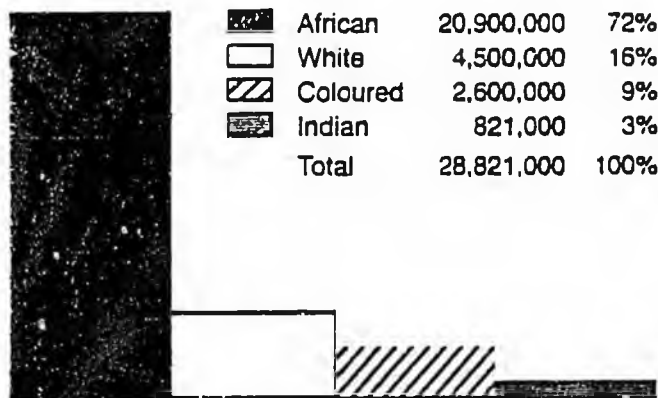
This is the apartheid system. A rising tide of black opposition is today threatening the survival of apartheid. The racist government is responding with violence at home and false propaganda abroad in its efforts to save the system.

This fact sheet is designed to present an accurate picture of the continuing impact apartheid has on the lives of black people in South Africa today.

Population

Racial Breakdown

Key:



Figures are based on 1980 census and population estimates of Bophuthatswana, Transkei, and Venda. Census figures for Africans, especially in the bantustans, are generally considered low. Survey, 1982.

Land

Area: 472,359 square miles (larger than California, Arizona, Utah and Nevada combined). Yearbook, 1979.

Land Reservation: Under the Land Acts of 1913 and 1936, 87% of the country's territory has been reserved for whites, 13% for Africans. Africans may not purchase land in white areas and may not remain in the white areas without a permit. Indians and Coloureds must live in segregated areas in the territory reserved for whites.

- All figures have been converted into dollars at the following rates for one rand: 1982/83—\$0.92; 1981—\$1.15; 1980—\$1.29; 1979—\$1.20; 1978—\$1.15.
- The racial divisions used are official South African government categories. The term "black" includes the African, Coloured, and Indian populations.
- South African government statistics on the African majority are increasingly fragmented and incomplete because of the apartheid policy of bantustan 'independence' (see below). Where possible the figures used here are for South Africa as a whole. However, in some cases, due to a lack of other information, government statistics which undercount certain categories of workers have been used. As a result, figures from different sections of the fact sheet may not be directly comparable.

The Bantustans: The fragmented areas designated for Africans are called bantustans, homelands or national states. As of 1983 fewer than 10,000,000 Africans, or 46% of the African population, lived in white areas and more than 11,000,000, or 54%, lived in the bantustans. Of ten designated bantustans, the white government has implemented 'independence' for the Transkei, Bophuthatswana, Venda and Ciskei, but this status has not been recognized by the United Nations or by any country. SA Review, 1983.

Forced Removals: Since 1960, the South African government has removed 3,500,000 blacks from white areas to areas designated for blacks. At least one million more Africans have been forcibly relocated within the bantustans. A further 1,700,000 people are under threat of removal. SPP

Government

The South Africa Act of 1909 and the Republic of South Africa Act of 1961 restricted voting for and membership in the governing parliament to whites. In November, 1983, white voters endorsed a new constitution which will establish a tricameral parliament with separate chambers for whites, Coloureds, and Indians. Whites retain a monopoly of real power and the African majority is totally excluded. Black political organizations and independent trade unions, as well as the Organization of African Unity and the United Nations, have rejected this racial constitutional reform.

Economy

Gross National Product (total value of goods and services), 1982: \$70.35 billion SA/RB, Dec. 1982.

Value of Trade: Exports, 1982—\$17.6 billion, including \$7.9 billion in gold; 1981—\$20.8 billion, including \$9.59 in gold. **Imports**, 1982—\$16.9 billion; 1981—\$21.2 billion. Central Statistical Services.

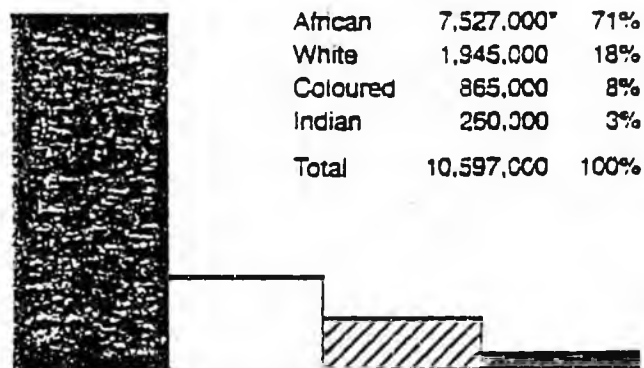
Major Trading Partners, 1982: SA imports from/Exports to, in millions of dollars—US \$2,470/\$1,215; UK \$2,024/\$1,300; West Germany \$2,500/\$780; Japan \$1,705/\$1,530; Switzerland \$290/\$336; France \$710/\$414. FM Nov. 11, 1983.

Principal Exports and Imports: Exports—gold, diamonds, iron and steel, coal, ferro-alloys, fruits and vegetables. **Imports**—machinery, transport equipment, chemicals, base metals. (Note: official statistics are not available on imports of oil and weapons and on exports of platinum, uranium and other strategic items.) Yearbook, 1980-81.

Defense Expenditure: \$2.84 billion (1983/84); \$2.45 billion (1982/83); \$1.28 billion (1975/76). (Note: These figures are amounts budgeted. Actual spending for 1982/83 was \$3.09 billion.) South African Department of Defense annual budget estimates, FM July 29, 1983.

Income and Employment

Economically Active Population—1981:



* 1980 figures for Transkei, Bophuthatswana and Venda included. Benso, Oct. 1982, Survey, 1982.

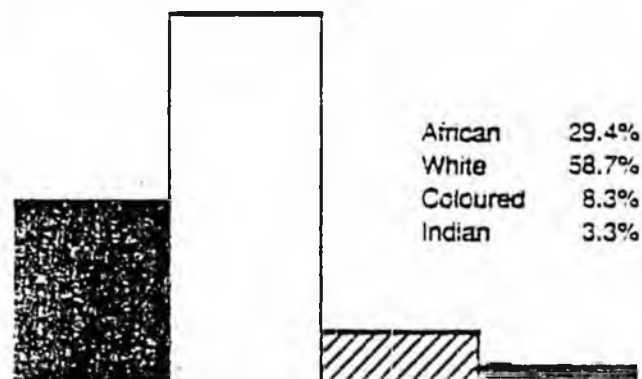
Migrant Labor, 1981: 1,329,000 Africans from the ten bantustans were working in white areas as migrant laborers under contract, a system which forces the separation of workers from their families. Also, 301,758 foreign blacks were employed as contract laborers in South Africa. Survey, 1982.

Commuters, 1981: 745,500 Africans were employed in white areas but forced to live in the bantustans and commute to work on a daily basis. Survey, 1982.

Employment of African Labor by percentage, 1980: Agriculture, Forestry and Fishing (18.6); Mining and Quarry (12.9);

Manufacturing (13.8); Electricity, Gas, Water (0.8); Construction (4.7); Commerce (9.7); Transport, Communication (3.2); Finance (1.0); Services including domestic (22.5). Excludes Transkei, Bophuthatswana, and Venda. Survey 1982.

Distribution of Total Wages—1981:



Barclays, March 1983.

Unionization: In 1982 there were approximately 230,000 members of the independent black unions. Estimates for 1983 membership range from 264,000 to 350,000. Unionized white workers numbered 458,000. ILO, 1983; AC, Nov. 16, 1983; ICFTU, June, 1983; Yearbook, 1980/81.

Strikes: In 1982, 141,571 black workers were involved in 394 strikes resulting in the loss of 302,489 working days. This is the largest number of strikes in over 20 years. No white workers were involved, and none of the strikes was legal. SALB, April 1983.

African Income in the Bantustans: The bantustans that South Africa declared independent contributed 2.3% of South Africa's total Gross Domestic Product in 1980. Figures for black income in these bantustans are not available, but for the bantustans not declared independent by 1980, 5,163,150 people had no measurable income. Benso, Oct. 1982; Star, Nov. 16, 1982.

Employment and Average Monthly Wages:

Mining, May 1983	# Employed	Av Monthly Wage
African	613,452	\$260
White	78,020	\$1,395
Coloured	9,581	\$430
Indian	559	\$690

Manufacturing, May 1983

African	748,700	\$320
White	316,600	\$1,290
Coloured	240,800	\$365
Indian	86,400	\$460

Central Statistical Services.

Agriculture: An estimated 1.3 million people work on white owned farms. In 1980 the average wage for African farmworkers was \$28 to \$40 per month. Farmworkers also receive "in kind" payment such as minimal housing facilities and the dietary staple corn, or "mealie" meal. Farm Labour Project, Sept. 1982.

Domestic Workers: An estimated 700,000 people, primarily women, are employed as domestic servants. Saianes commonly

range from \$40 to \$80 a month, but are frequently lower. ICFTU, June, 1983; Survey, 1982.

African Income vs. Poverty Level: In 1980 the estimated percentages of African households in major urban areas with incomes below the Household Subsistence Level (HSL) were: Johannesburg (62%); Pretoria (58%); Durban (65%); Port Elizabeth (70%). The HSL estimates the minimum income necessary for the subsistence of an African family of six including food and rent but excluding medical and educational costs. In 1983, in the 13 largest urban centers, the Household Subsistence Level ranged from \$243 to \$268 for an African family. While cash wages have been increasing, researchers indicate that in real terms Africans' wages are decreasing. FM Ncv 25, 1983; Survey, 1980/82.

African Unemployment: The government estimated African unemployment at 7.8% in June 1981. Others have estimated African unemployment to be considerably higher, up to 25% or two to three million people. Survey 1982.

Education

Attendance: All public education is racially segregated with racially differentiated curricula. In 1982, of the 3,708,000 African students in school, 83% were in the primary grades, 16% in secondary, and 2% reached the post high school level. Of the 1,283,000 white students, 55% were in primary, 30% in secondary, and 15% in the post high school level. Neabank, 1983.

Per Capita Spending on Education, 1980/81: Whites—\$1,115; Africans—\$170; Coloureds—\$310; Indians—\$625. Survey, 1982.

Teacher/Pupil Ratios, 1982: Whites—1:18; Africans—1:39; Coloureds—1:27; Indians—1:24. Survey, 1982.

Health

Mortality: In 1980, the infant mortality rates per 1000 live births were 13 for whites, 24 for Indians, 62 for Coloureds and 90 for Africans. In some rural areas, mortality rates for Africans are much higher with estimates of 220 per 1,000 to 320 per 1,000. Life expectancy for white men was 67 years; for African men, 55 years; for white women, 74 years; for African women 60 years. Neabank, 1983.

Malnutrition: Conservative estimates show that 2.9 million black children under the age of 15 suffer from malnutrition. Star May 14, 1983.

Doctor/Patient Ratios: Whites—1:330; Africans—1:19,000; Coloureds—1:12,000; Indians—1:730. Rand Daily Mail, Dec. 14, 1983.

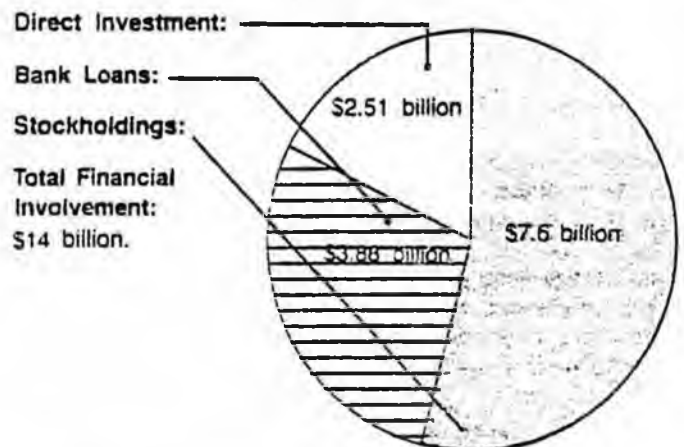
US-South Africa Economic Ties

US Companies Doing Business in South Africa, 1982: More than 350 US companies have subsidiaries in South Africa. Time Running Out.

