Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION	
001a. memo	To Elena from Terry re: draft letter (1 page)	08/04/1995	P5	974
001b. letter	To Mary Anne Silvestri from Terry Henry re: lawsuit (6 pages)	08/07/1995	P5	975
001c. note	Handwritten note (1 page)	nd	P5	976
001d. note	Handwritten note (2 pages)	nd	P5	977
002a. letter	To Richard Riley from Larry M. Lawrence re: position (2 pages)	11/19/1992	P2	978
002b. resume	re: Larry M. Lawrence (2 pages)	nd	P2	979
003. note	To John from Terry re: lawsuit (1 page)	06/30/1995	P5	980
004. note	To John from Terry re: lawsuit (1 page)	06/30/1995	P5	981
005a. letter	To Richard Riley from Larry M. Lawrence re: position (2 pages)	11/19/1992	P2	982
005b. resume	re: Larry M. Lawrence (2 pages)	06/27/1995	P2	983

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8291

FOLDER TITLE:

Lawrence Suit: Larry Lawrence [2]

Rhonda Young
2009-1006-F
ry933

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]

Elana,

Sorry for the screw-up with last night's fax. Here's the draft objection letter. You'll see that categories (1) [the acknowlegement only], (3) [the acknowledgements only], (5), (7) [in part], (8) [in part], (11), (12), (17), (18), (19), (21) reference documents that we may produce. We won't produce it Tuesday, but rather will let the other side tell us for sure that they want to see them. I expect that they won't care about seeing many of the non-privileged documents.

I'm having copies of the non-privileged documents made so you can see them.

Thanks.

Terry

U.S. Department of Justice

Washington, D.C. 20530

Terry M. Henry

Ph. (202) 514-4107
Fax (202) 616-8202

DRAFT

August 7, 1995

BY FAX & FIRST-CLASS MAIL

Mary Anne Silvestri, Esq.
Musick, Peeler & Garrett
One Wilshire Blvd. Suite 2200
Los Angeles, California 90017

Re: Initial Amalgamation, Ltd., et al. v. DeCastro, West, et al., No. BC 083 447 (Calif. Super. Ct.), No. 95 Misc. 315 (D.C. Super. Ct.)

Dear Ms. Silvestri:

I am writing with respect to the subpoenas in this case directed to (1) the Custodian of Records, Office of the Assistant to the President and Senior Advisor, Bruce Lindsay; (2) the Custodian of Records, Office of the Director of Presidential Personnel; and (3) Bruce Lindsay, in his former capacity as Director of Presidential Personnel and his current capacity as Assistant to the President and Senior Advisor. I represent respondents in this matter. The subpoenas were served upon me on July 26, 1995, and call for the production, on August 8, 1995, of

not his actual title.

> Any and all documents relating to any proposed or current appointment for M. Larry Lawrence and Sheila [sic] Lawrence by the U.S. Government during the time period 1991 through 1995, including, but not limited to, any lists of potential candidates for appointment by the U.S. Government; any documentation regarding Mr. Lawrence's nomination and appointment as the U.S. Ambassador to Switzerland; and any documentation regarding Mrs. Lawrence's nomination and appointment as U.S. Representative to the World Conservation Union.

I am writing to state objections, pursuant to D.C. Superior Court Rule 45, on behalf of respondents to production as called for by the subpoenas.

At the outset, it must be noted that the District of Columbia Superior Court does not have jurisdiction to enforce subpoenas compelling the production of documents by these federal officials. Enforcement of subpoenas pertaining to state court proceedings, which require federal officials to produce documents obtained or generated in the course of their official duties, are proceedings against the United States for which the United States has not waived its sovereign immunity. See, e.g., Louisiana v. Sparks, 978 F.2d 226, 234-36 (5th Cir. 1992); Boron Oil Co. v. Downie, 873 F.2d 67, 70-71 (4th Cir. 1989); Environmental Enterprises, Inc. v. United States Environmental Protection Agency, 664 F. Supp. 585 (D.D.C. 1987).

How strong is this? Is it enough? Why or why not? Why do anything else?

Furthermore, many of the responsive documents are privileged or otherwise need not be produced. A search of responsive documents[1] has revealed various categories of documents described below:

(1) Correspondence from M. Larry Lawrence ("MLL") and/or Shelia Davis Lawrence ("SDL") to the head and/or members of President Clinton's transition team concerning possible service of MLL or SDL in the Administration. Many of these letters include resumes or personal/confidential information submitted by MLL and SDL. Disclosure of these documents is not appropriate because such disclosure might inhibit the candor of correspondence of this type in the future and adversely impact the process under which the President receives information concerning potential candidates for appointments. Furthermore, disclosure of the personal/confidential information of MLL and SDL is not appropriate because disclosure of such information may constitute an invasion of personal privacy of the Lawrences. Such documents also need not be produced because they should be available from the Lawrences, if production by them is appropriate. This category of documents also includes an acknowledgement by Warren Christopher of one of the letters.

Can we make this objection?

(2) Correspondence from MLL and/or SDL to members of Congress concerning possible service of MLL or SDL in the Administration. Many of these letters include resumes or personal/confidential information submitted by MLL and SDL. Disclosure of the personal/ confidential information of MLL and SDL is not appropriate because disclosure of such information may constitute an invasion of personal privacy of the Lawrences. Such documents also need not be produced

Ditto.

---

[1]For your information, ~~official~~ correspondence between the President and/or First Lady and Mr. Lawrence in his capacity as Ambassador to Switzerland or Ms. Lawrence in her capacity as Representative to the World Conservation Union was not deemed responsive to the subpoenas.

(also unofficial, of course)

because they should be available from the Lawrences, if production by them is appropriate.

(3) Correspondence from individuals and members of Congress to the President, the head or members of the transition team, the President's Chief of Staff, Bruce Lindsay (as Advisor and Director of Presidential Personnel), or other members of the President's staff, concerning possible service of MLL and/or SDL in the Administration. Some of these letters include resumes or personal/confidential information of MLL and SDL. Disclosure of these documents is not appropriate because such disclosure might inhibit the candor of correspondence of this type in the future and adversely impact the process under which the President receives information concerning potential candidates for appointments. Disclosure of the personal/confidential information of MLL and SDL is also not appropriate because disclosure of such information may constitute an invasion of personal privacy of the Lawrences. Such information also need not be produced because it should be available from the Lawrences, if production by them is appropriate. This category of documents also includes letters from Mack McLarty and the office of Warren Christopher acknowledging receipt of certain of the letters.

What exactly does this mean? See also (1) + (2) above.

ditto

= how?? In some ways, not consistent w/ 1st objection (re candor)

(4) News articles, clippings, or summaries thereof concerning the nomination of MLL as Ambassador to Switzerland. These documents need not be produced because they are publicly available. Also, this set of documents is protected by the deliberative process privilege because it may reflect thought processes of persons involved in the nomination process or in planning strategy for the confirmation process.

How? Just refers to summaries?

(5) Correspondence to the President regarding the nomination of MLL as Ambassador to Switzerland (i.e., post-nomination correspondence concerning the nomination).

from whom? what is this? why are we giving it?

