

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. briefing paper	RE: Possible Topics and Questions for Examination (9 pages)	04/22/1995	P5 444

COLLECTION:

Clinton Presidential Records
Counsel's Office
Cheryl Mills
OA/Box Number: 24594

FOLDER TITLE:

[Binder] Trial Prep [Whitewater matter]

Debbie Bush
2006-0320-F
db2028

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.

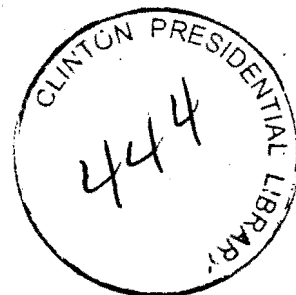
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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]
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- 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]

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I. POSSIBLE TOPICS AND QUESTIONS FOR EXAMINATION

A. Background

1. *Did the President ask Hale to be his campaign manager in the 1976 Attorney General election?*

Hale testified during direct examination:

Q. . . . [W]as your advice sought in connection with that campaign?

A. I talked to him on two different occasions. That was about all.

(16:3061, emphasis added). When confronted by the defense with the FBI 302 indicating Hale had said Clinton had asked Hale to be his campaign manager, Hale first responded, "I think that might be written down wrong," but then changed his mind and testified that he had been asked to be Clinton's campaign manager. (19:3608-12)

2. *Did the President discuss with Hale the possibility of establishing a state SBIC?*

The defense was skeptical of Hale's testimony that he had "several conversations" with Governor Clinton during his first term regarding such a proposal. (16:3062-63; 19:3612-14)

- B. Does the President know of any reason why McDougal (allegedly) told Hale that a loan was needed to "clean up some members of the political family?" Assuming, McDougal made this comment, who could he have been referring to as "members of the political family"? Could it have been the President and Jim Guy Tucker as Hale claims?¹

It is doubtful that any of these questions could be posed in any manner that would not be objectionable as calling for speculation. Putting that objection aside, there are three strong responses.

¹Hale's account is at 16:3098-3108; 22:4175-80. The defense demonstrated that the phrase "clean up" was one often used by Hale -- suggesting that McDougal did not say it and Hale had fabricated the story. (22:4169-71)

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First, Hale admitted that he only assumes McDougal meant the President and Tucker. (16:3104, 3107) Hale testified that Clinton's name was not mentioned in this context. (22:4177-78) The defense pointed out that McDougal counted several other political figures as his friends. (16:3106-08). Pillsbury observed that "[t]he Clintons (like Senator Fulbright) were not old cronies" of McDougal's. (February 25, 1996 Pillsbury Supplemental Report at 163)

Second, the President had no financial matters that needed "cleaned up," and would not have asked for or accepted any financial assistance that was not entirely legal and ethical.

Third, the President never received any of the proceeds from Hale's loan to Susan McDougal. While Hale claims that the loan was intended to benefit the President (17:3314 and 23:4380), he admits that he has no idea how (24:4595).

The prosecution has apparently tried to show that Whitewater (and thus the Clintons) benefitted from the loan because some of the proceeds (\$25,000 according to Pillsbury, April 1995 Preliminary Report at 5 and 119; December 1995 Whitewater Report at 33) were allegedly used to purchase the International Paper property. Pillsbury flatly rejected that contention:

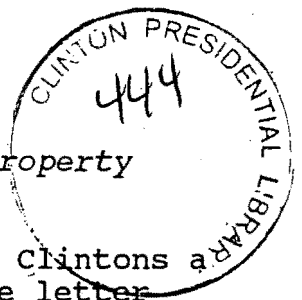
The McDougals acquired the International Paper property for their sole benefit. The Clintons or Whitewater did not benefit from the deal.

****** While "McDougal purportedly acted for Whitewater" and Whitewater was liable for the mortgage, "[o]n December 1, 1986, Jim McDougal, acting on behalf of Whitewater . . . , conveyed the . . . International Paper parcel from Whitewater to Great Southern Land [This conveyance] did not relieve Whitewater of the mortgage; [it] did, however, remove the asset. Jim and Susan McDougal may have owned Great Southern Land outright." (April 1995 Preliminary Report at 116-17)

****** "The [International Paper] transaction did not benefit Whitewater or the Clintons; in fact, it left Whitewater with a large mortgage but no corresponding asset" (April 1995 Preliminary Report at 120-21)

****** "The International Paper deal did not benefit Whitewater or the Clintons" (April 1995 Preliminary Report at 5)

McDougal purchased the International Paper property without the Clintons' knowledge.



** On November 14, 1986, McDougal sent the Clintons a letter regarding Whitewater. "Nowhere in the letter was there any reference to the International Paper deal, which had closed the previous month." (April 1995 Preliminary Report at 120; see also December 1995 Whitewater Report at 63)

** "On December 16, 1986, McDougal again wrote the Clintons [about the Whitewater investment]. Once again he did not mention International Paper." (April 1995 Preliminary Report at 120)

** "At the time [of the purchase], the McDougals told International Paper that they were the sole owners of Whitewater" (April 1995 Preliminary Report at 116)

** Mrs. Clinton has said that "at no time before 1989 did she know anything about the purchase by Whitewater [of the International Paper property]" and [n]o contrary evidence has been found." (December 1995 Whitewater Report at 64)

C. The alleged meeting between Hale, McDougal, and Governor Clinton at the Castle Grande trailer.

Hale testified that this meeting happened after dark sometime between January 10, 1986 and February 28, 1986. (17:3221, 3225; 21:3964; 23:4333) Hale did not see the Governor's car or anyone from the Governor's security detail. (21:3965-66) Hale claims that the President was wearing jogging clothes. (24:4560)

Hale testified that the loan to Susan McDougal was discussed and that Governor Clinton said "my name can't be associated with this," but that the Governor was willing to put up some property in Marion County as security. (17:3223-24; 21:3969-70) Hale also testified that the President's alleged need for the money was "never discussed." (24:4595)²

²Susan Strayhorn, McDougal's former secretary, testified that Governor Clinton "stop[ped] by" the Castle Grande trailer for a "short visit" on one occasion sometime between late-February and July 1986. (3:590) Hale was not present during this visit. (4:705)

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D. Other alleged Hale conversations with the President alone concerning loans

Hale claims that he had such conversations (21:3974; 23:4333) (e.g. at the state capitol). He was not allowed to testify about his claims on direct examination. (18:3350-52) However, the defense may raise the issue with the President or inadvertently open the door for the prosecution to pursue it.

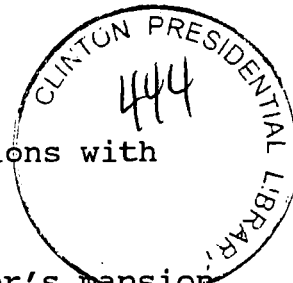
Bill Watt testified that Hale told him sometime before the closing of the Dean Paul loan (February 28, 1986) that Governor Clinton had asked Hale once at the capitol and once on the phone to "get my deal done" (the Dean Paul loan) to "help my friends" (with the Castle Water & Sewer loan). (13:2474-75; 15:2803-2804)³ However, Watt testified on cross-examination that completion of the Dean Paul transaction was not a prerequisite to the Castle Water & Sewer loan. (14:2675) Watt also testified that Governor Clinton did not have a financial interest in the transaction. (14:2673)

It is plausible that Hale lied to Watt in 1986 about the Governor's alleged interest in the transaction. Hale had a personal stake in closing the Dean Paul transaction (he pocketed \$502,000). (15:2793) Hale was "in a hurry to close the transaction." (15:2722) Hale allegedly told Watt of his conversation(s) with Governor Clinton while Hale was pressuring Watt to expedite the necessary appraisals. (13:2478-80). Watt testified that dropping names was Hale's "way of pushing" (14:2703) -- that Hale would "utter names when he was asking me to do things" (14:2708). In fact, Hale got Watt (who was in a five-way race for a judgeship at the time) involved in the Dean Paul transaction by dangling political "carrots." (15:2797-98)

It is also possible that Watt fabricated his testimony about Hale's conversations. The FBI's notes suggest that the first time Watt mentioned his conversations with Hale regarding Governor Clinton's alleged interest in the transaction was the day before Watt was granted immunity. (15:2813) Apparently, Watt did not mention these alleged conversations in three previous interviews with the FBI. (15:2808-13) In fact, Watt had previously told the FBI

³Robert Palmer, the appraiser who worked on the Dean Paul transaction, testified that Watt had told him to "do whatever you have to do . . . [d]on't worry about any repercussions . . . this goes all the way . . . to the top [higher politically than McDougal]." (12:2178-79)

"that he had no real knowledge of . . . discussions with . . . Hale." (15:2810) See also 15:2859-62.⁴



E. An alleged visit by McDougal at the Governor's mansion regarding the loan.

Hale testified that at one point before the alleged meeting at the Castle Grande trailer, McDougal told Hale that McDougal was going to visit Governor Clinton at the mansion on a Saturday to discuss the loan. (23:4326-35)

The prosecution introduced a January 15, 1986 phone message from the Governor's office to McDougal that stated, "Can see Governor Saturday a.m. at 11. Go by mansion." (3:609-10)

F. Randy Coleman's contact with Bill Kennedy

The defense has understandably tried to explore Hale's personal incentives to give testimony harmful to the President and Jim Guy Tucker. (20:3726-40; 21:3907-08) The defense may ask the President if he has any knowledge of this incident in an attempt to get it before the jury.

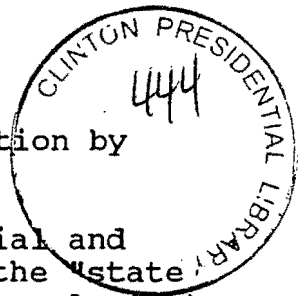
G. McDougal's story that Governor Clinton asked Madison to retain Mrs. Clinton and the Rose Law Firm in August 1985.

This subject will undoubtedly not be raised by the defense, and the prosecution, therefore, should not be allowed to raise it on cross-examination. However, if the defense does ask the President about Hale's "political family" story (discussed in Section I.B, *supra*), the prosecution may argue that it should be allowed to raise this subject to show McDougal's "state of mind" when he allegedly made the "political family" comment, and to show that McDougal considered Governor Clinton a member of that

⁴Watt testified that three weeks before he was granted immunity he had told Don Denton that the prosecutors "want me to lie on Tucker, change the story the way they want it." (14:2658-69; 15:2735-42, 2853-54)

In a March 1994 New York Newsday article, Watt was quoted as saying: "The problem I have with his scenario is that he (Hale) never once implied to one of us that he was getting pressure." (3/31/96 Arkansas Democrat-Gazette, "Hale to Tell Damning Tale, but will it Hold Water")

"family" (the defense has challenged that assumption by Hale, 16:3106-08).⁵



This subject is wholly irrelevant to the trial and should not come in with a proper application of the "state of mind" exception. However, Judge Howard has been lenient in allowing the prosecution to explore issues under that exception. If the prosecution's statements regarding the anticipated duration of their cross-examination are an indication that it intends to conduct a wide-ranging examination, then they may attempt to explore this issue. (The prosecution did elicit testimony from Bonnie Crocheron, a former Madison Guaranty employee, that Governor Clinton came in Madison's office while jogging on one occasion and had jogged through the neighborhood on one or two other occasions. (4:763))⁶

If the President does address this issue, then the following conclusions of the February 1996 Pillsbury Supplemental Reports may be helpful.

** "The purported recollections of Jim McDougal are inconsistent with those of the others and upon analysis make little sense." (p. 6)

** "There is no suggestion that the money was to be a gratuity (as opposed to payment for work performed), nor is there any suggestion of an improper quid pro quo." (p. 23)

** "In addition, there are a number of reasons to disbelieve McDougal's story."

"First, McDougal may not be a reliable witness."

"Second, the statement that McDougal had no specific legal work in mind when he retained the Rose Law Firm obviously is wrong. The preferred stock issue had arisen at least a week before Mrs. Clinton met with McDougal on April 23, 1985, and work on this project began the same day as that meeting."

⁵The prosecution may also attempt to raise this issue in order to have the President question the veracity of James McDougal.

⁶Susan Strayhorn, McDougal's former secretary, testified that Governor Clinton came by Madison's downtown office on one occasion. (3:590)

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"Third, and perhaps most significantly, the alleged economic motivation makes no sense. . . . [T]here is no evidence that the Clintons ever received anything like \$2,000 a month from this engagement, and every reason to believe that they never received more than a trivial sum of money. . . . [E]ven if all the retainer had been earned in fees, Mrs. Clinton's share would have been less than \$20 a month." (pp. 23-26)

II. HALE'S MOTIVE TO FALSELY IMPLICATE THE PRESIDENT

Hale met with David Bosse and several media representatives prior to making his proffer to the Independent Counsel. (____) Hale recounts his meetings with Bosse and media representatives at 20:3733-40 and 22:4467-73, 4479-82. Hale testified that the "networks" were "only interested in what Bill Clinton had to do with it." (22:4481; see also 21:3907-08) Hale told ABC that \$110,000 from the loan had gone into Whitewater. (22:4242, 4248-49) Hale claimed his source for this false information had been the Washington Post. (22:4243)

Hale admits that his motive for speaking to the media was to create support for the appointment of an independent counsel -- which he expected to increase his chances of negotiating a favorable plea arrangement. (22:4246-47)

III. INCONSISTENCIES IN HALE'S ACCOUNT

** Hale initially testified that he looked to Clinton to repay the loan (17:3314), but later reversed his testimony (23:4433). Moreover:

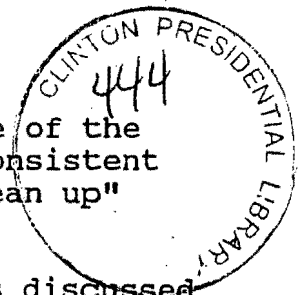
Hale never asked Clinton to pay off the loan -- he looked to McDougal (18:3365-70 (the McDougals gave him their Madison stock); 21:3973-75)

At one point, Hale stopped accruing interest on the loan because he "knew that Jim and Susan couldn't repay it." (18:3373)

When auditors questioned the loan, Hale filed suit against the McDougals and ultimately had Mr. Cole take the note, but never simply asked Clinton for repayment. (18:3375-76, 78-79)

** Hale claims that the loan was intended to benefit the President (17:3314 and 23:4380), but he admits that the President's alleged need for the money was "never discussed." (24:4595) Moreover, the prosecution's notion

that the Clintons benefitted from the loan because of the subsequent International Paper transaction is inconsistent with Hale's claim that the loan was needed to "clean up" some preexisting matters.



** Hale testified the loan to Susan McDougal was discussed and that Governor Clinton said "my name can't be associated with this." But Hale also testified that the Governor was willing to put up some property in Marion County (presumably the Whitewater property) as security for the loan. (21:3969-72)

IV. HALE'S VERACITY

** Hale lied under oath to Judge Reasoner when he pled guilty and claimed that he had not benefitted personally from a \$900,000 transaction that was at issue. (22:4095-4102). Hale admitted that he misled the judge (22:4098), claiming that he was "scared to death" (22:4097). Two years later, when Hale appeared for his sentencing, again before Judge Reasoner, Hale did not correct the record. (22:4100-4101).

This incident demonstrates that Hale has not changed his inclination to lie in any effort to minimize his punishment. Moreover, this incident gives him a compelling incentive to please the prosecutors with his testimony -- they have the power to charge him with perjury and/or obstruction. Hale testified that he has not had any discussions with the prosecutors about this possibility. (24:4639-40).

** Hale admitted that he lied to the FBI in 1989 because it was in his best interest. (22:4249-55)

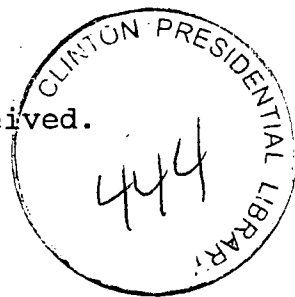
** Bill Watt testified that he had expressed a belief that Hale had lied to the Independent Counsel. (14:2668)

** Watt also testified that Hale had lied to him "time and again" and had done "a good job" manipulating him. (15:2796 and 2799)

** Dean Paul testified that Hale could present "a persuasive picture" "as good as [he has] ever seen" (12:2046) and that Paul had never been conned as well as he was by Hale (12:2049).

** Patricia Dimuzio, a former SBA official, testified that Hale "conned [her] pretty good . . . over the nine years that [she] dealt with him." (13:2338) See also 13:2369, 2374, and 2405. Dimuzio had met with Hale approximately

twelve times without realizing she was being deceived.
(13:2403)



Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Neil Eggleston to Lloyd Cutler; RE: Lyons Reports (10 pages)	05/19/1994	P5 ~~445~~ 445
~~002. charts~~	~~RE: Financial charts for Whitewater Development Co. (23 pages)~~	~~03/18/1992~~	~~P6/b(6)~~
~~003. charts~~	~~Clintons; RE: Cash payments and loans (7 pages)~~	~~03/18/1992~~	~~P6/b(6)~~
~~004. charts~~	~~Citizens Bank & Trust; RE: Loans and Escrow Accounts (2 pages)~~	~~n.d.~~	~~P6/b(6)~~
~~005. charts~~	~~Whitewater Development Co.; RE: Comparative Balance Sheets (3 pages)~~	~~03/20/1992~~	~~P6/b(6)~~
~~006. charts~~	~~Whitewater Development Co.; RE: Comparative Balance Sheets (2 pages)~~	~~03/21/1992~~	~~P6/b(6)~~
~~007. charts~~	~~Whitewater Development Co.; RE: Comparative Balance Sheets (3 pages)~~	~~03/23/1992~~	~~P6/b(6)~~
~~008. charts~~	~~Whitewater Development Co.; RE: Comparative Balance Sheets (2 pages)~~	~~03/23/1992~~	~~P6/b(6)~~

COLLECTION:

Clinton Presidential Records
Counsel's Office
Cheryl Mills
OA/Box Number: 24594

FOLDER TITLE:

[Binder] The Lyons Report [Whitewater] [1]

Debbie Bush
2006-0320-F
db775

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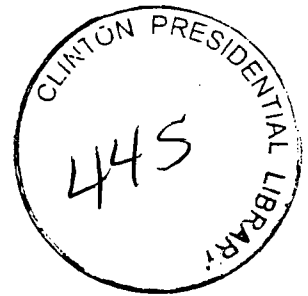
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THE WHITE HOUSE
WASHINGTON



May 19, 1994

MEMORANDUM FOR LLOYD CUTLER
SPECIAL COUNSEL TO THE PRESIDENT

FROM: W. NEIL EGGLESTON ✓
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: COMPARISON OF THE LYONS LONG FORM AND SHORT FORM
REPORTS AND THE MARCH 18 DRAFT

At your request, I have prepared this Memorandum comparing the March 23, 1992 Lyons Report that was released publicly (the "short form report"), the March 23, 1992 Lyons Report that was not released (the "long form report"), and the March 18 draft of the Lyons report.

I. COMPARISON OF THE LONG FORM AND SHORT FORM LYONS REPORTS AND
THE MARCH 18 DRAFT.

A. Comparison of the Description of Scope of the Matter.

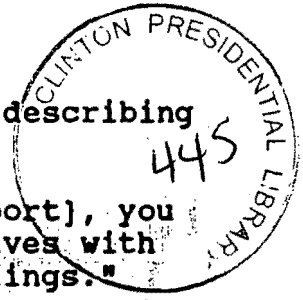
1. The Long Form/Short Form Comparison.

The short form is actually comprised of two letters, one from Lyons to the Clintons (labeled as attorney/client privileged) and the other from Patten, McCarthy to the Clintons (labeled as accountant/client privileged). The long form is addressed to Lyons, and states that is covered by both the attorney/client and accountant/client privileges.

The long form and short form describe the scope of their projects in similar terms. The scope is described as "WDC's current financial conditions," "the present investment of the related parties, including loans and advances," "and certain tax benefits" realized by the Clintons.

The long form adds the following sentence in describing its scope:

"Beyond the scope of [the short form report], you have also asked us to familiarize ourselves with all of WDC's relevant past business dealings."



This sentence may provide some ability to suggest that the long form was intended to go beyond the questions posed during the campaign about the Clintons investment in Whitewater. Nevertheless, even the short form describes tax benefits to the Clintons as part of the scope, but then omits some tax issues that appear in the long form.

2. The Long Form/March 18 Draft Comparison.

The scope sections in each of these documents are similar, though worded differently. It does not appear that the difference in wording is significant.

B. Comparison of the Description of "Related Parties."

1. The Long Form/Short Form Comparison.

The long form lists the McDougal related parties--Great Southern Land Company, Flowerwood Farms, Pembroke Manor, McDougal & Associates, Rolling Manor, Tucker-Smith-McDougal, and Madison Marketing. The short form makes reference, without listing the names, to "certain entities and groups related to the McDougals."

2. The Long Form/March 18 Draft Comparison.

The long form and the March 18 draft have the same list of McDougal-related parties.

C. Comparison of the Section on "Background."

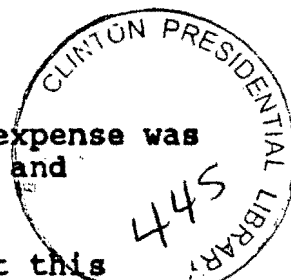
1. The Long Form/Short Form Comparison.

The long form contains a one-page description of the background of the Whitewater matter, which does not appear in the short form.

This section appears to be primarily public information, at least today if not in March 1992. Only two sentences of this section of the long form report appear to be at issue:

- a. "Following incorporation, the infrastructure costs were capitalized and amortized on the

books of WDC, while the interest expense was capitalized as part of land costs and expensed as lots were sold."



I think we need to have a tax lawyer look at this sentence in light of the Clintons' treatment of their interest deductions.

- b. "Therefore, the transfer of the property to WDC resulted in loans recorded by WDC payable from WDC to the Clintons and the McDougals."

We have already discussed this sentence in the long form report, and we are awaiting a memorandum on its factual accuracy and its legal significance.

2. The Long Form/March 18 Draft Comparison.

The long form report provides more factual detail about the Whitewater investment, both at its initiation phase and in terms of its use of Ozark Realty to market the lots and to acquire the remaining lots in 1985.

The long form contains a detailed description of the purchase of the property in 1978, its financing, and the continuing personal obligations of the Clintons and the McDougals on the notes.

The March 18 draft has a much briefer description of the management of the company. The March 18 draft states:

It is our understanding that the Clintons were passive as to the management of WDC . . .

The March 23 long form report states:

It is our understanding that the Clintons were not active in the management of WDC.

The Background section also contains the following sentence, which does not appear in the March 18 draft:

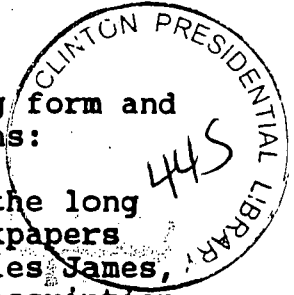
It is our understanding that since the inception of this venture and at the request and instruction of the McDougals, the Clintons have made various loan payments (principal and interest) and other case advances to WDC.

D. Comparison of the Section on "Available Records."

1. The Long Form/Short Form Comparison.

Also, lot 13
reference in
3/20 Draft.

This section is almost identical in the long form and the short form, with the following exceptions:



a. Paragraph one of this section of the long form contains a description of the workpapers obtained from the WDC accountant, Charles James, that is not in the short form. That description reads as follows:

" . . . consisting of analyses of pre-incorporation costs, working trial balances for fiscal years ended May 31, 1980, 1981, 1982, 1984, 1985 and 1986, case receipt and disbursement journals for those years, with certain exceptions; . . . "

b. Paragraph two of this section of the long form gives an example of Whitewater documents that could not be located. This description does not appear in the short form:

"For example, no cash receipts and disbursements journals were prepared for WDC following fiscal year ended May 31, 1986."

2. The Long Form/March 18 Draft Comparison.

These sections are the same in the March 18 draft and the March 23 long form report.

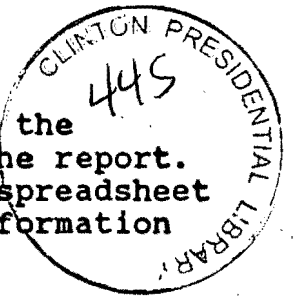
E. Comparison of the Section on "Analyses and Reconstruction."

1. The Long Form/Short Form Comparison.

This section does not appear at all in the short form. The first paragraph pretty much relates to the spreadsheet attachments to the reports. The long form contains three pages of attachments; the short form contains two. The disclosure of this paragraph will not add much if all three pages of attachments to the long form are released. This spreadsheet page is the one that makes reference to Whitewater's receipt of funds from the specifically named McDougal entities.

Paragraph two of this section appears to relate to analyses that were performed, but not attached as part of the long form report. Thus, on reading this paragraph, the press will want access to the other analyses performed.

The referenced analyses appear to be some of the material attached to the March 18 draft of the report. The March 18 draft has attached 31 pages of spreadsheet analysis, representing substantially more information about the Whitewater finances.



2. The Long Form/March 18 Draft Comparison.

The March 18 draft has attached to it 31 pages of spreadsheets, setting forth a fairly detailed picture of Whitewater, the contributions by the Clintons and the McDougals, and the sales of the properties. The "Analyses and Reconstruction" section of the March 18 draft essentially describes these attachments, but add little to attachments themselves. This section in the long form report uses different language because the report only contains three pages of spreadsheets, but the different language does not appear to make any substantive difference.

F. Comparison of the Section on "Observations."

Apart from the spreadsheets, this section is where the principal difference lies between the two reports. The short form really reflects a brief summary of the ultimate conclusions of the analysis, with a single reference to improper interest deductions the Clintons took in 1984 and 1985. The long form includes all of the items on the short form, but also lists a number of distinct transactions that it found of potential interest to the clients.

It appears that all of the specific items in the March 18 draft are also in the March 23 long form report.

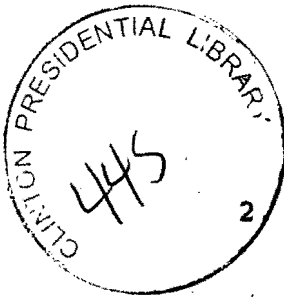
1. Item 1 of Long Form Report.

a. The Long Form/Short Form Comparison.

This item is not in the short form.

In 1978, the Clintons paid interest in the amount of \$10,131, and took that amount as an interest deduction. According to the long form, Whitewater capitalized the interest payment as part of land costs. The long form suggests that this inconsistency should be resolved by Whitewater adjusting its tax records and reducing its remaining NOL. This suggestion assumes that the Clintons's deduction was appropriate.

b. The Long Form/March 18 Draft Comparison.



Should be
No. (a)

This item in the long form appears as ¶ 5(b) of the March 18 draft.

Item 2 of the Long Form Report.

a. The Long Form/Short Form Comparison.

This item is not in the short form.

It highlights another possible improper interest deduction in the amount of \$2900 which should have been treated as a contribution to capital.

b. The Long Form/March 18 Draft Comparison.

This item of the long form appears as ¶ 5(b) of the March 18 draft.

The March 18 draft states that it appears that the \$2900 check was a contribution to capital, not an interest payment, so that the Clintons' deduction was not correct. The long form report states that "it is possible" that the \$2900 check was an interest deduction.

The March 18 draft concluded that this deduction was an error. I believe that we have since obtained additional documentation that shows that \$2400 of this amount was properly deducted as interest, but I am not fully familiar with this.

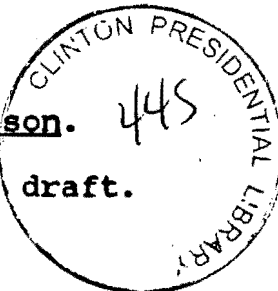
3. Item 3 of the Long Form Report.

a. The Long Form/Short Form Comparison.

This item is not in the short form.

This paragraph references a possible reimbursement by the Clintons to the McDougals of \$11,032.50, which Lyons found on the accountant's worksheets. Lyons could find no other documentation supporting this entry, so disallowed it as a Clinton contribution to Whitewater.

The forensic accountants will probably be able to provide further information about this issue. It appears to be a problem only to the extent that it reflects an uncertainty about the books and records of Whitewater. Its omission from the short form report seems relatively insignificant because its inclusion would have only benefitted the Clintons.



b. The Long Form/March 18 Draft Comparison.

This item does not appear in the March 18 draft.

4. Item 4 of the Long Form Report.

a. The Long Form/Short Form Comparison.

This item is not in the short form.

This paragraph calls into question the legitimacy of a Clinton interest deduction of \$9000 for 1980. Mrs. Clinton wrote a \$9000 check and left the payee portion blank. Lyons concludes that it probably was used to reduce the principal of the Citizens loan. The paragraph relates a conversation with the Clintons on March 18, wherein Mrs. Clinton stated that she recalled the \$9000 check to be an interest payment. The paragraph suggests that if other information comes to light, the Clintons may have received an improper tax benefit.

b. The Long Form/March 18 Draft Comparison.

A more limited version of the paragraph appears as ¶ 5(c) of the March 18 draft. The long form report makes reference to a telephone conversation with the Clintons on March 18. Both versions resolve the issue in the same way.

5. Item 5 of the Long Form Report.

a. The Long Form/Short Form Comparison.

This item tells the story of Lot 13. Most of the information does not appear in the short form report, but I think the general story is pretty much public.

The portion of this section that does appear in the short form relates to two interest deductions that the Clintons took regarding interest payments on the Lot 13 property. The short form states that the Clintons took these two interest payments in error, but does not disclose that the payments arose out of Lot 13 and the separate loan taken out by Mrs. Clinton from the Security Bank of Paragould.

On this item, I think that we need a tax lawyer to give us information about whether this decision resulted in an inconsistent treatment on Lot 13.

b. The Long Form/March 18 Draft Comparison.

This item appears in ¶ 3 and 5(d) of the March 18 draft.

6. Item 6 of the Long Form Report.

a. The Long Form/Short Form Comparison.

This item is not in the short form.

It relates the sale of 24 lots to Ozark Air Service in 1985, and notes that the Clintons did not receive any credit for or distribution of the proceeds. I believe that this story is now pretty much public and not troublesome. The paragraph represents a benefit to which the Clintons may have been entitled but which they did not receive.

b. The Long Form/March 18 Draft Comparison.

This item does not appear in the March 18 draft. It also does not appear in the short form report.

7. Item 7 of the Long Form Report.

a. The Long Form/Short Form Comparison.

The first paragraph of this item is summarized in ¶ 1 of the short form.

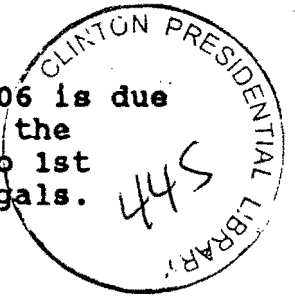
The second paragraph suggests that in the two years prior to 1992, McDougal may have been diverting money from the cash flow of Whitewater. The long form thus states that it reduced the amount of the McDougals' contributions accordingly. This paragraph is critical of McDougal, not the Clintons, but suggests that the campaign knew by this time that McDougal had been operating Whitewater improperly.

