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WITHDRAWAL SHEET

Ronald Reagan Library

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo	Fred Fielding to Baker re friends of the hop marketing order, et al, v. John R. Block, et al. 2 p. (p. 2, partial)	5/30/84	PS CB 10/5/00
2. memo	Fielding to Richad Darman re proposed civil rights legislation 2 p.	5/16/84	PS

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

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THE WHITE HOUSE
WASHINGTON

Date 5/31/84

FOR: Kathy Cornaleci

FROM: DAVID B. WALLER / *K. Wood*

ACTION

- For your information
- For your review and comment
- As we discussed
- For your files
- Please see me
- Return to me after your review

*Can you please
help until I get
back & don't
have keys -
Thank -*

COMMENT

*Mr. Baker signed this for David
this morning & I thought you
would want the attached for
your files.*

THE WHITE HOUSE

WASHINGTON

May 30, 1984

MEMORANDUM FOR JAMES A. BAKER, III
CHIEF OF STAFF AND
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: Friends of the Hop Marketing Order, et al. v.
John R. Block, et al., U.S.D.C. for the District
of Columbia, FS 84-0308 and FS 84-0312

I have attached for your review and recommended signature a Declaration and Claim of Privilege to be filed tomorrow morning in the U.S. District Court for the District of Columbia (Tab A). The privilege claim seeks to protect against the disclosure of eight documents, and three drafts of one of those documents (Tab B), pertaining to exchanges between and among the President, the Cabinet Council on Food and Agriculture, Ed Meese, David Stockman, Craig Fuller, Jim Jenkins, and Chris DeMuth, concerning possible amendments to USDA agricultural marketing orders.

Plaintiffs are growers of hops, a commodity covered by an agricultural marketing order which places restrictions on the quantity of hops that may be grown and marketed. USDA recently announced plans to hold hearings, under the Agriculture Marketing Agreement Act of 1937, beginning June 12, in Portland, Oregon for the purpose of considering amendments to the hop marketing order. Fearful that amendments could deprive them of favorable marketing positions under the present order, plaintiffs brought suit last week in Portland against Secretary Block to stop the hearings and rulemaking proceedings from going forward. They allege the process is tainted due to Secretary Block's predisposition to adopt, under White House pressure, certain amendments which will be prejudicial to their economic interests.

Over Justice's objections, the District Court in Portland (Judge Helen Frye) granted plaintiffs' motion to take expedited discovery. Depositions of USDA officials have been ongoing this week and plaintiffs have subpoenaed Chris DeMuth for a deposition Friday here in Washington. The subpoena, issued by the District Court for the District of Columbia, commands DeMuth to produce documents in OMB's files pertaining to proposed amendments to the hop marketing order. The scope of plaintiffs' subpoena includes all documents in OMB's files exchanged among officials of the Executive Office of the President, as well as between those officials and USDA. Justice has advised that the subpoena does not require an independent search of White House Central Files or personal files of White House staff.

Yesterday, Justice filed in the District Court for the District of Columbia a motion to quash the DeMuth subpoena, arguing that (1) it is improper for plaintiffs to take discovery before completion of an administrative proceeding (a position earlier rejected by the Oregon court); (2) it is improper to disrupt the schedules of high level government officials absent a showing of improper involvement in the administrative proceeding; and (3) the subpoenaed documents and anticipated testimony of DeMuth involve matters protected by Presidential privilege.

In support of that motion, David Stockman has asserted a claim of qualified Presidential privilege over all subpoenaed documents except those going to or from the President, his immediate staff or the Cabinet Council on Food and Agriculture. As to this latter category, I recommend that you assert a claim of absolute Presidential privilege similar in format to the one you executed last October in Kerr-McGee v. James Watt (which has yet to be ruled on by the District Court here in Washington). As you know, in civil litigation a qualified claim of Presidential privilege, not embracing communications to the President or his immediate staff, can be overcome by a showing of great need. An absolute claim of Presidential privilege, however, like a claim of military and state secrets privilege, cannot be overcome by a showing of need no matter how strong.

For your information, there are no "smoking guns" in any of the documents covered by your or David Stockman's claim. (Plaintiffs might find mildly entertaining the April 15, 1983 memorandum from David Stockman to the President relying on a photograph of oranges rotting on trees in a citrus grove to demonstrate possible ill effects of federal marketing orders, or Jim Jenkins' April 22, 1983 memorandum to Ed Meese defending marketing orders from the standpoint of one whose family "was in citrus".)

As you know, claims of Presidential privilege ordinarily are not filed until all non-privilege bases for objection have been exhausted. In the instant case, however, given the adverse ruling last week by the presiding court in Portland and the likelihood that any seriatim approach to raising our objections in the District of Columbia will be characterized by plaintiffs to the Oregon court as stonewalling, Justice has recommended raising all objections at this time. This tactic will also provide a stronger record in the event the motion to quash is unsuccessful and we decide to appeal.

I concur in Justice's recommended action.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FRIENDS OF THE HOP MARKETING ORDER,)	
et al.,)	
)	Civil No. FS 84-0308
Plaintiffs,)	
)	Civil No. FS 84-0312
v.)	
)	[Civil No. 84-523
JOHN R. BLOCK, Secretary of the)	D. Ore.]
Department of Agriculture, et al.,)	
)	
Defendants.)	

DECLARATION AND CLAIM OF PRIVILEGE

I, JAMES A. BAKER, III, state as follows:

1. I am White House Chief of Staff and Assistant to the President of the United States, having held that position throughout the current Administration.

2. I am generally aware of the above-captioned lawsuit in which plaintiffs challenge Secretary Block's announced decision to commence statutory proceedings, under the Agriculture Marketing Agreement Act of 1937, to consider amendments to the Hop Marketing Order.

3. I am aware of a subpoena duces tecum and ad testificandum issued by the Clerk of this Court on May 24, 1984, directing Christopher DeMuth, Administrator for Information and Regulatory Affairs of the Office of Management and Budget ("OMB"), Executive Office of the President, to produce documents and give deposition testimony in this action. A copy of the

subpoena is attached to the Affidavit and Claim of Privilege of David A. Stockman, Director of the Office of Management and Budget, filed in this matter.

4. I am informed that, in response to this subpoena, OMB caused a search to be made of its files.

5. I am further informed that the foregoing search resulted in the gathering of documents that may be within the scope of the subpoena.

6. Certain of those documents, which are identified in Appendix A, copies of which have been provided to me, involve communications to or from the President; the Cabinet Council on Food and Agriculture (a subgroup of Cabinet Secretaries responsible for formulating advice for the President on issues relating to food and agriculture); Edwin Meese III, Counsellor to the President; or Craig Fuller, Assistant to the President for Cabinet Affairs. They reflect the deliberations, considerations, analyses, and recommendations of the White House staff, members of the Cabinet, and officials of OMB concerning the Administration's position regarding agricultural marketing orders, including the hop marketing order. Each document in this category, in my opinion, is subject to a claim of privilege as specified below.

7. An essential requirement of the governmental decision-making process is that government policy makers be able to engage in a free and candid exchange of views concerning policy and its implementation. This is particularly critical

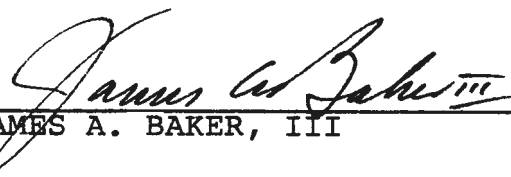
when the exchange of views is designed to present advice and recommendations directly to the President. An important aspect of this Presidential advisory process is to assist the President in developing cohesive Administration policy for purposes of guiding his Cabinet in the lawful discharge of statutory responsibilities, including matters delegated to the Secretary of Agriculture by the Agriculture Marketing Agreement Act of 1937. The efficiency of this advisory process would be severely impaired if the President and his staff must face the prospect that their exchanges of views, as well as the very process of advice giving, may be disclosed, either during the process or thereafter, especially to persons having hostile interests to the policy views under consideration.

