

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement  
(916) 322-5662 322-5660 322-5901 322-6441

June 18, 1985

Joseph A. Moore, Jr., Member  
140 Geary Street, Suite 904  
San Francisco, CA 94108

Re: Your Request for Advice  
Our File No. A-85-123

Dear Mr. Moore:

At its meeting yesterday, the Fair Political Practices Commission considered your May 22, 1985 request for advice concerning the participation by certain Regents in decisions by the University of California Board of Regents on proposals for the divestment of University investments in companies doing business in South Africa. Based on the requests from UC General Counsel Donald Reidharr and four individual Regents, opinions and information supplied by Mr. Reidharr and others, the FPPC staff memorandum of June 12, 1985, the June 15, 1985 memorandum submitted by the UC General Counsel's office, and the oral testimony presented before the Commission, the Commission has directed staff to provide the following advice:

(1) A Regent is required by the Political Reform Act (Government Code Section 87100) to disqualify himself or herself from a decision on divestment if it is reasonably foreseeable that the effect of that decision could increase or decrease the value of stock held by the Regent or by a member of the Regent's immediate family by \$250 or more. This applies to stock in any company traded on a national stock exchange.

(2) If a Regent or a member of the Regent's immediate family has stock held in a trust, the above rule applies if the Regent or his or her spouse controls whether the stock held by the trust will be bought or sold. If neither the Regent nor his or her spouse has such control over the trust, the trust will be treated as a business entity. In such a situation, the Regent shall be required to disqualify himself or herself only if it is reasonably foreseeable that a decision would have an effect of \$10,000 or more on the trust.

Joseph a. Moore, Jr., Member  
June 18, 1985  
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(3) It is possible that the Regents will be asked to decide whether UC should divest stocks of companies doing business in South Africa, with no time limit placed on divestment, with an instruction to the Treasurer simply to follow UC's usual prudent investment policies, or in accordance with one of the other options set forth in the UC Treasurer's Report. It is not reasonably foreseeable that such a decision would affect the value of the stock to be divested. Therefore, no Regent would be disqualified on the basis of his or her personal stockholdings from such a decision.

(4) On the other hand, the Regents may be asked to divest immediately, or within a relatively short time frame such as one or two years. It is reasonably foreseeable that such a public decision by the Regents would affect the price of stock to be sold by UC. If any Regent owns enough of the stock covered by such a decision that the price drop would decrease that Regent's holdings by \$250 or more, disqualification would be required.

As you can see, even Regents who own stock in companies as to which UC is considering divestment can probably vote on the majority of motions likely to be placed before the Regents. Disqualification by an individual Regent will be required only if the following three conditions are met:

(1) The proposal before the Regents involves divestment of stock which the individual Regent (or his immediate family) also owns.

(2) The proposal must require divestment either immediately or within a limited period of time.

(3) The Regent (or his or her immediate family) must own enough of the stock that the reasonably foreseeable effect of the price decrease on the Regent's portfolio is at least \$250.

Very truly yours,

Barbara A. Milman  
General Counsel

BAM:nwm

85-127

JOSEPH A. MOORE, JR.  
140 Geary Street, Suite 904  
San Francisco, California 94108

MAY 23 1 22 PM '85

May 22, 1985

VIA EXPRESS MAIL

Fair Political Practices Commission  
1100 K Street  
Sacramento, California 95814

Re: Request for Advice: Participation as a Regent  
of the University of California in Decision to  
Consider Divestment of Companies Doing Business  
in South Africa

Dear Sir or Madam:

I am a Regent of the University of California, and I am writing to request an advice letter. At its meeting of June 20-21, 1985, the Board of Regents will be considering whether to sell some or all of the securities in its retirement and endowment funds which are issued by companies doing business in South Africa.

I have disposed of all of my holdings in companies which do business in South Africa and which are contained within the University of California portfolio. Also, my wife, Gladys G. Moore, has no holdings in any such companies except for her interest in a trust as described below.

