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WITHDRAWAL SHEET

Ronald Reagan Library

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Collection: BAKER, JAMES A. III: FILES

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File Folder: Presidential Personnel (James) *Box 3*
QA-9107

Date 7/15/99

| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|-----------------------|--|---------|-----------------------|
| 1. memo | William Turner to E.Pendleton James, James A.Baker III, Fred Fielding, 1p. | 2/26/81 | P5 |
| 2. note | Fred to Frank, 1p. | n.d. | P5, P6, F6 |
| 3. memo | Frank Hodson to Elizabeth Dole re Diane Brokaw, 1p. | 1/12/81 | P5, P6, F6 |
| 4. memo | Frank Hodson to Pen James re: FERC, 1p. | 1/27/81 | P5 |

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statute [(b)(3) of the FOIA].
- F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
- F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

WITHDRAWAL SHEET

Ronald Reagan Library

Collection: BAKER, JAME A. III: FILES

Archivist: kdb/bcb

File Folder: Presidential Personnel (James)
OA 9107

Date 7/15/99

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Reagan & Bush

Reagan Bush Committee

901 South Highland Street, Arlington, Virginia 22204 (703) 685-3400

MEMO TO: James A. Baker III
FROM: David R. Gergen *D. Gergen*
DATE: November 12, 1980
SUBJECT: The Carter White House

Enclosed please find a variety of materials relating to the staff structure and professional staff positions of the Carter White House.

The White House and Executive Office of the President are among the more byzantine operations in government, and these organization charts reflect that. Essentially three different, overlapping groups report to the President from within the White House and EOB:

The White House Staff

The Executive Office of the President (White House staff)

The Executive Office of the President (non-White House staff)

To illustrate the confusion: Stu Eizenstat is an Assistant to the President for Domestic Affairs, a White House job, and that post carries with it a few assistants. He also wears the hat of head of the Domestic Policy staff, a group that is within the Executive Office of the President (White House).

The numbers reported here are slightly out of date; I understand that the White House staff was expanded somewhat during the election period so that the total White House/Executive Office (White House) staff (for all practical purposes, both groups are counted as part of the White House) now comes to about 450 professional staff positions. This does not include secretaries, so I am informed, and it also does not include detailees (my private sources say there are about 150-200 detailees).

One of the most striking features of the current structure is how many people have a direct reporting relationship to the President. They apparently do not report through the chief of staff but copy him on papers. In the past this has proved to be highly unsatisfactory.

Material for this report has been hurriedly pulled together, so there may be some errors that can be corrected when there is a bit more time.

Also including some articles that may be of interest. Will send along as soon as I can some material on the Ford White House.

THE WHITE HOUSE
WASHINGTON

March 26, 1981

NOTE FOR THE PRESIDENT

FROM: JAMES A. BAKER, III

Attached FYI for the Washington Post interview are the latest figures on where we stand regarding Presidential appointments. Of particular interest are the minority appointments comparisons contained in Tab A.

ATTACHMENT

~~Handwritten~~
File
Administration

J.B

THE WHITE HOUSE

WASHINGTON

March 25, 1981

MEMORANDUM TO JAMES BAKER
 EDWIN MEESE
 MICHAEL DEEVER

FROM: E. PENDLETON JAMES

SUBJECT: PAS Vacancies

TOTALS

| | <u>VACANT</u> | <u>FILLED</u> | <u>TOTAL</u> |
|---|---------------|---------------|--------------|
| <u>White House</u> | 0 | 37 | 37 |
| <u>E. O. P.</u> | 3 | 9 | 12 |
| <u>Executive Branch</u> | 100 | 160 | 260 |
| <u>Independent/ Regulatory Agencies</u> | 97 | 34 | 131 |
| TOTALS: | 200 | 240 | 440 |

*Of incl. Bds + Commissions
 there are 1902 Pos. appointments
 to be made*

THE WHITE HOUSE

WASHINGTON

March 25, 1981

MEMORANDUM TO JAMES BAKER
EDWIN MEESE
MICHAEL DEEVER

FROM: E. PENDLETON JAMES

SUBJECT: PAS Minority Appointments

Per your request, the following are minority candidates announced, pending and on hold.

WOMEN

ANNOUNCED:

| | | |
|-------------------|------------------|--|
| Leonore Annenberg | - State | - Chief of Protocol |
| Angela Buchanan | - Treasury | - Treasurer |
| Judith Connor | - Transportation | - Assistant Secretary Policy & International Affairs |
| Carol Dinkins | - Justice | - Assistant Attorney General Land & Natural Resources |
| Elizabeth Dole | - WH Staff | - Assistant to the President for Public Liason |
| Roslee Douglas | - Energy | - Director, Minority Economic Impact |
| Ann Gorsuch | - EPA | - Administrator |
| Dorchus Hardy | - HHS | - Deputy Inspector General |
| Jean Kirkpatrick | - United Nations | - U.S. Representative |
| Loret Ruppe | - Peace Corps | - Director |
| Karna Stringer | - WH Staff | - Deputy Press Secretary |

| | | |
|-----------------|------------|---|
| Arlene Triplett | - Commerce | - Assistant Secretary Administration |
| Helene von Damm | - WH Staff | - Special Assistant to the President |

PENDING:

| | | |
|--------------------|-------------------|--|
| Pamela Bailey | - HHS | - Assistant Secretary Public Affairs |
| Elise Dupont | - AID | - Assistant Administrator Bureau Private Dev. Cooperation |
| Toni Ford | - AID | - Assistant Administrator Bureau for Near East |
| Mary Jarrett | - Agriculture | - Assistant Secretary Food & Consumer Services |
| Ann McLaughlin | - Treasury | - Assistant Secretary Public Affairs |
| Jean Merritt | - CSA | - Deputy Director |
| Winifred Pizano | - ACTION | - Deputy Director |
| Donna Pope | - Treasury (Mint) | - Director |
| Georgianna Sheldon | - FERC | - Commissioner |
| Judith Tardy | - HUD | - Assistant Secretary Administration |
| Mimi Weyforth | - FCC | - Commissioner |

HOLD:

| | | |
|---------------|------------------|--|
| Helen Bently | - Defense (Navy) | - Undersecretary |
| Nancy Steorts | - CPSC | - Chairman |
| Julia Taft | - State | - Ambassador at Large Refugee Affairs |

BLACKS

ANNOUNCED:

| | | |
|----------------|------------------|---|
| Roslee Douglas | - Energy | - Director, Minority Economic Affairs |
| Samuel Pierce | - HUD | - Secretary |
| Vincent Reed | - Education | - Assistant Secretary Elementary & Secondary Educati |
| Arthur Teele | - Transportation | - Administrator Urban Mass Transportation |

PENDING:

| | | |
|----------------|-----------|---|
| Toni Ford | - AID | - Assistant Administrator Bureau for Near East |
| Clarence McKee | - Justice | - Assistant Attorney General Civil Rights |
| Judge Ricks | - Justice | - Assistant Attorney General Civil Division |

HISPANICS

ANNOUNCED:

| | | |
|------------------|-------|------------------------|
| Michael Cardenas | - SBA | - Administrator |
| John Hernandez | - EPA | - Deputy Administrator |

PENDING:

| | | |
|-----------------|---------------|--|
| Everett Alvarez | - Peace Corps | - Deputy Director |
| Diego Ascencio | - State | - Assistant Secretary Consular Affairs |
| Juan del Real | - HHS | - General Counsel |
| Sam Martinez | - AID | - Assistant Administrator Caribbean & Latin America |

Antonio Monroig - HUD - Assistnat Secretary
Fair Housing & Equal Opportunity

Jose Sorenzo - State - U.S. Representative to
ECOSOC/ UN

HOLD:

Jose Casanova - Justice -

N.B. - Raul Masvidal - Candidate for Assistant Secretary EDA (Commerce)
droppeed out because of Paula Hawkins opposition