8. It is my judgment that disclosure of the materials identified in Appendix A would breach the important principles described above, and therefore would be injurious to the United States Government's discharge of its responsibilities and contrary to the public interest. I, therefore, assert, as authorized by the President, a formal claim of privilege concerning the materials identified in Appendix A.

9. For the foregoing reasons, I further assert privilege with respect to testimony concerning communications to the President and his immediate staff that may be sought of Mr. DeMuth through the referenced subpoena or of any other member of the Executive branch in this case.

In accordance with 28 U.S.C. § 1746, I hereby declare and affirm under penalty of perjury that the above statements are true and correct to the best of my knowledge, information and belief.

Signed this 31st day of May, 1984.



JAMES A. BAKER, III

APPENDIX A TO DECLARATION AND CLAIM OF
PRIVILEGE OF JAMES A. BAKER, III

1. Memorandum dated April 6, 1983
To: Members of the Cabinet Council on Food and
Agriculture
From: David A. Stockman, Director, Office of
Management and Budget
Subject: Market Order Production Controls
Three pages

2. Memorandum dated April 6, 1983
To: The Cabinet Council on Food and Agriculture
From: Danny J. Boggs, Executive Secretary,
Cabinet Council on Food and Agriculture
Subject: Agricultural Marketing Orders for Fruits,
Vegetables, and Specialty Crops
Six pages, and two attachments totalling three pages

3. Memorandum dated April 14, 1983
To: The President
From: The Cabinet Council on Food and Agriculture,
John R. Block, Chairman Pro Tempore
Subject: Agricultural Marketing Orders
Five pages, plus three drafts of same, one dated April 14,
1983 and two dated April 12, 1983

4. Memorandum dated April 15, 1983
To: The President
From: David A. Stockman, Director, Office of Management
and Budget
Subject: Decision on Marketing Orders
One page

5. Memorandum dated April 22, 1983
To: Edwin Meese III, Counsellor to the President
From: James E. Jenkins, Deputy Counsellor to the
President
Subject: Marketing Orders
Two pages

6. Memorandum dated April 25, 1983
To: Edwin Meese III, Counsellor to the President
From: Christopher DeMuth, Administrator for Information
and Regulatory Affairs, OMB
Subject: Marketing Order Production Controls
Four pages

7. Cabinet Affairs Staffing Memorandum dated April 26, 1983
To: Richard Darman, Assistant to the President and
Deputy to the Chief of Staff
James Jenkins, Deputy Counsellor to the President
Informational copies to the Vice President and OMB
From: Craig L. Fuller, Assistant to the President for
Cabinet Affairs
Subject: Marketing Order Program
One page

8. Undated Letter
To: Edwin Meese III, Counsellor to the President
From: John R. Block, Secretary of Agriculture
Subject: Agricultural Marketing Orders
One page, plus one-page attachment

THE WHITE HOUSE

WASHINGTON

May 29, 1984

MEMORANDUM FOR FAITH WHITTLESEY
ASSISTANT TO THE PRESIDENT
FOR PUBLIC LIAISON

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Invitation from the American International
School Foundation of Zurich, Switzerland

This will respond to your request for our views as to whether the American International School Foundation of Zurich, Switzerland, a § 501(c)(3) organization, may pay your travel and lodging expenses in connection with your acceptance of its invitation to you to speak to its faculty and trustees, and the Swiss American Chamber of Commerce in Zurich, Switzerland.

Assuming that this foreign travel has been approved by the Chief of Staff, we have no legal objections to the American International School Foundation paying your travel expenses if you accept this invitation. You should note, however, that if you do accept this invitation, you should maintain a record of the expenses related to your travel and lodging so that it may be included on your next public financial disclosure report.

cc: James A. Baker, III ←

THE WHITE HOUSE
WASHINGTON

May 22, 1984

R.F.

MEMORANDUM FOR EDWIN MEESE III
JAMES A. BAKER, III

FROM: FRED F. FIELDING

SUBJECT: Appeals of Cases Concerning Firing
of Air Traffic Controllers

On May 18, 1984, the United States Court of Appeals for the Federal Circuit affirmed all but one of the "lead cases" filed by former air traffic controllers who were removed from their positions as a result of their participation in the strike against the United States in August of 1981. In doing so, the Court found in favor of the government on all major substantive issues and found generally that the discharge of the controllers was proper.

In Schapansky v. Department of Transportation, one of the 11 lead case decisions, the Court sustained the Board's allocation of the burden of proof of strike participation, finding that once the government demonstrates that an employee is absent without authorization during a strike of general knowledge, the burden of going forward with evidence that the absence was not due to striking shifts to the employee. The Court also sustained the agency's determination to remove the controllers rather than institute some lesser penalty. The government's decision to provide the controllers with less than 30 days' notice of their removal -- a decision founded upon the finding that they had committed an offense punishable by a fine or imprisonment -- was also sustained.

In Johnson v. Department of Transportation, the Court rejected the petitioner's contention that his participation in the strike was a result of duress imposed upon him by other striking controllers. In doing so, the Court affirmed the Board's decision to use an objective, rather than a subjective standard of proof of coercion. In Johnson, the Court also found that the agency had demonstrated a nexus between striking and the efficiency of the service.

The Court decided numerous other issues in sustaining the removals: that there was nothing improper in the actions of the President before and during the strike, Adams v. Department of Transportation; that the strike activity was not excused by alleged confusion over the Presidential deadline for returning to work, Adams; that the Board properly drew an adverse inference from a controllers' failure to testify in his own behalf, Adams; that the controllers were not unlawfully suspended during the

pre-discharge notice period, Adams; that the agency acted properly and in conformance with the collective bargaining agreement in cancelling annual leave during the strike, Letenyei v. Department of Transportation; and that the controllers were given the required seven days within which to respond to the charges against them, Adams.

The only one of the lead cases in which the government did not prevail was Letenyei. In a decision limited to the facts of that case, the Court held that the agency had not carried its burden of proving that Mr. Letenyei had actually participated in the strike. The case was remanded to the Board for further proceedings.

Though not a lead case, the Court also issued a decision in a related case arising out of the strike by air traffic controllers. In Brown v. Department of Transportation, the Court affirmed in part and reversed in part a Board decision which sustained the removal of a non-striking supervisor for advocating the continuance of the strike at a union meeting. The Court found that Mr. Brown's speech was not protected by the First Amendment because the agency's interest in responding to a national emergency was more substantial. It also found that the government had demonstrated a nexus between the speech and the efficiency of the service. However, the Court determined that removal was too harsh a penalty for the offense and remanded the case to the Board for mitigation of the penalty.

The Court's decisions in the lead cases confirm that the actions taken by the government in response to the emergency created by the strike by the controllers were appropriate. It is clear from the Court's decisions today that both the FAA and the MSPB properly carried out the functions assigned to them by the Civil Service Reform Act of 1978.