(6) Correspondence from various individuals and organizations to members of the Senate concerning the nomination or confirmation of MLL as Ambassador to Switzerland. These documents need not be disclosed because the documents may be available from the original authors or recipients of the correspondence, if production by them is appropriate.

subpoena all senators

can't we make same objection re candor (which ultimately affects pres decisions)

(7) Memorandum to MLL from the President's Director of Scheduling concerning an invitation from MLL and SDL to a reception celebrating the swearing-in of MLL and SDL, respectively, as Ambassador to Switzerland and Special Representative to the World Conservation Union ("WCU"). This category of documents includes a copy of the invitation

and predecisional documents and notes leading to the decision reflected in the memorandum from the Director of Scheduling. These predecisional documents and notes need not be produced because they are protected by the deliberative process privilege.

(8) SDL's letter of resignation from her position as Special Representative to the WCU, the President's response, and drafts of the President's response and handwritten notes pertaining thereto. The drafts and notes are not disclosable as they are protected by the confidential Presidential communications privilege and the deliberative process privilege. is this diff from exec priv? what's the diff?

(9) Memoranda reflecting the various stages of clearance or approval of the proposed nomination of MLL for position of Ambassador to Switzerland. These memoranda are to Bruce Lindsay from the State Department, from Bruce Lindsay to John Podesta or other members of the President's staff, to the President from John Podesta, or from the White House Counsel's Office to persons in the Presidential Personnel Office, including Bruce Lindsay. These documents need not be produced because they are protected by the deliberative process privilege and, for the documents directed to the President, by the confidential Presidential communications privilege. ditto

(10) Memoranda to Bruce Lindsay concerning persons being considered for various Presidential appointments and to the President, through Bruce Lindsay, recommending Presidential nominations for various positions. This category also includes drafts of these memoranda. These documents need not be produced because they are protected by the deliberative process privilege and, for the documents directed to the President, by the confidential Presidential communications privilege. ditto

(11) Press release or announcement of nomination of MLL as Ambassador to Switzerland.

Put it in (3)?

(12) Letter to the President from Ilene Sherman, political assistant to SDL, concerning intention to nominate MLL for position of Ambassador to Switzerland. What is this?

(13) Written excerpts of speech by the President containing handwritten notes and markings concerning planning of possible confirmation of MLL as Ambassador to Switzerland. This document need not be produced because it is protected by the deliberative process privilege. what really is this? I don't remember it this way.

Put it in 16?

(14) Letter from Harold H. Henderson for O'Melveny & Myers to Nestor Davidson (White House Office of Legislative

Affairs) submitting drafts of correspondence to members of Congress concerning possible confirmation of MLL as Ambassador to Switzerland. These documents need not be produced because they are protected by the deliberative process privilege. These documents may also contain personal/confidential information concerning MLL, the disclosure of which would not be appropriate.

Mtr that not wholly within govt?

~~[illegible]~~

(15) Agenda among documents for use in a December 1993 meeting ~~between~~ Bruce Lindsay, John Podesta, MLL, SDL, and others regarding White House strategy for confirmation process for nomination of MLL as Ambassador to Switzerland. Included in these documents are anticipated objections to confirmation and proposed responses. These documents need not be produced because they are protected by the deliberative process privilege.

Do we have to say this specifically?

Why isn't (15) included in (16)?

(16) Documents used in planning strategy of MLL Senate confirmation process, including information on anticipated action by Senators and recommended actions to be undertaken by MLL and others. These documents need not be produced because they are protected by the deliberative process privilege.

(17) Partial Transcript of 1989 Senate confirmation hearing of Joseph Gildenhorn as Ambassador to Switzerland.

Is this responsive?

(18) Written statement of F. Allen Harris, President, American Foreign Service Association, for MLL Senate confirmation hearing.

Get from others?

(19) Correspondence, news articles, photographs, and other materials dated from 1979-1989 concerning MLL.

What is this? Is it responsive?

(20) January 1994 correspondence to Senate Foreign Relations Committee from attorneys for MLL, including Mark A. Kuller, addressing issues raised by the American Foreign Service Association in opposition to the confirmation of MLL as Ambassador to Switzerland. These documents may contain personal/confidential information concerning MLL, the disclosure of which would not be appropriate. Also, these documents need not be disclosed because the documents may be available from the original authors or recipients of the correspondence, if production by them is appropriate.

~~[illegible]~~

(21) Documents released by American Foreign Service Association in opposition to confirmation of MLL as Ambassador to Switzerland.

Get from others?

(22) January 1994 and February 1994 correspondence to MLL, Nestor Davidson (White House Office of Legislative Affairs), and others, from O'Melveny & Myers regarding confirmation of

MLL as Ambassador to Switzerland, which often attach documents submitted to the Senate Foreign Relations Committee regarding the confirmation of MLL. This category of documents also includes some drafts of correspondence to the Committee. These documents need not be produced because they are protected by the deliberative process privilege. These documents may also contain personal/confidential information concerning MLL, the disclosure of which would not be appropriate.

Even tho has nothing w/ him?

[illegible]

The foregoing objections are not exclusive, and the Government reserves the right to assert further objections in response to the subpoenas as appropriate.

why not get from others

For all the above reasons, respondents object to the subpoenas and will not produce the documents called for at the date, time, and place specified on the subpoenas. I am available to discuss these matters further, and can be reached at (202) 514-4107.

Sincerely yours,

TERRY M. HENRY
Trial Attorney
Federal Programs Branch
Civil Division

cc: Larry D. Sharp, Esq. (by mail)
Robert S. Draper, Esq. (by fax and mail)
Robert G. Stiener, Esq. (by mail)
Alan Goldberg, Esq. (by mail)
Stephen J. Tully, Esq. (by mail)

Call Terry Henry <

Date to respond?

Subpoenas not been served. State?
Once served - Then 14 days. Anything else?
Tuesday?
Give call as soon as we are
served.

Need to know what's out There.
If claim privilege, need declaration from hi-level person,
describing docs were claiming privilege on
+ explains why privilege applies.
Work together in drafting declaration.

Also filed a FOIA request
Also - State Dept - similar
info. John. A Kroft
Jim Thessen
2 Legal Advisor.
St. Dept.

Phone # 514-4107
Fax # 616-8202

THE WHITE HOUSE
WASHINGTON

Elena —

Cheryl had already drafted the document request letter but has not sent it out -- you should substitute your name as the person ~~a~~ running the production effort and probably talk to Terry Henry at DOJ to let him know you've

THE WHITE HOUSE
WASHINGTON

taken over for Cheryl and ~~[illegible]~~ to find out what kind of deadline is necessary (obviously, tomorrow makes no sense).

The Mack McLarty matter I mentioned is missing a component of documentation -- I'll get it to you as soon as I get all the docs in order

Thanks,

James

November 19, 1992
339 Webster Ave, Unit 2
Chicago, IL 60614

Mr. Richard Riley
Presidential Transition Team
1120 Vermont, NW
Washington, D.C. 20270

Dear Mr. Riley,

Like many, many other people, I would like the transition team to consider me for a staff position in Governor Clinton's administration. If political loyalty to the Governor and ability to contribute are the primary criteria, I believe you will find me a credible candidate.

LOYALTY TO GOVERNOR CLINTON

In 1985, Governor Clinton and I formed Friends of Rosey, Inc., an organization through which we seek to memorialize Roosevelt L. Thompson. Rosey was a black Rhodes Scholar from Little Rock. The premise of this organization is that the best way to break down racial barriers is for society to have outstanding leaders who happen to be black. Each year, we award the Thompson Leadership Prize to one high school senior from Arkansas. The Thompson Scholar then spends the summer in Governor Clinton's office and receives a college scholarship. It is my highest goal in life to help these Thompson Scholars at every step as they advance toward careers in public service. We have been operating for 7 years; the one certainty of my life is that we will continue for another 50.