THE WHITE HOUSE

WASHINGTON

March 25, 1981

MINORITY PAS APPOINTMENTS*

| <u>I. WOMEN:</u> | <u>Reagan Announcements+</u> <u>Pending</u> | <u>Carter</u> | <u>Total Appointments</u> <u>Available in each</u> <u>Category</u> |
|--|--|---------------|--|
| <u>White House</u> | 3 | 5 | 37 |
| <u>E.O.P</u> | 0 | 2 | 12 |
| <u>Executive Branch</u> | 8 (15) | 26 | 260 |
| <u>Independent/Regulatory</u> <u>Agencies</u> | 2 (6) | 28 | 131 |
| | | | |
| TOTALS: | 24 | 61 | 440 |

*Please Note: Reagan appointments as of 3/25/81
Carter appointments as of 11/4/80

| <u>II. BLACKS:</u> | <u>Reagan Announcements+</u> <u>Pending</u> | <u>Carter</u> | <u>Total Appointments</u> <u>Available in each</u> <u>Category</u> |
|--|--|---------------|--|
| <u>White House</u> | 0 | 1 | 37 |
| <u>E.O.P.</u> | 0 | 1 | 12 |
| <u>Executive Branch</u> | 4 (1) | 16 | 260 |
| <u>Independent/Regulatory</u> <u>Agencies</u> | 0 (1) | 21 | 131 |
| TOTALS: | 6 | 39 | 440 |

| <u>III. HISPANICS:</u> | <u>Reagan Announcements+</u> <u>Pending</u> | <u>Carter</u> | <u>Total Appointments</u> <u>Available in each</u> <u>Category</u> |
|--|--|---------------|--|
| <u>White House</u> | 0 | 1 | 37 |
| <u>E.O.P.</u> | 0 | 0 | 12 |
| <u>Executive Branch</u> | 0 (4) | 7 | 260 |
| <u>Independent/Regulatory</u> <u>Agencies</u> | 2 (2) | 4 | 131 |
| TOTALS: | 8 | 12 | 440 |

THE WHITE HOUSE

WASHINGTON

March 26, 1981

NOTE FOR THE PRESIDENT

FROM: JAMES A. BAKER, III

Attached FYI for the Washington Post interview are the latest figures on where we stand regarding Presidential appointments. Of particular interest are the minority appointments comparisons contained in Tab A.

ATTACHMENT

THE WHITE HOUSE

WASHINGTON

March 25, 1981

MEMORANDUM TO JAMES BAKER
EDWIN MEESE
MICHAEL DEAVER

FROM: E. PENDLETON JAMES

SUBJECT: PAS Vacancies

TOTALS

| | <u>VACANT</u> | <u>FILLED</u> | <u>TOTAL</u> |
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there are 1902 Pres. appointments
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THE WHITE HOUSE

WASHINGTON

March 25, 1981

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EDWIN MEESE
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| Carol Dinkins | - Justice | - Assistant Attorney General Land & Natural Resources |
| Elizabeth Dole | - WH Staff | - Assistant to the President for Public Liason |
| Roslee Douglas | - Energy | - Director, Minority Economic Impact |
| Ann Gorsuch | - EPA | - Administrator |
| Dorchus Hardy | - HHS | - Deputy Inspector General |
| Jean Kirkpatrick | - United Nations | - U.S. Representative |
| Loret Ruppe | - Peace Corps | - Director |
| Karna Stringer | - WH Staff | - Deputy Press Secretary |

| | | |
|-----------------|------------|---|
| Arlene Triplett | - Commerce | - Assistant Secretary Administration |
| Helene von Damm | - WH Staff | - Special Assistant to the President |

PENDING:

| | | |
|--------------------|-------------------|---|
| Pamela Bailey | - HHS | - Assistant Secretary Public Affairs |
| Elise Dupont | - AID | - Assistant Administrator Bureau Private Dev. Cooperatio |
| Toni Ford | - AID | - Assistant Administrator Bureau for Near East |
| Mary Jarrett | - Agriculture | - Assistant Secretary Food & Consumer Sevices |
| Ann McLaughlin | - Treasury | - Assistant Secretary Public Affairs |
| Jean Merritt | - CSA | - Deputy Director |
| Winifred Pizano | - ACTION | - Deputy Director |
| Donna Pope | - Treasury (Mint) | - Director |
| Georgianna Sheldon | - FERC | - Commissioner |
| Judith Tardy | - HUD | - Assistant Secretary Administration |
| Mimi Weyforth | - FCC | - Commissioner |

HOLD:

| | | |
|---------------|------------------|--|
| Helen Bently | - Defense (Navy) | - Undersecretary |
| Nancy Steorts | - CPSC | - Chairman |
| Julia Taft | - State | - Ambassador at Large Refugee Affairs |

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ANNOUNCED:

| | | |
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| Roslee Douglas | - Energy | - Director, Minority Economic Affairs |
| Samuel Pierce | - HUD | - Secretary |
| Vincent Reed | - Education | - Assistant Secretary Elementary & Secondary Educat |
| Arthur Teele | - Transportation | - Administrator Urban Mass Transportation |

PENDING:

| | | |
|----------------|-----------|---|
| Toni Ford | - AID | - Assistant Administrator Bureau for Near East |
| Clarence McKee | - Justice | - Assistant Attorney General Civil Rights |
| Judge Ricks | - Justice | - Assistant Attorney General Civil Division |

HISPANICS

ANNOUNCED:

| | | |
|------------------|-------|------------------------|
| Michael Cardenas | - SBA | - Administrator |
| John Hernandez | - EPA | - Deputy Administrator |

PENDING:

| | | |
|-----------------|---------------|---|
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| Diego Ascencio | - State | - Assistant Secretary Consular Affairs |
| Juan del Real | - HHS | - General Counsel |
| Sam Martinez | - AID | - Assistant Administrator Carribbean & Latin America |

Antonio Monroig - HUD - Assistnat Secretary
Fair Housing & Equal Opportunity

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ECOSOC/ UN

HOLD:

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THE WHITE HOUSE

WASHINGTON

March 25, 1981

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| | | | |
| TOTALS: | 8 | 12 | 440 |

THE WHITE HOUSE
WASHINGTON

*File
Personnel*

January 25

Frank

I only recently read the press release on your appointment, and realized that you are a fellow Yale-Stanford man.

With the breadth of your responsibilities, it occurred to me that you might need some additional help, in the same way that Dave Gergen has J. Bistany. I would appreciate the opportunity to talk to you about this, as I would be interested in working for you.

I can be reached on #6415 if you would like to discuss this idea further.

Kate

Kate Moore
Yale '73
Stanford (MBA) '77

THE WHITE HOUSE
WASHINGTON

February 26, 1981

*File
Personnel*

JMO *FH*
HAS NOT SEEN
2/28/81
MOT

MEMORANDUM FOR: E. Pendleton James
James A. Baker, III ✓
Fred F. Fielding

FROM: William Tucker

RE: Acting Director of Community Services
Administration

Attached hereto are memoranda dated February 9, 1981, from William W. Allison, Acting Director of CSA, and from Spencer L. Lott, III, Attorney Advisor, which were delivered to me by Scott Faulkner on February 26, 1981, at approximately 3:00 p.m.

William W. Allison was the Deputy Director of CSA and became the Acting Director when this Administration accepted the resignation of Richard Rios. Mr. Allison does not desire to stay in the post of Acting Director after February 28, 1981.

When Mr. Allison leaves as Acting Director, the authority at CSA will pass to Michael Blouin, the Assistant Director for Community Action, who was appointed by President Carter and confirmed by the Senate, according to a telephone conversation with Mr. Lott.

Mr. Lott advises that there are \$4.5 million worth of grants pending which Mr. Blouin may act upon and may act in a manner contrary to the present Administration's desires. The Senate Appropriations Subcommittee on Labor, Health and Human Services has scheduled a hearing on March 9 or 10, 1981, regarding CSA's FY 82 appropriations.

It is my understanding from talking to Scott Faulkner that the Administration has designated or is in a position to designate a Director of CSA, but the name has not been officially announced or submitted to the Senate for confirmation.

RECOMMENDATION

That the individual who has been decided upon as the Director of CSA be designated Acting Director and his name submitted to the Senate for confirmation as Director on or before the close of business on Friday, February 27, 1981, and that Mr. Blouin be terminated.