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

WE

COPY

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: James K. Coyne

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Guidance on Private Sector Initiatives
Project (x Fundraising)

ROUTE TO:	ACTION	DISPOSITION			
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CJH011</u>	<u>ORIGINATOR</u>	<u>83 10 13</u>		<u>C</u>	<u>83 10 13</u>
	Referral Note:				
<u>CJAT11</u>	<u>B</u>	<u>83 10 13</u>		<u>C</u>	<u>83 10 13</u>
	Referral Note:				
<u>CWFIEL</u>	<u>S</u>	<u>83 10 13</u>	<u>FF</u>	<u>A</u>	<u>83 10 13</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				

- ACTION CODES:**
- A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
 - I - Info Copy Only/No Action Necessary
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply
- DISPOSITION CODES:**
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: May 31 83 copy of FFF memo to James Coyne re: Fundraising all attached

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOb).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE
WASHINGTON

Date 6.14.83

Suspense Date _____

MEMORANDUM FOR: KFF

FROM: **DIANNA G. HOLLAND.**

ACTION

- Approved
- Please handle/review
- For your information
- For your recommendation
- For the files
- Please see me
- Please prepare response for _____ signature
- As we discussed
- Return to me for filing

COMMENT

She would like for you to
review and sign the
attached today so that
Norma will have this
guidance for the meeting
tomorrow.

THE WHITE HOUSE

WASHINGTON

June 13, 1983

MEMORANDUM FOR JAMES K. COYNE
Special Assistant to the President
for Private Sector Initiatives

FROM: FRED F. FIELDING Orig. signed by FFF
Counsel to the President

SUBJECT: Guidance on Private Sector Initiatives Projects

151-780

During the past several weeks, we have worked with your staff on numerous projects and responded to general inquiries concerning the scope of their activities. In order to provide you and your staff with more comprehensive guidance, we have collected the subjects on which we have informally opined into the attached memorandum for distribution to, and use by, your staff.

We encourage your staff to continue to consult with us on these subjects; the enclosure is intended only to be a reference guide, not a substitute for the good consultation procedures your staff has established.

FFF:DEW:jlk
FFFfielding ✓
DEWilson
Subject
Chron

THE WHITE HOUSE

WASHINGTON

June 13, 1983

MEMORANDUM FOR JAMES K. COYNE
Special Assistant to the President
for Private Sector Initiatives

Re: Private Sector Initiatives Office

This memorandum provides the Private Sector Initiatives Office with guidance concerning raising money from the private sector and related issues such as receipt of gifts (both institutionally and personally); solicitation for governmental, charitable and political purposes; and the use of volunteers. This memorandum does not, of course, cover every possible situation that might arise in these areas, nor is it intended to be a substitute for the comprehensive guidelines set forth in the White House Standards of Conduct. Please do not hesitate to continue to consult with us as events dictate.

I. Receipt of Gifts

A. The White House Office

The White House Office, of which the Private Sector Initiatives Office is part, does not have authority to accept gifts. This authority can only be conferred by Congress and it has not chosen to give gift receipt power to the White House Office. Therefore, any gift tendered to a staff member for the use of the White House Office (as opposed to a personal gift) must be refused and returned.

The General Services Administration (GSA) has jurisdiction over the East and West Wings of the White House and the Old Executive Office Building. The Administrator of GSA is authorized to accept, on behalf of the United States "unconditional gifts of real, personal or other property in aid of any project or function" within his jurisdiction. 40 U.S.C. § 298a (1976). Persons who want to present gifts intended for use in these areas should be directed to GSA. It must be noted, however, that such gifts cannot be received subject to any conditions whatsoever; the donor cannot be assured that the gift will be used in the White House compound. See 2 Ops. Office of Legal Counsel 349, 351 (No. 78-79, Ap. 27, 1977).

Gifts of furniture and furnishings for use in the White House itself (the Residence) are permitted, 3 U.S.C. § 110 (1976), but White House staff members have no authority to receive them. If such a gift is tendered, it should be immediately returned to the donor with an explanation that the Director of the National Park Service has authority to receive such gifts. Persons desiring to make donations other than furniture and furnishings, such as money, for the Residence should be directed to the Secretary of the Interior. 16 U.S.C. § 6a (1976). See 2 Ops. Office of Legal Counsel 349,350 (78-79, Ap. 27, 1977). If situations in this area arise, please do not hesitate to contact this Office for assistance.

While staff members are not to receive gifts on behalf of the President and First Lady absent prior approval of this Office, unsolicited gifts should be immediately forwarded to the Gift Unit, a section within Presidential Correspondence, for appropriate recordation and handling. White House Staff Manual at A-9 ("Staff Manual").

B. Personal Gifts

The White House Standards of Conduct prohibit a staff member from soliciting or accepting a gift, favor, or anything of monetary value from a corporation or person he "knows or has reason to believe" (1) has, or is seeking to obtain, contractual or other business dealings with any department or agency in the Executive branch; (2) conducts activities regulated by any department or agency in the Executive branch; or (3) has any interest which may be substantially affected by the staff member's performance of his job. Staff Manual at E-8. Examples of persons in these categories are those who might be seeking administration assistance on legislation, or seeking regulatory relief. Violations of the White House Standards of Conduct are, generally speaking, also violations of the government-wide standards of conduct, 5 C.F.R. § 735.201a, and, in certain instances, provisions of Title 18, the Criminal Code. See 18 U.S.C. §§ 201-11.

While the Standards of Conduct do not prohibit receipt of gifts of nominal value, such as refreshments or entertainment in the course of a luncheon or dinner meeting on an infrequent basis, they do prohibit receipt of travel expenses and lodging except in certain circumstances. Offers of gifts in this last category should be refused unless approved beforehand by this Office.

II. Solicitation

Since the White House Office lacks gift receipt authority, staff members have no reason to solicit money or any other thing of

value for use in the White House or in support of any Governmental programs. Fundraising for charitable or political purposes, of course, are special categories. Activities in these areas are closely regulated and must have the prior approval of this Office. See Staff Manual at E-2, E-3.

Lack of gift receipt authority aside, the Standards of Conduct prohibit staff members from raising money from any person or entity of the type discussed in Section I, B of this memorandum. See Staff Manual at E-8. In practical effect, this rule forecloses almost all fundraising by White House staff members. The possibility for the appearance of trading on one's position here or taking a favorable view toward a particular matter in return for a gift or contribution to an Administration project is simply too great to allow any staff member to undertake fundraising for any purpose without a thorough examination of the matter and prior approval of this Office.

It is important to recognize that these rules also apply to Special Government Employees (SGEs) of the White House Office. SGEs are usually members of Presidential advisory committees and are subject to most of the same rules that apply to full time employees while they are meeting or representing themselves as members of the advisory committee. If, as is currently planned, the Private Sector Initiatives Advisory Committee is attached to the Department of Commerce, then its members will be SGEs of that Department and different rules may apply. In the event questions arise in this area, please contact this Office.

III. Use of Volunteers

Subject to some limitations, the White House Office has authority to use volunteers. The general rules in this area are that (1) the White House Office may hire employees without compensation; (2) the employees are exempt from the Hatch Act restrictions on political campaigning; and (3) private organizations may, in general, pay the salaries of such employees.

The limitations on the use of volunteers correspond to the general rules. First, there should be a formal document relating to the appointment of the volunteers specifying that they will not receive government compensation. This document should be signed and dated by each volunteer before he or she enters into government service as a precaution against later claims for compensation against the government.

For purposes of the Hatch Act, volunteers to the White House Office are considered to be employees "paid from the appropriation for the office of the President." 5 U.S.C. § 7324(d)(1). The Office of Legal Counsel, Department of Justice, has interpreted "office of the President" to mean the "White House Office"

- and such employees are, by statute, not subject to the restrictions on political activity that apply, in general, to all other federal employees. Memorandum for Fred F. Fielding, Counsel to the President, from Theodore B. Olson, Assistant Attorney General, OLC, March 9, 1982 at 5 & n. 4. However, to the extent the volunteers might be to an advisory committee attached to another agency (such as the Department of Commerce), such volunteers would be subject to the Hatch Act.