It has been a bittersweet election year for Rosey's closest friends. It has been sweet because his deep respect for Governor Clinton insured our committed emotional and financial support. (As campaign records will show, I was a Preconvention Team Member and a Rapid Response Captain for the campaign.) It has been bitter because we knew he would have been by the Governor's side throughout this campaign. Our sense of loss for our friend continues to be intense, and our commitment to honor his memory in a meaningful, useful way remains strong. Rosey respected and admired Governor Clinton, and I can think of no higher honor. Governor Clinton can count on my loyalty. I would not be seeking a 70% cut in compensation if I were not deeply committed to helping make Governor Clinton's administration a success.

ABILITY TO CONTRIBUTE

As described in the attached profile, I was graduated from Yale College with a GPA of 4.00, where I was senior class secretary. (This is comparable to senior class president at other schools.) I have a BA in economics, an MBA from Stanford, and six successful years of corporate strategy and business consulting at McKinsey & Company. I can provide strong references from CEOs of major companies, academicians, and members of McKinsey's worldwide governing committee.

TARGET ROLES

I believe I could contribute to policy development through objective, fact-based analysis in one of three areas.

¶ Any role that allowed me to serve the general intent of Friends of Rosey; that is, promoting the development of young black leaders or breaking down racial barriers. My study of the government's structure suggests the best opportunity to have an impact here would be as director of a panel, commission, or task force.

¶ Any role in the Office of Policy Development, focusing on domestic economic policy, industrial policy, or racial harmony. My skills are in the microeconomics analysis of industry and company behavior. They are <u>not</u> in analyzing the macroeconomics of the nation's economy.

¶ As Associate Administrator for Policy in the Federal Railroad Administration. The peculiar twist of my professional path has left me with a comprehensive knowledge of railroad microeconomics and an extensive understanding of issues facing senior management teams at railroads. Over the last few years, I have engaged the CEOs of six of the seven major railroads in one-on-one discussions about the future of their industry. I believe the industry would welcome my selection, and I could pursue endorsements if that would be useful.

* * *

Mr. Riley, I would be a loyal member of the Clinton administration, deeply committed to helping make his presidency a success. If you believe I might be able to play a useful role, please advise me of how best to proceed.

With best wishes,

Larry M. Lawrence
(312) 580-5297

LARRY M. LAWRENCE

339 Webster Ave
Unit 2
Chicago, IL 60614
(312) 528-7691

McKinsey & Company
20 South Clark
Chicago, IL 60603
(312) 580-5297

Objective

An opportunity to help make Governor Clinton's administration a success by contributing to policy development through objective, fact-based analysis in one of three areas: the Office of Policy Development, the Federal Railroad Administration, or any commission, panel, or task force on race relations.

Primary Qualifications

¶ business and microeconomic problem solving skills
¶ project management skills
¶ thorough knowledge of railroad policy issues
¶ deep and demonstrated commitment to racial harmony

Work Experience

1986 - present — management consultant, **McKinsey & Company**

Primary role is to work directly with senior management teams to structure issues and analysis in order to develop objective, fact-based points of view on strategic, organizational, and operational decisions facing Fortune 100 companies.

Currently a senior engagement manager, leading multiple project teams in different industries simultaneously.

Consistently rated outstanding, in the top 10% of peers, with greatest strengths in problem solving and project management.

Extensive expertise in railroad microeconomics and issues developed by analyzing all elements of operations and by engaging most North American railroad CEOs in discussions about the industry's future.

Education

Stanford University	**M.B.A.**, emphasis on Public Management, 1986 M.A., International Economics, 1986
Yale University	B.A., Economics with distinction, 1984 Phi Beta Kappa, summa cum laude
	G.P.A. - 4.00 **Senior Class President** (Executive Secretary) Yale College Council, four terms Board of Governors, Assoc. of Yale Alumni

Personal

In 1985, founded Friends of Rosey with **Governor Clinton** in honor of Roosevelt L. Thompson. The premise of this organization is that the best way to break down racial barriers is for society to have outstanding leaders who happen to be black. We seek to identify promising young black leaders from Arkansas and help them at every step as they advance toward careers in public service.

References

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> "There are two fundamental reasons for the great success Larry has had. First, he possesses keenly analytical and insightful intelligence of a high order. Second, he is probably the most highly motivated and most diligent person I have ever known well. Once he sets himself a goal, he pursues it relentlessly; and if it is realistically within his powers to succeed, he will inevitably do so."

John,

Here's the status on the subpoenas to the White House in Initial Amalgamation, Ltd. v. DeCastro, West (Calif. Super. Ct.). The case is a malpractice suit in which Larry Lawrence, Ambassador to Switzerland, is suing the DeCastro law firm for malpractice. A couple of years ago, DeCastro represented Lawrence in an arbitration that had been filed against him by a former business partner. Lawrence settled the arbitration and now claims in this lawsuit that he had to settle the arbitration due to DeCastro's malpractice. DeCasto's attorneys contend that Lawrence settled in order to clean up his affairs so that his appointment to the ambassadorship (and his wife's appointment to the World Conservation Union) would go smoothly.

The subpoenas seek documents relating to any proposed or current appointments for Mr. or Mrs. Lawrence. DeCastro's attorneys are looking specifically for information on when the Lawrences were considered for appointments (DeCastro speculates it happened around the time the arbitration was settled), any representations made by Lawrence about the status of his financial and legal affairs, and any documents that indicate Lawrence would need to clean up financial or legal affairs in order for he or his wife to be considered for or appointed to a government position. The White House Presidential Personnel Office says they have a large volume of documents pertaining to Lawrence. I do not have further details (such as how many of those documents might be responsive) right now. I have a call in to Cheryl Mills to find out more.

DeCastro's attorneys have requested similar information from the State Department, although no subpoenas have been issued. State has gathered some documents, but hasn't yet decided how they will respond to the request.

The initial subpoenas issued to the White House were invalid for lack of jurisdiction since they issued out of the California state court. DeCastro's attorneys are going to have the subpoenas re-issued early next week out of the DC Superior Court. We will then have 14 days to object or file a motion to quash.

--Terry

cc: Dave A., Elizabeth P.

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June?

November 19, 1992
339 Webster Ave, Unit 2
Chicago, IL 60614

Mr. Richard Riley
Presidential Transition Team
1120 Vermont, NW
Washington, D.C. 20270

Dear Mr. Riley,

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ABILITY TO CONTRIBUTE

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TARGET ROLES

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¶ Any role that allowed me to serve the general intent of Friends of Rosey; that is, promoting the development of young black leaders or breaking down racial barriers. My study of the government's structure suggests the best opportunity to have an impact here would be as director of a panel, commission, or task force.

¶ Any role in the Office of Policy Development, focusing on domestic economic policy, industrial policy, or racial harmony. My skills are in the microeconomics analysis of industry and company behavior. They are not in analyzing the macroeconomics of the nation's economy.

¶ As Associate Administrator for Policy in the Federal Railroad Administration. The peculiar twist of my professional path has left me with a comprehensive knowledge of railroad microeconomics and an extensive understanding of issues facing senior management teams at railroads. Over the last few years, I have engaged the CEOs of six of the seven major railroads in one-on-one discussions about the future of their industry. I believe the industry would welcome my selection, and I could pursue endorsements if that would be useful.

