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After fifteen years in the field of philanthropy, some of which were spent in a private foundation, and the past ten years being spent at J.P. Morgan, I feel that I am reasonably qualified to share some perspectives, particularly those on corporate giving, and to tell you how we approach corporate giving at J.P. Morgan. My perspectives are solely mine, and they come from practice and observations in the field. The institutional approach that J.P. Morgan takes of philanthropy is J.P. Morgan's, it is one that I inherited when I became head of the department about six years ago, and it is one that I think is of high quality and would hold up in any best practice review of corporate grant-making.[1] I will give you a bit of insight into J.P. Morgan's approach, but will also tell you some of my own personal observations.

I will start with the statement that the term "corporate philanthropy" is a misnomer. I disagree with the whole notion of the term. Corporations are not eleemosynary institutions,[2] and what they do is more properly termed corporate grant-making or giving. These two concepts should not be confused. If we wanted to look at private foundations, for example, as being somehow in that "pure" category, we could find many examples of eleemosynary motives of private philanthropy activity, whether they are for indirect or direct personal gain, self-aggrandizement, or promotion of a particular world view, that would not necessarily be distinguished from the way in which you may try to characterize this in the context of what a corporation might do. If one looked at anonymous giving, that might be pure philanthropy, but I suggest that anything short of that could not be characterized as "pure." Although it can still be considered philanthropic.

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1. *See* J.P. MORGAN & CO., 1995 ANNUAL REPORT OF CONTRIBUTIONS 2-3 (1996) (discussing J.P. Morgan's philosophy that housing, health care, employment opportunities, public education, and cultural organizations are essential ingredients of a vital community). J.P. Morgan believes it can contribute meaningfully "toward community life by careful selection of programs for financial support and by combining that support with the assistance of Morgan people." *See id.*; *see also* J.P. Morgan & Co., *Community Relations* (visited Mar. 19, 1997) <http://www.jpmorgan.com/CorpInfo/CRA/CommunityDevel.html> (discussing J.P. Morgan's corporate philanthropic philosophy of approaching community development as a long-term partnership with the community).

2. *See, e.g.*, Dodge v. Ford Motor Co., 170 N.W. 668, 683 (Mich. 1919) (noting that while Henry Ford proposed to run Ford Motor Company as a semi-eleemosynary institution, and not a business, profit maximization was still the ultimate goal).

Corporations are clearly in business to make money and produce value for their shareholders; there can be no dispute about that. However, while corporations are not precisely philanthropic in their purpose, I would dispute the notion that using some of the corporation's earnings to add value to communities in which their employees live and work, presumably creating a better climate in which they can do business successfully, is a misuse of those earnings. "Enlightened self-interest"[3] is the term that many people have used to describe such corporate activity for several years. It probably more accurately reflects what transpires.

However, corporate giving, in my mind, is only one of several things corporations do to further their business objectives.[4] They also provide an array of benefits to their employees. They do a number of things to give them a competitive edge or advantage over other institutions in similar fields or in similar business activities. The way in which they execute their corporate giving and the way in which they distribute funds or make the decisions to do so can be viewed in the context of what is strategic in terms of advancing their overall business activity.

In a recent speech before the Economic Club of New York, David Rockefeller, a noted business executive and philanthropist, said, "[P]rofits are important. But as essential as they are, profits are not—and should never be—the sole motivation for business leaders."[5] He went on to say that, "[B]usiness leaders must make decisions that positively affect, not only their balance sheet and income statements, but also the needs of their workers and the broader community."[6]

J.P. Morgan has a long history of giving, dating back to our earliest days. Civic responsibility and engagement have been hallmarks of our history and I think that our actions in this regard have given us a

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3. *See, e.g.*, Hayden W. Smith, *If Not Corporate Philanthropy, Then What?*, 41 N.Y.L. SCH. L. REV. 757, 763 (1997).

4. *See* Paul Sweeney, *Corporate Giving Goes Creative*, N.Y. TIMES, May. 15, 1995, § 3 (Business), at 3 (discussing cause-related marketing in which companies tie the sale of products or services to a social cause); *see also* A.P. Smith Mfg. Co. v. Barlow, 98 A.2d 581, 582-83, 590 (N.J. 1953) (holding that the corporate power to make reasonable charitable contributions exists, even apart from express statutory provisions. The plaintiff corporation made a small donation to Princeton University which was opposed by stockholders. The corporation claimed, and the court agreed, that the donation would not only aid the public welfare, but it would advance the interests of the plaintiff as a private corporation and as a part of the community in which it operates).

