

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Application of The Japanese Educational Institute
of New York,

Petitioner.

For an order approving the sale of assets pursuant to
N-PCL §§ 510 and 511.

Index No. 06-103400

IAS Part 13

Hon. Sheila Abdus-Salaam

AFFIDAVIT

AFFIDAVIT OF TAKANORI ADACHI

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

TAKANORI ADACHI, being duly sworn, deposes and says:

1. I have been a member of the Japanese School of New York PTA (the “PTA”) since 2000. I am submitting this affidavit in support of the PTA and in opposition to the petition seeking court approval of the proposed sale of substantially all of the assets of the Japanese Educational Institute of New York (“JEI”).¹

2. I was the President of the PTA from April 2005 until October 2005. My successor, Mr. Emil Jachmann, is making an affidavit on behalf of the PTA in which he gives the Court a comprehensive statement of facts. I endorse Mr. Jachmann’s account and I trust that the Court will give it the full consideration that it deserves.² In this affidavit I will supplement some

¹ The Japanese School of New York (“JSNY”) is an all-day private school that originally was located in New York State but moved to Connecticut in 1992. The property at issue is JSNY’s educational campus in Greenwich, Connecticut (“Greenwich Campus”). JEI owns the Greenwich Campus and operates JSNY as well as other educational programs in New York State and New Jersey. Since its move to Connecticut, JSNY has sometimes been referred to as the Greenwich Japanese School (“GJS”).

² In previous correspondence, JEI’s attorney has tried to portray the PTA’s objections as if they are solely Mr. Jachmann’s individual disagreements with JEI. That is not the case. Mr. Jachmann is speaking as the representative of the PTA, and the parents appreciate the hard work he has devoted to presenting the parents’ position.

of his points, drawing in part upon what was communicated to me by JEI officials outside of Mr. Jachmann's presence.

3. These communications are additional proof that the vote of JEI's Board of Trustees on November 29, 2005 to approve a contract (the "Contract") to sell the Greenwich Campus to the Westchester Fairfield Hebrew Academy (WFHA) for \$6.8 million below market value was not based on the educational or fiscal merits of the selling plan.

4. After JEI told the parents on March 6, 2005, of its plan to sell the Greenwich Campus, the PTA developed criticisms of the JEI plan and generated alternative plans that were superior.

5. I describe below how JEI officials both explicitly and implicitly admitted that JEI signed the Contract despite the PTA's criticisms not based on the merits but because: a) WFHA threatened to bring a race discrimination law suit against JEI if it did not sign the Contract; b) Sen. Joseph Lieberman intervened at the diplomatic level with JEI's Honorary President, Ambassador Hiroyasu Ando, Consul-General of Japan; c) JEI officials wanted to protect the political/diplomatic interests of the Japanese Government and the business/political interests of JEI-affiliated business corporations; d) JEI officials could not accept the fact that the parents, almost all of whom worked for JEI-affiliated business corporations, dared to protest the plans proposed by the senior executives of their corporate employers, and would not allow such perceived disloyalty to be rewarded with an acceptance of the PTA's superior alternative plans.

6. The other affidavits and documents submitted by the PTA point to additional improper reasons. For example, it can be inferred from the facts and circumstances in the PTA materials that the sale plan grew out of a special relationship between the Executive Secretary of JEI and a powerful corporate executive who lived on an adjoining property and who was the Vice

President of WFHA. Furthermore, the neighbor's company has significant business relations with at least one company that is affiliated with JEI. See Affidavit of Emil Jachmann ("Jachmann Aff.").

7. I will give the Court some background about my involvement with the JSNY and then I will discuss some of the communications I had with JEI officials.

My Background

8. I reside in the United States with my wife and two children. We all are Japanese citizens and we intend to return to our native country some time in the future. Six years ago, my wife and I enrolled our younger child in JSNY. Since then, he has progressed from second grade to seventh grade.

9. I am employed by an American company; however, I am an expatriate dispatched from the company's wholly owned subsidiary in Japan. The company that employs me does not have an executive sitting on the JEI Board of Trustees. By contrast, many, if not most, of the PTA fathers are employed by Japanese companies that control seats on the JEI Board of Trustees (the "JEI Companies").³

10. I have been active in JSNY affairs since April 2005, following the notification to the parents by JEI in March 2005 that JEI was going to sell the Greenwich Campus.

11. I served as PTA President from April-October 2005.

12. I have been an active member of the PTA Task Force that was formed to analyze JEI's plans and to develop alternative plans for the Greenwich Campus that would be superior for both our school and for JEI as a whole.

