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Sidney Shainwald Public Interest Lecture: The Honorable Chuck Hagel, Senior United States Senator, Nebraska

New York Law School

The Fourth Annual

SIDNEY SHAINWALD
PUBLIC INTEREST LECTURE

New York Law School
October 11, 2007

THE HONORABLE CHUCK HAGEL
SENIOR UNITED STATES SENATOR, NEBRASKA

PROGRAM

RICHARD A. MATASAR

Dean and President

Welcome

SYBIL SHAINWALD, ESQ.

Introductory Remarks

KENNETH R. FEINBERG, ESQ.

Introductory Remarks

THE HONORABLE CHUCK HAGEL

Senior United States Senator

THE HONORABLE CHUCK HAGEL



Charles Timothy "Chuck" Hagel, Nebraska's senior U.S. Senator, is serving his second term in the United States Senate. A member of the Republican Party, he was first elected in 1996 and was reelected in 2002.

Hagel is a member of four Senate committees: Foreign Relations; Banking, Housing, and Urban Affairs; the Select Committee on Intelligence; and the Committee on Rules and Administration. He was a former Republican Deputy Whip; and former Chairman of the Congressional Executive Committee on the People's Republic of China.

A fourth generation Nebraskan, Hagel was born in North Platte, Nebraska on October 4, 1946. He graduated from St. Bonaventure High School, Columbus, Nebraska; the Brown Institute for Radio and Television, Minneapolis, Minnesota; and the University of Nebraska at Omaha. Hagel and his wife, Lilibet, have two children, daughter Allyn, 16, and son Ziller, 14.

Prior to his election to the U.S. Senate, Hagel worked in the private sector as the President of McCarthy & Co., an investment banking firm based in Omaha, Nebraska, and served as Chairman of the Board of American Information Systems (AIS). Before joining McCarthy & Co., Hagel was President and Chief Executive Officer of the Private Sector Council (PSC) in Washington, D.C., Deputy Director and Chief Operating Officer of the 1990 Economic Summit of Industrialized Nations (G-7 Summit), and President and Chief Executive Officer of the World USO.

Hagel served in Vietnam with his brother Tom in 1968. They served side by side as infantry squad leaders with the U.S. Army's 9th Infantry Division. Hagel earned many military decorations and honors, including two Purple Hearts.

In the mid-1980s, Hagel co-founded VANGUARD Cellular Systems, Inc., a publicly traded corporation. In 1981, President Ronald Reagan nominated Hagel to serve as Deputy Administrator of the Veterans Administration, a nomination confirmed by the United States Senate. Hagel also served as Deputy Commissioner General

of the United States for the 1982 World's Fair. From 1977 through 1980, Hagel was Manager of Government Affairs for The Firestone Tire & Rubber Company, in Washington, D.C. From 1971 to 1977, he was Administrative Assistant to Congressman John Y. McCollister (R-Nebraska). Beginning in 1969, Hagel worked as a newscaster and talk show host with radio stations KBON and KLNG in Omaha, Nebraska.

In 1996, Chuck Hagel ran for the U.S. Senate against Ben Nelson, who was the sitting governor of Nebraska. Although many people believed he had no chance of winning, he won a "stunning upset" in the election, receiving 56 percent of the vote. Six years later in 2002, Hagel overwhelmingly won re-election with over 83 percent of the vote, the largest margin of victory in any statewide race in Nebraska history.

In November 2005, Hagel made a much-publicized statement: "To question your government is not unpatriotic—to not question your government is unpatriotic." This was the reference to the increasing amount of debate surrounding the Iraq War and his assertion that the United States should withdraw its troops.

In December 2005, in reference to President Bush, the GOP, and the PATRIOT Act, Hagel stated: "I took an oath of office to the Constitution; I didn't take an oath of office to my party or my president."

On immigration, Senator Hagel supports strong enforcement for our immigration laws on our borders and in the workplace. However, he feels enforcement alone cannot resolve our immigration problems. Senator Hagel has pushed for much needed comprehensive immigration reform, including a rational and responsible temporary worker program and a commonsense solution for the estimated 11–12 million illegal aliens living in our country today.