The third paragraph of this item is reflected in ¶ 1 of the short form.

b. The Long Form/March 18 Draft Comparison.

In a somewhat different form, this item appears in ¶ 6 and 7 of the March 18 draft.

The long form report relates that \$13, 506 is due from Ozark Air Service as of the date of the report, and that the payments are made to 1st Ozark Bank or sent directly to the McDougals.



8. Item 8 of the Long Form Report.

a. The Long Form/Short Form Comparison.

Paragraph one of this item appears as ¶ 2 of the short form.

Paragraph two does not appear in the short form. It discusses the remaining income and liabilities of Whitewater, and opines that income to be received will not offset the loss the Clintons had incurred. This paragraph seems noncontroversial.

b. The Long Form/March 18 Draft Comparison.

The long form report states that the Clintons "provided funds to WDC and the McDougals of approximately \$68,900 since 1978." The report goes on to state that it found no instance in which the Clintons received a distribution of cash or return on investment "other than payments on loans incurred for the benefit of WDC."

The March 18 draft states that the amount provided by the Clintons was \$77,100. The draft does not contain the language about payments on loans incurred for the benefit of WDC.

9. Item 9 of the Long Form Report.

a. The Long Form/Short Form Comparison.

This paragraph appears as ¶ 3 of the short form.

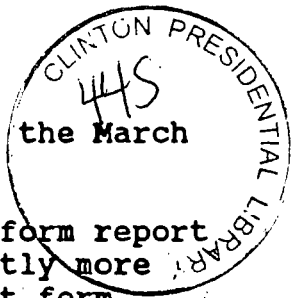
b. The Long Form/March 18 Draft Comparison.

The long form report states that the McDougals provided funds to WDC in the net amount of \$92,200; the March 18 draft states that the total was \$81,200.

II. OTHER DRAFTS OF THE LYONS REPORTS

The March 18 draft of the Lyons report appears to be the first draft that Patten McCarthy sent outside for review. The March 18 draft was revised on March 19 and 20. Copies were sent to Lyons, Mrs. Clinton, and Jim Hamilton. Following its

final revision, the March 18 draft essentially became the March 23 long form report.



The first version of what became the short form report appeared on March 21. The March 21 version was slightly more inclusive than what became the publicly released short form report, but it had the same two attachments. Of some interest is the fact that the March 21 and March 22 drafts of the short form report listed by name the other McDougal entities. It thus appears that the decision to delete the names was made immediately before the last draft.

II. SUMMARY OF DIFFERENCES AMONG THE LYONS REPORTS.

The short form and long forms of the Lyons reports differ in four major respects. As noted above, the differences between the long form and the March 18 draft are not as significant.

First, the long form contains a page of schedule that the short form does not. That page depicts amounts owed to various McDougal entities at fiscal year end time periods. In the short form, these were all consolidated under "McDougal," with the text of the report explaining that this label represented McDougal plus various other entities.

Second, the long form sets forth potentially improper tax deductions taken by the Clintons that do not appear on the short form. The short form only listed the tax deductions that the accountants had firmly determined were improper.

Third, the long form provides some additional historical and other detail about Whitewater and Lot 13 that was not included in the short form.

Fourth, the long form sets forth certain facts that might have been to the benefit of the Clintons.

It would be fair to say that the short form sets forth in quite summary terms the financial picture of Whitewater at fiscal year ends through the 1980s with a summary of amounts put in by the Clintons and the McDougals. The two areas where the accountants had reached firm conclusions about inappropriate tax treatment are also included. The long form sets forth additional areas where the accountants could not reach definitive conclusions, plus other areas of interest to the Clintons, such as the possibility that money was being diverted out of the company.

W.N.E.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	David E. Kendall to Bernard Nussbaum; RE: Possible WH Responses (2 pages)	02/07/1994	P5 447
~~002. form~~	~~Citizens Bank, Flippin, Arkansas; RE: Bank Loan Statement (1 page)~~	~~n.d.~~	~~P6/b(6)~~
003. memo	David E. Kendall to Harold Hickes; RE: Possible Response to WSJ Syndicated Article (3 pages)	02/23/1994	P5 448

COLLECTION:

Clinton Presidential Records
Counsel's Office
Bruce Lindsey
OA/Box Number: 24800]

FOLDER TITLE:

WW: Tax Issues (Copy File)

Debbie Bush
2006-0320-F
db762

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).

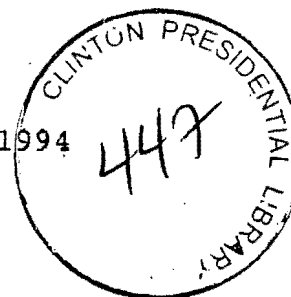
RR. Document will be reviewed upon request.

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]

~~CONFIDENTIAL~~
ATTORNEY-CLIENT COMMUNICATION
ATTORNEY WORK PRODUCT

February 7, 1994



TO: Bernard Nussbaum, Esq.
Bruce Lindsey, Esq.

FROM: David E. Kendall, Esq. *DEK*

RE: Possible WH Responses to Today's Time and WSJ Articles

What follows are two possible responses to these articles. I think some response is warranted simply to try to keep the issue from snowballing. We don't want to attack McDougal.

Version I

The Clintons were personally liable on three Whitewater-related bank loans until the loans were paid off, as they have been in 1985, 1988, and 1992. In the early years, the Clintons made certain interest payments on these loans. These payments were claimed as interest deductions on their personal tax returns, which were prepared and filed each year by an independent CPA. The Clintons' tax returns were audited in 19-- by the IRS, and no changes were required. In 1992, another independent CPA reviewed available Whitewater records and the Clintons' tax treatment of interest they had paid. This review identified two and only two instances where, because of the receipt of "interest-paid" statements from a bank, a small interest deduction had been erroneously claimed on the Clintons' tax returns that in fact belonged to the company. Although the 1984 and 1985 tax years have been closed for some time, the Clintons have fully reimbursed the government for these deductions, including interest and penalties. They are fully cooperating.

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: *DB* DATE: *8/10/08*

WJC LIBRARY PHOTOCOPY

447

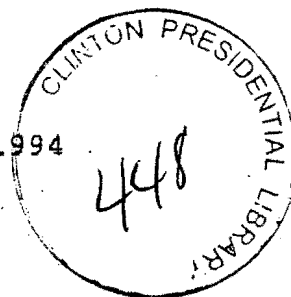
with the Special Counsel and believe they have complied completely with IRS requirements in an area which, as Time magazine observes, "involves some of the most obscure arcana in the tax code."

Version II

In 1978, the Clintons and the McDougals borrowed \$203,000 to acquire 230 acres in northern Arkansas, and they were and remained personally liable for repayment of these loans. The loans were initially at a rate of 10%, although this rate subsequently increased. The Clintons' half-share of the interest expenses was originally about \$10,000--\$11,000 annually. They paid, out of their own resources, over \$10,000 for interest in 1978, over \$10,000 in 1979, and over \$13,000 in 1980. The canceled checks reflecting these payments were turned over to the CPA's who prepared the Clintons' tax returns, and the payments were duly reported as interest deductions. Neither the Clintons nor their professional accountants saw any reason to think that these deductions were in any way inappropriate. The Clintons are fully cooperating with the Special Counsel and believe they have complied completely with IRS requirements in an area which, as Time magazine observes, "involves some of the most obscure arcana in the tax code."

~~CONFIDENTIAL~~
ATTORNEY-CLIENT COMMUNICATION
ATTORNEY WORK PRODUCT

February 23, 1994



TO: Harold Ickes
Bruce Lindsey
Lisa Caputo

FROM: David E. Kendall *DEK*

RE: Possible Response to WSJ Syndicated Article on 1980's Tax Deductions

We don't want to increase the visibility of this story, which first ran in the WSJ on February 7 and which appeared in abbreviated form in the Arkansas Democrat-Gazette on February 21, but the suggestion of tax cheating (while wholly unfounded) is so damaging that some response may be in order. I defer to you all on what form that should take. We want to try to avoid a demand for documents.¹¹

¹¹ I've examined the Executive Branch Public Financial Disclosure Report for 1992 which was filed sometime in the spring of 1993. It states that the Clintons "personally guaranteed" the 1978 mortgage loan (originally in the amount of \$182,611.20) which, the Report accurately states, was fully paid off in 1992. From the documentation I've seen, this is not strictly accurate: the Clintons and the McDougals were the primary obligors on this loan, not simply guarantors (although Chris Wade had assumed the major repayment responsibilities since 1985 by virtue of his purchase of several lots). In the extension of the loan dated July 15, 1988 (which ran until November 3, 1991), only the Clintons signed. It may be, however, that the Clintons also signed some guarantee late in the game which I haven't seen. In any event, the description on the Report does not seem to me to be a problem (by the time the Report was filed, the loan was all paid off and, technically, a "guarantor" is an "obligor").

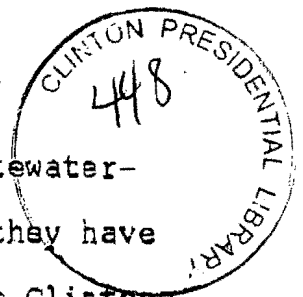
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ADMINISTRATIVE MARKING

INITIALS: *WUC* DATE: *8/5/08* PHOTOCOPY
2006-0320-F

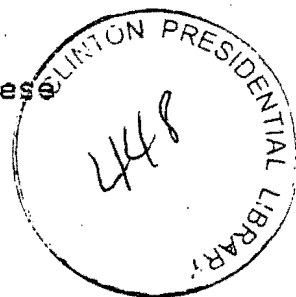
Talking Points

The Clintons were personally liable on three Whitewater-related bank loans until the loans were paid off, as they have been in 1985, 1988, and 1992. In the early years, the Clintons themselves made payments for the interest on these loans from their own personal resources. Their income tax returns were prepared and filed each year by an independent CPA. The canceled checks and other documents reflecting these payments were turned over to the CPA's who prepared the Clintons' tax returns, and the payments were duly reported as interest deductions. Neither the Clintons nor their professional accountants saw any reason to think that these deductions were in any way inappropriate. The Clintons are fully cooperating with the Special Counsel and have turned over the documents reflecting these interest deductions. They believe they have complied completely with IRS requirements in an area which, as Time magazine observes, "involves some of the most obscure arcana in the tax code."

Additional optional comment: In 1992, another independent CPA reviewed available Whitewater records and the Clintons' tax treatment of interest they had paid. This review identified two and only two instances (in 1984 and 1985) where, because of the receipt of "interest-paid" statements from a bank, a small interest deduction had been erroneously claimed on the Clintons' tax returns that in fact belonged to the company. Although the 1984 and 1985 tax years have been closed for some time, the



Clintons have fully reimbursed the government for these
deductions, including interest and penalties.



Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
~~001. call list~~	~~Lindsey, RE: Personal telephone numbers and messages (partial) (8 pages)~~	~~02/03/1994~~	~~P6/b(6)~~
002. memo	Bruce Lindsey to File; RE: Whitewater Development Corporation (2 pages)	10/20/1993	P5 449 Dupot 442
~~003. letter~~	~~Campbell to Clinton; RE: Copy of a canceled check (1 page)~~	~~09/30/1983~~	~~P6/b(6)~~
~~004. form~~	~~White Water Development Corporation; RE: Copy of a canceled check and a bank ledger (2 pages)~~	~~11/07/1985~~	~~P6/b(6)~~
~~005. fax~~	~~Jean Hanson to Bernie Nussbaum, RE: RTC (2 pages)~~	~~02/03/1994~~	~~P6/b(6)~~
006. memo	Neil Eggleston to Harold Ickes; RE: Whitewater -- FDIC and RTC Rose Law Firm (6 pages)	02/27/1994	P5 450
007. memo	Bruce Lindsey to File; RE: Whitewater Development Corporation (2 pages)	10/20/1993	P5 451 Dupot 442
008. paper	RE: Roger Altman (1 page)	n.d.	P5 452

COLLECTION:

Clinton Presidential Records
Counsel's Office
Bruce Lindsey
OA/Box Number: 24800

FOLDER TITLE:

Grand Jury Subpoena dated 3/4/94 and Documents related to Treasury White House
Contacts [2]

Debbie Bush
2006-0320-F
db759

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

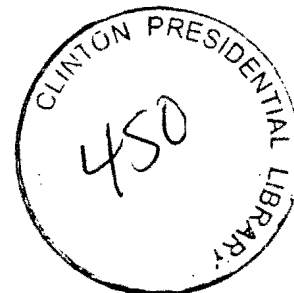
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RR. Document will be reviewed upon request.

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THE WHITE HOUSE
WASHINGTON



February 27, 1994

MEMORANDUM FOR HAROLD ICKES
DEPUTY CHIEF OF STAFF

FROM: W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: WHITEWATER--FDIC AND RTC ROSE LAW FIRM ISSUES

The recent release of the FDIC and RTC reports addressing the possible conflict of interest of the Rose law firm in its representation of Madison Guaranty raises a number of issues.

What did the FDIC and RTC conclude, and why does it seem that their conclusions are inconsistent?

1. The FDIC Report.

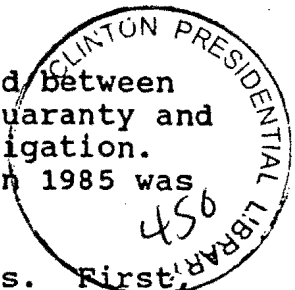
The FDIC report was released on or about February 17, 1994. It was drafted by the Legal Division of the FDIC, and presented to FDIC Acting Chairman Hove, a Republican.

The FDIC report reviewed the time period in which the FDIC was responsible for the conservatorship of Madison Guaranty, from February 28, 1989 to August 9, 1989 (when the RTC was created and took over the conservatorship of failed savings and loans). The FDIC was thus the entity that retained the Rose law firm to pursue the Frost & Co. litigation. The FDIC report reviewed relevant FDIC and RTC documents and interviewed participants, including FDIC and RTC employees and Rose law firm lawyers.

The Frost & Co. litigation had been first brought in 1988 by Madison Guaranty before it was taken over by the government. At the time, Madison Guaranty had other attorneys. When the FDIC assumed control of the litigation as the conservator for Madison Guaranty, the FDIC replaced the other firm with Rose.

On the factual issue of whether the Rose law firm had disclosed to the FDIC its prior representation of Madison Guaranty, the FDIC concluded that the record was unclear. The

report nevertheless concluded that no conflict existed between the Rose law firm's prior representation of Madison Guaranty and its representation of the FDIC in the Frost & Co. litigation. The report concluded that the firm's representation in 1985 was not "directly adverse" to the representation in 1989.



The FDIC based its conclusion on two grounds. First, it stated that there was no evidence that the firm had any involvement in the creation of the Frost & Co. audit report that became the subject of the 1989 litigation. Second, it stated "we have found no evidence that the Firm had a close relationship with the S&L which might call into question its independence." This was one of the sentences that Senator D'Amato attacked so bitterly.

On the issue of whether Mr. Hubbell had disclosed his relationship with his father-in-law, Seth Ward, who was then in litigation with Madison Guaranty, the FDIC stated that it was uncertain whether Mr. Hubbell had disclosed the relationship before the FDIC retained the Rose law firm. Nevertheless, the relationship was plainly known to the FDIC within three months of retention. Mr. Hubbell agreed to the creation of an internal firm "firewall" to guard against him receiving information that might be of use to his father-in-law. Senator Faircloth ridiculed what he called an "Arkansas firewall" through which he claimed light and heat could easily be felt.

At the hearing, Chairman Hove testified that in 1989, FDIC standards required an actual conflict before the agency would bar a retention. Today, the FDIC's standards are much tougher and would bar a retention on the showing of an "appearance of a conflict of interest." Chairman Hove testified that under today's standards, the Rose law firm facts would present an appearance of a conflict.

Chairman Hove agreed to have the FDIC Inspector General ("IG") look into the conflict issue. Although it was somewhat unclear at the hearing whether the IG would look only at the process by which the FDIC arrived at its decision or would review the substantive issue, it is likely that the IG will adopt the broadest possible interpretation of its mandate.

2. The RTC Report.

The RTC report was released on February 25, 1994 by Senator D'Amato.

The RTC report differs in two major respects from the FDIC report. First, the RTC did not interview any Rose law firm attorneys. Second, the report is factual only. The report reached no conclusion on whether the Rose law firm had a conflict. As the report describes its scope, "This investigation

focused only on whether or not Rose disclosed its previous representation of Madison to the FDIC and RTC."

The RTC concluded that Rose did not disclose either its prior representation of Madison Guaranty or Mr. Hubbell's relationship with Mr. Ward.¹ The report acknowledges, however, that within a few months of the retention, the supervisory FDIC attorney, Ms. Breslaw, was made aware of Mr. Hubbell's relationship with Mr. Ward and determined that no conflict existed.

The RTC did not hire the Rose law firm; rather, the retention took place before the RTC was even in existence. Further, it appears that the RTC did not have any conflict rules until at least 1990. The RTC acknowledges in its report that it had no outside conflicts committee, nor regulations, guidance or policy on conflicts at the time.

The conclusion of the RTC report is that the matter was referred to the Office of the General Counsel (Ellen Kulka) for any action that it deems appropriate.

At the hearing, Mr. Altman agreed to refer the RTC report to the RTC IG for review.

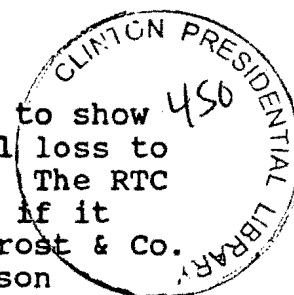
What sanction could be imposed if the FDIC/RTC finds that the Rose law firm had a conflict of interest in handling the Frost & Co. litigation in 1989 and failed to disclose that conflict?

The most severe sanction that would likely flow from a finding that the Rose law firm had a duty to disclose its prior representation of Madison Guaranty and its relationship with Mr. Ward and that it breached that duty would be that the Rose law firm would be permanently barred from any further work for the RTC or the FDIC (and possibly other banking regulators). Lesser sanctions imposed by the regulatory agencies might also be possible, such as a temporary bar.

Under the facts as we now understand them, it would seem quite unlikely that the RTC could bring a civil action against the Rose firm or any of its attorneys for failure to

¹ An ultimate finding that Rose had not disclosed either the prior representation of Madison Guaranty or the Ward relationship would be a finding that Mr. Hubbell was not truthful in his recollection. Mr. Hubbell told the FDIC when it was preparing its report that he advised FDIC attorneys about the prior Rose representation of Madison Guaranty and believes that he also advised the government attorneys about his relationship with Mr. Ward.

disclose the conflict. To prevail, the RTC would have to show fraud or intentional misconduct that caused substantial loss to the institution or unjust enrichment to the Rose firm. The RTC could only really show fraud or intentional misconduct if it could demonstrate that the Rose law firm "threw" the Frost & Co. litigation because of its prior representation of Madison Guaranty.



Criminal liability for the Rose firm would seem even more remote. To prevail, the Special Counsel would have to show that Rose acted with intent to defraud the savings and loan or wilfully made false statements to the FDIC/RTC through its failure to disclose the conflict.

What civil matters is the RTC investigating, who can it sue, and why didn't we hear anything about a civil investigation until late 1993?

The RTC is investigating whether it has a tort action against anyone who caused a loss to Madison Guaranty. This would include insiders such as James and Susan McDougal and members of the Board of Madison. It also includes professionals who provided service to Madison Guaranty, such as the Rose law firm, other law firms, and accounting firms. The Frost & Co. suit is an example of a suit against a professional service provider that caused loss to Madison Guaranty through a negligent audit. The RTC could also sue outsiders who worked with insiders illegally to divert assets of the savings and loan. If the RTC believed that the Clinton campaign knowingly received diverted Madison assets at the April 1985 fundraiser or that the Clintons knowingly received other diverted Madison Guaranty assets through Whitewater, it could bring suit. For example, the RTC commonly sues the recipient of a loan where it has information that the borrower knew that the loan was improper.

Under the legislation creating the RTC in 1989, the RTC as conservator of a failed savings and loan had to bring a tort claim within three years of the time the RTC (or FDIC as predecessor) took over the institution. The FDIC took over Madison Guaranty on February 28, 1989. Thus, all torts had to be brought by February 28, 1992. That day passed during the campaign.²

² I am unaware of any civil suits brought by the RTC prior to February 28, 1992, but I would not be surprised if it had sued McDougal and other insiders. McDougal was indicted in 1989 for bank fraud involving Madison Guaranty, and was acquitted in 1990. It would be fairly common for the RTC to pursue a civil action even after an acquittal.

CLINTON PRESIDENTIAL LIBRARY
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The Resolution Trust Corporation Completion Act, signed by the President on December 17, 1993, revived the possibility of a civil action. Under that legislation, a narrow class of torts--those that were fraudulent or involved intentional misconduct and that either caused substantial loss to the institution or unjust enrichment to the defendant--were revived. The statute extended the limitations period such that this category of tort could be brought within five years of the time the RTC took over the institution.³ Moreover, the statute specifically provided that the five year period would apply even if the three year limitations period had already run.⁴

As a result, the RTC would not have been looking into a possible civil suit involving Madison Guaranty after February 1992 and before the passage of the statute last fall. In late 1993 and early 1994, Senator D'Amato and Rep. Leach recognized that the legislation had revived the possibility of an RTC lawsuit in the Madison matter. Both took to the floor of their respective chambers, aggressively urging the RTC to commence an action before the statute expired. In early 1994, the RTC--then faced with a statute of limitations that would run by the end of February--hired the San Francisco-based law firm of Pillsbury, Madison and Sutro to assist it in determining whether to bring any civil actions arising out of Madison.

In February 1994, the statute of limitations was extended once again, through the life of the RTC, which is expected to expire on December 31, 1995.

Now that Mr. Altman as Acting CEO of the RTC has recused himself from further involvement in Madison Guaranty matters, who at the RTC will be the decision-maker on Madison?

Following his testimony before the Senate Banking Committee on Thursday, Mr. Altman recused himself as Acting CEO of the RTC from any further involvement in Madison Guaranty/Whitewater matters.

The top official at the RTC who will be making these decisions on Madison Guaranty is Jack Ryan. Mr. Ryan was formerly with the Office of Thrift Supervision. He is a career official. His principal advisor will be Ellen Kulka, now General

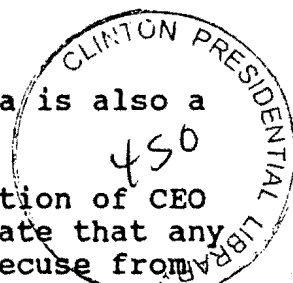
³ Torts based on negligence were still covered by the three year statute of limitations.

⁴The statute of limitations for crimes involving financial institutions is 10 years from the date the illegal conduct occurred, regardless of when the RTC took over the institution.

Counsel of the RTC, who also came from OTS. Ms. Kulka is also a career official.

We intend to nominate a person for the position of CEO of the RTC within the next few weeks. We can anticipate that any person the President nominates will be pressured to recuse from any Madison-related matters. If the person refuses to recuse and is confirmed, then that person will become the decision maker. If that person is forced to recuse to achieve confirmation, then Jack Ryan would remain the decision-maker on Madison matters at the RTC.

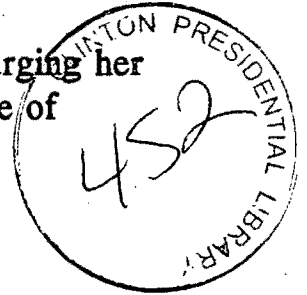
W.N.E.



~~CONFIDENTIAL~~

ABC News has asked Roger Altman the following questions?

- (1) Did Roger Altman put pressure on the RTC general counsel, urging her to brief the outside counsel (i.e., David Kendall), on the statute of limitations?
- (2) Did the White House ask him to do it?



Altman was at a meeting at the White House that had to do with the Whitewater topic, where he was asked by a White House staff person, "Can you ask the RTC general counsel to brief the outside counsels on the statute of limitations." Roger's response was, "I don't know. I'll check." The White House person said something like, "You'd better do it quickly."

Roger then, in a regular meeting with the general counsel of the RTC, asked this question, and the response was, "Roger, I don't think it should happen now. I don't think it's the appropriate time." The signal was very clear that it was not appropriate that they should be having that conversation.

Altman's office in response to ABC has answered question (1) with "Roger Altman has regular conversations with Ellen Kulka, general counsel. This matter was discussed." They did not answer (2) and are looking for guidance from us on how to answer it.

The reporter's name is Aram Rallston. Howard Schloss is the Altman person who called her.

Jenny Terzano x62580

No instruction from anyone

- What happened?

① received -

Jan Hansen
MAKING MESS

Harold

Maggie

Bernie

Kendall had practiced before RTC

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: DB DATE: 8/14/08
2006-0320-F

to follow

② process - between now and 2/28

③ Maggie - are you going to brief the attys on what this process is?

④ We are, but not now -

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
~~001. note~~	RE: ~~Personal telephone numbers (partial) (1 page)~~	~~03/06/1994~~	~~P6/b(6)~~
~~002. note~~	RE: ~~Personal telephone number and Date of birth (partial) (1 page)~~	~~n.d.~~	~~P6/b(6)~~
003. memo	Cheryl Mills and Kathleen Wahlen to Office of the Chief of Staff; RE: Contact with Treasury Officials (10 pages)	03/07/1994	P5 453
~~004. call list~~	~~RE: Personal telephone numbers and messages (partial) (5 pages)~~	~~10/04/1993~~	~~P2, P5, P6/b(6)~~
005. paper	RE: Roger Altman (1 page)	n.d.	P5 454
~~006. letter~~	~~Campbell to Clinton, RE: Copy of a canceled check (1 page)~~	~~09/30/1983~~	~~P6/b(6)~~
~~007. form~~	~~White Water Development Corporation, RE: Copy of a canceled check and a bank ledger (2 pages)~~	~~11/07/1985~~	~~P6/b(6)~~
~~008. fax~~	~~Jean Hanson to Bernie Nussbaum, RE: RTC (2 pages)~~	~~02/03/1994~~	~~P6/b(6)~~
009. memo	Bruce Lindsey to File; RE: Whitewater Development Corporation (2 pages)	10/20/1993	P5 455
010. memo	W. Neil Eggleston to Harold Hikes; RE: Whitewater -- FDIC and RTC Law Firm (6 pages)	02/27/1994	P5 456
~~011. memo~~	~~John Podesta and Neil Eggleston to File; RE: Whitewater - Senate Banking Committee Hearing (4 pages)~~	~~02/28/1994~~	~~P6/b(6)~~

COLLECTION:

Clinton Presidential Records
Counsel's Office
Bruce Lindsey
OA/Box Number: 24800

FOLDER TITLE:

Grand Jury Subpoena dated 3/4/94 and Documents Related to Treasury White House
Contacts [1]

Debbie Bush
2006-0320-F
db758

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.

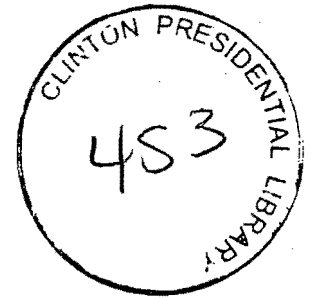
Freedom of Information Act - [5 U.S.C. 552(b)]

- 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]

THE WHITE HOUSE

WASHINGTON

March 7, 1994



MEMORANDUM FOR THE OFFICE OF THE CHIEF OF STAFF

FROM: CHERYL MILLS *CM*
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN *KW*
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds both to Congressman Leach's March 1, 1994 letter and to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked, and Congressman Leach has inquired, whether White House employees violated any ethics laws or administrative regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based upon the following facts, which have been gained through public materials (e.g., newspapers, March 3, 1994 Letter from Roger Altman to the Honorable Donald W. Riegle, Jr.). We have not interviewed anyone regarding these contacts nor sought to ascertain the accuracy of the facts in light of recent events.

The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact was brief.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the

White House to address a press inquiry that the Treasury Department received from a reporter for *The New York Times*. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of the Treasury Department, to discuss appropriate responses to *The New York Times* inquiry.

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials, including Maggie Williams, Harold Ickes and Bernard Nussbaum, on procedural matters (*i.e.*, the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty.

The analysis contained in this memorandum is based on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would have to be evaluated independently.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. *Cf.* 3 U.S.C. §§ 101 - 114. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under authority of one's government office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the roles of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review them for any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

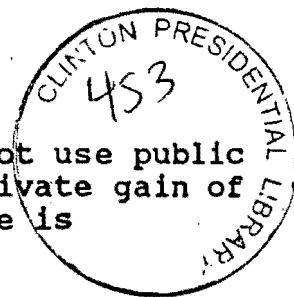
Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. Agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether there was any violation by White House officials under the specific ethics regulations and laws. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) and 702.



1. Use of Public Office for Employee's Personal Gain

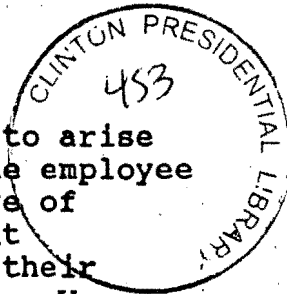
We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

2. Use of Public Office for Private Gain of Another

Sections 2635.101(b)(7) and 702 also prohibit federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. To interpret these provisions, we start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for the private gain. OGE states that "issues related to an individual

¹ In his letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely, because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. See 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, would be prohibited by this provision.

employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for personal or private financial, or any other benefit, of another.



In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President. Therefore, the only financial or other benefits that could arise from the employees' actions was to the Clintons.

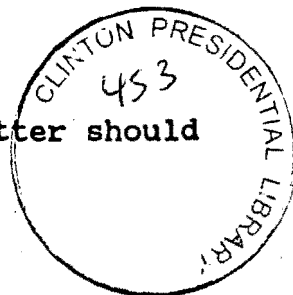
The actions taken by White House officials in these matters, namely, discussing appropriate responses to inquiries from the press or Congress, were part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not to benefit personally, financially or otherwise, the Clintons. Because the discussions during the White House employees' contacts with Treasury officials went to responding to actual or anticipated media inquiries and in one contact, the procedural posture of the matter, rather than to means or attempts to affect actions to be taken regarding the referral, White House officials did not use public office for private gain of the Clintons.

3. Use of Public Office to Coerce a Benefit

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- to address actual or anticipated public inquiries that the White House would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going to the

nature of the actions, went to the way in which the matter should be discussed officially.



B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at a fundraiser), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating those organizations preferentially. By meeting with Treasury officials, White House officials did not confer any benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

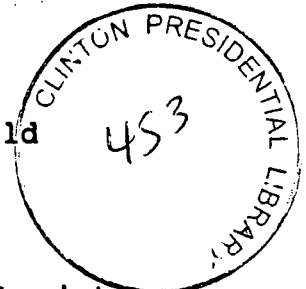
2. Impartiality in Performing Official Duties

The Standards of Conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or represents a party, if he determines that a reasonable

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the year prior to government service, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

person with knowledge of the relevant facts would question his impartiality in the matter.