5. David Rockefeller, Remarks at the New York Economics Club 6 (Sept. 12, 1996) (on file with *New York Law School Law Review*).

6. *Id.* at 7.

competitive advantage.[7] Over the past thirty-five years, we have maintained a giving program that provides support to a wide array of organizations, including those involved with education, art, health and human services, urban affairs—particularly community and economic development, the environment, and, in the international arena, relief and development work.[8] Most of this giving is concentrated in New York City, although our business is global.[9] We believe we can have a bigger impact over time by concentrating our resources, and because our headquarters are in New York City, we concentrate our giving resources there.

We also realize that we have a strong obligation to report to our shareholders and to the public how we spend these funds. Copies of our annual report of contributions are available for the asking, and they are always available at our annual shareholders' meetings. I believe that should be part of the practice of any responsible corporation. If money is spent, then you report that expenditure and let people know where the money is going. Many firms actually use philanthropic reports as part of their advertising and other activities, so it is not to anybody's detriment to report on what might be defined as good works that the corporation is doing in the community.[10]

Our chairman stated in our most recent annual report that J.P. Morgan has "long believed that affordable housing, access to health care, employment opportunities, quality public education, and vibrant arts and cultural organizations are essential ingredients to a vital community."[11] Now, looking at J.P. Morgan's business, one might ask how does that connect to global finance? Well, the chairman of J.P. Morgan stated that these are all essential ingredients of a vital community, and, if there are no vital communities, there is no place for us in which to do business.

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7. *See* Nancy J. Knauer, *The Paradox of Corporate Giving: Tax Expenditures, the Nature of the Corporation, and the Social Construction of Charity*, 44 DEPAUL L. REV. 1, 29, 53-56 (1994) (stating that corporate image makers generally believe that strategic corporate giving is good for business, and that business executives strongly reject the notion of corporate altruism implying that it would be irresponsible to shareholders).

8. *See* J.P. MORGAN & CO., *supra* note 1, at 3.

9. *See id.* at 22-24; *see also* J.P. MORGAN & CO., 1995 ANNUAL REPORT 1-5 (1996) (discussing the financial highlights for 1995, including expansion in global markets).

10. *See* Knauer, *supra* note 7, at 57 (noting that the phenomenon where corporations rely on the goodwill associated with charitable causes is known as the "halo effect," and that "fundraising literature blatantly advises corporations on how to take advantage of the privileged status afforded charity in contemporary society").

11. *See* J.P. MORGAN & CO., *supra* note 1, at 2.

Our contributions policy over the years has reflected this belief and continues to do so.[12] It is not the personal philanthropy of whoever happens to be chairman. I will not suggest to you that in some corporations this has not been the case. Perhaps it has, but in terms of my institution, that is not the case.

At Morgan, our giving program is also not a subsidiary to our marketing strategy, although I fully realize that in many corporations, particularly as pressures on expenses and other things increase, that is more and more often the case. I am not such a purist that I frown upon the trend to tie charitable giving by corporations to marketing aims, be it through cause-related marketing or whatever one wants to call it. Corporations spend considerably more on marketing than they do on charitable gifts,[13] and if nonprofit organizations could benefit from those funds, then that is capitalism at its best.

However, we should acknowledge that kind of activity is marketing, and not confuse it even further with this notion of charitable giving by companies, much less this term that I suggested at the beginning of my remarks, which is corporate philanthropy. It should not be referred to as corporate philanthropy, but I do not think it is a bad thing. If it furthers the business interests of the company, and there are nonprofit or community institutions that benefit, then I believe everyone benefits.

We have an advantage at Morgan because we are not a retail business. We serve mostly large institutions and other corporations and governments. We do not have a branch system. Our business mission is different from branch based institutions, and that reflects the way in which we are able to take on and do certain things.