In January 2006, Hagel took issue with Karl Rove over controversial statements the White House advisor made concerning the mindset of Republicans and Democrats. Hagel said, "Well, I didn't like what Mr. Rove said, because it frames terrorism and the issue of terrorism and everything that goes with it, whether it's the renewal of the PATRIOT Act or the NSA wiretapping, in a political context." He also said that "dark clouds" are hanging over the Republicans party and "if you look at the

environment and the atmospherics politically in this town, read any poll. The sixth year of a governing party usually . . . is not good . . . the country is tired, a lot of complications in these international issues, we're at war."

Hagel further said, "National security is more important than the Republican Party or the Democratic Party. And to use it to try and get someone elected will ultimately end up in defeat and disaster for that political party."

After Republican losses in the 2006 midterm election, Hagel penned an editorial in the *Washington Post* highly critical of military strategies both employed and proposed for Iraq. He unequivocally declared that "There will be no victory or defeat for the United States in Iraq," and called for a "phased troop withdrawal"—making Hagel one of the most prominent voices in his party to do so.

In January 2007, Hagel openly criticized the plan to send an additional 30,000 troops to Iraq. He called it "the most dangerous foreign policy blunder in this country since Vietnam, if it's carried out."

After an April 2007 visit to Iraq with Pennsylvania Democratic Representative Joe Sestak, Hagel expressed his belief that support of Iraq should not continue indefinitely and defended Congressional actions to set a timeline for an end in occupation. Hagel went on to say, "If success were simply a matter of the determination and ability of U.S. troops and civil servants, we would have already created a secure and stable Iraq. But unfortunately, the reality is that after more than four years, America remains the country's occupying power. Iraq's future will be determined by Iraqis, who, I hope, will reach a political accommodation—but America is still making the major decisions and taking the lead militarily in most critical areas of the country. We can continue to help buy time for the Iraqi government—but that time is running out."

Hagel has served on the Board of Trustees of the Manville Personal Injury Settlement Trust and as Chairman of the \$240 million Agent Orange Settlement Fund. His participation in civic, educational, and charitable organizations has included: Board of Directors, Greater Omaha Chamber of Commerce; Chairman, 10th Anniversary Vietnam Veterans' Memorial; Board of Directors and National Advisory Committee

of the Friends of the Vietnam Veterans Memorial; Board of Directors of the Arlington National Cemetery Historical Society; Chairman of the Board of No Greater Love, Inc.; USO's World Board of Governors; and the World USO Chairman's Advisory Council. He is a life member of the American Legion, Veterans of Foreign Wars, Vietnam Veterans of America, Disabled American Veterans, and the Military Order of the Purple Heart.

Among the institutions for which Hagel serves as a board or advisory committee member are: the Institute of Politics at Harvard University; International Republican Institute; the German Marshall Fund's Trade and Poverty Forum; Director Emeritus, the Eisenhower World Affairs Institute; the Private Sector Council; the Ripon Society; the American Red Cross; Bread for the World; and the Council on Foreign Relations. Hagel is a trustee at Bellevue University and Hastings College. Hagel is Co-chairman of the Vietnam Veterans Memorial Fund Corporate Council.

We are honored to have Senator Chuck Hagel as the speaker for the Fourth Annual Sidney Shainwald Public Interest Lecture.



Mr. Feinberg was appointed by the Attorney General of the United States to serve as the Special Master of the Federal September 11th Victim Compensation Fund of 2001. In this capacity, he developed and promulgated the Regulations governing the administration of the Fund and administered all aspects of the program, including evaluating applications, determining appropriate compensation, and disseminating awards. He is also Fund Administrator of the Restitution Fund in *In*

Re: United States of America v. Computer Associates International, Inc., designated by the Department of Justice and approved by the Federal District Court. In his capacity as Fund Administrator, Mr. Feinberg is responsible for the design, implementation, and administration of a small restitution fund exceeding \$225 million.

Mr. Feinberg is an attorney and one of the nation's leading experts in mediation and alternative dispute resolution. He is the managing partner and founder of The Feinberg Group, LLP. Mr. Feinberg received his B.A. *cum laude* from the University of Massachusetts in 1967 and his J.D. from New York University School of Law in 1970, where he was Articles Editor of the *Law Review*. He was a law clerk for Chief Judge Stanley H. Fuld, New York State Court of Appeals from 1970 to 1972; Assistant United States Attorney, Southern District of New York from 1972 to 1975; Special Counsel, United States Senate Committee on the Judiciary from 1975 to 1980; Administrative Assistant to Senator Edward M. Kennedy from 1977 to 1979; Partner at Kaye, Scholer, Fierman, Hays & Handler from 1980 to 1993; and founded The Feinberg Group, LLP in 1993.