Community WASHINGTON, D.C. 20506
Services Administration



FEB 9 1981

MEMORANDUM TO: James Baker
White House Chief of Staff

FROM: William W. Allison
Acting Director

SUBJECT: Availability of the Acting Director for
Senate Appropriations Committee Hearings

Under an arrangement made with the Office of the President-Elect, I agreed to stay on at CSA as Acting Director until March 1, 1981. This arrangement was made due to the unique situation at CSA. The attached CSA General Counsel opinion explains why the Director or Deputy Director are the only two appointees who may serve as Acting Director of the Agency. At the time I made this agreement, the Office of the President-Elect felt confident that a new Director could be nominated and confirmed by March 1, 1981. In addition, I had hoped that my own plans could remain flexible enough to accommodate any delay which might occur in the nomination or confirmation process.

Today, I learned that the Senate Appropriations Subcommittee on Labor and Health and Human Services intends to hold a hearing regarding the CSA FY'82 appropriations request on March 10, 1981. I have also just learned that my future employer cannot allow me to delay my employment date beyond March 1, 1981. I am therefore concerned that the Agency may be left without an Acting Director to testify before the Appropriations Subcommittee regarding our appropriations request and/or any modifications the Administration may recommend this month.

I am therefore urging that the Administration complete its search and nominate a new Director for CSA as quickly as possible. If the President can make this nomination this week or next week, the attached opinion would likely

provide sufficient legal basis for the President to appoint the nominee as Acting Director for thirty days. I am confident that we could then work out an agreement with Labor and Human Resources Committee Chairman Hatch to expedite the Senate's advice and consent on the CSA nomination to coincide with the expiration of the thirty day emergency appointment of the nominee as Acting Director.

Please advise if you require further information or assistance.

Attachment.

DEC 11 1980

MEMORANDUM TO: Richard Rios
DIRECTOR

FROM: 75/ Thomas J. Mack
: Thomas Mack
General Counsel

RE : Carrying Out CSA Activities During Transition Period

This Office has researched several legal issues relating to who may act with authority on behalf of CSA during the period subsequent to your resignation but prior to Senate confirmation of your successor. I have concluded that CSA's Deputy Director has authority to run the agency during that interim period, and that a newly-designated Director would not have such authority until confirmed by the Senate.

Authority of the Newly-Designated Director

Section 601(a) of the Economic Opportunity Act of 1964, as amended (EOA) provides that the Director of CSA "shall be appointed by the President by and with the advice and consent of the Senate" (42 USC 2941(a)). It is clear that a newly-appointed Director of CSA normally cannot serve in this position and exercise authority as Director until his or her appointment has been submitted to and confirmed by the Senate.

This position is well-settled due to litigation specifically on this issue, namely Williams v. Phillips, 360 F.Supp. 1363 (D.D.C. 1973). In that case, the Federal District Court for the District of Columbia dealt with the following facts: Howard Phillips was appointed Acting Director of OEO by President Nixon on January 31, 1973. On that same date, Phillip V. Sanchez, then OEO Director, in anticipation of the acceptance of his resignation, signed a delegation of his powers to Phillips pending appointment of Sanchez's successor. Phillips had been serving as an OEO Associate Director for Program Review, a post not subject to Senate confirmation.

Phillips proceeded to take actions as Acting Director that included initiating the virtual dismantling of the Agency. The plaintiffs in Williams v. Phillips (four U.S. Senators) successfully enjoined Phillips from taking further actions and ultimately the District Court prohibited OEO from completing these dismantling activities. The Court held that Phillips could not take actions as Acting Director of OEO because his appointment had not been confirmed by the Senate. (In fact his appointment had not even been submitted to the Senate).

The specific observations and findings of the District Court are particularly relevant for the upcoming transition period. The Court ruled that the Vacancies Act — which allows the first assistant of a department head to perform the duties of office (for no longer than 30 days) in the event of the department head's death, resignation, sickness or absence — does not apply to OEO since the agency is not an Executive or military department. This conclusion is equally applicable to CSA. It noted also that the EOA does not provide for an Acting Director, and determined that the failure of Congress to provide for such must be regarded as intentional since provisions for Acting Directors are found in other Executive agency statutes. The District Court did state however, that if the President did have the power to make interim appointments, it exists only in emergency situations. The Court did not express a view at that time on the existence or scope of such emergency powers.

OEO sought to have the District Court decision and order stayed by the Circuit Court of Appeals for the District of Columbia pending appeal to that Court. Williams v. Phillips, 482 F.2d 669 (D.C. Cir. 1973) The Appeals Court denied the stay, however it intimated that when it considered the case on its merits it might consider the legal position that the President has the power to appoint an Acting Director for a reasonable period of time (such as 30 days) before submitting the nomination of a Director to the Senate. The Circuit Court then sent the case back to the District Court to consider several objections raised by OEO.

In reviewing the case a second time, the District Court, in light of new facts, altered its order. Williams v. Phillips, CA No 490-73 (D.D.C., 6/27/73). It noted that: the President on June 20, 1973 appointed Alvin Arnett as Director of OEO and that his name had been sent to the Senate for its advice and consent; that many OEO grants were being held up because OEO officials were uncertain of who may act on those grants; and that \$142 million of OEO funds would revert to the treasury after June 30, 1973 unless these funds were obligated on or before that date. The District Court concluded, therefore, that an emergency situation existed at OEO and that Arnett could perform the functions reserved to the Director. It emphasized that the circumstances surrounding this solution were unique and called for a unique remedy.

Thus, in the final round of Williams v. Phillips, the District Court fashioned a remedy for OEO that allowed an unconfirmed Director to act on behalf of the agency. While the legal basis for such an order is questionable, it is clear that the Court would contenance such authority only in the most extreme (emergency) circumstances. In short, unless an emergency circumstance arose during the transition period, the newly appointed Director could not act with authority until confirmed by the Senate.

2. Authority of the Deputy Director

There are grounds for concluding that subsequent to your resignation, CSA's Deputy Director would have authority to act on behalf of the agency. For one thing, the position of Deputy Director is specifically established in section 601(b) of the EOA, and is subject to Senate confirmation. (42 USC §2941(b)). Moreover that provision specifically provides that there be only one Deputy Director while allowing for a number of Assistant Director positions. It also allows the Deputy Director to perform such functions as the Director may prescribe. In short, the statute provides a basis for assuming that the Deputy Director is the appropriate person to act on behalf of the agency in the absence of the Director.

Black's Law Dictionary supports this premise. It defines the term "deputy" as a "substitute; a person duly authorized by an officer to exercise some or all of the functions pertaining to the office, in the place and stead of the latter ... One appointed to substitute for another with power to act for him in his name or behalf." The Dictionary's definition of deputy also cites a discussion of "deputy" vs. "agent," pointing out that the latter acts in the name of the principle while the former acts and signs his own name and thereby binds his principle, the former thereby having the "whole power of his principle". The American Heritage Dictionary of the English Language, New College Edition (1976), is also supportive. It defines "deputy" as a "person named or empowered to act for another" and as an "assistant exercising full authority in the absence of his superior and equal authority in emergencies."

CSA certainly operates on the premise that the Deputy Director has authority to act on behalf of the agency in the absence of the Director. The CSA Organization Manual states in its relevant part:

The Deputy Director is responsible for the administration of the Agency under the general supervision of the Director, and shall exercise the powers of the Director during a vacancy in said office(CSA Staff Manual 1105-2, p. D-3 (Dec. 1978)).