US Percentage of Total Foreign Direct Investment in South Africa: Approximately 20%. (US investment is second only to that of Britain.) Time Running Out.

Average Rate of Return on US Investment: Between 1979 and 1982, 18.7%, compared to an average rate of return for US companies worldwide of 16%. Calculations from Survey CB, August 1979 through 1983.

US Financial Involvement in South Africa, 1982:



Survey CB, Aug. 1983; USFRB, Nov. 17, 1983; Nation, Sept. 3-10, 1983.

Major US Corporate Operations in South Africa: Direct investments—Mobil Oil (\$426 million/3,577 workers); Caltex [Standard Oil of California and Texaco] (\$334 million/2,238 workers); General Motors (\$243 million/5,038 workers); Good-year (\$97 million/2,797 workers); Union Carbide (\$54.5 million/2,465 workers); SOHIO [Kennecott] (\$345 million/2,259 workers); Ford (\$213 million/6,509 workers); Newmont (\$127 million/13,535 workers); General Electric (\$93 million/5,130 workers). Other involvement—Fluor (\$4.7 billion contract for oil from coal facility/17,300 workers); Burroughs Corp. (\$6 million annual sales/558 workers); Control Data Corporation (\$17.8 million annual sales/330 workers); IBM (\$282 million annual sales/1,800 workers). Unified List.

US Bank Loans to South Africa: As of June, 1983 loans outstanding from US banks totalled \$3.88 billion. More than 125 US banks have made loans to government and private borrowers in recent years. Among the significant lenders have been: Bankers Trust (NY), BankAmerica (CA), Chase Manhattan (NY), Chemical Bank (NY), Citibank (NY), Continental Illinois (IL), First Boston (MA), First Chicago (IL), Manufacturers Hanover (NY), Morgan Guaranty (NY). USFRB, Nov. 17, 1983; Unified List.

Repression and Control

Legislation: The Internal Security Act of 1982 consolidates a series of laws, including the Terrorism Act, and Unlawful Organization Act and the General Laws Amendment Act, with minor revisions, into one law. This act allows: 1) indefinite incommunicado detention without charge or trial; 2) the outlawing of any organization alleged to be threatening to public safety or order; 3) the prohibition of the printing, publication or dissemination of any periodical or any other publication; 4) the prohibition of any gathering or meeting; 5) random police searches; 6) the curtailment of travel rights of any person, and restriction of rights of communication, association and participation in any activity (banning). Further, it is illegal under this act to render any assistance to any campaign, at home or abroad, that protests or seeks to modify or repeal any law if such a campaign furthers the aims of a banned organization.

The Abolition of Passes Act applies only to Africans and is the key to the administration of apartheid and labor control: all Africans over age 16 are required to be fingerprinted and carry a pass book at all times with a record of bantustan identification, employment, permits to enter white areas, taxes and family status.

The National Key Points Act empowers the Minister of Defense to declare any place or area a National Key Point and requires the owner to provide security in cooperation with the South African Defense Force. These provisions can be applied to any US corporation operating in South Africa. It is illegal under this act to print any information about security measures or any incident at a National Key Point without permission from the government.

Official Violence: The State has consistently sanctioned a high level of violence in repressing opposition to apartheid. Over the years, thousands of peaceful demonstrators have been shot by police. Sixty-nine people died at Sharpeville in 1960 and at least 575 people died in 1976 during and after the Soweto uprising according to official statistics. Most recently in 1983, at least 5 people were killed in KwaZulu and 90 in the Ciskei. Foreign Affairs. Haysom

Detention Without Trial: From Jan. 1 to August 31, 1983, 306 people are known to have been held incommunicado, mainly in

terms of Section 29 of the Internal Security Act. At least 57 more were held under Ciskei's Internal Security Act. Since 1963, 59 people are known to have died while being detained by the security police. FM Nov 4 1983. Haysom. Lawyers Committee.

Torture: Torture is extensively inflicted on political detainees by both South African and bantustan security police. Methods used include electric shock, beatings, sleep deprivation and isolation. AI. CPSS. Sect. 30. 1982.

Prison Population: South Africa has the highest per capita prison population in the world with 440 people jailed for every 100,000 of the population. The equivalent figure for the US is 189. 40% of the African prison population consists of people convicted of pass law violations, "crimes" only Africans can commit. Sunday Times. April 12, 1981

Hanging: Of the 130 people hanged in South Africa in 1980, only one was white. Update. Jan. 1983.

March 1984

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Daily NEWS

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A chance to say 'No' to apartheid

When it comes to expressing revulsion at South Africa's subjugation of its black population, it's time for Alaska to put its money where its mouth is. Today, the House State Affairs Committee considers a bill to end all state investments in companies with substantial business operations in South Africa. The measure, HB 465, deserves swift approval.

Just about everyone agrees South Africa must abandon apartheid and establish full political and economic rights for blacks. There's little question that international economic pressures have helped convince the Botha government that its repressive regime does not make it a desirable place for investment. The question now is whether Alaska wants to lend its moral and economic weight to the growing national trend toward divestment.

The strongest argument against divestment is offered by Permanent Fund trustees and the state's other money managers. They say it would lead to financial losses and subject the fund to all sort of dubious political schemes.

We stand second to none in our defense of the Permanent Fund. Its prudent management is absolutely essential to the economic future of this state. But, contrary to some detractors' claims, divestment is more than a hollow moral exercise proposed by political dilitants with more money than they know what to do with; it can be financially prudent, as well.

Investing in companies that do business in South Africa can be risky. The economy there is tottering and political upheaval could result in expropriation of foreign holdings. More than 50 U.S. companies have pulled out of South Africa in the past five years, a third of them within the last year.

Divestment would be accomplished gradually to avoid losses from selling all the holdings at once. Specifically written for prudent financial planning, HB 465 gives the state a December, 1988 deadline for divesting the affected investments -- which include less than 10 percent of the entire permanent fund. Roughly \$900 million of the state's \$11 billion total investments would be affected. Even the fund's directors agree, the fund would turn a modest profit if Alaska divested at today's prices.

Clearly, the pressure for change in South Africa is growing, both from within and without. By divesting, Alaska would join 11 other states, 28 cities and 70 academic institutions in sending an increasingly effective "no more" message to South Africa. Alaska's is a welcome quandry of how to wisely invest our wealth; to unnecessarily employ it to the benefit of a system as morally bankrupt as apartheid is a bad piece of tunnel vision economics and a poor reflection on Alaska.

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Coalition forms on apartheid

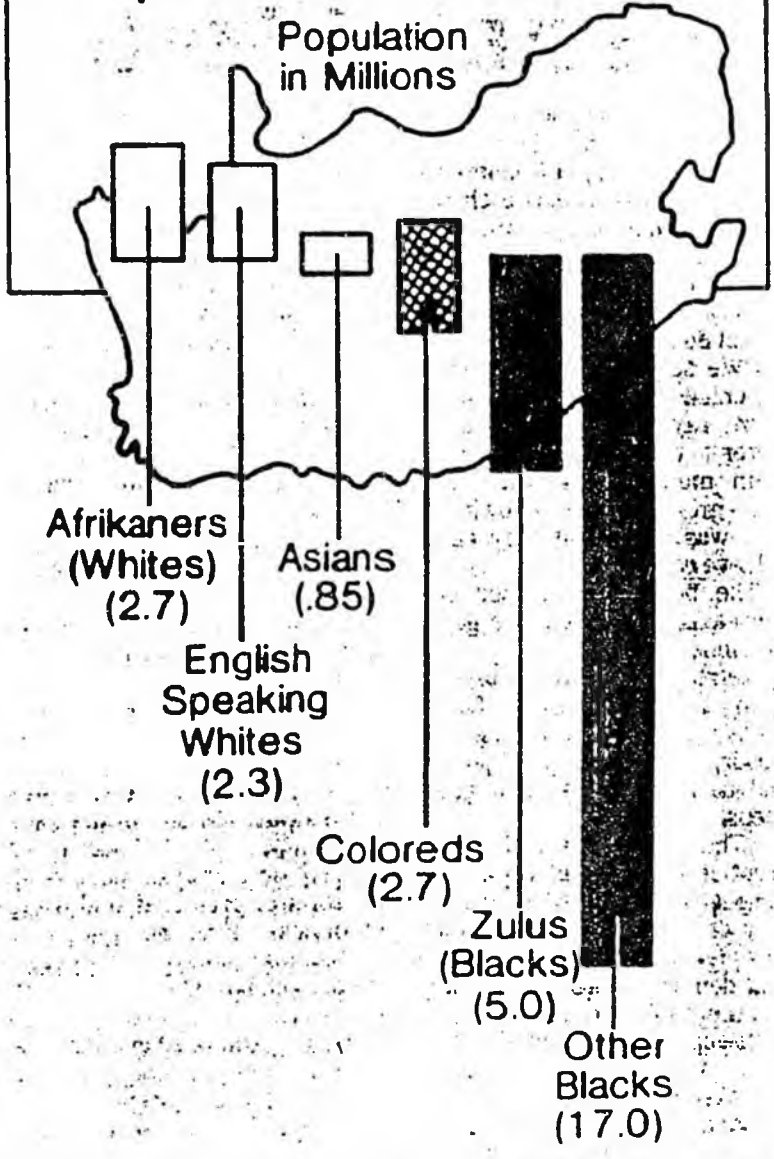
New York (AP) — A coalition of 54 Protestant and Roman Catholic organizations has launched a drive to persuade American businesses to withdraw from South Africa unless its government makes substantial progress by 1986 to end apartheid.

In a "new strategic approach," the church groups targeted 12 "key investors" in South Africa and asked them to cease immediately all sales and services to its government and to make clear that dismantling of apartheid is a "necessary precondition" for them to remain there.

The 12 companies named are Burroughs, Chevron, Citicorp, Control Data, Fluor, Ford, General Electric, General Motors, International Business Machines, Mobil, Newmont Mining and Texaco.

The Rev. Arie Brouwer, general secretary of the National Council of Churches, says it has been in dialogue with the 12 companies about the matter for more than a decade.

Apartheid: And the People of South Africa



Cuomo Proposes State Sell Stock In Concerns Tied to South Africa

Special to The New York Times

ALBANY, May 19 — New York State should eliminate billions of dollars of investments in companies that do business in South Africa and should sharply limit all dealings with such concerns, Governor Cuomo said today.

"I have concluded," the Governor declared, "that New York State should adopt a comprehensive and responsible strategy to demonstrate the abhorrence of our residents to the pernicious system of apartheid."

Mr. Cuomo said he would soon propose legislation to require the divestiture, over the next five years, of billions of dollars in state funds. These include about \$4.4 billion in employees' and teachers' pension funds, now invested in hundreds of American companies doing business in South Africa.

Last week, Assembly Speaker Stan-

ley Fink, a Brooklyn Democrat, offered his own proposal for divestiture. The Governor said today he believed that the differences between the two plans could be worked out.

A spokesman for Warren M. Anderson, Republican of Binghamton and the majority leader of the Senate, said today that the Senator, abhorring apartheid and would look at the proposals very carefully.

Under the envisioned legislation, the Governor said, the State Comptroller and the trustees of the pension funds would be obliged to divest holdings in a series of steps.

By 1988, the state would begin to divest holdings in concerns doing business directly with the Government of South Africa or Namibia, with some exceptions, and with companies that employ black South Africans but have not signed a code that commits them to work for better lives for these employees.

