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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** ROBERTS, JOHN: FILES

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DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	REPORT	FINANCIAL DISCLOSURE REPORT	5	1/26/1983	B6	902
1 2	REPORT	FINANCIAL DISCLOSURE REPORT	10	1/26/1983	B6	903

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

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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TIDWELL

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
WASHINGTON, D.C. 20240

APR 26 1982

The Honorable Charles A. Bowsher  
Comptroller General of the United States  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Mr. Bowsher:

This is in response to a letter, dated February 8, 1982, signed by Robert H. Hunter, Assistant General Counsel, U.S. General Accounting Office, which was addressed to Secretary of the Interior James G. Watt, asking several questions about two receptions held by Secretary Watt at Arlington House in December 1981. Our response is addressed to you in view of the fact that you have since become involved in the matter.

At issue is the propriety of the use of donated funds to pay for two official receptions held on December 14 and 17, 1981, at the Custis-Lee Mansion, also known as Arlington House, for senior government officials and their guests. As you will recall, GAO disagreed in B-206173, February 23, 1982, with the Department's decision, which was based on past practices, to use funds donated without restriction to the National Park Service to pay for the receptions. The February 23, 1982, Opinion concluded that the receptions were "social gatherings" as opposed to "official" based upon GAO's interpretation of language contained in a February 16, 1982, letter from the Department's Deputy Assistant Secretary--Policy, Budget and Administration, to the Chairman of the House Subcommittee on Oversight and Investigations of the Committee on Interior and Insular Affairs, and that payment from donated funds was therefore not authorized. This letter is intended to set forth for you the full facts and reasons giving rise to the decision to use donated funds to pay for the receptions.

There is no question but that the Secretary of the Interior has the authority to accept donations from Cooperating Associations 1/, and others, in the interest of the national park system. The Act of June 5, 1920, 16 U.S.C. 6, provides that, "The Secretary of the Interior in his administration of the National Park Service is authorized in his discretion to accept \* \* \* monies that may be donated for the purpose of the national park and monument system." The Cooperating Association Fund, created under this authority has been in existence for decades. Cooperating Associations have voluntarily contributed to it well knowing the long-standing tradition of

1/ For a complete discussion of Cooperating Associations and their relationship to the Cooperating Association Fund, see B-195492, March 18, 1980.

the National Park Service to use the Cooperating Association Fund for receptions.

We believe that GAO, in reaching its February 23, 1982, opinion, failed to consider all of the explicit responsibilities of the Secretary of the Interior in furthering the purposes of the national park system as well as all of the possible proper means of meeting those responsibilities. Citing "conservation" as the only "purpose" of the Secretary vis-a-vis the national park system, as GAO did in the February 23, 1982 Opinion, is far too narrow a reading of the law and, while it supports the Opinion, it fails to recognize the Secretary's broad responsibilities in this area. The 1916 National Park Service Organic Act, 16 U.S.C. 1, sets forth the basic mission of the Service. It provides, in pertinent part that:

"There is created in the Department of the Interior a service to be called the National Park Service, which shall be under the charge of a Director. The Service thus established shall promote and regulate the use of federal areas known as national parks, monuments and reservations hereinafter specified, \* \* \* by such means and measures as conform to the fundamental purposes of the said park, monuments and reservations which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations." (Emphasis added)

The unambiguous direction given in the 1916 Act is that the Secretary of the Interior in addition to "conserving the scenery" of national parks, is to "regulate" and "promote" the use of the parks and the national park system. From a careful reading of an earlier 2/ Opinion and the 1982 Opinion, it appears that GAO has recognized only the Service's mandate to "conserve" park resources and has not addressed or even apparently considered the Secretary's responsibility to "promote" the national park system.

The Secretary of the Interior is authorized and, in fact, directed to do more than just manage an area for the purpose of conserving its scenic, historic objects and wildlife so as to leave them unimpaired for future generations. Uniquely, the 1916 Act contains a promotional element which directs the Secretary of the Interior to "sell" the benefits as well as the concept of a national park system. This promotional mandate has been met in many ways over the years since 1916. Presidents of the United States, officers of the Government, Members of Congress, and above all, the public have all been introduced to the ideas and visions of those dedicated professionals responsible for devel-

opment of what is now universally described as the crown jewels of our land; the national park system. This promotional effort has been continuous and diligent.