Pertaining to the trust in question, I enclose copies of the following documents:

1. Exercise of appointment by Joseph A. Moore, Jr., in the Estate of Mildred Rolf Moore, San Francisco Superior Court No. 196407, dated October 25, 1978.
2. Trust Agreement between Joseph A. Moore, Jr., Trustor, and Gladys G. Moore and Crocker National Bank, Trustees, dated October 25, 1978.
3. Letter dated May 8, 1985, from Gladys G. Moore to Crocker National Bank requesting that the following securities be sold from trust:

300 shares of General Electric common  
400 shares of Coca Cola common  
1,600 shares of Hewlett-Packard common  
300 shares of IBM common  
300 shares of Merck common

4. Letter dated May 20, 1985, from William L. Neubauer, Investment Officer, The Crocker Bank, to Mrs. Joseph A. Moore, declining the request for the sale of the securities.

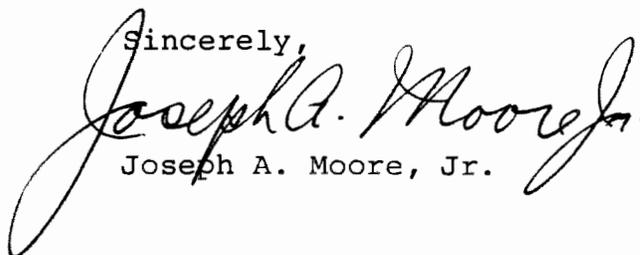
The shares of stock referred to above are the only securities held by the Trust of companies doing business in South Africa which are contained within the portfolio of the University of California. As you will see from the enclosed documents, although I am the Trustor, I have no right or interest in the Trust assets. As specified in the Trust Agreement, it is irrevocable and not subject to amendment or modification. My wife's interest is to receive the net income during her lifetime. The Trustees are also authorized to make payments of principal to my wife if needed for her support, maintenance and health. The Trust terminates on the death of my wife and the Trust assets are then to be paid over to my grandchildren or their survivors.

Each of the above listed companies in which the Trust has an investment is a publicly traded company on the New York Stock Exchange and is, therefore, subject to the regulation defining "material financial effect" found at Cal.Admin.Code, Title II, § 18702.2. Attached is a letter dated May 10, 1985, from the General Counsel of The Regents, Donald L. Reidhaar, setting forth relevant information and concluding that a divestment decision by The Regents will not foreseeably have a financial effect on the companies. General Counsel Reidhaar has also informed me that he will attempt to provide you with any further information you may need. His telephone number is: (415) 642-2822. His address is Donald L. Reidhaar, General Counsel, Office of the General Counsel, 590 University Hall, University of California, Berkeley, California 94720.

I request that you provide me an advice letter on whether I am permitted to participate in the decision or decisions to be made by the Board of Regents regarding divestment.

Thank you very much for your assistance.

Sincerely,



Joseph A. Moore, Jr.

Enc.

1 BROBECK, PHLEGER & HARRISON  
2 Spear Street Tower  
3 One Market Plaza  
4 San Francisco, California 94105  
5 Telephone: 442-0900

6 Attorneys for Executors

MISCELLANEOUS  
INDEX (1-60)

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE CITY AND COUNTY OF SAN FRANCISCO

10  
11 Estate of )  
12 MILDRED ROLPH MOORE, ) No. 196407  
13 Deceased. )  
14 5-6-71 )

15 EXERCISE OF POWER OF APPOINTMENT  
16 BY JOSEPH A. MOORE, JR.

17 I, JOSEPH A. MOORE, JR., exercise the power of  
18 appointment conferred on me by paragraph (a) of clause SEVENTH  
19 of the Will of Mildred Rolph Moore dated July 10, 1959, as  
20 modified by Codicils thereto dated June 7, 1961 and July 22,  
21 1965, which Will and Codicils were admitted to probate herein  
22 by an Order of this Court given and made by this Court on  
23 June 3, 1971, which Order has become and now is final, and  
24 by the Decree of Settlement of First Account of Executors,  
25 of Preliminary Distribution and of Allowance on Account of  
26 Statutory Attorneys' Compensation, given and made by this  
27 Court on August 22, 1974, which has become and now is final.  
28 I exercise such power of appointment by appointing all of

