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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name**

**Withdrawer**

**File Folder** CHRON FILE (05/05/1984 - 05/10/1984)

IGP 8/30/2005

**Box Number** 64

**FOIA**

F05-139/01

COOK

54IGP

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO FIELDING RE CUSTOMS DISPUTE (PARTIAL)	2	5/8/1984	B6	774
2	LETTER	FROM FIELDING RE CUSTOMS DISPUTE (PARTIAL)	1	5/8/1984	B6	775
3	MEMO	ROBERTS TO FIELDING RE BOARD OF DIRECTORS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (PARTIAL)	1	5/10/1984	B6	776

2011 - Reagan Presidential Record

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]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

E.O. 13233

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

THE WHITE HOUSE

WASHINGTON

May 7, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Revised Executive Order Entitled  
"Textile Import Program Implementation"

Richard Darman has asked for comments on the above-referenced executive order by close of business today. This is the third version of the executive order to be staffed for comments. We noted no legal objection to the second version of the proposed order on April 19, 1984. The only change in this version is in section 1(c)(i). The earlier order directed the Secretary of the Treasury to issue regulations governing the entry of textiles, including "clarifications in the country of origin rules." The instant version changes this, at the request of the Department of Commerce, to "clarifications in, or revisions to, the country of origin rules." There are no other changes, and I still have no legal objections.

Attachment

THE WHITE HOUSE

WASHINGTON

May 7, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Revised Executive Order Entitled  
"Textile Import Program Implementation"

Counsel's Office has reviewed the above-referenced executive order, and finds no objection to it from a legal perspective.

FFF:JGR:aea 5/7/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 7, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Revised Draft OMB Statement  
Concerning Legislative Veto

OMB has asked for comments by close of business today on a revised version of legislative veto testimony to be delivered on May 10 by Chris DeMuth. The memorandum we prepared noting several objections to the earlier version of DeMuth's testimony had not been sent when we received this revised version. Accordingly, I advised Pat not to send it, in order that we could send one memorandum on the latest version.

The only substantive change in the revised version of the testimony is the last page, which is entirely new. This new page expresses Administration willingness to work with Congress in devising a proposal to "gain experience" with one or more of the legislative veto proposals through a carefully controlled "test period." The test legislation must (1) be consistent with Chadha, (2) apply for two years or less to only a few important and representative agencies, (3) provide the President an opportunity to "oversee" the rules promulgated under the proposal, and (4) be drafted in a way to maximize the lessons from the experiment.

I am not aware that this dramatic addition has been approved at any level, and I do not think the Administration should commit to such an experiment without more careful deliberations by all those affected. As I advised you some time ago, DeMuth is enamored with the idea of requiring that all major rules be approved by Congress. He believes this will do away with judicial review of agency rulemaking, essentially putting the D.C. Circuit out of business. This sudden revision, tucked away on the very last page, appears to be his opening salvo in an effort to establish his position as that of the Administration. We should object and insist that the matter be reviewed at the highest levels before the Administration agrees to DeMuth's "experiment." We should also reiterate the objections noted in our earlier, unsent

memorandum. The first paragraph in the attached memo for your signature is new; the remainder has been changed only so that the page and line references correspond to the revised version of the testimony.

Attachment

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: S. 2568: The "Civil Rights Act of 1984"

Attached is a copy of the Horowitz memorandum on the Grove City legislation. The memorandum lists me as a recipient of a copy, but I only received it this morning in response to the request you asked me to make at the staff meeting.

cc: Peter J. Rusthoven

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Fundraising Letter From  
Daniel O. Graham for High Frontier

On February 22, 1984, you wrote General Daniel O. Graham, advising him not to use a letter from the President in fundraising solicitations for High Frontier. You recently received a solicitation from Graham identical to the one that prompted your February 22 letter, except that the "matching gift check" is dated April 6, 1984 rather than January 30, 1984, indicating that the package was prepared well after Graham received your letter. I do know that Graham did receive your letter, since an aide to Graham telephoned you about it shortly after it was sent. The call was referred to me, and in response to the aide's question I assured him that the policy against the President endorsing fundraising projects was applied in a uniform fashion.

The attached draft letter to Graham reiterates your advice of February 22, and asks for a response from Graham concerning whether he intends to comply with that advice.