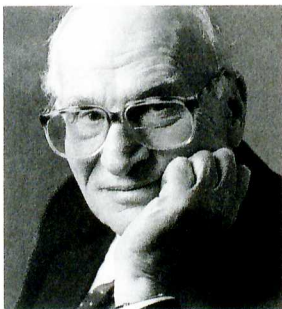
Mr. Feinberg has had a distinguished teaching career as Adjunct Professor of Law at the Georgetown University Law Center, University of Pennsylvania Law School, New York University School of Law, the University of Virginia Law School, and Columbia Law School.

Mr. Feinberg has been Court-Appointed Special Settlement Master, mediator, and arbitrator in thousands of disputes involving such issues as mass torts, breach of contract, antitrust and civil RICO violations, civil fraud, product liability, insurance

coverage, and various commercial and environmental matters. Mr. Feinberg was also one of three arbitrators selected to determine the fair market value of the original Zapruder film of the Kennedy assassination and was one of two arbitrators selected to determine the allocation of legal fees in the Holocaust slave labor litigation.

Mr. Feinberg was a member of the Presidential Advisory Commission on Human Radiation Experiments from 1994 to 1998; the Presidential Commission on Catastrophic Nuclear Accidents from 1989 to 1990; and the Carnegie Commission Task Force on Science and Technology in Judicial and Regulatory Decision Making from 1989 to 1993. He is currently a member of the National Judicial Panel, Center for Public Resources, and chaired the American Bar Association Special Committee on Mass Torts from 1988 to 1989. He is also an arbitrator for the American Arbitration Association. He is listed in "Profiles in Power: The 100 Most Influential Lawyers in America" (*National Law Journal*, April 4, 1994; June 12, 2000) and was named "Lawyer of the Year" by the *National Law Journal* (December, 2004). He is the author of numerous articles and essays on mediation, mass torts, and other matters and has recently published his book entitled, *What is Life Worth? The Unprecedented Effort to Compensate the Victims of 9/11* (PublicAffairs, 2005).

SIDNEY SHAINWALD



If every man is the architect of his character, then Sidney Shainwald was a master builder: a man of great integrity, humor, intellect, charm, kindness—with a life-long commitment to social justice. Sidney was that rare individual—idealist, conscientious, dedicated—a man of many accomplishments who not only conceived and discussed ideals but attempted throughout his life to see that those ideals became realities.

Sidney had several distinguished and successful careers during his life. But it is not surprising that for almost fifty years he was associated with Consumers Union (CU). He viewed the consumer movement as a powerful force which would trickle down to the economically and socially disadvantaged.

While still a student at City College but already an impassioned advocate for social justice, he went to work as head of the Accounting Department in 1937. The concept was novel; the movement was embryonic, but Sydney as the consumer spokesman believed it would follow the path of the labor movement and become “a powerful social institution.”

As Sidney later wrote, “The CU then is not to be confused with the CU of today. There were 148 subscribers, 10 members of the staff whose weekly salary totaled \$100, 350 square feet of office space, and a devoted Board of Directors. From its inception, CU’S Board and staff were composed of idealists and iconoclasts. Divisiveness was exacerbated by financial difficulties, necessitating a constant interplay among the Board, the management, and staff on daily policy matters.”

The problems were many, the rewards hardly ensured. In 1939, Sidney wrote his thesis entitled *Consumer Product Testing Organizations: A Comparative Analysis*. He tested suntan lotion on the roof of CU’s offices and later brought home lotions and toothpaste for his family for free. He also staffed the CU exhibit at the 1939 World’s Fair in the Consumers Building, an exhibit including guinea pigs to remind consumers that they did not have to continue to be guinea pigs in the marketplace.

That same year, CU was denounced as a Communist front organization to the Dies Committee, which went through various revisions. It was not removed from the list of “subversive” organizations until 1954.

A battle of words also erupted in 1939 when CU claimed the *Good Housekeeping* “Seal of Approval” was a fraud. *Good Housekeeping* in turn accused *Consumers Union Reports* (as it was then known) of prolonging the Depression. CU was also attacked by *Readers Digest*, which had the paradoxical effect of raising its visibility.