5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee considers, including the nature of the relationship between the relevant parties, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

The matter involved in the contacts with Treasury officials does not involve parties, or representatives of parties, with which any of the White House officials has a "covered relationship." See note 2. Therefore, it would not have been necessary for any of the White House officials to invoke the authorization procedures outlined in section 502.

However, a more general restriction in the Standards of Conduct requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

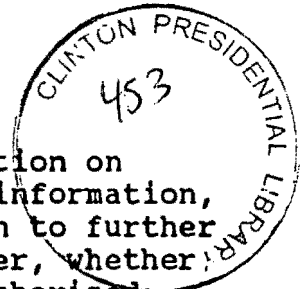
It is not clear that any White House officials who participated in the contacts would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality.⁴ The White House officials were addressing the issues raised by Treasury employees in the contacts as official matters, in their official capacity, as opposed to as matters of personal interest to the Clintons.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official ("DAEO"), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

⁴ Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than in the context of covered relationships. There are no examples in the regulations and no decisions from OGE interpreting the more general standard matter.

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).



The circumstances of the contacts do not suggest that the information disseminated was, or is, nonpublic. White House officials were the recipients of information provided by Treasury employees whose actions appear, and at the time appeared, to have been taken in their official capacity. We do not have reason to believe that this information has or had "not actually been disseminated to the general public and is [or was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3).

Because the contacts were made to enable White House and Treasury officials to respond to press inquiries, there appears to have been no reason for White House officials to know that the information was, if it was, nonpublic and was not to be disclosed. In particular, with regard to the February 2, 1994, contact, Mr. Altman stated that the information about which he briefed White House officials was provided to Congress and members of the press. Mr. Altman's statement suggests that the information was authorized to be disclosed. Accordingly, White House officials would not have a basis for thinking that the information provided by Treasury officials was, if indeed it is, nonpublic information and would therefore not have been in a position to "knowingly" disclose nonpublic information. *Id.* at § 2635.703(b).⁵

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing subordinates to engage in nonofficial activities that personally benefited the supervisor.

⁵ Under the Standards of Conduct, "nonpublic information is information that an employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public." 5 C.F.R. § 2635.703(b).

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when they met with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties -- discussing the official response of the White House to inquiries arising as a result of actions taken by another agency -- and thus, the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute. Therefore, we conclude that this criminal statute has not been violated.

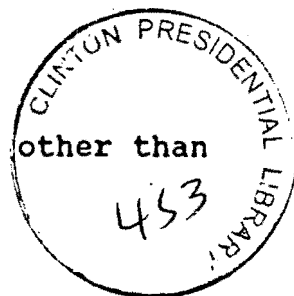
F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest, other than in the proper discharge of his official duties. 18 U.S.C. § 205(a).

This statute prohibits representational actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances in their official capacities on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were made in the course of exercising their official duties on behalf of the White

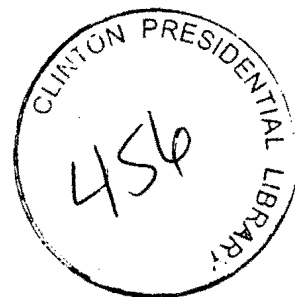
House and were not made as representations of anyone other than the White House.



IV. Conclusion

This memorandum is based solely on the facts that are stated herein and does not analyze the propriety of actions undertaken by either Treasury Department or RTC officials, who may be subject to additional statutes, regulations, or guidance regarding their conduct. With that in mind and based upon the facts outlined above, it is our conclusion that White House officials who participated in the meetings on September 29, October 14, and February 2 did not violate the criminal conflict of interest statutes or the government-wide standards of conduct regulations.

THE WHITE HOUSE
WASHINGTON



February 27, 1994

MEMORANDUM FOR HAROLD ICKES
DEPUTY CHIEF OF STAFF

FROM: W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: WHITEWATER--FDIC AND RTC ROSE LAW FIRM ISSUES

The recent release of the FDIC and RTC reports addressing the possible conflict of interest of the Rose law firm in its representation of Madison Guaranty raises a number of issues.

What did the FDIC and RTC conclude, and why does it seem that their conclusions are inconsistent?

1. The FDIC Report.

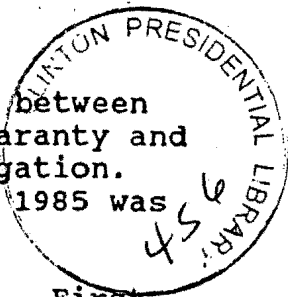
The FDIC report was released on or about February 17, 1994. It was drafted by the Legal Division of the FDIC, and presented to FDIC Acting Chairman Hove, a Republican.

The FDIC report reviewed the time period in which the FDIC was responsible for the conservatorship of Madison Guaranty, from February 28, 1989 to August 9, 1989 (when the RTC was created and took over the conservatorship of failed savings and loans). The FDIC was thus the entity that retained the Rose law firm to pursue the Frost & Co. litigation. The FDIC report reviewed relevant FDIC and RTC documents and interviewed participants, including FDIC and RTC employees and Rose law firm lawyers.

The Frost & Co. litigation had been first brought in 1988 by Madison Guaranty before it was taken over by the government. At the time, Madison Guaranty had other attorneys. When the FDIC assumed control of the litigation as the conservator for Madison Guaranty, the FDIC replaced the other firm with Rose.

On the factual issue of whether the Rose law firm had disclosed to the FDIC its prior representation of Madison Guaranty, the FDIC concluded that the record was unclear. The

report nevertheless concluded that no conflict existed between the Rose law firm's prior representation of Madison Guaranty and its representation of the FDIC in the Frost & Co. litigation. The report concluded that the firm's representation in 1985 was not "directly adverse" to the representation in 1989.



The FDIC based its conclusion on two grounds. First, it stated that there was no evidence that the firm had any involvement in the creation of the Frost & Co. audit report that became the subject of the 1989 litigation. Second, it stated "we have found no evidence that the Firm had a close relationship with the S&L which might call into question its independence." This was one of the sentences that Senator D'Amato attacked so bitterly.

On the issue of whether Mr. Hubbell had disclosed his relationship with his father-in-law, Seth Ward, who was then in litigation with Madison Guaranty, the FDIC stated that it was uncertain whether Mr. Hubbell had disclosed the relationship before the FDIC retained the Rose law firm. Nevertheless, the relationship was plainly known to the FDIC within three months of retention. Mr. Hubbell agreed to the creation of an internal firm "firewall" to guard against him receiving information that might be of use to his father-in-law. Senator Faircloth ridiculed what he called an "Arkansas firewall" through which he claimed light and heat could easily be felt.

At the hearing, Chairman Hove testified that in 1989, FDIC standards required an actual conflict before the agency would bar a retention. Today, the FDIC's standards are much tougher and would bar a retention on the showing of an "appearance of a conflict of interest." Chairman Hove testified that under today's standards, the Rose law firm facts would present an appearance of a conflict.

Chairman Hove agreed to have the FDIC Inspector General ("IG") look into the conflict issue. Although it was somewhat unclear at the hearing whether the IG would look only at the process by which the FDIC arrived at its decision or would review the substantive issue, it is likely that the IG will adopt the broadest possible interpretation of its mandate.

2. The RTC Report.

The RTC report was released on February 25, 1994 by Senator D'Amato.

The RTC report differs in two major respects from the FDIC report. First, the RTC did not interview any Rose law firm attorneys. Second, the report is factual only. The report reached no conclusion on whether the Rose law firm had a conflict. As the report describes its scope, "This investigation

focused only on whether or not Rose disclosed its previous representation of Madison to the FDIC and RTC."

The RTC concluded that Rose did not disclose either its prior representation of Madison Guaranty or Mr. Hubbell's relationship with Mr. Ward.¹ The report acknowledges, however, that within a few months of the retention, the supervisory FDIC attorney, Ms. Breslaw, was made aware of Mr. Hubbell's relationship with Mr. Ward and determined that no conflict existed.

The RTC did not hire the Rose law firm; rather, the retention took place before the RTC was even in existence. Further, it appears that the RTC did not have any conflict rules until at least 1990. The RTC acknowledges in its report that it had no outside conflicts committee, nor regulations, guidance or policy on conflicts at the time.

The conclusion of the RTC report is that the matter was referred to the Office of the General Counsel (Ellen Kulka) for any action that it deems appropriate.

At the hearing, Mr. Altman agreed to refer the RTC report to the RTC IG for review.

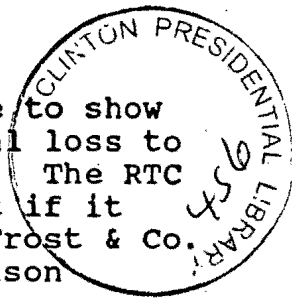
What sanction could be imposed if the FDIC/RTC finds that the Rose law firm had a conflict of interest in handling the Frost & Co. litigation in 1989 and failed to disclose that conflict?

The most severe sanction that would likely flow from a finding that the Rose law firm had a duty to disclose its prior representation of Madison Guaranty and its relationship with Mr. Ward and that it breached that duty would be that the Rose law firm would be permanently barred from any further work for the RTC or the FDIC (and possibly other banking regulators). Lesser sanctions imposed by the regulatory agencies might also be possible, such as a temporary bar.

Under the facts as we now understand them, it would seem quite unlikely that the RTC could bring a civil action against the Rose firm or any of its attorneys for failure to

¹ An ultimate finding that Rose had not disclosed either the prior representation of Madison Guaranty or the Ward relationship would be a finding that Mr. Hubbell was not truthful in his recollection. Mr. Hubbell told the FDIC when it was preparing its report that he advised FDIC attorneys about the prior Rose representation of Madison Guaranty and believes that he also advised the government attorneys about his relationship with Mr. Ward.

disclose the conflict. To prevail, the RTC would have to show fraud or intentional misconduct that caused substantial loss to the institution or unjust enrichment to the Rose firm. The RTC could only really show fraud or intentional misconduct if it could demonstrate that the Rose law firm "threw" the Frost & Co. litigation because of its prior representation of Madison Guaranty.



Criminal liability for the Rose firm would seem even more remote. To prevail, the Special Counsel would have to show that Rose acted with intent to defraud the savings and loan or wilfully made false statements to the FDIC/RTC through its failure to disclose the conflict.

What civil matters is the RTC investigating, who can it sue, and why didn't we hear anything about a civil investigation until late 1993?

The RTC is investigating whether it has a tort action against anyone who caused a loss to Madison Guaranty. This would include insiders such as James and Susan McDougal and members of the Board of Madison. It also includes professionals who provided service to Madison Guaranty, such as the Rose law firm, other law firms, and accounting firms. The Frost & Co. suit is an example of a suit against a professional service provider that caused loss to Madison Guaranty through a negligent audit. The RTC could also sue outsiders who worked with insiders illegally to divert assets of the savings and loan. If the RTC believed that the Clinton campaign knowingly received diverted Madison assets at the April 1985 fundraiser or that the Clintons knowingly received other diverted Madison Guaranty assets through Whitewater, it could bring suit. For example, the RTC commonly sues the recipient of a loan where it has information that the borrower knew that the loan was improper.

Under the legislation creating the RTC in 1989, the RTC as conservator of a failed savings and loan had to bring a tort claim within three years of the time the RTC (or FDIC as predecessor) took over the institution. The FDIC took over Madison Guaranty on February 28, 1989. Thus, all torts had to be brought by February 28, 1992. That day passed during the campaign.²

² I am unaware of any civil suits brought by the RTC prior to February 28, 1992, but I would not be surprised if it had sued McDougal and other insiders. McDougal was indicted in 1989 for bank fraud involving Madison Guaranty, and was acquitted in 1990. It would be fairly common for the RTC to pursue a civil action even after an acquittal.

The Resolution Trust Corporation Completion Act, signed by the President on December 17, 1993, revived the possibility of a civil action. Under that legislation, a narrow class of torts--those that were fraudulent or involved intentional misconduct and that either caused substantial loss to the institution or unjust enrichment to the defendant--were revived. The statute extended the limitations period such that this category of tort could be brought within five years of the time the RTC took over the institution.³ Moreover, the statute specifically provided that the five year period would apply even if the three year limitations period had already run.⁴

As a result, the RTC would not have been looking into a possible civil suit involving Madison Guaranty after February 1992 and before the passage of the statute last fall. In late 1993 and early 1994, Senator D'Amato and Rep. Leach recognized that the legislation had revived the possibility of an RTC lawsuit in the Madison matter. Both took to the floor of their respective chambers, aggressively urging the RTC to commence an action before the statute expired. In early 1994, the RTC--then faced with a statute of limitations that would run by the end of February--hired the San Francisco-based law firm of Pillsbury, Madison and Sutro to assist it in determining whether to bring any civil actions arising out of Madison.

In February 1994, the statute of limitations was extended once again, through the life of the RTC, which is expected to expire on December 31, 1995.

Now that Mr. Altman as Acting CEO of the RTC has recused himself from further involvement in Madison Guaranty matters, who at the RTC will be the decision-maker on Madison?

Following his testimony before the Senate Banking Committee on Thursday, Mr. Altman recused himself as Acting CEO of the RTC from any further involvement in Madison Guaranty/Whitewater matters.

The top official at the RTC who will be making these decisions on Madison Guaranty is Jack Ryan. Mr. Ryan was formerly with the Office of Thrift Supervision. He is a career official. His principal advisor will be Ellen Kulka, now General

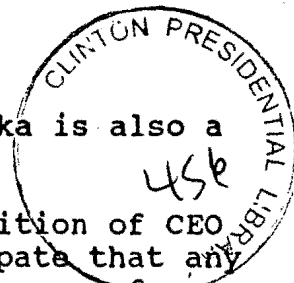
³ Torts based on negligence were still covered by the three year statute of limitations.

⁴The statute of limitations for crimes involving financial institutions is 10 years from the date the illegal conduct occurred, regardless of when the RTC took over the institution.

Counsel of the RTC, who also came from OTS. Ms. Kulka is also a career official.

We intend to nominate a person for the position of CEO of the RTC within the next few weeks. We can anticipate that any person the President nominates will be pressured to recuse from any Madison-related matters. If the person refuses to recuse and is confirmed, then that person will become the decision maker. If that person is forced to recuse to achieve confirmation, then Jack Ryan would remain the decision-maker on Madison matters at the RTC.

W.N.E.



Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
~~001. paper~~	~~RE: Whitewater Files [partial] (1 page)~~	~~n.d.~~	~~P6/b(6)~~
002. paper	RE: Whitewater (3 pages)	n.d.	P5 457
003. paper	RE: Special Counsel (2 pages)	n.d.	P5 458
~~004a. fax~~	~~Jim Lyons to Bruce Lindsey (1 page)~~	~~01/10/1994~~	~~P6/b(6)~~
~~004b. memo~~	~~Jim Lyons to Bruce Lindsey (5 pages)~~	~~01/10/1994~~	~~P6/b(6)~~
005. memo	W. Neil Eggleston to Office of White House Counsel (1 page)	01/10/1994	P5 459
~~006. telephone log~~	~~Gearan; RE: Telephone numbers [partial] (2 pages)~~	~~11/04/1993~~	~~P6/b(6)~~
~~007. call list~~	~~Bruce Lindsey, RE: Telephone numbers and messages [partial] (2 pages)~~	~~10/18/1993~~	~~P5, P6/b(6)~~

COLLECTION:

Clinton Presidential Records
Counsel's Office
Bruce Lindsey
OA/Box Number: 24785

FOLDER TITLE:

Whitewater Files - Rewell #11 [1]

Debbie Bush
2006-0320-F
db742

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.

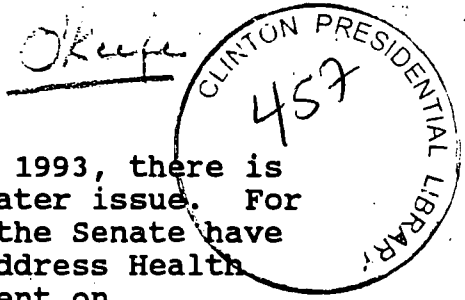
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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]
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- 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]

Date: 1-10-95



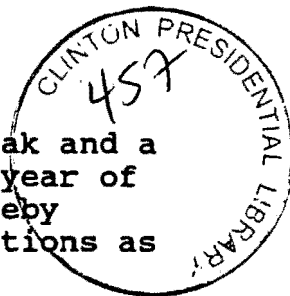
When the Congress reconvenes on January 25, 1993, there is going to be a firestorm of comment on the Whitewater issue. For the past few weeks, the members of Congress and the Senate have been bombarded in town hall meetings called to address Health Care and Welfare Reforms with comment after comment on Whitewater. When the Congress returns, Senator after Senator and Congressman after Congressman will be calling for an immediate vote on the Special Prosecutor bill and calling for the Attorney General to implement the provisions of whatever is passed. We have until the day that Congress reconvenes to determine a course of action.

The Whitewater story is just that, a press story, but it is being manipulated by the press and the GOP in manner which will make this entire year and the 1994 elections unduly difficult. We need to address the issue head on, and we need to find a vehicle which can resolve the public concern as soon as possible. If we do not find such a vehicle, then we will be forced to continue in a defensive mode issuing statements, trying disprove allegations directed against the activities of others without the records or the means of proof, and in general acting as a tackling dummy for the press and partisans in the opposition. The sense of the public is that we are trying to hide something, and that if we are innocent then simply take whatever steps an innocent party takes to prove innocence.

When the Special Prosecutor bill is passed, it will be signed by the President, and based upon both press speculation and political common sense, shortly thereafter the Attorney General will move to implement the Act in Whitewater. Based upon that assumption, we will probably be faced with the Special Prosecutor mechanism in early February. If a Special Prosecutor is named, then we will be facing at least a one year process before there can be a successful resolution of the President's innocence. Simply hiring staff, doing preliminary research, and working out a jurisdictional division of the Whitewater controversy from the Madison Grand Jury in Little Rock will require months of efforts. During the course of that year, the entire legislative program of the President will be in jeopardy. We will be faced with a monthly leak from the office of the special prosecutor, and three or four of repetition of the press background of Whitewater. The investigation will include the actions of the President, The First Lady, members of the White House staff, members of the President's former Arkansas state staff and cabinet, the President's campaign records for all the years he was Governor, the Rose Law Firm, and the actions of the Presidential campaign staff in its response to the early Whitewater accusations.

During that period of time, substantial attention will have to be paid to this matter by the President, the First Lady, the Senior Staff, and others; time that could be more effectively spent addressing the President's Agenda. And you may rest assured that just before every crucial vote in Committee and the

floor of each house of Congress will be preceded by a leak and a series of stories in the media. In effect, the second year of this Administration will be consumed by Whitewater thereby affecting not only the 1994 elections but the 1996 elections as well.



I believe, therefore, that we should consider and discuss any and all options to the Special Prosecutor solution. I am certain that there are a number of options which we have been discussed, and thus may simply be restating the obvious in this memorandum. But I remain convinced that only a public airing of the issue can remove the controversy from maiming this year, and perhaps the third year as well.

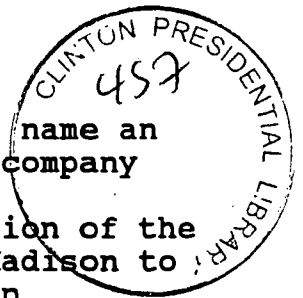
1. Request that the Attorney General under her regulation appoint a Special Counsel from the list submitted by Senator Dole, and ask that the Attorney General specifically direct the Special Counsel to investigate the actions and the knowledge of the President as it relates to the regulation of the savings and loan, the alleged diversion of funds from Madison to either the Whitewater Development Company or to the then Governor's 1984 campaign debt. The Attorney General could request that the report of the Special Counsel be prepared as expediently as possible given the strong national interest in having a President freed from these allegations. Since the Attorney General has indicated that she believes that a Special Counsel would not be truly independent since she selected the individual, the choice of a candidate proposed by Senator Dole would reassure the public that the Special Counsel would not be politically selected. In the event that a Special Counsel was designated, there would be no need to implement the provisions of whatever Special Prosecutor Act were passed until and unless the Special Counsel found "credible evidence" of the violation of a federal law by the President while he was Governor of Arkansas.

2. The President could request that a specific committee of the Congress hold hearings to address the press allegations and innuendos.

3. The Leadership of the Congress in conjunction with the President could establish a select committee, identify a special counsel for the committee, request that the Counsel prepare a report in an expedient manner, and then move expediently to hold public hearings on the report.

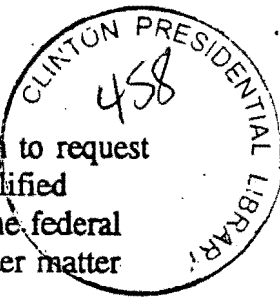
4. The President could nominate one of the individuals listed on the Dole letter to the Attorney General as a Presidentially appointed "Special Counsel", provide the Special Counsel with all the materials turned over to the Department of Justice, and direct the Attorney General and the Department of Justice to make available to the Special Counsel all information from the RTC with respect to Madison, and direct that the Special Counsel make his report to the President and the Congress.

5. The President could direct the Attorney General to name an individual from the Dole list as Special Counsel and accompany the directive with a direction that the Special Counsel investigate the allegations that relates to the regulation of the savings and loan, the alleged diversion of funds from Madison to either the Whitewater Development Company or to the then Governor's 1984 campaign debt, and report the finding to the Attorney General and the American people by a date certain.



to Daniel Hale

Date: 1-10-95



The President today has directed White House Counsel Bernard Nussbaum to request the Attorney General to appoint as special counsel a respected, impartial and qualified attorney, who is not a member of the Department of Justice or an employee of the federal government, to conduct an appropriate independent investigation of the Whitewater matter and report to the American people.

In view of the gravity of the President's responsibilities and the need for a speedy and credible resolution here, the President requests that this investigation be conducted as expeditiously as possible.

There have been no ^{credible} ~~credible~~ allegations of wrongdoing by the Clintons in this matter. Nevertheless, the President has decided to resolve the issues surrounding the controversy through a special counsel. His decision is based upon two conclusions. First, it has become apparent that the many attacks on the current Justice Department investigation will cast suspicion upon the outcome of that investigation, no matter how impartial and thorough it is. It is essential that the American people have confidence in the integrity of their highest public officials. Despite a continuing lack of evidence of any specific allegations of wrongdoing, the President ~~believes~~ ^{believes} a special counsel provides the best means possible of ensuring the public a full and fair accounting of this matter. ~~Second~~, this controversy is becoming too much of a distraction, consuming too much time and attention from White House officials. The President wants to get on with the vital issues facing the American people.

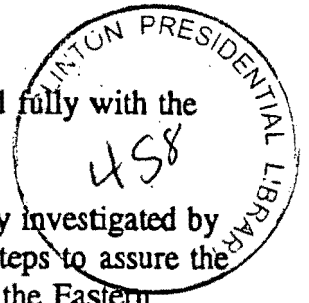
These facts bear repeating: The Clintons made a losing investment in a real estate venture managed by the McDougals, one for which they received no dividends and no income. All the bank loans taken by the Clintons were repaid in full (none were from any S&L). While the Clintons earned nothing from their investment, ^{and did not manage the company} ~~did not manage the company~~, ^{and did not keep its records} ~~they expended considerable effort in the later stages~~ of the company's existence assuring that Whitewater's tax returns were filed, that its franchise and real estate taxes were paid, and that its few assets were sold off in a responsible manner. The great bulk of the documents the Clintons have voluntarily turned over to the Justice Department were ~~only~~ ^{only} compiled after a painstaking effort to gather Whitewater's records.

1982
Several years after the Whitewater investment, ^{the principal and major partner} ~~one of the Clintons' business partners~~, James McDougal, purchased a savings and loan. The state supervision of Madison Guaranty was rigorous and proper. There is not a single factual allegation that then-Governor Clinton took any steps whatever to ease regulatory pressure on Madison. As the Wall Street Journal concluded editorially, "there is no evidence that Governor Clinton urged [regulators] to go easy." Indeed, it was Clinton's Securities Commissioner who, along with federal regulators, forced James McDougal to resign as head of the thrift. And it was Clinton's Securities Commissioner who asked the federal government to put Madison Guaranty into receivership.

A federal grand jury is ^{currently} ~~investigating~~ ^{relating to the M&G which is} matters that may be potentially connected to Whitewater Development Corporation, an entity in which President Clinton and his wife once

to these records
until the later
stages of the company
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held an ownership interest. The President and Mrs. Clinton have cooperated fully with the investigation, and they have directed their attorney to continue to do so.



This investigation has been conducted appropriately and independently investigated by the Justice Department. Indeed, the Attorney General has taken all proper steps to assure the independence of this probe. Since the recusal of United States Attorney for the Eastern District of Arkansas, the investigation has been headed by a career prosecutor, who served as a United States Attorney under two Republican Presidents. There is no reason to doubt that the capable and experienced staff of the Department of Justice has been anything other than thorough, energetic, professional and even-handed.

In recent days some have suggested that the current investigation be replaced by a special counsel. This suggestion is made despite the fact that the statutory grounds that existed for the appointment of an independent counsel have not and would not have not been met. It would be troubling to require the appointment of a special counsel every time there is an unsubstantiated allegation or an unfavorable headline.

Despite their total and voluntary cooperation with the current investigation, the Clintons have been subjected to a barrage of innuendo, political posturing and irresponsible accusations. The President is determined that this ~~artificial~~ controversy must not distract him, his staff or his Administration from the important business of renewing America.

It is remarkable that those who call for an independent counsel state that there is no evidence of wrongdoing by the Clintons in this matter. Senator Dole has said, "My view is that the President probably will be cleared and this will not be an issue, but let's go ahead and get it done." And the Washington Post has editorialized, "there has been no credible charge in this case that either the President or Mrs. Clinton did anything wrong."

[The publicity surrounding this issue has created an Alice in Wonderland logic all its own.] Despite the absence of evidence of wrongdoing, the Clintons are being asked to prove their innocence. [Recently, this topsy-turvy logic has reached a new level of absurdity:] a special counsel is demanded not because the Clintons did something wrong, but to prove they did nothing wrong.

Nevertheless, the President believes that it is important to take whatever steps he can to assure complete confidence in the federal law enforcement system, when that system scrutinizes a company in which he once owned an interest, even if the factual justification for special measures is entirely lacking. Above all, he believes the integrity of high officials must be without question. He also thinks it is critical that his Administration's attention should not be distracted in any way from the vital issues facing the American people.

Date: 1-10-95

THE WHITE HOUSE
WASHINGTON



January 10, 1994

MEMORANDUM FOR OFFICE OF WHITE HOUSE COUNSEL

FROM: W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: WHITEWATER--TASKS THAT NEED WORK

The following tasks need immediate fact development:

1. Continue revising Questions and Answers and the Chronology. (wne)
2. Statute of limitations relating to civil and criminal actions against Madison Guaranty-related individuals. (cms) Also, review of the entire regulatory activity against Madison Guaranty by Beverly Bassett, and Mrs. Clinton's role in seeking regulatory approval. (cms)
3. Tax impact of the Clintons' Whitewater loss and how it was handled. (wne)
4. Review amount of the entire loss in light of McDougal's statement that the Clintons only lost about \$9000 in the Whitewater deal.
5. Issues relating to Williams & Connelly atty fees.
6. Issues relating to privilege and the White House counsel.
7. Issues relating to conflicts of interest by the Rose law firm in representation of Madison Guaranty. We need to get copies of the letters and other materials that were sent between the Rose law firm and the State Securities Dept.
8. What to do about the records in the possession of Chris and Rosalee Wade relating to the sales of the Whitewater property.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. note	Pat Griffin (5 pages)	01/29/1994	P5 460
~~002. letter~~	~~James Hamilton to The President (3 pages)~~	~~01/05/1994~~	~~P6/b(6)~~
003. paper	RE: Questions and Answers on Whitewater (3 pages)	n.d.	P5 461
~~004. paper~~	~~RE: CBS (1 page)~~	~~n.d.~~	~~P6/b(6)~~
~~005. letter~~	~~Lyons to Kendall; RE: Whitewater (2 pages)~~	~~03/22/1994~~	~~P6/b(6)~~
~~006. letter~~	~~Lyons to Kendall; RE: Whitewater (2 pages)~~	~~03/22/1994~~	~~P6/b(6)~~
~~007. list~~	~~RE: Whitewater Payments (1 page)~~	~~n.d.~~	~~P6/b(6)~~

COLLECTION:

Clinton Presidential Records
Counsel's Office
Bruce Lindsey
OA/Box Number: 24785

FOLDER TITLE:

McDougal/Nelson Transactions (Copy of Redwell #10) [1]

Debbie Bush
2006-0320-F
db740

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]
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- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

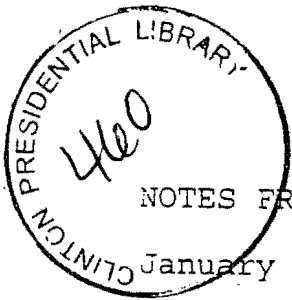
C. Closed in accordance with restrictions contained in donor's deed of gift.

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)]

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NOTES FROM PAT GRIFFIN

January 29, 1994

→ Staffing issue - 3/4
→ State of Debate
→ Record

Documents Produced
to Independent Counsel

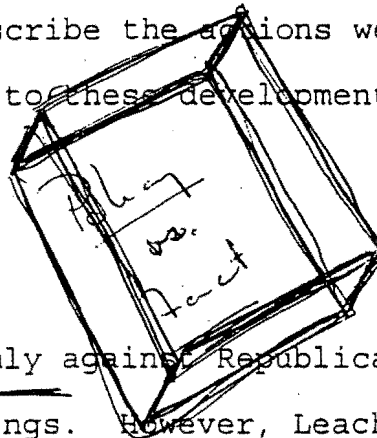
Date: 1-10-95

We have successfully diffused Congressional Republicans' efforts for generic investigations in both chambers. House and Senate Banking Chairmen and rank and file Democrats continue to resist calls for formal committee hearings or subpoena authority needed for investigative activities. However, as we anticipated, Congressional Republicans, and possibly one House Democrat, continue to attempt to open new fronts on "the issue".

I will attempt to summarize the activities that are being separately engineered or orchestrated as a part of routine Congressional activities that are or will present potential political exposure. I will also describe the actions we are taking or contemplating in response to these developments.

1. House Banking Committee

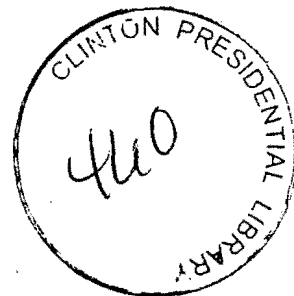
Gonzalez continues to hold firmly against Republican demands for oversight or investigative hearings. However, Leach is planning to release the staff study on "the issue" that has been underway since the end of last year. We are working with the House Leadership to secure the study in advance so that we are prepared to respond. Leach is rumored to be exploring parliamentary alternatives to convene a hearing that would not require Gonzalez' consent but a simple majority of the committee. House Leadership and Chairman Gonzalez would oppose this approach



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as well.