The above citations therefore, imply that the authority of the Deputy Director includes the authority to act for the agency in absence of the Director. This conclusion is not inconsistent with the District Court's conclusions and ruling in Williams v. Phillips. Again, in that case the court determined that Phillips could not serve as Acting Director without Senate confirmation. It noted that when Congress has intended to allow an Acting Director to replace an absent agency Director it has legislated to that effect i.e. it has provided for such authority in the agency's statute. The Court specifically noted that no such authority

4

existed in OEO's statute. If a Presidentially appointed Director or Acting Director of OEO cannot serve as such without Senate confirmation, then common sense dictates that the Deputy Director -- who has been confirmed by the Senate -- must run the agency until Senate confirmation of a Director. Otherwise, CSA would have no person in authority during a vacancy of the Director's position. Clearly, neither the Court nor Congress could have intended that CSA shut down until a new Director is appointed. The point here is that the Deputy Director is running the agency during the interim not as Acting Director, but rather pursuant to his duties and authority as Deputy Director, a position for which he had to have been confirmed by the Senate.

The District Court's decision (upon remand of the Williams case) to allow Alvin Arnett to serve as Acting Director of OEO under emergency circumstances also does not appear to contradict the above conclusion. According to the resume of Alvin Arnett, reproduced in the print of the Senate Hearing on his nomination for the position of OEO Director, from "February 19, 1973 to present" he was "serving in lieu of Acting Deputy Director". (Hearing before the Committee on Labor and Public Welfare, U.S. Senate, 93rd Cong, 1st Session (July 20, 1973), p.3) The Hearing print also reproduces Arnett's written response to Senators' questions. One of his answers includes the following statements: "At the present time there is no one at OEO but myself serving in a position which requires Senate confirmation. There is no Deputy Director and there is only one Assistant Director, Bert Gallegos, who has been confirmed by the Senate." (Id., p. 134) Thus, the District Court could not have ruled that the Deputy Director could act on behalf of the agency after Phillips had been enjoined from further action but prior to Arnett's confirmation, since there was no confirmed Deputy Director at the time. In this context, the Court's ruling that Arnett could exercise authority due to the emergency circumstances in June, 1973 in no way contradicts the conclusion that a confirmed Deputy Director can run the agency subsequent to the Director's resignation.

A final consideration on the emergency appointment of Arnett is called for at this point. As already noted, the District Court allowed Arnett to act as Director prior to his confirmation solely because of the unique circumstances and emergency situation facing OEO and its grantees at that time. If, after January 20, 1981, the President dismissed CSA's Deputy Director thereby leaving both the Director's and the Deputy Director's position vacant, it is extremely doubtful whether a similar emergency circumstance would be found to exist. The courts would be very hesitant to allow an abrogation of the Senate confirmation process on the grounds of a self-created emergency. The new administration would be hard-pressed to maintain that it could justify assuming emergency powers due to an emergency that it purposely created by dismissing the Deputy Director.

3. Assistant Directors

The question of who has authority to act on behalf of the agency upon resignation of the Director and the Deputy Director is more difficult to answer. Section 601(b) of the EOA provides for the positions of Assistant Directors who must also be confirmed by the Senate. This provision allows these Assistant Directors to perform such functions as the Director may prescribe. Presently, CSA has Assistant Directors heading OCA, and OPP&E who have been confirmed by the Senate. However, in confirming these appointments, the Senate clearly did not confirm appointees with authority to run the agency; rather these appointees were approved to serve as assistants to perform whatever duties were prescribed by the Director.

The obvious question is why can't the Director delegate his full authority to an Assistant Director to serve in his stead upon his and the Deputy Director's resignation. This position finds some support in Delegation of Authority Order 70-1 dated August 13, 1970, signed by then - Director Rumsfeld, which states in its relevant part:

In the absence of the Director the duties of the Director devolve upon the first of the officials listed below who is available for service in the Washington area:

1. The Deputy Director
2. The General Counsel
3. The Assistant Director for Operations

I hereby delegate to such official concurrent authority to exercise the powers vested in me by the Economic Opportunity Act.

This delegation does not appear to have been rescinded by subsequent Directors (despite the upheaval in 1973). Moreover, there are other examples of the Director delegating authority to an Assistant Director to run the agency during temporary out-of-town absence. Nonetheless, the Williams case casts a great deal of doubt on whether such delegations alone can serve to transfer power to run the agency when the Director resigns, particularly in light of the fact that Howard Phillips, in that case, had been delegated the power to run OEO by the then confirmed Director Sanchez upon the latter's resignation. Of course Phillips had not been confirmed by the Senate for any position, but it is not at all clear from the Williams case that it would have ruled differently had Phillips held a confirmed Assistant Directorship. In short, while the Director can delegate concurrent power temporarily while he is out-of-town, but still holding office, it is questionable whether he could delegate his full authority to another confirmed agency official upon the former's resignation.

MEMORANDUM

TO: Scott Faulkner 6712

FROM: Spencer L. Lott, II, SLL
Attorney Advisor
Office of General Counsel/GL

RE: Necessity of Immediate Appointment of Acting Director
for CSA

*Received From FAULKNER
2/26/81 - 2:00 P.M. 2*

As we discussed, CSA may experience both legal and policy difficulties unless an Acting Director is appointed for CSA before the departure Friday, February 27, 1981 of the Deputy Director, Carter appointee William Allison, who has been serving as Acting Director and has been reasonably cooperative. In addition to these general problems, there are 4.5 million dollars worth of grants pending in the Office of General Counsel which should not go out. These grants are: \$4 million divided among 10 grantees which are migrant organizations, including several farmworker groups; and \$0.5 million in 20 Housing Advocacy grants, a program which began to be funded less than a year ago.

Both sets of grants have effective dates from July to September, 1981; thus they are forward fundings which do not need to be decided now except to reduce the funding options of the new Reagan Director of CSA and to preclude any objective consideration of the merits of these grants in light of the new Administration's policies. After Friday, February 27, 1981, the authority of the CSA Acting Director will pass by default to the only remaining confirmed Carter appointee, Michael Blouin, who is very unsympathetic to the new Administration's policies.

As mentioned above, the solution to these problems is formally designating an Acting Director by Friday, February 27, 1981 in one of two ways. The best option is expediting the nomination process for CSA Director and including in the nomination message to the Senate an interim appointment as Acting Director. Substantially less desirable is an appointment of an Acting Director for thirty days without a prior nomination. In either case, the appointment must be explained as necessary because of the emergency created by ^{the} departure of Mr. Allison in the face of the new administration's block grant proposal and CSA's appropriation hearings scheduled for March 9. CSA has already had extensive litigation regarding the appointment of an Acting Director, Howard Phillips, by President Nixon; thus any appointment at present must be made within the constraints of existing case law.

The District Court in Williams v. Phillips 360 F Supp 1363 (D.D.C. 1973) held that Phillips could not take actions as Acting Director of OEO (now CSA) because his appointment had not been confirmed by the Senate. In

fact he had never even been formally nominated for the position and had served as Acting Director for four and a half months. The court there ruled that the Vacancies Act (5 USC 3348) which provides for temporary appointments of Executive Department officers pending nomination to the Senate did not apply to OEO since the Agency is not an Executive or military department. The court also noted that the Economic Opportunity Act (EOA), OEO's authorizing legislation also did not provide for an Acting Director. It was the Court's conclusion that Congressional failure to make provision for an Acting Director was intentional since provisions for Acting Directors are found in other Executive agency statutes. The Court did, however, open the possibility that the President might have the power to make an interim appointment if an emergency situation existed. On appeal the Circuit Court of Appeals for the District of Columbia denied a stay of the District Court's order and remanded the case to the District Court. In so doing the court intimated that it might consider a 30 day appointment, prior to nomination, legal (482 F. 2d 669 (D.C. Cir. 1973)). On remand, in light of new facts, the District Court altered its order and allowed the President to appoint an Acting Director for OEO. Williams v. Phillips, CA No. 490-73 (D.D.C., 6/27/73). The altered facts which the court found to justify this change were (1) that the President had submitted the Acting Director's name to the Senate for confirmation on June 20, 1973, (2) that many OEO grants were being held up because of the uncertainty as to who could act on those grants and (3) the danger that approximately 142 million in Federal funds would be returned to Treasury after June 30, 1973 unless the funds were obligated. Thus the District Court concluded that an emergency situation existed warranting the appointment of an Acting Director.