³ The Japanese companies are members of JEI de facto, not according to the organization's charter or by-laws. Likewise, their power to appoint their executives to sit on the Board of Trustees is longstanding practice, but is not set forth in the organization's governance documents. See also Jachmann Affidavit and Affidavit of Yukio Sasaki.

13. In correspondence, JEI's attorney has referred to the PTA Task Force in dismissive terms. Perhaps this tone reflects a long standing intention on the part of his client not to consider the merits of the PTA Task Force's analyses and alternatives. If so, that was not what JEI officials said to us when we were working in good faith on this problem. The PTA Task Force's communications with JEI officials continued based on assurance made by JEI's President, Kazuhiko Sakamoto, that the Trustees would consider the merits of alternative plans developed by the PTA Task Force addressing the enrollment issue and how JEI's finances could be improved by renting out part of the Greenwich Campus rather than selling it.

14. As noted earlier, I had several private meetings with JEI officials regarding this matter. For example, between April – December 2005, I met individually with Mr. Sakamoto on at least four occasions.⁴ On another occasion, JEI's Honorary President, Ambassador Hiroyasu Ando, Consul-General of Japan, invited me to his official residence for dinner and a discussion of this matter that lasted about two hours. I was also invited by Mr. Sakamoto to a private meeting where he was joined by Amb. Ando and Mr. Motoatsu Sakurai. (Mr. Sakurai was a JEI Trustee and the President and CEO of Mitsubishi International Corporation. Now he is the newly appointed Consul-General of Japan in New York).

15. Besides the private meetings and conversations, I attended group meetings with JEI officials.

16. Since March 2005, I have had many conversations with the mothers and fathers of students at JSNY about the proposed sale.

⁴ May 29, 2005, June 10, 2005, June 14, 2005, and August 19, 2005.

17. The parents are opposed to JEI selling the Greenwich Campus without having made arrangements for a new permanent home for our school. As a group, they have expressed their opposition in several secret membership votes that overwhelmingly opposed the JEI plan.

18. The parents are not opposed to sharing the Greenwich Campus with another school in order to generate revenues for JEI.

19. JEI admits that in September 2005 it received an offer from another school to rent part of the campus for \$500,000 a year. Pet. ¶ 33. JEI neglects to say, however, that this offer was arranged by the PTA. See Exh. M to Jachmann Aff. JEI's reaction to the offer was to have one of its lawyers send me a letter demanding that the PTA stop trying to reach out to schools that might want to rent space on the Greenwich Campus. See Exh. Q to Jachmann Aff.

20. The Petition also omits the fact that the PTA had its lawyer write to JEI to propose that JEI offer a lease to WFHA, with the JSNY children sharing the campus with the WFHA students. See Exh. P to Jachmann Aff.

21. WFHA's accusation that Japanese parents don't want to share the Greenwich campus with Jewish children based upon anti-Semitism is not only false. It also is illogical because: a) the PTA itself has proposed sharing the campus with WFHA with JEI remaining as owner; and b) the PTA has always been opposed to selling the Greenwich Campus to anyone. The parents would be just as opposed if JEI was trying to sell to a Japanese organization.

22. Likewise, JEI's accusation that the PTA's opposition to the sale is based upon the parents' selfish desire to preserve the "luxury" of having their children in an underutilized facility, is just a cynical attack on our motivations. See Pet. ¶ 57.

23. Parents have told me about being placed in situations in which they felt that their employers – JEI Companies – were pressuring them not to support the PTA’s criticism of JEI’s plan and the PTA’s presenting the parents’ objections to this Court. It is important to understand that the culture of labor relations in Japan is founded on very long-term employment; companies expect strict loyalty. If a human resources manager, supervisor or executive of a Japanese corporation meets with a JSNY parent and simply expresses the employer’s “opinion” about the sale of the Greenwich Campus, the point is accepted. It is not necessary to directly threaten to ship the employee and his family back to Japan.

24. It is no accident that for the most part the parents who have been able to take the lead in presenting the parents’ views are from families where the husband does not work for a JEI Company.

25. Mr. Hiroshi Sato (who is a JEI Trustee and also the Deputy Consul-General of Japan and Deputy Chief of Mission in New York) told me that I was to blame for allowing an American (Mr. Jachmann) to become my successor as PTA President. He referred to the “beautiful” Japanese custom of compromise and unanimously supporting an organization’s leadership and said that by contrast Mr. Jachmann, as an American, would be willing to fight the JEI leadership in court. According to Mr. Sato, this made the problem of the sale of the Greenwich Campus more difficult.

26. Similarly, PTA mothers have reported to me a conversation in which the present JEI Executive Secretary kept pressing them as to why the PTA had an American representing them as President.