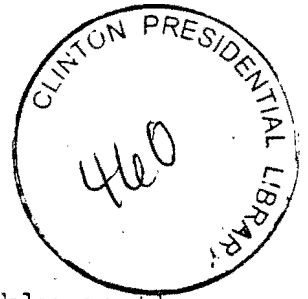
The Banking Committee is planning to conduct routine oversight hearings on RTC and legislative hearings on our Regulatory Consolidation Bill. Both will provide possible forums for discussion of "the issue". We will work with Members to keep the record in balance if we are unable to use the rules to prevent Republicans from introducing "the issue" into these matters.

2. House Judiciary Committee

It is rumored that Hyde or someone like him may introduce a Resolution of Inquiry as early as next week. This is a privileged resolution that will likely get referred to the House Judiciary Committee. It must be acted upon within 14 legislative days or it is automatically discharged to the floor to be managed by the individual who initiated it. However, if the Committee acts affirmatively to report the resolution unfavorably, the time for floor consideration remains in the control of Chairman Brooks.

I have spoken directly with Brooks on this matter and he is confident he will be able to act decisively to defeat the resolution in his committee and on the floor if it is eventually

introduced.



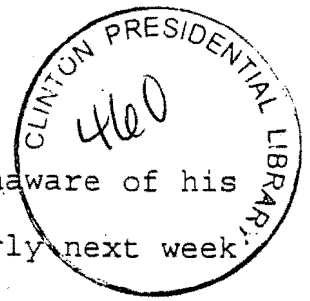
In addition, Mr. Brooks is planning to act quickly on the "Independent Prosecutor" legislation, possibly before the Presidents' Day Recess. He believes that while "the issue" will not likely trigger the legislation, the adoption of the law will provide additional cover against purely partisan attacks.

3. House Energy and Commerce Committee

It was rumored that Congressman Fields was going to ask for an SEC investigation regarding investments in Value Partners. Ed Markey talked Fields out of getting involved. Unfortunately, as you know, a letter was sent to the SEC by three other Republicans raising a number of questions related to the "transaction". Mr. Markey will be asked on Monday to submit a letter to the SEC in response.

4. House Small Business Committee

Yesterday, we were made aware that the Small Business Administration is preparing a report for Chairman LaFalce on "eligability issues" raised by some of the loan transactions related to "the issue". He has also requested a GAO report on the same. House Leadership, the Administration and to the best



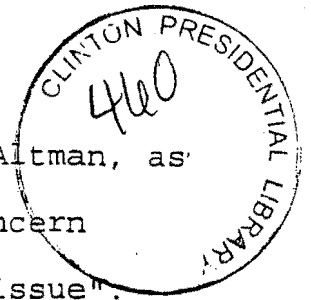
of our knowledge, Democrats on his committee, were unaware of his activities. House Leadership is meeting with him early next week to assess the scope of his actions and his intentions.

Additionally, like the Banking Committee, LaFalce's committee will be conducting a hearing and mark-up activities on routine legislation within his jurisdiction. It is expected that he will attempt to tie aspects of the findings from these two studies into his committee deliberations to ^areauthorize SSBIC legislation.

5. Senate Banking Committee

Chairman Riegle continues to resist Republican demands and in particular, D'Amato, the Ranking Republican, for hearings on "the issue". However, late Friday afternoon D'Amato sent a letter to Riegle asking for a committee meeting, not a hearing, on "the issue". Riegle indicated to me that while unprecedented, D'Amato may be able to convene a committee meeting with a simple majority of the members of the committee and without Riegle's consent. There is a two vote Democratic majority on the committee, one of whom is Shelby. Riegle assured me that he will work hard to hold all Democrats against D'Amato's request. We will caucus all Democrats as well. Also, we worked with him to prepare a response to the D'Amato letter restating his position against any committee interference in this matter. This letter was sent to D'Amato on Friday.

Senate Banking Republicans sent letters to Roger Altman, as the head of the RTC and Janet Reno expressing their concern regarding "statute of limitations" as related to "the issue". D'Amato took to the Senate floor shortly before it recessed on Friday and raised the "statute of limitations" as related to "the issue" and his letter to Sen. Riegle. He was joined by Don Nickles. We got the transcript late Friday night and are preparing a response for the Congressional Record that we will ask a Senator, probably Pryor, to introduce on Monday.

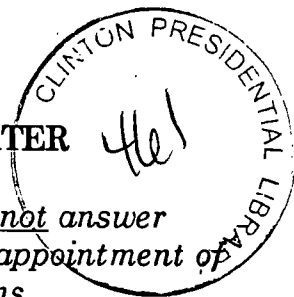


SPECIFIC QUESTIONS AND ANSWERS ON WHITEWATER

Documents Produced
to Independent Counsel

Date: 1-10-95

NOTE: Of course, it is strongly recommended that you not answer specific factual questions about Whitewater, using the appointment of a special counsel as a legitimate way to deflect questions.



Did you use political pressure to see that Madison Guaranty S&L, owned by your business partner James McDougal, would be treated with special leniency?

The regulation of Madison Guaranty S&L was proper -- and no one has made any charge to the contrary. There is not a single factual allegation that I took any steps whatever to ease regulatory pressure on Madison.

- It was my appointee -- Beverly Bassett, the state securities commissioner -- who asked the federal government to put Madison in receivership.
- Along with federal regulators, it was Bassett who pushed James McDougal out of Madison.
- Even the Wall Street Journal concluded editorially that "there is no evidence that Governor Clinton urged [regulators] to go easy."

To be sure, in retrospect the regulation of savings and loans all across America was flawed during the 1980s, and Arkansas did not escape these national problems. Too many thrifts failed, and too much taxpayer money was lost. But Bassett was a diligent regulator, seeking to cope with a bad situation. To suggest that political pressure prompted her to treat Madison with any particular deference is absurd and not supported by any evidence.

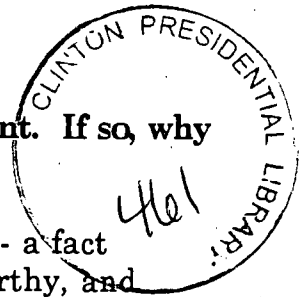
Did Mrs. Clinton or the Rose Law Firm have a conflict of interest in representing Madison or the FDIC?

Absolutely not. Hillary did nothing improper, and neither did her colleagues at the Rose Law Firm. I do not believe there was a conflict of interest.

As for the representation of Madison, Hillary represented them one time, in a limited fashion on one matter, seeking to get a ruling of law. There was nothing illegal or unethical in this representation. And in any event, neither the client nor the law firm received any special treatment from the state regulator.

As for the representation in the lawsuit against the accounting firm, the Rose Law Firm says that it fully disclosed its previous representation of Madison to the FDIC.

You claim that you lost money in your Whitewater investment. If so, why did you not claim the loss on your tax returns?



- We did, in fact, lose money in that ill-fated real estate deal -- a fact confirmed by an independent accounting firm, Patten, McCarthy, and Associates, which examined Whitewater-related documents during the campaign.
- And we did take deductions for some of the loss -- over several years, for interest we paid on the loans.
- As for the rest of the loss, we did not incur it until we sold our interest in Whitewater in 1992. Because of the operations of the tax laws, the tax benefit would be relatively small. We concluded that the relatively small potential tax benefit would not be worth the accounting fees, paperwork headaches -- not to mention the reopening of a campaign issue -- associated with taking the loss.

Did the White House "cover up" in the wake of Vince Foster's suicide last year? In particular, were files related to Whitewater improperly removed from Mr. Foster's office after his death?

No files were removed from Vince Foster's office without first being identified to law enforcement officials. Soon after Foster's suicide, White House Counsel Bernard Nussbaum sorted the contents of Foster's office, in the presence of law enforcement officers. He identified our personal files to the investigators. They were then sent to our personal lawyer. There never were any "missing" files, and no law enforcement official requested those files from Mr. Nussbaum or anyone else. In December, we voluntarily agreed to turn over the files relating to Whitewater to the Justice Department.

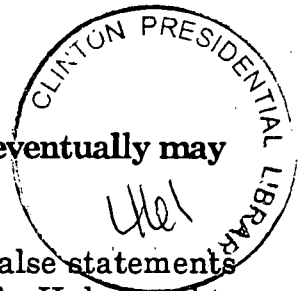
Foster's suicide had nothing to do with Whitewater. The matter is nowhere mentioned in the note Foster wrote prior to his death. It is ghoulish for political partisans to use the tragedy of Foster's death to hype interest in these matters.

Did McDougal funnel illegal contributions from Madison to your campaign in 1985?

Every single check received at the fundraiser was proper on its face -- from an individual, within legal limits. Only three checks were Madison cashiers checks. Now, one individual whose name was on a cashier's check, Ken Peacock, says that he was unaware of the contribution. That came as a surprise to the us. We had no reason whatsoever to think the check was not Peacock's. I certainly have no knowledge whatsoever of any illegal contributions.

Did you urge David Hale to make an SBA-backed loan that eventually may have benefitted Whitewater?

David Hale is under indictment for defrauding and making false statements to the federal government, acts that allegedly took place in 1988. As Hale sought to plea bargain last year, he began charging that he had been urged to make improper loans by several Arkansas business and political figures. Recently, when on the verge of being indicted, he said that in the mid-1980s, I urged him to make a loan to Susan McDougal, Jim McDougal's wife. That is not true. I never urged him to make any loans to the McDougals. (McDougal says he used part of the loan to buy land; he briefly put the land in the name of Whitewater before moving it to another of his companies. He acknowledges that he never told the Clintons about the deal.)



Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	W. Neil Eggleston to Harold Ickes; RE: Whitewater (7 pages)	02/28/1994	P5 462
~~002. report~~	~~United States Department of Treasury; RE: Closed Court Proceedings (27 pages)~~	~~07/14/1994~~	~~P6/b(6)~~
~~003. list~~	~~List with attachments; RE: Clinton's Contributions to Whitewater Development Company (24 pages)~~	~~n.d.~~	~~P6/b(6)~~
~~004. letter~~	~~Wendel to Lindsey; RE: Whitewater Real Estate (13 pages)~~	~~01/28/1994~~	~~P6/b(6)~~

COLLECTION:

Clinton Presidential Records
Counsel's Office
Bruce Lindsey
OA/Box Number: 24785

FOLDER TITLE:

Senate Special Whitewater Committee Document request 9/8/95 - Redwell #2 [7]

Debbie Bush
2006-0320-F
db737

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]
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- 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]

WJC LIBRARY PHOTOCOPY

Date: 1/10/95

THE WHITE HOUSE
WASHINGTON

(revised)

February 28, 1994

MEMORANDUM FOR HAROLD ICKES
DEPUTY CHIEF OF STAFF

FROM: W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: WHITEWATER--FDIC AND RTC ROSE LAW FIRM ISSUES

The recent release of the FDIC and RTC reports addressing the possible conflict of interest of the Rose law firm in its representation of Madison Guaranty raises a number of issues.

What did the FDIC and RTC conclude, and why does it seem that their conclusions are inconsistent?

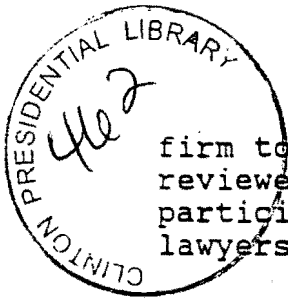
1. The FDIC Report.

The FDIC report was released on or about February 17, 1994. It was drafted by the Legal Division of the FDIC, and presented to FDIC Acting Chairman Hove, a Republican.

Frost & Co. was Madison Guaranty's accounting firm in 1984 and 1985. In that capacity, it prepared certain audited financial reports for Madison. The Rose firm used the 1985 audited financial statement in connection with its representation of Madison Guaranty before the Arkansas Securities Commission.

Madison Guaranty sued Frost & Co. in 1988 for the negligent preparation of financial statements. At the time, Madison was represented by the Gerrish firm. McDougal had been forced out of the management of Madison in the summer of 1986. When the FDIC took over Madison Guaranty in February 1989, it determined that the Gerrish firm had a conflict. In March 1989, the FDIC therefore replaced the Gerrish firm with the Rose law firm.

The FDIC report reviewed the time period in which the FDIC was responsible for the conservatorship of Madison Guaranty, from February 28, 1989 to August 9, 1989 (when the RTC was created and took over the conservatorship of failed savings and loans). The FDIC was thus the entity that retained the Rose law



firm to pursue the Frost & Co. litigation. The FDIC report reviewed relevant FDIC and RTC documents and interviewed participants, including FDIC and RTC employees and Rose law firm lawyers.

On the factual issue of whether the Rose law firm had disclosed to the FDIC its prior representation of Madison Guaranty, the FDIC concluded that the record was unclear. The report nevertheless concluded that no conflict existed between the Rose law firm's prior representation of Madison Guaranty and its representation of the FDIC in the Frost & Co. litigation. The report concluded that the firm's representation in 1985 was not "directly adverse" to the representation in 1989.

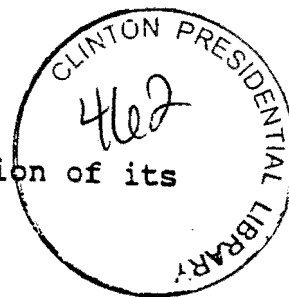
The FDIC based its conclusion on two grounds. First, it stated that there was no evidence that the firm had any involvement in the creation of the Frost & Co. audit report that became the subject of the 1989 litigation. Second, it stated "we have found no evidence that the Firm had a close relationship with the S&L which might call into question its independence." This was one of the sentences that Senator D'Amato attacked so bitterly at the Senate Banking Committee hearing.

On the issue of whether Mr. Hubbell had disclosed his relationship with his father-in-law, Seth Ward, who was then in litigation with Madison Guaranty, the FDIC stated that it was uncertain whether Mr. Hubbell had disclosed the relationship before the FDIC retained the Rose law firm. Nevertheless, the relationship was plainly known to the FDIC within three months of retention. Mr. Hubbell agreed to the creation of an internal firm "firewall" to guard against him receiving information that might be of use to his father-in-law. At the hearing, Senator Faircloth ridiculed what he called an "Arkansas firewall" through which he claimed light and heat could easily penetrate.

At the hearing, Chairman Hove testified that in 1989, FDIC standards required an actual conflict before the agency would bar a retention. Today, the FDIC's standards are much tougher and would bar a retention on the showing of an "appearance of a conflict of interest." Chairman Hove testified that under today's standards, the Rose law firm facts would present an appearance of a conflict.

Chairman Hove agreed to have the FDIC Inspector General ("IG") look into the conflict issue. It was somewhat unclear at the hearing whether the IG would look only at the process by which the FDIC arrived at its decision or would review the substantive issue. It was also unclear whether the IG would apply the actual conflict standard or the appearance of a conflict standard in its review. We should assume, however, that

the IG will adopt the broadest possible interpretation of its mandate.



2. The RTC Report.

The RTC report was released on February 25, 1994 by Senator D'Amato.

The RTC report differs in two major respects from the FDIC report. First, the RTC did not interview any Rose law firm attorneys. The RTC reviewed RTC records and interviewed RTC employees only. Second, the report is factual only. The report reached no conclusion on whether the Rose law firm had a conflict. As the report describes its scope, "This investigation focused only on whether or not Rose disclosed its previous representation of Madison to the FDIC and RTC."

The RTC concluded that Rose did not disclose either its prior representation of Madison Guaranty or Mr. Hubbell's relationship with Mr. Ward.¹ The report acknowledges, however, that within a few months of the retention, the supervisory FDIC attorney, Ms. Breslaw, was made aware of Mr. Hubbell's relationship with Mr. Ward. Ms. Breslaw determined that no conflict existed.

The RTC did not hire the Rose law firm; rather, the retention by the FDIC took place before the RTC was even in existence. Further, the RTC acknowledges in its report that it had no outside conflicts committee, nor regulations, guidance or policy on conflicts until after 1989.

The conclusion of the RTC report is that the matter was referred to the Office of the General Counsel (Ellen Kulka) for any action that it deems appropriate.²

? | ¹ An ultimate finding that Rose had not disclosed either the prior representation of Madison Guaranty or the Ward relationship would be a finding that Mr. Hubbell was not truthful in his recollection. Mr. Hubbell told the FDIC when it was preparing its report that he advised FDIC attorneys about the prior Rose representation of Madison Guaranty and believes that he also advised the government attorneys about his relationship with Mr. Ward. Mr. Hubbell was not interviewed by the RTC attorneys during the preparation of their report.

² As noted above, the RTC report only addressed the factual issues of representation and disclosure. The report did not attempt to apply the facts to any applicable conflicts rules or regulations. It is not clear what the RTC General Counsel, Ms. Kulka, will do with the report. The RTC has an Outside Counsels' (continued...)

At the hearing, Mr. Altman agreed to refer the RTC report to the RTC IG for review.

What sanction could be imposed if the FDIC/RTC finds that the Rose law firm had a conflict of interest or an appearance of a conflict in handling the Frost & Co. litigation in 1989 and failed to disclose that conflict?

As noted above, it is not clear whether the FDIC or the RTC will review this matter under an actual conflict standard or an appearance of a conflict standard. It would seem that to impose any sanction, the IG would have to decide that the Rose firm violated a duty that was in existence at the time, not a duty that later became more strict.

The most severe sanction that would likely flow from a finding that the Rose law firm had a duty to disclose its prior representation of Madison Guaranty and its relationship with Mr. Ward and that it breached that duty would be that the Rose law firm would be permanently barred from any further work for the RTC or the FDIC (and possibly other banking regulators). Lesser sanctions imposed by the regulatory agencies might also be possible, such as a temporary bar.

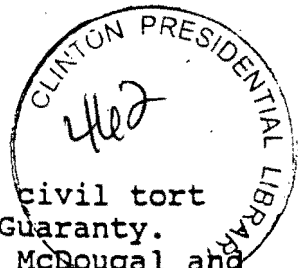
Under the facts as we now understand them, it would seem quite unlikely that the RTC could bring a civil action against the Rose firm or any of its attorneys for failure to disclose the conflict. To prevail, the RTC would have to show fraud or intentional misconduct that caused substantial loss to the institution or unjust enrichment to the Rose firm. The RTC could only really show fraud or intentional misconduct if it could demonstrate that the Rose law firm "threw" the Frost & Co. litigation because of its prior representation of Madison Guaranty.

Criminal liability for the Rose firm would seem even more remote. To prevail, the Special Counsel would have to show that Rose acted with intent to defraud the savings and loan or wilfully made false statements to the FDIC/RTC through its failure to disclose the conflict.

What civil matters is the RTC investigating, who can it sue, and why didn't we hear anything about a civil investigation until late 1993?

²(...continued)

Conflicts Committee to which she could refer the report. She could presumably also refer the report with a recommendation to the RTC Acting CEO Jack Ryan for action.



The RTC is investigating whether it has a civil tort action against anyone who caused a loss to Madison Guaranty. This would include insiders such as James and Susan McDougal and members of the Board of Madison. It also includes professionals who provided service to Madison Guaranty, such as the Rose law firm, other law firms, and accounting firms. The Frost & Co. suit is an example of a suit against a professional service provider that caused loss to Madison Guaranty through a negligent audit. The RTC could also sue outsiders, including the President and Mrs. Clinton, if the RTC found that the outsiders worked with insiders illegally to divert assets of the savings and loan. For example, if the RTC believed that the Clinton campaign knowingly received diverted Madison assets at the April 1985 fundraiser or that the Clintons knowingly received other diverted Madison Guaranty assets through Whitewater, it could bring suit. The RTC commonly sues the recipient of a loan where it has information that the borrower knew that the loan was improper.

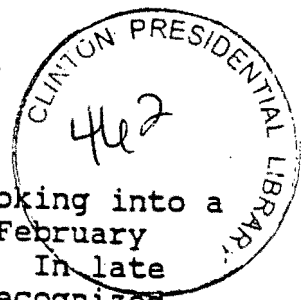
Under the legislation creating the RTC in 1989, the RTC as conservator of a failed savings and loan had to bring a tort claim within three years of the time the RTC (or FDIC as predecessor) took over the institution. The FDIC took over Madison Guaranty on February 28, 1989. Thus, all torts had to be brought by February 28, 1992. That day passed during the campaign.³

The Resolution Trust Corporation Completion Act, signed by the President on December 17, 1993, revived the possibility of a civil action. Under that legislation, a narrow class of torts--those that were fraudulent or involved intentional misconduct and that either caused substantial loss to the institution or unjust enrichment to the defendant--were revived. The statute extended the limitations period such that this category of tort could be brought within five years of the time the RTC took over the institution.⁴ Moreover, the statute specifically provided that the five year period would apply even if the three year limitations period had already run.⁵

³ I am unaware of any civil suits brought by the RTC prior to February 28, 1992, but I would not be surprised if it had sued McDougal and other insiders. McDougal was indicted in 1989 for bank fraud involving Madison Guaranty, and was acquitted in 1990. It would be fairly common for the RTC to pursue a civil action even after an acquittal.

⁴ Torts based on negligence are still covered by the three year statute of limitations.

⁵ The statute of limitations for crimes involving financial institutions is 10 years from the date the illegal conduct occurred, regardless of when the RTC took over the institution.



As a result, the RTC would not have been looking into a possible civil suit involving Madison Guaranty after February 1992 and before the passage of the statute last fall. In late 1993 and early 1994, Senator D'Amato and Rep. Leach recognized that the legislation had revived the possibility of an RTC lawsuit in the Madison matter. Both took to the floor of their respective chambers, aggressively urging the RTC to commence an action before the statute expired. In early 1994, the RTC--then faced with a statute of limitations that would run by the end of February--hired the San Francisco-based law firm of Pillsbury, Madison and Sutro to assist it in determining whether to bring any civil actions arising out of Madison.⁶

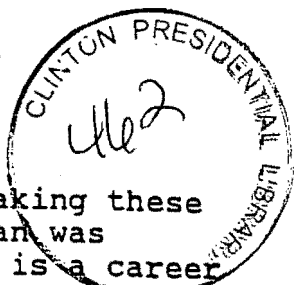
In February 1994, the statute of limitations was extended once again, through the life of the RTC, which is expected to expire on December 31, 1995.

Now that Mr. Altman as Acting CEO of the RTC has recused himself from further involvement in Madison Guaranty matters, who at the RTC will be the decision-maker on whether to bring a civil action arising out of the failure of Madison Guaranty?

Following his testimony before the Senate Banking Committee on Thursday, Mr. Altman recused himself as Acting CEO of the RTC from any further involvement in Madison Guaranty/Whitewater matters.

⁶ The partner at Pillsbury assigned to this matter is Jay Stephens, a Republican who was a member of the Reagan and Bush administrations. From 1981 to April 1986, Mr. Stephens was a political appointee at the Justice Department. By 1986, he had become Associate Deputy Attorney General. From April 1986 through March 1988, he was Deputy Counsel to the President. In that capacity, he had a role in the Iran/Contra Affair. After published reports that Oliver North had shredded documents, Mr. Stephens called Fawn Hall. When she denied (falsely) that any improper shredding had taken place, Mr. Stephens accepted her denial, and the White House issued a statement denying the shredding.

In March 1988, President Reagan appointed Mr. Stephens to be U.S. Attorney for the District of Columbia. When President Clinton sought the removal of all U.S. Attorneys in April 1993, Mr. Stephens called a press conference at which he suggested that the President was acting to frustrate the investigation of Rep. Rostenkowski. At the time, Senator Dole called for hearings into what he termed the "March massacre." Until January 1994, Mr. Stephens had been considering running for the Senate.



The top official at the RTC who will be making these decisions on Madison Guaranty is Jack Ryan. Mr. Ryan was formerly with the Office of Thrift Supervision. He is a career official. His principal advisor will be Ellen Kulka, now General Counsel of the RTC, who also came from OTS. Ms. Kulka is also a career official.

We intend to nominate a person for the position of CEO of the RTC within the next few weeks. We can anticipate that any person the President nominates will be pressured to recuse from any Madison-related matters. If the person refuses to recuse and is confirmed, then that person will become the decision maker. If that person is forced to recuse to achieve confirmation, then Jack Ryan would remain the decision-maker on Madison matters at the RTC.

W.N.E.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Bruce Lindsey to Bill Nussbaum; RE: Senate Special Committee (2 pages)	10/13/1995	P5 463
002. fax	William D. Nussbaum to Bruce Lindsey (4 pages)	11/09/1995	P5 464
003. memo	Bruce Lindsey to Bill Nussbaum; RE: Giuffra letter (2 pages)	n.d.	P5 465
~~004. forms~~	~~Whitewater Development Co.; RE: 1991, 1990, and 1989 Tax Returns (20 pages)~~	~~n.d.~~	~~P6/b(6)~~
~~005. forms~~	~~RE: The Clintons 1981 W2's and Tax Returns (28 pages)~~	~~n.d.~~	~~P6/b(6)~~
~~006. forms~~	~~RE: The Clintons 1981 W2's and Tax Returns (28 pages)~~	~~n.d.~~	~~P6/b(6)~~

COLLECTION:

Clinton Presidential Records
Counsel's Office
Bruce Lindsey
OA/Box Number: 24785

FOLDER TITLE:

Senate Special Whitewater Committee Document Request 9/8/95 - Redwell #1 [1]

Debbie Bush
2006-0320-F
db725

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]
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- 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]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



~~PRIVILEGED AND CONFIDENTIAL~~

TO: Bill Nussbaum

FROM: Bruce R. Lindsey

RE: Senate Special Committee's September 8, 1995,
Request for Documents

DATE: October 13, 1995

DETERMINED TO BE AN
ADMINISTRATIVE MARKING

INITIALS: RB DATE: 7/16/08

2006-0320-F

I have reviewed my files for documents responsive to the September 8, 1995 request from the Senate Special Committee on Whitewater and related matters. Excluding press articles, inquiries and responses, and documents obtained from Senate or House committees in connection with previous investigations and hearings (I have numerous responsive documents obtained from the House Banking Committee's hearings in August of this year), I have the following documents:

(a) The Pillsbury, Madison draft report (I believe, but am not certain, that I obtained this from the House Banking Committee);

(b) Nothing in addition to the documents provided to the Senate Banking Committee last year in connection with its White House-Treasury contacts hearings;

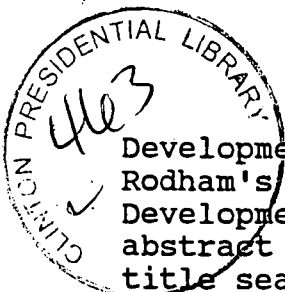
(c) Same as (b)

(d) See (a) and (b) above;

✓ (e) My RTC/OGE deposition, an unsigned copy of my transmittal letter to Francine Kerner, telephone message from Allen re: my deposition, and a reference to Allen's letter to Mark Stein, OIC, requesting a copy of report summarizing OIC's conclusions on "White House/Treasury Contacts Investigation";

✓ (f) FHLBB Report of Examination of Madison Guaranty, draft chronologies outlining Beverly Bassett Schaffer's oversight of Madison Guaranty, memoranda from Beverly Bassett Schaffer to Jeff Gerth re: Madison Guaranty, memorandum from Neil Eggleston to Lloyd Cutler re: Beverly Bassett/Madison Guaranty Memo, FDIC and RTC reports on Rose Law Firm's representation of Madison Guaranty and Neil Eggleston's memorandum to Harold Ickes re: FDIC and RTC reports;

(g) Lyons Report, draft Lyons reports, Whitewater Spreadsheet - Source and Use (3/5/94), faxes from Jim Lyons - "Responses to Criticisms - WDC Report" (1/10/94) and "Corrected Version of Memo" (1/11/94), Synopsis of Whitewater/Madison Guaranty Matter prepared by Neil Eggleston, Whitewater



Development Company tax returns, Bill Clinton and Hillary Rodham's 1981 tax returns, Clintons' contributions to Whitewater Development Company, Warranty Deed - 101 River Development, Inc., abstract of title on Whitewater Development Company, limited title search on Whitewater Development Company, affidavit of Jim McDougal re: International Paper Company property, and loan checks dated 11/7/85, 1/8/82, and 9/30/83;

(h) If this means the hiring of Jay Stephens, see (a), otherwise nothing;

(i) See (a);

(j) U.S. v. David Hale, et. al - indictment, U.S. v. David Hale, et. al - superseding indictment, U.S. v. David Hale - outline of guilty plea and superseding information, letter from John Tull to Susie Whitacre re: Hale indictment, deposition of David Hale - FDIC v. Dardanelle Development Corp., Inc., deposition of David Hale - Louise Townsend v. Charles Matthews, et. al, deposition of William W. Watt - FDIC v. Dardanelle Development Corp., Inc., deposition of Caren Croom Ross - FDIC v. Dardanelle Development Corp., Inc., diagram of CMS transactions, timeline of CMS transactions, Exhibit 90 - Memo from Joe to Patsy re: loan action, Capitol Management Services, Inc., Exhibit 91 - Letter from Patricia DiMuzio to David Hale dated January 23, 1989, checks to Mitchell Law Firm from David Hale and to Pulaski Bank and Trust Co. from Retail Factors, Inc., and letter from SBA to Chairman LaFalce re: CMS, Note re: Reference to Additional Background Information in 11/15/93 SBA letter;

(k) Nothing;

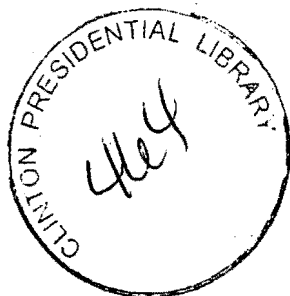
(l) Loan documents. (As you know, this request also asks for "any records relating to the withdrawal or deposit of cash in an amount in excess of \$10,000." In addition to this request being beyond the scope of the resolution, I do not believe that I have any such records.)

HOGAN & HARTSON

COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004-1109

Tel.: (202) 637-5600
Fax: (202) 637-5910

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BALTIMORE, MD
BETHESDA, MD
DENVER, CO
McLEAN, VA



IMPORTANT NOTICE
TELECOPY/FACSIMILE COVER LETTER

TO:

Bruce Winbury

DATE:

11-9-95

FROM:

William D. Nussbaum

TIME:

TOTAL NO. OF PAGES, INCLUDING COVER:

4

The attached information is ~~CONFIDENTIAL~~ and is intended only for the use of the addressee(s) named above. If the reader of this message is not the intended recipient(s) or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address via the U.S. Mail.