cc. Tax

1 the securities described and designated in Exhibit A attached  
2 hereto and made a part hereof by this reference to the persons  
3 and in the amounts as set forth therein, and all of the securi-  
4 ties, money and all other assets in said trust, including the  
5 securities described in Exhibit B, to GLADYS G. MOORE and  
6 CROCKER NATIONAL BANK, as Trustees under that certain Trust  
7 Agreement dated 10-25, 1978, upon the trusts and confi-  
8 dences therein set forth. I direct the Trustee of the trust  
9 under the Will of Mildred Rolph Moore, deceased, to deliver  
10 and transfer all of the assets subject to and affected by this  
11 Exercise of Power of Appointment to the person or persons  
12 hereinabove designated.

13 Dated: October 25, 1978.

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15 Joseph A. Moore, Jr.  
16 Joseph A. Moore, Jr.  
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EXHIBIT A

- |   |  |
|---|--|
| 1. Dix Boring and Marilyn Moore Boring,<br>as Custodians for David Rolph Boring,<br>under the California Uniform Gifts to<br>Minors Act   | 65 shares Moore Dry<br>Dock Company<br>Common Stock    |
| 2. Douglas Dix Boring   | 65 shares Moore Dry<br>Dock Company<br>Common Stock    |
| 3. Douglas G. Moore   | 18.66 shares Moore<br>Dry Dock Company<br>Common Stock |
| 4. Marilyn Moore Boring   | 18.67 shares Moore<br>Dry Dock Company<br>Common Stock |
| 5. Douglas G. Moore and Margaret Moore,<br>as Custodians for Joseph G. Moore,<br>under the California Uniform Gifts<br>to Minors Act      | 65 shares Moore Dry<br>Dock Company<br>Common Stock    |
| 6. Douglas G. Moore and Margaret Moore,<br>as Custodians for Louisa Jane Moore,<br>under the California Uniform Gifts<br>to Minors Act    | 67 shares Moore Dry<br>Dock Company<br>Common Stock    |
| 7. Douglas G. Moore and Margaret Moore,<br>as Custodians for Sarah Moore, under<br>the California Uniform Gifts to<br>Minors Act          | 67 shares Moore Dry<br>Dock Company<br>Common Stock    |
| 8. Douglas G. Moore and Margaret Moore,<br>as Custodians for Mark Alexander<br>Moore, under the California Uniform<br>Gifts to Minors Act | 67 shares Moore Dry<br>Dock Company<br>Common Stock    |

EXHIBIT B

	<u>No. of Shares</u>	<u>Cost</u>		<u>Market Value</u>	
		<u>Total</u>	<u>Per Share</u>	<u>Total</u>	<u>Per Share</u>
Aetna Life & Casualty	800	\$ 24,975.00	\$31.2	\$ 31,840.00	\$39.8
American Telephone and Telegraph	520	25,675.00	49.4	31,096.00	59.8
Caterpillar Tractor	600	19,175.00	31.9	35,820.00	59.7
Crocker National Corporation	2,200	77,550.00	35.2	61,600.00	28.0
Dow Chemical Company	2,000	40,781.25	20.4	52,800.00	26.4
First Chicago Corpo- ration	3,200	60,400.00	18.9	69,440.00	21.7
General Motors Corpo- ration	300	24,750.00	82.5	18,720.00	62.4
INA Corporation	1,000	49,375.00	49.4	43,100.00	43.1
St. Paul Companies	1,500	47,625.00	31.8	51,750.00	34.5
Standard Oil Company of California	2,550	81,440.62	31.9	107,100.00	42.0
Westinghouse Electric Company	1,100	42,269.00	38.4	26,620.00	24.2
Woolworth, F. W., Company	600	<u>27,900.00</u>	46.5	<u>11,460.00</u>	19.1
		<u>\$521,915.87</u>		<u>\$541,346.00</u>	

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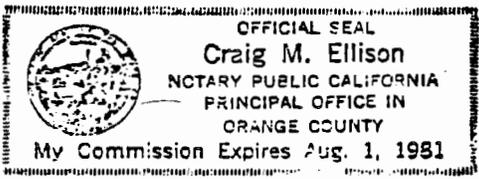
STATE OF CALIFORNIA )  
City and County of San Francisco ) ss.