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With best wishes,

Larry M. Lawrence
(312) 580-5297

LARRY M. LAWRENCE

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McKinsey & Company
20 South Clark
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(312) 580-5297

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1986 - present — management consultant, McKinsey & Company

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Consistently rated outstanding, in the top 10% of peers, with greatest strengths in problem solving and project management.

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Education

Stanford University	M.B.A., emphasis on Public Management, 1986 M.A., International Economics, 1986
Yale University	B.A., Economics with distinction, 1984 Phi Beta Kappa, summa cum laude G.P.A. - 4.00 Senior Class President (Executive Secretary) Yale College Council, four terms Board of Governors, Assoc. of Yale Alumni

Personal

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Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. report	re: Whitewater documents (3 pages)	nd	P5 984✓

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8293

FOLDER TITLE:

Whitewater Document Request I

Rhonda Young
2009-1006-F
ry934

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

- All responsive documents, dated between March 5, 1994 and August 5, 1994, relating to: (i) the handling of confidential RTC information relating to Madison or Whitewater; (ii) the handling of criminal referrals by the Department of Justice relating to Madison or Whitewater; and (iii) any RTC investigation relating to Madison or Whitewater.

  -- *This request was only finalized in Giuffra's October 17 letter.*

    -- *The White House asked for a March 4 cut-off date for all requests, except for documents related to OGE/transcript issue.*

    -- *On October 17, Giuffra rejected the White House request for a March 4 cut-off date for this material, establishing and August 5 cut-off. (In the same letter, Giuffra identified other subjects for which he would accept a March 4 cut-off.)*

  -- *The White House proposed March 4 because none of the conduct under investigation (except for OGE/transcript issues) occurred after March 4 -- the date Fiske subpoenaed the White House.*

    -- *What did occur during after March 4 was this Committee's White House/Treasury contacts hearings, the Fiske investigation, and Cutler's internal review.*

    -- *The 10/23 White House response to Giuffra said the White House wanted to discuss with the Committee "whether the request can be narrowed in a manner that provides the Committee an opportunity to review the material necessary for its inquiry without compromising Executive functions."*

- All responsive documents, dated after March 4, 1994, relating to Whitewater, Madison, Capital Management, Lasater, ADFA, and the Perry County Bank, prepared by, sent to or found in the files of President Clinton, the First Lady, Lloyd Cutler, Bruce Lindsey, and Margaret Williams.

  -- *This request was only finalized in Giuffra's October 17 letter where he rejected the White House request for a March 4 cut-off date for these documents.*

-- *The 10/23 White House response to Giuffra noted that "any material created after August 5, 1994 would necessarily be a restrospective on the conduct that is the subject of the Committee's inquiry" and flagged this as another issue that required further discussion.*

- All responsive documents relating to communications, contacts or meeting, between July 5, 1994 and August 5, 1994, involving any member of the Office of White House Counsel and (i) any person who testified at the Senate Banking Committee's August 1994 hearings into White House-Treasury contacts concerning the RTC's resolution of Madison, or (ii) the legal counsel for any such person.

  -- *This request was first stated in Giuffra's October 17 letter.*

    -- *It was a subject of a meeting between White House counsel and Committee counsel on October 23 -- just yesterday -- which resulted in a significant clarification.*

  -- *The White House aims to provide responsive material by October 30.*

- All responsive documents relating to the testimony of Counsel to the President Lloyd Cutler on July 26, 1994 before the House Banking Committee and on August 5, 1994 before the Senate Banking Committee relating to White House-Treasury contacts. Such documents, including but not limited to, any document based in whole or in part on depositions conducted by the Treasury IG, are directly relevant to the Special Committee's inquiry, because evidence before the Special Committee indicates that Mr. Cutler's stated basis for obtaining such transcripts was to prepare for his congressional testimony.

  -- *This request was first stated in Giuffra's October 17 letter.*

    -- *It was a subject of a meeting between White House counsel and Committee counsel on October 23 -- just yesterday -- which resulted in a significant clarification.*

  -- *The White House aims to provide responsive material by October 30.*

- All responsive documents relating to the handling of SBA's criminal referrals concerning Capital Management and David Hale.

- No White House electronic mail messages have been produced.
- No documents have been produced relating to any sworn statements or testimony provided by President Clinton or Mrs. Clinton concerning Whitewater, Madison, Capital Management, Lasater, ADFA, or the Perry County Bank.
- No privilege log has been provided for documents the White House is withholding on grounds of executive or other privilege relating to Whitewater, Madison, Capital Management, Lasater, ADFA, or the Perry County Bank.

President and Mrs. Clinton

- All responsive documents relating to Whitewater, Madison, Capital Management, Lasater, ADFA, and the Perry County Bank.
- No documents have been produced relating to communications, between January 20, 1993 and August 5, 1994, relating to Whitewater, Madison, Capital Management or ADFA, between Williams & Connolly and the White House Counsel's Office, James Blair, Erskine Bowles, Lisa Caputo, Paula Casey, Mark Gearan, Webster Hubbell, Harold Ickes, Bruce Lindsey, John Podesta, George Stephanopoulos, Ricki Seidman, Susan Thomases, Margaret Williams, or Betsey Wright.
- No privilege log has been provided.

Charles James (former President of Whitewater and Whitewater accountant)

- No documents produced.

Bruce Lindsey (Deputy Counsel to the President)

- No documents produced.

Yoly Redden (Whitewater accountant)

- No documents produced.

Betsey Wright/Pre-1990 Clinton Gubernatorial Campaigns

- No documents produced.

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. report	re: Whitewater documents (5 pages)	nd	P5 985
002. report	re: document requests (5 pages)	nd	P5 986

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8293

FOLDER TITLE:

Whitewater Document Request I [2]

Rhonda Young
2009-1006-F
ry935

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.

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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The White House

- **All responsive documents, dated between March 5, 1994 and August 5, 1994, relating to: (i) the handling of confidential RTC information relating to Madison or Whitewater; (ii) the handling of criminal referrals by the Department of Justice relating to Madison or Whitewater; and (iii) any RTC investigation relating to Madison or Whitewater.**

  -- *This request was only finalized in Giuffra's October 17 letter.*

    -- *The White House asked for a March 4 cut-off date for all requests, except for documents related to OGE/transcript issue.*

    -- *On October 17, Giuffra rejected the White House request for a March 4 cut-off date for this material, establishing an August 5 cut-off. (In the same letter, Giuffra identified other subjects for which he would accept a March 4 cut-off.)*

  -- *The White House proposed March 4 because none of the conduct under investigation (except for OGE/transcript issue) occurred after March 4 -- the date Fiske subpoenaed the White House.*

    -- *What did occur during after March 4 was this Committee's White House/Treasury contacts hearings, the Fiske investigation, and Cutler's internal review.*

    -- *The 10/23 White House response to Giuffra said the White House wanted to discuss with the Committee "whether the request can be narrowed in a manner that provides the Committee an opportunity to review the material necessary for its inquiry without compromising Executive functions."*

- **All responsive documents, dated after March 4, 1994, relating to Whitewater, Madison, Capital Management, Lasater, ADFA, and the Perry County Bank, prepared by, sent to or found in the files of President Clinton, the First Lady, Lloyd Cutler, Bruce Lindsey, and Margaret Williams.**

  -- *This request was only finalized in Giuffra's October 17 letter where he rejected the White House request for a March 4 cut-off date for these documents.*