The Court's reversal must be viewed as establishing the legality of a temporary appointment where there is an emergency and no threat to the constitutional right of Congress to confirm. CSA is facing appropriation hearings on March 9 and a major change in its existence due to President Reagan's proposed inclusion of much of CSA's funding in the Social Community Services and Health Consolidation Program. Clearly an Acting Director appointed by the new President is necessary to present policy options to the administration and answer Congressional inquiries at the appropriation hearing.

While it is preferable to have an individual nominated for Senate confirmation as well as appointed Acting Director, a thirty day appointment on an emergency basis would probably be upheld by a Court. Even if it were not, the only remedy the Court could fashion, if it found the Acting Director without authority, would be to suspend or nullify any actions of the Acting Director to allow reconsideration by either Mr. Blouin or a confirmed Director. Thus, given the time required for litigation of this nature, an administration nominee would probably have been confirmed.

If you have any questions please contact me at 653-7520.

Attachments

cc: Dale Duvall

THE WHITE HOUSE
WASHINGTON

*File
WH Personnel*

February 23, 1981

MEMORANDUM FOR: RICHARD G. DARMAN
FRANK S. M. HODSOLL ✓

FROM: JOHN F. W. ROGERS
SPECIAL ASSISTANT FOR MANAGEMENT

SUBJECT: RESTRICTED PERSONNEL CATEGORIES

Attached is a report of where we stand on the restricted personnel categories as of February 20, 1981.

I hope this will help to answer your recent inquiries.

Attachments

THE WHITE HOUSE OFFICE
 RESTRICTED PERSONNEL CATEGORY
 Status as of February 20, 1981

| <u>Category</u> | <u>Annual Salary Range</u> | <u>Maximum Allowed</u> | | <u>Number In Category</u> | <u>Cumulative</u> |
|-----------------|----------------------------|---------------------------|-------------------|---------------------------|-------------------|
| | | <u>Number In Category</u> | <u>Cumulative</u> | | |
| NTE EXII | \$55,388 to \$60,662 | 25 | 25 | 15 | 15 |
| NTE EXIII | \$50,113 to \$55,387 | 25 | 50 | 15 | 30 |
| NTE \$50,112.50 | | 50 | 100 | 30 | 60 |

THE WHITE HOUSE OFFICE

RESTRICTED PERSONNEL CATEGORIES

Status as of February 20, 1981

NTE Executive Level II (\$55,388 to \$60,662) - 25 positions authorized maximum

| | |
|----------------------|-------------------------------|
| Edwin Meese III | <u>Currently Occupied: 15</u> |
| James A. Baker III | |
| Michael K. Deaver | |
| Richard V. Allen | |
| Martin Anderson | |
| James Brady | |
| Elizabeth Dole | |
| Fred F. Fielding | |
| Max Friedersdorf | |
| David Gergen | |
| Edwin L. Harper | |
| E. Pendleton James | |
| Franklyn C. Nofziger | |
| Richard Williamson | |
| Robert Garrick | |

NTE Executive Level III (\$50,113 to \$55,387) - 25 positions authorized maximum

| | |
|----------------------|-------------------------------|
| Joseph Canzeri | <u>Currently Occupied: 15</u> |
| Byron M. Cavaney | |
| Richard G. Darman | |
| Kenneth Duberstein | |
| Craig Fuller | |
| Edwin J. Gray | |
| Francis S. M. Hodson | |
| Peter McCoy | |
| James W. Nance | |
| Edward J. Rollins | |
| Karna Small | |
| Ed Thomas | |
| Richard Beal | |
| Powell Moore | |
| Frank A. Ursomarso | |

NTE Maximum Rate of GS-18 (\$50,112.50) - 50 positions authorized maximum

Lee Atwater
Aram Bakshain, Jr.
Morton C. Blackwell
John Dressendorfer
Michael Evans
William Gribben
Allan Lock
Gregory Newell
Marion B. Oglesby, Jr.
Nancy Risque
Wayne Roberts
John F. W. Rogers
Paul Russo
Richard D. Shelby
Larry Speakes
Stephen M. Studdert
David L. Swanson
Pamela J. Turner
Wayne H. Valis
David Wright
Virginia H. Knauer
(effective 3/2/81)

Currently Occupied: 30

David C. Fischer
Dennis LeBlanc
Helene Von Damm

Operating Offices

Anne Higgins
Thomas M. Jones
Mary C. Lawton
Robert D. Linder
William F. Matthews
Robert L. Manning

TOTAL AUTHORIZED -- 100 positions

CURRENTLY OCCUPIED -- 60 positions

Public Law 95-570
95th Congress

An Act

To clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.

Nov. 2, 1978
[H.R. 11003]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 105 and 106 of title 3, United States Code, are amended to read as follows:

White House
Office and
Executive
Residence.
Personnel
employment,
authority
clarification.
Appointment.

“ASSISTANCE AND SERVICES FOR THE PRESIDENT

“SEC. 105. (a) (1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the White House Office without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

“(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

“(A) 25 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and in addition

“(B) 25 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

“(C) 50 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS-18 of the General Schedule of section 5332 of title 5; and in addition

“(D) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS-16 of the General Schedule of section 5332 of title 5.

“(b) (1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the Executive Residence at the White House without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

Appointment.

“(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

“(A) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS-18 of the General Schedule of section 5332 of title 5; and in addition

“(B) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS-16 of the General Schedule of section 5332 of title 5.

“(c) The President is authorized to procure for the White House Office and the Executive Residence at the White House, as provided in appropriation Acts, temporary or intermittent services of experts

Experts and
consultants,
temporary or
intermittent
services.

THE WHITE HOUSE

WASHINGTON

February 18, 1981

*File
Personal*

MEMORANDUM FOR FRANK S.M. HODSOLL

FROM: ROGER YURCHUCK *RY*

SUBJECT: VICTOR SCHWARTZ (LETTER OF FEBRUARY 3, 1981 -
EDWARD VETTER PROPOSAL)

Attached is my response to Victor Schwartz' letter. Internal Revenue Code and Ethics Law amendments would be required to effect Mr. Vetter's plan.

You may be interested in a few observations that are the result of having worked with the various Ethic Laws and the hiring process over the past several months.

1. The Disclosure Requirements (Form 278) of the Ethics in Government Act of 1978 are troublesome to very few persons and are helpful in some respects. Disclosure and counseling with this office serves to reduce or eliminate problems for the unwary. By reviewing the situation going in, future problems are eliminated. Disclosure, to my knowledge, does not keep desirable people out of government.

2. The basic conflict of laws provisions (18 USC 201, etc., particularly 208) have been around for many years, in some cases over 100 years. Nobody really objects to not being allowed to have anything to do with a particular matter in which they or their immediate family have a financial interest.

3. The post-employment provisions need to be revised. A person should not be allowed to "change sides" with regard to a particular matter in which they personally participated or had substantial responsibility, but the general one-year prohibition against dealing with your former agency is ridiculous. This provision, Title 18, Section 207C, does keep a substantial number of highly qualified people out of government and should be repealed immediately.

4. PAS' are not allowed to receive an outside earned income more than 15 percent of their government salary. This is a recent amendment (1978) and should be eliminated. This provision has the effect of keeping people from receiving trustee fees, income from family business in the form of salary, or other income which does not require much time to earn. Non-PAS' can earn outside income so long as it does not interfere with their job performance. The same rule should be applied to PAS.' This law has a definite chilling effect and is extremely unfair to non-wealthy people. (There is no limit on investment income).

5. The greatest deterrent of all is, of course, low government salaries. This one factor more than any other keeps mid and high level management people and professionals from entering government service. An added deterrent is Title 18 Section 209, which keeps firms and businesses from supplementing a person's salary while in government. This would usually take the form of a bonus or termination payment. This is a very difficult area which should be studied. Perhaps, some dollar limitation on such bonuses could be a possible solution.

6. A suggestion such as that of Mr. Vetter's would solve a problem for those who have to sell investments and pay a capital gains tax. The problem is not as significant as it once was with the now 28 percent maximum capital gains tax. Hopefully, this tax will be even lower in the future. Also, persons only have to sell investments with respect to which there is or may be a conflict. The qualified, diversified trust provisions of the Ethics in Government Act of 1978 is marginally helpful. This concept could be expanded by an amendment to the Ethics in Government Act and such would avoid the necessity of an amendment to the Internal Revenue Code.