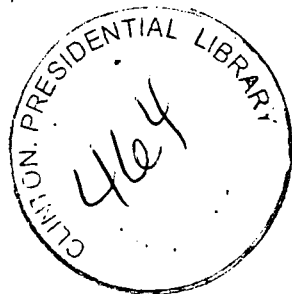
MESSAGE:

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: OB DATE: 7/16/08
2006-0320-F

FOR INTERNAL PURPOSES ONLYTELECOPY/FAX NUMBER: 456-2473

CLIENT & MATTER: NAME:

NUMBER: -6373-1ATTORNEY BILLING NUMBER: 0545

HOGAN & HARTSON
LLP.COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON, DC 20004-1109
202/637-5600

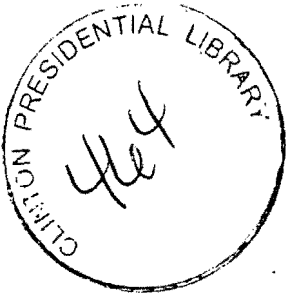
MEMO

DATE: 11/9

TO: Bruce Lindsey

FROM: Bill Nussbaum

- ☐ For your information
- ☐ As you requested
- ☒ For your review & comment
- ☐ For your files
- ☒ Here is how we propose to deal with this issue. The letter would go out tomorrow.

P. 3/4
DRAFT**L.L.P.**

November 9, 1995

BY TELECOPY AND REGULAR MAIL

Robert J. Giuffra, Jr.
Chief Counsel
United States Senate Committee On
Banking, Housing, and Urban Affairs
Washington, D.C. 20510-6075

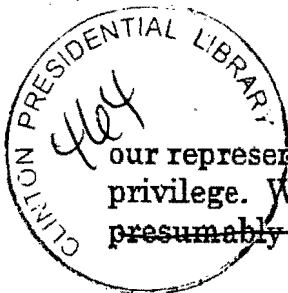
Re: Document Production of Bruce R. Lindsey

Dear Bob:

I am in receipt of a letter of November 8, 1995 from Senators D'Amato and Sarbanes requesting that Mr. Lindsey produce documents relating to the withdrawal of cash in an amount in excess of \$10,000 from the Perry County Bank in connection with the 1990 Arkansas gubernatorial campaign. Mr. Lindsey wishes to continue cooperating with the Committee as he has in the past and is prepared to produce the documents the Committee has requested. Before he does, however, there is one matter I need to bring to your attention.

1 The materials in question are copies of the following: (1) four checks written on the Clinton For Governor Account dated May 25, 1990; (2) Perry County Bank Cash Out Tickets related to the withdrawal of funds from the Clinton For Governor Account on May 25, 1990; (3) Perry County Bank computer printouts reflecting the May 25, 1990 transaction; (4) Charged To Your Account Ticket dated November 2, 1990 relating to the disbursement of funds from Clinton For Governor Account at Perry County Bank; (5) Currency Transaction Report dated November 2, 1990; (6) Currency Transaction Report dated July 18, 1994; (7) Campaign Contribution and Expenditure Report filed by Clinton For Governor Campaign on June 28, 1990; and (8) Campaign Contribution and Expenditure Report filed by Clinton For Governor Campaign on December 6, 1990.

2 two -
Of these materials, only ~~the~~ Campaign Contribution and Expenditure Reports, which are publicly available documents -- are from Mr. Lindsey's files. The remainder of the documents never were in Mr. Lindsey's files or personal possession, but were obtained by his attorneys from other sources in the course of



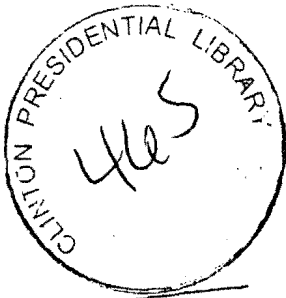
our representation. As such, we believe they are within the attorney work-product privilege. We did not produce the documents to the Independent Counsel, ~~who presumably obtained them from the Perry County Bank or some other source.~~

Nevertheless, Mr. Lindsey will be happy to make our copies of the above-described documents available to the Committee if you so desire. He requests only that the Committee agree that it will not deem his production of these materials to be a waiver of any privilege with regard to other issues. I assume this will not be a problem and will look forward to receiving confirmation from you. I would then anticipate delivering the documents to you by the middle of next week.

Yours truly,

William D. Nussbaum

cc: Neal Kravitz
Minority Deputy Special Counsel

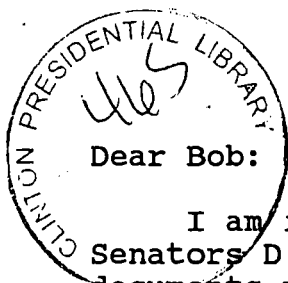


To: BILL NUSSBAUM

From: BRUCE R. LINDSEY

Re: GIUFFRA LETTER

(202) 637-5910



Dear Bob:

I am in receipt of a letter dated November 8, 1995, from Senators D'Amato and Sarbanes requesting that Mr. Lindsey produce documents relating to the withdrawal of cash in an amount in excess of \$10,000 from the Perry County Bank in connection with the 1990 Arkansas gubernatorial campaign. While their letter indicates that they both interpret Section 1(b)(3)(G) to authorize the Special Committee to investigate these withdrawals, the letter provides no basis for their interpretation or any analysis as to why these cash withdrawals relate to the lending activities of the Perry County Bank, which, as you know, is the subject matter of Section 1(b)(3)(G). Although Mr. Lindsey believes that this subject is not within the scope of the Senate Resolution, he wishes to continue to cooperate with the Committee and is willing to produce the documents the Committee has requested. Before he does, however, there is one matter I need to bring to your attention.

Of the materials in question, only two -- Campaign and Expenditure Reports publicly filed by the Clinton for Governor Committee -- are from Mr. Lindsey's files. As you know, these reports have already been produced to the Committee. The remainder of the requested documents were never in Mr. Lindsey's files or personal possession, but were obtained by his attorneys from other sources in the course of our representation. As such, we believe they are within the attorney work-product privilege. We did not produce these documents to the Independent Counsel.

Nevertheless, Mr. Lindsey will be happy to make our copies of these documents available to the Committee if you so desire. He requests only that the Committee agree that it will not deem his production of these materials as a waiver of any privilege with regard to other issues. I assume this will not be a problem and will look forward to receiving confirmation from you.

Yours truly,

William D. Nussbaum

Bill:

My re-draft
of your letter.
B-n

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Bruce Lindsey to David Fein (1 page)	10/19/1995	P5 466p
002. call list	Lindsey; RE: Redaction of personal telephone numbers (partial) (1 page)	04/27/1993	P6/b(6)
003. call list	Lindsey; RE: Redaction of personal telephone numbers (partial) (1 page)	04/28/1993	P6/b(6)
004. call list	Lindsey; RE: Redaction of personal telephone numbers and information (partial) (1 page)	06/01/1993	P6/b(6)
005. call list	Lindsey; RE: Redaction of personal telephone number (partial) (1 page)	06/08/1994	P6/b(6)
006. call list	Lindsey; RE: Employment and redaction of personal telephone numbers (partial) (1 page)	06/09/1993	P2, P5, P6/b(6)
007. call list	Lindsey; RE: Employment and redaction of personal telephone numbers (partial) (2 pages)	06/14/1993	P2, P5, P6/b(6)
008. call list	Lindsey; RE: Redaction of personal telephone numbers (partial) (1 page)	06/15/1993	P6/b(6)
009. call list	Lindsey; RE: Employment and redaction of personal telephone numbers (partial) (3 pages)	06/16/1993	P2, P5, P6/b(6)
010. call list	Lindsey; RE: Employment and redaction of personal telephone numbers (partial) (2 pages)	06/24/1993	P6/b(6)
011. call list	Lindsey; RE: Employment (partial) (1 page)	07/29/1993	P2, P5, P6/b(6)

COLLECTION:

Clinton Presidential Records
Counsel's Office
Bruce Lindsey
OA/Box Number: 24776

FOLDER TITLE:

Senate Special Committee Document Request RE: RTC, Madison Guaranty, & Whitewater WH Records [10/4/95] [1]

Debbie Bush
2006-0320-F
db721

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.

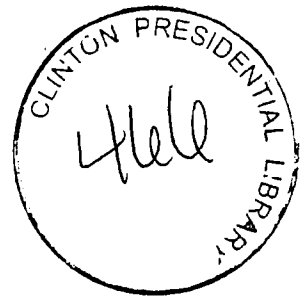
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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]

WJC LIBRARY PHOTOCOPY



October 19, 1995

Memorandum to David Fein

From: Bruce R. Lindsey 

Re: Senate Special Committee's Document Request Dated October 4, 1995

Attached are my telephone logs reflecting calls to me between January 20, 1993, and August 5, 1994, from any of the 50 plus people listed in your October 4, 1995 request. With respect to Webb, Roger and Betsey, I have eliminated those calls that clearly related to personnel, legislative or regulatory matters. You will note, however, that many of these telephone logs do not reflect the subject matter of the call. I have no idea today (1) whether I returned the calls or (2) the subject matters discussed. You will note that the August 6, 1993 call from Betsey Wright related to the President's alleged half-sister. In addition, many of the December, 1993 and early 1994 calls from Betsey related to the allegations by two Arkansas state troopers against President Clinton. I strongly object to turning those over to the Senate. Please review and redact, but let's talk before you forward them to the Committee.

In response to paragraph 5 of the request, I have a copy of my RTC deposition and a transmittal letter to Francine Kerner, Counsel to the Treasury Inspector General. The only other responsive documents in my possession relate to the October, 1993 meeting in Bernie's office with respect to press inquiries about the RTC criminal referrals. The Committee already has these documents.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Joel Klein to Abner J. Mikva; RE: Upcoming meeting with Starr (2 pages)	12/20/1994	P5 467

COLLECTION:

Clinton Presidential Records
Counsel's Office
Marvin Krislov
OA/Box Number: 6901

FOLDER TITLE:

WW Miscellaneous (Whitewater)

Debbie Bush
2006-0320-F
db2023

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]
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- 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)]

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- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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- 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]

December 20, 1994



MEMORANDUM FOR ABNER J. MIKVA

FROM: JOEL KLEIN *JK*
COPY: JANE SHERBURNE
CHRIS CERF
MARVIN KRISLOV
RE: Upcoming Meeting with Starr

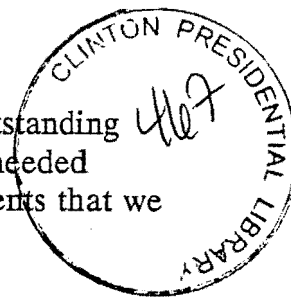
One of the issues that we need to follow-up on with Starr et al. on Thursday (12/22) is an outstanding documents request that Mark Stein has never gotten back to us on. The initial subpoena that was served on the WH regarding the Foster matter was extremely broad and Stein agreed to narrow it in accordance with the attached letter of May 11, 1994. (Attachment 1.) Subsequently Stein called (in approximately mid-July) and requested additional documents. He and I agreed on the language in the attached memo dated July 20, 1994 (Attachment 2), and our office circulated the attachment to the White House staff. The documents were initially pulled together by Neil Eggleston and Marvin Krislov and then Chris Cerf helped out.

As we were pulling together the documents, it became apparent that Jane Sherburne's and Sheila Cheston's interview notes fell within the request. These notes were generated in preparation for the Senate and House Whitewater hearings that were held last August. Fiske had requested that we not interview White House people until after he completed his investigation. We agreed to Fiske's request. As I recall, Fiske's people gave us the green light to commence our inquiry at the time they issued their report on the Foster suicide and the White House-Treasury contacts. At that point, they anticipated that they would soon be completing their investigation into the Foster documents and they told us that we could conduct our interviews into that matter as well, since they had told the Hill that it could look into all three areas. Consequently, Jane and Sheila had interviewed people and taken notes that were called for under the language of Mark Stein's mid-July document request.

After discussing the matter in counsel's office, I indicated to Mark Stein that we thought it was unreasonable for him to call for production of Jane's and Sheila's notes since they were developed in reliance on the green light that we had received from Fiske and Stein. Stein indicated that he understood our point and would raise it with Fiske. We agreed that we would hold all documents until I heard from Stein.

Soon thereafter, Starr replaced Fiske. Although Stein stayed on with Starr, he never got back to me -- either on the Jane and Sheila documents or any of the others. When Lloyd and I met with Starr, soon after he was appointed, Stein was present, along

with Touhey and others. At the meeting, I asked whether they had any outstanding document requests and they said no -- that they would let us know if they needed anything as their investigation developed. We have maintained the documents that we collected in late July in a safe in Marvin's office.



I propose that we raise this issue again on Thursday so that there is no misunderstanding. Stein has now left and I, of course, do not know whether he has briefed his colleagues on this matter. If it turns out that Starr in fact now wants the documents, we will have to resolve the issue about Jane's and Sheila's notes.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Cheryl A. Bolze to David B. Fein (5 pages)	11/05/1995	P5 474
002. memo	Cheryl A. Bolze to David B. Fein (3 pages)	11/04/1995	P5 475

COLLECTION:

Clinton Presidential Records
Counsel's Office
David Fein
OA/Box Number: 8883

FOLDER TITLE:

OGE (Office of Government Ethics) Hearing - Binder

Debbie Bush
2006-0320-F
db2021

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]
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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

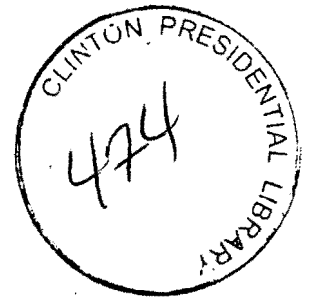
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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November 5, 1995



MEMORANDUM FOR DAVID B. FEIN
ASSOCIATE COUNSEL TO THE PRESIDENT

FROM: CHERYL A. BOLZE

RE: Effect of OGE Handwritten Notes on
Lloyd N. Cutler's Testimony

In July of 1994, the White House Counsel's Office sent the Office of Government Ethics copies of Lloyd N. Cutler's draft testimony and attachment for the Senate Committee on Banking, Housing and Urban Affairs. On October 18, 1995, the OGE returned these drafts, some of which contain handwritten notes by OGE staff.

Below is an analysis of the effect that any of these OGE notes may have had on the final version of Mr. Cutler's testimony and attachment, dated July 26, 1994. They are separated into two categories: 1) "Misstatements" which were corrected, and 2) "Rewording" as directed by the OGE.

MISSTATEMENT

LNC Draft #13, 7/22/94 p.18

The draft noted that Mr. Altman did not participate in the RTC decision to make criminal referrals or any other Madison Guaranty or Whitewater matter, and that he "did play an important role in a broader legislative policy action that was adverse to all persons against whom the RTC might have potential civil claims That action was the retroactive extension in November 1993 of the statute of limitations on such claims"

The OGE staff wrote: "I thought Altman advised against the extension."

The final version of Mr. Cutler's testimony (p.8) eliminates the reference to the statute of limitations and states: "However, it is important to note that during the period before Mr. Altman recused himself, Mr. Altman did not participate in the RTC decision to make the criminal referrals or any other RTC decision relating to a particular Madison Guaranty/Whitewater matter."

LNC Draft #13, 7/22/94 p.6

The draft stated: "Over the next few weeks, Ms. Hanson spoke on a number of occasions to lawyers in the Office of White House Counsel to report the details of continuing press inquiries."

The OGE staff put a question mark at this paragraph and wrote: "How many do we have [unreadable word] they hanging her."

The final version (p.3) uses a different word to describe how many occasions: "Over the next few weeks, Ms. Hanson spoke on a couple of occasions to lawyer in the Office of White House Counsel to report the details of continuing press inquiries."

LNC Draft #13, 7/22/94 p.12

The draft stated that the RTC decision regarding criminal referrals had been made before the White House received a 'head-up': "For these reasons, the heads-up given to the White House on September 29 concerning a decision the RTC had already made did not in my opinion involve any impropriety or breach of any ethical standard." In addition, the draft stated that "the Office of Government Ethics has been consulted on this precise issue and has arrived at the same conclusion."

The OGE staff marked the RTC statement and wrote the word "hadn't" and drew a line to the OGE statement and wrote "can't say this."

The final version (p.6) corrects the RTC misstatement and makes no mention of an OGE opinion on this issue: "The heads-up received by the White House that the RTC was making criminal referrals concerning Madison Guaranty did not in my opinion involve any impropriety or breach of any ethical standard by any White House official. None of them made any effort to influence the RTC's decision."

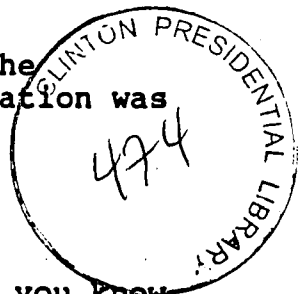
LNC Draft #13, 7/22/94 p.13

The draft discussed compliance with ethical standards and the OGE opinion on the October 14, 1993 contact: "In my opinion, those who participated acted in good faith and in compliance with existing ethical standards, without any intent to use non-public information for their private, financial or personal gain. [The Office of Government Ethics has also been informally consulted on this question, and agrees with this analysis.]"

The OGE staff wrote: "No since you're talking about everyone here."

The final version (p.6) clarifies the OGE position on this issue: "The Office of Government Ethics -- the agency charged with interpreting and applying the Standards of Conduct -- agrees that the receipt of such information by White House officials, if not then used to further their own

or another's private interest, does not violate the Standards. On the basis of my review, the information was not used for such a purpose."



LNC Draft #13, 7/22/94 p.16

The draft understates the OGE position: "As you know, the Office of Government Ethics had concurred informally with the Treasury Designated Ethics Officer in February 1993 that Mr. Altman had no legal obligation to recuse himself"

The OGE staff wrote: "It's in the RTC written opinion."

The final version (p.8) removes the "informally" designation: "As you know, the Office of Government Ethics had concurred with the determination of the Treasury and RTC ethics officials in February 1994 that Mr. Altman had no legal obligation to recuse himself"

LNC Draft #13, 7/22/94 p.21

The draft describes the quick exchange between Eugene Ludwig and the President at Renaissance Weekend in Hilton Head: "Mr. Klein said it would be better to obtain such advice from someone other than the Comptroller, who could have some responsibility for insolvent banks such as Madison Guaranty."

The OGE staff wrote: "Not a bank. Comptroller had no auth[ority]."

The final version (p.10) eliminates the misstatement of the Comptroller's authority: "Mr. Klein said it would be better to obtain such advice from someone other than the Comptroller."

REWORDING

LNC Draft #13, 7/22/94 p.9

The draft described the first ethical issue from the viewpoint of the Treasury: "The first is whether it was appropriate for the Treasury official to give the White House a 'heads-up' that the RTC had decided to make criminal referrals"

The OGE staff wrote: "Why is he talking about Treasury office?"

The final version (p.5) addresses the issue from the White House's perspective: "The first is whether it violated any ethical standard, or was otherwise inappropriate, for the White House to receive a 'heads-up' from a Treasury official that the RTC was making criminal referrals"

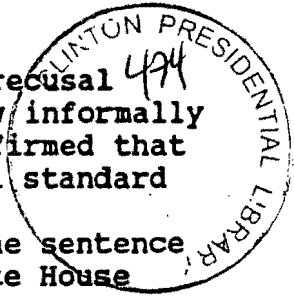
LNC Draft #13, 7/22/94 p.16-17

The draft stated OGE's current view of the recusal issue: "[The Office of Government Ethics has now informally confirmed this view, and has also informally confirmed that no White House staff members violated any ethical standard with respect to the recusal issue."

The OGE staff reworded the second part of the sentence to say, "they have no reason to believe any [White House staff members violated]"

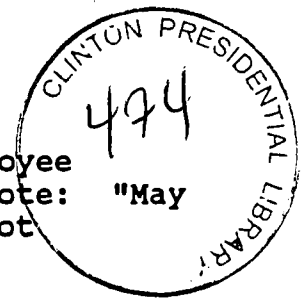
The final version (p.8) adopts the OGE wording: "The Office of Government Ethics has now also informally confirmed that it has no reason to believe that any White House official violated any ethical standard with respect to the recusal issue."

In addition to the notes mentioned above, there are approximately ten other handwritten notes which do not appear to have had any impact on Mr. Cutler's final testimony. These notes often offered different wording of phrases or commented on the substantive analysis.



LNC Draft #15, 7/25/94 p.8-9 (not in final)

In a paragraph applying the OGE standards for employee contacts to the current situation, an OGE staff wrote: "May have been responding to press inquiries but that not 'participating' in the [Madison Guaranty] matter."



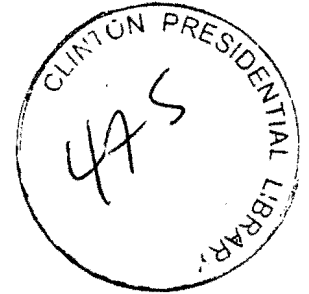
LNC Draft #15, 7/25/94 p.19 (not in final)

An OGE staff clarified draft testimony that described when "Mr. Altman recused himself" by writing above it: "announced his intent to recuse."

LNC Draft #13, 7/22/94 p.9

An OGE staff clarified draft testimony

November 4, 1995



MEMORANDUM FOR DAVID B. FEIN
ASSOCIATE COUNSEL TO THE PRESIDENT

FROM: CHERYL A. BOLZE

RE: Effect of IG Transcripts on
Lloyd N. Cutler's Testimony

Document S008081-008127 is a draft outline of "Contacts Testimony" for Lloyd N. Cutler dated July 17, 1994. This version includes extensive handwritten notes by Sheila Cheston. Ms. Cheston's notes, which correct or supplement the typed outline, appear to derive from IG testimony transcripts of Jean Hanson, Neil Eggleston, Bernard Nussbaum, Bruce Lindsey, George Stephanopoulos, Gene Ludwig, Roger Altman, Josh Steiner, and William Roelle.

The first time these handwritten notes seem to be incorporated into Mr. Cutler's draft testimony is in draft number seven dated July 21, 1994 [S01570-S010587]. Although draft six dated July 20, 1994 [S010533-01543] and draft seven are quite similar, two additions to draft seven appear to originate directly from the handwritten notes on the contacts testimony outline. Attached to this memo are highlighted copies of the relevant portions from the three documents.

One addition pertains to Ricki Tigert's handling of a request for a blanket recusal in any matters potentially involving the Clintons.

Draft #6: "She had replied that she would defer any decision on recusal until a particular matter came before her."

Notes: "T[tigert] said if confirmed she w[oul]d consult ethics offic. [and] follow their advice."

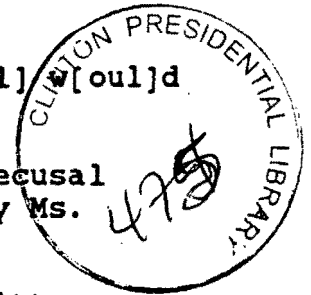
Draft #7: "She had replied that she would defer any decision on recusal until a particular matter came before her and would then follow the advice of the FDIC ethics officer."

The second pertinent addition discusses Bernard Nussbaum's reaction to the possibility of Roger Altman's recusal. While no similar sentence can be found in draft six, a handwritten note on the outline seems to generate a new sentence in draft seven.

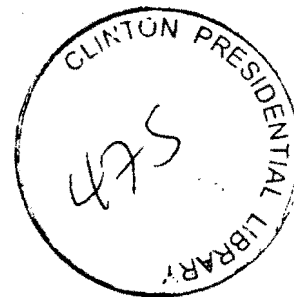
Notes: "Nuss[baum] believed [Altman recusal] ~~could~~
totally undermine WH position."

Draft #7: "Mr. Nussbaum said that an Altman recusal
might undercut the position taken by Ms.
Tigert."

Both of these additions happen to stem from handwritten notes about information contained in Mr. Nussbaum's IG transcripts. While the date on which the White House received copies of certain White House employees' IG transcripts can be pinpointed by courier dates or fax footprints, a majority have no clues which can provide a date of receipt. Also attached is a listing of unredacted IG transcripts received by White House officials. The only information that exists regarding Mr. Nussbaum's IG testimony is that it was taken on July 8, 1994.



UNREDACTED IG TRANSCRIPTS RECEIVED
BY WHITE HOUSE OFFICIALS



<u>Name</u>	<u>Date Received by WH</u>
Mark Gearan	7-21-94
Harold Ickes	7-22-94
Bruce Lindsey	7-20-94
Beth Nolan	7-20-94

Clifford Sloan	7-21-94 ?? (date of letter)
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		<u>Date of Testimony</u>
Neil Eggleston	unknown	after 7-15-94
Mack McLarty	unknown	after 7-19-94
Bernard Nussbaum	unknown	after 7-8-94
George Stephanopoulos	unknown	after 7-15-94
Maggie Williams	unknown	after 7-15-94

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Janet Reno to The President (1 page)	05/08/1996	P5 476

COLLECTION:

Clinton Presidential Records
Chief of Staff
George Stephanopoulos
OA/Box Number: 8029

FOLDER TITLE:

Binder - Independent Counsel and Whitewater Trial Fact Sheets with Fact Sheet on
Upcoming Verdicts in the McDougal/Tucker Trial [2]

Debbie Bush
2006-0320-F
db2019

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]

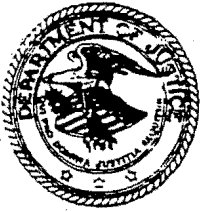
C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

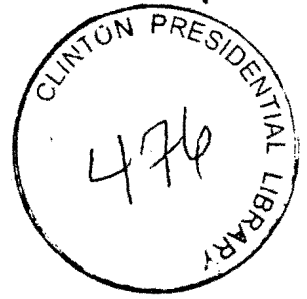
RR. Document will be reviewed upon request.

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]



Office of the Attorney General
Washington, D. C. 20530



May 8, 1996

The President
The White House
Washington, D.C. 20500

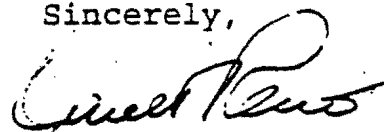
Dear Mr. President:

You have requested my legal advice as to whether executive privilege may properly be asserted in response to a subpoena issued to the Counsel to the President by the Committee on Government Reform and Oversight of the House of Representatives.

The subpoena covers a large volume of confidential White House Counsel's Office documents. The Counsel to the President notified the Chairman of the Committee today that he was invoking the procedures of the standing directive governing consideration of whether to assert executive privilege, President Reagan's memorandum of November 4, 1982, and that he specifically requested, pursuant to paragraph 5 of that directive, that the Committee hold its subpoena in abeyance pending a final Presidential decision on the matter. This request was necessitated by the deadline imposed by the Chairman, the volume of documents that must be specifically and individually reviewed for possible assertion of privilege, and the need under the directive to consult with the Attorney General, on the basis of that review, before presenting the matter to the President for a final determination. The Chairman rejected the request and indicated that he intends to proceed with a Committee vote on the contempt citation tomorrow.

Based on these circumstances, it is my legal judgment that executive privilege may properly be asserted with respect to the entire set of White House Counsel's Office documents currently being withheld from the Committee, pending a final Presidential decision on the matter. This would be a protective assertion of executive privilege designed to ensure your ability to make a final decision, after consultation with the Attorney General, as to which specific documents are deserving of a conclusive claim of executive privilege.

Sincerely,


Janet Reno
Attorney General

WJC LIBRARY PHOTOCOPY

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	David Gergen to The Files (2 pages)	03/07/1994	P5 478
002. briefing paper	Background Briefing by Senior Administration Official 3:31 pm (15 pages)	03/07/1994	P5 479
003. briefing paper	Background Briefing by Senior Administration Official 4:51 pm (17 pages)	03/07/1994	P5 480

COLLECTION:

Clinton Presidential Records
Chief of Staff
David Gergen
OA/Box Number: 2806

FOLDER TITLE:

Whitewater (loose material)

Debbie Bush
2006-0320-F
db2017

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

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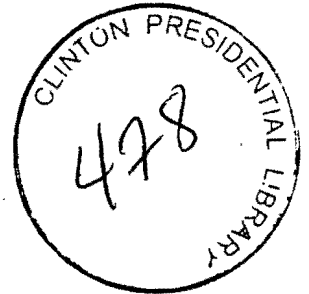
RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

File:
Whitewater

March 7, 1994



MEMORANDUM FOR THE FILES

FROM: David Gergen

Subj: Contacts with RTC/FDIC

To the best of my memory, I have not had any conversations - direct or indirect -- with officials representing RTC about the content of subjects under investigation. My files also do not show any phone calls or contain papers which suggest contacts.

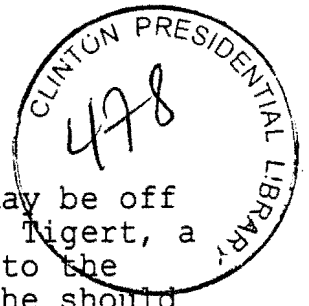
For purposes of the record, I wish to take note of the following:

-- Last Monday, February 28, I placed a call to Roger Altman to congratulate him on recusing himself with regard to Madison Guaranty. I thought he had voluntarily taken the proper step and I wanted to be sure he knew of my support.

-- This past Saturday morning, March 5, Roger Altman called me to discuss a public letter he had sent to Senator Riegle explaining aspects of his earlier meeting with White House officials, including the fact that his office had obtained prior clearance from the Office of Ethics at Treasury. He wished to ensure that White House officials and members of the press were more fully apprised of the letter, and I assured him we would make an effort to make sure people knew of its contents. At the end of the conversation, I raised the subject of his coming testimony to Congress and I emphasized how strongly the President wished that in all such matters, his people be forthcoming and honest.

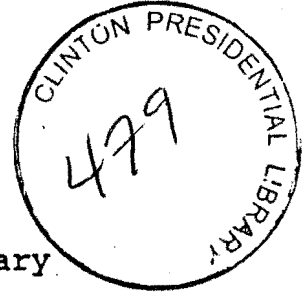
-- This past Sunday evening, March 6, my wife and I had dinner at Mr. Altman's home. It was largely a social occasion. He and I did talk about the controversies that were in the press re: Whitewater but we did not talk about anything which might have been untoward (e.g., we specifically avoided discussion of his forthcoming testimony at the request of Special Counsel Fiske). (I have previously attended one other dinner at Roger Altman's home but I believe the subject of the RTC never came up, nor can I recall any other conversations with Mr. Altman about

it.)



-- On another front: about three Sundays ago (I may be off by a week or so), I received a call at home from Ricki Tigert, a friend, who wanted to discuss her pending appointment to the chairmanship of the FDIC and the question of whether she should recuse herself from matters relating to Whitewater. She expressed a preference for recusal, and I encouraged her to seek such recusal. She asked if I would discuss her interest in a recusal with others at the White House, and I promised her that I would. Thereafter, I spoke with Joel Klein, who also supported a recusal. Joel notified me that Monday (possibly Tuesday) that Ricki would indeed be recusing herself.

My memory is a little hazy, but I believe these conversations represent my contacts with regulators in the Madison matter.



THE WHITE HOUSE
Office of the Press Secretary

BACKGROUND BRIEFING
BY
SENIOR ADMINISTRATION OFFICIAL

March 7, 1994

The Roosevelt Room

3:31 P.M. EST

SENIOR ADMINISTRATION OFFICIAL: I thought I would start by just walking you through the process thus far, so you see where we are right now.