-- *The 10/23 White House response to Giuffra noted that "any material created after August 5, 1994 would necessarily be a restrospective on the conduct that is the subject of the Committee's inquiry" and flagged this as another issue that required further discussion.*

-- *This request singles out five people to request documents of, up through the present, even though the Committee is satisfied with a March 4 cut-off date for the rest of the White House.*

- **All responsive documents relating to communications, contacts or meeting, between July 5, 1994 and August 5, 1994, involving any member of the Office of White House Counsel and (i) any person who testified at the Senate Banking Committee's August 1994 hearings into White House-Treasury contacts concerning the RTC's resolution of Madison, or (ii) the legal counsel for any such person.**

-- *This request was first stated in Giuffra's October 17 letter.*

-- *It was a subject of a meeting between White House counsel and Committee counsel on October 23 -- just yesterday -- which resulted in clarification.*

-- *The White House aims to provide responsive material by October 30.*

- **All responsive documents relating to the testimony of Counsel to the President Lloyd Cutler on July 26, 1994 before the House Banking Committee and on August 5, 1994 before the Senate Banking Committee relating to White House-Treasury contacts. Such documents, including but not limited to, any document based in whole or in part on depositions conducted by the Treasury IG, are directly relevant to the Special Committee's inquiry, because evidence before the Special Committee indicates that Mr. Cutler's stated basis for obtaining such transcripts was to prepare for his congressional testimony.**

-- *This request was first stated in Giuffra's October 17 letter.*

-- *The White House aims to provide responsive material by October 30.*

- **All responsive documents relating to the handling of SBA's criminal referrals concerning Capital Management and David Hale.**

-- *All documents related to the Chairman's original request made in August have been provided.*

-- *Giuffra's October 17 letter expanded the original request.*

-- *The White House aims to provide responsive material by October 30, with one exception, that requires further discussion: documents related to any communication, contact or meeting, between April 1, 1993 and May 31, 1993, and between August 1, 1993 and September 30, 1993, involving Erskine S. Bowles and President Clinton, Mrs. Clinton, Bruce Lindsey, Thomas (Mack) McLarty, Bernard Nussbaum, Margaret Williams,* ***relating to any subject.***

-- *In a 10/23 White House letter to Giuffra transmitting documents, the White House indicated that it needed to discuss this request with the Committee.*

- **No White House electronic mail messages have been produced.**

-- *On September 5, the White House informed Giuffra that the Chairman's blanket request for all responsive e-mail over a two and one-half year period, was unworkable, given the limitations of the White House ability to retrieve e-mail during that period.*

-- *Giuffra agreed to provide the White House with a more specific request.*

-- *The request for e-mail was first stated with specificity in Giuffra's October 17 letter.*

-- *In a letter dated October 24, the White House informed Giuffra that the request as formulated would cost approximately $125,000 and take over 12 weeks to complete.*

-- *The letter sought guidance on how to proceed.*

- **No documents have been produced relating to any sworn statements or testimony provided by President Clinton or Mrs. Clinton concerning Whitewater, Madison, Capital Management, Lasater, ADFA, or the Perry County Bank.**

-- *This request was first stated in Giuffra's October 17 letter.*

-- *The request is directed at notes taken by White House lawyers during the Independent Counsel grand jury depositions of the President and First Lady.*

-- *These documents have not been produced.*

-- *The request is one that the White House expects to discuss further with the Committee.*

- **No privilege log has been provided for documents the White House is withholding on grounds of executive or other privilege relating to Whitewater, Madison, Capital Management, Lasater, ADFA, or the Perry County Bank.**

  -- *This request was only finalized in Giuffra's October 17 letter.*

    -- *The White House asked for a March 4 cut-off date on September 21. Only on October 17 did Giuffra agree to this date.*

  -- *In the White House 10/23 response, it agreed to produce responsive documents and a privilege log by 10/30.*

  -- *Substantially all of the "primary source material" related to these issues was part of the 8500 pages of material already produced by the White House.*

President and Mrs. Clinton

- **All responsive documents relating to Whitewater, Madison, Capital Management, Lasater, ADFA, and the Perry County Bank.**

  -- *Williams & Connolly has produced 26,000 pages of responsive documents. This is substantially all of the responsive material.*

- **No documents have been produced relating to communications, between January 20, 1993 and August 5, 1994, relating to Whitewater, Madison, Capital Management or ADFA, between Williams & Connolly and the White House Counsel's Office, James Blair, Erskine Bowles, Lisa Caputo, Paula Casey, Mark Gearan, Webster Hubbell, Harold Ickes, Bruce Lindsey, John Podesta, George Stephanopoulos, Ricki Seidman, Susan Thomases, Margaret Williams, or Betsey Wright.**

  -- *No attorney work product or privileged communications created since Williams & Connolly undertook its representation have been produced.*

- **No privilege log has been provided.**

  -- *The President and Mrs. Clinton have claimed no privileges with respect to the subjects under inquiry.*

-- *Attorney work product or privileged communications created since Williams & Connolly undertook its representation is not appropriately identified on a privilege log.*

Charles James (former President of Whitewater and Whitewater accountant)

- No documents produced.

Bruce Lindsey (Deputy Counsel to the President)

- No documents produced.

  -- *Approximately 1000 pages of responsive material was provided to the Committee on 10/24.*

Yoly Redden (Whitewater accountant)

- No documents produced.

  -- *All responsive documents were included in the Williams & Connolly production.*

Betsey Wright/Pre-1990 Clinton Gubernatorial Campaigns

- No documents produced.

Possible White House-wide Document Requests to Consider

1. Re: RTC Criminal Referral

   Senate Requests (a)-(d)

   House Request 12

   Not likely to yield any source documents.

   Any source documents would have been obtained when these documents were previously collected: in March 1994, in response to Fiske subpoena, and in summer 1994, in response to Congressional requests.

   Likely to yield mostly press clipping.

   Likely to yield non-source, strategy-type documents created in connection with 1994 House and Senate hearings on White House-Treasury contacts and 1995 House hearing on RTC criminal referrals.

2. Re: OGE/IG Investigation

   Senate Request (e)

   House Request 7

   Not likely to yield any source documents.

   Could only really yield press clips or public OGE report.

   Any responsive documents are in Counsel's Office control (Jane, Sheila, Sharon, Lloyd, Joel)

3. Re: Operations, solvency and regulation of Madison

   Senate Request (f)

   Never requested before.

   Could yield information.

4. Re: Activities, investments and tax liability of Whitewater and, as related to Whitewater, its shareholders

   Senate Request (g)

   Never requested before.

   Could yield information.

5. Re: Rose Law Firm's representation of (a) Madison and (b) RTC regarding Madison

Senate Request (h)

Never requested before.

Could yield information.

6. Re: Handling by RTC, OTS, FDIC, and FSLIC of civil or administrative actions against parties regarding Madison.

Senate Request (i)

Confusing request.

Never requested before.

Could yield information.

7. Re: Sources of funding and lending practices of CMS and its supervision and regulation by SBA, including alleged diversion of funds to Whitewater.

Senate Request (j)

Never requested before.

Could yield information.

8. Re: Bond underwriting contacts between ADFA and Lasater & Company.

Senate Request (k)

Never requested before.

Could yield information.

9. Re: Lending activities of Perry County Bank re: 1990 election.

Senate Request (l)

Never requested before.