Attachment



THE WHITE HOUSE

WASHINGTON

May 8, 1984

Dear General Graham:

On February 22, 1984, I wrote you concerning fundraising solicitations for High Frontier that contained copies of the President's letter of June 3, 1983, thanking you for dedicating your book to him. In my letter I alerted you to the President's policy of generally refraining from endorsing particular fundraising projects, and advised you that the inclusion of the President's letter in the solicitation for High Frontier was likely to be construed as an endorsement of the fundraising in violation of this policy. As I noted in my letter, the President's letter "was not written for use in fundraising and should not be used for that purpose."

It has come to our attention that High Frontier fundraising solicitations containing the President's letter -- in apparent disregard of my letter of February 22 -- are still being distributed. I recently received such a solicitation with the "matching gift check" dated April 6, 1984, well after your receipt of my letter. Please advise me at your earliest opportunity whether the latest distribution of fundraising material containing the President's letter was inadvertent or whether you have decided to disregard my letter of February 22.

Sincerely,

Fred F. Fielding  
Counsel to the President

Lt. General Daniel O. Graham, USA, Ret.  
High Frontier  
Suite 1000  
1010 Vermont Avenue, N.W.  
Washington, D.C. 20005

FFF:JGR:aea 5/8/84  
bcc: FFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Request for Assistance in Starting  
the Bicentennial Commission for the  
Constitution

Boris Feinman, an activist interested in the bicentennial of the Constitution, has written you urging you to advise the President to move promptly in making appointments to the Commission on the Bicentennial of the Constitution. Feinman lobbied extensively for the creation of the Commission and is "distressed" that it has not yet been activated. Feinman also invited you to a Senate ceremony on September 17, 1984, commemorating the 197th anniversary of the adoption of the Constitution by the Constitutional Convention. Feinman organized an essay contest on the Constitution; the winners will participate in the planned ceremony. A similar commemoration took place last year.

The President signed Public Law 98-101, establishing the Commission, on September 29, 1983. As you know, the statute provides that the Commission shall consist of 23 members: the Chief Justice, the President pro tempore of the Senate, the Speaker of the House, and 20 members appointed by the President, including four from recommendations submitted by the Speaker, four from recommendations submitted by the President pro tempore of the Senate, and four from recommendations submitted by the Chief Justice. In his signing statement (attached) the President asserted that the Chief Justice, Speaker, President pro tempore, and any members of Congress appointed to the Commission could only serve in ceremonial or advisory roles. The President also asserted that he retained ultimate responsibility to select and appoint the members of the Commission. The signing statement engendered a rebuttal from Senator Hatch, to which Ted Olson responded (attached).

We have received no names from Presidential Personnel for clearance for this Commission. Indeed, Presidential Personnel advises that they have not even begun the selection process, and do not expect to have a list of prospective appointees until sometime in the fall. Personnel has received lists of recommended appointees from the Speaker and President pro

tempore of the Senate, but not from the Chief Justice. Meanwhile, Presidential Personnel is discussing with Mike Uhlmann's office whether the President should appoint Congressmen to this Commission.

I have prepared a reply to Feinman for your signature, noting that Presidential Personnel is engaged in the process of reviewing candidates for the Commission, and advising him that you have referred his letter to them. I decided not to mention the Constitutional difficulties surrounding the composition of the Commission, since I saw little reason to introduce a private citizen-activist into a sensitive dispute between Congress and the Executive branch. The referral memorandum to Presidential Personnel does not urge them to take any particular action with respect to the Commission, but you may want to consider prodding them along, or at least bringing this whole matter to some resolution before too much more time passes. It does seem irresponsible not to have even begun the selection process a full seven months after passage of the act. There are at least eight slots for Presidential appointees that do not present any Constitutional problems, and Personnel can be working on those.

Attachment

THE WHITE HOUSE

WASHINGTON

May 8, 1984

Dear Mr. Feinman:

Thank you for your letter of April 17, 1984. In that letter you urged prompt action in activating the Commission on the Bicentennial of the Constitution.

As the President noted when he signed Public Law 98-101, establishing the Commission, the upcoming bicentennial "offers an opportunity to rededicate ourselves to the principles embodied by the Constitution." The Commission will of course play a vital role in promoting and coordinating the commemorative activities, and accordingly it is important that the membership of the Commission be carefully and properly selected. The Office of Presidential Personnel here at the White House is engaged in the process of reviewing candidates for the Commission, and I have taken the liberty of sharing your letter with that office. Please be assured that we will move as promptly as possible in making appointments to the Commission, consistent with our responsibility to ensure that the appointments are the best possible and fully comply with all applicable legal requirements.

