

Affidavit by an Attorney With the I.T.T. Law Firm

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WASHINGTON, July 19—Following is the text of an affidavit submitted to the House Judiciary Committee on May, 1, 1974, by Michael W. Mitchell, as attorney with the law firm that represented the International Telephone and Telegraph Corporation in proceedings in 1971 and 1972.

MICHAEL W. MITCHELL, being duly sworn, deposes and says:

1. I am and at all times hereinafter mentioned have been a member of the bar of the State of New York and of the firm of Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York (Skadden, Arps). I have been informed that this affidavit may be relied upon by the Committee on the Judiciary of the House of Representatives in connection with its impeachment inquiry.

2. At all times hereinafter mentioned, Skadden, Arps was engaged in the legal representation of the International Telephone and Telegraph Corporation (ITT) and others in connection with certain proceedings previously instituted in 1970 and 1971 by the Securities and Exchange Commission (SEC) relating to certain phases of ITT's business and financial affairs.

3. On or about February 29, 1972, an article by Jack Anderson was published which concerned a memorandum dated June 25, 1971 alleged to have been written by an ITT employee, Dita Beard. I am informed and, based upon such information, believe that on or about March 1, 1972, Stanley Sporkin (Sporkin), then Deputy Director of Enforcement of the SEC, telephoned Joseph H. Flom (Flom), also a member of Skadden, Arps, and that Sporkin stated that the memorandum referred to in the Anderson article had not been produced pursuant to two subpoenas which the SEC had issued in connection with its investigation and that he wanted to know the facts concerning this. Flom indicated that he was trying to find out and that a search was going to be made promptly of ITT's Washington, D.C. office to determine the facts. Accordingly, the next day—March 2, 1972—two lawyers employed by Skadden, Arps began a review of files in the Washington, D.C. office of ITT.

Attended Kleindienst Hearing

4. On March 2, 1972, Flom and I attended the opening session of the resumed hearings of the Senate Judiciary Committee on the nomination of Richard G. Kleindienst (Kleindienst) to be Attorney General. The hearings were being held to investigate the subject of the settlement of certain antitrust suits brought by the U.S. Department of Justice against ITT; this general subject was also then under review by the SEC in connection with its investigation of alleged "insider trading" by certain ITT officials.

5. On March 2, 1972, the lawyers reviewing ITT's Washington office files found several documents which they

6. Pursuant to the instructions of Flom, on that evening (March 2, 1972), I returned to my room at the Sheraton-Carlton Hotel in Washington in order to meet with one Wallace H. Johnson (Johnson). I think, but am not certain, that arrangements for this meeting were initiated by Gerrity.

Documents Turned Over

7. To the best of my recollection, it was during that evening, March 2, 1972, I met with Johnson in my room in the Sheraton-Carlton Hotel. I initially assumed that Johnson was employed by the Department of Justice. However,

during the course of our meeting, he stated that, while he had formerly worked for the Justice Department, he was currently employed by the White House and was acting in some sort of liaison role to the Justice Department in connection with the Judiciary Committee hearings. I then turned over certain documents which referred to the antitrust suits and ITT and Administration contacts. Based upon my present recollection, I believe I gave him copies of all the documents annexed hereto, of which I was then aware, with the possible exception of Exhibit B, which did not mention Kleindienst and the information in which was to an extent referred to in other documents which I gave to Johnson.

8. Early in the week of March 6, 1972, I cannot recall the precise date or the place, I turned Exhibit B over to Johnson and perhaps one or two other documents mentioning the antitrust suits and contacts between ITT and Administration officials which had subsequently been discovered in ITT's Washington office files. Attached hereto as Exhibits A and B are the texts of the documents which, to the best of my information and belief, were given to Johnson on these occasions (the ITT Documents).

Additional Documents Found

9. To the best of my information and belief, between March 2 and March 6, 1972, Flom talked with Sporkin on several occasions to discuss the progress of the search of the Washington office. During these telephone conversations, I am informed, Flom mentioned that additional documents had been found relating to political contacts and suggested that a meeting be arranged with the Staff of the SEC at which the documents could be produced. Sporkin, I understand, during the March 6 con-

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versation with Flom, stated he would not be in Washington for the balance of the week, and a meeting was therefore arranged for Monday of the following week, March 13, 1972. Flom and I met with Sporkin and other SEC officials on March 13, 1972. We offered to turn over the ITT Documents even though we were not convinced that, and questioned whether, they were covered by the SEC subpoenas. However, after our position had been stated and after the general subject matter of the documents had been described, the SEC officials stated that production should be delayed for one week. They requested that during that period we (i) secure an affidavit authenticating the documents and (ii) advise our client, ITT, of the SEC officials' belief that the documents should also be proffered to the Chairman of the Senate Judiciary Committee. We so advised our client and later provided the documents to the SEC.

10. As a result of further conversations with the SEC, the portions of the ITT Documents dated during 1971 and relating to that phase of the SEC investigation involving the 1971 antitrust suit settlement and alleged "insider" trading in connection therewith, among other documents, were delivered to the SEC on March 21, 1972, and, to the best of my recollection, the portions of the ITT Documents dated during 1970 and relating to that phase of the SEC investigation involving the 1970 ITT-Hartford Fire Insurance Company affiliation, among other documents, were delivered to the SEC on April 14, 1972. I should note that during this period further reviews of the ITT Washington office files were made for other documents which might have some relevance to the SEC investigation and that such documents as were found were also turned over to the SEC on these dates.