CU quickly expanded and the circulation of *Consumers Union Reports* soon reached 4,000.

From the beginning, CU was interested in the economic problems of consumers. The charter had taken a multi-disciplinary approach to the problems of assessing technology; the reason for the birth of the organization was both scientific and social. The founders of the organization believed that product testing was also a means to organize consumers to promote their welfare. CU’s goal was not merely to evaluate products, but to “initiate, to cooperate with, and to aid group efforts of whatever nature seeking to create and maintain decent living standards for ultimate consumers.” This was true in 1936 when Vol. 1 No. 1 of *Consumers Union Reports* went to 3,000 subscribers, and it is true today when *Consumer Reports* goes monthly into millions of homes.

As CU continued to grow through the years, the *Chicago Tribune* noted, “Sidney Shainwald, associate director, CU’s financial brains since the year after its founding in 1936, said circulation of *Consumer Reports* reached a peak of 2 million in 1974.”

After passing his CPA exam and serving in the South Pacific where he taught math to his fellow soldiers and edited the newspaper, Sidney became a partner in a public accounting firm, sharing his desk and political views with I.F. Stone in 1941. He always kept CU as a client. Deeply committed to the arts, he represented some of the greatest artists and entertainers of the 20th century, including Marc Chagall, Jacques Lipschitz, Naum Gabo, George Grosz, Peggy Guggenheim, Mike Todd, Zero Mostel, David Merrick, Albert and Mary Lasker, Josh Logan, Dinah Shore,

Eddie Albert, London Film Productions, Tricolor Films Ltd, and Magnum Photos. He was also the accountant for and astute investor in several shows and movies, including *Around the World in Eighty Days*, which paid for his family's home.

Yet Sidney missed the public service orientation of CU and in 1960, when asked to work exclusively for CU, he returned at a substantial cut in pay in order to proselytize the only gospel he cared about, social justice. He was an ex-officio member of the Board of Directors, CU's liaison to the Consumer Association of Canada, a representative to the Consumer Federation of America, and a delegate to the International Organization of Consumers Unions throughout the world. From Holland to Hong Kong, he gave speeches and presented papers to the budding and burgeoning consumer organizations. Sidney was also on the board of directors of other organizations such as *Media and the Consumer*, a non-profit tabloid newsletter designed to spread new ideas to reporters, TV programmers, and others desiring an interchange of ideas. During his tenure, CU established three advocacy offices, became involved in the environmental movement, launched *Penny Power*, a magazine for children, fostered educational efforts, and was instrumental in launching the American Council on Consumer Interests while continuing to expand its interest and considerable resources on vital economic, social, and health issues.

He said it best: "Consumers Union was never really just a job; it always was and always will be a way of life with me. As far back as in my college days, I was interested in Consumers Union not only as an organization for which I worked but as the major force in the consumer movement. I am pleased to have had the opportunity to serve Consumers Union. I would like to think that I have made some contribution to its growth, direction, and policies." Social benefit was the desired result; CU was the mechanism through which to achieve it.

Consumerism has become a household word, and Consumers Union, which has been termed a unique social invention, is now inextricably woven into the fabric of society. Some 71 years after its founding, Consumers Union is the only social reform organization born in the Depression to have survived. At the time of Sidney's retirement, the American prototype had been copied in over forty-six countries. Today IOCU is known as Consumers International and has a membership of

over 250 organizations in 115 countries. Its mission is to promote a fairer society by protecting the rights of all consumers especially the poor, marginalized, and disadvantaged.

Even after his retirement in 1982, Sidney had the consumerist bug, testifying as an expert witness in cases where the Red Cross gave people contaminated blood. His testimony was that the Red Cross had enough money to test the blood. "This is a very rich organization," he wrote in a report commissioned by *Money* magazine. "If it were a public company, I'd love to own stock in it."

Sidney was also on the Board of Arbitrators of the National Association of Securities Dealers and on the Panel of Arbitrators of the New York Stock Exchange.

In 1980, Sidney paid a tribute to the founding president of CU, with whom he worked for more than forty years. He spoke on behalf of the staff: "If *Consumer Reports* were to make a product evaluation of Colston Warne, it might read something like this: 'A unique model, a once-in-a-lifetime production, exceedingly efficient. . . Definitely top-rated and the best buy ever.'" The same can be said for Sidney Shainwald.