I would also like to thank you for the gracious invitation to attend the celebration of the 197th anniversary of the adoption of the Constitution this fall. I will be back in touch with you concerning this event as soon as I have a better idea of what my schedule will be like on September 17.

Again, thank you for sharing your informed views on this important subject with us.

Sincerely,

Fred F. Fielding  
Counsel to the President

Mr. Boris Feinman  
Convention II Inc.  
130 Highridge Road  
New Rochelle, NY 10804

FFF:JGR:aea 5/8/84

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR JOHN S. HERRINGTON  
ASSISTANT TO THE PRESIDENT  
FOR PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Request for Assistance in Starting  
the Bicentennial Commission for the  
Constitution

Attached for your information is a letter to me urging that the President act promptly in appointing the members of the Commission on the Bicentennial of the Constitution, created by Public Law 98-101 on September 29, 1983. I have also attached a copy of my reply.

Attachment

FFF:JGR:aea 5/8/84  
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR CLAUDE GINGRICH  
GENERAL COUNSEL  
OFFICE OF THE U.S. TRADE REPRESENTATIVE

FROM: JOHN G. ROBERTS *JGR*  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Use of Airline Discount Coupons or Bonuses  
From Official Travel

Attached, as we discussed, are the two memoranda Mr. Fielding has issued on this subject.

Attachments

THE WHITE HOUSE

WASHINGTON

November 2, 1983

MEMORANDUM FOR THE WHITE HOUSE STAFF

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

SUBJECT: Bonuses or Discounts from Official Travel

You are reminded that any reduced fare coupons, bonuses, discounts, or similar items of value received by you incident to or on account of official travel must be accounted for and should never be used in connection with private travel. Such items, when obtained on the basis of travel paid for by the Government, are the property of the Government and should be turned in to the Travel Office.

Any questions on this subject should be referred to the Counsel's Office.

THE WHITE HOUSE

WASHINGTON

October 25, 1983

MEMORANDUM FOR

FROM: FRED F. FIELDING <sup>2115</sup> ~~2117~~ <sup>2117</sup>  
COUNSEL TO THE PRESIDENT

SUBJECT: Travel

Questions have been raised concerning your use of official travel to accrue "points" that may be used to pay for private travel. By memorandum dated October 21, 1983 you have outlined your participation in the Pan American World Pass system, and indicated that "points" attributable to official travel were used pursuant to that system to pay for private travel by your spouse.

It is our view that use for private travel of points obtained from official travel is inappropriate. It appears that you have not, due to the nature of the Pan American World Pass system, appropriated anything of value to the government. Nonetheless, obtaining private benefit from official travel raises serious concerns about the use of public office for private gain. Both Executive Order 11222, § 201(c)(1) and the Standards of Conduct for the Executive Office of the President, 3 C.F.R. § 100.735-4(c)(1) require employees to "avoid any action... which might result in, or create the appearance of, [u]sing public office for private gain." A decision of the Comptroller General applied this basic principle to the question of airline bonuses based on official travel and concluded:

It is a fundamental rule of law that a Federal employee is obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duty, and therefore an employee may not retain any "half-fare coupon," "bonus point," or similar item of value received from a commercial air carrier on the basis of the purchase of an airline ticket to be used for official travel.  
E-199656 (July 15, 1981)




Accordingly, we advise you to refrain from using official travel to accrue points under the Pan American World Pass system. We also request that you consult with the Travel Office to determine if there is any way for you to turn over to the Government points accumulated from official travel that have not yet been used. In any event, such accumulated points should not be used for private travel.

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Proposed Executive Order Entitled:  
Management Reform in the Federal  
Government (Revised)

Richard Darman has asked for comments by close of business May 9 on a revised version of the proposed Executive Order entitled "Management Reform in the Federal Government." The proposed order was originally circulated on April 9, and on April 11 we recommended a technical change to ensure that the President's Council on Management Improvement, established by the order, would not be subject to the Freedom of Information Act. That change has been incorporated in this revised version of the order.

There are two other substantive changes. The revised order adds the Assistant to the President for Presidential Personnel, or a federal employee designated by him, to the Council, "to advise on human resource development." I have no objection to this change.

The revised order also changes the reporting procedures concerning the activities of the Council. The original proposed order specified that the Chairman of the Council -- the Deputy Director of OMB -- would report to the President on the activities of the Council. The revised order contains a similar provision, but also specifies that the Chairman shall report to the President through the Cabinet Council on Management and Administration with respect to management projects of the Council. I have no objection to this change.

