

THE WHITE HOUSE  
WASHINGTON

June 4, 1976

MEMORANDUM FOR: BILL SEIDMAN  
FROM: ED SCHMULTS  
SUBJECT: The Decision Memorandum  
to the President on Questionable  
Corporate Payments Abroad

My recommendations on the options presented in the decision memorandum are as follows:

- Issue 1 -- Support Option A (Undertake a legislative initiative at this time)
- Issue 2 -- Support Option A (Propose a form of disclosure legislation); and
- Issue 3 -- Approve endorsement of the Hills bill.

Based on my prior fifteen years of practice as a corporation and securities lawyer, my responsibilities at the Treasury Department as Executive Director of the Lockheed Loan Guarantee Agency, and my work in helping to organize the Questionable Corporate Payments, Task Force, I have the following additional thoughts on the need for a legislative initiative.

We really know all that we need to know about the questionable payments problem. In my view, the Administration should take a clearly perceived positive approach soon. The matter should not be left to an independent agency like the SEC, with the responsibility to assure only material disclosure to investors, or a quasi-independent agency like the IRS, concerned only with deductability or non-deductability of a payment.

The crux of the matter is that we have the spectacle of large American companies paying bribes abroad. In my view, the incalculable harm being done domestically to American business and our free enterprise system far outweighs the disadvantages involved in any legislative initiative. By "harm", I mean substantial political erosion in Congress, leading to Nader federal incorporation bills and oil divestiture proposals, and a vision of hypocrisy and institutional decay in the eyes of the American people.

From the Administration's standpoint, it seems to me that, given our economic and regulatory philosophy of "getting government off the backs of business," we cannot sit back and fail to deal vigorously with a corporate "misconduct" issue like business bribery.

I am troubled by one aspect of a disclosure statute and that is the possible paperwork burden. However, by selecting an appropriate threshold dollar amount and reducing the frequency of reporting, we should be able to mitigate this objection responsibly. To deal with this problem and others in a way that would be consistent with the President's direction to seek the widest possible consultation, I urge that the President sketch out the disclosure proposal in broad terms and say that he is directing his task force to hold hearings and consultations on the details and possible problems that would arise. If an initiative is to be made, I recommend that it be announced first by the President -- his leadership should be evident.

With respect to the recommendation to endorse the Hills bill, I would be relatively low key on this since we will be getting ourselves mixed up in Proxmire's proposal. Also, if the Administration proposes a disclosure statute, strong endorsement of the Hills proposal might be confusing.