FFF:DEW:jlk
FFFielding
DEWilson
Subject
Chron✓

THE WHITE HOUSE

WASHINGTON

June 13, 1983

MEMORANDUM FOR FRED F. FIELDING

THROUGH:

RICHARD A. HAUSER *RAH*

FROM:

D. EDWARD WILSON, JR. *D.E.W., Jr.*

SUBJECT:

Fundraising for the President's Private Sector
Task Force on Private Sector Initiatives

Attached at Tab 1 is a May 27, 1983 memorandum to you suggesting that you send a memorandum to Jim Coyne outlining areas of potential interest to him relating to fundraising from private sources for private sector initiatives projects. After discussing the matter with RAH, a revised format was agreed upon and is attached along with a transmittal memorandum at Tab 2.

THE WHITE HOUSE

WASHINGTON

May 31, 1983

MEMORANDUM FOR JAMES K. COYNE
Special Assistant to the President
for Private Sector Initiatives

FROM: FRED F. FIELDING
Counsel to the President

SUBJECT: Fundraising

The question Craig Fuller recently posed concerning federal funding for Private Sector Initiatives projects led us to review memoranda we have received from the Office of Legal Counsel, Department of Justice, and others on the various aspects of this topic. In view of the broad range of activities you are and will be working on, particularly once the new executive order is finalized and signed, this memorandum outlines areas of potential interest to you relating to raising money from the private sector.

The White House Office does not have authority to accept gifts. While Congress has authorized several departments and agencies (such as the Department of Commerce and the United States Information Agency) to receive gifts, it has never passed legislation giving the White House this power. Absent such legislation, any gift tendered to a staff member for the White House Office (as opposed to a personal gift) must be refused. Acceptance of a gift absent statutory authorization is an illegal augmentation of appropriations. As you will recall, this is a method by which Congress keeps check on the Executive branch.

On a personal level, it is a violation of the White House Standards of Conduct for a staff member to solicit or accept a gift, favor, or anything of monetary value from a corporation or person he "knows or has reason to believe" (1) has, or is seeking to obtain, contractual or other business dealings with any department or agency in the Executive branch; (2) conducts activities regulated by any department or agency in the Executive branch; or (3) has any interest which may be substantially affected by the staff member's performance of his job. White House Staff Manual at E-8. This last category extends to persons who might be seeking administrative help on legislation. Violation of the White House Standards of Conduct are, generally speaking, also violations of the government-wide standards of conduct, 5 C.F.R. § 735.201a, and, in certain instances, provisions of Title 18, the Criminal Code. See 18 U.S.C. §§ 201-11.

This rule bars all White House staff members from soliciting from an entity or person of the type listed in the White House Standards of Conduct (E-8), and for any purpose other than for a recognized charity or non-profit organization. In practical effect, this forecloses any fundraising by a staff member without prior approval of this Office. The possibilities for the appearance of trading on one's position here or taking a favorable view toward a particular matter in return for a gift or contribution to an Administration project is simply too great for any staff member to undertake fundraising without a thorough examination of the matter.

We have, for example, applied this rule to bar White House employees from raising funds for the President's Private Sector Survey on Cost Control. Members of the Survey's Executive Committee were allowed to solicit funds for this project only after the Department of Commerce, which administers the Survey, provided us with a formal opinion on this issue.

The rule does not, of course, prohibit political fundraising by members of the staff paid from the appropriations for the White House Office. Staff Manual at E-2. However, requests from staff members to participate in political fundraising are routinely processed through this Office.

A final topic of possible interest to you is the use of volunteers in the White House. Our authority here contrasts with that applicable to gifts. Unlike many agencies, the White House Office has authority to use volunteers, subject to some limitations. If you foresee opportunities where you might plan to use employees serving without compensation ("WOCs"), please let me know and we will provide you with necessary guidance.

THE WHITE HOUSE
WASHINGTON

May 12, 1983

MEMORANDUM FOR CRAIG L. FULLER
Assistant to the President
for Cabinet Affairs

FROM: FRED F. FIELDING Orig. signed by FFF
Counsel to the President

SUBJECT: Memorandum to Secretary Heckler from James Coyne
re: Partnerships Dataline

At your request, we have reviewed the proposed memorandum to Secretary Heckler asking the Department of Health and Human Services to contribute \$200,000 to "Partnerships Dataline USA," a program developed by the Private Sector Initiatives Office.

In direct response to your request as to the "appropriateness of sending this directive," we see no legal impediment to your requesting the Department of Health and Human Services to participate in this project. As a policy matter, however, we are not convinced that the Federal Government should be involved in providing funds to this enterprise, even though the merit of "Partnerships Dataline USA" is not in dispute.

The Private Sector Initiatives Office was, like the President's Private Sector Survey on Cost Control, established with the idea that it would be funded entirely from the private sector. In view of our continuing requirement that the Grace Commission be self-funded, it might appear incongruous to recommend federal funding, even if only \$200,000, for this project.

If it is decided that the memorandum to Secretary Heckler should be sent, then we would suggest that the typographical error on page two, paragraph 1 be corrected. In the last sentence of that paragraph the word "Administration's" should be changed to "Administration."

FFF:DEW:jlk
FFFielding
DEWilson ✓
Subject
Chron

COPY

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

W9104

Sherrill - direct

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1/1

Name of Correspondent: Michael P. Costini

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Eureka College and fundraising

ROUTE TO:		ACTION		DISPOSITION	
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
<u>W Holland</u>		ORIGINATOR	<u>84,04,12</u>		<u>C 84,05,02</u>
<u>WAT 17</u>		Referral Note:	<u>Ref. 84,04,13</u>	<u>SMC</u>	<u>A 84,05,02</u>
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- ACTION CODES:
- A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

- DISPOSITION CODES:
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: SMC response by phone

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE

WASHINGTON

May 1, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: SHERRIE M. COOKSEY *SMC*

SUBJECT: Eureka College

Michael Castine sent a memorandum on the President's communications with him regarding Eureka College to Dick Darman who forwarded it to you. The memorandum stated that the President was concerned about the financial difficulties of his alma mater and asked Castine if he could advise the appropriate people in the private sector about the College's problems.

Castine called Dr. Gilbert (President of Eureka College) to ascertain the school's financial status; Gilbert confirmed that it was experiencing a cash flow problem. Castine then called Bill Verity (former head of the Private Sector Initiatives Task Force) for suggestions on who should be contracted to assist Eureka College. Verity suggested that Castine put Dr. Gilbert in touch with Bill White of the Mott Foundation; Castine did so.

Castine has informed me that he, Dr. Gilbert and the President are well aware of the fact that members of the White House staff cannot participate in the fundraising efforts of Eureka College. At this point, Castine believes that by putting Dr. Gilbert in touch with representatives of the Mott Foundation (who will advise Eureka College on new fundraising procedures), he has done all that is permissible for him to do on behalf of Eureka College.

Castine will call me if any additional requests on this matter arise.

*I met w/ Dr Gilbert
+ he expressed support
for aid of our "guardians" +
agrees w/ it. He is on
guard. P/S pass on to
Castine + to Coyne -
No prof's here unless we
cause them -
5/1
done SMC
5/2*

THE WHITE HOUSE

WASHINGTON

May 3, 1984

MEMORANDUM FOR RICHARD DARMAN

FROM: MICHAEL P. CASTINE, *Michael P. Castine*
PRIVATE SECTOR INITIATIVES

SUBJECT: MEMORANDUM FOR THE PRESIDENT

I would respectfully like to request that the attached memorandum be added to the President's Read File.

The subject is an update about Eureka College and its fundraising problems which the President asked me to look into prior to his trip to China.

A copy has been sent to Fred Fielding and I have had numerous discussions with his staff regarding this issue.