Attachment

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order Entitled:  
Management Reform in the Federal  
Government (Revised)

Counsel's Office has reviewed the above-referenced executive order, and finds no objection to it from a legal perspective.

FFF:JGR:aea 5/8/84  
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Offensive Card

Michael Rock, President of Rockshots, Inc., has responded to your letter of March 30. Your letter complained about the Rockshots card entitled "Nancy Snorts," which depicted Mrs. Reagan preparing to inhale cocaine. In his letter Mr. Rock suggests that the card should not be considered offensive, but agrees to discontinue it because of his sense that it offended Mrs. Reagan, whom he admires for her work in the area of drug rehabilitation.

Attached, as you requested, is a memorandum on this matter for Mrs. Reagan, and a reply to Mr. Rock. I have also prepared a brief letter to Cathleen Leiser, the citizen who first called this card to our attention.

Attachments

THE WHITE HOUSE

WASHINGTON

May 8, 1984

Dear Mr. Rock:

Thank you for your letter of April 30, 1984, in response to mine of March 30. Your letter advised that you have issued instructions that the Rockshots card entitled "Nancy Snorts" be discontinued.

I am pleased that you have taken this action. You noted that your action was based on your admiration for the First Lady's efforts in the area of drug rehabilitation. We are gratified that the card in question will no longer concern citizens who felt it belittled those sincere and needed efforts.

Sincerely,

Fred F. Fielding  
Counsel to the President

Mr. Michael Rock  
President, Rockshots, Inc.  
51 West 21st Street  
New York, New York 10010

FFF:JGR:aea 5/8/84  
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 8, 1984

Dear Ms. Leiser:

Some time ago you called our attention to a card that depicted the First Lady preparing to inhale cocaine, and urged that Mrs. Reagan sue the company responsible for the card. On March 30 I sent you a copy of a letter I had written to the President of Rockshots, Inc., the company that marketed the card, voicing our objections and asking him to reconsider his use of the card.

In light of your previous interest in this matter, I thought you might like to know that we have received a response. I am advised that the President of Rockshots, Inc. has decided to discontinue the card.

I am pleased that this matter has reached a happy resolution, and would like to thank you once again for calling the card to our attention. With best wishes,

Sincerely,

Fred F. Fielding  
Counsel to the President

Ms. Cathleen M. Leiser  
1700 Ashton Drive  
Virginia Beach, VA 23464

FFF:JGR:aea 5/8/84  
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR THE FIRST LADY

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Offensive Card

Jim Roschush referred to me a card containing a highly offensive depiction of you preparing to inhale a proscribed substance, ostensibly cocaine. The card had been sent in by a citizen understandably outraged that any company would print such trash.

I wrote Mr. Michael Rock, President of the company responsible for the card, on March 30, 1984, strenuously objecting to the card and urging him to reconsider its use. I am happy to advise you that Mr. Rock has now responded and agreed to discontinue the card. Mr. Rock attempted to argue that the card should not be considered offensive, since its "humor" resided in the extreme distance between what it and you represent. As Mr. Rock wrote, however, "I got the sense from your letter that Mrs. Reagan is personally offended and since we have enormous admiration for her work with drug rehabilitation, I see no reason to argue whether the card is satire, parody or mere political cartoon." I am gratified that this matter has been resolved and that the offensive card has been taken off the market.

FFF:JGR:aea 5/8/84  
cc: FFFielding/JGRoberts/Subj/Chron

# WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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

*John - Response  
+ memo to  
Mrs R*

Name of Correspondent: Michael Rock

MI Mail Report      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Cards w/ cover picture of Mrs. Reagan  
(response to RFF letter of 3/30/84)

### 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>CW Holland</u>	ORIGINATOR	<u>84105103</u>		<u>1 1</u>
<u>CWAT18</u>	Referral Note: <u>D</u>	<u>84105104</u>	<u>cont. corresp.</u>	<u>S 84105114</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>

#### 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: \_\_\_\_\_

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.



# Rockshots

51 West 21 Street, 2nd floor  
New York, New York 10010  
(212) 741-3663

April 30, 1984

Mr. Fred F. Fielding  
Counsel to the President  
The White House  
Washington, D.C.

Dear Mr. Fielding:

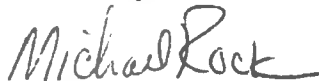
I have your letter in front of me, and to be honest I am quite surprised that you have such strong reactions to a card that we felt was simple satire.

After all, the humor of the card "Nancy Snorts" is that Mrs. Reagan does not use cocaine. Indeed, what makes the card funny (to those who think it is funny) has to do with the extreme distance between what the card depicts and what Mrs. Reagan is and is perceived by the public to be.