By 1988, divestment would begin for those companies found to making only minimal or moderate progress toward compliance with the code, known as the Sullivan Principles. Named for the Rev. Leon Sullivan of Philadelphia, the code has been signed by about 140 of the

Continued on Page 30, Column 3

Cuomo Wants State to Sell Stock of Companies With Pretoria Ties

Continued From Page 1

350 American companies that do business in South Africa.

By 1990, divestment would begin for all the remaining companies doing business in South Africa.

Similar policies have already been adopted by the trustees of the New York City Employees Retirement System. Since 1982, various cities, including Philadelphia, Washington, Boston and New York, have passed divestment ordinances. Divestment laws also have been passed by some states, including Connecticut, Maryland, Massachusetts, Michigan and Nebraska.

In a 30-page statement, Governor Cuomo outlined a series of policy initiatives, including the following:

¶ Legislation for a five-year divestiture of state investments in companies doing business in South Africa. The biggest of these, state officials said, are a \$2.5 billion stock portfolio in 135 companies held by the State Employees Pension Fund, which has total investments of \$18 billion, and a \$1.9 billion stock portfolio in 120 companies held by the Teachers' Pension Fund, which has \$13 billion invested.

¶ Creation of a State Commission on South African Investment, which would monitor and report on the disengagement program.

¶ An "aggressive program" to secure the voluntary withdrawal of American companies from business in South Africa; these companies, the Governor said, employ 66,000 black South Africans, less than 1 percent of the black work force there.

¶ A state policy of "not engaging in any form of business with financial institutions which do not have a policy of no new loans to the South African Government except for housing, health or educational facilities which will be available on a non-discriminatory basis; underwrite securities for the South African government, or promote the sale of Kruggerands."

¶ Legislation to ban state purchases of \$5,000 or more from companies that fail to stipulate that they have not sold "materials other than food or medical supplies" to South Africa's police, military, prison system, or department of cooperation and development. If contracts that require bidding, there would be a 5 percent penalty for failure to make the stipulation.

The Governor also called upon the state's Congressional delegation to "urge the adoption of a series of economic and political sanctions affecting the government of South Africa for as long as the system of apartheid remains in place."

As he left the Westminster Presbyterian Church here after delivering the

9:45 A.M. sermon today, Mr. Cuomo referred to Mr. Fink's bill and said, "Ours doesn't go quite as far as Stanley's."

He said he would meet Monday morning with Mr. Fink to try to draft a common bill that they could then take up with Mr. Anderson.

"Let's be practical," the Governor said as he prepared to step into his car to go home from the church. "This has to be negotiated with Warren."

Mr. Fink called his own bill "the most comprehensive legislation in the United States," one which would "eliminate, over a period of time, the economic involvement of the state in the Republic of South Africa and Namibia."

Mr. Fink began circulating his bill for sponsors' signatures late last week. Today, his press secretary, David Langdon, said the Speaker was "anxious to talk with the Governor" about a possible joint approach.

Mr. Anderson's press secretary, Charles Dumas, said the Senator would want to consult with State Comptroller Edward V. Regan, the highest-ranking Republican state official. But Mr. Dumas said the majority leader "abhorred apartheid in any form and will look at the legislation very carefully."

Mr. Regan, who is in Japan, has suggested that state disengagement from South Africa could "cause financial

harm" to the state in general and its employe pension systems in particular.

Mr. Cuomo disagreed that pension investments should be determined only by economic criteria.

Of his overall program, the Governor said: "This is achievable. All aspects of it have precedents."

State 'Influence' Cited

A "unique" aspect of the Cuomo plan, according to Henrik N. Dullea, director of state operations, who put it together, would be to use the state's current stock holdings to actively press companies to cut their ties with South Africa.

"We would do it," said Mr. Dullea, "with the influence that, in a sense, we now own."

But that policy would be temporary. The main thrust of the plan would be virtually to end New York State links with South Africa unless that nation abandons its policies of racial separation.

Mr. Fink's proposal, which is already in bill form, would also be phased in, but, when fully in effect, would ban all state dealings with companies that do business with South Africa.

**Business Day
every business day in
The New York Times**

SOUTH AFRICA

US firms urged get tough on apartheid

By Andrew Cassel
Knight-Ridder Service

PHILADELPHIA - For about 120 US companies that do business in South Africa, the price of good public relations went up last week.

The companies, all subscribers to a voluntary equal-opportunity code developed by the Rev. Leon Sullivan of Philadelphia, were told to substantially increase their efforts to oppose South Africa's system of apartheid, or legally sanctioned racial segregation.

Sullivan, an outspoken Baptist minister and a member of the board of directors of General Motors Corp., demanded that the US firms use "legal means and otherwise" in South Africa to bring equal rights to that nation's black majority.

US firms that have supported Sullivan's doctrine of integration, equal pay and community development in and around their South African plants might find it difficult to heed this latest call to action. Many even now are struggling to find an interpretation they can live with.

"The companies have to do things in spite of the law," Sullivan said last week, explaining the latest "amplification" of the principles he first introduced in 1977.

In the years since then, the Sullivan principles have become a vital part of the debate over the US involvement in South Africa.

In response to activists who want US businesses to divest themselves of ties in South Africa or face divestment at home by socially conscious investors, the code is cited constantly as tangible evidence that US corporations there are part of the solution, not the problem.

The recent wave of anti-apartheid activity - a two-day general strike in Johannesburg, the daily picketing of the South African Embassy in Washington, the awarding of the Nobel Peace Prize to Bishop Desmond Tutu, a black South African - has intensified that debate, and turned up the spotlight on the Sullivan code in board rooms and legislative chambers across the country.

Signers of the Sullivan principles

"Increasingly, people are coming to think (the Sullivan principles) are irrelevant. I see no way in which the corporations in South Africa are going to take a serious stand against apartheid."

Jennifer Davis, director of Africa Fund.

pledge to maintain desegregated plants and offices; to provide equal employment, benefits and pay for all workers, regardless of race, and to support with money and manpower programs to raise the standard of living for black workers and their families.

The companies' adherence to the principles is rated through a lengthy set of questionnaires and an audit by the management consulting firm of Arthur D. Little of Cambridge, Mass. Each year a report is issued detailing which company is "making good progress" and which company "needs to do more" - though without spelling out the specific activities that produced the ratings.

Since the principles were adopted, American-owned companies in South Africa have created job-training programs, promoted some blacks to supervisory positions and helped finance hospitals, schools and housing developments near their factories and offices.

Though total work force of about 64,000 at those companies represents 1 percent of the South African work force, the companies that have signed Sullivan's principles point with pride to their accomplishments and say that they have been a model for many other employers in the area.

"Nobody is arguing that American companies are going to overturn the sys-

US firms told to fight apartheid

APARTHEID

Continued from Page 51

tem. But a good example is a good example," said Fred Allen, a personnel executive at Merck & Co.

Merck, which employs about 300 workers at its pharmaceutical plant between Johannesburg and Pretoria, is typical of American firms in the Sullivan program: Blacks hold jobs at all levels except top management.

"The presence of companies working for change," Allen said, "is the lesser of two evils."

Not so, responded Jennifer Davis, director of the New York-based Africa Fund and a leading advocate of corporate divestment in South Africa. Whatever their intentions, and no matter how progressive their employee practices, American businesses help keep apartheid in place, she said.

Apartheid is simply too big, and too pernicious, to be dealt with through codes such as Sullivan's, Davis said.

"Increasingly, people are coming to think (the Sullivan principles) are irrelevant. I see no way in

which the corporations in South Africa are going to take a serious stand against apartheid," she said.

Activists such as Davis are sharply critical of the Sullivan principles, calling them at best outmoded, and at worst a self-serving camouflage for companies that benefit from South Africa's large pool of cheap black labor.

But rather than responding in kind or defending the companies, Sullivan sees the divestment drive as a necessary part of the anti-apartheid movement in the United States.

"I'm not for investment," he says. "I'm for no new investment. While the companies are there, they should do something to help end the system, or else they should leave."

Daniel Purnell, who administers the South African program for Sullivan, terms the divestment campaigns "helpful."

"I don't think it's got to be either-or," Purnell said. "I think it's got to be both. That's why I thought it was good we had Malcolm X at the same time as we had

Martin Luther King."

Sullivan insisted that companies could be a positive force in South Africa, but only if they adopted the same kind of activist stance taken by Mohandas K. Gandhi in India and King in the American South. And he plans to push companies increasingly in that direction.

On Dec. 12 in New York, Sullivan addressed 119 representatives of businesses that have signed his code to outline his latest addition to the document. It demands that the companies pledge:

- "To use influence and support the unrestricted rights of black business to locate in the urban areas of South Africa:

- "To influence other companies in South Africa to follow standards of equal rights principles:

- "To support the freedom of black workers to seek employment opportunities wherever they exist, and to make provision for housing for families of employees within the proximity of workers' employment;

- "To support the ending of all apartheid laws."

Legislators want South African ties cut

By **BRUCE SCANDLING**
The Associated Press

JUNEAU — Alaska should protest racial policy in the Republic of South Africa by selling off stock in any company doing business with that apartheid government, two House lawmakers say.

Such action would illustrate the state's opposition to segregation and discrimination practiced against blacks in South Africa, said Juneau Democrat Jim Duncan and House Majority Leader Don Clocksin, D-Anchorage.

"It's based on the principal that we can make money without assisting a government that imposes racial discrimination," Clocksin said.

The resolution, introduced Friday, would affect investments made through the Alaska Permanent Fund Corp.

Dave Rose, executive director of the permanent fund, said \$500 million — or 8 percent — of the \$6.3 billion balance of the fund is invested in common stock.

Most of the fund is invested in U.S. government stocks and bonds.

The state buys stock through Standard and Poor's index of 500 leading companies. Rose said about one-third of those firms could have some business link with the South African government.

"That's everybody from

IBM to Coca-Cola," Rose said.

Every major multinational oil company also does business in South Africa, he said.

Questions about the investment of permanent fund money have arisen before, Rose said.

"But the trustees of the fund have always resisted political and social statements," he said. "That could present an investing problem."

Rose said the trustees are appointed to make the best possible investment decisions for the state and, regardless of political beliefs, are looking to buy high-yield stocks and bonds.

Duncan and Clocksin both said the resolution is careful-

ly worded so the state won't lose money by having to immediately yank some of its investment portfolios.

"There's a lot of flexibility in it," Duncan said. "We're not asking them to go and pull out immediately and lose a lot of money."

A legislative report prepared last year by the House Research Agency suggests the state — at that time — would have lost nearly \$5 million by immediately divesting holdings in companies with business links to South Africa.

But the report also indicates a gradual divestment might be achieved without financial loss to the state, Clocksin said.

Divest, House members say

Associated Press

JUNEAU — Alaska should protest racial policy in the Republic of South Africa by selling off stock in any company doing business with that apartheid government, two House lawmakers say.

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Murkowski to address Alaska Black Caucus

Times Staff

Sen. Frank Murkowski will be keynote speaker at the ninth annual Alaska Black Caucus Awards and Pioneer Banquet scheduled to begin at 6:30 p.m. today at the Anchorage Westward Hilton Hotel.

The caucus will acknowledge contributions individuals and groups have made to progress in the Alaskan community. Tickets are \$20.

Economic muscle gives blacks a new chance

THE STAR

Johannesburg

July 16, 1985

What can be done by the West to speed up the dismantling of apartheid? Many options are presently under consideration, with disinvestment and sanctions much to the fore: campaigns for such actions have indeed reached tidal wave proportions in the US. Let me say at once that if I thought these would work, they would have my unconditional support.

Not only do I not believe these campaigns would be effective — I believe they would be counter-productive.