Grant making must be strategic in order to be effective. While we fund a variety of program areas, we have specific issues and goals within them where we direct our grant-making, and this is reflected in our contributions reports.[14] I have been at Morgan long enough that I can describe our grant-making in the terms of an investment portfolio. If one looks at our contributions program at the end of any year, what you find is what I would define for an investor as a balanced investment portfolio. There would be some blue chip institutions, for example, the Metropolitan Museum of Art, Lincoln Center, and the New York Public Library. There would also be some long term investments. We spend over a million

12. *See id.* at 3 (noting, for example, that a program of J.P. Morgan's, instituted in 1971, matching the skills and interests of employees to the needs of community organizations, still exists 25 years later).

13. *See* Stephen H. Judson, *Maestro, Hand Me the Sales Brochure*, N.Y. TIMES, Apr. 3, 1994, § 3 (Business), at 11 (stating that corporate marketing budgets often are much larger than their philanthropy budgets).

14. *See* J.P. MORGAN & CO., *supra* note 1, at 3.

dollars a year on public education in New York City. Are the schools better today as a result of that? They are somewhat better. Have we fixed the problem of education? No, but we see it as a major long term investment. We also make short term investments. The Food Bank, where there is an immediate response to the investments that we have made, would be a good example of that. There is also a large amount of venture capital to be perfectly honest, and perhaps, unlike a more traditional investment portfolio, we have a higher tolerance for risk. We believe risk-taking is important in this regard, and while not everything we fund will work out perfectly, we think that is an important part of using these discretionary dollars. I view it as making equity investments in a set of nonprofits in terms of the operating support that we provide.

We would not be the successful financial institution that we are today if we were not strategic in our business endeavors, and we do not view corporate giving any differently than we do a business venture. Because we are using the assets of our shareholders, we feel that our charitable activities must be planned strategically. If our shareholders disagree or feel that they are getting a diminished return on their investment as a result of what we are doing, they can sell our stock. They can come to an annual meeting and complain. They can confront our management. They can do any number of things to voice that opinion and reflect their dismay. In fact, there are examples in other companies where various constituents, clients or customers, and shareholders, have raised those issues, and then management was forced to deal with them. I think that is a legitimate part of the public discourse that goes on with public corporations, but I think that is the way in which we have to either demonstrate that this adds value, or respond when people feel that it does not. I am pleased to say that we have never had a group of shareholders question us about our giving, and, in fact, at most annual meetings, people will respond positively to the contribution report.

Having served under three Morgan chairmen,[15] I can speak from my personal experience with the three of them, that if any of them or any other senior manager felt that this work had a negative impact on our bottom line, no one would be interested in funding it, plain and simple. At the end of the day, no one would be investing Morgan resources in something that would negatively affect our bottom line. And, to the contrary, given the importance of the nonprofit sector, our failure to provide support in some meaningful way to a variety of organizations

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15. Lewis T. Preston was replaced as chairman of J.P. Morgan in 1989 by Dennis Weatherstone. *See* Michael Quint, *Head of Morgan to Retire; His Successor is Selected*, N.Y. TIMES, Nov. 9, 1989, at D1. Douglas Warner succeeded Mr. Weatherstone as chairman in 1994. *See* Michael Quint, *At J.P. Morgan, Orderly Change at the Top*, N.Y. TIMES, Sept. 16, 1994, at D1.

which really do enhance or improve the quality of life in our communities would poorly reflect the interests of our corporation and our ability to function and do business well. It would be like an ostrich sticking its head in the sand and ignoring the surrounding environment.

Our business success is dependent on many factors. One key factor is attracting quality employees. Human capital is probably the most important resource we have. To attract high quality employees who choose to work in our offices and to live within commuting distance of those offices, is a major critical competitive issue for us, and it is no small factor that contributing to the betterment of those communities in which our employees are living and working is one of the things that will make them want to be in New York City, Mexico City, Tokyo, or Johannesburg, or anywhere else that we have facilities. Improving those communities is absolutely critical, and it makes good business sense for our own employees, investors, and even the clients we are serving, because if the environment is not conducive for them to do business, then they will not want to do business. Thus, I could very broadly define any number of things that fall under the realm of what is good for Morgan's business. Our former chairman, Dennis Weatherstone, often said, really being on the same wavelength as David Rockefeller, that the firm's obligations were to serve four constituencies: shareholders, clients, employees, and the community.[16] He would say that providing value for all of them is the key to our success, and he would not rate them and say that there is a bigger obligation to shareholders than there is to the community. He would say that they all have value, it is all important, and it is by providing value to each of them that J.P. Morgan will be successful as a firm.