THE WHITE HOUSE

WASHINGTON

February 13, 1981

Dear Mr. Schwartz:

Thank you for your letter of February 3, 1981. As we discussed on the telephone it is anticipated that certain aspects of the various "Ethics in Government" laws will be reviewed in light of this Administration's experience during the Transition process. This is the first time that a new Administration has come into office since the effective date of the "Ethics in Government Act of 1978." As you indicated in order to effect a government-wide blind trust program, Internal Revenue Service action would be required. In addition, legislation amending the various "Ethics in Government" laws would be needed.

I am leaving this office shortly to return to Ohio. I have given your letter to the Counsel to the President, Fred Fielding. I have discussed this matter with him and he would be pleased to hear from you when you have refined your proposal.

Very truly yours,



Roger Yurchuck
Office of Counsel
to the President

Victor E. Schwartz, Esq.
Crowell and Moring
1100 Connecticut Avenue, N.W.
Washington, D. C. 20036

THE WHITE HOUSE
WASHINGTON

*File
Pres Personnel*

ALEX ARMENDARIS - ASSOCIATE DIRECTOR 456-7606 Room 130

RESPONSIBILITIES:

GENERAL SERVICES ADMINISTRATION
OFFICE OF PERSONNEL MANAGEMENT
SMALL BUSINESS ADMINISTRATION
MERIT SYSTEM PROTECTION BOARD
VETERANS ADMINISTRATION
EXPORT-IMPORT BANK
NASA
SYNTHETIC FUELS
INTERNATIONAL COMMUNICATIONS AGENCY
OFFICE OF MANAGEMENT AND BUDGET
ADVISORY COUNCIL ON INTERGOVERNMENTAL RELATIONS
ACTION
INSPECTOR GENERALS

*Judge - their
tells me who
does what in
Pres. Personnel.
Have for reference
Jr*

THE WHITE HOUSE

WASHINGTON

JOHN KINNEAR - ASSOCIATE DIRECTOR 456-2147 Room 147

RESPONSIBILITIES:

DEPARTMENT OF EDUCATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DEPARTMENT OF LABOR

NATIONAL LABOR RELATIONS BOARD

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

FEDERAL MINE SAFETY AND HEALTH REVIEW

FEDERAL MEDIATION AND CONCILIATION SERVICE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

CONSUMER PRODUCTS SAFETY COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SPECIALISTS:

Ed Curran - Department of Education 456-2708←

Pam Bailey - Department of Health and Human Services 456-2147

Barbara Ash - Department of Housing and Urban Development 456-2147

Laura Schuldt - Department of Labor 456-6573

THE WHITE HOUSE

WASHINGTON

PAT CARLILE - ASSOCIATE DIRECTOR 456-2682 Room 352

RESPONSIBILITIES:

DEPARTMENT OF AGRICULTURE

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

COMMUNITY SERVICE ADMINISTRATION

DEPARTMENT OF TREASURY
Internal Revenue Service

CIVIL AERONAUTICS BOARD

INTERSTATE COMMERCE COMMISSION

NATIONAL TRANSPORTATION SAFETY BOARD

FEDERAL DEPOSIT INSURANCE CORP.

FEDERAL MARITIME COMMISSION

UNITED STATES RAILWAY ASSOCIATION

FEDERAL RESERVE BOARD

FEDERAL HOME LOAN BANK BOARD

COMMODITIES FUTURES TRADING COMMISSION

SECURITIES AND EXCHANGE COMMISSION

SPECIALISTS:

Ted Garrish/Art Quinn - Agriculture, Treasury
Maryann Urban - Transportation, CSA

THE WHITE HOUSE

WASHINGTON

WILLA JOHNSON - ASSOCIATE DIRECTOR 456-2553 Room 353

RESPONSIBILITIES:

DEPARTMENT OF STATE

DEPARTMENT OF DEFENSE

U.S. Arms Control & Disarmament Agency

DEPARTMENT OF JUSTICE

CENTRAL INTELLIGENCE AGENCY

FEDERAL ELECTION COMMISSION

COMMISSION ON CIVIL RIGHTS

FOUNDATION ON ARTS AND HUMANITIES

ADMINISTRATIVE CONFERENCE TO THE U.S.

FEDERAL EMERGENCY MANAGEMENT AGENCY

SPECIALISTS:

- Tom Roberts - Justice
Sean Randolph - State
Ron Mann - Defense

THE WHITE HOUSE

WASHINGTON

JOE RYAN - ASSOCIATE DIRECTOR 456-7165 Room 139

RESPONSIBILITIES:

DEPARTMENT OF COMMERCE

DEPARTMENT OF ENERGY

DEPARTMENT OF INTERIOR

ENVIRONMENTAL PROTECTION AGENCY

FEDERAL COMMUNICATIONS COMMISSION

NUCLEAR REGULATORY COMMISSION

FEDERAL TRADE COMMISSION

FEDERAL ENERGY REGULATORY COMMISSION

(POSTAL ^{RATE} REGULATORY COMMISSION

INTERNATIONAL TRADE COMMISSION

(U. S. POSTAL SERVICE

NATIONAL SCIENCE FOUNDATION

SPECIALISTS:

Jay Morehead

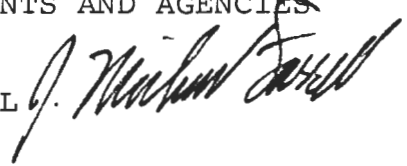
THE WHITE HOUSE
WASHINGTON

File

January 21, 1981

MEMORANDUM TO: ACTING HEADS OF ALL
DEPARTMENTS AND AGENCIES

FROM: J. MICHAEL FARRELL



Attached hereto is a Memorandum concerning the removal of Non-career Executive Service (SES), Schedule C and Non-career Executive Assignment personnel who have not submitted a Resignation or Offer of Resignation as of today.

To implement the policy set forth in this memorandum, you are requested to immediately prepare and have hand-delivered to my attention at Room 45, Old Executive Office Building, the attached Request for Offer of Resignation and draft Offer to all Non-career SES, Schedule C and Non-career Executive Assignment personnel still in your Agency. Exceptions to this across-the-board policy are permissible for individuals performing support functions, such as chauffers, chefs and the like. This request is not a removal notice and should not be construed as such for any purpose.

In the event any of the personnel fail to submit an Offer of Resignation by close of business on Wednesday, January 28, 1981, they will be considered for removal. Such removals should be coordinated with this office.

Some questions have been raised by personnel in your offices concerning the effect an offer of resignation will have upon their unemployment benefits. Attached hereto as Attachment C is a Memorandum from the previous Administration which clarifies the employees eligibility for unemployment insurance benefits.

THE WHITE HOUSE

WASHINGTON

January 21, 1981

MEMORANDUM TO: ACTING HEADS OF ALL
DEPARTMENTS AND AGENCIES

FROM: E. PENDLETON JAMES
ASSISTANT TO THE PRESIDENT FOR PRESIDENTIAL
PERSONNEL



The purpose of this memorandum is to set forth in summary fashion the procedure for the removal of government personnel holding excepted appointments.

With respect to all excepted personnel, i.e., individuals holding non-career appointments in the Senior Executive Service, Schedule C or Non-career Executive Assignment (GS-16 through 18), the policy is that all Departments and Agencies should solicit an offer of resignation from such individuals on January 21, 1981, if they have not previously been submitted. (See Tab A - Recommended Request for Offer of Resignation). After the offer of resignations have been received (no more than five working days should elapse between request and offer), and recommendations regarding retention or removal reviewed, a schedule will be established for the acceptance of such offers. In this regard, we recommend that, at a minimum, all offers of resignation be accepted or a decision made on retention within two weeks. Individuals holding excepted appointments with veteran's status and others to whom special removal requirements apply must be appropriately handled, and assistance from your Personnel Office should be obtained to this end. Exceptions to the across-the-board policy of requesting offers to resign are permissible for individuals performing support functions, such as chauffeurs, chefs and the like. Any other exceptions should be cleared with this office.