I understand, respect and do not argue against the moral motivation for disinvestment and sanctions. But, once gone from the scene, any influence that may have been exercised has gone too: any good that may have resulted from quiet diplomacy, or Codes of Employment Conduct for Companies with Interests in South Africa (as adopted by the European Community) will go by the board.

The Sullivan and European Community Codes have certainly made businessmen more conscious of their social responsibilities, and have led not only to improvements in employment practices, but also to assistance in education and housing for employees and their families.

And more recently — perhaps because of the threat of disinvestment — organised business as represented by the Chambers of Commerce and Industry, have expressed their objections to the detention of trade unionists and are pressing for the repeal of influx control.

The vacuum left by the withdrawal of US and European firms will be filled — if it is filled at all — by companies with less interest in the welfare of their black employees. Moreover, if it is fondly imagined that the South African Government will buckle under such pressure and abandon apartheid faster than it intends to do, this illusion should be immediately dispelled. Far more likely, far more in keeping with the temperament of the Government and of the majority of the white inhabitants, would be the development of a siege mentality.

Nor should the idea that

economic hardship would lead to a successful black revolution, followed by a black majority socialist government to replace the white capitalist regime, be seriously entertained — it just is not on, as anyone acquainted with the ferocity and determination of the South African Army and police will agree. Nor incidentally, is there any guarantee that the replacements would be any better or more democratic than the present regime, should a revolution succeed.

That disinvestment, lack of foreign capital and imposition of sanctions would be effective as a punitive measure is, of course, undeniable. But it would not be selective of its victims.

Indeed, although white South Africans would be affected, the major sufferers would be black — South African blacks and also blacks from neighbouring states in southern Africa which are heavily dependent on South Africa for financial aid, grants, markets and jobs, some of which countries, like BSL countries, are also part of a customs union with South Africa, and are linked to the rand monetary system.

Blacks don't care if there is mass unemployment," people say.

My main opposition to disinvestment or sanctions or any steps to inhibit economic expansion of South Africa, is that such action blunts the only weapon that blacks have — the economic muscle that accompanies upward mobility on the economic ladder.

And I say (who am on the receiving end of many requests from recent job losers for assistance in obtaining jobs) that blacks who don't care are those whose jobs are not endangered or who have never had a job to lose.

However, my main opposition to disinvestment or sanctions or any steps that inhibit economic expansion of South Africa, is that such action in fact blunts the only weapon that blacks have, or are in the process of acquiring — the economic muscle that accompanies upward mobility on the economic ladder by virtue of greater skills and increased consumer power.

Slowly — too slowly, but nevertheless surely — blacks are obtaining the leverage with which

to demand redress in the imbalances in power and wealth and privilege in South Africa.

It is totally counter-productive to put obstacles in the way of the economic forces which so far have led to those changes which are more than cosmetic — trade unionism, skilled job opportunities, urbanisation.

And it is counter-productive to drive whites, a growing number of whom are increasingly disillusioned with apartheid and who have begun to accept power-sharing, back into the laager.

I have to admit I really resent the way in which people living many thousands of miles away from South Africa totally ignore the hundreds of thousands of white South Africans who abhor race discrimination, and who have been fighting apartheid for many years.

The Progressive Federal Party, with its policy of no statutory discrimination and full adult suffrage with no domination,

obtained 20 percent of the votes of the white electorate at the last election.

We will do better next time, but not if the country is under grave economic stress — liberalising forces are not strengthened in such circumstances.

So what in fact can or should the West do to help bring apartheid to an end without causing chaos in South Africa? Firstly I must say there are limits to what can be done from outside if peaceful reform is the objective.

Most helpful would be for Western interests to stay in South Africa and use their concerted influence with the Government in particular and with white South Africans in general.

In an address to the European Democratic Group in Luxembourg last week, veteran Progressive Federal Party MP, Mrs Helen Suzman, made it clear that she was not in favour of disinvestment as a means of achieving change in South Africa. She outlined instead a three-point plan with which she believes the European Economic Community could achieve far more positive results.

Contact, not isolation, is needed. In one area only — sport — has isolation been successful in helping to break down segregation. It worked because of South Africa's longing to get back into international sport, but also because desegregation in sport did not affect the power structure. I might add that the fact that there have been no rewards forthcoming in sport is not conducive to South Africans making changes in other respects.

I think European firms should accelerate their efforts to uplift black participation in the South African economy. The latest report on the implementation of the Code by British firms is quite healthy. I don't know what the position is regarding other countries in the EEC, but all firms not adhering to the Code should have penalties imposed on them.

The US is considering making the Sullivan Code compulsory for American firms in South Africa. I appreciate the problems in monitoring, but certainly there have been positive results from all the codes, and this should be considered.

You should all raise your voices long and loud against apartheid in general, and in particular against any outrageous actions by the South African Government. Never mind about double standards — South Africa claims to have Western values and as such must be judged.

I have no doubt whatever that protest by Western envoys helped to unban people like Beyers Naude, and was instrumental in freezing forced removals such as at Crossroads.

The South African Government is more sensitive than you think. It does not enjoy being a pariah. It would like to be welcomed back into the Western community of nations.

But not at any cost.

Rather should you aim at attainable objectives than adopt measures that could reduce the country to economic chaos, with totally unpredictable consequences.

Should U.S. business disinvest in South Africa?

BOSTON — Events in South Africa confront American institutions, public and private, with hard choices. For it is no longer possible to maintain feebly that President Botha and his government are on the way to ending apartheid and need only be gently encouraged. They have shown, with force, that they accept no change in the system of white supremacy.

The most immediate choices may be economic. The United States is now South Africa's largest trading partner, supplying nearly 20 percent of its imports. American investment there exceeds \$10 billion. The question, an old one made more urgent, is whether Americans should continue to do business in a country gripped by a policy of state racism.

A business can order its own practices in a decent way, promoting black employees, eliminating segregated lunch rooms and the like. In those respects American companies can set an example for others in South Africa. To the extent that the Sullivan



anthony lewis
abroad at home

Principles have encouraged such behavior — and many U.S. companies in South Africa in fact do not comply with them — the principles have been a good thing.

The gains are of very modest dimension. The American companies that substantially comply with the Sullivan Principles have, altogether, about 22,000 black employees. That is in a country with a black population of more than 22 million.

But whatever American companies may accomplish on matters like factory segregation, their chance of being effective is infinitesimal when they move on to poli-

tics. That is, when they challenge apartheid's premise that blacks have no political rights in South Africa. The notion that P.W. Botha will be moved by their political exhortations is, frankly, laughable.

What does move the South African government is no secret. It is the threat of disinvestment of American companies pulling out. In words and in laws, officials have made obvious their fear of the American disinvestment campaign. And its significance has also been acknowledged by business.

On March 14, the major business associations of South Africa called on the government to make reforms. "Visible progress on this road," they said, would have a positive impact "on overseas opinion" and especially on the current disinvestment debate in the United States. The American Chamber of Commerce in South Africa has also spoken out for reform with an eye to heading off the disinvestment campaign.

Over the years that dis-

vestment has been debated, I have found it a difficult question with fair arguments on both sides. But the relentless refusal of the South African government to admit the political existence of its black people, or their equal humanity, has by now tipped the balance. It is time to stop lending that system, by our presence, an appearance of legitimacy.

American companies' presence is an immensely important symbol to South Africans. It gives them a sense of belonging to the Western world — a sense of legitimacy for which they hunger.

For IBM and others to leave would not be to wash our hands of it. It would be a powerful statement of the limits of American toleration for institutionalized racism. And I think it will happen if things go on as they are in South Africa, no matter what the companies say how.

□ Anthony Lewis is a columnist for The New York Times.

Alaskans can have say on S. African investments

By VIC FISCHER

Events in South Africa have shocked the sensibility of most Americans, and the time may well have come for Alaskans to consider what policies should guide investments of our state funds in that country. America's dilemma is that while most of us abhor what goes on there, our governments, our financial institutions and U.S. corporations support and prop up the apartheid regime.

Two principal courses have been followed in an attempt to influence apartheid policies. One, the so-called Sullivan Principles, has been directed toward assuring that U.S. firms doing business in South Africa will follow nondiscriminatory and other practices similar to those that would guide their operations in our country. The second, referred to as divestment, calls for outright denial of financial support to South Africa, and pressure on U.S. companies not to do business in that country.

Many American businesses and financial institutions have responded to the challenge and are doing their part to speed up democratization of South Africa's oppressive government and laws. Far more companies, however, have done nothing.

Governments and other public institutions can exert tremendous leverage on the private sector. They control hundreds of billions of dollars through various funds (such as retirement and reserve funds) that are invested in corporate stocks and financial institutions. More and more of them have been investing their dollars on the basis of moral principles.

Eight state governments have approved, and another 15 are considering some form of divestment legislation. Sixteen municipalities have passed laws restricting investments, and five have approved non-

binding resolutions concerning investment of funds with firms that do business with South Africa. Additionally, more than 40 universities have taken either full or partial divestment action.

Both the Senate and the House of Representatives have approved bills to impose sanctions against South Africa because of its apartheid policies. The issue before Congress is how the two approaches will be compromised — how drastic will the sanctions be? How quickly will they take effect?

What about Alaska? What course should we pursue?

As of June, the State of Alaska had a total of \$1,866,200,000 in private investments (corporate stocks, corporate bonds, commercial paper, interest bearing bank deposits, and repurchase agreements). Of this amount, \$882 million or 47 percent, consisted of state funds invested in banks and corporations that do business in South Africa.

The major Alaska investor in South Africa related businesses is the state's General Fund, which had \$450.5 million (or 75 percent of its private investments as described above) in such investments. The Alaska Permanent Fund had \$281.1 million (or 36 percent) in South Africa related investments. The Public Employee Retirement Fund was into South Africa to the tune of \$90.5 million and the Teacher Retirement \$59.8 million. Relatively minor investments came from the Public School Fund (\$800,000) and University of Alaska (\$200,000).

All in all, these figures show a pretty significant state involvement with business having links to South Africa. One can not, however, necessarily hold the state's investment officials responsible for this state of affairs. The policies they follow are designed to optimize income while protecting the princi-



ple of invested funds. In some cases, it's a matter of pursuing prudent investor principles, in others it's a matter of state law. The question is whether we let it go at that.

Other states and institutions have, of course, been in a similar position. Yet, they have decided not to remain neutral to the way their monies might be used to shore up apartheid. They have found that their moral stance has not necessarily meant loss of income. Lots of American companies don't do business with South Africa and are

highly profitable. And the companies that have continued to operate there but follow the Sullivan Principles have certainly not lost money.

In view of today's world events and actions taken by other states and public institutions, it is certainly appropriate for Alaskans to address the question of what our state policies should be with respect to using state funds to support the South African regime or oppose its practices.

There are various approaches Alaska can take, ranging from di-

vesting all the state fund holdings from corporations that conduct business in South Africa, to doing nothing. Options that deserve public scrutiny are:

- Maintain current investment policy (i.e. maintain fiscal neutrality);

- In so far as possible, emphasize investment in non-South African companies, but put principal emphasis on maximizing income;

- Don't divest, but vote Permanent Fund and other state stocks against apartheid;

- Invest only in companies that have actively adopted the Sullivan Principles and have received high ratings;

- Actively pursue and strengthen the Sullivan Principles - for example, establish specific goals with timelines, and if the results are not met — then divest;

- Discontinue new investments in South Africa related businesses and divest all or a portion of state fund investments in corporations and other firms that do business in or with South Africa.

There is no agreement as to the policy or combination of policies that should guide state investments relating to South Africa. The one thing that's clear, however, is that this is an appropriate subject for public concern, public discussion, and public action.

The House State Affairs Committee has scheduled a public hearing on the subject for Tuesday, Sept. 10 at the Anchorage Legislative Affairs Office. It isn't often that we have an opportunity to do something affirmative about an international issue of overriding moral concern. In the case of state policy toward apartheid, we have such an opportunity. So it's up to Alaskans to act. I trust we will.