All of us at one time or another in our lives learned from the promotional programs of the Secretary of the Interior and the National Park Service of the magnificence of and the benefits to us as individuals, and to the Nation as a whole, of the national park system. Direct and tangible benefits flow to the national park system through introducing Members of Congress, officials of the Executive Branch and others to the parks. They learn of the national park system's place in our society, the costs of establishing and maintaining the system, and what they in their individual and official capacities must do to preserve a system that is so important to the Nation's economy and its citizens. The national park system has grown by leaps and bounds since its inception in the past century and it is axiomatic that this growth would not have occurred in the absence of pressures and goals expressed by the people of the United States on the Executive and Legislative Branches of their government. The programs, including the promotional programs, of the National Park Service have explained and defined those goals and presented a coherent and planned way of addressing them.

One valid, and indeed proven, way of informing and educating directly and indirectly involved decision-makers and others, has been to use the system's facilities in such a way as not only interpret them but also to stimulate ideas; to show what is possible to accomplish vis-a-vis our Nation's scenery, historic objects and wildlife. It is not only appropriate, but wise management for the Secretary to try to persuade other members of the Executive Branch, including members of the Office of Management and Budget, as well as Congress, that the national park system is a concept which deserves budgetary and policy support. Receptions, which introduce the guests to historical buildings, are a most effective and appropriate method for the Secretary to promote the national park system. Most historic buildings and facilities in the park system are not "hands-off" museum pieces; they are open for general and specific uses. The public is welcome, indeed encouraged, to visit them. Many of the buildings are also available for specific, more limited uses. Arlington House, for example, has been open to the public since 1926 and has been used for promotional type purposes in a non-business atmosphere from 1969 to 1975. It was closed for these purposes from 1975 until 1981 but is now available again under strictly controlled conditions such as were in effect at the two December functions. In this regard, Attachment No. 1 lists the various functions held at Arlington House from 1969 to 1975. To give you an indication of the variety of uses to which Arlington House was put, note that it was used fourteen times during that period for receptions hosted by either the Secretary of the Interior or the Director of the National Park Service or their representatives. It should be noted that all the receptions listed in Attachment 1 were held in an official, promotional, non-business atmosphere paid for from

the Cooperating Association Fund, and ostensibly known to the General Accounting Office and the Congress. See Attachment No. 2 listing expenditures from the fund from 1980 to present.

The General Accounting Office has audited the Cooperating Association Fund since long before 1981. Always in the past the Comptroller General has recognized the value and purpose of receptions such as these as being in furtherance of the official mandate of the National Park Service Organic Act of 1916. It is for this very reason that we vigorously dissent from your opinion of February 23, 1982. For GAO to suddenly take exception to a long established practice which it has, at least tacitly, approved over the years is inappropriate.

The decision of the Director of the National Park Service to recommend to the Secretary to use the Cooperating Association Fund to pay for the two receptions, and the decision of the Secretary to accept that advice, was based on an analysis of past GAO instructions on the subject. In B-142538, February 8, 1961, Comptroller General Campbell addressed similar issues presented to him by the National Science Foundation. In that instance, NSF requested guidance on several proposed expenditures from its donations fund for receptions, including lunches and dinners for government and nongovernment employees. NSF pointed out that the purpose of one of its receptions held in 1959,

"was to give members of the (NSF) Board an opportunity to become acquainted with individuals \* \* \* who play a major role in matters affecting the Foundation and to make information available to them concerning accomplishments in several of the Foundation's programs. Catering expenses and flower decoration expenses were incurred in holding this reception."

We have no further knowledge about what actually happened at the 1959 NSF reception, but we assume since the affair was catered, that food and beverages were served and the room was decorated, at least to the extent that flowers were provided. The NSF reception was probably not much different than receptions hosted by the Secretary of the Interior at Arlington House.