On this 23<sup>rd</sup> day of October, 1978, before me,  
Craig M. Ellison, a Notary Public, State of  
California, duly commissioned, personally appeared JOSEPH A.  
MOORE, JR., known to me to be the person described in and  
whose name is subscribed to the within instrument, and acknowl-  
edged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my official seal in said City and County of  
San Francisco the day and year in this certificate first  
above written.

Craig M. Ellison

Notary Public  
State of California



My Commission Expires 8-1-81

TRUST AGREEMENT

THIS AGREEMENT made October 25, 1978,  
between JOSEPH A. MOORE, JR. (Trustor) and GLADYS G. MOORE  
and CROCKER NATIONAL BANK (Trustees).

RECITALS:

Trustor will exercise, contemporaneously with the execution hereof, a limited power of appointment, and appoint certain property described in Exhibit A to Trustees, upon the trusts and confidences herein set forth.

1. Amendment and Modification

This Agreement and this trust shall be irrevocable and shall not be subject to amendment or modification.

2. Payment of Income and Principal to Gladys G. Moore

The Trustees shall pay all of the net income of the trust, in quarterly or more frequent intervals to or for the benefit of Gladys G. Moore during her lifetime. In addition to the net income, if Gladys G. Moore shall at any time or times during her lifetime be in need of funds for her support, maintenance and health, the Trustees shall pay to or for the benefit of Gladys G. Moore from principal such amounts as she may require for such purposes. The Trustees shall exercise their discretion hereunder so as to pay to or

for the benefit of Gladys G. Moore such amounts or sums from principal as Gladys G. Moore may at any time or times require for support in her accustomed manner of living. The Trustees, upon receipt of evidence of such need satisfactory to them, and after taking into consideration other means of support known to them, shall pay to Gladys G. Moore so much of the principal, up to the whole thereof, as shall be necessary to meet such need, subject, however, to the standards and limitations set forth herein.

3. Termination of Trust

This trust shall terminate on the death of Gladys G. Moore.

4. Disposition of Property on Termination

Upon termination of this trust, the trust property then remaining, and all undistributed income, shall be paid, transferred and delivered to the then living grandchildren of Trustor, or the survivors or survivor of them, per capita and not per stirpes; provided, however, the issue of a deceased grandchild shall take the share such deceased grandchild would have taken if living, by right of representation.

5. Powers of Trustees

The Trustees are vested with the following powers, which shall continue until the final distribution of the trust estate, in addition to all powers now or hereafter conferred by law. In exercising such powers, the Trustees shall act in a fiduciary capacity and in a manner which is reasonable and equitable, considering the interests of

income and remainder beneficiaries, and in a manner which persons of ordinary prudence, diligence, discretion and judgment would act in the management of their own affairs.

(a) To hold, manage, control, improve, repair, preserve, lease without limit as to term, sell, convey, exchange, partition, divide, subdivide, grant options, create restrictions, easements and other servitudes, and otherwise deal with the trust property;

(b) To invest and reinvest the trust property in every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, and stocks, preferred or common, which men of prudence, discretion and intelligence acquire for their own account;

(c) To borrow money for the benefit of the trust on such terms and conditions as the Trustees may deem proper and, if the Trustees shall determine it to be necessary, to mortgage, pledge or otherwise encumber the trust property or any part thereof as security therefor;

(d) To hold a security in the name of a nominee or in other form without disclosure of the trust so that title to the security may pass by delivery, but the Trustees shall be liable for any act of the nominee in connection with the security so held;