Sometime, I think it was about 5:00 p.m. or 5:30 p.m. on Friday afternoon, we received notice that there were going to be some subpoenas served. At that point I notified the Chief of Staff, and he asked me to head up the response for any subpoena that was served on the White House. We were told that there would be one subpoena served on the White House of what's called the "custodian of records" -- a records subpoena, document subpoena -- and that there would be, as well, a subpoena served on individuals.

At approximately 7:00 p.m., as I recall, the subpoena was served on Patsy Thomasson, who is the -- she is the custodian of records as the head of administration over there; and she then turned the subpoena over to me.

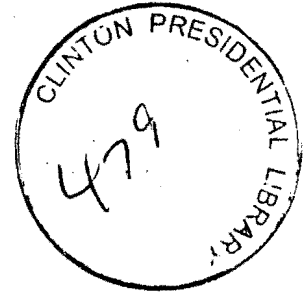
The first actions we took were essentially to cancel, as you've all reported, the tossing out of trash and burn bags or anything. So we locked in place everything as it stood on Friday night. And we got a memo out to all employees throughout the complex with respect to that.

Having locked things in place, we have spent the weekend now preparing -- I have, in addition to myself five other lawyers who were working with me in terms of this compliance project. And we have spent the weekend preparing a series of memoranda with respect to staff so that they know how to conduct their compliance effort.

People have to search their files, people have to go back through if they have trash and look through trash to see if they have responsive documents; and we're going through that process as we speak today at the White House. That process is ongoing. We're obviously getting questions from people, and we are advising people if they have any question about a document, we'd like to have the document and we can pursue the question with them. We are establishing a process that requires individuals to certify their production, and we're talking about hundreds of individuals here -- out of an abundance of thoroughness -- that are going to certify their productions with respect to this matter. Then we have an individual custodian of the record, who will be responsible for the change in custody issues, and will be responsible to produce those to the grand jury.

Q Who's that? Patsy Thomasson?

MORE



Go ahead, we're on background.

Q If you could explain the President's answer to Terry Hunt's question, which had to do with what briefings he had had and when he came to know about certain things. The answer was a bit confusing. I'm not clear on what he was saying regarding whether he knew about the criminal referral before or after it had been made.

SENIOR ADMINISTRATION OFFICIAL: I have no idea in either case. That is, I didn't hear what the President said, and you'd have to clarify --

Q Do you know the facts as to whether he had the fruits of those meetings, he or the First Lady --

SENIOR ADMINISTRATION OFFICIAL: I do not know the answer to that.

Q Can somebody --

SENIOR ADMINISTRATION OFFICIAL: Let my colleague clarify that.

SENIOR ADMINISTRATION OFFICIAL: He learned of it -- he had no formal briefing, but he learned of it sometime in October. He doesn't remember exactly when. It was presented to him as a done deal.

Q And he doesn't remember who?

Q By whom?

SENIOR ADMINISTRATION OFFICIAL: He doesn't remember by whom.

Q Did Bernie Nussbaum write a memo off that memo?

SENIOR ADMINISTRATION OFFICIAL: He believes it was in the context as press inquiries started to build about it --

Q It was some staff, it wasn't from a newspaper reporter.

SENIOR ADMINISTRATION OFFICIAL: No, but it was in the context of we started to take questions about it.

Q Did Bernie -- or do you guys know whether Bernie wrote a memo off that meeting -- everybody seems to write memos off meetings around here.

SENIOR ADMINISTRATION OFFICIAL: Not that I know of, but --

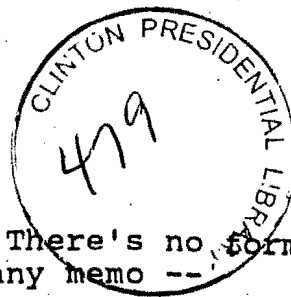
Q Do you know?

SENIOR ADMINISTRATION OFFICIAL: I can't answer that, because --

Q Since the President has answered that subject, if you could find an answer to that.

Q That might help solve the --

Q Because this could be a whole news cycle based on the President's answer to it.



SENIOR ADMINISTRATION OFFICIAL: There's no formal briefing and the President didn't talk about any memo --

Q This is going to be a question. Now, you all can answer it the best you can or you cannot, but what you've done -- she's right. I mean, we hear what you say, what he said we heard, too. But what we're trying to get across to everybody is if we could get cooperation here on this, we'd appreciate it.

SENIOR ADMINISTRATION OFFICIAL: -- the question was, was there a memo.

Q No, the outstanding question is this: October 31st, the first published report of the criminal referrals occurred.

SENIOR ADMINISTRATION OFFICIAL: Correct.

Q On September 29th, Hanson told Nussbaum about it.

SENIOR ADMINISTRATION OFFICIAL: Right.

Q The President said he learned of them on October.

SENIOR ADMINISTRATION OFFICIAL: Right.

Q From mid-October until the end of October, press inquiries started occurring before there were actual printed stories.

SENIOR ADMINISTRATION OFFICIAL: Correct.

Q So one is left with the conclusion that he could have been told by Nussbaum, based on -- or whoever, based on the Hanson-to-Nussbaum briefing, or you could have been told by Bruce, because there were press inquiries. And the question is, did the fruit of the Nussbaum-Hanson inquiry produce the President's knowledge? You know, that's not that hard to find out, is it? Does he remember --

SENIOR ADMINISTRATION OFFICIAL: No, the answer is he doesn't.

Q He doesn't know what produced his knowledge?

SENIOR ADMINISTRATION OFFICIAL: Right, he --

Q He doesn't remember any --

SENIOR ADMINISTRATION OFFICIAL: It was not a formal briefing, he was not formally briefed about it as a result of the meeting. That's what he said.

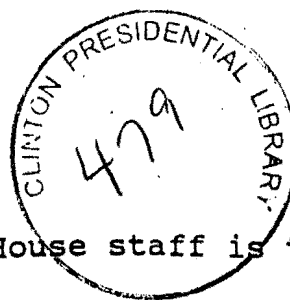
Q Well, I'm not asking -- I didn't say anything about formal. The question was --

Q -- or did he learn from Mrs. Clinton? Nussbaum to Hillary to the President.

SENIOR ADMINISTRATION OFFICIAL: I don't see what more we can say about it. That's his answer -- I mean, he was told sometime in October by staff. He doesn't remember --

Q I would think I'd remember if somebody was telling me that I was in that kind of trouble. I probably would remember.

Q That memo that you circulated this morning -- does that also affect the President and the First Lady? Do they have to go through all their burn bags and wastebaskets? Are they doing the



same thing that everybody else on the White House staff is today doing to comply with the subpoena?

SENIOR ADMINISTRATION OFFICIAL: That subpoena applies

Q It applies?

SENIOR ADMINISTRATION OFFICIAL: The memo that we circulated today goes to everybody, and it would include everybody.

Q The President and the First Lady?

SENIOR ADMINISTRATION OFFICIAL: Everybody.

Q Would it affect a presidential diary?

SENIOR ADMINISTRATION OFFICIAL: I believe -- I mean, again, the answer is, the subpoena speaks for itself. If there are relevant documents in response to the subpoena, they are covered, yes.

Q Is the First Lady covered even if she's not a White House official?

SENIOR ADMINISTRATION OFFICIAL: I believe it covers all White House people and I think that would be carte blanche. It says staff, not officials.

Q Is the First Lady covered? Is the First Lady required to supply all the documents?

Q Is she going through her garbage pails right now?

SENIOR ADMINISTRATION OFFICIAL: I'll get back to you on that.

Q On the question of the First Lady. But the President is covered?

SENIOR ADMINISTRATION OFFICIAL: We'll post something --

Q When you said staff --

Q Is it possible that the First Lady's office is not covered by the memo?

SENIOR ADMINISTRATION OFFICIAL: No, the First Lady --

SENIOR ADMINISTRATION OFFICIAL: No, no. And the only -- let me get back to you on a definitive answer so we get it right.

SENIOR ADMINISTRATION OFFICIAL: We'll post it.

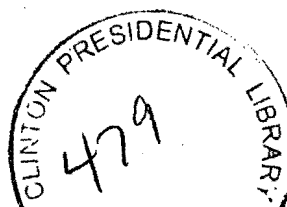
SENIOR ADMINISTRATION OFFICIAL: On the President --

Q The President and the First Lady.

SENIOR ADMINISTRATION OFFICIAL: -- and the First Lady. Let me get back to you on that.

Q Do you have a sense now of what's going to happen Thursday? I understand they've retained -- individuals have retained counsel. But do you expect them to give grand jury testimony on Thursday?

SENIOR ADMINISTRATION OFFICIAL: I don't know that because that's a discussion between the individual's counsel and the



special counsel. What I know is what we are doing is we will produce our documents. That's what our effort is. And beyond that --

Q What about executive privilege and lawyer-client privilege?

SENIOR ADMINISTRATION OFFICIAL: At this point, we haven't seen the documents to know even whether such a privilege would apply, would be available. We've been spending all weekend figuring out a system to get the documents. We will make those determinations in due course.

Q When you say that individuals will be required to certify -- hundreds of individuals -- what exactly does that mean? You all as the lawyers will be reviewing these documents before they're handed over to Mr. Fiske?

SENIOR ADMINISTRATION OFFICIAL: Yes. The individuals who will produce the documents to Mr. Krislov. Our lawyers will review them, and then he will -- if there are issues that come about privilege, about coverage, those determinations will be made. If there are any questions about those, we'd obviously get counsel from the special counsel. Then we will produce the documents.

Q I take it by your answer that it -- you cannot rule out the possibility that Mr. Nussbaum, with regard to his own testimony and with regard to documents that he was asked to produce, may make an assertion of executive privilege and-or lawyer-client privilege?

SENIOR ADMINISTRATION OFFICIAL: I don't think -- let me just say here, the way I think about this. I think the privilege that as far as any White House documents, the privilege belongs to the White House, to the executive. They're not individual privileges. Therefore, it is my view that if there is a privilege to be asserted, it's a White House privilege.

Q By whom?

SENIOR ADMINISTRATION OFFICIAL: Presumably that would be done either by -- I would go to the Chief of Staff; he would make the proper determination. The Chief of Staff is the person I am reporting to on this.

Q What would be privileged? What kind of communications would be privileged?

SENIOR ADMINISTRATION OFFICIAL: I don't want to speculate about that.

Q Well, just categories, general --

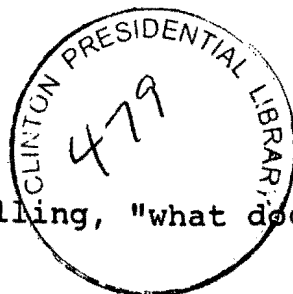
SENIOR ADMINISTRATION OFFICIAL: I mean, there are -- what Brit has mentioned are the traditional privileges. There is attorney-client privilege; there is an executive privilege. Those are the privileges.

Q And it at least potentially could be asserted here?

SENIOR ADMINISTRATION OFFICIAL: They at least -- let's not mislead anybody, because I don't want the story, the White House says these privileges could be asserted. Nobody has made any determination that there are any privileges to assert --

Q But you're not ruling it out.

SENIOR ADMINISTRATION OFFICIAL: -- much less -- nobody -- I haven't even thought about the question. I am trying to get all



these documents. I've got, really, people calling, "what documents how --

Q I was trying to ask -- if you could hypothetically just say what kind of -- I understand lawyer-client privilege -- but in terms of executive privilege since all of these documents relate to the Executive Branch, what --

SENIOR ADMINISTRATION OFFICIAL: It's a very --

Q Is it narrow or very broad?

SENIOR ADMINISTRATION OFFICIAL: -- it's a narrow legal privilege.

Q Well, has the President made any decisions about whether he wants a former White House Counsel -- or actually, he's still the White House Counsel -- to testify fully, -- is that the advise he's been given here?

SENIOR ADMINISTRATION OFFICIAL: My understanding is the President has certainly -- each individual in terms of his counsel will make certain determinations. The President has urged every individual to cooperate fully with the grand jury --

Q You're the President's lawyer. Mr. Nussbaum will have to go down there and face that question ethically and otherwise when he goes in that grand jury room. What is his guidance from the people whom he serves here?

SENIOR ADMINISTRATION OFFICIAL: Well, the guidance I've just given you.

Q I know, but to cooperate fully?

SENIOR ADMINISTRATION OFFICIAL: To cooperate fully.

Q You cooperate fully - that doesn't mean you will waive legal privileges or that they've been waived --

SENIOR ADMINISTRATION OFFICIAL: The privileges -- let me explain something. The privileges are not Mr. Nussbaum's -- belong to the President. The President --

Q But they are asserted by counsel in situations --

SENIOR ADMINISTRATION OFFICIAL: They are typically asserted by counsel, but they are asserted by counsel on behalf of the client.

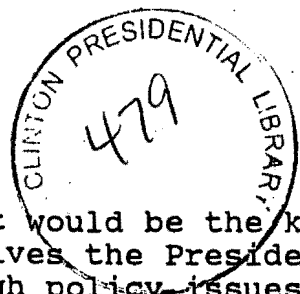
Q So the lawyer can waive them; the President can waive these --

Q And did he not say whether he would so?

Q Lawyers frequently say that they are not going to waive attorney-client privilege. They don't feel that they can even if their --

SENIOR ADMINISTRATION OFFICIAL: Well, look, this bridge will be crossed, but I don't think -- let's just be realistic. I think that's not a realistic scenario.

Q What about the executive privilege? You were saying just a few moments ago -- you started to say that it's now only drawn such as --



SENIOR ADMINISTRATION OFFICIAL: It would be the kind of thing, typically, in terms of advice that one gives the President of the United States. I mean, issues regarding high policy issues, things like that.

Q Could you say at this point there are no plans for the White House to assert privilege?

SENIOR ADMINISTRATION OFFICIAL: To say there would be no plans at this point would say that there would be -- there are no plans either way. I don't even know if any privileges apply.

Q Are you reviewing the documents to see whether there's a need to assert the privileges? Is that why you want to review all the documents after you collect them?

SENIOR ADMINISTRATION OFFICIAL: I want to review the documents to see whether there are any privileges that are even applicable. The privilege is not mine; the privilege belongs to the Executive Branch.

Q So you would review them and then they go to Mack or the President?

SENIOR ADMINISTRATION OFFICIAL: What Brit said is important in this sense -- I have to advise my clients. Understand here, I am not the person whose privilege it is. I will advise people properly and fully, and clients will make the appropriate determination.

Q What about classified data? Do you have to worry about that also? Do you have to worry about top secret, about secret --

SENIOR ADMINISTRATION OFFICIAL: If they were classified data, that would be an issue we'd have to address as well.

Q You talk about altered documents. Have you come across any? And you also about recreating some of these documents or material or anything that's been lost or destroyed. Can you just explain how that process will work?

SENIOR ADMINISTRATION OFFICIAL: That is in their subpoena, okay? Now let's just say, hypothetically, to take it out of this context, if I get a subpoena tomorrow and it says just what that says -- any altered document or -- suppose I had literally ripped something up and put it in a burn bag. Under that subpoena, I am required to go get it, take it out of the burn bag and produce it; or if I put it someplace and I knew that, that's what the terms mean.

Q But if it's already been destroyed?

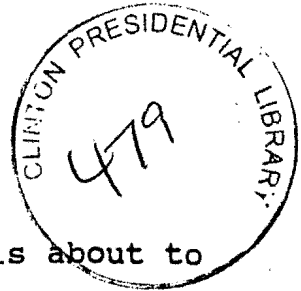
SENIOR ADMINISTRATION OFFICIAL: If it's already been destroyed and you have knowledge of that, in the course of your testimony you could be asked about that. But if you can't recreate it, obviously you can't recreate it. If we know about any such matters, we will --

Q Have you come across any?

SENIOR ADMINISTRATION OFFICIAL: I have not.

Q Has Mack been subpoenaed yet? Do you know anything about a plan to subpoena Mack McLarty?

SENIOR ADMINISTRATION OFFICIAL: I do not.



Q Has he given you an indication that he is about to or may be subpoenaed?

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SENIOR ADMINISTRATION OFFICIAL: No, I have no such
tification.

Q -- delay in producing these documents?

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SENIOR ADMINISTRATION OFFICIAL: No.

Q Do you think you can produce them all by Thursday?

SENIOR ADMINISTRATION OFFICIAL: It is our current
attention to do so based on what we have now, and we will continue to
work toward that timetable. If, as in any document production, if it
turns out that there are further questions than need to be answered,
we may make a partial or 90 or 95 or 100 percent -- that process is
going forward and we are shooting for a Thursday production.

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Q -- Treasury were the people -- information. Do you
now if they're going through the same documents?

SENIOR ADMINISTRATION OFFICIAL: I have no -- we are not
talk -- I have not talked to them. (Laughter.) You're looking at
the firewall. I don't plan to have a meltdown. (Laughter.)

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cess.

Q Do you and Hanson have a meeting in the hallway --
(laughter.)

Q The point is, the President did make the case that
everything's going to be turned over and all these documents are
being sealed, but the people with the facts -- that is, the situation
at the RTC and how it affected the Clintons -- are the people who are
there, not here.

SENIOR ADMINISTRATION OFFICIAL: And, obviously, I think
you should obviously direct your questions over there.

Q Can you give us some sense about how disruptive
this has been to operations?

SENIOR ADMINISTRATION OFFICIAL: Well, let me just say,
I think, as I said, it sounds like it's been disruptive, but
certainly in the narrow sense -- right now, what -- you're looking at
me -- if I look like somebody has been disrupted -- but it's been
very clear from the Chief of Staff, it's been very clear as messages
come down, this White House has a lot of business to do. Virtually
all of the people in the White House who are involved in issues,
economics and so forth, they're doing their business. We don't want
people talking about this for the very reason I said before. This is
not something where we want to be seen saying X said this to Y, Y
said this to Z. Each individual is dealing with his or her lawyer --
the White House is dealing through a very orderly process, and the
rest of the White House is conducting its business. Obviously,
whatever time it takes to pull together subpoenaed documents, we will
take.

Y,

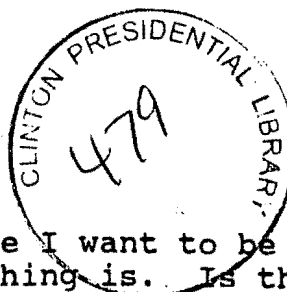
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Q Let me just take this one step further --

Q Can you put down on the record -- that part, the
answer to that question? Do you mind? On the record?

SENIOR ADMINISTRATION OFFICIAL: I don't want to be on
the record in the sense that -- I'm trying to explain the process,
which I think you're all entitled to know. But I have --

Q Is there a grand jury that is actually --



Q Let me just follow up, because I want to be absolutely clear on how big or how small this thing is. Is this really a White House-wide thing that's going on here, touching every single --

Q You said hundreds. Why?

SENIOR ADMINISTRATION OFFICIAL: Why, because the subpoena runs to the White House, and we want to be fully compliant. We didn't want to go back in and try to say only X, only Y --

Q Except the President and the First Lady.

SENIOR ADMINISTRATION OFFICIAL: I said I would get back to you on that.

Q Yes.

Q So is this everybody in the Executive Office of the President, everybody in the White House Office? What's the definition?

SENIOR ADMINISTRATION OFFICIAL: Everybody in the White House Office, and we are also asking -- they were going to make individual certifications. We're also asking for people in the Executive Office of the President to make -- those people to check. Outside the White House Office, we're not doing an individual -- we've asked those people to determine whether anybody on their staffs have any such documents and to let us know.

Q Like OMB or STI or --

SENIOR ADMINISTRATION OFFICIAL: Right.

Q So we're talking about 400 more people here.

SENIOR ADMINISTRATION OFFICIAL: Oh, we're talking about many more than that. The total White House employees, White House Office --

Q Here we go.

Q We've been waiting for this number. (Laughter.)

SENIOR ADMINISTRATION OFFICIAL: I was going to say it's more than that.

Q What is your guess on the volume?

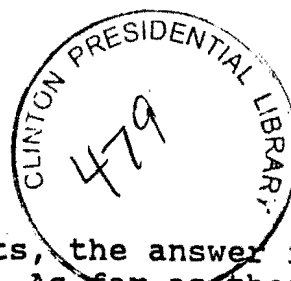
SENIOR ADMINISTRATION OFFICIAL: I have absolutely no idea.

Q --you have no rough guess?

SENIOR ADMINISTRATION OFFICIAL: We haven't gotten any. All we did this weekend, Jim, was freeze them. We have no idea.

Q Does this subpoena mean that two of the subpoenaed people cannot sit down and discuss how do we respond to Newt Gingrich's latest tirade, let's say? Can people who have been subpoenaed meet and discuss Whitewater and tactics and how to help the President on Whitewater, or are they now instructed by you that they can't even have a meeting?

SENIOR ADMINISTRATION OFFICIAL: They are dealing with their counsel.



with respect to the production of their documents, the answer is no. If that's what you're asking, the answer is no. As far as their testimony -- that we are not involved in.

Q But if there is testimony related to documents which you are required to produce, aren't you then required to work with these --

SENIOR ADMINISTRATION OFFICIAL: No, sir. That is their lawyer's responsibility.

Q Is it your understand that there's a special grand jury that's being convened here just for the purpose of this; or are they going to -- is this all going to go to just a regular sit -- or the sitting grand jury in Washington already?

SENIOR ADMINISTRATION OFFICIAL: I just don't have any understanding on that.

Q -- exactly who'll they'll be talking to on Thursday?

Q Who did they tell you to return the subpoena to? I mean, where is the return due?

SENIOR ADMINISTRATION OFFICIAL: The return is due in Federal District Court here. I mean, that's -- whether it is a -- it is due here in Federal District Court. So these documents will not go to Little Rock, if that's the question.

Q But it doesn't say that they're due to the special grand jury or anything like that, the way sometimes it does?

SENIOR ADMINISTRATION OFFICIAL: I don't think it does.

Q And have you talked to Fiske?

SENIOR ADMINISTRATION OFFICIAL: Have I talked to Fiske? I would just assume at this point not get into any of my discussions with the -- I think that is part of the process that I really do think we have to deal with. And I just am not going to start a practice of answering any of those questions.

Q Do you know if all 10 of these individuals have hired their own attorney?

SENIOR ADMINISTRATION OFFICIAL: I don't know if all -- first of all, I don't know anything outside the people in the White House.

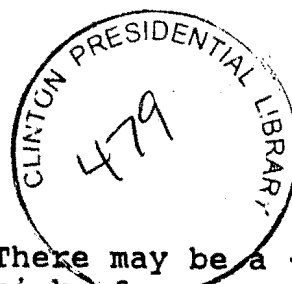
Q How about the six?

SENIOR ADMINISTRATION OFFICIAL: I do think most of the people in the White House either have or in the process of--

Q And who's going to pay for those attorneys?

SENIOR ADMINISTRATION OFFICIAL: The answer that I was going to give you is, I think at this point there are people who are looking at the options. There may be different ways in terms of applying -- these individuals might pay for them; they may be able to apply for special funds or so forth. And I think that's being looked into. I don't have the answer to it. But I'm just saying that that's --

Q What do you mean by special funds?



SENIOR ADMINISTRATION OFFICIAL: There may be a -- there is a fund that the Justice Department has, I think, for government employees. And under what -- I don't know that -- let me make clear again, I don't know that anybody has applied for such. I don't know if the fund is applicable here.

Q When is it generally applicable?

SENIOR ADMINISTRATION OFFICIAL: I don't know. It's just -- it's just not something I fully --

Q And the President -- the President's legal fees to Williams and Connolly for David Kendall's services --

SENIOR ADMINISTRATION OFFICIAL: I know nothing about.

Q That comes out of his own pocket?

SENIOR ADMINISTRATION OFFICIAL: It's not a matter I have --

Q It's not government taxpayer money --

Q What would the reaction of the White House be if some of the --

SENIOR ADMINISTRATION OFFICIAL: I have no knowledge. I mean, it's just --

Q -- if the individuals' attorneys want access to all the documents or some of the documents? Will those be made available to the individual --

SENIOR ADMINISTRATION OFFICIAL: I don't know the answer to that.

Q And for whatever reason some of the individuals' attorneys don't want them to produce the documents?

SENIOR ADMINISTRATION OFFICIAL: If they don't want them to -- I'd cross that point when we come to it.

Q Were you just asked whether one person can -- if I were testifying, my lawyer would want to see what somebody else is producing, correct? Do they have access to that?

SENIOR ADMINISTRATION OFFICIAL: I just don't -- I have no determination --

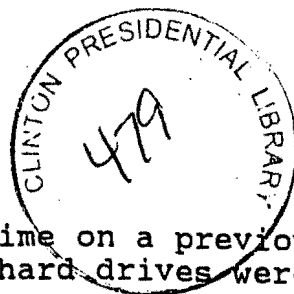
Q Would you rule out making those available?

SENIOR ADMINISTRATION OFFICIAL: I just said no determination --

Q What do you anticipate -- I think Mick asked you a minute ago -- what do you anticipate in terms of volume of documents from all of this?

SENIOR ADMINISTRATION OFFICIAL: I have no idea. I mean, a lot of -- the volume will not be -- let me tell you one reason why just the volume may or may not be significant. If you have a press clipping about a testimony, that could be -- people have a lot of press clippings around here, so the volume -- the size of the package may not be very relevant.

Q What about the computer system here? Is that in any way affected in the efficiency -- do you have to pull -- I don't know the details of your system -- but do you have to dismantle the



system at all? Because there was an earlier time on a previous investigation when the computers had to -- the hard drives were removed because of a federal court order.

SENIOR ADMINISTRATION OFFICIAL: I know nothing about it. I'm not -- if somebody else knows the answer, give it to her.

Q Do you have any reason to believe that there will be other White House officials subpoenaed?

SENIOR ADMINISTRATION OFFICIAL: I have no knowledge.

SENIOR ADMINISTRATION OFFICIAL: Let me just say, Bernie Nussbaum did not tell the President about the referral pursuant to his conversation with --

Q Did not?

SENIOR ADMINISTRATION OFFICIAL: Did not write a memo. Bruce Lindsey did not tell the President pursuant to his being informed about it. The President doesn't remember exactly when he was told, or by whom, but it is -- all indications are, people's recollections are that it was after questions started to coming from the press after the referral was in fact --

Q Can I make a suggestion that this is way too important to put on background?

SENIOR ADMINISTRATION OFFICIAL: That's as good as I can do.

Q Did you ask Nussbaum or Bruce how --

Q So you're suggesting that based on that, the President was told by somebody; he can't remember who, but we can rule out both Bernie and Bruce?

SENIOR ADMINISTRATION OFFICIAL: You can rule out both Bernie and Bruce pursuant to conversations with Hanson.

Q After the conversations --

SENIOR ADMINISTRATION OFFICIAL: Yes. The information did not -- when the President was told, it was not as a result of Bernie's conversation with Hanson.

Q But do either of them remember now having told him?

Q You said that they didn't write a memo. Is there a chance that they just talked to him about it?

SENIOR ADMINISTRATION OFFICIAL: They did not tell him. They did not have a conversation with him, did not have a phone call with him, they did not write him a memo after that conversation.

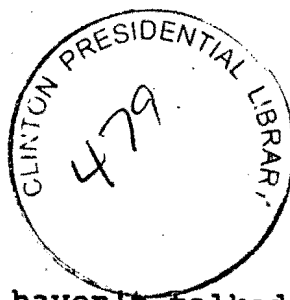
Q Did either of them -- did he determine that either of them were the ones who told the President based on news inquiries?

SENIOR ADMINISTRATION OFFICIAL: It's possible that someone did after --

Q Someone what?

SENIOR ADMINISTRATION OFFICIAL: The President doesn't remember who told him, so I can't tell you who told him.

Q And does the First Lady remember if Maggie told her after --



SENIOR ADMINISTRATION OFFICIAL: I haven't talked to the First Lady about it.

Q Do you know if Bernie --

SENIOR ADMINISTRATION OFFICIAL: Did Bernie tell Hillary? No.

Q Did Bruce tell her?

SENIOR ADMINISTRATION OFFICIAL: He did not do anything with the information, other than tell Bruce Lindsey.

Q Bernie didn't?

SENIOR ADMINISTRATION OFFICIAL: Bernie did not.

Q Did Bruce tell Hillary?

SENIOR ADMINISTRATION OFFICIAL: I don't know. Not pursuant to his conversation with Bernie or whoever, about -- not pursuant to the Hanson conversation.

Q But they could have told either the President or the First Lady after the Hanson -- not pursuant to the Hanson?

SENIOR ADMINISTRATION OFFICIAL: The statement is that the President was told about this and we believe -- and, again, it's difficult because the President doesn't remember. After press inquiries started to come in about it, which were before or after the 8th, because that's when we started getting press calls about it.

Q But it was after the criminal referral but before the --

SENIOR ADMINISTRATION OFFICIAL: After means nothing to anybody here, other than -- the day of the referral -- go into this process, we started to get press calls about it. And then because of those press calls -- we got from the press some specifics on this, that there were four checks in question, for example. It's information like that which came to us through press calls, not from any other source. We didn't know -- it appeared that the Clintons were mentioned somehow in the referrals, not even the Clintons, the campaign was mentioned somehow in the referrals. It wasn't until the press calls started coming in that it was narrowed down to, specifically, four checks. It was in that context that it began to be discussed around here, not before.

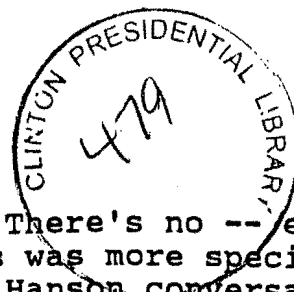
Q -- told him, and Bruce and Bernie can't be sure they didn't tell him at some point after the beginning of October, how can you be sure that he didn't get the knowledge from Bruce or Bernie because of the Hanson conversation? I don't see how you can figure it out.

SENIOR ADMINISTRATION OFFICIAL: Again, this is somewhat the President's recollection of the conversations about what information was passed on to him. And I don't mean to be obscure; I just can't be any more precise than the President's memory.

Q -- eventual result of that briefing, could it not? Rather than an immediate result.

Q Some sort of way of --

Q I mean, there's no way to know that, is there?



SENIOR ADMINISTRATION OFFICIAL: There's no -- except for the information that we got from the press was more specific than the information that was obtained through the Hanson conversation. And that was then what the President remembers hearing.

Q The press did it?

SENIOR ADMINISTRATION OFFICIAL: No, we're just trying to establish a time line; we're not blaming anybody --

Q -- neither of them said, hey, I just had this conversation and --

SENIOR ADMINISTRATION OFFICIAL: Nobody -- that did not happen. That did not happen.

Q Does the President have a diary or anything that he would use to --

SENIOR ADMINISTRATION OFFICIAL: Not that I know of.

Q Was he told before the Hanson meeting or after?

Q He said October, so it's after that.