Nevertheless, I have told my staff that the card should be discontinued. I got the sense from your letter that Mrs. Reagan is personally offended and since we have enormous admiration for her work with drug rehabilitation, I see no reason to argue whether the card is satire, parody or mere political cartoon.

Thank you for communicating your thoughts to us at Rockshots.

Sincerely,



Michael Rock  
President

MR:lm

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Customs Dispute Involving  
[REDACTED]

*bb*

[REDACTED] has written you a "personal and confidential" letter to complain about the treatment accorded him and his wife by Customs officials. [REDACTED]

[REDACTED]

*bb*

[REDACTED]

b6

In his letter to you [REDACTED] criticizes the allegedly arbitrary approach of Customs, notes that he has a tape (consensual) of a Customs official admitting that it has taken Customs several months to react to a request for investigative action, and complains that [REDACTED] was detained when [REDACTED] visited the White House to have lunch with a friend. [REDACTED] also contends, in something less than a clarion claim of innocence, that [REDACTED]

b6

[REDACTED]

b6

The White House obviously should not become involved in this unfortunate episode. I do not recommend even a referral to Customs, since Customs is already aware of the dispute [REDACTED]

b6

[REDACTED]

The attached draft reply to [REDACTED] for your signature simply notes that the White House cannot become involved in his case.

Attachment

THE WHITE HOUSE

WASHINGTON

May 8, 1984

Dear 

b6

Thank you for your letter of April 29, 1984, concerning your pending dispute with the United States Customs Service.

I must advise you that the White House adheres to a policy of not intervening on behalf of private parties with respect to proceedings involving those parties pending before agencies with adjudicative functions. The purpose of this policy is to maintain public confidence in the impartial administration of our laws. Accordingly, I must decline to take any action concerning your pending case before the Customs Service.

I trust you will understand the reasons for this response.

Sincerely,

Fred F. Fielding  
Counsel to the President

  
b6

FFF:JGR:aea 5/8/84  
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Statement of Stanley Marcus  
Regarding Narcotics Trafficking

We have been provided with a copy of testimony U.S. Attorney Stanley Marcus (S.D. Fla.) proposes to deliver on May 10 before the Senate Subcommittee on Alcoholism and Drug Abuse. The testimony outlines the demonstrated link between crime and drug trafficking in South Florida, and the inevitable temptation for institutional corruption accompanying such trafficking. Marcus rejects the argument that life in South Florida has been improved by the vast quantities of drug money flowing into the region, and also rejects the argument that society would be better off if currently proscribed substances were decriminalized. (The latter argument is advanced most insistently by Alan Dershowitz, who contends that the Reagan Administration has increased crime by effectively fighting drug trafficking, since the reduced supply and concomitant increase in drug cost caused by effective enforcement has compelled users to resort to more crimes to gain the funds they need.) The testimony concludes by outlining the multi-faceted law enforcement response to the drug trafficking challenge. I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR BRANDEN BLUM  
LEGISLATIVE ATTORNEY  
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Stanley Marcus  
Regarding Narcotics Trafficking

Counsel's Office has reviewed the above-referenced testimony,  
and finds no objection to it from a legal perspective.

FFF:JGR:aea 5/8/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Photo Inquiry

The Photo Office has asked for our advice concerning a request from American Motors Corporation to use a photograph of the President in his Jeep, an AMC vehicle. The photograph would be used as a poster for AMC dealers, appearing over the current AMC-Jeep advertising slogan, "Only In A Jeep."

AMC's contemplated use of the photograph of the President would clearly violate our established policy that the name, likeness, photograph, or signature of the President not be used in any way that suggests or could be construed as endorsement of a commercial product or enterprise. I have prepared a letter to AMC for your signature declining their request; and a memorandum for Diane Powers of the Photo Office, who referred the letter to us.

Attachment

THE WHITE HOUSE

WASHINGTON

May 9, 1984

Dear Mr. Chakmakian:

This is written in response to your letter of May 7, 1984, to Mr. Michael Evans of the White House Photo Office. In that letter you requested permission to use a photograph of the President riding in a jeep. The photograph would be used as a poster for your dealer organization.

I must advise you that the White House adheres to a policy of not approving any use of the name, likeness, photograph, or signature of the President in a manner that suggests or could be construed as endorsement of a commercial product or enterprise. Your contemplated use of the photograph of the President would violate this policy, and accordingly I must decline to grant the permission you seek. I trust you will understand the reasons for this response.

