

Background Summary of KELLER AND HECKMAN

Capabilities and Fee Structure

June 1985

In response to your request for information about Keller and Heckman, this memorandum is intended to provide a file record of the firm's areas of expertise and pertinent background material.

Although we provide many legal services, the great majority of our work involves the representation of businesses and trade associations in federal regulatory matters. Close proximity to the federal government's administrative structure enables us to monitor and become involved quickly in the regulatory process. This includes all phases of the administrative, legislative, and judicial proceedings up to United States Supreme Court review.

In the course of representing our clients, we have advised about and participated in regulatory proceedings before the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA). In addition, we have been actively engaged in practice before the United States Department of Agriculture (USDA), the Federal Trade Commission (FTC), the Occupational Safety and Health Administration (OSHA), the Interstate Commerce Commission (ICC), the Department of Transportation (DOT), the Federal Communications Commission (FCC), and other agencies as occasions have demanded.

Because of our unique blend of technical and legal expertise, we frequently become deeply involved in all aspects of the petitioning process at FDA, EPA, and some of the other health and safety agencies. We often assist our clients in the design of protocols, advise as to the quantity and type of data required, and organize and submit the data in petition form. Further, we routinely check on the status of pending petitions and frequently contact the agency personnel conducting the technical review of these petitions so that questions can be expeditiously resolved.

Another important aspect of our practice involves the preparation of opinion letters as to whether a manufacturing practice or a particular use of a substance is in compliance with applicable laws and regulations. These opinion letters have proven to be a very helpful tool enabling clients to reassure prospective customers that the anticipated use of a substance is legally appropriate.

Since Jerome H. Heckman has served as General Counsel to The Society of the Plastics Industry, Inc. for many years, the firm is most visible to certain segments of the food and related industries as specialists in plastics and food packaging. However, we are equally active in many other food, drug, and environmental matters for a great number of companies with diverse interests such as chemical, food, and manufacturing firms. Obviously, we prefer to keep a "low profile" because of the confidential nature of our clients' concerns in these areas.

Our staff includes John S. Eldred, who has a background of five years of experience in FDA's Office of the General Counsel and eight additional years representing industry and trade associations on various issues before FDA and other administrative agencies. A number of us have appeared in federal courts throughout the country and have participated as speakers in programs sponsored by various organizations including the Food and Drug Law Institute and the Cosmetic, Toiletry, and Fragrance Association.

John B. Dubeck had a background in chemical engineering and nuclear propulsion systems before joining our firm. He has represented many clients and trade associations before FDA and EPA. In addition to his strong FDA background, Mr. Dubeck is quite expert in matters relating to the Toxic Substances Control Act (TSCA), the Resource Conservation and Recovery Act (RCRA), and hazardous substances generally. John Dubeck and John Eldred also teach a course in food law.

Peter L. de la Cruz was an attorney with the United States Department of Justice for four years prior to joining the firm. In addition to antitrust cases, he represented FDA and other agencies in litigation.

Edward L. Korwek received a Ph.D. in biochemistry and worked at the National Cancer Institute (NCI) before becoming an attorney and joining Keller and Heckman. Much of his practice involves biotechnology, and he has published widely in this area.

Peter A. Susser served as a trial attorney in the office of the Solicitor of the U.S. Department of Labor before entering private practice. He has lectured and written on various employment law topics including labor-management relations, employment discrimination, and occupational safety and health matters. Mr. Susser has significant experience with federal, state, and local hazard communication requirements.

Although this summary has focused on our expertise in the health and safety area, we have a number of other

attorneys who specialize in transportation, communications, product liability, antitrust, labor and business law matters. We would be happy to provide more information on our capabilities in these other areas.

Over ten years ago, our extensive involvement with technically-oriented agencies prompted us to add to our staff, Daniel S. Dixler, a Ph.D. in chemistry. Although he is not an attorney, Dr. Dixler's educational background and more than 20 years of experience in polymer and petrochemical chemistry as well as plastics technology provide invaluable technical support which we find essential in dealing with many federal agencies. Indeed, on several occasions, agency personnel have requested Dr. Dixler's assistance in the development of guidelines and the evaluation of research contracts.

We are also fortunate to have Durward F. Dodgen on our staff. Mr. Dodgen, formerly with the National Academy of Sciences, was the Director of the Food Chemicals Codex for many years. He is a worldwide authority on the status of food additives and substances that are generally recognized as safe (GRAS). In addition, Dr. Charles V. Breder has recently joined our scientific staff. Dr. Breder comes to us after 17 years of FDA and industry experience.

Our primary goals are to serve our clients' needs in the most expeditious and effective ways possible and to provide the kind of advice that will satisfy all regulatory requirements without unnecessary complication. We have learned from many years' experience that the simplest approach is often the best approach, but, of course, we must at all times make certain that the client is protected to the greatest extent possible in the event of any unusual and unforeseen circumstances.

Like most firms that are retained for specific matters, we normally bill on a cumulative hourly basis. Our rates depend on the professional or paraprofessional involved with respect to a given project. The rates range from \$50 an hour for paralegals, to \$75-\$100 for associates (depending on the experience of the associate), to \$125-\$150 an hour for partners, and \$200 an hour for Mr. Heckman's services. The rates for our staff scientists are \$110 per hour. In addition to charges for time actually spent on a client's matter, our bills include charges for out-of-pocket expenses such as long-distance telephone calls, photocopying, and travel. Our normal practice is to render bills on a monthly basis.

We trust this memorandum will be responsive to your request for information about our firm and our services. We would welcome the opportunity to provide anything further you may require.