Could yield information.

10. Re: POTUS's 10/6/93 meeting with Gov. Tucker and any White House meeting with Gov. Tucker on 11/18/93

House Requests 1 and 2

Unlikely to yield information.

11. Re: Telephone calls between Randy Coleman and William Kennedy III in August and September 1993

House Request 4

Unlikely to yield information.

12. Re: Cutler's internal review of WH - RTC contacts

House Request 11

Should we gather documents from others even though entire category basically calls for privileged information?

Proposed Language for White House Request

The White House has received additional requests for records from the Senate and the House. Please provide the following White House records that reflect, refer or relate to the following subjects:

(a) "the operations, solvency, and regulation of Madison Guaranty Savings and Loan Association, and any subsidiary, affiliate, or other entity owned or controlled by Madison Guaranty;"

(b) "the activities, investments, and tax liability of Whitewater and, as related to Whitewater, of its officers, directors, and shareholders;"

(c) "the policies and practices of the RTC and the Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) regarding the legal representation of such agencies with respect of Madison Guaranty", including the Rose Law Firm's representation of Madison Guaranty and the RTC regarding Madison Guaranty;

(d) "the handling by the RTC, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation of civil or administrative actions against parties regarding Madison Guaranty;"

(e) "the sources of funding and lending practices of Capital Management Services and its supervision and regulation by the Small Business Administration, including any alleged diversion of funds to Whitewater;"

(f) "the bond underwriting contacts between ADFA and Lasater & Company;"

(g) "the lending activities of Perry County Bank, Perryville, Arkansas, in connection with the 1990 Arkansas gubernatorial election;"

(h) "the President's October 6, 1993 meeting with Governor Jim Guy Tucker, including but not limited to any meetings that Governor Tucker had with White House staff," and any meeting the President or White House staff had with Governor Tucker on November 18, 1993 in Seattle;" and

(i) "any telephone calls between Randy Coleman and William Kennedy III in August and September of 1993."

Other

Should we get agreement (do we want it) that we need not ask for/produce press clippings, public correspondence/documents, etc.?

Should we inform persons they need not produce what they have already produced in previous requests?

Need to do request of Office of Records Management for Nussbaum and secretaries and assistants for House Banking Request ("All documents relating to, referencing or reflecting facsimile messages transmitted from Roger Altman to Bernard Nussbaum in March and September of 1993 concerning any of the persons, subject or events set out in Attachment A hereto.")

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	Personal belongings log (13 pages)	~~01/18/1996~~	~~P6/b(6)~~
002. report	Re: Recommended Guidelines (4 pages)	nd	P5 987

COLLECTION:
Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8293

FOLDER TITLE:
Whitewater Document Request I [3]

Rhonda Young
2009-1006-F
ry936

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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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
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PRIVILEGED AND ~~CONFIDENTIAL~~
For Discussion Purposes
Sherburne/September 12, 1995

RECOMMENDED GUIDELINES FOR RESPONDING TO CONGRESSIONAL REQUESTS FOR DOCUMENTS SUBJECT TO CLAIMS OF PRIVILEGE

Background

The White House has three pending requests from congressional committees requesting that we provide documents subject to claims of executive privilege.

o **House Government Reform Committee** has requested all documents related to the White House management review of the Travel Office matter. Responsive material includes:

- pre-review deliberative material (notes, memoranda) related to how to conduct the review (the issues that require examination, what questions to ask, who to talk to, predictions about consequences of various possible scenarios, etc.);

- notes of interviews conducted by the review team;

- deliberative material analyzing the information gathered in the course of the review, identifying unresolved or open issues, considering recommendations and options, etc.

o **House Banking Committee** has made two requests for documents:

- the first asked the White House for documents in several limited areas; one request explicitly asks for all material in the White House related to Lloyd Cutler's investigation of White House/Treasury contacts;

- more recently (9/11), the Committee has requested every document in the White House related in any way to a wide variety of issues:

▪ Whitewater, Madison, ADFA, Paula Casey, Rose Law Firm, etc.;

PRIVILEGED AND ~~CONFIDENTIAL~~
For Discussion Purposes
Sherburne/September 12, 1995

- **documents related to preparing for or responding to congressional hearings or other investigations involving any of these matters.**

o **Senate Special Committee** has requested every White House document related in any way to any matter within the jurisdiction of the Committee. This request is essentially the same as the recent House Banking request.

Recommended Guidelines

Core Conduct -- Consistent with our established policy of full cooperation when an investigation concerns the conduct of White House officials, the White House would not claim privilege with respect to documents that relate directly to -- in essence, reflect -- the core conduct under legitimate review.

o For example, the White House has not asserted privilege with respect to:

- attorney notes of a Counsel Office meeting regarding the discovery of a note in Vincent Foster's office, created shortly after the note was found;

- Bill Kennedy's notes taken at meetings that occurred in April 1993 about the Travel Office;

- contemporaneous internal memoranda relating to White House contacts with Treasury Department officials regarding the criminal referrals.

o Neither would the White House assert privilege with respect to a legitimate (non-frivolous) review of specific conduct relating to, for example:

- the internal management review;

- the Cutler inquiry.

PRIVILEGED AND ~~CONFIDENTIAL~~
For Discussion Purposes
Sherburne/September 12, 1995

Deliberative Material Created Outside Investigative Context -- The White House would adopt a relatively low threshold for accommodating congressional requests for internal deliberative documents that were not generated in connection with an internal, congressional, civil, or criminal investigation. This approach could lead to date cut-offs (e.g. distinguishing between pre- and post-Fiske), although we would raise the threshold regardless of cut-off for documents reflecting mostly analysis or deliberations as compared to documents reflecting intermingled facts and analysis. Thus,

- we would be likely to disclose Q's and A's and chronologies regarding the Whitewater matter that were prepared by White House staff (i.e., Kevin O'Keefe, Neil Eggleston) before the appointment of Fiske;

- we would be less likely (require a more specific showing of need) to disclose documents that reflect internal discussions debating the appointment of a special prosecutor.

Deliberative Material Created in Investigative Context -- Without a highly particularized and compelling showing of need, we would not disclose internal documents generated in connection with an internal, congressional, civil, or criminal investigation.

- We would disclose pure facts (i.e., interview notes) more readily than deliberative and analytical material:

  - we would disclose interview notes to the Government Reform Committee, accepting as sufficient the Committee's argument that they need the interview notes from the Travel Office Management Review because the interviews were close in time to the events under investigation and will assist the Committee in refreshing recollections as they proceed with their own interviews;

  - we would be unlikely to disclose wholesale interview notes from Lloyd Cutler's internal review of the White House-Treasury contacts matter because the Senate and the House received sworn testimony from the same witnesses on the same subjects at virtually the same time;

- however, we could consider particularized requests for access to portions of the notes if a specific need can be demonstrated -- for example, where there is a basis for believing that a witness may have made contradictory statements.

o We would disclose deliberations and analysis only if the relevant Committee has made a highly particularized and compelling showing of need. The following types of material would require such a showing before disclosure:

- deliberative material generated in the course of the Travel Office management review -- i.e., Todd Stern's notes, drafts of the report, or Beth Nolan's analysis of the SGE issue;

- interviews of Counsel's Office attorneys regarding their development of White House contacts policies;

- Counsel Office work product generated in connection with investigations of the Travel Office by the GAO, OPR, and Public Integrity,

  - except to the extent the work product may relate to a legitimate investigation of conduct -- White House cooperation with these other inquiries;

- chronologies, talking points, and other materials pertaining to Whitewater-related matters prepared subsequent to the appointment of Fiske, except under special circumstances,

  - except to the extent the work product may relate to a legitimate investigation of conduct -- White House receipt and use of IG transcripts.