Sidney loved his wife, his children, and grandchildren, his friends, art, music, travel, a good pun, and a perfectly rhymed poem. He was a passionate man driven by his convictions. At once gracious and clever, dignified, principled, and loyal, Sidney was a true inspiration to all who knew him.

It is a great privilege to have Senator Chuck Hagel, the Senior Senator from Nebraska, as the 2007 Sidney Shainwald Public Interest Lecturer.

SIDNEY SHAINWALD PUBLIC INTEREST LECTURES
(2004 TO PRESENT)

April 22, 2004

Kenneth R. Feinberg, Esq.

Special Master, September 11th Victim Compensation Fund

The Feinberg Group, LLP

June 1, 2005

Senator Edward M. Kennedy

Senior Senator from Massachusetts

May 2, 2006

The Honorable Stephen G. Breyer

Associate Justice, United States Supreme Court

October 11, 2007

The Honorable Chuck Hagel

Senior Senator from Nebraska

THE JUSTICE ACTION CENTER

A CRITICAL INQUIRY INTO PUBLIC INTEREST LAW

The Justice Action Center brings together New York Law School faculty and students in an ongoing critical evaluation of public interest lawyering. Through scholarship and fieldwork, the Center seeks to evaluate the efficacy of law as an agent of change and social betterment. The Center fosters collaborative efforts by faculty and students to engage the specific problems presented in the fields of Anti-Discrimination Law and Economic Justice, Civil Liberties, Criminal Law and Death Penalty, Environmental Law, Family Law, Immigration Law, Labor and Employment Law, and Mental Disability Law. In addition to a focused curriculum, symposia, and research opportunities, students have the opportunity to gain direct exposure to the field of cause lawyering through externships, clinics, and workshops.

Through these initiatives, the Center seeks to instill in students a deeper intellectual understanding of the law regardless of their final career goals, and to present opportunities to maintain their ties to the social justice community beyond law school. Recognizing that students will pursue varied careers, the Center aims to provide a framework for analyzing the pervasive questions and contradictions relating to social justice in American society, irrespective of the context in which they may arise.

Founded in 1891, now one of the oldest independent law schools in the nation, New York Law School early on established itself as a place of opportunity, committed to keeping the doors of the legal profession open to a diverse population of students. The evening division, established in 1894, is a cornerstone of that mission, making it possible for a large number of students already in the workforce to pursue a legal education.

Over the decades, New York Law School has attracted a faculty renowned for its engagement in public life, and for treating the law as a tool for social action, not just scholarly inquiry. Among them:

Arthur Leonard, an expert on sexual orientation law and gay family law, has chronicled the legal aspects of the lesbian and gay community in scholarly as well as popular publications.

Nadine Strossen, who joined the faculty of New York Law School in 1988, has served as president of the American Civil Liberties Union since 1991 and is regarded as one of the nation's most influential lawyers.

Michael Perlin, an expert on mental health law, has devoted his career to championing legal rights for people with mental disabilities.

Peter Strauss, a pioneer in the field of elder law and author of the most respected textbook in the field, founded the school's Elder Law Clinic.

Richard Marsico, Director of the Justice Action Center, is shaping the School's efforts to use law's constructive power as a tool of justice and social welfare.

While the faculty are illustrative of New York Law School's commitment to social activism, the school is equally defined by its unique approach to training its students, many of whom go on to be leaders in their fields as well. Outside programming, including externships and clinics, gives students a chance to contribute to the social

justice agenda while gaining practical lawyering skills. Seven academic centers, including the Justice Action Center (described on page 13), provide a locus of learning where students and faculty can study and work together as colleagues.

The Law School's Office of Public Interest and Community Service, created to focus and coordinate the efforts of students, staff, faculty, and alumni for the public good, directs students toward volunteer opportunities with entities such as the Unemployment Action Center, immigration help desks, the Legal Aid Society, and the Domestic Violence Project. Students who complete a requisite number of volunteer work hours earn the Public Service Certificate upon graduation.

These factors, an accomplished faculty of scholars committed to law as a useful tool for social change; a curriculum designed to instill those values in our students and to provide them with opportunities to make their own contributions through public service; and seven academic centers engaged in research and activities to further the public good and contribute to the improvement of the legal profession, demonstrate New York Law School's commitment to the advancement of justice.

The Sidney Shainwald Public Interest Lecture

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