In addressing NSF's questions, Comptroller General Campbell enunciated the rules that the Department of the Interior has followed ever since in determining the propriety of expenditures from the Cooperating Association Fund and the hundreds of other donated fund accounts maintained by the National Park Service and the other bureaus and offices of the Department of the Interior. GAO stated:

"Manifestly, the question as to whether entertainment is necessary to accomplish statutory activities is often difficult of

determination. Therefore, we may not undertake to draw a line or set forth a general statement which would encompass all situations where the donated funds properly may be so used to further the general purposes of the Foundation. However, it seems reasonable to conclude that, in general, whether entertainment is necessary or essential to the furtherance of one or more of the Foundation's general purposes for which the donated funds are authorized to be received and used, is a conclusion of fact to be determined on the basis of the particular facts and circumstances involved and in light of the general objectives of the Foundation to be served.

\* \* \* In such cases, an administrative determination as to the necessity of expenditures for entertainment to carry out effectively the authorized functions of the Foundation is accorded great weight in considering the donated funds available to the Foundation for such purposes."

NSF had determined that the luncheons and dinners were a necessary and a proper means of promoting an authorized activity. GAO then quite properly concluded that, "\* \* \* the use of donated funds to pay the cost of food and entertainment incident thereto would appear proper." In a final comment on the issues raised GAO stated:

"In this connection, it may be stated as advisory that the propriety of the use of donated funds for expenses of entertainment to cultivate cordial relations, manifest good will, or to reciprocate in kind hospitality extended by others to Foundation personnel, not having a direct connection with or reasonably necessary to the accomplishment of the Foundation's activities would appear to be questionable."

You will note that the guidance given was "advisory," and that Comptroller General Campbell did not disapprove or disallow use of donated funds for these purposes. This was taken by the Department of the Interior as the law on the subject of the expenditure of funds from the Cooperating Association Fund for almost twenty years, during which time, as the record reflects, Secretaries of the Interior held receptions at Arlington House and elsewhere using money from the Fund as a means of promoting the national park system.

The second GAO opinion relied upon by the Secretary 3/ was in response to a request by Senator William Proxmire for Comptroller

General Staats' opinion on the propriety of several expenditures from the Cooperating Association Fund by the then-Secretary of the Interior. GAO auditors reported that,

"The Fund has been used to pay for travel and entertainment expenses for various people, including top administration officials, Members of Congress, and some persons who were not Government employees. The Fund financed the purchase of gifts, refreshments, lunches and receptions, floral arrangements and centerpieces, seminars, photographs, entry fees for contests and transportation and per diem expenses for people who are not employed by the Government."

In answering Senator Proxmire, Comptroller General Staats posed the issue as, " \* \* \* whether funds donated by private persons to further the purposes of the national park and monument system are subject to the same strictures applicable to appropriated funds in general." He concluded "We think not," and "(i)n the case of authority to use private donations \* \* \* we have been willing to rely on the discretion of agency officials to determine when expenditures are in furtherance of official purposes." (Emphasis added) The only qualification thereto is that, " \* \* \* each agency must justify its use of trust funds 4/ as being incidental to the terms of the trust." It was thus recognized officially by GAO after examining, auditing and investigating the Cooperating Association Fund and other donated fund accounts over a span of many years that these funds were clearly not subject 5/ to the ordinary rules governing the expenditure of appropriated funds. The law on the subject as it stood then for over 20 years, and upon which the decision was based to use the Cooperating Association Fund to pay for the two December receptions, was (1) that the monies be expended for a valid and official purpose, to wit; in furtherance of the national park system, and (2) the decision of whether the expenditure is, in fact, in furtherance of a purpose of the national park system rests with the Secretary of the Interior, or his designee.