Thank you.

cc. Fred Fielding

THE WHITE HOUSE

WASHINGTON

May 3, 1984

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: MICHAEL P. CASTINE
PRIVATE SECTOR INITIATIVES

SUBJECT: EUREKA COLLEGE ENDOWMENT

I. SUMMARY

Following our initial conversation I spoke with Dr. Daniel Gilbert, President of Eureka College, to assess the funding situation at the school. The problem appears to be short-term since large sums of money have been pledged but will not be received until next year. The private sector network has been alerted and is eager to help Dr. Gilbert meet the short-term cash flow problem.

II. DISCUSSION

Dr. Gilbert is thankful for your interest and pleased that members of the private sector have been contacted on his behalf. To bring you up to date, the Mott Foundation has representatives meeting with Eureka staff to determine how they may help. Also, numerous members of the business community and former members of the Task Force on Private Sector Initiatives are being asked by Gilbert and his staff to lend assistance. They understand the sensitivity of White House staff being involved with fundraising activities and, therefore, are not relying on us to do more than what is legally permissible.

THE WHITE HOUSE

1984 APR 11 AM 10:19

WASHINGTON

April 10, 1984

→ FRED FIELDING

MEMORANDUM FOR RICHARD DARMAN

FROM: MICHAEL P. CASTINE, DEPUTY DIRECTOR - MPC
PRIVATE SECTOR INITIATIVES

221997 *cl*

SUBJECT: EUREKA COLLEGE

This is just to inform you that the President called me last week regarding a cash flow problem at his alma mater, Eureka College. The President was not contacted by Eureka, apparently he learned of it himself.

I have been in touch with Dr. Daniel Gilbert, the President of Eureka, Bill Verity, and Bill White of the Mott Foundation. Mike Redick, Vice President of the Mott Foundation, and a former director of development for the University of Michigan, will be travelling down to Eureka on the 17th of April to review their books and current development programs. He will then devise new strategies for fundraising in the areas of alumni contributions, major donor programs and long range development. He will be reporting back to us after this visit.

Obviously, due to the fundraising nature of this problem, as White House staff we will be limited in our involvement.

The President called me again yesterday to check on the situation and I informed him of these developments. I will continue to keep you apprised of the situation.

THE WHITE HOUSE

WASHINGTON

May 16, 1984

Baker
To KZ
JAB R.F.
✓

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT AND
DEPUTY TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Civil Rights Legislation

After carefully reviewing the proposed memorandum for the President on the above-referenced subject that was circulated this morning, I think there are a number of points that need to be considered before we become wedded to any particular position or legislative option on this important issue.

° First, this matter will not be ready for a Presidential decision until we have some idea of Congressional reaction to possible legislative options. Obviously, then, I agree that the thinking of the leadership needs to be explored; but the exploration should not start from the premise that there is any absolutely established Administration position, at this stage, on the various proposals that have been advanced.

° As to the memorandum's statement that I endorse its "option 3," I agree that this option seems preferable among the three listed and based on what we know now. As noted above, however, I think we need to test Congressional thinking far more thoroughly before we arrive at a final position. More important, I think there is a fourth option, explained below, that merits consideration.

° The three options presented by the memorandum are (1) oppose any legislation (which, practically speaking, is no longer considered a real option); (2) support Schneider/Packwood (which the memorandum suggests may also not be a practical option, given current sentiment on the Hill); and (3) support elimination of program specificity for Title IX, and add to that Title's anti-sex discrimination provisions prohibitions against age, race and handicapped discrimination.

As I understand the arguments, however, critics of Grove City are concerned about program specificity, and say that changes in all civil rights statutes are needed because the Grove City rationale for Title IX would apply to similar or identical jurisdictional language in those other statutes. Critics of Kennedy/Packwood complain, though, that the bill does far more than simply eliminate program specificity. It seems to me

that the logical Administration response, then, would not be to offer to "add" things to Title IX (which would not address the concerns over whether program specificity applies to other civil rights statutes), but rather to propose a bill that will in fact do no more than what Kennedy/Packwood's principal sponsors say it is intended to do -- to wit, eliminate program specificity across the board, but do no more than that.

This approach -- i.e., "We have no problem with what Kennedy/Packwood sponsors say they're doing, and here's how we can write a bill that in fact does that, without creating all these other problems" -- may make more sense and have a better chance of succeeding than trying to "bid" against Kennedy/Packwood with "add-ons" that apply only to Title IX.

° Whatever approach is adopted, it would be helpful to have the Department of Justice prepare a legal analysis for review by appropriate members of the Congressional leadership. The analysis should be restrained and non-polemical in tone, and should explain exactly what the potential problems with the Kennedy/Packwood legislation would be -- with an emphasis on how the bill in fact makes far greater changes than its purported intent of simply eliminating program specificity. Of course, if it is decided that the option outlined above merits consideration, Justice could also draft appropriate amendments to Kennedy/Packwood (or to Schneider/Packwood), together with an accompanying analysis.

° Finally, we noted a number of minor errors that should be corrected in preparing any final memorandum for the President. E.g., throughout the memorandum, "Snyder/Packwood" should be "Schneider/Packwood"; in the first paragraph on page 2, "support for opposition" should be "support or opposition"; in the second paragraph on that page, "considered" should be "considers"; in the second full paragraph on page 3, there is an "and" missing between "Dole" and "is"; in the descriptions of options 2 and 3, the legislation being described would not "clarify" the Title IX language, but would "change" it; and in the first paragraph on page 4, the sentence "It adds an age, race and handicapped to Title IX" is missing a word or two.

cc: Edwin Meese III
James A. Baker, III ←
Michael K. Deaver
M.B. Oglesby
John A. Svahn

THE WHITE HOUSE
WASHINGTON



May 14, 1984

MEMORANDUM FOR JAMES A. BAKER, III
CHIEF OF STAFF
AND ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

RE: SCHEDULE - 5/18-22

I am scheduled to attend the Judicial Conference of the District of Columbia Circuit from May 20-22. In view of this commitment (and the fact that Maria is suffering her 40th birthday), I plan to leave the office and town on the afternoon of Friday, May 18th, so we can spend an extra 1½ days at Williamsburg. My staff will alert me to any major problems.

I'll be back mid-afternoon on the 22nd.

THE WHITE HOUSE
WASHINGTON
May 9, 1984

JAB R.F. PLS.
TO KC
✓

MEMORANDUM FOR EDWIN MEESE III
JAMES A. BAKER, III ←
JOHN S. HERRINGTON
M.B. OGLESBY
MARGARET D. TUTWILER

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Federal Judicial Selections

I. Meeting of the President's Federal Judicial Selection Committee

The Justice Department has requested an additional one-week delay in the scheduled meeting of the Judicial Selections Committee. Accordingly, we have rescheduled that meeting for Wednesday, May 16, at 4:00 p.m. in the Roosevelt Room. For your information, the anticipated agenda for that meeting will include discussions of the candidates for the 5th Circuit Court of Appeals, the U.S. District Court for the Eastern District of Michigan, the United States Claims Court and Tax Court; a report on the qualifications of Judge Gaertner for the Court of International Trade; and a discussion of the status of Senator Wilson's recommendations for the U.S. District Court for the Northern District of California and the U.S. Marshal for the Southern District of California. The agenda materials for this meeting will be circulated to you by close of business Monday, May 14.

II. Recommendation for the U.S. District Court for the Eastern District of Texas

The Justice Department has recommended initiation of the background investigations on Howell Cobb as the candidate to fill the current vacancy on the U.S. District Court for the Eastern District of Texas. Cobb was recommended for this position by Senator Tower.