The Capital Research Center[17] has long criticized the practices of much corporate giving. In introductions and other essays in their reports which they produce every year, they have regularly said that business people should have a major influence on society beyond the management of business. In the preface to their *Patterns of Corporate Philanthropy* in 1993, there is a quote that says, "[a] society without involved, courageous, and honest business people will neither be economically efficient nor

16. *See generally* J.P. MORGAN & CO., 1991 ANNUAL REPORT OF CONTRIBUTIONS 3 (1992) (discussing J.P. Morgan's philanthropic objectives during Dennis Weatherstone's reign as chairman. The objectives embrace the notion that individuals and corporations must respond to important social issues, such as addressing the needs of the local community and investing in human capital).

17. *See* Ernest Tollerson, *Charities Debate Tactic to Limit Gifts' Life Span*, N.Y. TIMES, Dec. 19, 1996, at B12 (defining Capital Research Center as a conservative Washington research group that studies the non-profit sector).

morally responsible."[18] I disagree with much of their analysis of corporate giving and their rating system. However, they did give us an "F" last year for being too liberal,[19] and it is probably the first time in the over than 150 year history of J.P. Morgan that anyone ever put liberal and Morgan in the same category. Nonetheless, I share the belief that business does have a responsibility beyond profit.

There are many things we could do that might maximize profit, but in the end those things would not necessarily be good for the firm. We do many things which we think enhance and make Morgan an attractive place to work. I think the lessons of recent years suggest that companies, can be, and are being, responsive to a variety of social and other pressures.[20] The notion of holding boards of directors of companies accountable has been very clear recently. An example of that can be seen when examining executive compensation, as well as the array of conversations that took place over the past year around social investing in South Africa.[21] There are many ways in which pressure can be exerted if shareholders and others are dissatisfied with what management is doing. The practice of charitable giving by corporations is hardly perfect. No one wants corporate America to be the sole agent of social policy. However, I would like to think that there is some good which can be done with corporate charitable resources

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18. Richard W. Rahn, *Preface* to STUART NOLAN ET AL., PATTERNS OF CORPORATE PHILANTHROPY: EXECUTIVE HYPOCRISY at iii (Capital Research Ctr. 1993); *see also* Richard W. Rahn, *Corporate Generosity Sometimes Outright Theft*, HOUSTON CHRON., Feb. 21, 1994, at A21 (stating that "corporations actively and substantially finance the activities of numerous public affairs groups whose actions reduce corporate profits and diminish economic opportunity. For every dollar donated to organizations supporting free-market democratic capitalism, the researchers show, more than three dollars are given to organizations on the other side").

19. *See* Tom Teepen, *All, or Nothing at All*, CHATTANOOGA TIMES, Jan. 16, 1997, at A10 (discussing a Capital Research Center report that listed J.P. Morgan as "very liberal").

20. *See* Knauer, *supra* note 7, at 28-32 (discussing the theory that corporations make charitable contributions to meet their responsibility to the public and to serve society); *see also* E. Merrick Dodd, Jr., *For Whom Are Corporate Managers Trustees?*, 45 HARV. L. REV. 1145 (1932); *The Stock Market Impact of Social Pressure: The South African Divestment Case*, Q. REV. ECON & BUS. 506 (1996) (stating that "[i]n recent years societal groups have pressured firms to conduct operations in a more socially responsible manner").

21. *See* Kathleen Saluk Failla, *Connecticut, the Investor, Seeks an Accounting*, N.Y. TIMES, May 16, 1993, § 13 (Connecticut), at 8 (discussing a growing number of shareholders who "are demanding accountability from companies where their money is invested and are paying close attention to track records in social responsibility and environmental action." Shareholders are requiring justification for management's excessive compensation levels as well as shunning companies with ties to South Africa and Northern Ireland).

in a way which promotes the diversity of ideas and options and provides public benefits. I would like to think what J.P. Morgan does, represents that approach.