Q The Hanson meeting was in September.

SENIOR ADMINISTRATION OFFICIAL: -- told at all pursuant to the Hanson meeting.

Q Is there some way we can get information about what the First Lady was learning since both her Press Secretary and Chief of Staff, obviously, aren't able to answer inquiries on this?

Q We have a real problem with that.

SENIOR ADMINISTRATION OFFICIAL: The first part of this is that Bernie did not tell her, and Bruce did tell her -- the First Lady as well. I'm just not -- I just don't know how she learned about it.

Q The President wasn't able, though, to give a direct answer to the question of whether she knew about the other meetings. And I'm wondering if there's a way we can learn that.

SENIOR ADMINISTRATION OFFICIAL: I'll see what we can say about that.

Q Do you have any response to Gingrich's demand for Hubbell's suspension?

SENIOR ADMINISTRATION OFFICIAL: When did he do that?

Q Today.

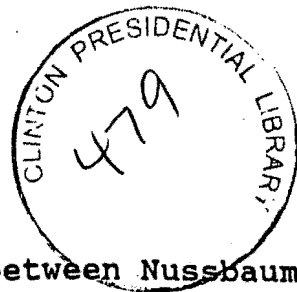
Q Can we go on the record since --

Q Yes, on the record -- just an on the record White House response to Gingrich.

MS. MYERS: I think Webb Hubbell -- I think he has served his capacity as associate -- the President has full confidence in him.

Q You said that about Bernie on Friday. (Laughter.)

SENIOR ADMINISTRATION OFFICIAL: I'll stand by my confidence.



Q Dee Dee, the first meeting between Nussbaum and Hanson -- who originated that meeting?

SENIOR ADMINISTRATION OFFICIAL: It happened at the end of another meeting to discuss the Waco report. It wasn't a previously scheduled meeting, it was at the -- of another meeting.

Q But did Hanson say, I've got some information to tell you, or --

SENIOR ADMINISTRATION OFFICIAL: Apparently. He passed it on to Bernie.

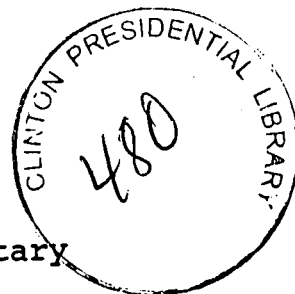
Q May we clear up a question that he started -- I don't think he ever finished it. I think he left it that he did not know or did not think that -- burn bag and other things would be subject to --

Q He said he would get back.

END

4:07 P.M. EST

THE WHITE HOUSE
Office of the Press Secretary



BACKGROUND BRIEFING
BY
SENIOR ADMINISTRATION OFFICIALS

March 7, 1994

The Roosevelt Room

4:51 P.M. EST

SENIOR ADMINISTRATION OFFICIAL: This is on background.

Q Shall we begin with what I was trying to point out to you a while ago? I think you said that you didn't know whether Mrs. Clinton's papers and others will be looked at or not.

SENIOR ADMINISTRATION OFFICIAL: They will.

Q They will be?

SENIOR ADMINISTRATION OFFICIAL: They will be. Mrs. Clinton's papers and the President's will be produced --

Q I was wondering how they could escape it with Caputo and Miss Maggie --

SENIOR ADMINISTRATION OFFICIAL: They will.

Q Does it apply to those political consultants who are on the DNC payroll but not on the White House staff who are -- would it apply to them?

SENIOR ADMINISTRATION OFFICIAL: I don't believe it would. I haven't even thought of that question, but I don't believe so.

Q What about Gergen's papers?

SENIOR ADMINISTRATION OFFICIAL: All White House employees, staff; that would include David Gergen.

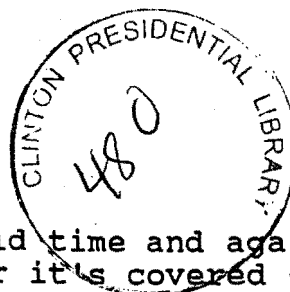
Q What's the accountability on this search? What's to keep someone from chucking a memo or even carrying something out?

SENIOR ADMINISTRATION OFFICIAL: To keep anyone from doing that, I would hope -- my memorandum, which has been reiterated, that to do so is a criminal penalty and obstruction of justice. And we intend that to mean exactly what it says. And if we find out about that, we will assure that proper steps are taken in the right direction.

Q So it's sort of an honor system?

SENIOR ADMINISTRATION OFFICIAL: It is, and when you say an honor system, it's upon peril of criminal violation; in that sense, yes. The way the system works is we have approximately hundreds of employees here covered by that subpoena. Each one of them has been made to understand what his or her personal obligation

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is. We intend to fully enforce it. We have said time and again, if you have any doubt about any document -- whether it's covered -- you produce it. We want the document. So that's the way the system is going to work.

Q Just to clarify -- what papers of the President's and the First Lady's will be produced?

SENIOR ADMINISTRATION OFFICIAL: What's covered by they subpoena. If there are papers that are within the compass of that subpoena, conversations -- I don't have the language in front of me -- those are called for; they will comply with that.

Q And there's no argument of executive privilege or anything like that?

SENIOR ADMINISTRATION OFFICIAL: Let me just say as I said in the last session, as far as any privileges, we simply have not -- I have not crossed that bridge because I am trying to get the documents together; I spent the weekend getting these memos and documents together. The privilege does not belong to the lawyers. And so at some point we will, in the next couple of days, cross that bridge and that decision will be made. Don't read anything into it other than, in trying to brief you today at 5:00 p.m., that question has not been on our screen.

Q You mean anything the President does --

SENIOR ADMINISTRATION OFFICIAL: No, it's a very narrow privilege. I'm not suggesting -- in any event, the question is, you remember last time when he turned over the Whitewater documents, he had waived all privileges at that point. That was what he did when he turned that over the last time. I have no reason to think that -- well, let me just say, it's very hard for lawyers to do background only in one sentence.

I have an obligation to my client that I cannot breach in a background meeting. But I really would beg you not to read anything into that. We are going to proceed and we are going to keep you posted on issues like that. We're not going to hide anything.

Q What is your role vis a vis the President? Do you call him your client? What is the counsel's relationship to the President in a situation where his personal dealings are under investigation?

Q Well, this subpoena that we're dealing with -- this subpoena is a subpoena to the White House -- all people here; and we're responding in that capacity. Obviously, the President has private counsel with respect to all the individual matters affecting him. Our representation, or our legal efforts are with respect to his official capacity; and responding to this subpoena on the White House is in that context.

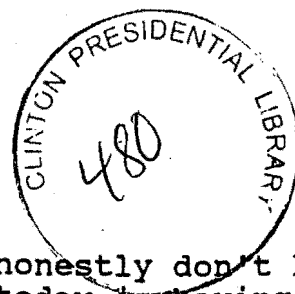
Q So what would these papers be? Would these be the Whitewater papers? Or would these be --

SENIOR ADMINISTRATION OFFICIAL: No.

Q What specifically?

SENIOR ADMINISTRATION OFFICIAL: These are -- the subpoena calls for papers or documents -- and you have the background, I don't have the language -- but it has to do with conversations between officials. That's what it concerns.

Q Are there papers that the President or Mrs. Clinton have about these conversations, about these meetings?



SENIOR ADMINISTRATION OFFICIAL: I honestly don't know. We're in the process -- that's what we're doing today is having people collect the papers. We're going to get those papers together and then we are going to produce them. I just am -- I'm doing background sessions; I am getting --

Q Conversations with officials -- you get into some very secretive stuff there, wouldn't you?

SENIOR ADMINISTRATION OFFICIAL: No, ma'am, I mean, I -- whatever the facts are, they are. I don't think it's secretive. I think we are going to be fully forthcoming in this regard.

Q Can you tell us what you know about when the President said that he had learned of this at least -- a fact of the referral in October. Do we know any more about how he learned about that? From whom he learned about that?

SENIOR ADMINISTRATION OFFICIAL: I think you need to direct that to Dee Dee. In my role, I only talk about process issues.

Q Well speaking of process, then, can you elaborate a little bit more about how the process of looking at the Clinton's papers, combing through their papers, looking for items that would be covered by this subpoena -- how that process works? Who's doing it and --

SENIOR ADMINISTRATION OFFICIAL: I just don't have that information. All I know is I was asked a specific question; I was assured that they're going to do compliance --

Q Who is they?

SENIOR ADMINISTRATION OFFICIAL: I said, President and the First Lady.

Q They personally are looking through their papers for this?

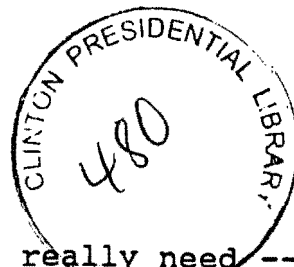
SENIOR ADMINISTRATION OFFICIAL: I assume -- I just don't know how it's being done as I sit here right now, okay?

Q The six White House officials who were subpoenaed -- I gather that that subpoena falls under the conduct of their official duties. Do you have any -- are you advising them legally? And what is the process for them? Are they actually going to appear somewhere to testify, or is it just to turn over documents?

SENIOR ADMINISTRATION OFFICIAL: Let me explain that to you because I think that I can be helpful. I am not advising any of those individuals legally. They will retain their own counsel, and their counsel will advise them.

The documents that are called for under the White House subpoena include their documents -- the White House documents. We will produce those documents as a mechanical matter. As for the testimony and the testimony about those documents and about these events, that will be handled by their lawyer and the special counsel. We don't handle that. All we will do is produce our documents with one of our -- the person who is responsible for the -- custody here at the White House that will have all these documents will produce them to the special counsel with the appropriate affidavits --

Q Technically, how is that done? On Thursday somebody from your office just takes them over --



SENIOR ADMINISTRATION OFFICIAL: I really need -- the special counsel will tell us how he wants it done. And you can direct the question to him. But we will do it how he wants it --

Q How are you compiling stuff now? I mean, are you just gathering stuff in a carton somewhere?

SENIOR ADMINISTRATION OFFICIAL: No, each individual is going to have to certify -- they're going to give us their documents within an envelope -- sealed envelope -- it's going to be certified that these are their documents, and the only documents; if they have no documents, they have to certify that --

Q -- specify what they are?

SENIOR ADMINISTRATION OFFICIAL: They just give us the documents.

Q -- Whitewater?

SENIOR ADMINISTRATION OFFICIAL: Only concerning what's under the subpoena.

Q Do they only concern three meetings, or were there other meetings as well?

SENIOR ADMINISTRATION OFFICIAL: They concern any meetings that took place. That's what the subpoena covers, and that's what this document request --

Q How many meetings is that?

SENIOR ADMINISTRATION OFFICIAL: I -- let me just say, I am only going to talk about process. I cannot do my job and the Grand Jury cannot do its job if we get into substantive discussions, so that's just not going to --

Q On process, what are the obligations of an individual on the White House staff who may not have any records of conversations?

SENIOR ADMINISTRATION OFFICIAL: What are their obligations?

Q I mean, to -- if they had a casual conversation in the hallway or over the phone about this, but have no documents pertaining to it?

SENIOR ADMINISTRATION OFFICIAL: That is a -- I mean, I don't know what -- obligation. I'm not sure I understand.

Q I mean, are they obliged to --

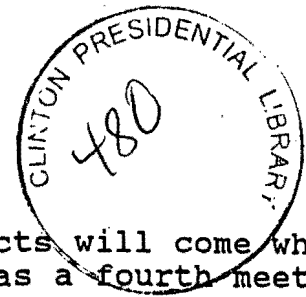
Q (Inaudible)

SENIOR ADMINISTRATION OFFICIAL: No, no, no, no. They are not. They're not. They're only -- right now, we're just doing the subpoena compliance issue, and that just calls for these documents.

Q Okay, so it only calls for documents that exist --

SENIOR ADMINISTRATION OFFICIAL: (Inaudible)

Q It's not clear to me -- the President said today that people are going back through their records to see if there were additional contacts beyond these three that we're now talking about.



Your first notification of any additional contacts will come when you open up these envelopes to see, oh yes, there was a fourth meeting --

SENIOR ADMINISTRATION OFFICIAL: I'm just not going to comment about that matter -- what additional or non-additional --

Q But how will you find out if there are additional contacts that the President outlined today? How will you know that?

SENIOR ADMINISTRATION OFFICIAL: We will know that through the documents, through information. If we have questions about the documents -- information -- people will provide to us in the process. That's the way --

Q So at this point you're asking people to come forward with any additional contacts --

SENIOR ADMINISTRATION OFFICIAL: At this point we're asking really to find their documents. They know, of course, what contacts they had. They will look at their documents in that context. That's the way --

Q When will you sit down and sort of say, okay, we have eight additional contacts --

SENIOR ADMINISTRATION OFFICIAL: In the day -- in the next several days. That's the way --

Q -- before they're turned over?

SENIOR ADMINISTRATION OFFICIAL: We will look at the documents.

Q What's your definition of obstruction of justice?

SENIOR ADMINISTRATION OFFICIAL: I'm not going to get into any legal analysis here.

Q Now, will they all go and be questioned on Thursday also, the six people?

SENIOR ADMINISTRATION OFFICIAL: Let me just say this -- that's up to the special counsel and their lawyers. I don't know what they will do. In my experience, what happens in similar situations is you subpoena people for a particular day, then some people may testify then, they may adjourn their subpoena for -- I just have no idea --

Q But the subpoena calls for that on the 10th, the documents have to be turned over and they have to be available for questioning.

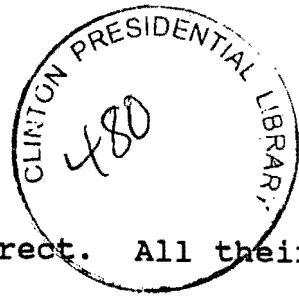
SENIOR ADMINISTRATION OFFICIAL: That is subject to any individual --

Q Unless they were told, come back on the 23rd.

SENIOR ADMINISTRATION OFFICIAL: Exactly.

Q -- you said this subpoena includes only the documents related to conversations between the officials as laid out by what this warrants. Isn't it true -- is it true that all the other documents that the Clintons had related to Whitewater were turned over in December voluntarily? So there should be no Whitewater documents in their possession.

SENIOR ADMINISTRATION OFFICIAL: What you said is correct. What has happened anytime since then, of course, you'd have



to direct to Kendall. But what you said is correct. All their documents were turned over --

Q Has anyone else been subpoenaed, other than the 10 within the administration?

SENIOR ADMINISTRATION OFFICIAL: To my knowledge no. Is it 10 -- I don't know. I thought it was nine.

Q DeVore --

SENIOR ADMINISTRATION OFFICIAL: -- Jack, okay.

Q Has there been any request for interviews?

SENIOR ADMINISTRATION OFFICIAL: Not to my knowledge. And I'm not trying to -- (inaudible) -- but I've busy today; nobody has told me that; and I would assume I would have heard. But --

Q On this firewall issue that's been discussed, can you tell us what the procedure was -- I'm a low-ranking official; I want to talk to the regulatory agencies -- how do I do that?

SENIOR ADMINISTRATION OFFICIAL: About these matters --

Q -- future -- under -- you're apparently the gatekeeper on these contacts --

SENIOR ADMINISTRATION OFFICIAL: Say you wanted to talk to somebody about -- let's take the simplest question -- you want to get a press release that's been issued by somebody about --

Q Or something substantive. I want to find out what's going on with some aspect of the case or some thing.

SENIOR ADMINISTRATION OFFICIAL: You should come to me, and I would tell you that it was absolutely inappropriate, not to make that call.

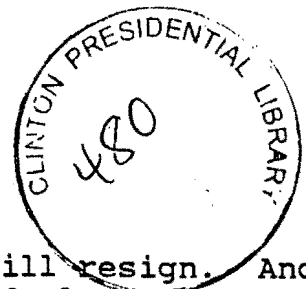
Q So what are the criteria you use as gatekeeper now -- from now on?

SENIOR ADMINISTRATION OFFICIAL: Well, right now I have gotten -- that is, the criteria I will use is my best understanding of law and ethics and propriety. Those are the criteria I will apply. And I will tell you, because the President has said it, if somebody comes to me and says they want to call any investigative agency, somebody in the White House or so forth, to talk to them about any ongoing investigation, my answer to that is no.

Q -- permissible under your criteria?

SENIOR ADMINISTRATION OFFICIAL: Under my current criteria, for example -- I don't want to start developing common law here with you -- but let me -- the easiest one would be public documents information like that. When the President said a firewall, he meant the firewall. And it's not a wall that's easily breached. I don't expect there will be many contacts, but right now what -- the example I would give you is for public information. That would be allow --

Q Can you tell me, is there any law or rule that says that people cannot get together to try to put out president? There's a big move on in the country by individuals and by organizations and by political parties to try to -- and they openly say that what their purpose is, is to embarrass Mr. Clinton so that he will resign. They want to avoid impeachment. And they want to avoid delay. And they have been so organized that April has been put as a deadline for



this, to try to embarrass him so much that he will resign. And that's openly spoken of, not just -- one individual or one organization. Is this -- is there any law against people doing this

SENIOR ADMINISTRATION OFFICIAL: The Constitution protects their right to --

Q -- Constitution takes care of it. What did you mean --

SENIOR ADMINISTRATION OFFICIAL: No, no, the Constitution protects people's right to organize, express their opposition at any point, absolutely.

Q Do you have any evidence at this point that there were any contacts between any officials here and the --

SENIOR ADMINISTRATION OFFICIAL: I am just not going to answer substantive questions. I'm not trying to -- I just cannot perform here to background you on process. I'm sorry about that. It is unfair to -- I think all of us have to understand -- it's unfair to the integrity of the whole grand jury process. We cannot have a discussion of the substance. We are complying fully. The information is going to go through the process. We've got to protect the rights of everybody in the process and the integrity of the process. And we can't do that if we talk substance.

Q At some point, if you learn about more meetings at all, will the White House decide that it's best to -- (inaudible) -- and announce that there had been some other meetings or some other developments?

SENIOR ADMINISTRATION OFFICIAL: We will deal with those matters as -- as we come to them. We will deal with them in a proper fashion.

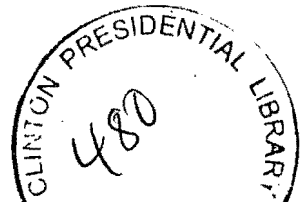
Q After 8:00 p.m. tonight, perhaps through the press office, in the morning or whenever, would you be in a position to just give a rough result of your procedure today? In other words, how many documents were turned over to you that you'll be passing on to the counsel to show that the process worked?

SENIOR ADMINISTRATION OFFICIAL: I assume I can, but let me just tell you one thing so that you don't misunderstand what I'm saying. As I read the subpoena, every press clipping that talked about any of these events would be covered. So if I said to you we had 1,000 or 10,000 pages, it would be meaningless number if they were all press clippings. So let me see what the documents are, let me see -- again, I am trying to balance two things which I hope you understand. I want to give you people information so that you understand what we're doing. I also have to protect the integrity of the process. He's calling people into testify; he's got to make sure that he can do what he's got to do. So consistently with that, I will try to give you information about the magnitude of the documents.

Q I don't understand why this would cover press clippings. This is supposed to relate, I thought, to conversations or meetings --

SENIOR ADMINISTRATION OFFICIAL: It says all documents -- this is sort of what it means to be a lawyer is you end up reading subpoenas -- it says all documents relating to. . .; the word "relating to" means anything. If I have a New York Times article that says, Mr. Altman testified yesterday, that relates to a conversation; so that includes press clippings.

Q Well have you already received some documents?



SENIOR ADMINISTRATION OFFICIAL: I have not. I am sure the lawyers who are in the back, who are doing this process -- people have probably given them documents, given them signed statements if they have no documents. I just don't know where the process is, I've been out here.

Q To what degree was Kennedy involved in any of this handling of this type of documents or this type of search or explanation of the subpoena?

SENIOR ADMINISTRATION OFFICIAL: He is not involved in this process. This process is involving four lawyers, I believe, in addition to myself, in the White House; and Mr. Kennedy is not one of them.

Q Was Kennedy was omitted by design because of his background?

SENIOR ADMINISTRATION OFFICIAL: No, no, no, no. The people who were chosen -- try to deal with people who basically we felt were the proper people to work on this project, and that's the way it was done. We're not going --

Q Who are they?

SENIOR ADMINISTRATION OFFICIAL: What?

Q Who are they?

SENIOR ADMINISTRATION OFFICIAL: Who are the people that are working on it? We have one -- Cheryl Mills, who's an associate counsel; Marvin Krislov, who's an assistant counsel; we have one detailee from the Office of Administration -- there's a whole lot of issues here about computer files and stuff like that; Christopher Cerf, who's the counsel over there. I think we have a volunteer counsel and somebody else. But anyhow, those are the key people on it.

Q Is there a channel through which White House employees can give documents directly to the inspector, rather than have them go through your -- go through the White House Counsel's office?

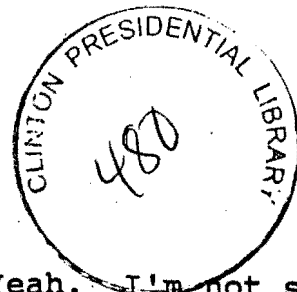
SENIOR ADMINISTRATION OFFICIAL: If any employee asked me that question, the answer would be yes, they should turn them over to the special counsel. In other words, if they said they didn't want me to see the documents or something like that. In the routine course it would be normal for the attorneys to see the documents because there might be issues about privilege and so forth, that's the way it works. That hasn't come up, and we would obviously deal with it if it came up.

But we are not trying to -- far from it, we are trying to encourage our employees -- we have put the word out -- as I've said, it's an obstruction of justice not to get the documents to us. And I will tell you that when we get the documents, it is our job to turn them over in proper order. That's what we intend to do.

Q But it's not necessarily an obstruction of justice to violate the firewall? That's just internal management, right?

SENIOR ADMINISTRATION OFFICIAL: Right.

Q You're going to inventory everything before Thursday that's sent over?



SENIOR ADMINISTRATION OFFICIAL: Yeah. I'm not sure we'll inventory every single press clipping, as I imagine we'll get lot of them. But otherwise, we will make our own inventory of documents.

Q So, for instance, Mr. Lindsey's personal files about Whitewater and all the stuff he maintained in order to answer questions -- all of that will go?

SENIOR ADMINISTRATION OFFICIAL: To the extent it is responsive to this subpoena, it will go.

Q But most of it would not be -- as the subpoena suggests, most of Lindsey's files dating back to the 1970s and Whitewater would not be responsive to the subpoena. Is that --

SENIOR ADMINISTRATION OFFICIAL: Not to this subpoena right now, that's correct.

Q Is this search anything like something you've ever handled before in your career? Are there any parallels to this kind of --

SENIOR ADMINISTRATION OFFICIAL: Well, when you do a corporate matter, you can do a large corporation where you do a corporate-wide search; it is similar. The one difference, of course, is they usually don't do press briefings in the afternoon. (Laughter.) Other than that, the process is quite similar.

Q -- thousands of pages of material coming out of this?

SENIOR ADMINISTRATION OFFICIAL: I just don't know. As I said, I don't know who the packrats are on the press clippings or not. But just to give you an amusing example so all of you at least know what it feels like to be here, if I got a phone call that says, Mr. Smith from the XYZ Journal is calling re: contacts with Altman, that phone call message is covered by this subpoena. So that's the whole package.

Q You're expecting to get an envelope from every staffer, whether they have papers or not?

SENIOR ADMINISTRATION OFFICIAL: For everybody on the White House staff, either an envelope with papers or a signed statement that they have no such papers.

Q And that is also the same with Treasury -- the Treasury Department?

SENIOR ADMINISTRATION OFFICIAL: I am dealing with the White House; and since I am the firewall, I am just dealing over here.

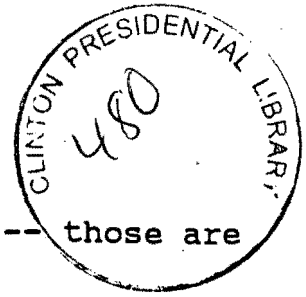
Q The Treasury's doing it their own way?

SENIOR ADMINISTRATION OFFICIAL: I just -- you can direct those questions to Treasury; I just don't have any idea how they're handling --

Q Have you had any meetings with Mrs. Clinton in the past couple of days?

SENIOR ADMINISTRATION OFFICIAL: I have not, no.

Q Anybody from your office?



SENIOR ADMINISTRATION OFFICIAL: I -- those are questions I'm just not going to get into, no.

Let me just -- I just have a 5:00 p.m. -- if there's anything else --

Q Can you answer a couple of --

SENIOR ADMINISTRATION OFFICIAL: We're still on background.

Q How did Ickes, being so new, how did he get involved? He was at the meetings?

SENIOR ADMINISTRATION OFFICIAL: Who?

Q Ickes -- how did he get involved since he was so new on the staff?

SENIOR ADMINISTRATION OFFICIAL: Yeah, he was the press counsel -- indicated he was at one of the meetings.

Q So what have you found out about what the President knew and how he found out about the --

SENIOR ADMINISTRATION OFFICIAL: All I can tell you about that is that the President found out sometime in October. He doesn't remember precisely who told him or when. But all indications are that -- from memories of people here and what the President remembers about being told -- was that it occurred after the subpoena -- I mean, after the referral actually went to --

Q When did it go?

SENIOR ADMINISTRATION OFFICIAL: October 10th, apparently, which we didn't learn until recently. But the reason is because we started to get press inquiries after October 10th about it; and I think, to the best of our recollection, the President was told subsequent to the press calls.

Q So it was not directly after the first meeting, which was what, July, June, I mean, September 29th?

SENIOR ADMINISTRATION OFFICIAL: No, --

Q Somewhere between that and the next --

Q Bernie Nussbaum talked to the Treasury Department and they said, Mr. and Mrs. Clinton are about to be named in a criminal referral --

SENIOR ADMINISTRATION OFFICIAL: No.

Q He didn't tell the President?

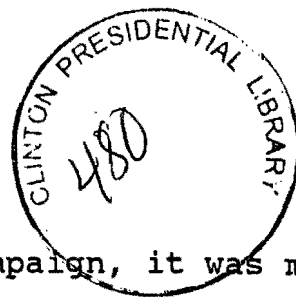
SENIOR ADMINISTRATION OFFICIAL: Right, he did not tell the President.

Q How about the First Lady? Any -- (inaudible) -- today to figure out --

SENIOR ADMINISTRATION OFFICIAL: Bernie didn't tell the President or the First Lady.

Q Do we know what she knew and when she knew it?

SENIOR ADMINISTRATION OFFICIAL: First of all, I think you can't assume that Bernie was told that -- what he may have known



about it was that in 1984, Clinton's governor campaign, it was maybe mentioned.

Q But not the President and the First Lady themselves.

Q You said that Bernie didn't tell Mr. and Mrs. Clinton. So we know -- the President doesn't know how he learned, but he knows it wasn't from Bernie? It was someone else other than Bernie after October 10th?

SENIOR ADMINISTRATION OFFICIAL: Bernie -- the President didn't remember who told him. Bernie did not tell the President, according to Bernie.

Q What about --

Q Why didn't Bernie tell him if he knew that? Didn't he have an obligation to tell him?

SENIOR ADMINISTRATION OFFICIAL: It just -- he didn't. He didn't think for whatever reason -- I mean, that was his judgment.

Q This guy -- (inaudible) -- profile that comes from the House Judiciary Committee -- kept secrets from bosses.

SENIOR ADMINISTRATION OFFICIAL: Bernie did not tell Mrs. Clinton.

Q No, but has Mrs. Clinton, today, at any point said --

SENIOR ADMINISTRATION OFFICIAL: Said how she knew? No, I don't know the answer to that.

Q How did the President and Mrs. --

SENIOR ADMINISTRATION OFFICIAL: The President doesn't remember.

Q Can you describe how Mack helped to set up this meeting?

SENIOR ADMINISTRATION OFFICIAL: I don't know.

Q But it had to be, by definition, Bernie telling someone who told the President and the First Lady --

SENIOR ADMINISTRATION OFFICIAL: No.

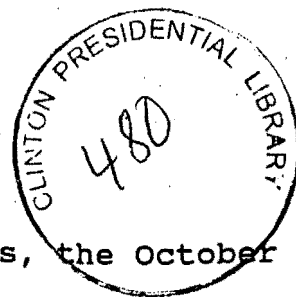
Q How else could they have -- (inaudible) -- Bernie was in the meeting?

SENIOR ADMINISTRATION OFFICIAL: Press inquiries. You can't assume that.

Q You're suggesting that he might have learned just from reading in the newspapers that he had been named?

SENIOR ADMINISTRATION OFFICIAL: No. Before it was in the newspaper we got calls about it. It was something that was, I think, reporters were in the process of working on for a while before. I don't think --

Q But wasn't the second meeting the result of press inquiries?



SENIOR ADMINISTRATION OFFICIAL: Yes, the October 14th the meeting was to discuss --

Q October 14th, was that the date of the second meeting?

Q How would press inquiries work their way up to the President? What would the process be? Who would actually walk in the door and say, people have been calling?

SENIOR ADMINISTRATION OFFICIAL: Oh, it could be any number of people who would do that. And I just can't be anymore specific because the President doesn't remember who told him. Other people may talk to him about it, but it's unclear who the first person obviously, was -- but all indications are --

Q Do you know what the President and Mrs. Clinton are doing to comply? I mean, just physically have they going through files? Are their assistants going through papers, or anything?

SENIOR ADMINISTRATION OFFICIAL: Well, you've got to understand that the scope of the subpoena is fairly limited. I mean, it's documents relating to conversations among and between RTC, Treasury and White House officials regarding these meetings -- just to be clear about it. And whatever documents they might have regarding those would be turned over. I have no idea whether they have any documents.

Q And do you know anything more about the process to find them?

SENIOR ADMINISTRATION OFFICIAL: I have no idea. I don't think -- I don't know.

Q Is the White House overflowing in garbage today?

SENIOR ADMINISTRATION OFFICIAL: It's not too bad. It wasn't that -- we just went through the weekend, so there's really two days of trash -- some people who were here over the weekend.

Q Have any other meetings or contacts been found or discovered today?

SENIOR ADMINISTRATION OFFICIAL: I can't -- as my colleague pointed out, we can't talk about the substance.

Q Do you know if anyone else has been subpoenaed?

SENIOR ADMINISTRATION OFFICIAL: Not that I know of.

Q Do you know if anybody from the First Lady's office has been subpoenaed?

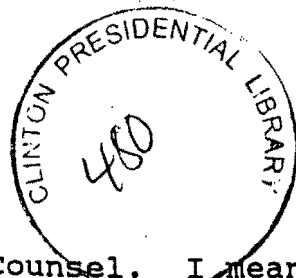
SENIOR ADMINISTRATION OFFICIAL: Nobody other than those already mentioned.

Q Already?

Q I can understand why your colleague didn't want to talk about substance, why can't you?