We do not contend that the law gives the Secretary absolute discretion in his administration of the Cooperating Association Fund. Comptrollers General over the years have sought ways to meaningfully audit donated fund accounts to assure that they are being spent properly and, in doing so, have built up a small body of law containing various principles to be used by donated fund account administrators. But, because of the very character of the funds themselves and the extremely broad purposes for which they may be expended, the principles enunciated within this body of law necessarily are very general and, in some instances, con-

4/ In B-142538, February 8, 1961, supra GAO describes "donated funds," such as the Cooperating Association Fund, as "trust funds," per 31 U.S.C. 725(s). The terms are used interchangeably.

5/ With certain exceptions not pertinent here.



flicting. It is beyond doubt that the Secretary of the Interior has the authority to administer the Cooperating Association Fund as he determines proper, applying the GAO guidelines as he and his attorneys and other advisors interpret them. Great deference must be given those decisions; decisions made by responsible men, sworn to uphold the law, and bound by a common goal of doing what is required of them by the laws of the United States.

In recognition of this fact, Comptroller General Staats and the Congress devised, in his 1980 Opinion to Senator Proxmire, what we believe to be a workable means of addressing the issues identified as potential problems. He told the Senator, in closing, that the Senate and House Committees on Appropriations were well aware of the Senator's criticisms and to remedy any possible improprieties in expenditures from the Cooperating Association Fund the Senate Committee had proposed that the Director of the National Park Service submit quarterly reports on fund expenditures to the House and Senate Appropriations Committees. 6/ Accordingly, Comptroller General Staats closed his inquiry into the matter. The Cooperating Association Fund can and should be the subject of GAO audit at any time, however; and this is critical, because of the authority vested in the Secretary by Congress in his administration of the national park system and the Cooperating Association Fund, disallowances of payments therefrom should never be undertaken in the absence of clear, preexisting and proper directions against such payments. Not once has GAO ever before taken exception to the use by any Secretary of the Interior of the Cooperating Association Fund to finance receptions determined by him to be in furtherance of the purposes of the national park system. This instance should be handled no differently.

The case for not disturbing the Secretary's disbursement of funds from the Cooperating Association Fund for the December receptions is more compelling by virtue of the fact that Congress implicitly approved use of those funds for reception purposes by not objecting to similar uses over the past few years. If the legislature knows of, and fails to disapprove the executive's interpretation of his authorities that interpretation is to be given even

6/ The Department has complied with this directive.

greater weight than is normally the case.<sup>7/</sup> In the case at hand, Congress has never taken issue with the practice of funding receptions at Arlington House from the Cooperating Association Fund to further the purposes of the national park system even though, since 1980, it has received quarterly reports from the National Park Service on disbursements from the Fund showing such expenditures.

Suddenly on February 23, 1982, in response to a Congressional request, GAO issued the opinion that is in issue today. After discussing the GAO cases cited above and reciting what limited facts as could be gathered by the auditors in the time permitted, GAO opined that the events were "clearly unrelated to the furtherance of the Park Service's mission." Nothing could be further from the truth. GAO advised the Subcommittee that the expenditures were for "personal purposes" because the Department had not justified its use of the donated funds as being incident to the terms of the statutory authority permitting acceptance of the donations. In short, GAO chose (1) to deny the Department sufficient time to develop its legal position in order to hurriedly complete its report to the Subcommittee, and (2) based upon what little information was known at the time, to dispute the personal integrity and honesty not only of a Cabinet officer of the United States Government, but of those diligent and conscientious officers and employees who advised him that such expenditures were proper.

Based upon the law as enunciated by past GAO opinions, interpretations of that law by counsel to the Secretary, and actions of the Congress itself in implicitly approving such activities, the Secretary of the Interior exercised his control over expenditures from the Cooperating Association Fund exactly as did his predecessors for at least the past two decades. The December 1981 receptions were for the purpose of "promoting" the national park system notwithstanding that they were also social in nature. They were official, and payment therefore from the Fund was completely proper.

<sup>7/</sup> For a contemporary discussion of this rule see Board of Governors of the Federal Reserve System v. First Leatherwood Corp., 439 U.S. 34, 248 (1978), holding that:

"Our conclusion as to the scope of the Board's authority is bolstered by reference to the principle that an agency's long-standing construction of its statutory mandate is entitled to great respect, 'especially when Congress has refused to alter the administrative construction.'" (Footnotes omitted.)