I would also like to address a point that Peter Swords made, which is that corporations do more than give away money, and that this work within a corporate setting is important beyond simply the dollars that are transferred. We provide a variety of services, including our own human capital, whether it is through volunteers or employees who serve on boards of nonprofit organizations, in addition to the donation of equipment or printing materials. These services accomplish a variety of things, both for the volunteers and board members and for the recipient organizations. These services offer them exposure to something that can enhance their own professional development, and add value to the organizations that they represent. I imagine this law school would be less satisfied if it did not have corporate members on its board of directors, and hopefully those people are good board members and reflect well on the institution and the places in which they work. I think that is good practice. It encourages the spirit of civic engagement among employees, it is appreciated by employees, and it is certainly appreciated by the organizations that benefit. Donating space for meetings and technical assistance on projects are all part of being a good neighbor and a good corporate citizen. Our equipment castoffs are often treasures to others. And again, I think those are things that benefit the community. For example, if we have computer systems that we can donate to a job training program or to a school to enhance the capacity of the people who are taking advantage of that program, then we all benefit.

Finally, let me say that I am pleased that the legal and academic community is looking at this issue.[22] I am a little surprised that anybody in these two worlds would bother to look. We always think we are in a different world without very many people looking at what we do. I am not likely to be an advocate of more regulation in this area, because I think that openness and reporting, which is what I believe most responsible companies do, is sufficient given other disclosure rules around public corporations regarding what has to be reported and what information shareholders are entitled to receive. At the end of the day, I would remind everyone that the money involved is really a very small segment, as you know, of overall charitable giving in this country, and at a time when resources for the arts, social concerns, or environment are shrinking,

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22. *See, e.g.*, Edward S. Adams & Karl D. Knutsen, *A Charitable Corporate Giving Justification for the Socially Responsible Investment of Pension Funds: A Populist Argument for the Public Use of Private Wealth*, 80 IOWA L. REV. 211 (1995); Knauer, *supra* note 7; Judith Miller, *Panel Pushes for Revival of Spending on the Arts*, N.Y. TIMES, Feb. 25, 1997, at C11.

I would hate to think we engage in anything that stymies the transfer of some of those dollars.

I would point out that while this notion of corporate social responsibility has been mostly practiced by American companies, it is expanding globally, not just with American corporations operating abroad, but actually with American corporations modeling good practice for foreign corporations. The head of our Mexico City office, where we have quite a substantial presence, was recently involved in a conversation with other Mexican corporate executives, discussing ways in which those corporations could get involved and engaged in a variety of activities within that country. I think our model has great currency as the public and private sectors here and abroad struggle to forge what will be a new type of partnership, one that advances our collective economic well-being into the next century.

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AUDIENCE DISCUSSION

QUESTION: There was a lot of discussion this morning about the fact that corporate giving, despite what the tax code allows, generally has stayed at an average of around one percent, even though the code was changed several years ago to allow companies to donate up to ten percent of pretax earnings.[1] If donations grew higher than one percent, would there be problems with shareholders, or is it that the tax code generally is irrelevant to what you are describing?

HILDY J. SIMMONS: I do not believe that it is irrelevant. When Steve Forbes talked about a flat tax,[2] I was one of the people who was a little bit concerned, because for most people having a deduction is an attractive option to have when considering whether or not to give money.

I think there are probably many factors that contribute to the levelling of corporate contributions at one percent. I am sure that in many instances, given pressures on earnings and any number of other things, raising that percentage too much would attract perhaps unwanted and undue attention, and raise some questions. I am always arguing that we should give more on some level. However, to the extent that corporations really look at the previous year's earnings as a gauge for how much they want to distribute in the subsequent year, and most companies do that either through their own foundation to which they give money during profitable years so that it covers the less profitable years, or through looking at the earnings directly, my first rule as a grant-maker is do no harm. Given the fact that earnings can vary so much from year to year, if you really tie it too closely looking that way, you can have a year in which you are paying out a lot, and then all of a sudden you have a year in which you are not going to have anything to pay out. Then you have raised expectations so much or established dependency to such a degree that you cannot manage going forward. I think the other side, then, is that

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1. *See* I.R.C. § 170(b)(2) (1994) (allowing a deduction to a corporation for charitable contributions of 10% in any taxable year, up from 5% as of the 1981 amendment, see Pub. L. No. 97-34, § 263 (a)); Charles T. Clotfelter, *Charitable Giving and Tax Legislation in the Reagan Era*, 48 LAW & CONTEMP. PROBS. 197, 208-09 (1985) (stating that the Economic Recovery Tax Act of 1981 increased the limit on charitable contributions by corporations from 5% to 10%).

