Withdrawal/Redaction Sheet
Clinton Library

COPY

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. note	Nancy Soderberg to Sandy Berger re: David Burke and Joseph Duffey (1 page)	n.d.	P5, P6/b(6)
001b. letter	Jorge Mas Canosa to David Burke re: Relocation of Radio/TV Marti (3 pages)	10/23/96	P2, P5, P6/b(6)
002. letter	Joseph Duffey to Nancy Soderberg re: Statement of USIA Director Joseph Duffey (1 page)	02/04/97	P5 6018
003a. memo	Ann Mills Griffiths to Anthony Lake re: Sensitive Matter for Your Attention (1 page)	02/13/97	P1/b(1)
003b. memo	Re: Application for Refugee Status (1 page)	02/13/97	P1/b(1)
003c. fax cover sheet	To Ann Mills Griffith re: Application for Refugee Status (1 page)	02/13/97	P1/b(1), P6/b(6)
003d. letter	To The Consul General, U.S. Embassy re: Application for Refugee Status (2 pages)	02/11/97	P1/b(1), P6/b(6)
003e. form	Application for Visa [8 USC 1202(f)] (1 page)	11/08/96	P1/b(1), P3/b(3), P6/b(6)
003f. memo	Ann Mills Griffiths to Walt Slocombe re: Visit of Senior Vietnamese Colonels (1 page)	02/14/97	P5, P6/b(6)
003g. memo	Ann Mills Griffiths to Walt Slocombe re: Visit of Senior Vietnamese Colonels (1 page)	02/14/97	P5, P6/b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Soderberg (Staff Director)
OA/Box Number: 1403

FOLDER TITLE:

Cuba: Radio Marti/David Burke, January 1997 [3]

Kelly Hendren
2006-0204-F
kh36

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 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.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

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]

6018

SENSITIVE

COPY

Joseph Duffey
Director
United States Information Agency
Washington, C|DC
Voice: 202 619 4742
Fax: 202 619 6705
Email: jduffey@usia.gov

To SB
Jim
Alcaik

this remains a problem. I've tried to mediate between Joe + David but great tension remains.
Nancy

February 4, 1997

Nancy Soderberg
National Security Council

Dear Nancy:

Here is the statement that went out last evening. After we talked I changed several portions of the text which I understood to be of concern to you:

- removed the implication that there was *no* evidence to sustain the charges

- cited the finding about irregularities in personnel, hiring, etc. and indicated need for further reform in that area

I appreciate efforts to "contain" the chairman of the BBG from further self-inflicted wounds and misrepresentation of administration policy by signing a joint statement. But there are limits to hypocrisy. There have been significant "irregularities" and violations of federal personnel policies in the staffing of BBG itself and if that box is opened there will be a lot of worms to display.

I have the disadvantage of having read carefully the IG's report without prior axes to grind. I can tell you that the most damming findings relate to a former employee of the Martis who was hired in a senior position by the BBG after he made charges that have now been nearly totally discredited by this investigation.

Yes, I believe we should move on from here. I am not going to apologize for that. There is too much to lose by indulging in self-serving politics in our efforts to handle a highly charged situation that is already over politicized.

Joe Duffey

Withdrawal/Redaction Sheet
Clinton Library

COPY

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION		
001. email	James Baker to Wendy Gray et al. re: Flatow Legislation [pages 1-5 closed in whole] (6 pages)	02/06/00	P5	6019	Dup.
002. email	James Baker to Miles Lackey re: Flatow Legislation [pages 1-5 closed in whole] (6 pages)	02/06/00	P5	6019	

COLLECTION:

Clinton Presidential Records
NSC Emails
Exchange-Non-Record; March 1997-January 2001 ([Radio Marti])
OA/Box Number: 630000

FOLDER TITLE:

[01/18/2000-05/25/2000]

Kelly Hendren
2006-0204-F
kh313

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 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.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

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]

6019

Exchange Mail

COPY

DATE-TIME	02/06/2000 12:16:09 PM
FROM	Baker, James E. (LEGAL)
CLASSIFICATION	UNCLASSIFIED
SUBJECT	FW: Flatow Legislation [UNCLASSIFIED]
TO	Lackey, Miles M. (LEGIS)
CARBON_COPY	
TEXT_BODY	Have you cleared this yet?

-----Original Message-----
From: Baker,
James E. (LEGAL)
Sent: Sunday, February 06, 2000 12:11 PM
To: @RUDMAN;
Lackey, Miles M. (LEGIS)
Cc: @LEGAL - Legal Advisor
Subject: Flatow
Legislation [UNCLASSIFIED]
Importance: High

Attached for your
review is a draft memo to the President re: Flatow legislative proposal.

Also, please review the following draft answer to a Congressional QFR to Stu E. regarding what did the Senior Administration mean when
he referenced actuarial settlements on February 26, 1996. The question
is based on an obscure reference on page 7 of the attached press briefing by Rick Nuccio.

Draft Answer:

DRAFT/DELIBERATIVE

This
appears to be an incomplete answer to an incomplete question

referencing "actuarial settlements." In responding, the Senior Administration Official makes it clear that he does not intend to address the amount of compensation the BTTR families might receive or any actuarial problems that might present. Earlier the same day, the President had announced that the Administration would seek legislation that would provide immediate compensation to the families. The President

did not specify how much compensation. The Administration subsequently determined that the President had existing authority to provide compensation and on ____ , _____ announced that the Government would make an ex gratia payment to the families in the amount of _______.

