



**BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551**

TO: Federal Open Market Committee DATE: June 12, 1987
FROM: Normand Bernard *N.B.*

FOR INFORMATION ONLY

Attached is a memorandum from Messrs. Bradfield and Oltman regarding the appeal in the Melcher litigation.

Attachment

DATE: June 10, 1987

TO: Federal Open Market Committee SUBJECT: Appeal in Melcher Litigation.

FROM: Michael Bradfield,
General Counsel
James Oltman,
Deputy General Counsel

FOR INFORMATION ONLY

The Court of Appeals for the District of Columbia Circuit has finally established a briefing schedule and a hearing date in the Melcher case. The schedule for the appeal from Judge Harold Greene's decision of September 27, 1986, established by the Court is as follows:

- Senator Melcher's brief must be filed by July 30, 1987;
- the FOMC's brief is due by September 1; and
- Senator Melcher may file a reply brief by September 18.

The case will be argued on October 5 before Judges Edwards, Starr, and Douglas Ginsburg. We are researching each of the Judges' writings and opinions to determine any possible indications of their attitudes towards the issues raised in the Melcher case. Attached is a short biography of each of the Judges.

The Board staff and the staff of the Federal Reserve Bank of New York have continued to research the legal issues with a view to developing the strongest possible defense. We intend to develop a draft brief by the end of July so that we will have a basis for consulting with the members of the FOMC and the Justice Department in adequate time to evaluate our options. This brief would have to be revised in any event in the light of the brief filed by Senator Melcher and to take account of the comments of the Justice Department.

Attachment

The following are thumbnail biographical sketches of the members of three judge panel who will preside at the oral argument in the Melcher case:

Harry T. Edwards. Judge Edwards graduated with honors in 1965 from the University of Michigan Law School, where he was an editor of the law review. After 5 years as an associate with a large Chicago law firm, Judge Edwards taught labor law at the University of Michigan for 10 years, until his appointment to the D.C. Circuit in 1980 by President Carter. His outside activities have included work as a labor arbitrator (prior to his appointment to the bench), as well as extensive writings in the areas of labor law, negotiation, and the judicial process. Lawyers' comments regarding his judicial demeanor include: usually courteous; sometimes somewhat curt; liberal; very bright; usually well prepared; and generally considered a good writer.

Douglas H. Ginsburg. After graduating with honors from the University of Chicago Law School in 1973, Judge Ginsburg clerked both with the D.C. Circuit (Judge McGowan) and the U.S. Supreme Court (Justice Thurgood Marshall). Judge Ginsburg thereupon taught at Harvard Law School for 6 years, after which he entered government service, serving both in the Office of Management and Budget and for one year as Assistant Attorney General in the Antitrust Division. Judge Ginsburg was appointed to the bench late last year. His extensive writings encompass the fields of communications law, antitrust, and bank regulation. His judicial reputation is only beginning to develop.

Kenneth W. Starr. After graduating from Duke University Law School in 1973, Judge Starr took several judicial clerkships, including one with former Chief Justice Warren Burger. Judge Starr then joined the Los Angeles-based law firm of Gibson, Dunn & Crutcher, which he left after 6 years in 1980 to accept a position as Counselor to the Attorney General in the Justice Department. It was from this position that he was appointed to the bench by President Reagan in 1983. He has written on antitrust matters and deregulation. Lawyers' comments include: courteous, conservative pragmatist; smart; articulate; works hard; and writes crisp, careful opinions.