□ Vic Fischer is an Alaska state senator from Anchorage.

Knowles orders search for South Africa ties

Anchorage Mayor Tony Knowles Tuesday joined Assemblywoman Jane Angvik and called for withdrawing any city funds invested in South Africa to protest that country's apartheid policies.

Knowles has ordered a review of city investments and the investment policies of the banks with which the city does business.

The city does not purchase stock, so Knowles said he is confident there are no direct investments in South Africa. But money invested in short-term certificates of deposit and treasury notes could be held by a bank which has South African investments.

"Throughout the world, individuals, organizations and governments are taking steps to convey their opposition to the hard-line approach of the Botha government," the mayor wrote in a memorandum to the assembly.

"The issue of South Africa is an issue which affects us all as Alaskans and Americans. It is appropriate for every local government to speak out," he said.

Knowles asked the assembly to introduce a resolution supporting divestment.

Fund divestment considered

by Dean Fosdick
Associated Press

JUNEAU — The Alaska Permanent Fund Corp. board of directors is studying the possibility of dropping investments in companies having South African connections.

Dave Rose, the corporation's executive director, said today the trustees are doing their homework on the question because they expect the issue will surface during the next legislative session.

A number of groups across the country are urging that states and universities begin a phased-in

Board questions South Africa ties

withdrawal of the investments as a sanction against South Africa for its apartheid racial policies.

Cities, towns and states have billions of dollars tied up in investments, primarily in public-employee pension and trust funds. Universities also have millions in endowments that are invested.

"We have no direct involvement in South Africa because we're precluded by law from foreign in-

vestments," he said. "What we're talking about here is investments in major U.S. companies."

As of Oct. 31, the permanent fund had investments worth \$434 million in companies doing business in South Africa. That's the result of \$398 million in costs, Rose said.

"So if we were to disinvest today, we'd realize over \$15 million in profits," he said. "But that would open the potential for a substantial opportu-

nity loss that could be as much as \$500 million over the next five years."

That would be on money earned from the anticipated growth of those companies, Rose said.

"The trustees have not made a decision," said. "Obviously, we have not been directed to invest. There are issues on both sides."

But Rose said the managers of Alaska's \$7.9 billion oil wealth savings account try to steer clear foreign policy.

"We don't do social and political investing," Rose said. "The fund is straight financial investing."

July 21, 1986, SA.

Anch Times 1-31-86

South Africa will cut travel restrictions

CAPE TOWN, South Africa (AP) — President P.W. Botha today told Parliament his government will enact laws this year to extend citizenship and property rights to some blacks and to involve blacks in decision-making.

Botha said the government also will scrap some controls on black movement into areas reserved for whites and will replace the passes blacks must carry in white areas with a common identity document for all races.

Pressures have increased at home

and abroad on Botha's government to reform apartheid, the system of racial segregation that empowers South Africa's 5 million whites to dominate 24 million voteless blacks.

In his speech delivered to the opening session of Parliament, which is separated into chambers for whites, people of mixed race and those classified as Asians, Botha said his government would make good on previous promises to reform apartheid, which he labeled "outdated."

The president said he intended to negotiate "the establishment of a na-

tional statutory council," including government officials, officials from self-governing (black) homelands and "leaders of other black communities and interest groups."

The council, under his chairmanship, would "advise on matters of common concern, including proposed legislation."

In a last-minute addition, Botha also said he was prepared to consider releasing black guerrilla leader Nelson Mandela in return for freedom for two Soviet dissidents, Andrei Sakharov and Anatoly Shcharansky, and

for Capt. Wynand du Toit, a South African commando captured in a failed raid in Angola.

The pledge to give all races a say in government was "pleasing to the ear but we will have to wait and see what substance this is given in terms of the government's legislative program and changes in policy," Slabbert said.

Physician Dr. Nthato Motlana, a community leader in Johannesburg's black township of Soweto, described the package as "far short of expectations."

THE PRUDENT INVESTOR RULE

Memorandum
for the
Legislative Budget and Audit Committee
State of Alaska

December 1, 1981

DEBEVOISE & PLIMPTON
299 PARK AVENUE
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BACKGROUND

The Alaska legislature has established a number of public funds. They include a fund for the investment of surplus revenues of the State,^{1/} a Teachers' Retirement Fund^{2/}, a Public Employees' Retirement Fund^{3/}, and the Alaska Permanent Fund (the "Funds").^{4/}

The Funds are quite different from one another in terms of the groups that have an interest in the money held. For example, the surplus public funds are held in a revolving fund for cash receipts temporarily unneeded for State purposes. The Public Employees' and Teachers' Retirement Funds are public versions of defined benefit plans: the value of the retirees' interests do not fluctuate with investment performance. While the Permanent Fund has no direct beneficiaries, the Fund was created as a heritage for the people of Alaska. The Alaska State Constitution provides for all income from the Fund to be paid to the general fund of the State Treasury.^{5/} Net gains from the sale of securities are added to the Fund.^{6/}

^{1/} AS §§ 37.10.070 et. seq.

^{2/} AS §§ 14.25.180 et. seq.

^{3/} AS §§ 39.35.010 et. seq.

^{4/} AS §§ 37.13.010 et. seq.

^{5/} Art. IX, § 15; AS § 37.13.140.

^{6/} AS § 37.13.130.

The retirement funds are financed by contributions from public employers. Contributions to the Permanent Fund come principally from a percentage of the mineral revenues received by the State of Alaska. The Permanent Fund is administered by a separate corporation within the Department of Revenue, and the responsibility for managing its assets is vested in the corporation's board of trustees. The other Funds are managed by the Department of Revenue.

The State legislature has provided a list of permissible investments (and, in some cases, investment objectives) for each Fund. The investment practices of each Fund are further circumscribed by a statutory prudent investor rule which is virtually identical for each Fund. The following formulation was adopted for the Permanent Fund:

The prudent-man rule shall be applied by the board in the management and investment of Alaska permanent fund assets. The prudent-man rule as applied to investments of the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.^{1/}

The relevant statutes also contain various provisions requiring diversification of the Funds.

^{1/} AS § 37.13.120.

This memorandum explores the evolution of the prudent investor standard from the original common law notion, which was designed for testamentary trusts with separate life estate and remainder interests, to the current formulation of the rule as it applies to institutional investment managers. It also discusses briefly the application of the rule to modern portfolio theory, investing in an inflationary environment, exotic financial instruments and "social investing."

SUMMARY

In the nineteenth century, the courts embraced the idea that certain investments (such as "raw" land) were imprudent per se. That approach was developed in the context of surcharge proceedings for defaulting trustees who were subject to supervision only at infrequent intervals and well after the investments had been made and turned sour. Inflexible rules reflected the emphasis on preserving the corpus of the trust for the holder of the remainder interest.

Present views of the prudent investor rule reflect a clear shift away from the per se approach. The rule of prudence is flexibly interpreted by nearly all jurisdictions, particularly in the context of public and private pension funds and other institutional investors. For those

investors, portfolio design and strategy have replaced the individual investment decision as the primary focus of the rule of prudence. The emphasis on the portfolio as a whole has been accompanied by a strong emphasis on the investment manager's procedures: whether he considered the correct factors, made an appropriate investigation, and came to a conclusion that was consistent with the overall objectives and strategy of the portfolio. In many cases, investment managers have been required to justify the reasonableness of their investments in advance and in writing. The place of a proposed investment in the mosaic of the portfolio must be articulated. Unusual investment instruments or strategies require a greater degree of care in analysis and explanation.

Both the prudent investor rule and the specific language of the Alaska statutes require that current high rates of inflation be taken into account in choosing investments. Because of the disparate treatment of interest income and capital gains in the Permanent Fund, the need to preserve capital could distort the investment patterns of that Fund unless the legislature decides to reconstitute a large portion of the Permanent Fund's income.

The prudence of investments in instruments like financial futures, options, precious metals and the like is wholly a function of the manner in which the investment

is made and how it relates to the portfolio. It is unlikely that investments in such instruments would be regarded as imprudent per se. They are capable of being used in both a highly conservative and a highly speculative manner.

"Social investing" is a murky term that has been used to cover a multitude of different nonfinancial considerations. In the case of the retirement funds, this practice may raise questions concerning the duty of loyalty. Moreover, since the prudent investor rule refers to financial prudence, any departure from the goal of maximizing economic return and preserving capital in favor of collateral benefits, social or otherwise, is suspect. On the other hand, if the choice among otherwise relatively equal investments is simply influenced by nontraditional considerations, then such social investing is more likely to be acceptable under the prudence standard.

It should be emphasized that the Alaska formulation of the prudent investor rule appears to contemplate broad prerogatives for the investment manager. Rather than referring to the "ordinary" prudent man of the traditional rule, the Alaska rule applies to the prudent "institutional investor" managing "large investments." Moreover, prudence is to be judged "under the circumstances then prevailing" for institutional investment.

This language reflects the same view of the law as the prudence guidelines formulated under the model Uniform Management of Institutional Funds Act and the Employee Retirement Income Security Act enacted by Congress in 1974. Both statutes were intended to grant great investment flexibility and to avoid relegating the investment manager to the most conservative and traditional forms of investment.

DISCUSSION

The Common Law Prudent Man Rule

In 1830, the Supreme Judicial Court of Massachusetts announced a standard for fiduciary conduct which is the common law basis for judging the actions of investment managers today. Justice Samuel Putnam, writing in Harvard College v. Amory,^{3/} applied the rule of prudence to protect a trustee who had been sued by the trust's remaindermen after the value of trust assets declined from \$50,000 to \$38,000. The court stated:

All that can be required of a trustee to invest, is, that he shall conduct himself faithfully and exercise a sound discretion. He is to observe how men of prudence, discretion and intelligence manage their own affairs, not in regard to speculation,

^{3/} 26 Mass. 446 (1830).

but in regard to the permanent disposition of their funds, considering the probable income, as well as the probable safety of the capital to be invested.^{9/}

As stated in the Harvard College case, the prudent investor rule is a flexible guideline for trustee behavior which recognizes, in Justice Putnam's words, that "[d]o what you will, the capital is at hazard."^{10/} A trustee satisfies the rule with regard to a particular investment if he decides to invest only after making a "prudent" judgment based on known or foreseeable facts as of the time of the decision.^{11/} In general, a trustee will not be charged with an investment's subsequent poor performance, provided that the original decision to invest was undertaken reasonably and in good faith.

Prudent decisionmaking for a trustee, however, entails greater caution than what might be expected of a private investor.^{12/} Although individuals often engage in speculation, the trustee is not only duty-bound to consider the yield of his prospective investments, but must

^{9/} 26 Mass. at 461. See The Restatement of Trusts (Second) § 227 (1959), which adopted a virtually identical version.

^{10/} 26 Mass. at 461.

^{11/} Matter of Clark, 257 N.Y. 132, 177 N.E. 397 (1931).

^{12/} King v. Talbot, 40 N.Y. 76, 86 (1869); III A. Scott. The Law of Trusts § 227 (2d ed. 1956) (hereinafter referred to as "Scott").

also avoid risks, even some potentially profitable ones, that are incompatible with his obligation to safeguard the property of others.^{13/} Trustees must investigate the safety of a proposed investment as well as its probable income. The trustee must exercise "reasonable care" and also a "reasonable degree of skill" in his investigation.^{14/} While a trustee may not rely exclusively on the investigations of others, similar investment decisions by other fiduciaries suggest that a trustee has acted prudently. And a trustee must display undivided loyalty to the trust beneficiaries.^{15/}

Courts have applied these rules separately to each investment decision of the trustee. Overall good performance of the portfolio was not a defense to a charge that one of its components had violated the rule of prudence. This focus on individual investments led to the notion that certain types of investments were imprudent per se. For ex-

^{13/} "It, therefore, does not follow, that, because prudent men may, and often do, conduct their own affairs with the hope of growing rich, and therein take the hazard of adventures which they deem hopeful, trustees may do the same; the preservation of the fund and the procurement of just income therefrom, are primary objects of the creation of the trust itself, and are to be primarily regarded." King v. Talbot, 40 N.Y 76, 86 (1869).