Those individuals holding excepted appointments who fail to submit an offer of resignation within five working days should be considered for removal. (See Tab B - Recommended Letter). However, all removal activities involving SES, Schedule C or NEA appointments should be coordinated with Michael Farrell of this office.

ATTACHMENT A

Request for Offer of Resignation

Dear

In order to provide the new Administration the flexibility it needs to carry out its policies, you are requested to submit an offer of resignation to me by January 28, 1981. This offer will be given to the Secretary/Administrator/Director [select appropriate title] and you will subsequently be notified whether your offer has been accepted. We expect this decision to be made within two weeks. We request that you continue in your present position until your offer is accepted or arrangements are made for your retention.

This request is not a removal notice and should not be construed as such for any purpose. Should you have any questions regarding this request, please contact the undersigned. Finally, thank you for your continued service during this interim period.

Sincerely,

ATTACHMENT B

Dear

The purpose of this letter is to present my offer of resignation from the position of _____.

I understand that this offer to resign will be acted on by the Secretary/Administrator/Director in the very near future.

Sincerely,



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 19, 1981

MEMORANDUM TO: ALL TRANSITION OFFICERS
FROM: HARRISON WELLFORD *HW*
SUBJECT: Unemployment Benefits

This memorandum clarifies eligibility for unemployment insurance for non-career personnel who have been asked to offer a letter of resignation to the incoming Administration.

Submission of such a letter of resignation does not necessarily disqualify them for unemployment benefits. If they are in a Schedule C or similar position affected by a change in Administration, their termination from the Federal Government is traditionally considered an involuntary separation. We have verified this interpretation with the District of Columbia unemployment insurance office. If they work in another jurisdiction they should consult their local unemployment insurance official since eligibility is governed by State, not Federal laws.

Questions about separation from Federal service and unemployment coverage may also be directed to their agency personnel office.

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

File

Frank -

Believe Elizabeth already mentioned
to you that Diane's not presently being
considered. Thanks much.

Red

~~Not acknowledged~~

*Elizabeth
mentioned to Frank
that we would not
go forward due to
weekend problem.*

MEMORANDUM

TO: ELIZABETH DOLE

FROM: FRANK HODSOLL

DATE: January 12, 1981

SUBJECT: DIANE BROKAW

Per our conversation, Jim Baker strongly recommends Diane Brokaw of his Transition Team as a first class candidate for the position of conference coordinator in your operation.

We owe a lot to Diane. She has organized with great success a number of large conferences....for example, the Hawaii Conference on Clean Air and Water involving 500 participants. She is skilled at political organization....Executive Director of the President Ford Committee, N. Y. Finance Committee.

Jim would hope she could be favorably considered for the conference job. The ultimate decision is, of course, yours.

DIANE JOHNSTON BROKAW
120 East End Avenue
New York, NY 10028
Home: 212-288-0185
Office: 202-634-1750 1621

Office of the President Elect, Transition Team. White House Personnel
for Chief of Staff Designate.

George Bush for President, Coordinator, New York Finance Committee.
National Finance Committee.

The President Ford Committee, Executive Director, Office of the New
York Finance Committee. (1975-1976) Co-Chairman, Special Projects
for General Campaign. (Fall 1976)

Diane Johnston Brokaw, Interiors. Residential and commercial interior
decorating. (1973-1981)

New York Urban Coalition, Assistant to the Director, Education Depart-
ment; Program Associate; Volunteer Coordinator. (1974-1975)

Samuel P. King, Gubernatorial Campaign, Office Manager, Honolulu,
Hawaii. (1969-1970)

Matson Navigation Company, Honolulu Hawaii. Booking agent and passenger
representative. (1955-1957)

OTHER: Institute of International Education, Holland Lecture Series,
Chairman. (1979-)

College of Wooster, Wooster, Ohio. Trustee. Development
Committee. Ad Hoc Planning Committee. Student Relations
Committee. (1976-)

Prospects for Mankind Advisory Committee. Bicentennial
Commission sponsored by The Hudson Institute, Herman
Kahn, Chairman. (1975-1976)

Hawaii Conference on Clean Air & Water. Co-Chairman.
Senate Chambers, Hawaii State Capitol. 500 participants;
state and national speakers; in conjunction with the
U. S. Department of the Interior. (1969)

Hawaii Governor's Conference on the Year 2000. Delegate.
(1970)

Hawaii Statewide Conference on Law Enforcement. Delegate.
(1968)

Pacific Basin Business Conference, East-West Center,
University of Hawaii. Delegate. (1968)

Republican Precinct Club, Vice-President. Hawaii State
Republican Convention, Delegate. (1965-1970)

COMMUNITY BOARDS OF DIRECTORS: Aloha United Fund of Hawaii, (1969-
1971). American Cancer Society, Oahu Unit, (1966-1969).
Junior League of Honolulu, President (1966). Child &
Family Service, Hawaii, Vice-President, (1961-1967).

DIANE BROKAW, continued

EDUCATION: Kentucky public schools through 1948; Punahou School, Honolulu, Hawaii through 1951; Dominican Convent, San Rafael, California through 1953; Bradford Junior College, Bradford, Massachusetts, AA (1955).

REFERENCES:

Robert Odell
National Direct Mail Service
Washington, D.C.

Robert Mosbacher
1300 Main Street
Houston, Texas

Wallace B. Edgerton, President
Institute of International Education
809 United Nations Plaza
New York, New York

Henry Copeland, President
The College of Wooster
Wooster, Ohio

Stanley Gault, President
Rubbermaid, Inc.
Wooster, Ohio

Judge Samuel P. King
U. S. District Court
District of Hawaii
P. O. Box 19
Honolulu, Hawaii 96810

File

List of White House Personnel Receiving Presidential
Commissions (in order of precedence)

| | |
|---|------------|
| Edwin Meese, III Counsellor to the President | California |
| James A. Baker, III Chief of Staff and Assistant to the President | Texas |
| Michael K. Deaver Deputy Chief of Staff and Assistant to the President | California |
| Richard V. Allen Assistant to the President for National Security Affairs | Virginia |
| Martin Anderson Assistant to the President for Policy Development | California |
| James Scott Brady Assistant to the President for Press Secretary | Virginia |
| Elizabeth Hanford Dole Assistant to the President for Public Liaison | Kansas |
| Max L. Friedersdorf Assistant to the President for Legislative Affairs | Indiana |
| David R. Gergen Assistant to the President and Staff Director | Virginia |
| Edward L. Harper Assistant to the President and Deputy Director of the Office of Management and Budget | Missouri |
| E. Pendleton James Assistant to the President for Presidential Personnel | California |
| Franklin C. Nofziger Assistant to the President for Political Affairs | California |
| Robert M. Garrick Deputy Counsellor to the President | California |

| | |
|---|------------|
| Joseph W. Canzeri Deputy Assistant to the President and Assistant to the Deputy Chief of Staff | New York |
| Red Cavaney Deputy Assistant to the President for Public Liaison | California |
| Richard G. Darman Deputy Assistant to the President and Deputy to the Chief of Staff | Virginia |
| Kenneth Duberstein Deputy Assistant to the President for Legislative Affairs | Virginia |
| Craig L. Fuller Deputy Assistant to the President and Director of the Office of Cabinet Administration | California |
| Edwin J. Gray Deputy Assistant to the President and Director of the Office of Policy Development | California |
| Edward V. Hickey, Jr. Deputy Assistant to the President and Director of Special Support Services | California |
| Francis S. M. Hodsoll Deputy Assistant to the President and Deputy to the Chief of Staff | Virginia |
| Peter McCoy Deputy Assistant to the President and Director of Staff for the First Lady | California |
| Powell Allen Moore Deputy Assistant to the President for Political Affairs | Virginia |
| James W. Nance Deputy Assistant to the President for National Security Affairs | Virginia |
| Edward Rollins Deputy Assistant to the President for Political Affairs | California |
| Karna Small Stringer Deputy Assistant to the President and Deputy Press Secretary | Maryland |
| Edwin W. Thomas, Jr. Assistant Counsellor to the President | California |

| | |
|---|------------|
| Richard Salisbury Williamson Special Assistant to the President and Deputy to the Chief of Staff | Illinois |
| Douglas Leighton Bandow Special Assistant to the President for Policy Development | Virginia |
| Richard Smith Beal Special Assistant to the President and Director of the Office of Planning and Development | Utah |
| David C. Fischer Special Assistant to the President | California |
| Kevin Randall Hopkins Special Assistant to the President for Policy Development | California |
| Dennis E. Le Blanc Special Assistant to the President and Deputy Director of Special Support Services | California |
| Helene A. von Damm Special Assistant to the President | New Jersey |