Cobb, 61, is a partner in the firm of Orgain, Bell & Tucker in Beaumont, Texas, where he has practiced law for 30 years. Before moving to Beaumont, Cobb practiced law in Houston for five years. He has been an active trial lawyer in both state and Federal courts since 1951. Justice reports that he enjoys an excellent reputation for character and competence among members of the legal community in Texas and that his performance in court "is marked by intelligence, coolness, good writing, conscientiousness, and thoroughness."

Both Cobb and his wife have been active Republicans in Jefferson County, Texas since 1956. He is generally regarded as conservative to moderate politically, and those who know him believe that, based upon his background, he would be a judicial conservative as well.

Justice states that although Cobb is "slightly" older than most of our judicial appointees, he appears to be "fully capable of serving competently on the bench for a substantial period of time," as he is reported to be in "robust health."

Recommendation: That we initiate the background checks on Howell Cobb as the selected candidate for appointment to the U.S. District Court for the Eastern District of Texas.

Attachment: Resume of Howell Cobb

PERSONAL: Married to Amelie Suberbielle Cobb
ADDRESS: 1385 Thomas Road, Beaumont, Texas
CHILDREN: Catherine Cobb Cook, Howell Cobb III,
Mary Ann Walton, Caroline Cobb, Thomas H. Cobb,
John Cobb
DATE OF BIRTH: December 7, 1922
Atlanta, Georgia

EMPLOYMENT: ORGAIN, BELL & TUCKER - Partner, 1957-Present
470 Orleans Street Associate, 1954-1957
Beaumont, Texas 77701

Kelley & Ryan - 1949-1951
Gulf Building
Houston, Texas 77002

Fountain, Cox & Gaines - 1951-1954
Gulf Building
Houston, Texas 77002

EDUCATION: Attended St. John's College
Annapolis, Maryland 1940-1-2
University of Virginia - 1946-1948
Undergraduate and School of Law LL.B. 1948

MILITARY: United States Marine Corps. 1943-1945
Single Engine Pilot; 1st Lieutenant, Pacific
Peleliu, Majuro, Guam, Ulithi in Pacific
Flew Fighters and dive bombers
VMSB 234, VMF 122 Overseas
Instructor, Pensacola N.A.S. 1945

PROFESSIONAL: Admitted to Georgia Bar 1948; Texas Bar 1949.

Active trial lawyer since 1951. Trial of cases
in state district courts in Harris, Montgomery,
Jasper, Hardin, Newton, Jefferson, Liberty,
Chambers, Orange, Sabine Counties, Texas.

Active trial lawyer in United States District Court
Eastern District of Texas and Southern District
of Texas, Fifth Circuit Court of Appeals, and
one trial in United States Supreme Court

Mostly civil trial practice. Includes tort,
contract, libel, construction disputes, condemna-
tions, products liability, negligence, deceptive
trade practices, anti-trust, trespass to try
title (land), malpractice, commercial law,
marine torts, bankruptcy.

Rated Av in Martindale-Hubbell Law Directory since
1962; Member Texas Bar Association, American Bar
Association, Jefferson County Bar Association;
Fellow, Texas Bar Foundation; Member, American
Board of Trial Advocates; International Association
of Insurance Counsel.

POLITICAL:

Active in Republican Party in Jefferson County, Texas since 1956. Worker in Eisenhower campaign, 1956; Nixon campaigns, 1960, 1968, 1972; Goldwater campaign, 1964; Tower campaigns, 1966, 1972, 1978. Candidate for Republican County Chairman, 1968. Delegate to all Republican County Conventions, 1968-1970. Delegate, or alternate, to Republican State Conventions, 1970-1982. Chairman of Tower for President Committee of Jefferson County, 1968. Member, Tower Senate Club, 1968-. Precinct Chairman, Precinct 68, Jefferson County, Texas, 1974 to present.

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR THE ATTORNEY GENERAL

EDWIN MEESE III
JAMES A. BAKER, III ←
JOHN S. HERRINGTON
D. LOWELL JENSEN
TEX LEZAR
M.B. OGLESBY
MARGARET D. TUTWILER

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Summary of Decisions Relating
to Federal Judicial Selections

Set forth below is a summary of the decisions on Federal Judicial appointments reached at the last meeting of the President's Federal Judicial Selections Committee, and of other related judicial selections decisions. The next meeting is scheduled for Thursday, May 3 at 5:00 p.m. in the Roosevelt Room.

I. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

The President has selected Franklin S. Billings, Jr., Chief Justice of the Vermont State Supreme Court, as the candidate for appointment to this vacancy. Accordingly, the background investigations on Billings have been initiated.

II. U.S. COURT OF INTERNATIONAL TRADE

The Justice Department has requested more time to review the qualifications of Missouri Judge Gary M. Gaertner as a candidate for appointment to this court.

Additionally, the attached correspondence from Senators Laxalt, Hatch, Helms, East, Grassley and Denton supporting the candidacy of Thomas J. Aquilino, Jr. for this court is circulated for your information.

III. U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

The background investigations have been initiated on U.S. Magistrate Marcel Livaudais, Jr. as the candidate for appointment to the U.S. District Court for the Eastern District of Louisiana.

IV. U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Discussions regarding the candidacy of Joseph Bertain for this position continue with Senator Wilson.

V. U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

The background investigations have been initiated on Rudi M. Brewster as the candidate for appointment to the current vacancy on the U.S. District Court for the Southern District of California.

VI. U.S. DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

The background investigations have been initiated on Los Angeles Superior Court Judges James M. Ideman and William J. Rea as the candidates for appointment to the two vacancies on the U.S. District Court for the Central District of California.

VII. U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

The background investigations have been initiated on Peter K. Leisure as the candidate for appointment to the U.S. District Court for the Southern District of New York.

VIII. U.S. ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS

The background investigations have been initiated on Helen M. Eversburg as the candidate for appointment to the position of U.S. Attorney for the Western District of Texas.

Attachment

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

STROM THURMOND, S.C., CHAIRMAN

CHARLES McC. MATHIAS, JR., MD.
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JOHN P. EAST, N.C.
CHARLES E. GRASSLEY, IOWA
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HOWARD M. METZENBAUM, OHIO
DENNIS DECONCINI, ARIZ.
PATRICK J. LEAHY, VT.
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HOWELL HEFLIN, ALA.

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE
AND PROCEDURE

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SHIRLEY J. FANNING, CHIEF CLERK
MARK H. GITENSTEIN, MINORITY CHIEF COUNSEL

April 6, 1984

Mr. Fred F. Fielding
Counsel to the President
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear ~~Mr. Fielding~~:

We are aware that ~~Thomas P. Aquilino~~ is presently a candidate for Judge of the ~~United States Court of Appeals~~ in New York. We are writing to express our endorsement of Mr. Aquilino for this judgeship.

Mr. Aquilino's extensive litigation experience includes his involvement in three major Supreme Court cases involving the constitutionality of state assistance to religious schools. In addition, he assisted in representing Senators Helms and Buckley and Congressman Hyde in the McRae case in which he defended the constitutionality of the Hyde Amendment. Furthermore, he defended the New York statute protesting the role of religion in placement of children for foster care in Wilder v. Bernstein.

Mr. Aquilino's demonstrated professionalism and advocacy skills as well as his background in international law, leaves no doubt that he is a qualified candidate. We urge you to consider him as quickly as possible.

Thank you for your attention to this matter.