^{14/} See Scott at §§ 227.1 and 227.2.

^{15/} Ibid.

ample, in King v. Talbot^{16/} the New York Court of Appeals held that it was inherently imprudent for a trustee to purchase common stock. The trend towards limiting trustee discretion reached an apex when many states defined categories of prudent investments by statute (or by intransigent application of judicial precedents). These "legal lists," along with restrictive judicial interpretation of terms in the trusts themselves, severely restricted the scope of lawful investment decisions. Unlike the Alaska statutes, the legal lists completely displaced the prudent investor rule.

Modern Evolution of the Prudent Man Rule

The twentieth century has seen dramatic changes in the nature and structure of investment management. As late as the first twenty years of this century, the investment management activities of banks were largely confined to traditional personal trust services. Since that time, however, there has been a revolution in the institutionalization of private savings. Institutional trading on the New York Stock Exchange was recently reported to have reached the 66% level. Between 1960 and 1978 alone, the value of the

^{16/} 40 N.Y. 75 (1869)

assets of private noninsured pension funds rose from \$6.5 billion to over \$200 billion. Life insurance companies managed an additional \$120 billion in pension reserves at the end of 1978. The social concerns of the Great Depression have resulted in an enormous new class of customers for investment management -- trusts established to fund employee pension, profit-sharing and other benefit plans. Just as the structure of investment management has changed, the legal rules have evolved to accommodate the changes. Two developments are of special importance: a shift in focus away from individual investments to the portfolio as a whole, and a shift in the initiative for developing the prudent investor rule away from the courts to legislatures and administrative agencies.

Judicial Developments

The New York Court of Appeals, which had held investments in common stock to be imprudent per se in 1869,^{17/} wrote the following in 1974 in the leading Spitzer case:

The record of any individual investment is not to be viewed exclusively, of course, as though it were in its own water-tight compartment, since to some extent individual investment decisions may properly be affected by considerations of the performance of the fund as an entity, as in the instance, for example, of individual security de-

^{17/} Ibid.

cisions based in part on considerations of diversification of the fund or of capital transactions to achieve sound tax planning for the fund as a whole.^{18/}

The court hastened to add that

The focus of the inquiry, however, is nonetheless on the individual security as such and factors relating to the entire portfolio are to be weighed only with others in reviewing the prudence of the particular investment decisions.^{19/} (emphasis added)

The trustee argued that its conduct should not be questioned because the value of the portfolio had increased. That argument was rejected because "[t]o hold to the contrary would in effect be to assure fiduciary immunity in an advancing market" ^{20/} In short, the court refused to withhold liability for an individual act of imprudence merely because the portfolio as a whole increased in value.

Reflecting on this Court of Appeals decision, another New York judge wrote: "In view of this latest pronouncement . . . [t]he overall performance of the common trust fund in this case is a factor to be weighed along

^{18/} In re Bank of New York, 35 N.Y.2d 512, 517, 323 N.E.2d 700 (1974).

^{19/} Ibid.

^{20/} Ibid.

with others in reviewing the prudence of individual investments."21/

These cases reflect an ambiguity in the meaning of the idea of examining the whole portfolio. The Spitzer case is generally regarded as having rejected the notion that it is the performance of the portfolio as a whole that is the ultimate yardstick for judgment. The opinion reaffirms that it is the trustee's conduct, not its investment performance, that is tested by the rule of prudence.22/

Nevertheless, there is another sense in which a focus on the portfolio as a whole serves as a rule of conduct. That is, in judging whether a particular investment is prudent, the trustee's investment judgment is to be measured in terms of how that investment relates to other aspects of the portfolio. For example, a short sale may be viewed as a highly speculative bet that the market price of a security will decline. But a short sale as part of a broader strategy of hedging looks quite different. And a short sale "against the box" -- i.e., a sale of a security that

21/ In re Morgan Guaranty Trust Co. of N.Y., 89 Misc. 2d 1000, 395 N.Y.S.2d 701, 704 (Surr. Ct., N.Y. Cty. 1977).

22/ See generally, Cohen, The Suitability Rule and Economic Theory, 80 Yale L.J. 1004 (1971); Williams, The Prudent Man Rule of the Pension Reform Act of 1974, 31 Bus. Law. 99 (1975).

is owned but is not delivered immediately -- may be a highly conservative way of locking-in a profitable position.

Modern portfolio theory, with its distinctive view of investment risk, has been responsible for the shift in focus to the overall portfolio and away from the individual investment as a measure of trustee prudence. This theory calls upon the investor to formulate performance objectives for the portfolio as a whole, and then to choose an array of investments to diversify away those risks which can be dealt with by diversification (company-specific risks) and to deal with systemic risks (those which reflect broad economic trends and financial market movements) by allocating a portion of the portfolio to investments that are less sensitive to systemic changes. It is not that the characteristics of an individual security are not important. Rather, that a security with given characteristics (e.g., gold stocks) may be chosen because of the relationship of the expected performance of that security to that of other investments in the portfolio.^{23/}

Thus, modern portfolio theory poses two important considerations for the prudent investor rule: first, it undermines the logical basis of the Spitzer case in emphasizing

^{23/} Bines, The Law of Investment Management, Chapters 6 and 7 (1978).

that the portfolio is the relevant asset -- its expected performance and not that of any particular investment or investments is what counts. Second, effective portfolio design actually requires the trustee to emphasize overall risk in the portfolio. Under this theory, then, the trustee should first weigh an investment's risk of loss against its expected return and then assess "the marginal effect on total portfolio risk of acquiring each security."^{24/}

The principal proponents of modern portfolio theory to date have been legal commentators and agency administrators, not courts. Consequently, for noninstitutional trusts, trustees must continue to be concerned with being challenged about the risk of loss of individual investments. Nevertheless, in those challenges, trustees have fared relatively well. The courts have recognized that

a trustee is neither insurer nor guarantor of the value of a trust's assets. A trustee's performance is not judged by success or failure -- i.e., right or wrong -- and while negligence may result in liability, a mere error in judgment will not. Neither prophecy nor prescience is expected of trustees and their performance must be judged not by hindsight but by facts which existed at the time of the occurrence.^{25/}

^{24/} Note, The Regulation of Risky Investments, 33 Harv. L. Rev. 633, 637 (1970).

^{25/} Stark v. United States Trust Co. of New York, 445 F. Supp. 670, 673-79 (S.D.N.Y. 1978) (footnotes omitted).

For private trusts, a trustee's conduct is likely to be found prudent if he considers (along with the traditional factors of risk and income production), and acts on the basis of the following criteria (to the extent applicable):

- (1) marketability of the particular investment;
- (2) length of the term of the investment;
- (3) probable duration of the trust;
- (4) probable condition of the market with respect to the value of the particular investment at the termination of the trust, especially if at termination, the investment must be converted into money for purposes of distribution;
- (5) probable conditions of the market with respect to reinvestment at the time when the particular investment matures;
- (6) aggregate value of the trust estate and the nature of the other investments;
- (7) requirements of the beneficiaries, particularly with respect to income needs;
- (8) other assets of the beneficiaries including their earning capacities;
- (9) effect of the investment in increasing or diminishing liability for taxes; and
- (10) likelihood of inflation.^{26/}

^{26/} The Restatement of Trust (Second) § 227, Comment at 535 (1959).

Naturally, to establish compliance with the prudent investor rule, the trustee must demonstrate that he in fact considered and acted upon these criteria. Thus, a trustee is advised to keep records and other tangible evidence of close factual review and financial analysis.^{27/} "[T]he trustee's Common Trust Fund Committee['s] . . . decisions with respect to purchase, sale and retention of securities in the fund were augmented by the minutes, recommendations and pertinent reports supplied by the trustee's Investment Research Department, its Economist's Department, and its Common Stock Committee."^{28/} What appears from the cases is that if the trustee (1) supervises his investments, and studies the market, (2) makes deliberate investment judgments pursuant to information he has collected, digested and recorded, and (3) provides a legitimate rationale for making the investment, then the trustee's decisions will not generally be deemed imprudent.

In sum, the modern prudent investor rule chiefly requires diligence and informed deliberation on the part

^{27/} Stark v. United States Trust Co. of New York, 445 F. Supp. 670 (S.D.N.Y. 1973); In re Morgan Guaranty Trust Co. of New York, 39 Misc.2d 1058, 396 N.Y.S.2d 761 (Surr. Ct., N. Y. Cty. 1977).

^{28/} In re Morgan Guaranty Trust Co. of New York, supra, 396 N.Y.S.2d at 766.

of trustees. The process leading to an investment decision, and not so much the decision itself, is critical.

Legislative and Administrative Developments

The prudent investor rule was developed as a standard for the management of private trust funds. The rule sought to reconcile the often conflicting interests of life tenants and remaindermen by balancing maximization of trust income against preservation of principal. This conservative balance struck by the prudent man rule assured contending beneficiaries of the trustee's impartiality.

But such a conflict among beneficiaries is not a factor in many of the new forms of trusts -- university endowment funds and employee pension funds, for example -- that typically do not terminate and have no remaindermen to whom principal would eventually be distributed. Moreover, whereas private trusts usually receive only one contribution of capital (at the creation of the trust), these newer forms of trusts characteristically receive additional capital infusions throughout their lifetimes.

For many of those funds, like employee defined benefit plans, the objective is to earn a sufficient return to reduce the burden of employee contributions to the lowest level consistent with assumption of a degree of

risk compatible with safeguarding the fund. In the case of defined contribution plans, profit-sharing plans and endowments, the focus is even more sharply upon the degree of risk assumed. The higher the income the more the beneficiary of the fund benefits. But like the Permanent Fund, the basic corpus must be safeguarded for the future.

This shift in the nature of trusts from an individual to an institutional setting has been reflected in new formulations of the prudent investor rule in the Congress and state legislatures. The process began when the Congress in the Tax Reform Act of 1969 adopted special rules for private foundations. While the law does not incorporate a prudent investor rule per se, Section 4944 prohibits any investment "in such a manner as to jeopardize the carrying out of any of its exempt purposes." The regulations under Section 4944 replicate the approach of the Spitzer case, emphasizing individual investments but moving toward consideration of the portfolio as a whole:

In the exercise of the requisite standard of care and prudence the foundation managers may take into account the expected return (including both income and appreciation of capital), the risks of rising and falling price levels, and the need for diversification within the investment portfolio The determination whether the investment of a particular amount jeopardizes the carrying out of the exempt purposes of a foundation shall be made on an investment by investment basis, in each case taking into account the foundation's portfolio as a whole. No category of in-

vestments shall be treated as a per se violation of section 4944.29/

The next step was the promulgation in 1972 by the Commissioners on Uniform State Laws of the Uniform Management of Institutional Funds Act ("UMIFA"). It has been enacted in just over half of the states and the District of Columbia (but not Alaska), and was designed to restate the prudent investor rule's application to university endowments and similar institutions. Section 6 of the UMIFA provides the following standard of conduct:

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.^{30/}

The Commissioners' Comment adds:

The section establishes a standard of care and prudence for a member of a governing board. The standard is generally comparable to that of a director of a business corporation rather than that of a private trustee, but it is cast in terms of the duties and responsibilities of a manager of a nonprofit institution.^{31/}

^{29/} 26 C.F.R. § 53.4944-1(a)(2) (emphasis added).

^{30/} 7A Uniform Laws Annotated 421 (emphasis added).