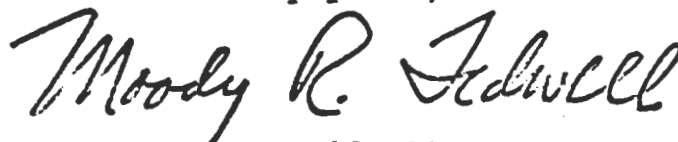
The Supreme Court pointed out that Congress was aware of the Federal Reserve Board's practice, yet four times had "revisited the Act and left the practice untouched."

One further issue needs to be addressed herein. In the Opinion of February 23, 1982, GAO drew a distinction between the reception held on December 14, 1981, and the one of December 17, 1981, on the basis that the Secretary was in attendance at the latter, but not the former. The December 14, 1981 function was an official reception of the Secretary of the Interior at Arlington House for the wives of senior Government officials. Attachment No. 1 lists other official receptions held at Arlington House. You will note that several were held for and attended primarily by persons who were not employees of the Department of the Interior. See, for example, the June 10, 1972, reception for the White House staff and the one of June 11, 1974, for Mrs. Ellen Bible and Mrs. Julia Hanson. Secretary Watt held both receptions to introduce the attendees to a unit of the national park system in recognition of the fact that they could, and probably would be able to contribute ideas and support to the system over the next few years. Simply put, he "promoted" a unit of the national park system. On the day preceding the December 14 reception Secretary Watt visited Arlington House to discuss details of the two receptions with the staff so as to assure as best he could the events would be successful. The fact that he was not physically present at Arlington House on the morning of December 14 is irrelevant to the issue at hand. The proper test is whether the event was for the purpose of furthering the national park system; which it was. To our knowledge, GAO has never taken the position that a Government official must physically host or attend a function in order for it to be considered an "official" function under the law. GAO should not do so now.

In conclusion, it is our position that in the absence of any Congressionally mandated restrictions or clear previous instructions from GAO or the courts overturning two decades of acceptable activity by Secretaries of the Interior, that payment for the two December 1981 receptions at Arlington House from the Cooperating Association Fund is proper.

We trust that the information provided in this letter will be of benefit and interest to you.

Sincerely yours,



Moody R. Tidwell III  
Deputy Solicitor

Enclosures



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
WASHINGTON, D.C. 20240

FEB 01 1983

Mr. Chris Hicks  
Associate Director  
White House Personnel Office  
Room 142, Old Executive Office Bldg.  
Washington, D.C.

Dear Mr. Hicks:

The Comptroller General of the United States by Decisions rendered on February 23, 1982, and August 3, 1982, held that the officers of the National Park Service who approve payments from the National Park Service's Cooperative Association Fund for a breakfast held December 14, 1981, and a reception held December 17, 1981, by the Secretary of the Interior and his wife were liable for the repayment of those funds. These decisions also indicated that the National Park Service officers should collect the amounts owed to the Fund from the Secretary and his wife.


The Deputy Solicitor of the Department of the Interior had written a strong Opinion taking issue with the position taken by the Comptroller General's Office.

After the decision of August 23, 1982, the Secretary, as a matter of policy, determined that although he had a strong legal position, the matter should be settled by reimbursing the Fund as provided in the Decisions.

The Cooperative Association Fund of the National Park Service was paid the amounts in question by check dated November 2, 1982.

There are no pending issues in the matter and the matter is closed.

Very truly yours,

  
SOLICITOR

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FINANCIAL DISCLOSURE REPORT				

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Tidwell

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

January 27, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Nomination of Moody Tidwell  
to be Deputy Comptroller General

Attached is the September 14, 1982 memorandum you wrote to Helene von Damm, advising her that the President must consider, but is not bound by, the recommendations of the Congressional Commission established by 31 U.S.C. § 42 to advise the President on appointments to the posts of Comptroller General and Deputy Comptroller General. Chris Hicks advised me that repeated efforts to obtain a list of names from the Commission have been fruitless; the Commission has not even met. He indicated it was the intent of Presidential Personnel to send Tidwell's name up without further delay. Nancy Kennedy, however, informed Sherrie Cooksey that the Commission would meet today and submit a list -- with Tidwell's name on it -- by the first of next week. I see no reason for inviting a controversy over the 31 U.S.C. § 42 procedure when it can be avoided by waiting a few days. I recommend advising Presidential Personnel that Legislative Affairs advises us that a list will soon be forthcoming, and that Tidwell will be on it. I have prepared a proposed memorandum for your signature to Helene von Damm.