27. These statements illustrate how JEI tries to be in a position to use cultural and social pressure (if not direct threats of retaliation in the work place) to quiet the parents' objections.

May 29, 2005

28. The PTA and JEI arranged for a PTA membership meeting to be held on May 29, 2005, with JEI officials attending the meeting to talk to the parents about JEI's plan. The PTA decided to hold a members-only session first. So we ended up with a two-part meeting. Part I would be a membership meeting to discuss the situation regarding the JEI plan to sell the Greenwich Campus, and to take a vote to determine the PTA's position. Part II would be a PTA meeting with JEI officials invited to speak with the parents. At that time I was the PTA President.

29. JEI's President, Mr. Sakamoto, asked to meet with me privately on May 29, 2005, before the Part I session got started. Mr. Sakamoto is the CEO of Marubeni America, a major Japanese trading company. In Japanese culture it is expected that when a very high ranked person such as Mr. Sakamoto seeks a meeting with a much lower ranked person, then the lower ranked person should follow the lead of the high ranked person.

30. We had a one-on-one meeting. Mr. Sakamoto asked me my stance on the JEI sale plan. I answered that the PTA membership meeting to be held later that day would determine the PTA's position and I would support that as its President. Mr. Sakamoto mentioned to me the name of the head of the Tokyo subsidiary of the American company that employs me, and asked if I knew him. That head of the subsidiary is a Japanese man who previously worked for a JEI Company. The message to me was indirect but clear – Mr. Sakamoto spoke from a position of

power and he wanted me to use my position to see that the PTA would not oppose the JEI position at the PTA meeting later in the day.

31. In Part I of the PTA meeting, the parents voted to oppose the JEI plan by a vote of 54 to 1.

32. In Part II of the PTA meeting, two high level JEI Trustees, Mr. Sakamoto and Mr. Motoatsu Sakurai, attended. At the time Mr. Sakurai was President and CEO of Mitsubishi International Corporation, which is headquartered in New York and is wholly owned by the Tokyo-based Mitsubishi Corporation. The parent, Mitsubishi Corporation, has six affiliated companies that appoint six JEI Trustees, the most appointed by any single multinational corporation group. See Affidavit of Yukio Sasaki sworn to on March 15, 2006 at ¶ 62. Mr. Sakurai has been in New York as a executive of Mitsubishi International Corporation for many years and it is also my understanding that he has been a JEI Trustee for many years.

33. My understanding of the dynamics of the JEI Board of Trustees is that Mr. Sakurai is very influential. Mr. Sakurai's extraordinary prestige and influence in Japanese corporate and government circles is exemplified by his being selected to succeed Amb. Ando in the high position of Consul-General of Japan in New York. It is virtually unprecedented for the Japanese Foreign Ministry to appoint a career businessman rather than a career foreign service officer to a diplomatic post of this kind.

34. At the beginning of Part II of the PTA meeting, we informed Mr. Sakamoto and Mr. Sakurai of the result of the vote of the parents that had just occurred.

35. Mr. Sakurai gave a speech on behalf of JEI to the parents about JEI's plan to sell the Greenwich Campus. Mr. Sakurai said that there was a special problem with regard to the

parents' opposition to the sale. He said that some comments allegedly made by parents at a private meeting with the Principal of the school were reported to WFHA (he did not say who at JEI disclosed the alleged internal communications to WFHA), and that WFHA was saying to JEI that it considered the parents' alleged comments as expressing anti-Semitism.

36. Mr. Sakurai told the parents that he learned about WFHA's position at a business meeting. That is, in his role as a Mitsubishi chief executive, he had a meeting with an American chief executive of a major corporation who also is a trustee of WFHA. Mr. Sakurai told us that at this business meeting the other executive told him about WFHA's accusation of anti-Semitism and referred to WFHA being privy to internal JEI written and oral communications. The other chief executive reportedly suggested to Mr. Sakurai that JEI should proceed to sign the Contract with WFHA.

37. During a cigarette break in Part II of the PTA meeting, Mr. Jachmann spoke privately with Mr. Sakurai. Mr. Jachmann reports that Mr. Sakurai added to his commentary on WFHA that he was informed that during a contract negotiation session a WFHA representative claimed that WFHA had brought the matter of the unsigned contract and the anti-Semitism allegation to the attention of a United States Senator and that the Senator was on WFHA's side. Jachmann Aff. ¶ 14.