^{31/} Ibid.

The final step came in 1974 with the adoption of the Employee Retirement Income Security Act of 1974 ("ERISA").^{32/} Under Section 404, pension plan fiduciaries are required to discharge their investment duties

with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.^{33/}

ERISA also requires fiduciaries to (a) act for the exclusive purpose of providing benefits to plan participants and beneficiaries (a restatement of the common law duty of loyalty), (b) abide by all provisions in the plan documents which are not inconsistent with ERISA, and (c) diversify plan assets where it would be prudent to do so.^{34/} It is clear that Congress intended to carry the common law prudent investor standard over into ERISA, but with changes to reflect the institutional environment in which it would function. The accounts for the emphasis on a prudent man "in a like capacity," and an enterprise of of "like character."^{35/}

^{32/} 29 U.S.C. §§ 1001-1381 (1976).

^{33/} ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B) (1976).

^{34/} See generally ERISA § 404, 29 U.S.C. § 1104 (1976).

^{35/} Note, Fiduciary Standards and the Prudent Man Rule Under the Employee Retirement Income Security Act of 1974, 88 Harv. L. Rev. 960, 967 (1975).

The Department of Labor undertook an extensive process of public comment and debate in giving content to Section 404 in regulations.^{36/} As a consequence, the regulations represent the best contemporary standard for the application of the prudent investor rule to modern investment management.

Under the regulations, three important elements stand out: First, no investment decision is per se prudent or per se imprudent. Second, the prudence of an investment decision is judged in the context of overall portfolio design. Finally, the prudence of an investment depends on consideration of the portfolio's (a) diversification, (b) current return relative to the plan's cash flow requirements, and (c) projected return relative to the plan's funding objectives.

In marked contrast with practice under the traditional rule, no investment under ERISA is judged in isolation. "Rather, it is the Department's view that an investment reasonably designed -- as a part of the portfolio -- to further the purposes of the plan, and that is made upon appropriate consideration of the surrounding facts and circumstances, should not be deemed to be impru-

^{36/} 44 Fed. Reg. 37221 (June 26, 1979).

dent merely because the investment, standing alone, would have, for example, a relatively high degree of risk."^{37/} Instead of focusing only on the risk of capital loss for each investment, the pension plan investment manager must "give appropriate consideration" to his plan's "relevant facts and circumstances": the plan's cash flow requirements, its long term objectives, the amount of its assets, etc.

The Labor Department has indicated that its final regulation constitutes only a "safe harbor" for fiduciary decisionmaking. Even investment activities which do not comply strictly with the regulation may also satisfy the prudence requirement of the statute.

The operative portions of the regulation read as follows:

"(b) Investment Duties. (1) With regard to an investment or investment course of action taken by a fiduciary of an employee benefit plan pursuant to his investment duties, the requirements of section 404(a)(1)(B) of the Act set forth in subsection (a) of this section are satisfied if the fiduciary (A) has given appropriate consideration to those facts and circumstances that, given the scope of such fiduciary's investment duties, the fiduciary knows or should know are relevant to the particular investment or investment course of action involved, including the role the investment or investment course of action

^{37/} Ibid at 37224.

plays in that portion of the plan's investment portfolio with respect to which the fiduciary has investment duties; and (B) has acted accordingly.

(2) For purposes of paragraph (1) of this subsection, "appropriate consideration" shall include, but is not necessarily limited to, (A) a determination by the fiduciary that the particular investment or investment course of action is reasonably designed, as part of the portfolio (or, where applicable, that portion of the plan portfolio with respect to which the fiduciary has investment duties), to further the purposes of the plan, taking into consideration the risk of loss and the opportunity for gain (or other return) associated with the investment or investment course of action, and (B) consideration of the following factors as they relate to such portion of the portfolio:

(i) the composition of the portfolio with regard to diversification;

(ii) the liquidity and current return of the portfolio relative to the anticipated cash flow requirements of the plan; and

(iii) the projected return of the portfolio relative to the funding objectives of the plan."

In sum, an ERISA fiduciary appears to have considerably more leeway than a common law, private trust fiduciary to manage a fund for optimal performance. The additional discretion permitted under ERISA and its focus on the portfolio have received favorable reception among legal commentators, many of whom have urged that this approach to the fiduciary investment standard be more widely employed outside ERISA.

What is the significance of the Internal Revenue Code, UMIFA and ERISA standards for the administration of Alaska's Funds? None of these standards is explicitly applicable to any of the Funds. But the Alaska legislature, in adopting a prudent investor standard that refers to "an institutional investor of ordinary prudence, discretion and intelligence" seems to have intended to adopt the standard of conduct for institutional investors. Although there are no decisions of Alaska courts interpreting this language, it would be irrational for the legislature to have used the conduct of other institutional investors as a yardstick without generally recognizing the body of law that governs that conduct.

Investing in Inflationary Times

The common law prudent investor rule tended to focus on losses in the corpus from bad investment rather than inflation, and judges kept their eyes firmly riveted to nominal, rather than real, value. The principal hedge against inflation was common stock, but in the absence of broad, liquid and regulated stock markets, investments in common stock were viewed as highly speculative.^{38/} That

^{38/} Comment, Investment and Management of Trust Funds in an Inflationary Economy, 126 U. Pa. L. Rev. 1171, 1186 (1978).

notion has, of course, disappeared, and pension funds are now the largest single purchasers of common stocks.^{39/}

In England, where inflation has been endemic for some time, real estate has come to represent a major portion of the holdings of pension funds for the same reason.

The statements of the prudent investor rule in the statutes relating to the Funds all refer to "safety of capital." Moreover, the legislative findings for the Permanent Fund speak of "conserving a portion of the state's revenues . . . to benefit all generations of Alaskans," to "maintain safety of principal" and to establish a "savings device."^{40/} Although there appears to be no direct legislative history on the inflation issue, it is simply not credible that the use of such language in 1980 could have been intended to ignore the effects of inflation.

On the other hand, the list of permissible investments for the Permanent Fund is virtually confined to interest-bearing instruments. Even assuming that those

^{39/} See generally, Note, The Regulation of Risky Investments, 53 Harv. L. Rev. 503 (1970). The Minnesota Supreme Court has held in favor of a trustee who purchased common stock to hedge against inflation notwithstanding a prohibition in the trust investment. In re Mayo, 259 Minn. 91, 105 N.W.2d 900 (1960).

^{40/} AS § 37.13.020.

instruments provide a real rate of return over the inflation rate, since all interest income goes to the State general fund, it is difficult to see how the directors of the Permanent Fund can select investments that will maintain the value of the Fund. Moreover, the restrictive nature of the list suggests that the legislature may not have been concerned with maintaining the real value of the Fund.

The statutes governing the other Funds provide sufficient scope for the investment managers to take account of inflation. In the case of the Permanent Fund, there is a mechanism to seek additional investment authority.^{41/} Even if additional investment authority is granted, however, some problems remain.

In recent times, common stocks have not been an effective hedge against inflation. Moreover, for a time in the late 1970's, the inflation-adjusted return on debt instruments was also negative (especially for taxable investors). During most of 1981, however, short-term fixed-income securities have shown an unprecedented "real" rate of interest (i.e. the excess of the coupon rate over the rate of inflation). Since all interest income of the Permanent Fund must be transferred to the general fund, how

^{41/} AS § 37.13.170.

are the directors of the Permanent Fund Corporation to conserve principal under such circumstances?

Even if the list of permissible investments is expanded to include areas like real estate, which has recently been an effective hedge against inflation, the differential treatment of interest income may provide an unhealthy incentive to avoid fixed-income securities in order to maintain the value of the Fund. Consideration should be given to providing for recontribution of income to the extent necessary to maintain the value of the Fund. That amount will ordinarily be the major part of the income from the Fund, since the real rate of interest is ordinarily about 3%.

Options and Futures

Procedures

The impact of inflation and other developments have given rise to new financial instruments, most notably exchange-traded options and financial futures. Although most of these instruments have yet to be tested for prudence in the courts, they have received a good deal of attention from the Internal Revenue Service (in administering the private foundation rules), the Comptroller of the Currency (in regulating the activities of national bank trust departments) and the Department of Labor (in administering ERISA).

Modern portfolio theory has demonstrated that the line between "prudent investments" and "imprudent speculations" is increasingly unclear. Thus, the prudence of financial instruments like options, commodities futures, financial futures, real estate equities, venture capital and precious metals cannot be categorically confirmed or denied. Rather, the same considerations that determined prudence under the standards discussed above must also be applied to the new forms and techniques of investment, but with even greater punctilio.

The more "exotic" the investment, the greater attention should be given to a clear, prior, written statement explaining the reason for the exotic investment, the investment strategy being followed, and the role of the investment in the overall portfolio. There is no better example of the current emphasis on documentation than the views of the Comptroller of the Currency regarding procedures to be followed by bank trust departments for trading in options:^{42/}

2. Specific written policies approved by the board of directors or its designees, should be developed prior to engaging in these

^{42/} Comptroller of the Currency, Trust Banking Circular No. 2, December 19, 1979.

activities. Policy objectives must be specific enough to define permissible option strategies and should be reviewed at least annually for appropriateness.

3. Recordkeeping systems must be sufficiently detailed to permit internal auditors and bank examiners to determine whether operating personnel have acted in accordance with authorized objectives and that particular transactions were appropriate for the purposes and needs of the particular accounts. The following information, at a minimum, should be recorded for each option transaction:

- A. Transaction date
- B. Quantity, series, class and type of contract (i.e. 10 April 70 IBM CALLS.)
- C. Type of transaction (opening or closing).
- D. Market price of particular option and underlying stock.
- E. Purpose of opening transaction and corresponding security position, if appropriate.
 - 1. For short covered calls, the specific securities being hedged and the implied returns.
 - 2. For long puts, the specific securities being hedged.
 - 3. For short puts, the form of cash that is being escrowed to make total payment at settlement pursuant to an exercise.
 - 4. For long calls, how the activity is appropriate and beneficial for the particular account (i.e., cash equivalent of aggregate exercise price invested in high interest money market instruments).
- F. The broker executing the transaction.
- G. Specific account or accounts for which transactions is made.

4. Specific limitations should be set for each type of activity authorized which at least would conform to the position limits, escrow receipt limits, and other limitations specified in the current prospectus of the Options Clearing Corporation. The aggregate outstanding option positions of the trust department must be monitored to ensure compliance with these limitations.

5. All option contracts should be marked to market for valuation purposes, such as when determining unit values for collective investment funds. Such option contracts should be valued at the last available sales price prior to the time of valuation, unless no sale has occurred that day, in which case the last available bid price for long positions and the last available offer price for short positions should be used. In cases where an option is traded on more than one exchange, the exchange designated by the bank as the primary exchange should be used to determine market price. Gains and losses for options should be accounted for in accordance with section 1234 of the Internal Revenue Code. When trust assets are valued, the option contracts should be presented with the corresponding security positions where possible.

6. Bank trust departments should establish other internal controls, including periodic reports to management and internal audit programs to ensure adherence to bank policy and to prevent unauthorized trading in accounts and other abuses.

- A. A central system of monitoring market prices and maturities of option contracts should be established to prevent an unwanted exercise of a short position or an expiration of a long position.
- B. Operations personnel must ensure bank compliance with applicable Federal Reserve requirements regarding option contract margin and settlement procedures.
- C. Responsibility for settlements of option transactions and reconciliation of internal trading reports with external broker confirmations should be vested with someone other than the person executing the transactions.

Options

Viewed in isolation, the purchase of options to buy or sell securities ("puts" and "calls") might be regarded as highly speculative. They are not income producing, and their cost is a reflection of the market's estimate of whether the price of the underlying security will rise or fall. But puts and calls can be used as part of a conservative investment strategy.