List of Selected White House Staff Being Sworn In on January 21

Edwin Meese III
Counsellor to the President

James A. Baker, III
Chief of Staff and Assistant to the President

Michael K. Deaver
Deputy Chief of Staff and Assistant to the President

Richard V. Allen
Assistant to the President for National Security Affairs

Martin Anderson
Assistant to the President for Policy Development

James Scott Brady
Assistant to the President and Press Secretary

Elizabeth Hanford Dole
Assistant to the President for Public Liaison

Max L. Friedersdorf
Assistant to the President for Legislative Affairs

David R. Gergen
Assistant to the President and Staff Director

Edward L. Harper
Assistant to the President and Deputy Director of the
Office of Management and Budget

E. Pendleton James
Assistant to the President for Presidential Personnel

Franklin C. Nofziger
Assistant to the President for Political Affairs

Robert M. Garrick
Deputy Counsellor to the President

Joseph W. Canzeri
Deputy Assistant to the President and Assistant to the
Deputy Chief of Staff

Red Cavaney
Deputy Assistant to the President for Public Liaison

Richard G. Darman
Deputy Assistant to the President and Deputy to the
Chief of Staff

Kenneth Duberstein
Deputy Assistant to the President for Legislative Affairs

Craig L. Fuller
Deputy Assistant to the President and Director of the
Office of Cabinet Administration

Edwin J. Gray
Deputy Assistant to the President and Director of the
Office of Policy Development

Edward V. Hickey, Jr.
Deputy Assistant to the President and Director
of Special Support Services

Francis S. M. Hodsoll
Deputy Assistant to the President and Deputy
to the Chief of Staff

Peter McCoy
Deputy Assistant to the President and Director
of Staff for the First Lady

Powell Allen Moore
Deputy Assistant to the President for Political Affairs

James W. Nance
Deputy Assistant to the President for National
Security Affairs

Edward Rollins
Deputy Assistant to the President for Political Affairs

Karna Small Stringer
Deputy Assistant to the President and Deputy Press Secretary

Edwin W. Thomas, Jr.
Assistant Counsellor to the President

Richard Salisbury Williamson
Special Assistant to the President and Deputy to the
Chief of Staff

Douglas Leighton Badow
Special Assistant to the President for Policy Development

Richard Smith Beal
Special Assistant to the President and Director of the
Office of Planning and Development

David C. Fischer
Special Assistant to the President

Kevin Randall Hopkins
Special Assistant to the President for Policy Development

Dennis E. Le Blanc
Special Assistant to the President and Deputy Director
of Special Support Services

Helene A. von Damm
Special Assistant to the President

Melvin Bradley
Senior Advisor, Office of Policy Development

Paul Russo
Deputy Assistant for Legislative Affairs

Larry Speakes
Deputy Press Secretary

Dr. Daniel Ruge
Personal Physician to the President

M. Peter McPherson
Acting Counsel to the President

THE WHITE HOUSE

WASHINGTON

January 27, 1981

MEMORANDUM FOR PEN JAMES

FROM: FRANK HODSOLL *Frank*

SUBJECT: FERC

Mike Butler, of Andrews, Kurth, Campbell & Jones, called to say that, of the current candidates for the two FERC vacancies, Mike Butler (Senator Tower's A.A.) would make the best chairman. He reports much Hill support. Industry would go along. Industry would have no trouble with Dan Boggs for the other vacancy, but not for the chairmanship.

Date and Place of Birth

July 10, 1936
New York City, New York

Local Residence

3512 Duff Drive
Falls Church, VA 22041
(703) 578-4729

File

Education

1953-1957: BA - Amherst College, Amherst, Massachusetts
1960-1963: JD - Harvard Law School, Cambridge, Massachusetts
Summer 1963: Certificate - Academy of International Law, The Hague, Holland

Military Service

1957-1960: U.S. Navy; Operations/Electronics Office, USS The Sullivans (DD 537)
Presently: Captain, JAGC, USNR-R

Present Position

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce - since August 1979

Experience Prior to Present Position

1974-1979: Deputy Assistant General Counsel for Domestic and International Business, U.S. Department of Commerce
1972-1974: Deputy General Counsel, Inter-American Foundation (a U.S. Government Agency)
1968-1972: Regional U.S. Government Legal Adviser for Central America and Panama, resident in Guatemala, C.A.
1966-1968: Attorney Adviser for the Far East, Agency for International Development, U.S. Department of State
1963-1966: Private international/corporate/litigation law practice; Burlingham, Underwood, Barron, Wright & White, Esqs., New York City, New York

Honors and Affiliations

1979: Department of Commerce Silver Medal Award for Outstanding Achievements
1978: Department of Commerce Award as "Attorney of the Year" for 1977

Various special achievement/outstanding performance awards

Member: New York State Bar, Supreme Court Bar, U.S. District Court and other bars

Charter Member: U.S. Senior Executive Service

Completed Foreign Service Institute Spanish language course (16 weeks)

For: Jim Baker

Born January 25, 1923; Smithville, Mississippi. Family moved to Texas following year, grew up in farming area of South Texas. Entered US Army as volunteer on 18th birthday, served in defense of Philippines; awarded Purple Heart, Presidential Unit Citation with two Oak Leaf clusters and other decorations, captured by Japanese at fall of Corregidor, spent 3 1/2 years in POW camps (most of it in China on work detail). Education, Southwest Texas Junior College and Texas A&M University.

1951-1956: Reporter and finally managing editor for CUERO DAILY RECORD, a small daily newspaper in Cuero, Texas. Awarded Pulitzer Prize in 1955 for series of stories exposing fraud and corruption in Texas Veterans Land Program. Received special award from Texas Newspaper Association, and later commended by Texas Legislature for journalistic excellence etc.

1956-1963: With NEWSPAPERS INC., as Capitol Correspondent, a group of newspapers in Austin, Waco, Port Arthur and other points in Texas. Covered politics and government for the chain.

1963-1969: Served on staff of Sen. John Tower, first as Press Secretary (two years) and then as Administrative Assistant (four years). During this time also directed Sen. Tower's 1966 re-election bid, and Nixon's 1968 general election campaign against HHH in Texas.

1969-1976: With United States Information Agency in Washington. Three years as Assistant Director in charge of Agency's Press and Publications division and four years as Deputy Director (for Policy and Plans). With occasional stints as Acting Director of the Agency. In the first capacity had responsibility for world-wide teletype news file into all American Embassy operations abroad, plus responsibility for publishing plants in the Philippines, Lebanon, and Mexico, and the publication of some 60 foreign-language magazines around the world. As Deputy Director (policy and plans) was responsible for daily policy guidance to USIA officers stationed abroad (in 118 countries), and for liaison with various Departments and Agencies of government.

1976-1979: Returned to Texas September 1976 to accept position as Assistant to the Chancellor, The University of Texas System, in charge of Development office. Left after one year at Tower's request to prepare and ultimately head up his 1978 bid for re-election.

1979 - : Returned to private life and founded the Sentinel Corporation, a wholly owned consulting firm, of which I am President, dealing with business and political clients, and also has other business interests involving real property. The firm consulted in Gov. Connally's primary operation in Texas, and in seven state senate races (all Republicans) and was successful in four. In addition, I served as Deputy Press Secretary for the Ronald Reagan general election campaign, stationed in Washington.

Attn:

Kathy

x. 41750

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