Dear Mr. Roach: March 8, 1978

In your decision on the South Africa investment question, you will consider a document entitled "Report and Recommendations of the Senate Advisory Committee on Financial Affairs on Investment Policies and Social Responsibility," which will be transmitted to you, with comments, by James Brinkerhoff, Vice-President for Financial Affairs.

Enclosed is the response of the Washtenaw County Coalition Against Apartheid to that document. Copies have been sent to the other Regents, to Vice-President Brinkerhoff, to Professor Allan Emery, chairman of SACFA, to the Committee on Communications, and to the University Record.

The WCCAA is composed overwhelmingly of undergraduates, graduate students and faculty, i.e., members of the University community. We hope that you will give these arguments consideration in your decision.

Sincerely,

Andy Feeney

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Secretary, WCCAA

The Washtenaw County Coalition Against Apartheid wishes to register its strong disagreement with the "Report and Recommendations of the Senate Advisory Committee on Financial Affairs on Investment Policies and Social Responsibility."

To begin, we consider SACFA's formulation of the general principles involved to be negative, hypocritical and lacking in vision.

SACFA states that the primary role of the University is to "further the education of the students and of the general public through teaching and research" and warns that "when the University . . . adopts a political position by formal statements of the Regents . . . it runs the risk of impairing its essential role as a neutral forum for discussion or debate."

But this notion of the University's political neutrality is an illusion, maintained in the face of strong evidence, like that of HEW, which found the University's employment policy negative in terms of civil rights, and required affirmative action, not neutrality.

The illusion shows most blatantly in the statement of the University's current investment policy, "Policies in Handling Stocks," October, 1971, which contains no concern that voting proxies with management might, in the case of social-issue stockholders' resolutions, be non-neutral.

At stake is not the University's neutrality, but the scope of its mission. Does "education" mean simply classroom instruction and publication in scholarly journals, or can it mean a socially responsible investment policy as well?

Similarly, SACFA seems preoccupied with what can't, rather than what can be done, in duscussing the Regents' responsibilities in managing the University's endowment.

SACFA states that the endowment's principal purpose is not as an "instrument of political or social power" but is to provide income for educational activities. There follows a warning that a variety of legal constraints apply.

Again, the neutrality illusion. To the extent the endowment supports the status quo, it <u>is</u> an instrument of political or social power. SACFA states that the Regents' primary responsibility is to seek a maximum rate of return consistent with acceptable risk. It is exactly this single-minded commitment to economic values that keeps U.S. firms operating in South Africa today.

Fortunately, the legal constraints are not as inflexible as SACFA implies. State and federal law permit a wide latitude of investment strategies.

First, the law endorses discretionary powers of trustees. Churches, fir instance, often do not invest in liquor or tobacco stocks.

Second, trustees are specifically enjoined from supporting any illegal activity. To the extent violations of international law may have been committeed by some companies in the University'r portfolio, the strict interpretation of illegality would apply. There are also precedents for a more general interpretation of illegality, as anything against the broad public interest.

Insert? Third, in the case of educational institutions, trustees are charged with maintaining a favorable educational climate, which may be done negatively, by alleviating campus friction over investment policy, or positively, by reflecting educational values in investment policy.

Fourth, current Treasury interpretations of federal tax exemption law prohibit only electoral or legislative political activity. Simply espousing views that may be controversial does not compromise an institution's tax-exempt status or the tax-deductibility of donations. (on these points, see John G. Simon, Charles W. Powers and Jon P. Gunnemann, The Ethical Investor, Yale University Press, 1972, Chap. 5)

In discussing action on the South Africa issue, SACFA ingores the results of the decision-making process ordained by the Regents in resurrecting the Committee on Communications last summer, and ignores the only body of articulate opinion on the issue on campus.

The Committee on Communications sponsored the Forum on Investments; the Forum concluded with a resolution calling for immediate and total divestiture; the Committee seconded the resolution.

No one showed up at the Forum to urge that the University not divest, and there are nearly two thousand signatures on a petition calling for divestiture which will be presented at the Regents' meeting.

SACFA's case against divestiture is two-fold. First, it is argued that divestiture is a one-time gesture, with only immediate effect.

But divestiture is one-time only in the sense that it happens once. In addition to the immediate effect, the action becomes part of a growing record of such actions that can be referred to as evidence of serious public concern by groups rpofessionally involved in trying to change U.S. policy on investment in South Africa.

Second, it is argued that divestiture would "preclude any further influence the University of Michigan might have in effecting change in South Africa." Coming on the heels of a seven-year period during which the University has precluded its influence in effecting change by keeping silent and voting its proxies with management, this argument must be heavily discounted. It is at best half sincere, and half simply an excuse to avoid substantive action.