When an investor writes a covered call, he gives the holder of the call the right to purchase a specific security at a fixed price and for a fixed period. In exchange, the writer receives a fee called a premium. Many ERISA pension funds and other trust accounts write calls to limit the downside risk of stock ownership. The option premium mitigates losses when the price of portfolio stock declines. The call limits opportunity for gain as well. If the stock price moves above the option's exercise price (the "strike" price), the stock will be "called away."

Likewise, a put option can be purchased as a hedging device, to protect the value of a "long" stock position. It gives the purchaser of the put the right to sell stock to the put-writer at a fixed price. If the market price for the stock declines, the put-holder will "put" the stock to the writer at the strike price, avoiding

the loss. If the price of the stock increases, the cost of the premium is offset by the increase in value of the stock.

Trust departments of national banks, which are regulated by the Comptroller of the Currency, are now free to engage in the prudent use of both put and call options (if the terms of the controlling trust documents permit). This position represents a shift in the Comptroller's thinking about investment techniques formerly considered speculative. Originally, the Comptroller viewed options, along with investments in art objects, Eurodollars, foreign securities or currencies, jewels, paintings, precious metals, rare coins and venture capital, as imprudent per se because of their relative riskiness. In 1974, however, the Comptroller decided to approve the writing of fully covered calls. Five years later, the Comptroller "decided that [exchange-traded] put and call options are investment tools which are inherently neither prudent nor imprudent."

For trusts governed by ERISA's prudent investor standard, the Comptroller has completely rejected per se rules, even as previously applicable to the above-mentioned investments. Speaking of ERISA's prudence rule, the Comptroller said:

The prudence of each investment decision should be judged with regard to the role that the proposed investment or investment course of

action plays within the overall portfolio. The fiduciary must act in a manner consistent with appropriate consideration of the facts and circumstances that the fiduciary knows or should know are relevant, and document that it has done so.^{43/}

This flexibility with respect to determining permissible investments complements the Labor Department's case-by-case approach to prudence. The Labor Department regulations also provide that no investment or investment course of action is per se imprudent. Each investment technique, including the use of options, must be justified according to its role in the trust portfolio, given the trust's objectives and circumstances. In other words, the purchase or sale of options will be regarded as prudent or imprudent depending on how and why the option is used and the nature of the trust.

In contrast, the Treasury Department's private foundation regulations still regard puts, calls, straddles, warrants and short sales as presumptively, though not conclusively, speculative.^{44/} Similarly, some state insurance company regulators, such as the New York State Department of Insurance, proscribe the use of options.^{45/}

^{43/} Ibid.

^{44/} Income Tax Regulations, § 4944-1(a)(2), 26 C.F.R. § 53.4944-1(a)(2).

^{45/} N.Y. Dept. of Ins. Reg. No. 72, § 1744.

Most state insurance commissioners, however, do permit some use of options; in at least one-half the states, insurance companies are permitted to write covered calls. Over thirteen states now permit all or some of their public employee retirement funds to write covered calls. About seven states prohibit the use of options altogether. Options are being traded for increasing numbers of stocks; and options are listed on the Chicago Board of Options Exchange, the American Stock Exchange, the Philadelphia Stock Exchange, and the Pacific Stock Exchange.

As the regulators come to understand the use of options in an investment portfolio, it seems clear that the position of the Department of Labor and the Comptroller of the Currency will be applicable to all institutions.

Financial Futures

Unlike an option, which the holder may elect to permit to expire unexercised, a futures contract is mandatory. The holder of a contract promising future delivery of a financial instrument must accept delivery and make full payment or offset its obligation with a short position in an equivalent instrument. Thus, an interest rate futures contract is a risk transference device, in which one party (the "hedger") seeks to rid himself of the risk of interest rate movements, and the other party (the "speculator")

seeks to assume the risk on favorable terms. At various times it may be prudent for the holder of a large portfolio of fixed-income securities to hedge against some of the risk of interest rate movements. The Comptroller of the Currency has recognized that fact by authorizing trust departments of national banks to be on the "short" side of the market -- i.e., to hedge against a downward movement in the value of their portfolios because of an increase in interest rates.^{46/}

As in the case of options, the prudence of financial futures will be judged on a case-by-case basis. They are not now widely used by pension funds because of a technical problem under ERISA unrelated to the prudence requirement, and the Superintendent of Insurance in New York has been slow in approving their use by New York insurance companies. They are, however, being used increasingly by banks in managing their own portfolios (not-trust assets) and by other institutions.

Social Investing

The prudent man rule directly addresses the traditional financial questions confronting a trustee (such

^{46/} Comptroller of the Currency, Banking Circular No. 79 (2nd Rev.), March 19, 1980. The Federal Home Loan Bank Board has taken a similar position for Federal savings and loan associations. See 46 Fed. Reg. 36828 (July 16, 1981).

as riskiness of investments, profitability, and the like). "Social investing" deals with a variety of practices and proposed practices which circumscribe or direct the investment manager's choice of investments. For example, some have suggested that it is appropriate to instruct an investment manager not to invest in companies which operate in certain areas of the world, or manufacture certain products, or have adopted certain policies toward union organization, plant closings, or the like. Social investing also has an affirmative dimension, involving support by the investment manager of companies which have adopted favored policies or of activities which benefit some or all of the beneficiaries of the fund (workers' housing, job development in the area, etc.).^{47/}

These practices are sharp departures from the politically neutral paradigm of the investment process. They raise questions under both the duty of loyalty and the duty of prudence. If, for example, a pension fund invests in housing for current workers, the retirees may claim that the trustees have violated their duty of loyalty. A similar charge could be made if the Permanent Fund were to adopt "programmatic investments" which had the effect of

^{47/} See generally, J. Rifkin and R. Barbar, The North Will Rise Again (1978).

substituting for current State expenditures. If the duty of loyalty is applicable to that Fund, then the duty is owed to future generations of Alaskans, and would not be served by the Fund making such investments in the place of current expenditures by the legislature.

Moreover, if the pursuit of social goals involves any sacrifice of current return (at equivalent levels of risk), then it will be undoubtedly argued that the trustees have violated both the rule of prudence and, in the case of the Alaska Funds, the specific language of the statutes (which requires maximization of income in the case of the Permanent Fund, for example).

It would seem that if the returns and risks are equivalent, then there should be no objection to choosing one investment over another on the basis of nonfinancial considerations.^{48/} Nevertheless the "pure" modern portfolio analysts dispute that even this form of social investing is financially costless. They argue that social investing means higher administrative costs for the trust (because prospective and actual social investments entail additional analysis and monitoring, at least) plus reduced

^{48/} Ravikoff & Curzan, Social Responsibility in Investment Policy and the Prudent Man Rule of Calif. L. Rev. 518 (1980).

diversification possibilities for the trust portfolio.
"Social investing may therefore be economically unsound even though there is no reason to expect a portfolio constructed in accordance with the usual principles of social investment to yield a below-average rate of return -- provided that administrative costs are ignored."^{49/}

There is increasing pressure from labor unions to use their power over jointly-trusted pension plans to help achieve labor objectives,^{50/} and others have suggested that pension plans contain the key to industrial revitalization.^{51/} Nevertheless, there is little law on the subject and most commentators have been negative, at least if there is any sacrifice of risk or return. Testifying on social investing under ERISA, the Administrator for the Labor Department's Pension and Welfare Benefit Programs stated that fiduciary considerations such as investment performance may not be sacrificed

^{49/} Langbein & Posner, Social Investing and the Law of Trusts, 79 Mich. L. Rev. 72, 76 (1950).

^{50/} Industrial Union Department, AFL-CIO, Pension: A Study of Benefit Fund Investment Policies (May 28, 1980).

^{51/} Conference on Alternative State and Local Policies, Social Investments and the Law (Studies in Pension Fund Investments No. 3 - 1980).

in order to "advance the social welfare of a group or region."^{52/}

The argument for allowing social investments in derogation of traditional requirements is that it provides "other benefits" to the beneficiary class. Two courts have recently considered whether the provision of "other benefits" justifies trustee deviation from the prudent man rule.

In Blankenship v. Boyle^{53/} the district court for the District of Columbia held that it was a breach of fiduciary duty for trustees of the United Mine Workers of America Welfare and Retirement Fund of 1950 to permit large accumulations of cash to remain uninvested, on deposit, without interest, in a union-controlled bank. The Fund trustees contended that active and retired mineworkers gained an important collateral benefit from the Fund's large bank deposits: The deposits, argued the trustees, empowered the bank to promote the purchase of union-mined coal by public utilities whose shares the bank had purchased with the interest-free money. The court, in this

^{52/} "Beneficiary Participation in Private Pension Plans," Staff Report of the Subcommittee on Antitrust, Monopoly and Business Rights of the Senate Committee on the Judiciary, 96th Cong., 1st Sess. (1979) at 13.

^{53/} 329 F. Supp. 1089 (D.D.C. 1971), aff'd without op., 511 F.2d 447 (D.C. Cir. 1975).

pre-ERISA case, rejected the trustees' theory that any increase in the tonnage of union-mined coal would elevate the royalty payments (which constituted 75% of the Fund's financing), and thereby discharge the fiduciary obligation.

A district court in New York City, however, ruled the other way in Withers v. Teachers Retirement System.^{54/} The court considered whether the acquisition by the public school teachers' pension fund of unmarketable and highly speculative bonds (issued as part of the plan to avert New York City's threatened bankruptcy) was prudent. The fund had committed a substantial percentage of its assets to the risky bonds, and plaintiffs argued that the trustees' objective was to rescue the City, and not to preserve capital and ensure adequate return.

The Withers court, deciding on the basis of New York prudent man doctrine, held in favor of the trustees. Here, the "other benefit" provided by the nontraditional investment program did establish the trustees' prudence. The court reasoned that the City of New York was the pension fund's guarantor as well as its major contributor. Therefore, the court concluded, acquisition of the bonds was

^{54/} 447 F. Supp. 1248 (S.D.N.Y. 1973), aff'd, 595 F.2d 1210 (2d Cir. 1979).

prudent conduct for trustees searching for a means to prevent the eventual exhaustion of fund assets.

Whether Withers sanctions social investing, or -- as is more likely -- merely stands for the proposition that traditional rules are relaxed in desperate times, is not entirely clear.

In sum, the full legal verdict on social investing is not in. Commentators suggest that investment decisions which are influenced by or sensitive to, but not dictated by, nontraditional objectives are not imprudent.^{55/} Nevertheless, this is an area in which trustees and other investment managers should move with extreme caution. If there is any sacrifice of yield or increase in risk, the danger of being held to have violated legal standards is significant.

Debevoise & Plimpton

^{55/} Hutchinson & Cole, Legal Standards Governing Investment of Pension Assets for Social and Political Goals, 120 U. Pa. L. Rev. 1340 (1980); Ravikoff & Curzan, Social Responsibility in Investment Policy and the Prudent Man Rule, 68 Calif. L. Rev. 518 (1980).

HOUSE COMMITTEE REPORT

Date referred: 1/13/86

FURTHER REFERRALS: FINANCE

DATE: 2/19/86

The STATE AFFAIRS Committee has considered HB 465

"An Act relating to fiscal matters involving the state and persons doing business in the Republic of South Africa; and providing for an effective date."

and recommends: *individual recommendation*

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- replace with _____ new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - ~~new~~ new fiscal notes
 - zero fiscal note *with analysis*

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Katie Hurley

Mr. Miller

Roger Garland No Rec

Betty Cato No Rec

Katie Hurley
Chairman

HOUSE STATE AFFAIRS COMMITTEE

Additional Backup Materials

February 19, 1986

Fiscal note from Department of Administration.

Fiscal note from Department of Revenue.

Position Paper - Department of Administration.

Memo of support from the Alaska Women's Lobby.

Additional magazine/newspaper articles.