2. *See* Edward J. McCaffery, *Tax's Empire*, 85 GEO. L.J. 71, 72 (1996) (stating that "Steve Forbes was able to mount an initially surprisingly successful campaign in large part on the basis of his one main idea, support for a flat tax"); *see also* Editorial, *Rich Man, Poor Man*, CHI. SUN-TIMES, Jan. 30, 1996, at 21; Michael Prowse, *The Fight for the White House: Economic Policy Takes a Populist Turn*, FIN. TIMES, Feb. 19, 1996, at 4.

managers of these programs try to be responsible in the sense of not putting out more than they can comfortably manage over a period of time. Therefore, you will see some growth, you see years where things were a little bit better or worse in any given company, and then it all evens out because not every firm is having a good year at the same time. The financial institutions might be doing well this year, and the industrial sector might not be, but that could be reversed in another year. So, measured and practiced makes some sense. Where some of that corporate giving is coming out of private foundations that the corporations have set up, there is the five percent rule, and to the extent that their assets are not increasing substantially, the numbers coming out are going to remain relatively flat because they keep the size of those foundations fairly consistent.[3]

QUESTION: I would like to know if there are a set of criteria that present themselves when you decide not to make a grant, that is, are there particular areas of grant-making that you affirmatively stay away from? And if so, how is that determined?

MS. SIMMONS: We have criteria and guidelines, that we have established over a number of years,[4] that get modified and reviewed periodically, however, there are several things that we do not do. We do not fund individuals. We do not fund scholarship programs. We also do not directly fund specific disease and disability programs. It is not because we think those things are not worthwhile. In fact, they happen to be particularly important. The reasoning behind choosing not to fund some program is that no matter how much money you have, you will never have enough to give to every deserving organization, therefore you have to define what it is that reasonably can be done. Therefore, it is important to have standards and criteria, and then say no to a variety of organizations based on those criteria. Corporations must be strategic when making grants, just as they would with any other business objective. Unfortunately, that means we have to turn down many grant requests. We have the good fortune at Morgan to have a matching gift program which is part of our employee benefits package, where employees vote with their

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3. *See* Oliver A. Houck, *With Charity for All*, 93 YALE L.J. 1415, 1436 n.86 (1984) (explaining that the "five-percent rule," official or not, still permeates tax advice on the question of charitable giving).

4. *See* J.P. MORGAN & CO., 1995 ANNUAL REPORT OF CONTRIBUTIONS 3, 38-39 (1996) (explaining that J.P. Morgan's charitable activities are administered by the firm's Community Relations and Public Affairs department, and listing the type of organizations to which the firm does and does not contribute, as well as the information to be submitted with an organization's grant proposal).

own checkbooks. Thus, we contribute to many organizations and issues through matching gifts. Last year over three and a half millions dollars of our grant-making went to match employee gifts.[5] We tell the employees that if they think the cause is important and it meets broad criteria—meaning that it is a non-profit organization under the federal tax code, it has the equivalent of some professional staff, and we know it is a legitimate organization—and they write a check for between twenty-five and eight thousand dollars a year, we will match that donation. Hence, there are actually a variety of scholarship and specific disease programs that get funded by J.P. Morgan in that manner even though we have opted out of donating directly to those organizations.[6] I think any good grant-maker ought to be able to define their own universe.

QUESTION: Older studies of philanthropic giving suggest that philanthropy does not fulfill a redistributive function[7] because wealthier people donate to nonprofit organizations that benefit wealthier people. How does an institution like J.P. Morgan deal with that issue?

MS. SIMMONS: I know Terry Odenthal and others have done some writing on that, and I think it is a legitimate issue to talk about, but I am reminded of the notions that one never counts anybody else's money, and one never judges what others have chosen to do with their disposable income. If a person makes a grant to the Metropolitan Museum, for example, does that only benefit rich people? My younger daughter and several of her schoolmates were there last week doing a project, and saw a variety of other kids there, so the fact that the museum was able to be open and exhibit interesting things does not just benefit Mrs. Astor. The same applies to the library or other institutions, so I am troubled a bit by that notion. If our only goal was that we are all Robin Hoods, and we are trying to steal from the rich and give to the poor, it might be something different. However, I do not think that is the ultimate objective, and I think we have to look broadly at what is the overall public benefit. If the Metropolitan Museum is a better place that attracts more tourists to New

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5. *See* J.P. MORGAN & CO. INC., 1996 ANNUAL REPORT: MATCHING GIFT CONTRIBUTIONS TO NONPROFIT INSTITUTIONS 1 (1997).