Attachment

THE WHITE HOUSE

WASHINGTON

January 27, 1983

MEMORANDUM FOR HELENE VON DAMM  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Nomination of Moody Tidwell to  
be Deputy Comptroller General

In my September 14, 1982 memorandum to you on the appointment of the deputy comptroller general, I advised that the President must consider, but is not bound by, the recommendations of the commission established by 31 U.S.C. § 42 to advise him on appointments to the posts of comptroller general and deputy comptroller general. We have been advised by the Office of Legislative Affairs that the commission is meeting today and will, by the first of next week, submit a list of suggestions for the position of deputy comptroller. I therefore recommend awaiting the imminent receipt of this list before submitting a nomination to the Senate.

FFF:JGR:aw 1/27/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron



THE WHITE HOUSE

WASHINGTON

September 14, 1982

MEMORANDUM FOR HELENE VON DAMM  
ASSISTANT TO THE PRESIDENT

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

SUBJECT: Appointment of Deputy Comptroller General

This responds to your request for advice on whether the President is required to select an individual for nomination to the position of Deputy Comptroller General from the recommendations made to him by the Congressional Commission established for that purpose by Pub. L. No. 96-226, 94 Stat. 311 (1980). Our view of the statute and the legislative history is that the President must consider, but is not bound by, the recommendations made to him by the Congressional Commission.

Section 104 of the General Accounting Office Act of 1980, Pub. L. No. 96-226, 94 Stat. 311, 314-315 (1980), established a procedure for Congressional input into the selection of an individual for nomination to any vacancy in the Office of Comptroller General or in the Office of Deputy Comptroller General. Under that procedure whenever a vacancy occurs in either of these offices a Congressional Commission is established "to recommend individuals to the President for appointment." The Commission shall submit to the President for consideration the names of not less than 3 persons for the position for the Office of Comptroller General. The statute is silent as to the number of names to be recommended to the President for the position of Deputy Comptroller General. The legislative history of the statute specifically states that the President "may, in his discretion, select for appointment an individual whose name is not among those on lists submitted to the President by the Commission. However, it is expected that the President would give great weight to the Commissions' recommendations."\*

Accordingly, it is our view that prior to the selection of any candidate for the Office of Deputy Comptroller General, the recommendations of the Congressional Commission should be received and reviewed. (In the situation at hand it appears that the President has yet to receive any "official" recommendations from the Commission.) Following that, the President may nominate the candidate of his choice for the Office of Deputy Comptroller General, recognizing of course, that such nomination is subject to the advice and consent of the Senate.

\*S. Rep. No. 570, 96th Cong., 2d Sess., reprinted in 1980 U.S. Code Cong. & Ad. News 1434, 1443.

THE WHITE HOUSE

WASHINGTON

January 27, 1983

APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD

DATE OF INTERVIEW: January 25 & 26, 1983

CANDIDATE: Moody Tidwell

POSITION: Deputy Comptroller General

INTERVIEWER: John G. Roberts *JGR*

Comments

Moody Tidwell, currently Deputy Solicitor at Interior, is the prospective nominee for Deputy Comptroller General. Under 31 U.S.C. § 42, a commission is established to recommend individuals to the President for appointment to the offices of Comptroller General and Deputy Comptroller General. According to a memorandum from Fred F. Fielding to Helene von Damm, the President must consider but need not limit himself to names submitted by the commission. Chris Hicks of Presidential Personnel advised that the commission had not met and was delaying meeting for political reasons, and that Presidential Personnel intended to submit Tidwell's name without any further waiting for a list of names. Nancy Kennedy of Legislative Affairs, however, advised that the commission was meeting today and that Tidwell's name would be on their list, to be submitted by the first of next week.