38. The unnamed businessman in Mr. Sakurai's speech fits the description of Mr. David A. Messer. Mr. Messer was the President of Sempra Energy Trading, and also the Vice President of WFHA. He was a neighbor to the Greenwich Campus who had a special relationship with JEI Executive Secretary Matsumura. See Pet. Exh. D (unsigned signature page following page 47); Affidavit of Tatsuo Takahashi sworn to on March 21, 2006. He also was a

major political campaign contributor to Sen. Joseph Lieberman. See Affidavit of Jade Joan Hon sworn to on March 21, 2006.

39. Mr. Sakurai said to the parents that they should go along with JEI's plan to sell the Greenwich Campus. This would, among other things, put to rest the Americans' allegations of anti-Semitism.

June 14, 2005

40. On June 14, 2005, I had a private meeting with Mr. Sakamoto at his Marubeni corporate headquarters. (I also met with him privately on June 10, 2005). I requested the meeting for the purpose of showing Mr. Sakamoto an advance copy of a letter that I was about to distribute to the PTA parents.

41. My letter to the parents pointed out many errors in JEI's justification for selling the Greenwich Campus. One of the points was that the supposed "deficit" in operating the JSNY did not exist in terms of actual cash flow. Rather, Executive Secretary Matsumura had created a "deficit" on the books by introducing a hypothetical expense for "rent."

42. On reading this, Mr. Sakamoto expressed surprise. I suggested to him that this was a good reason for putting the sale plan on hold while the financial situation was reevaluated and the alternative plans were considered. Mr. Matsumura was at fault for skewing the bookkeeping to justify selling the campus, and Mr. Sakamoto could intervene to require a fresh look.

43. Mr. Sakamoto told me that he could not stop the sale because of WFHA's accusation of anti-Semitism. He said that in a worst case scenario if JEI suspended its plan to sell the Greenwich Campus, WFHA would cause a big problem in United States – Japanese relations.

44. Mr. Sakamoto merely held out a small hope for a reversal of position in saying that if the PTA could develop a credible plan for increasing JSNY enrollment to 300, then he might support a suspension of the selling of the campus.

August 19 and 25, 2006

45. Mr. Sakamoto requested to meet with me, and he came to my office on August 19, 2005. He presented a plan for JEI to hold three information sessions for the parents in about two weeks.⁵ I told him that before JEI conducted sessions aimed at convincing the parents to accept JEI's plans, there should be a dialogue between JEI and the PTA Task Force in an equal setting, and each side should come to the meeting without being locked into a position on the proposed sale. Mr. Sakamoto agreed to hold a session on August 26, 2005, with five representatives each from JEI and from the PTA Task Force.

46. In our discussion on August 19th Mr. Sakamoto changed his position regarding seeking an enrollment of 300. He asserted that JSNY would still be creating a deficit for JEI even if 300 students were enrolled there.

47. After my meeting with Mr. Sakamoto, I was contacted by Amb. Ando. He asked me to come to his official residence for a dinner meeting on August 25, 2005. That would be the eve of the meeting between JEI and the PTA Task Force. I accepted the invitation.

48. Prior to this meeting, there had been reports that Senator Joseph Lieberman had called the Japanese Consulate in New York City about WFHA's desire to purchase the Greenwich Campus. I asked Amb. Ando if the reports were true.

⁵ Subsequently, the meetings were scheduled for September 2, 3, and 5, 2006. At these meetings Mr. Sakamoto told the parents (as he had told me on August 19th) that JEI no longer would consider an increase of enrollment to 300 to be a solution to the financial issue regarding ownership of the Greenwich Campus.

49. Amb. Ando told me that Sen. Lieberman had telephoned him at his consular office in New York City. Sen. Lieberman said that he had heard that there had been negotiations for a long time without a contract being signed, and that he had heard that there were accusations that opposition to the sale by people in the JSNY community was due to anti-Semitism. He indicated that WFHA was a good organization and he hoped that the sale could be completed.

50. Amb. Ando said that after the phone call he made a special trip to Washington, D.C. to meet with Sen. Lieberman and give him assurances in person about the WFHA transaction. Amb. Ando said that he made the trip to Washington soon after the phone call even though it came at a very difficult time for his work because the Japanese Foreign Minister was visiting in New York City. This was a way of telling me that the Japanese Consul General was very concerned about Sen. Lieberman's phone call and wanted the JEI – WFHA matter to be resolved quickly.

September 30, 2005

51. On the morning of September 30, 2005, the eve of a PTA special meeting planned to be held on October 1, 2005, I received a telephone call from Mr. Sakamoto's secretary. He told me that Mr. Sakamoto wanted to meet with me that day. I agreed to come to Mr. Sakamoto's office at 3:00 p.m.