Sincerely,

~~Jeremiah Denton~~ ~~Chuck Grassley~~ ~~John P. East~~
~~James Helms~~ ~~Orrin Hatch~~ ~~Paul Laxalt~~

THE WHITE HOUSE

WASHINGTON

April 16, 1984

MEMORANDUM FOR JIM COYNE

SPECIAL ASSISTANT TO THE PRESIDENT AND
DIRECTOR OF PRIVATE SECTOR INITIATIVES

FROM:

Orig. Signed by FFF
FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT:

Guidelines for Fundraising Activities
by Members of the President's Advisory
Council for Private Sector Initiatives

This will respond to your request for guidelines outlining any restrictions on the activities of members of the President's Advisory Council for Private Sector Initiatives (the "Advisory Council") in soliciting resources (either financial or in-kind) from various businesses and organizations in support of various public-private partnerships.

The Advisory Council was established by Executive Order 12427 (attached) to "advise the President, through the White House Office of Private Sector Initiatives, with respect to the objectives and conduct of private sector initiative policies." Under that Executive Order, the Council's functions are purely "advisory"; fundraising is not a stated function of the Council. Hence, the solicitation of resources for public-private partnerships is not a permissible function of the Advisory Council.

THE WHITE HOUSE

WASHINGTON

April 4, 1984

MEMORANDUM FOR JAMES K. COYNE
SPECIAL ASSISTANT TO THE PRESIDENT
FOR PRIVATE SECTOR INITIATIVES

FROM: FRED F. FIELDING Orig. signal by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: "Ronald Reagan Scholarship Program"
and Related Travel Proposals

You recently raised several questions with this office concerning contemplated travel by you, members of your staff, and members of the President's Advisory Council on Private Sector Initiatives to Japan in connection with the establishment of a scholarship program for United States students to study in Japan. You noted that the program would be known as the "Reagan Scholarships."

As an initial matter I must advise you that it would be inappropriate to name the proposed scholarship program after the President. The White House adheres to a policy of not permitting any government-sponsored or government-endorsed program to be named after the incumbent President, for what I had thought were obvious reasons. Indeed, the White House recently declined a request from another agency to establish a "Reagan Scholarship" program, even though the funds would be provided by private sources. That precedent controls this case.

Travel by you and members of your staff on official business may not be donated by private carriers. The White House Travel Handbook is quite explicit on this point: "Whenever you are traveling on official business of the government, traveling to attend a function, or giving a speech as the representative of the White House, or the Administration, all travel-related expenses must be paid from appropriated funds" (emphasis in original). (The one exception to this rule is discussed infra.) Provision of travel by private carriers would violate rules against supplementation of appropriations, and raise serious conflict of interest concerns in light of the significant regulatory role of the CAB, FAA, and other Federal agencies with respect to the activities of private carriers. You should never contact such carriers about providing free service to you or anyone else, and should terminate any discussions you may have commenced on this topic immediately. The foregoing also

applies to lodging and any other travel expenses. To the extent you may be perceived to have done so, you must immediately cure this impression.

In certain limited circumstances travel expenses may be reimbursed by a 501(c)(3) organization, providing that such reimbursement does not create an actual or apparent conflict of interest. As the White House Travel Handbook makes quite clear, however, such reimbursement "shall never be solicited by a staff member." It is not permissible to inquire of a 501(c)(3) organization concerning the willingness of the organization to pay for official travel. Reimbursement may not be accepted from any organization solicited in violation of this rule.

Furthermore, the statute authorizing payment of official travel expenses by a 501(c)(3) organization does so only for expenses "incident to attendance at meetings." 5 U.S.C. § 4111. The statute does not authorize a 501(c)(3) organization to pay for official travel in general, simply because the organization considers that travel beneficial to its interests. Once again, the White House Travel Handbook is quite explicit: "If you are traveling to attend a training seminar, meeting or conference sponsored by a nonprofit organization granted tax-exempt status under the law (Section 501(c)(3) of the Internal Revenue code), that organization may pay for your normal, reasonable travel expenses under most circumstances unless the acceptance of such expenses creates an actual or apparent conflict of interest with your official duties" (emphasis supplied).

I should note that the rule that official travel must generally be paid for out of appropriated funds prohibits individuals paying for their own official travel. I don't believe your comment that you paid for your official travel to Grenada is quite accurate. When you raised the question of your travel to Grenada with my office, you stated that you were traveling there for "a Christmas week vacation." The travel was accordingly private, not official.

I recognize that it is the unique mission of your office to promote private sector charitable activities. As the foregoing demonstrates, however, your official duties and those of your staff cannot be funded by the private sector as if those duties were themselves charitable in nature.

cc: ✓ James A. Baker, III
Assistant to the President
Chief of Staff

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

THE WHITE HOUSE

WASHINGTON

March 26, 1984

MEMORANDUM FOR JAMES A. BAKER, III ←
JOHN S. HERRINGTON
M.B. OGLESBY
MARGARET D. TUTWILER

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Judicial Appointment Recommendations

Set forth below are recommendations on various judicial candidates. Please advise my office by close of business Thursday, March 29, if you have any objections to the recommendation on each candidate; if we have heard no objections to these recommendations by close of business Thursday, the Department of Justice will be advised on Friday to initiate the background investigations on each recommended candidate.

For your information, the resumes of the candidates recommended for these positions are attached.

I. U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

The Justice Department has recommended that we initiate the background investigations on Peter K. Leisure as the candidate for appointment to the U.S. District Court for the Southern District of New York. Leisure was recommended for this position by Senator D'Amato.

Leisure, 55, has headed the litigation department of the law firm of Whitman & Ransom in New York since 1978. From 1967 to 1978, he was a partner at the New York firm of Curtis, Mallet-Prevost, Colt & Mosle, where he started the litigation department. Leisure served as an Assistant U.S. Attorney for the Southern District of New York from 1962 until 1966, and was an associate at the firm of Breed, Abbott & Morgan from 1958 to 1961.

Justice states that Leisure is a "highly respected, energetic lawyer who writes well and performs well in court," who has been described as "one of the distinguished litigators in New York City." Leisure also has had experience as an arbitrator. He is characterized as a "moderate to conservative of the Jim Buckley persuasion." Justice states that he is reputed to take a firm stand on issues of law enforcement, and to espouse views consistent with the President's on the issue of abortion.

During the 1960's, he was one of a minority of members of the Association of the Bar of the City of New York who opposed bar sponsored resolutions and demonstrations against the Viet Nam War.

Recommendation: That we initiate the background clearances on Peter K. Leisure as the candidate for appointment to the U.S. District Court for the Southern District of New York.

II. U.S. ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS

The Justice Department has recommended that we initiate the background investigations on Helen M. Eversburg as the candidate for appointment to the U.S. Attorney for the Western District of Texas. Senator Tower recommended Eversburg for this position.

Mrs. Eversburg, 39, is currently serving as First Assistant U.S. Attorney for the Western District of Texas. From 1971 to 1980, she served as an Assistant U.S. Attorney in the Southern District of Texas. She is a graduate of the University of Texas School of Law.

Recommendation: That we initiate the background clearances on Helen M. Eversburg as the candidate for appointment to the position of U.S. Attorney for the Western District of Texas.

Attachments



Deputy Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM FOR: William French Smith
Attorney General

THRU: *D. Lowell Jensen*
D. Lowell Jensen
Acting Deputy Attorney General

FROM: Dennis F. Mullins *DM*
Deputy Assistant Attorney General

SUBJECT: Judicial Vacancy -- U. S. District Court
Southern District of New York

Vacancy Duration: Effective October 3, 1983

Nominee: Peter K. Leisure

Age: 55

Law School Degree: University of Virginia, LL.B., 1958

Legal Experience: Since 1978, Mr. Leisure has been a partner in the law firm of Whitman & Ransom. Prior to joining that firm, he was a partner with the firm of Curtis, Mallet-Prevost, Colt & Mosle, 1967 - 1978; was an Assistant U. S. Attorney, Southern District of New York, 1962 - 1966; and was an associate with the law firm of Breed, Abbott & Morgan, 1958 - 1961.