6. *Compare* J.P. MORGAN & CO., *supra* note 4, at 38, *with* J.P. MORGAN & CO., *supra* note 5, at 4-32 (reporting which organizations received grants from J.P. Morgan and in what context—either through direct giving or the matching grant program).

7. *See* Mark A. Hall & John D. Colombo, *The Donative Theory of the Charitable Tax Exemption*, 52 OHIO ST. L.J. 1379, 1398-1413 (1991) (discussing the cynical view of altruism which holds that giving is never truly altruistic because for giving to occur the giver must be motivated by some self-serving interest); Hayden Smith, *If Not Corporate Philanthropy, Then What?*, 41 N.Y.L. SCH. L. REV. 757 (1997).

York City, that will improve the City's economy, which in turn gives more money to pay for public education. That is a good thing. I am not sure where to draw the line in terms of who benefits, so I would take a more expansive view about who benefits.

QUESTION: Do you think it is important for the corporate community, more specifically financial institutions, to be clear what it is that they can do as opposed to what government should be doing in terms of resources that are out there? Certainly this was not part of the controversial changes in the federal welfare bill. No one within the private sector can afford to contribute the requisite dollars to achieve such sweeping reform.

MS. SIMMONS: I agree with you, and I think it is a very complicated issue. If I were running for public office, I would probably take a position on it, but I think we should have no illusions about what the private sector can do. I think the private sector has a key role, and corporate social responsibility is something that I believe in. Corporations have long done things that we all might take issue with, but at the end of the day, they are very major components of our economic well-being.[8] I think this total rethinking of what is the role of government is an evolutionary process that will continue for some time. I found it rather amusing, personally, being one that works in an institution that tends to be thought of as fairly conservative and staid, that during the welfare debates Congress was crying out that the private sector was going to do more.[9] Where do they think this money is coming from? Even if the private sector did more, we cannot even begin to compete with what it costs to run social welfare programs, so there should be no illusions about that. I would like to think that we can concentrate our resources. The distinguishing characteristic of philanthropy over charity is always said to be that charity solves the immediate condition, but philanthropy changes conditions.[10] Do you teach a person to fish or do you give them fish? I think we should concentrate some measure of these disposable charitable

8. *See* Milton Harris & Artur Raviv, *The Capital Budgeting Process: Incentives and Information*, 51 J. FIN. 1139 (1996) (explaining that corporate investment decisions are critical for the economic well-being of society as a whole).

9. *See, e.g.*, 140 CONG. REC. S6822 (daily ed. June 14, 1994) (statement of Sen. Dodd); 140 CONG. REC. H4452 (daily ed. June 15, 1994) (statement of Rep. Knollenberg) (stating that the key to welfare reform is the creation of job opportunities by the private sector and to help people on welfare obtain such jobs).

10. *See* RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 348, 1454 (2d ed. 1987) (defining charity as "generous actions or donations to aid the poor," and philanthropy as "altruistic concern for human welfare and advancement").

dollars in ways that really look closely at the roots of the problems. I think that is a legitimate role for us to play. But I do not believe anyone should have any illusions about the private sector in any way solving all social problems. I expected to spend my entire life in the public sector, so it has been a hard transition to actually say I have now been in the private sector for ten years. However, now I am a good capitalist, and I will tell you that the private sector would not address all social problems very well, so, while I believe we have a role to play, I do not think that is the whole answer. We are struggling with defining what this third sector is, who is responsible for it, how it gets funded, and how it gets managed. There is no either/or and we are developing a new paradigm that is yet to be completely developed. Thus, these are going to be very difficult years before all these issues are sorted out.

QUESTION: You mentioned pure philanthropy, and in thinking about that, a corporation does not create goodwill unless people find out about it, so to what extent does your company advertise your charitable giving versus what you give?