52. I went to the meeting with one other PTA representative. I was extremely surprised to find that both Amb. Ando and Mr. Sakurai were also attending the meeting. JEI had marshaled two of the most powerful Japanese business executives based in the United States plus the head of the Japanese consulate in New York City to meet with me about the PTA's opposition to JEI's plan to sell the Greenwich Campus.

53. The meaning of the meeting was not expressed through any particular words uttered by the JEI/business/diplomatic officials. The message was stated by the show of force. The nonverbal message to me was that very powerful people from my government and from Japanese multi-national corporations wanted me to cause the PTA to drop its opposition the sale.

54. I made a small attempt to talk about substance, and the subject of the anti-Semitism accusations came up. By this time, WFHA's attorney had sent the threatening letter to JEI. See Jachmann Aff. Exh. H.

55. I said that we all knew that the parents and the rest of the PTA community did not have any anti-Semitic prejudice; therefore JEI should not allow itself to be pressured into making a decision that is not right.

56. Mr. Sakurai laughed at me. He said that I did not understand what serious problems could be made for an organization in the United States through a legal accusation of discrimination.

October 25, 2005

57. By mid-October 2005 the contract had not been signed with WFHA. The PTA had presented its alternative plans and had even produced the offer from the British Schools of American to rent part of the campus for \$500,000 per year. The PTA wanted to have a meeting with Amb. Ando in the hope that he would attempt to play a more neutral role on behalf of the grass-roots Japanese expatriates in his diplomatic jurisdiction, and cause JEI finally to make a decision on the merits, not based upon political, diplomatic and outside business considerations.

58. Mr. Ando was not available for a meeting but he assigned his subordinate, Mr. Sato (who is also a JEI Trustee) to meet with a delegation from the PTA.

59. Mr. Sato spoke with me on the telephone to set up the meeting. It was in this conversation that he said it was difficult to deal with the problem of the sale of the campus because the PTA had an American as President, and that was my fault. I immediately protested, saying that Mr. Jachmann is a gentleman who should be respected because he considers the children's future very sincerely.⁶

60. The implication of Mr. Sato's comment was that if I were still PTA President then he could count on me as a Japanese to go along with the plan of the authority figures. This reminded me of the implicit pressure that was applied to me by bringing me to multiple meetings with Mr. Sakamoto, to the dinner meeting with Amb. Ando, and to the private meeting with Sakamoto, Ando, and Sakurai. Mr. Sato's comments obviously dampened my hope that Japanese diplomats on the JEI Board might play some role in advocating on behalf of individual citizens in a dispute with Japanese corporations.

61. On October 25, 2005, Mr. Sato conducted a three and a half hour meeting at the Consulate regarding this matter, attended by me and Mr. Jachmann and two PTA mothers. The tone of the meeting was cordial and frank. The discussion was many conducted in English, except for some side comments by Mr. Sato in Japanese alluding to the beautiful Japanese art of compromise.

62. Mr. Sato did not, however, give us any hope that JEI would acknowledge that its selling plan was faulty and unnecessary. He told us that there were two key reasons why JEI will sign a contract to sell the Greenwich Campus to JEI. The JEI Trustees, he said, are afraid of the threatened law suit by WHFA accusing JEI of anti-Semitism. He added that the JEI Trustees are

⁶ I felt shame that a high level Japanese government official would utter such an insult about an American gentleman.

angry at the parents for daring to oppose JEI's plans and he implied that the Trustees will not let it appear that they were moved by the parents' challenge to their authority.

Conclusion

63. The statements and conduct of JEI officials confirm that JEI's decision to sign the Contract to sell the Greenwich Campus was not based upon the merits of the JEI plan or the merits of the PTA's objections and the PTA's alternative.

64. First, JEI was afraid of being sued for discrimination, and signed the Contract even though it knew that the JSNY community harbored no anti-Semitic prejudice.

65. Second, JEI Trustees, including the Japanese Consul General and the chief executives of major Japanese corporations doing business in and with the United States, wanted JEI to sign the Contract because Sen. Joseph Lieberman intervened at a high diplomatic/political level on behalf of WFHA.

66. Third, the JEI Trustees were unaccustomed to American-style grass roots challenges to the wisdom or fairness of the actions of corporate and diplomatic authority figures; they were angry that the PTA parents criticized JEI's plan and stated an intention to present their objections to this Court.

[Continued on next page]

67. JEI's Petition should be denied. Thereafter, if JEI wants to realize additional revenues from its continued ownership of Greenwich Campus, it can do so by entering into a lease of part of the campus with the British Schools of America, with WFHA, or with another appropriate institution.

TAKANORI ADACHI

Sworn to before me this
23rd day of March, 2006

Notary Public