Senate Sponsor: Senator Alfonse D'Amato

Selection Method: Senator D'Amato used a Judicial Screening Committee to review potential candidates. Of the individuals recommended, Mr. Leisure was selected by Senator D'Amato as being well qualified.

Potential Problems: None apparent.

Recommendation: I recommend we begin the pre-nomination process immediately.

APPROVAL: *[Signature]* DATE: 3/20/84

DISAPPROVAL: _____ DATE: _____

WHITMAN & RANSOM

522 FIFTH AVENUE
NEW YORK, NEW YORK 10036

Telephone: 212-575-5800

Cable Address: "Whitsom" or "Bengoshi New York"

Telex: 12-5109 (WU); 238436 (RCA)

PETER K. LEISURE, born New York, N.Y., 1929; admitted to bar, 1959, New York; 1979, District of Columbia; 1981, U.S. District Court, District of Connecticut. *Education*: Yale University (B.A., 1952); University of Virginia (LL.B., 1958). Phi Alpha Delta. Assistant U.S. Attorney, Southern District, New York, 1962-1966. *Member*: Association of the Bar of the City of New York; New York State and American Bar Associations; The District of Columbia Bar; Federal Bar Council (Vice-President, 1973-1978); American Law Institute. Fellow: American Bar Foundation and American College of Trial Lawyers.



Washington, D.C. 20530

MEMORANDUM TO THE ATTORNEY GENERAL

FROM: *Mr. D. Lowell Jensen*
Mr. D. Lowell Jensen
Associate Attorney General

SUBJECT: United States Attorney Position
Western District of Texas

Senator John Tower has submitted the following name for consideration for appointment to the United States Attorney position for the Western District of Texas:

Name: Helen M. Eversberg

Date of Birth: December 23, 1945

Education: University of Texas, B.A., 1968
University of Texas School of Law, J.D., 1970

Bar: State of Texas, 1971

Experience: Assistant United States Attorney, Southern District of Texas, 1971-80; Assistant United States Attorney, Western District of Texas, 1980-Present

Military: None

I recommend that Ms. Helen M. Eversberg be selected and that the pre-nomination procedures be commenced by this office immediately. Do you agree?

YES NO

[Signature]
ATTORNEY GENERAL

3/20/84
DATE

THE WHITE HOUSE

WASHINGTON

March 14, 1984

MEMORANDUM FOR ~~EDWIN MEESE III~~
JAMES A. BAKER, III ←
JOHN S. HERRINGTON
M.B. OGLESBY
MARGARET D. TUTWILER

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Judicial Appointment Recommendation

The Justice Department has recommended that we initiate the background investigations on Rudi M. Brewster as the candidate for appointment to the U.S. District Court for the Southern District of California. Brewster was the only candidate recommended for this position by Senator Pete Wilson.

Brewster, 51, is a civil litigator who has practiced with the firm of Gray, Cary, Ames & Frye since graduating from Stanford Law School in 1960. Justice states that its calls indicate that he is "universally regarded as one of the best trial lawyers in San Diego." Additionally, Justice states that Brewster is "generally considered to be conservative." In the 1970's he gave a speech to the California State Bar Convention in support of the death penalty; Justice states that this speech has been credited with the Bar's support for the death penalty that year. Justice also notes that Brewster is supported for this position by a broad spectrum of the Republican Party in San Diego.

A copy of Brewster's resume is attached.

RECOMMENDATION:

That the background investigation be initiated on Rudi M. Brewster as the candidate for appointment to the U.S. District Court for the Southern District of California.

Please advise my office by close of business Monday, March 19, 1984, if you have any objections to this recommendation.

Attachment

RUDI MILTON BREWSTER

Vocation: Civil Trial Lawyer and Partner,
GRAY, CARY, AMES & FRYE, San Diego

Professional Activities: San Diego County, California, and American Bar :
Associations.
Member, State Bar Committee on Unauthorized Practice
of Law 1965-68.
Director, San Diego County Bar Association 1969-72.
Delegate to State Bar Convention 1964-74.
Vice President, San Diego County Bar Association
1971-72.
Served on Faculty for CEB Seminars sponsored by
State Bar.

Professional Societies: Fellow, American College of Trial Lawyers.
Member, International Association of Insurance Counsel
Associate, American Board of Trial Advocates;
Secretary 1981.

Civic: Director, Combined Health Agencies Drive (CHAD)
(1979-present).
Director, Legal Aid Society 1966-71; President 1970-71
President, San Diego Rotary Club (1980-81);
Board of Directors 1977-82.
Member, Clairemont Lutheran Church.

Education: BA 1954 Princeton University.
JD 1960 Stanford Law School.

Military & Aviation: Active Duty - Commissioned Ensign, United States
Navy 1954.
Naval Aviator 1955-61; Captain USNR, JAG Corps;
Retired 1981.
FAA Commercial Pilot License, Single and Multi-Engine
Instrument Ratings.

Family: Wife, Gloria;
Children: Scott (26) Dartmouth; Medical Doctor
(Surgery Residency, Parkland Hospital, Dallas);
Lauri (24) U. Arizona (Employed by Automobile Club
of Southern California);
Julie (22) U. Arizona (Employed by Sharp Hospital - I

Hobbies: Skiing, Hunting, Fishing

Birthplace & Date: Sioux Falls, South Dakota - May 18, 1932

Present Address: 1811 Malden Street, San Diego, California 92109

THE WHITE HOUSE
WASHINGTON
February 17, 1984

MEMORANDUM FOR MICHAEL A. McMANUS, JR.
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Republican National Convention

In response to your memorandum of February 15, attached is the list of key staff from my office who need to be included in the White House Party at the Republican National Convention.

The Counsel's Office is responsible for advising the President and his staff on all legal ramifications of their official and political activities. This role will be especially significant at the Convention, as the President must not only continue to fulfill his official responsibilities, but also serve as head of the Party and as its next presidential nominee. Hence, among the numerous issues that will require on-the-spot legal guidance at the Convention are the following:

- Permissible uses of appropriated funds
- Legal review of the speeches and statements by the President and key White House officials
- Hatch Act compliance
- Federal Election Commission issues
- Federal Communications Commission (equal time) issues
- Credentialling issues
- Rules Committee issues
- Liaison/Coordination with RNC and Reagan-Bush Counsel
- Legal questions on surrogate activities and travel
- Legal questions on handling of possible demonstrations
- Counseling the President and Chief of Staff on official matters that arise during the period of the convention
- Guidance to Press Secretary's Office

Of equal importance, during the platform debates there will be a need not only for pre-planning, but also for on-the-spot decision-making and negotiating, on legal and policy issues.

Mindful of constraints on space and Reagan-Bush '84 funds, I have deliberately kept my office requirements to a minimum. The expansion in our workload attributable to campaign-related issues has made it very clear, however, that the attached list really does reflect the minimum needs of the Counsel's Office if we are to operate effectively. Please let me know if you have any questions; thank you.

Attachment

cc: James A. Baker, III ←

White House Counsel's Office Staff
Requirements at Republican National Convention

I. Minimum Staff Necessary to Fulfill Responsibilities

Fred F. Fielding, Counsel to the President
Sherrie M. Cooksey, Associate Counsel to the President
Peter J. Rusthoven, Associate Counsel to the President
Dianna G. Holland, Executive Assistant to the Counsel
Karen K. Kwiatt, Secretary to the Counsel

II. Minimum Space and Equipment Requirements

6 rooms in Presidential Headquarters hotel (1 per staff member, and 1 office)

1 display writer and printer and 2 IBM Correcting Selectric typewriters

Access to 1 xerox machine

Telephones, including direct lines to local law enforcement/Secret Service/military officials