In addition to serving as Deputy Solicitor at the Department of Interior, Mr. Tidwell has for several years been a member of the Board of Directors and Corporate Secretary of KECO Industries, Inc., of Florence, Kentucky. Mr. Tidwell advised me that his service for KECO (3-4 days per year) had been approved by Interior's ethics counsellor. I advised him that he must sever all relations with KECO, and he agreed to do so, effective upon his confirmation.

Mr. Tidwell has also been reimbursed for the expenses of delivering three lectures per year for Federal Publications, Inc. Acceptance of expenses had been approved by the Interior ethics counsellor, Gabriele Paone, and I requested that this fact be memorialized in writing. A memorandum from Paone to Tidwell doing so is attached. I also advised Mr. Tidwell that upon assuming his new duties he should check with GAO ethics officers to see if he may continue the practice of delivering the lectures and accepting reimbursement for expenses consistent with GAO guidelines.

I also asked Tidwell about his petroleum royalties (inherited from his father) and whether they represented a conflict with his Interior duties. He advised me that he had cleared the issue with the Interior designated ethics official, and submitted the letter from that official sanctioning his retention of the royalty interests.

In light of Tidwell's decision to resign from the KECO Industries board of directors, and the memorandum from Paone justifying Tidwell's acceptance of reimbursement for expenses in connection with his lectures, I see no objection to his nomination.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

January 26, 1983

## Memorandum

To: Moody R. Tidwell  
Deputy Solicitor

From: Deputy Agency Ethics Official

Subject: Teaching and Lecturing in An Outside Work Capacity

This will document my past verbal clearances for your participation as a Teacher and Lecturer for Federal Publications Incorporated.

Department regulations governing Employee Responsibilities and Conduct encourage employees to teach, lecture and write in an outside work capacity. Under 43 CFR §20.735-10 and §20.735-24 teaching and lecturing in an outside work capacity is proper for a department employee when:

1. The work is not the same as the work you are required to perform in your official government capacity;
2. The work does not involve the use of restricted government information obtained from your federal employment;
3. The work will not prevent you from devoting your primary interests, talents and energies to your Federal job, and
4. The teaching and lecturing will not involve preparing a person or class of persons for examinations given by the Office of Personnel Management or the Board of Examiners for the Foreign Service.

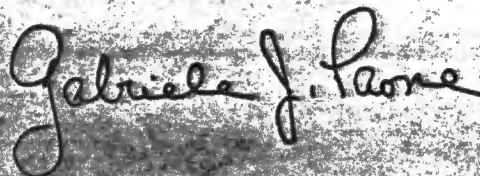
Your work for Federal Publications Incorporated involves teaching and lecturing on the Fundamentals of Government Contracting and is presented as an introduction to the basics involved in government procurement activities. The subject is not directly related to your duties as Deputy Solicitor and the information you use in teaching this course is not restricted information obtained from your Federal employment. The participants are not seeking Federal employment. They are from industry, government and academia and, the Department does not expect you to perform this type of activity as part of your official duties.

As you explained, teaching your part of the course requires only a portion of a day and you participate in this outside activity only three or four times during the year. This infrequent participation is conducted while you are on annual leave from your Federal position and it does not prevent you from devoting your primary interests, talents and energies to your work as Deputy Solicitor.

Federal Publications Incorporated is not regulated by the Department of the Interior and conducts no business with the Department that can be affected by the performance or non-performance of your duties. Therefore, you are allowed to accept from the company, travel and related expenses and payments for services rendered.

I reminded you about the prohibition on the use of official title for outside work activity. Based on the facts surrounding this outside work, I determined that your participation in it is proper and complies with applicable conflict of interest statutes and regulations.

A copy of this determination is placed in your official ethics file.

A handwritten signature in cursive script that reads "Gabriele J. Paone". The signature is written in dark ink and is positioned above the printed name.

Gabriele J. Paone