Thank you for raising this matter with us.

Sincerely,

Fred F. Fielding  
Counsel to the President

Mr. Carl Chakmakian  
American Motors Corporation  
American Center  
27777 Franklin Road  
Southfield, MI 48034

FFF:JGR:aea 5/9/84  
bcc: FFFielding/JGRoberts/Subj/Chron



THE WHITE HOUSE

WASHINGTON

May 9, 1984

MEMORANDUM FOR DIANE POWERS  
WHITE HOUSE PHOTO OFFICE

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Photo Inquiry

You have asked for our guidance concerning a letter from the American Motors Corporation, requesting permission to use a photograph of the President in a jeep as a poster for the AMC dealer organization. Such use would violate the White House policy against use of a photograph of the President in a manner that suggests or could be construed as endorsement of a commercial product or enterprise. A copy of my reply denying the AMC request is attached for your information.

Thank you for raising this matter with this office.

Attachment

FFF:JGR:aea 5/9/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 9, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Guidelines for Minority Set-Asides  
by State and Local Government

Pursuant to discussions between Craig Fuller and Assistant Attorney General Brad Reynolds, Reynolds has prepared and forwarded to Fuller a set of guidelines to assist state and local governments in developing constitutional programs to increase minority participation in the government contracting process. You will recall that questions were raised about the Administration's position in this area in the wake of the Justice Department's unsuccessful opposition to the set aside program in the Dade County case before the Fifth Circuit.

Reynolds's "guiding principles" are of course consistent with the touchstone of Administration civil rights policy, a belief that it is constitutionally impermissible to grant preferential treatment solely on the basis of race to those who have not been proven to be victims of illegal discrimination. The principles also reflect the view that the authority of state and local governments is not as broad as that of Congress, which has far more extensive remedial authority under section 5 of the Fourteenth Amendment. Reynolds also requires that set aside programs be based on explicit findings of past discrimination by the entity enacting the remedial measure. Such findings must be made by a governmental body of general jurisdiction, not an operational unit such as a police or fire department. Reynolds notes that it is better to base any preferences on categories such as "socially and economically disadvantaged," rather than race. Finally, Reynolds endorses "outreach" programs designed to include previously neglected groups in the contracting process, though such groups may not be selected for contracts on the basis of race.

You received a copy of Reynolds's guidelines from Reynolds himself and from Fuller. Fuller suggests that it will be

necessary to discuss this matter in the near future, and recommends that the guidelines be closely held in the interim. I see no need for any action by our office at this time.

Attachments

THE WHITE HOUSE

WASHINGTON

May 9, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft SBA Report on S. 919  
Reauthorization of the Equal  
Access to Justice Act

OMB has asked for our views as soon as possible on a proposed letter from the SBA Chief Counsel for Advocacy to Chairman Thurmond concerning S. 919, the bill to reauthorize and amend the Equal Access to Justice Act. The Equal Access to Justice Act, subject to a sunset provision, authorizes the award of attorneys fees against the United States when the position of the United States is determined not to have been substantially justified. S. 919 reauthorizes the Act, but also significantly expands its scope. The Department of Justice has presented the Administration's views on this subject, supporting reauthorization of the Act but objecting to the expansion in its coverage.

The views of the SBA Chief Counsel for Advocacy contradict those of the Administration with respect to the changes proposed in S. 919. The SBA supports expanding the coverage of the Act on the ground that such expanded coverage is necessary to prevent Federal agencies from "bullying" small businesses. In his letter the Chief Counsel for Advocacy notes that his statutory obligation is to present the views of small business to Congress and the agencies, and that his views are not those of the Administration. The Chief Counsel's views were previously presented on March 14, 1984, in testimony before the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice. According to Branden Blum, OMB let that testimony through because it contained a disclaimer noting it was not the Administration position. So far as I have been able to determine, the testimony was not reviewed by our office.

I do not approve of the practice of permitting the SBA to present views contrary to those of the Administration, particularly on what is perceived to be such important legislation. I have no doubt that the President has the authority to direct the SBA not to send this report. The SBA is established "under the general direction and supervision of the President," 15 U.S.C. § 633, and while the Chief Counsel is directed to "represent the views and

interests of 'small businesses," 15 U.S.C. § 634(e), he can do so within the confines of Administration policy. The Office of Legal Counsel, in an exhaustive memorandum concerning the litigating authority of the SBA Chief Counsel for Advocacy (February 27, 1984), concluded that the Chief Counsel could not present views as amicus curiae contrary to those of the Administration, as articulated by the Department of Justice. The logic of that memorandum was grounded in the view that the SBA must be subject to Presidential control to avoid grave separation of powers problems. The same logic would seem to apply to SBA testimony before Congress.