SENIOR ADMINISTRATION OFFICIAL: For the same reason -- I can't -- we've been told not to -- on the substance of this stuff, I just don't think we can talk about it.

Q Who has told you not to say anything?



SENIOR ADMINISTRATION OFFICIAL: Counsel. I mean, the White House is not discussing the substance of this. The special counsel is looking into it and we're going to comply with it. I think that's the prudent course.

Q On what basis did the President say today that there had been no efforts in the White House to influence any government agencies on this matter -- the exact wording but it was something like that?

SENIOR ADMINISTRATION OFFICIAL: To the best of his knowledge. I mean, conversations.

Q But it's -- of course, he doesn't know what's going to turn up in these envelopes and all this stuff.

Q Has anybody on the staff done like a little round of phone calls, or a little investigation for him so that he can answer these questions?

SENIOR ADMINISTRATION OFFICIAL: What, about what happened at the meetings?

Q No, whether there was any effort --

SENIOR ADMINISTRATION OFFICIAL: I think based on his information, based on his conversations that is what he believes.

Q I'm not saying that it isn't true, but --

SENIOR ADMINISTRATION OFFICIAL: There's no suggestion -- I don't think anybody has suggested otherwise, period. I don't think anybody has suggested --

Q Implied, but not with any evidence.

SENIOR ADMINISTRATION OFFICIAL: Well, questioned, but not even implied. I don't even think there's evidence to imply that that might have happened.

Q He obviously talked to Bernie. Did he talk to Altman?

SENIOR ADMINISTRATION OFFICIAL: I don't know.

Q At the meeting?

Q So do you think it was after it was referred on the 10th -- do you know if it was after the spin meeting on the 14th, or not?

SENIOR ADMINISTRATION OFFICIAL: I don't --

Q -- somewhere in that period.

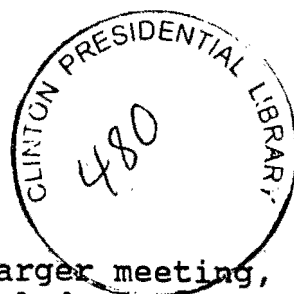
SENIOR ADMINISTRATION OFFICIAL: Yes, at somewhere in October all indications are that it, again, was after the 10th -- after the RTC referral actually happened because we started to get these -- learned about this, more about this from press calls --

Q And probably before the 14th?

SENIOR ADMINISTRATION OFFICIAL: (Inaudible)

Q Is that right? It's probably in that window between the 10th and the 14th?

SENIOR ADMINISTRATION OFFICIAL: Not necessarily.



Q Would the meeting of -- the larger meeting, October 14th, have occurred without the President's knowledge?

SENIOR ADMINISTRATION OFFICIAL: The inquiries, if you go back and look at what happened, what prompted that meeting, the inquiries came first to Treasury.

Q What's the status of the --

SENIOR ADMINISTRATION OFFICIAL: -- and then to us through Treasury, originally.

Q Does the firewall prevent the President conducting any routine business with Altman in Altman's capacity as Deputy Treasury Secretary that he might need to do on a whole range of matters?

SENIOR ADMINISTRATION OFFICIAL: I'm not a lawyer, but he recused himself from Madison, and so dealing Treasury matters, I don't think that it would affect that.

Q -- RTC -- where are you on that? And how will this affect the person you choose?

SENIOR ADMINISTRATION OFFICIAL: I think that's moving forward. I don't know how close we are to an announcement on it.

Q What's the status of the search for a replacement for Nussbaum?

SENIOR ADMINISTRATION OFFICIAL: As the President said, he's actively engaged in the process. We expect to have an announcement soon.

Q Who's heading the search? Is there a specific person who's in charge of that job?

SENIOR ADMINISTRATION OFFICIAL: Mack.

Q By soon, do you mean this week?

SENIOR ADMINISTRATION OFFICIAL: Oh, yeah. Well, I think that's the hope.

Q Tomorrow?

SENIOR ADMINISTRATION OFFICIAL: Beyond saying we hope to get it done this week, I don't even want to speculate.

Q Is -- still the leading candidate?

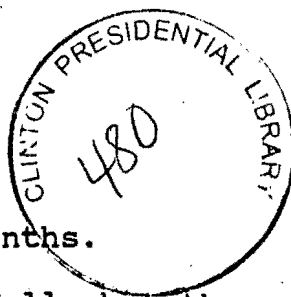
SENIOR ADMINISTRATION OFFICIAL: I can't answer that.

Q -- kitchen table question here -- with all the months that have lapsed, this whole subpoena, isn't it too late? I mean, why would anyone by hanging on to documents given allegations of shredding and everything that's been going on for all these --

SENIOR ADMINISTRATION OFFICIAL: No one has alleged that anybody in this White House ever shredded a single document.

Q All I'm just saying, is this too little, too late? Why now after all the news, everything that's been going on --

SENIOR ADMINISTRATION OFFICIAL: Wait a minute, all this subpoena applies to is documents related to the conversations.



Q True, but that's even been months.

SENIOR ADMINISTRATION OFFICIAL: Well, but the subpoena came on Friday. We received it around 7:00 p.m.; by 8:00 p.m., the memo was circulated to staff to tell them not to destroy their documents. I don't know how much more quickly we can act.

Q It also wasn't initiated until -- public.

SENIOR ADMINISTRATION OFFICIAL: I think that is as quickly and effectively and as forthcoming as anybody could expect. I mean, within an hour a memo was out to all 400-plus White House employees to protect and preserve all their documents, their trash, their computer records, their notes, any other records they might have of conversations that -- specifically outlined in the subpoena. I think we are bending over backwards here to comply, and I think the Counsel's Office has done everything it can to make sure people understand how important this is and what the consequences are. For doing something like you suggest is an obstruction of justice punishable by criminal law.

Q Can I ask you about the --

SENIOR ADMINISTRATION OFFICIAL: Why don't people here break the law everyday? Because they don't. It's not the way we operate.

Q Can I ask you about this rather stirring defense of the First Lady by the President? Had he talked to his aides about the need to make those kinds of remarks during this presentation today? He clearly was anticipating an opportunity to do that.

SENIOR ADMINISTRATION OFFICIAL: I think that all you have to do is pick up the morning paper over the last couple of days and anticipate that this question was coming. It doesn't take a rocket scientist. I mean, there's clearly been a number of attacks on her, and he is not happy about it. I don't think anybody had to prompt him to defend his wife.

Q But has he expressed his unhappiness in other contexts -- internally?

SENIOR ADMINISTRATION OFFICIAL: Absolutely.

Q How has he done that? What form is it taking?

SENIOR ADMINISTRATION OFFICIAL: Just by talking with aides about how he just is very unhappy about it. And I think his comments today speak for themselves, but that basically reflects his feelings about it.

Q When did she find out about the RTC -- did he tell her that period?

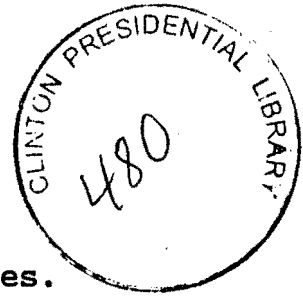
SENIOR ADMINISTRATION OFFICIAL: I don't know.

Q You don't know if she knew first, or afterwards, or when?

SENIOR ADMINISTRATION OFFICIAL: No.

Q How angry was he at Bernie last Thursday and Friday when all this reached critical mass?

SENIOR ADMINISTRATION OFFICIAL: Oh, I think that the President's letter speaks for itself about that. I think he thinks Bernie served him loyally and well.



Q He thinks he served him well?

SENIOR ADMINISTRATION OFFICIAL: Yes.

Q What did he tell the President about that meeting when he heard that? If he was serving him loyally and well, why didn't he tell him?

SENIOR ADMINISTRATION OFFICIAL: I think that hindsight was the right thing to do under any circumstances.

Q The President says he wants to be as forthcoming as possible. Either on the CNN or ABC, McLarty is quoted as saying that the President didn't know anything about what happened at these meetings. And the President today says that --

Q (Inaudible)

Q I thought he did.

Q He didn't say they knew they were having meetings, he just said he knew about the referral, I think.

SENIOR ADMINISTRATION OFFICIAL: I don't understand the question?

Q Well, I'm just trying to figure out -- it's been unclear what the President has done, or even if he has known anything about it -- (inaudible) -- aides. And the President today said -- at what point did somebody go in and ask him to make this statement, or did somebody go in and ask him what happened; did you know about the referral or whatever happened --

SENIOR ADMINISTRATION OFFICIAL: Prior to today's --

Q Yeah, yeah.

SENIOR ADMINISTRATION OFFICIAL: I think people asked him what he remembered about it today. I don't know about before that -- over last day and a half, maybe.

Q Not Thursday, after the Post story ran? You would think the first thing he would do is --

SENIOR ADMINISTRATION OFFICIAL: Well, no, I think about the other meetings, I think, which we said was that he learned about them as the press inquiries came in. So the first story broke on Wednesday; I think he learned about it either Tuesday night or Wednesday morning; instructed Mack to issue the memo. The next couple meetings were revealed I guess on Thursday, Friday?

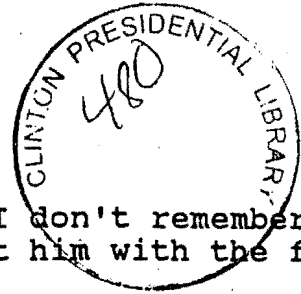
Q Thursday.

SENIOR ADMINISTRATION OFFICIAL: Thursday -- which he also learned about in the context of press inquiries either the night before or the morning of, actually -- and that's what he knew about those meetings, which he said at the time.

Q -- but it was a total surprise to him, because at some point in October he knew that these meetings occurred.

SENIOR ADMINISTRATION OFFICIAL: No, he learned about the meetings when the press started to inquire about them. He did not know about the meetings before that.

Q Did you check out what the press was telling you about these meetings? Or was it just passed on that the press has these questions about some meeting that took place in the referrals?



SENIOR ADMINISTRATION OFFICIAL: I don't remember the exact conversation. I generally try to present him with the facts, not just questions from you guys --

Q Does anybody know what Foster was going to talk to the President about when he said on Monday night --

SENIOR ADMINISTRATION OFFICIAL: Sure don't, Sarah.

END

5:22 P.M. EST

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. draft	RE: Rules of Procedure of the Special Committee to Investigate Whitewater Development Corporation and Related Matters (13 pages)	04/05/1995	P5
002. talking points	RE: Talking Points for Meeting with Senator Sarbanes [partial] (4 pages)	01/06/1995	P5, b(6)

COLLECTION:

Clinton Presidential Records
Counsel's Office
Beth Nolan
OA/Box Number: 23482

FOLDER TITLE:

Whitewater - General, 1995 [3]

2006-0320-F
db2032

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]

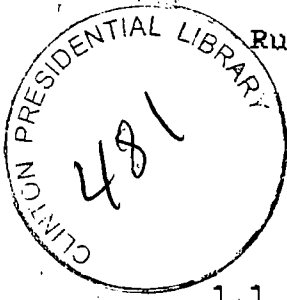
C. Closed in accordance with restrictions contained in donor's deed of gift.

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]



Rules of Procedure of the Special Subcommittee to
Investigate Whitewater Development Corporation
and Related Matters

RULE 1. CONVENING OF MEETINGS AND HEARINGS

1.1 Meetings. The special subcommittee shall meet at the call of the chairman. The members of the special subcommittee may call special meetings as provided in Senate Rule XXVI(3).

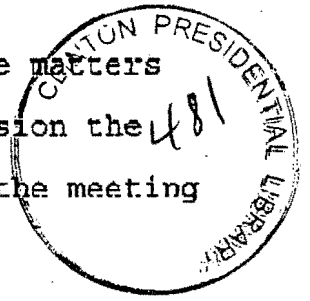
1.2 Notice. The special subcommittee shall publicly announce the date, place, and subject matter of any hearing at least one week before its commencement. A hearing may be called on shorter notice if the chairman, ~~after~~ ^{and} consultation with the ranking member, determines that there is good cause to begin it at an earlier date.

1.3 Presiding Officer. The chairman shall preside when present. If the chairman is not present at any meeting or hearing, the chairman may designate any member of the special subcommittee to preside in his absence.

RULE 2. CLOSED SESSIONS

2.1 Procedure. All meetings and hearings shall be open to the public unless closed. To close all or part of a hearing or meeting, or a series of meetings for a period of no more than 14 days, the special subcommittee shall vote in open session by a record vote, including proxy votes, of a majority of the members of the special subcommittee. If discussion is necessary, a motion shall be made and seconded to go into closed session to

discuss whether the meeting or hearing will concern the matters enumerated in Rule 2.2. Immediately after such discussion the special subcommittee shall return to open session and the meeting or hearing may then be closed by a record vote.



2.2 *Closed Session Subjects.* A meeting or hearing may be closed if the matters to be discussed concern the matters enumerated in Senate Rule XXVI(5) (b).

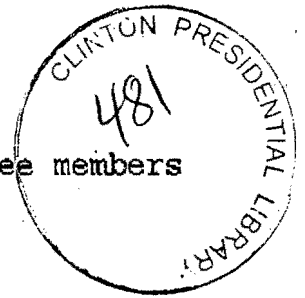
2.3 *Witness Request.* Any witness may submit to the chairman, no later than 24 hours in advance of a hearing, a written request to be examined in closed or open session. The chairman shall inform the special subcommittee of the request, and the special subcommittee shall take such action pursuant to Rule 2.1 as it deems appropriate.

2.4 *Broadcasting.*

(a) *Control.* Any meeting or hearing open to the public may be covered by television, radio, or still photography. Coverage must be conducted in an orderly and unobtrusive manner, and the presiding officer may for good cause terminate coverage in whole or in part or take other action to promote orderly proceedings.

(b) *Request.* A witness may request of the presiding officer on grounds of distraction, harassment, personal safety, or physical discomfort that during his or her testimony cameras, media microphones, and lights shall not be directed at the witness, and the presiding officer may take such action as he deems appropriate.

RULE 3. QUORUMS AND VOTING



3.1 *Quorums.* A majority of the special subcommittee members shall constitute a quorum for reporting a matter or recommendation to the Senate, except that the special subcommittee, or the chairman of the special subcommittee, with the concurrence of the ranking member of the special subcommittee may fix a lesser number as a quorum for the purpose of taking testimony before the special subcommittee or for conducting the other business of the special subcommittee.

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3.2 *Proxies.* Proxies shall be in writing, and shall be filed with the chief clerk by the absent member or by a member present at the meeting. Proxies shall contain sufficient reference to the pending matter to show that the absent member has been informed of it and has affirmatively requested that he or she be recorded as voting on it. Proxies shall not be counted towards a quorum.

3.3 *Polling.*

(a) *Subjects.* The special subcommittee may poll only (1) internal special subcommittee matters including the special subcommittee's staff, records, and budget; (2) authorization for steps in the investigation, including the authorization and issuance of subpoenas and deposition notices, applications for immunity orders, and requests for documents; (3) other special subcommittee business, not including a vote on reporting to the Senate, that the special subcommittee at a meeting has designated for polling at a subsequent time.

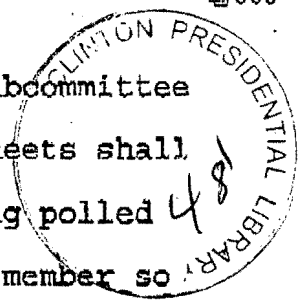
(b) Procedure. At the direction of the special subcommittee or the chairman, as provided in Rule 3.3(a), polling sheets shall be circulated to each member specifying the matter being polled and the time limit for completion of the poll. If any member so requests, the matter shall be held for consideration at a meeting. The chief clerk shall keep a record of polls; if the chairman, with the approval of a majority of the members, determines that the polled matter is in one of the areas enumerated in Senate Rule XXVI(5)(b), the record of the poll shall be confidential.

RULE 4. SUBPOENAS

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4.1 Authorization, Issuance and Service. A subpoena may be authorized by the special subcommittee or by the chairman with the agreement of the ranking member of the special subcommittee, and may be issued by the chairman or any other member designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or outside the borders of the United States to the full extent permitted by law. The chief clerk shall keep a log, and a file, of all subpoenas.

4.2 Return. A subpoena duces tecum or order for documents may be issued whose return shall occur at a deposition or at another time and place other than at a hearing. When a return on such a subpoena or order is incomplete or accompanied by an objection, the chairman may convene a meeting or hearing on shortened notice to determine the adequacy of the return and to



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rule on the objection or may refer the issues raised by the return for decision by poll of the special subcommittee. [At a meeting or hearing on such a return, one member shall constitute a quorum.] *(already have working quorum rule)* ✓

RULE 5. HEARINGS

5.1 Notice. Witnesses shall be given at least 48 hours notice unless ~~the chairman determines that extraordinary~~ *(and the ranking member or longer)* circumstances warrant shorter notice, and all witnesses shall be furnished with a copy of the Senate Resolution authorizing this investigation and of these rules. ✓

5.2 Oath. All witnesses who testify to matters of fact shall be sworn unless the special subcommittee authorizes waiver of an oath.

5.3 Statement. Any witness desiring to make an introductory statement shall file 20 copies of the statement with the chairman or chief clerk 48 hours in advance of the appearance, unless the ~~chairman determines~~ *(and ranking member)* that there is good cause for a witness's failure to do so. A witness may be required to summarize a prepared statement if it exceeds ten minutes. Unless the committee determines otherwise, a witness who appears before the special subcommittee under a grant of immunity shall not be permitted to make a statement or testify except to respond directly to questions posed by special subcommittee members or special subcommittee staff. ✓

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5.4 Counsel.

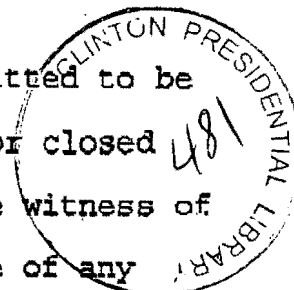
(a) *Presence.* A witness's counsel shall be permitted to be present during the witness's testimony at any public or closed hearing or deposition or staff interview to advise the witness of his or her rights; provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the chairman or the special subcommittee may rule that representation by counsel from the government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association or not representing other witnesses.

(b) *Inability to Obtain Counsel.* A witness who is unable for indigence or other reason to obtain counsel shall inform the special subcommittee at least 48 hours prior to the witness's appearance, and the special subcommittee will endeavor to obtain volunteer counsel for the witness. Failure to obtain counsel will not excuse the witness from appearing and testifying.

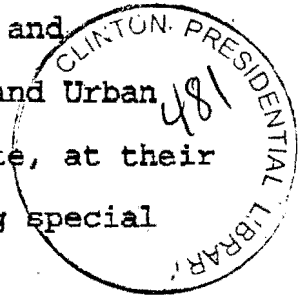
(c) *Conduct.* Counsel shall behave in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject counsel to disciplinary action, which may include warning, censure, or ejection.

5.5 *Questioning of Witnesses.* At the direction of the chairman, witnesses may be questioned by the special subcommittee majority special counsel, and by the special subcommittee minority special counsel, at the direction of the ranking member.

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Notwithstanding Rule 4(g) of the Rules of Procedure and Jurisdiction of the Committee on Banking, Housing, and Urban Affairs, the Chairman and Ranking Member may allocate, at their discretion, the time for questioning witnesses among special subcommittee members of their respective parties.



(Hearing)

5.6 Transcript. An accurate electronic or stenographic record shall be kept of all testimony in closed and public hearings. At a witness's request and expense, access to a copy of a witness's testimony in public or closed session shall be provided to the witness (as it is available). Upon inspecting the transcript, within a time limit set by the chief clerk, a witness may in writing request changes in the transcript to correct errors of transcription, grammatical errors, and obvious errors of fact; the chairman ~~or a staff officer designated by him~~ shall rule on such requests. as stet

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5.7 Impugned Persons. Any person who believes that evidence presented, or comment made by a member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his or her character or adversely affect his or her reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the special subcommittee to testify in his or her own behalf; or

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(c) request that submitted written questions be used for the cross-examination of witnesses called by the special subcommittee. The chairman shall inform the special subcommittee of requests for appearance or cross-examination. If the special subcommittee so decides, the requested questions, or paraphrased versions or portions of them, shall be put to the other witnesses by a member or by staff.

5.8 Additional Witnesses. As provided by Senate Rule 26.4d, the minority on the special subcommittee shall be entitled, upon a timely request made by a majority of the minority members to the chairman, to call additional witnesses or to require the production of documents during at least one day of hearing.

Rule 6. DEPOSITIONS, EXAMINATION OF RECORDS, AND INTERROGATORIES

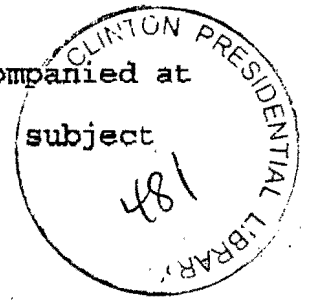
6.1 Deposition Notices. Notices for the taking of depositions shall be authorized and issued by the chairman or by a staff member designated by ^(them) ~~him~~. Such notices shall specify a time and place for examination, and the name of the staff member or members who will take the deposition. Unless otherwise specified, the deposition shall be in private. The special subcommittee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a subpoena authorized as provided by Rule 4.1.

with the agreement of the ranking member

not open to public? sealed:

depositions to remain confidential until hearing

6.2 *Counsel at Depositions.* Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule 5.4.



6.3 *Deposition Procedure.* Witnesses at depositions shall be examined upon oath administered by a member or an individual authorized by local law to administer oaths. Questions shall be propounded orally by special subcommittee members or special subcommittee staff members. Objections by the witness as to the form of questions shall be noted for the record. [If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the special subcommittee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the chairman of the special subcommittee or a member designated by him. If the chairman or designated member overrules the objection, he may refer the matter to the special subcommittee or he may order and direct the witness to answer the questions, but the special subcommittee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after having been ordered and directed to answer.]

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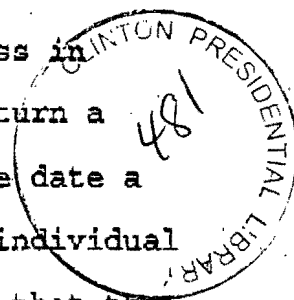
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6.4 *Filing of Depositions.* The special subcommittee staff shall see that deposition testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy, or access to a copy for review. No later than five days thereafter, if a copy is provided, the witness shall return it with his or her signature, and the staff

will
~~may~~ enter the changes, if any, requested by the witness in accordance with Rule 5.6. If the witness fails to return a signed copy the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk. Special subcommittee staff may stipulate with the witness to changes in this procedure. Objections to errors in this procedure that might be cured if promptly presented are waived unless timely objection is made.



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6.5 Examination of Records. The special subcommittee or the chairman may authorize the staff to inspect locations or systems of records on behalf of the special subcommittee.

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6.6 Written Interrogatories. Written interrogatories may be authorized and issued by the chairman *with the agreement of the ranking* or by any member designated *them* by ~~the chairman~~ and shall specify a date for filing an answer with the chief clerk. Written interrogatories shall be answered under oath.

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RULE 7. PROCEDURES FOR HANDLING DOCUMENTS CONCERNING
 WHITEWATER DEVELOPMENT CORPORATION
 AND RELATED MATTERS

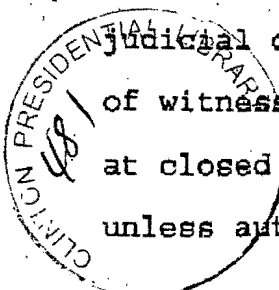
7.1 Security. Special subcommittee offices shall operate under strict security precautions. The chairman may request the Senate Sergeant at Arms to provide assistance necessary to ensure

strict security. The special subcommittee shall be provided with separate and specially equipped office space to the extent necessary to ensure that the special subcommittee and the United States Capitol Police can protect the security of any sensitive material in the possession of the special subcommittee.

7.2 *Sensitive or Classified Materials.* Sensitive or classified materials shall be segregated in a secure storage area. The special subcommittee shall adopt security regulations governing the handling of sensitive or classified materials. The chairman with the agreement of the ranking member may enter into agreements to obtain materials and information under assurances concerning confidentiality. Each member of the special subcommittee shall be notified of such agreements.

7.3 *Access.* Access to documents produced to the special subcommittee during the course of its investigation shall be restricted to members of the special subcommittee and staff members involved in the investigation. The special subcommittee shall adopt internal guidelines governing staff access to particular categories of sensitive materials, which shall be applied by the chairman and ranking member. Staff access to sensitive materials may be limited by the chairman and ranking member.

7.4 *Nondisclosure.* No member of the special subcommittee or its staff shall disclose, in whole or in part or by way of summary, to any person outside the special subcommittee and its staff, for any purpose or in connection with any proceeding,



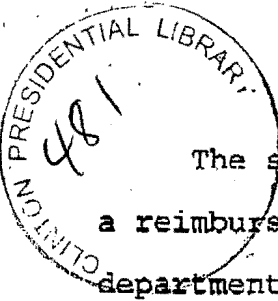
judicial or otherwise, any testimony taken, including the names of witnesses testifying, or material presented, in depositions or at closed hearings, or any confidential materials or information, unless authorized by the special subcommittee or the chairman *with the agent of the ranking member.*

7.5 Nondisclosure Agreement. All members of the special subcommittee staff shall agree in writing, as a condition of employment, to abide by the conditions of the nondisclosure agreement promulgated by the special subcommittee pursuant to section 6(a) of the Senate Resolution authorizing this investigation.

7.6 Violations. Allegations concerning unauthorized disclosure may be addressed by the special subcommittee or may be referred by a majority vote of the special subcommittee to the Senate Select Committee on Ethics. Any person who fails to conform to the provisions of Rule 7 shall be subject to disciplinary sanction, as provided by section 6(b) of the Senate Resolution authorizing this investigation.

7.7 Applicability of Rule. For purposes of Rules 6 and 7, special subcommittee staff include the employees of the special subcommittee, staff designated by the members, with the approval of the chairman or ranking member, to work on special subcommittee business, the officers and employees of the Office of Senate Legal Counsel who are requested by the chairman to work on special subcommittee business, and detailees and consultants to the special subcommittee.

RULE 8. DETAILEES AND CONSULTANTS



The special subcommittee shall have the authority to use, on a reimbursable basis, with the prior consent of the Government department or agency concerned, the service of personnel of any department or agency of the United States and shall have authority to procure the temporary or intermittent services of individual consultants or organizations, as provided by sections 5(b)(10) and (11) of the Senate Resolution authorizing this investigation.

RULE 9. EFFECTIVE CHANGES IN RULES

9.1 These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed, as provided by section 2(c) of the Senate Resolution authorizing this investigation, if all members are present or provide proxies or if a notice in writing of the proposed changes has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. The changes shall become effective immediately upon publication of the changed rule or rules in the Congressional Record, or immediately upon approval of the changes if so resolved by the special subcommittee so long as any witnesses who may be affected by the change in rules are provided with them.



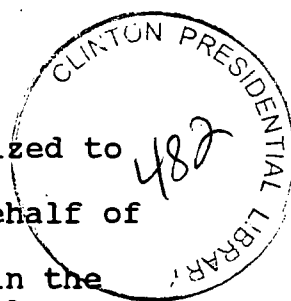
Talking Points for Meeting with Senator Sarbanes
January 6, 1995

1. Expectations

a. conversations/communications with D'Amato about what he expects to do?

i. Special Subcommittee

- (1) resolution?
- (2) scope? more than Whitewater/Madison? other oversight? (e.g. Travel Office)
- (3) budget? (\$1-2 million annually)
- (4) expanded membership to include others from Committees with jurisdiction over particular issues (as Hatch was added last time)
- (5) ask for same powers that Dole and D'Amato sought during the last Congress?
 - (a) [BACKGROUND: Dole proposed establishing a 16-member Special Subcommittee within the Banking Committee (5/24/94 Dole letter to Mitchell; D'Amato introduced a similar resolution):
 - (i) the Chairman and Ranking Member of the Banking Committee each to designate five members of the Committee to sit on the Special Subcommittee
 - (ii) Dole and Mitchell each to designate three Senators from other committees with a jurisdictional interest in Whitewater
 - (iii) the Chairman and Ranking Member of the Banking Committee to serve as co-chairman of the Special Subcommittee.



(iv) the Co-chairs each authorized to

- 1) issue subpoenas on behalf of the Subcommittee
- 2) direct staff to obtain the testimony of potential witnesses under oath
- 3) schedule hearings
- 4) call witnesses to testify
- 5) take other appropriate actions.

(v) additional resources from the Contingent Fund of the Senate to be made available on an equal basis to the Co-Chairmen]

ii. Interim activity

- (1) requests for documents (already has made requests of RTC, FDIC and OTS)
- (2) other plans?
 - (a) witness interviews/depositions
 - (b) emphasis on Arkansas or Foster documents? simultaneous?

2. Relationship/communication with Starr

a. expect to play same aggressive role that D'Amato has played as minority in the past?

i. [BACKGROUND: Sarbanes declined to participate in the last meeting with Starr.]

3. Working relationship with White House

a. I understand that last time around there was some reluctance on the part of the Committee Democrats to work with the White House in preparing for hearings.

i. tell me about that

b. We hope to work closely with you and your staff as we all prepare for the next rounds. (Mention Sherburne)

i. D'Amato and his staff act as prosecutors

(1) he brought back Mike Chertoff -- tough prosecutor from the last round

ii. Democrats need to counter with defense tactics.

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- (1) Sarbanes' inclination may be to act in a more judge-like role (presiding over a fair, thorough inquiry with the aim of identifying and examining problem areas)
- (2) But the process should permit the development of a defense that counters the partisan aspects of the inquiry
- iii. no existing Senate ethics rule prohibits communications between you and the White House
 - (1) any need for reserve is a matter of politics
 - (2) the politics requires that we work together - attacks on the President and the White House are attacks on Democrats
- iv. working together means
 - (1) arming you with the facts -- good and bad
 - (a) although I am confident that any inquiries will conclude that neither the President nor the First Lady engaged in any misconduct or violated any ethical standard
 - (2) collaborating on questions involving the manner of our cooperation
- 4. Staffing -- we urge you to retain a minority counsel (and assistant) that is a worthy opposite of Chertoff and his team
 - a. [BACKGROUND: Steve Harris has recommended that Sarbanes retain a minority counsel and a deputy. Indirectly, we have suggested the following:
 - i. Dan Meltzer
 - ii. Nick Litterfield
 - iii. Bob Litt (Deputy AAG for DOJ Criminal; former prosecutor in SDNY followed by Wms & Connolly)
 - iv. Hank Schuelke (was special counsel to the Senate Select Cmte on Ethics that investigated allegations relating to D'Amato conflicts of interest)
 - v. Ken Feinberg

- b. I also spoke to Steve Sachs (who is close to Sarbanes) about people with whom he thought Sarbanes would be comfortable -- he suggested Barney Skolnik. Sachs spoke to Skolnik a few weeks ago and reports that he is in Maine and bored.]