Presidential Communications -- documents reflecting communications to or from the President would be disclosed only in accordance with prior precedents.

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. briefing paper	re: questions (4 pages)	nd	P5 988

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8293

FOLDER TITLE:

Whitewater Document Request I [4]

Rhonda Young
2009-1006-F
ry937

RESTRICTION CODES

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

P1 National Security Classified Information [(a)(1) of the PRA]
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988

POSSIBLE FIRST LADY QUESTIONS AT PRESIDENTIAL PRESS CONFERENCE

RTC:
Q: When did the First Lady learn about a criminal referral?
Q: When did the First Lady learn about the contacts and meetings between White House and Treasury officials?
Q: Was the First Lady ever briefed by any White House staff members on these briefings?
Q: Does she think these meetings should not have occurred?
Q: Was the First Lady ever informed that there were conversations between White House officials and Mr. Altman about recusal?
Q: Did the First Lady ever talk to Mr. Altman about recusal?
Q: Did the First Lady ever tell anyone on her staff or your staff to communicate her views on the subjects of criminal referrals or recusal to Altman?

A: As I have said before, I heard about a criminal referral sometime ago from someone on my staff. I viewed it as something that was done and didn't think anything else of it. Hillary read about it and the meetings between White House and Treasury staff in the newspapers. We didn't take any action and we didn't think anything of it. **[This answer must be run by Cutler and Klein for sign off]**

ROSE LAW FIRM:
[NOTE: When asked questions about individuals (ie. Hubbell, Foster, Kennedy, the First Lady) at the Rose Law Firm, you should answer specific to each person. You should not fall into the trap of grouping everything under the Rose Law Firm. For example, you should say something along the lines of "Law firms are like any other business and are comprised of individuals. You have asked me about specific individuals, I have answered those questions."]

Q: Various news accounts have stated that the First Lady sent documents back to the Rose Law Firm to be shredded in 1992. Is this true?

A: No. Hillary never sent anything back to the Rose Law Firm to be shredded in 1992.

Q: Has the First Lady shredded or destroyed any Whitewater or Madison Guaranty documents since the NYT 1992 Whitewater story broke?

A: No. Absolutely not.

Q: Are Mrs. Clinton's billing practices at the Rose Law Firm under investigation by the firm?

A: No.

Q: Has the First Lady had contacts with the Rose Law Firm since reports of shredding?

A: No, I don't believe she's talked to anyone at the firm.

Q: Did Mrs. Clinton know about an investigation into Webb Hubbell's billing practices at the time he was named Associate Attorney General?

A: No.

Q: What was Mrs. Clinton's involvement in the POM case?

A: To the best of my knowledge, Hillary billed less than 7 hours of work on the POM case -- a case to which the Rose Law Firm devoted thousands of hours over several years.

Q: Mrs. Clinton was one of the lawyers at the Rose Law Firm who represented Madison Guaranty in 1985 before the Arkansas state regulators. Wasn't this a conflict of interest for the Governor's wife to represent a company before state regulators appointed by her husband?

A: No. Her representation of Madison Guaranty was entirely ethical and raised no conflict of interest. As Professor Stephen Gillers of NYU Law School has observed [Business Week, 1-31-94], no legal or ethical rule bars a lawyer from appearing before a state agency when his or her spouse is governor of a state.

Hillary's work on behalf of Madison Guaranty before the state was in connection with a securities matter and was very limited. The issue concerned the purely legal question of whether a state-chartered savings and loan could raise capital by issuing preferred stock.

State Securities Commissioner Beverly Bassett has said that Hillary "never came to any meetings," and her aide, Charles Handley, recalls no instance in which Hillary dealt with the state securities department. [Wall Street Journal, 1-24-94]

Bassett resolved the legal question in Madison Guaranty's favor, but no final plan for issuing preferred stock was ever filed.

Q: Did you and your wife have any groundrules regarding what you discussed about your own work when you were governor and she was a private attorney? Did the attorney-client privilege apply in your household? Did you wife ever tell you that she was making a filing on behalf of Madison with state regulators?

A: Of course attorney-client privilege applied in our home. Hillary and I did not discuss her work or her clients. You know this really goes to the issue of working couples. I would hope that the current trend toward dual-career families isn't used to disadvantage women. Working mothers should be able to have successful careers. We should not be making rules that limit the career of one spouse because of the career of the other. What is important is what is at the core -- a person's integrity.

Q: The Rose Law Firm represented the FDIC against Frost and Company, Madison's former accountants, whose report it relied on in representing Madison before state regulators. Isn't there a conflict issue here? And did your wife work on this case?

A: My understanding is that career officials at the FDIC made the decision to retain the Rose Law Firm to pursue the case against Frost and Company. Hillary did not work on the Frost case. And it is important to note that on February 17, 1994, the FDIC completed a comprehensive review of the whether the Rose Law Firm had a conflict of interest in this representation. Career officials at the FDIC wrote a lengthy report and found that the FDIC "had no basis to conclude that the retention (of the Rose firm by the FDIC) involved a conflict of interest by the law firm." I might add that the report was issued by FDIC Chairman Hove, a Republican first appointed in the last administration. The FDIC has agreed to have its Inspector General review the report, but there is no reason to think that the Inspector General will reach a contrary conclusion.

Q: Didn't your wife have a clear conflict of interest in representing the FDIC on behalf of two failed Illinois S&Ls against Dan Lasater, in view of the fact that Lasater is a close friend of yours, a supporter, a fundraiser for you and even paid off a drug related debt for your brother. And then didn't she and Vince Foster negotiate a sweetheart out of court settlement in 1987, collecting only $200,000 on a $3.3 million claim?

A: No. The FDIC announced in February its conclusion that Hillary had no conflict of interest in this matter. The FDIC said she was not involved in settling the case and that she had almost no role in the handling of the case -- her involvement amounted to about two hours of work. The FDIC has agreed to have its Inspector General review the matter, but I am confident that the Inspector General will reach the same conclusion.

My understanding is that the settlement between the FDIC and Lasater's firm was an appropriate, arms-length deal.

Q: Did your wife ever represent or have investments or connections with the Phoenix Mortgage Company, which was owned by Dan Lasater?

A: No.

Q: Did you or your wife know of any insider trading information going on at the Rose Law Firm with Bill Kennedy?

A: No.

CONGRESSIONAL HEARINGS/GRAND JURY/PRESS CONFERENCE:

Q: Do you think the First Lady should testify in Congressional hearings?

Q: Will the First Lady testify before a grand jury?

Q: Do you think the First Lady should hold a press conference as you are doing to address questions about Whitewater and her involvement?
Q: The First Lady has been rather silent about the entire Whitewater affair. Don't you think she needs to be held accountable?
Q: What are the standards by which the First Lady is accountable? She can't be fired, so how is this accountability issue being addressed?

A: First of all, my wife is a person of great integrity. And I'm not saying that just because she's my wife, but because I know that all the people who know her and have worked with her over the years will attest to that.

Every First Lady brings to her role special skills and special talents. I believe my wife has brought her own special qualities to her role as First Lady. The role of First Lady is something which has evolved throughout history and must be looked at within context and time.