This argument must be discounted for further reasons. Stockholders' resolutions of any significance--calling for no further loans to the South African government, or for withdrawal from South Africa, or for cancellation of expansion plans--receive a miniscule percentage of votes, usually less than the three per cent required by SEC rules to be eligible for submission at the next annual meeting. (see Africa Report, July-August, 1975, p. 29, July-August, 1976, p. 29, May-June, 1977, p. 27)

Their purpose is less to effect change in corporate policy than to publicize it, to draw attention to the facts of corporate involvement in South Africa.

That has been accomplished, and for that reason, among others, U.S. policy on investment in southern Africa has been the subject of Congressional hearings and debate at the highest level. Voting shares and making statements to management, while welcome in that they get the University on the record, have little effectiveness at this stage.

SACFA states that in the long run, "a position of continual, unequivocal opposition to apartheid will have a greater effect" than divestiture.

But the divestiture of some $40 million worth of securities, a firm commitment not to invest in such securities in the future, and the publicizing of that stand do constitute "continual, unequivocal opposition to apartheid."

Stockholders' resolution and statements to management have not prevented the Soweto riots, the murder of Steve Biko, Afrikaner intransigence and increasing repression. Only divestiture can speak to the reality of South Africa today. Divestiture, bluntly, is "putting your money where your mouth is."

Encouragingly, SACFA does call for divestiture of companies undertaking significant capital expansion in South Africa. By this criterion, the University should sell immediately its shares in Caltex, which is in the midst of a $134 million expansion of refinery capacity.*

This criterion also implies that the University should divest its shares of IBM as well, for IBM has no capital plant in South Africa but only markets and services products made elsewhere. Commitment to increasing sales is as critical as capital expansion, especially for a firm whose goods and services are as critical as IBM's.

SACFA also calls for termination of University dealings with banks extending or renewing loans to the South African government. This is a welcome step, to the extent the University has significant dealings with such banks, but it should also include banks making loans to Na-

*Jennifer Davis, American Committee on Africa, "Too Little, too Late--the U.S. Corporation Manifesto for Employment in South Africa," in "U.S. Corporate Interests in South Africa," <u>Report to the Committee on Foreign Relations, U.S. Senate, by the Subcommittee on African Affairs</u>, Washington U.S. Government Printing Office, January, 1978, p. 168

mibia or the Transkei, the homelands or border industries.

Most importantly, it should also include banks owned by holding companies in which the University has stock, like Citibank (owned by Citicorp) and American Express Bank (owned by American Express Company). These shares should be sold immediately.

SACFA recommends divestiture of holdings in companies which have not signed the Sullivan principles. Tim Smith, director of the Interfaith Center for Corporate Responsibility, described the Sullivan principles at the Forum as "a band-aid for a brain tumor."

The failure of the Sullivan guidelines is not due simply to the fact that the South African ambassador in Washington approved them, changing a key phrase before the corporations were willing to sign, or that they were subsequently endorsed by a spokesman for the South African government, (ibid., p. 166) but to the failure of the whole affirmative action approach.

As one commentator has put it, "The crucial issues . . . regarding U.S. investment in South Africa do not revolve around the meaning of the business for the (black) majority, that is, wages, training and employment benefits . . . (but) its meaning to the (white) minority, that is, its reinforcing the financial, technical and military capabilities of the minority vis-a-vis the majority." (Africa Report, January-February, 1977, p. 3)

This fundamental point, so often overlooked in discussion on the subject, is borne out by the fact that U.S. firms employ some 70,000 Africans of a total population of around 19 million. (ibid., pp. 9, 165)

Action taken on behalf of the black majority by corporations benefits a minute percentage of them, while simultaneous computer sales to the government and undertaking of crucial industrial projects (e.g., by IBM and Caltex, both Sullivan signers) works to the detriment of the overwhelming majority.

Of the forty-odd companies doing business in South Africa in which the University has stock, twenty have signed the Sullivan principles anyway. The principles only distract attention from the structure of apartheid and the means with which the University can best oppose it.

SACFA does agree that divestiture should be undertaken after statements to management, at stockholders' meetings and voting of proxies, if there is strong evidence that management will not change its policies.

That SACFA spent five months studying the issue without discovering the reams of evidence on corporate incorrigibility is remarkable. The most recent, most authoritative study is the above-cited "U.S. Corporate Interests in South Africa," by Sen. Dick Clark's Subcommittee on African Affairs.

The subcommittee was gathering evidence at the same time U.S. corporations were signing the Sullivan principles. The report calls the behavior of U.S. corporations in South Africa "an abysmal performance."

As we have seen, the only genuine response this University can make to corporate involvement in South Africa is immediate and total divestiture. If the Regents do not vote now for divestiture but opt for the SACFA agenda instead, they only postpone their decision, for that agenda commits them to considering divestiture again, after the ritual evasions from management and the results from the stockholders' meetings are in.

It would be a mistake to think that the SACFA report is the end of the concern on this campus over University investments in firms doing business in South Africa. It is only the beginning.