This is, however, not the ground on which to do battle with the SBA, in light of the testimony delivered on March 14 making the same points as this proposed report. The attached draft memorandum for your signature does alert OMB that we have the authority to compel the SBA to comply with Administration policy. OMB should be aware of this authority for future reference.

Attachment

THE WHITE HOUSE

WASHINGTON

May 9, 1984

MEMORANDUM FOR BRANDEN BLUM  
LEGISLATIVE ATTORNEY  
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Draft SBA Report on S. 919  
Reauthorization of the Equal  
Access to Justice Act

Counsel's Office has reviewed the above-referenced draft report of the Chief Counsel for Advocacy of the Small Business Administration (SBA). Obviously, I disagree with the substance of the report, which is directly contrary to the cleared Administration position as presented by the Department of Justice. The report notes that it is not presenting the views of the Administration.

As a legal matter the President has the authority to prevent SBA from submitting this report. The SBA is "under the general direction and supervision of the President," 15 U.S.C. § 633(a), and that authority extends to requiring SBA to represent the interests of small businesses within the confines of established Administration policy.

I do not, however, recommend asserting that authority in this instance. The substance of this draft report has already been presented to Congress, when the Chief Counsel for Advocacy testified on March 14, 1984 before the House Subcommittee on Courts, Civil Liberties and the Administration of Justice. Given the March 14 testimony, it would make little sense to block this report.

FFF:JGR:aea 5/9/84  
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 9, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Michael

Jim Coyne came by to advise me that Mr. Deaver has decided to proceed with a Presidential award ceremony for Michael Jackson. Coyne submitted draft award language that, according to Coyne, must be approved today. The language will appear on a plaque bearing the Seal of the President, and the ad hoc award will be presented by the President in a Rose Garden ceremony.

Since the award will be presented by the President, it may of course bear the Seal of the President (as many Presidential awards do). We objected to praising Jackson's commercial success in a previous version of suggested award language. This version simply notes that his success -- an objective fact -- is the product of a drug-free lifestyle. I have no objection on grounds of commercial endorsement to this formulation. You are familiar with my views on the general subject of this award and ceremony.

If you have no objection to this award language, I will so advise Coyne.

Attachment

May 9, 1984

DRAFT LANGUAGE FOR AWARD FOR MICHAEL JACKSON

To Michael Jackson, with appreciation for the outstanding example you have set for the youth of America and the world. Your record-breaking achievements and your preeminence in popular music are products of a drug-free lifestyle. The generous contribution of your time and talent to the national campaign against teenage drunk driving will help millions of young Americans learn that "Drinking and Driving can Kill a Friendship".



THE WHITE HOUSE

WASHINGTON

May 1, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Award to Michael Jackson

Jim Coyne has asked for our views on a proposed award to entertainer Michael Jackson, for his contributions to the campaign against teenage drunk driving. Coyne would like to have the President present the unspecified award to Jackson on May 11 in the Rose Garden. Coyne has asked whether the award should be from the White House or the Transportation Department, whether the award may bear the Seal of the President, and whether we object to his suggested language for the award. You have indicated that you object to any award to Jackson involving the President.

I share your view that this is a poor idea. A Presidential award to Jackson would be perceived as a shallow effort by the President to exploit the constant publicity surrounding Jackson, particularly since other celebrities have done as much for worthy causes as Jackson but have not been singled out by the President. The whole episode would, in my view, be demeaning to the President. Coyne's proposed text for the award is also problematic, since it lauds Jackson for his commercial success as well as his charitable endeavors.

The attached memorandum for Coyne objects to any Presidential involvement and to his proposed text. I also recommend copying Darman so that our objections are generally known.

Attachment

THE WHITE HOUSE

WASHINGTON

May 1, 1984

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: Proposed Award to Michael Jackson

You have asked for our views on a proposed award to entertainer Michael Jackson in recognition of his contribution to the national campaign against teenage drunk driving. Specifically, you have asked whether the contemplated award should be a White House award or a Department of Transportation award, whether the award may bear the Seal of the President, and whether we had any objections to your suggested text for the award.

