



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20561

STRICTLY CONFIDENTIAL (FR)
CLASS II - FOMC

TO: Federal Open Market Committee

DATE: January 9, 1987

FROM: Normand Bernard

N.B.

The attached memorandum from Messrs. Bradfield and Oltman provides information on the status of the Melcher case.

Attachment

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

Office Correspondence

Date January 9, 1987

To Federal Open Market Committee

Subject: Melcher Case Status

From Messrs. Bradfield and
Oitman

FOR INFORMATION ONLY

The next formal step in the hearing of Senator Melcher's appeal is the issuance of a briefing schedule by the United States Court of Appeals for the District of Columbia Circuit that will establish the times for filing briefs and for oral argument. The Justice Department, after contacting the clerk's office at the Court of Appeals, informs us that the Court will not hear argument before October 1987. At the earliest, then, barring unusual events such as a successful motion for expedited hearing by Senator Melcher, the FOMC's brief will not be due until late summer.

This timing makes it unnecessary for the FOMC to request the Court of Appeals to wait for the Supreme Court's decision in Burke v. Barnes, a case also involving the standing of a congressional plaintiff, before setting the Melcher case briefing schedule. We had considered asking the Court of Appeals to postpone the filing of briefs in the Melcher case until the Supreme Court had handed down its decision in the Barnes case so that we would have the benefit of the Court's thinking on the congressional plaintiff standing issue before

-2-

we had to file our Melcher brief. It is our hope that in the Burke case decision, the Supreme Court will clarify -- or abolish -- the standing argument on which Senator Melcher relies.

Now that in all likelihood the Supreme Court will decide the Burke case before the FOMC will have to file any briefs in the Melcher case, we believe that a motion to request a delay in the Melcher oral argument will be unnecessary and would be unfavorably received by the Court. Accordingly, barring the filing of extraordinary motions by Senator Melcher to expedite his appeal, we intend to await the Court issuance of a briefing schedule which we expect will place oral argument in October 1987 and, consequently, the submission of the FOMC brief in August or September 1987.