(e) To appoint and employ such agents and employees as the Trustees may deem necessary or advisable, including (without limiting the generality of the foregoing) accountants, attorneys, investment counselors, and custodians of the trust property;

(f) To incur and pay all taxes, assessments, costs, charges, fees and other expenses of every kind which the Trustees may deem necessary or advisable in connection

with the administration of any trust hereby created, including reasonable fees for the Trustees, and to compromise or otherwise adjust claims in favor of or against the trust;

(g) To continue to hold any property received into the trust at its inception or subsequently added to it or acquired pursuant to proper authority if and as long as the Trustees, in the exercise of good faith and of reasonable prudence, discretion and intelligence, may consider that retention is in the best interests of the trust;

(h) To exercise any and all other powers now or hereafter conferred on the Trustees by law, consistent with the purposes of the trust.

#### 6. Trustees

(a) Each Trustee and Successor Trustee shall have the right to resign. The right to resign shall be exercised by any Trustee by depositing in the United States mail, postage prepaid, a notice of such resignation addressed to the person then entitled to receive payments under this Agreement at the address of such person last known to the resigning Trustee. The resignation shall take effect thirty (30) days after mailing of such notice. No bond shall be required of any Trustee named or any Successor Trustee.

(b) Each Successor Trustee shall have all the right, title, powers, discretion, and duties and obligations (except as herein expressly otherwise provided) of the Trustees first appointed. No one dealing with the Trustees shall be required to inquire concerning the validity of anything

the Trustees purport to do, nor see to the proper application of any property or money transferred to or at the request of the Trustees.

(c) If Gladys G. Moore is unable or ceases for any reason to act as Co-Trustee, DOUGLAS G. MOORE shall become Co-Trustee.

(d) Each Trustee, other than Gladys G. Moore, shall be entitled to reasonable compensation. Each Trustee shall be entitled to reimbursement of reasonable expenses incurred in behalf of the trust:

#### 7. Miscellaneous Provisions

(a) All income or principal to be paid to any of the beneficiaries shall be paid by the Trustees direct and only to the beneficiaries, to the personal representative of any beneficiary, or, where authorized, applied for the benefit of any beneficiary. The Trustees shall not recognize any transfer, mortgage, pledge, hypothecation, order or assignment of any beneficiary by way of anticipation of income or principal. The income and principal of the trust hereunder shall not be subject to transfer by operation of law, and shall be exempt from the claims of creditors or other claimants, and from orders, decrees, levies, attachments, garnishments, executions, and other legal or equitable process or proceedings to the fullest extent permissible by law.

(b) Until the Trustees shall receive written notice of any event on which the right to payment or distribution shall depend, the Trustees shall incur no liability to persons whose interest may have been affected by that event for payments or distributions made or not made by the Trustees in good faith.

(c) The trust estate shall consist of the property described in Exhibit A and any other property added to the trust by any person at any time and from time to time, whether by gift, Will or otherwise, and which is acceptable to and accepted by the Trustees. Any additions shall be irrevocable.

(d) As used in this Agreement, the terms "child," "children," "descendant," and "issue" shall include adoptees adopted prior to attaining majority.

(e) This Agreement is made in California, and all rights hereunder shall be governed by California law.

Executed the day and year first above written.

APPROVED:

*[Signature]*  
Attorney for Trustor

*[Signature]*  
Joseph A. Moore, Jr.

TRUSTOR

*[Signature]*  
Gladys G. Moore

CROCKER NATIONAL BANK

By *[Signature]*  
VICE PRESIDENT AND TRUST OFFICER

By *[Signature]*  
TRUST OFFICER

TRUSTEES

EXHIBIT A

Cash in the sum of \$100.00

The foregoing is the Exhibit A referred to in  
and attached to the Trust Agreement dated  
between JOSEPH A. MOORE, JR., Trustor, and GLADYS G. MOORE  
and CROCKER NATIONAL BANK, Trustees.

Joseph A. Moore, Jr.  
Joseph A. Moore, Jr.