MS. SIMMONS: We do very little of that. I mean, there is a tradition at J.P. Morgan that our good work speaks on its own. Some of that is due to the advantage of being a non-retail institution, because we do not have to market ourselves to attract clients or business. We issue a report every year which makes our giving very clear, and we are not shy about telling people what we do, but we are not as prominent about it as some other corporations are.[11] I think there is a spectrum, and it fits within the style of the particular company and the way in which it approaches things. For example, we do not have the J.P. Morgan Program in X. Historically it has not been our style. There are many reasons for that, including the fact that once you name a program after you, you have to support it forever, so there is a lot more flexibility if there are not a lot of programs named after you. But we are not shy about it. Our chairman, if given the opportunity, is quite willing to speak eloquently about giving, both internally as well as externally. Nonetheless, compared to some institutions, we are less promotional about that, which is true about Morgan in general. It is not any more unique to our giving than our other strategies.

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11. *Compare* J.P. MORGAN & CO., *supra* note 4, *with* Michele Matassa Flores, *Microsoft Gets Serious About Giving*, SEATTLE TIMES, Aug. 15, 1995, at A9 (note that J.P. Morgan merely issues its report on contributions, while the article states that Microsoft is rethinking its corporate giving philosophy and seeking to get more recognition from its philanthropic efforts).

This is not to say that I think it is a bad thing to talk about what you do, because I think that sets a good example for others to model their practice on, so I would not say that everyone should always keep it close to the vest. In that regard, it helps people understand what opportunities exist and what organizations corporations are willing to consider in their corporate giving program.

QUESTION: Speaking of the money that you give each year to public education, do you monitor that money to ensure that it supports the work to achieve the goals that you have set for it? Also, do you see the grants of money stopping at any point, and if they do stop, because you said you are not sure if it is working, do you think that education's reliance on that money may be causing trouble within public education in general?

MS. SIMMONS: We certainly monitor the money that we give out. We are accountable for it and need to trace it. The bulk of what we support in this area is actually around professional development for teachers.[12] We have taken the stance that enhancing the capacity of those who actually perform the task of educating New York City's young people is critical. In that donation structure, the local districts and the central school board contribute extra funds as well.[13] We have not been the sole funder in the sense of providing all the resources for this program because we cannot and do not want to be responsible for it forever. I think we originally committed to ten years. We have been supporting it for approximately seven years. We will probably go well beyond ten years. Change takes a long time, and so if you are trying to fix New York City public education, which has had its problems for a number of years,[14] any amount of infusion from J.P. Morgan will be helpful, but it is not in and of itself going to radically make everything better.

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12. *See* J.P. MORGAN & CO., *supra* note 4, at 1 (1996) (noting that more than $3.8 million was contributed to education in 1995).

13. *See* PROFESSIONAL DEVELOPMENT LABORATORY (1996). The Professional Development Laboratory (PDL) is a program that provides education and professional development for teachers throughout the New York City public school system. J.P. Morgan & Co., a collaborator of the PDL project, contributes financial support, supplies liaisons to local planning committees at the schools, and helps organize opportunities for business and school personnel to share ways of nurturing professional growth. A condition of J.P. Morgan & Co.'s participation under the PDL is a buy-in on the part of schools receiving funds from J.P. Morgan & Co. *See generally id.*

14. *See* Jack Steinberg, *The Sophomore Chancellor: After Year of Taking Notes, Crew is Eager to Act on Them*, N.Y. TIMES, Oct. 15, 1996, at B1 (discussing the rampant corruption of local school boards, closure of 13 failing schools, low reading levels, and three straight years of deep budget cuts).

On the other hand, I think this is part of our obligation to the shareholders to make sure that the money we spend is well spent, that we get reports, and that we spend time analyzing the organizations that are the recipients. It is important to structure a lot of that grant-making so that there is a takeout strategy to preclude people from becoming totally dependent on us.[15] Examples are where we use our money to leverage other money, where we try to attract other donors, and any number of things that help those groups become less dependent on any one particular source of money. Any smart non-profit organization will tell you that they should never put all their eggs in one basket because that basket is likely to disappear and then they are left with nothing.

15. The take-out strategy serves two purposes. First, J.P. Morgan strives not to overwhelm a program with money. Second, when J.P. Morgan stops the funding, it strives to leave the organization whole and independent of further funding.