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June 26, 1986

To: Members, Federal Open Market Committee
From: Michael Bradfield, General Counsel
James Oltman, Deputy General Counsel

Subject: Status Report #3 on Melcher FOMC Case

This is the third report on developments in the Melcher FOMC litigation.

On Tuesday, June 24, a three-judge panel of the Court of Appeals denied our request for a special writ of mandamus to require Judge Greene to dismiss the lawsuit for lack of jurisdiction. In a very brief order, the panel, consisting of Judges Edwards, Bork, and Silberman, stated that granting such a petition would be proper only where the district court clearly lacks jurisdiction, and that if the lack of jurisdiction is merely doubtful, the request should be denied.

The action of the Court of Appeals means that we must file a brief dealing with the constitutional issue on July 3.

We are now reviewing drafts of our briefs and expect to discuss our draft with the Justice Department in the next few days. The Subcommittee of Legal Counsel will meet at the Board on Monday to review the draft brief.