I must advise you that I object to any Presidential involvement in the presentation of an award to Mr. Jackson. Whatever Mr. Jackson's contributions to the campaign against teenage drunk driving, and whatever his merit as a chanteur, I think any ceremony involving the President and Mr. Jackson would be perceived as an effort by the President to bask in the reflected glow of the inordinate publicity surrounding Mr. Jackson. This perception, which would be demeaning to the President, would derive in large part from the fact that other celebrities have done at least as much as Mr. Jackson for worthy causes, but have not been singled out for special praise by the President.

To answer your specific questions, if any award is given it should not be a White House award. The award accordingly may not bear the Seal of the President. Finally, I do object to the suggested text for the award. If there is an award citation it should not praise Mr. Jackson for his commercial successes, as your proposed text does, but be limited to praising his charitable activities.

Thank you for raising this matter with us.

cc: Richard G. Darman

FFF:JGR:aea 5/1/84  
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE  
WASHINGTON

May 10, 1984

MEMORANDUM FOR FRED F. FIELDING


FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Reappointments to the Board of Directors  
of the Federal National Mortgage Association

I have reviewed the Personal Data Statements submitted by James B. Coles, Bert A. Getz, Dianne Ingels, Merrill Butler, and James E. Lyon in connection with their prospective reappointments to the Board of Directors of the Federal National Mortgage Association. The President is authorized to appoint five of the 15 members of the Board, 12 U.S.C. § 1723(b), on an annual basis. Of the five Presidential appointees, one must be from the homebuilding industry, one from the mortgage lending industry, and one from the real estate industry. Id.

As an initial matter, it should be noted that the members of the FNMA board are not subject to Federal conflict of interest laws or regulations. This conclusion was reached in a July 10, 1970 opinion issued by then Assistant Attorney General William H. Rehnquist, and reaffirmed by this office upon the initial clearance of President Reagan's appointees to the Board. Thus, the fact that the appointees have financial interests in and associations with entities affected by the activities of FNMA is not a bar to their service on the board. Indeed, the enabling statute specifically contemplates that some of the appointees will represent segments of the economy most directly affected by the activities of FNMA.

I have no objection to the reappointments of Coles, Getz, Ingels, and Butler. These reappointments satisfy the requirements of 12 U.S.C. § 1723(b): Butler is in the homebuilding industry, and has served as President of that industry's trade association; Coles, Getz, and Ingels are in the real estate business; Getz may also be considered a representative of the mortgage lending industry by virtue of his service on several bank and mortgage company boards.

As you know, James E. Lyon, the fifth of the President's prospective reappointees, 

*bb*

THE WHITE HOUSE

WASHINGTON

May 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Photo Request

Serendipity Press is publishing a humorous book, The Beasts of Big Business, written by Philip J. Wingate, retired Senior Vice President of Du Pont. The editor and publisher of Serendipity, J. Blan van Urk, has written Carol Greenawalt of the Photo Office, seeking permission to reproduce a photograph on the dust jacket of the book of Jack Jurden, cartoonist for the book, with the President. Van Urk stated in his letter that Jurden received the "go ahead" from Greenawalt over the telephone, and now wants something in writing. The Photo Office denies giving any such oral permission, and has asked us to handle the matter.

It is our policy to deny requests to use photographs of the President with authors on dust jackets, on the ground that the photograph could be construed as an endorsement of the book, a commercial product. I have prepared a draft for your signature doing so in this case. I saw no reason to discuss the confusion over the alleged previous oral permission from the Photo Office.

Attachment

THE WHITE HOUSE

WASHINGTON

May 10, 1984

Dear Mr. van Urk:

This is written in response to your letter of April 30, 1984, to Carol Greenawalt of the White House Photo Office. In that letter you requested permission to reproduce on the dust jacket of The Beasts of Big Business a photograph of Jack Jurden, cartoonist for the book, with the President.

I must advise you that the White House adheres to a policy of not approving the use of the name, likeness, photograph, or signature of the President in any manner that suggests or could be construed as endorsement of a commercial product or enterprise. Accordingly, I must decline your request for permission to use the photograph of the President on your book's dust jacket. So used the photograph could be construed as an endorsement by the President of the book, in violation of the policy.

I trust you will understand the reasons for this response.

Sincerely,

Fred F. Fielding  
Counsel to the President

Mr. J. Blan van Urk  
Serendipity Press  
Building C, Suite 102  
3801 Kennett Pike  
Wilmington, DE 19807

cc: Carol Greenawalt  
White House Photo Office

FFF:JGR:aea 5/10/84  
bcc: FFFielding/JGRoberts/Subj/Chron