TRANSLATED_ATTACHMENT FlatowRentalOption2-00.doc

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL R. BERGER
BETH NOLAN
CHUCK BRAIN

SUBJECT: Legislative Compromise Regarding the Flatow, Brothers to the Rescue, and

Beirut Hostage Plaintiffs

Purpose

To obtain your approval of a legislative compromise intended to resolve the ongoing impasse with the Flatow, BTTR and Beirut hostage plaintiffs while preserving Executive leverage over blocked assets; and, to seek your authority to

threaten a veto of other related legislation in order to garner support for this compromise.

COPY

Background

At the close of the last congressional session we proposed legislation to provide

advance payments to plaintiffs holding judgments against terrorist states using appropriated funds. That portion of plaintiffs' claims would subsequently be subrogated to the United States, which would seek repayment through the international claims process, or ultimately at the time relations are normalized.

We also proposed the formation of a commission to consider alternatives to provide compensation to victims of terrorism while at the same time preserving your ability to use blocked assets to modify state behavior, influence the normalization of relations, and preserve principles of diplomatic immunity. This

proposal proved unacceptable to Senators Mack and Lautenberg, who opposed any legislation dependent on appropriated funds, even with subrogation and the prospect of increased payments to plaintiffs offered by the use of appropriated funds.

In the interim, Judge Lamberth upheld your authority in the Flatow case to waive existing law allowing attachment of blocked assets and diplomatic property. In addition, the 11th Circuit overruled the District Court and upheld your waiver authority in the BTTR case.

We again face the prospect this week of legislation that would authorize plaintiffs to attach Iranian diplomatic property in the United States, including the Chancery Building [*] as well as blocked terrorist state assets. In light of

the court rulings, we would also anticipate the elimination of your waiver authority. As you know, Madeleine, Stu and I have voiced four

COPY

concerns about authorizing the attachment of blocked assets and diplomatic property (1) that we preserve your ability to use blocked assets as a foreign policy tool; (2) ensure equity among comparable plaintiffs; (3) avoid mechanisms that ultimately have the taxpayer pay these judgments through the Tribunal process; and, (4) that

we protect our own diplomatic properties overseas by meeting our international obligations to protect foreign properties in the United States. At the same time, we have sought a mechanism to provide some compensation to these plaintiffs

who have suffered considerably. This effort has been hampered by a dearth of Iranian blocked assets, virtually all of those assets having been returned to Iran as part of the Algiers Accords resolving the Iranian hostage crisis. What remains under U.S. control are a number of diplomatic properties, including the Iranian chancery, some of which the United States rents as a mechanism to maintain these properties.

Mindful of your desire to resolve this impasse and avoid a winner take all approach, Madeleine, Stu, Beth and I now recommend that we seek legislation authorizing payment of up to 5% of existing compensatory judgments using blocked Cuban assets, and the existing and future rental proceeds from the blocked Iranian diplomatic properties. (In the case of Cuban assets, which are blocked under the Trading with the Enemy Act, an argument can be made that you already have authority to take this step; however, Justice has questioned the breadth of this authority and it is important that the Congress participate in any compromise resolution.) While there are adequate blocked assets to provide more money to the BTTR plaintiffs, for the reasons stated above we believe we should preserve the majority of blocked assets as future leverage over Cuba and think that comparable plaintiffs should receive comparable payments. We have consciously chosen a relatively low percentage, which will leave enough rental proceeds to provide compensation to each of the judgment holders against Iran, including Terry Anderson whose compensatory damages are not yet set. Using this formula the rental proceeds would be divided equally by percentage as follows: Flatow's ; Ciccipio ; Jacobson ; Reed ; Andersen TBD. The BTTR plaintiffs would received. . .

Our proposal would also remove the punitive damages provision of section 117, which makes terrorist-list states subject to punitive damages. Punitive damages violate/are not recognized in international law and could cause significant difficulties in regard to normalization talks and retaliatory measures by other countries. (This provision was added during the October 1998 Omnibus conference with no notice to or opportunity to comment by the Administration.)

To be clear, we believe this is a "less bad option" than the alternative. Use of

the rental proceeds, which have been the focus of extensive litigation, should prove enormously symbolic to the Flatows and represents a significant compromise and assumption of risk on the part of the Government. There are still considerable risks of reciprocal retaliation abroad, where the United States is best served by a black letter rule protecting diplomatic property. And, ultimately, the U.S. taxpayer will likely pay for this compromise as the rental proceeds are the subject of an Iranian Tribunal claim.

While we cannot be certain that this proposal will satisfy all the plaintiffs, we

are certain that without a threat to veto other legislation we will stand little chance of securing Senate support for this compromise. Therefore, in addition to

approving the legislative proposal described above, we also seek your authority to threaten to veto more expansive legislation.

You should also know that we have continued to try and identify possible unblocked Iranian assets in the United States, which the Flatows might attach, a difficult effort in light of Iranian efforts to hide their investment as well as the uncertain ownership of assets in some cases. Significantly, Treasury has identified $165 million of Iranian bank Merlo (?) money in First Shares Bank.
This fact will be notified to the Congress this week, and consistent with applicable trade secrets laws, provided to plaintiffs. However, there is risk that the Iranians will seek to sell these assets before plaintiffs can act and even if they do, they will face a significant legal hurdle in the proving to a court that Merlo is not a separate juridical entity from the Government of Iran.

Recommendation

That you authorize us to propose legislation providing for 5% advance payment of existing judgments using blocked assets in the case of Cuba and existing and future rental proceeds in the case of Iran.

That you authorize a veto threat of legislation that would go beyond this compromise and seek to authorize the attachment of blocked assets generally and diplomatic property.

TRANSLATED_ATTACHMENT by Senior Administration Officials, The Briefing Room, February 26, 1996.doc