Trustor

Gladys G. Moore  
Gladys G. Moore

CROCKER NATIONAL BANK

By

Bernard B. Beidman

VICE PRESIDENT AND TRUST OFFICER

By

W. E. [Signature]

TRUST OFFICER

Trustees

May 8, 1985.

Crocker National Bank  
Private Capital Banking Division  
#1 Montgomery St.,  
San Francisco.

RE: Private Trust of Joseph A. Moore, Jr.

Account 10-15-500-7014905

Administrator L. Williams

Portfolio Manager W. Neubauer

Gentlemen:

I hereby request that the following securities be sold from this trust:

300 General Electric common

400 Coca cola "

1600 Hewlett-Packard "

300 IBM "

300 Merck "

I would suggest that proceeds be reinvested in Intermediate term municipal bond fund 1 and in other investment grade common stocks in approximately equal proportions.

Sincerely,

*Gladys G. Moore*  
*Co Trustee*

 The Crocker Bank

May 20, 1985

Mrs. Joseph A. Moore  
2000 Washington Street  
San Francisco, CA 94109

Re: 500-7014905 - Private Trust of Joseph A. Moore, Jr.

Dear Mrs. Moore:

Enclosed is the April 30th appraisal of the Joseph A. Moore, Jr. trust. The changes undertaken during March are correctly reflected by the review.

The disposition of General Electric, Coca Cola, Hewlett-Packard, IBM and Merck requested by your letter of May 8, 1985 has been reviewed by the Bank. As a co-trustee with you for the Joseph A. Moore, Jr. trust, we do not concur with the sale of these five securities. These are companies with proven financial records operating in industries we believe offer favorable long-term prospects for growth. As such, we regard these five companies as core holdings for trusts with the objectives of reasonable and rising income and a high standard of investment quality. In our opinion, the sale of these common stocks, representing approximately 25% of the equity portfolio, would materially impair the trust's ability to achieve the investment objectives.

Increasing your tax free income is an important objective for the trust. The reinvestment of equity funds in the Municipal Bond Fund has been recommended periodically for this purpose. It is our intention to continue with this strategy within the constraints imposed by capital gains tax considerations and the timely identification of sale candidates from the equity portfolio. Presently, we do not believe that any such sales should be completed in the current environment.

I would be pleased to review this matter with you should you have any comments or questions.

Sincerely,



William L. Neubauer  
Investment Officer

WLN:SC:D1

[Suggested form of letter requesting advice letter]

Fair Political Practices Commission  
1100 K Street  
Sacramento, CA 95814

Re: Request for Advice: Participation as a Regent of the  
University of California in Decision to Consider Divestment  
of Companies Doing Business in South Africa

Dear Sir or Madam:

I am a Regent of the University of California, and I am writing to request an advice letter. At its meeting of June 20-21, 1985 the Board of Regents will be considering whether to sell some or all of the securities in its retirement and endowment funds which are issued by companies doing business in South Africa. I have a financial interest in the following companies which I am informed are in the University's portfolio and do business in South Africa:

I have investments of more than one thousand dollars in [name company or companies].

I am a [director, officer, partner, trustee, employee or hold a position of management] in [name of company or companies].

Each of the above companies is a publicly traded company on the New York Stock Exchange and is, therefore, subject to the regulation defining "material financial effect" found at Cal.Admin.Code, Title II, § 18702.2. Attached is a letter dated May 10, 1985 from the General Counsel of The Regents, Donald L. Reidhaar, setting forth relevant information and concluding that a divestment decision by The Regents will not foreseeably have a financial effect on the companies. General Counsel Reidhaar has also informed me that he will attempt to provide you with any further information you may need. His telephone number is:

Fair Political Practices Commission

May 10, 1985

Page 2

(415) 642-2822. His address is Donald L. Reidhaar, General Counsel, Office of the General Counsel, 590 University Hall, University of California, Berkeley, CA 94720.

I request that you provide me an advice letter on whether I am permitted to participate in the decision or decisions to be made by the Board of Regents regarding divestment.

Thank you very much for your assistance.

Sincerely,