I believe my wife has been forthcoming, accountable and cooperative in the same way I have. We both made the decision to have a special counsel. We both made the decision to release documents relating to our personal and professional lives to the special counsel. We both are cooperating with the special counsel and we both are accountable to the process. And when we are asked questions by you all in the press about this issue, we answer them.

WHITEWATER:
Q: It has been reported that in 1987, Susan McDougal told Jim McDougal that she offered to get you and your wife out of the Whitewater deal, but your wife said no because this investment was going to pay for Chelsea's education. Is this true?

A: Hillary has no recollection of making any such statement to Susan McDougal in 1987. (A year earlier, McDougal did offer to get the Clintons out of the company, but that never happened because we wanted release from the loans.)

Q: Both Jim and Susan McDougal have said that they have turned over Whitewater documents to your wife and that Jim McDougal cannot fill out his tax returns because your wife will not turn over the documents. What is this all about and how is it being dealt with?

A: I think this is a matter best left to the lawyers involved.

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. letter	Letter from Leslie Berger to Jane Sherburne. (1 page)	01/23/1996	P5 989
001b. fax	Fax copy of handwritten notes. (8 pages)	01/23/1996	P5 990
002. fax	Fax copy of memoradum from James M. Lyons to Vince Foster et al. Re: Pending matters. (1 page)	01/27/1993	P5 991
003. email	From bew to kmz3 et al. Re: hello. (2 pages)	01/20/1996	P5, b(6)
004. letter	From Robert L. Jones to David E. Kendall, Esquire. (2 pages)	07/14/1994	P5 992
005. memo	Memorandum to William H. Kennedy, III from Carolyn Huber. (9 pages)	11/12/1993	P5 993
006. letter	Letter from James S. McDonald to President William J. Clinton and Hillary Clinton. (1 page)	10/14/1993	P5, b(6)

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8293

FOLDER TITLE:

Whitewater Document Request I [5]

2009-1006-F
vz133

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]

ZUCKERMAN, SPAEDER, GOLDSTEIN, TAYLOR & KOLKER

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WRITER'S DIRECT DIAL NUMBER
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January 23, 1996

BY FAX

Jane Sherburne
Office of White House Counsel
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Jane:

I am writing on Mr. McLarty's behalf in response to your memorandum dated January 20, 1996 regarding a subpoena the White House has received for documents relating to records concerning the Rose Law Firm. Enclosed are photocopies of notes Mr. McLarty took in meetings on March 13, 1994 and April 4, 1994, respectively. The notes contain various references to documents. Mr. McLarty does not recall any discussion during these meetings of documents relating to legal representation of Madison by the Rose Law Firm or anyone else. Nevertheless, we are producing them to you out of an abundance of caution. The originals of these notes are in the office of Trey Schroeder (126 OEOB) if you need them. Also enclosed is a copy of your memorandum dated October 23, 1995 in which you indicate that the White House had received a request for Rose Law Firm related documents from the Senate Whitewater Committee. Please call me if you have any questions.

Sincerely,

Leslie

Leslie M. Berger

meetings } Popus
Agenda } HRC
HI
Massie

March 13/94

I ~~What~~ Defining the meetings
What the meeting is not –
(No contact
(B Wright opinion)

II. Rapid Response / Coordination — the campaign
Inside WH — Who to coordinate
Outside WH — W/C often DNC and
Spokesperson

III Surrogate

IV. Disclosure / Available to
No major address
Themes –
Kendall – 5 themes

(1) Losses
Lease & or Loan
No ~~$~~ Bank

V. Documents disclosure

(2) Coast reg

VI. Cong. Hearings

When in relation to other meetings

Organization
RM
↓
HI – Massie
↓
Podesta

(1) Conf Call / {process / Anchored By Monday phone Press

John Podesta
Lisa Caputo
Harold Ickes
David Kendall
Neil E – Lloyd
Geo. S – ??
Bruce Gerson – ?

Stop tracking/order
Entire staff /

How we are going ~~to do that~~

(2) Weekly meetings w BC/HRC w Barnett
w above

Trailer meetings
W
Stop
Phone
& HRC

"No Strategy to deploy resources –"

HRC / Why is we don't get it done? This has been the case since November a number of times

SENT BY:Xerox Telecopier 7021 ; 1-23-96 ; 7:55PM ; →2024561213 ;# 4

2

Geography is really important per HRC dismissie

Not coordinated in physical space

ET memo / non-level / Watkins
{ Wrote into card → nothing to pay anyone with
{ Cutler # → #1 pages

"HRC get another meeting that goes nowhere"

another useless conversation —

**HRC → press contempt → "we've been so incompetent"

** Staffing requirements
or reconstruct
1. # limit → Budget submission
2. Detailee limit per Harold I
I / assign
3. Agency rep.
4. Legal issues

Rudi idea — Full time — press — Research

Bruce weakness → Doesn't tell you what he doesn't know →

He has to stay here or communicate from the road

{ Debriefing / Bruce L.
{ Phil to do

Walter Pincus / movie guest

XXX Harold's role / Too wide / We've got to dump political / Hcare

Need to discuss w Harold

3

Surrogates
Broader group
Mandy
Begala
Powell
McPherson
Jordan
Strauss
Business people
Gore

Cos
Foley
Rockefeller
Wexner
Trautwein
Payne
Frank
Boren
Moderate Dems in the House
Breaux

Potus one on one
reassurance meetings

Schedule

94% more one on one staff meetings that any other Potus" per Gergen

HRC "They need you to do their work"
Yet he suggested and suggests even more meetings if you include him → Foreign policy meetings Examples

"Sch / Bureaucracy of Sch. Opr." gripe By Potus

① Bennett
Not helping
Hurts

Briefing → Shortfall Shortcomings

Geo. was not there
Mark G → Briefings

HRC
endless
is
opens
endlessly

② Maggie
request was
denied

Briefing is a B.S issue

③ ~~Harold~~ indecision
hurts us

Who is assigned to do Briefings
Bruce / Geo — Geo needs to get Dept

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4

It's clear HRC Blaming me for all of
this happening + She believes it my
fault instead of hers -

- Jim / response
- Gergen ✓
- Bruce

reconstruct history
in writings

HRC "Prep time NOW get the time on the schedule"

Prep format per Barnett / Massie
+ s[illegible] group

Massie to do

Wed After Rabin

Less talk about this the Better per Harold

Cong. Hearings

- mute the note
- Fiske has said Cong. hearings will impair the process

HRC Strategy for Hearings per HRC

HI / Podesta

John Reardon idea per Massie

Outside operation per HI / Potus concern

3/13/94

Issues

1. Response:

   - tracking and monitoring questions and issues
   - conference call every morning to determine if any response is appropriate and, if so, who should respond, the forum and form

2. Spokespersons:

   - White House
     - Lisa Caputo
     - George Stephanopoulos
     - [illegible]
     - others
   - outside White House

3. Coordination/staffing in White House:

   - legal parameters
   - role of Counsel's office
   - staff functions
     - manager
     - press
     - legal
     - Congressional
     - research/indexing press and other materials

4. Role of Williams & Connolly:

   - legal advice and defense
   - tracking and monitoring questions and issues
   - briefing surrogates

3/13/94

Issues

- selective response to press

5. DNC:

   - research
   - response
   - coordinating with Congressional and other surrogates

6. Little Rock: [illegible]

7. Additional resources in Washington, D.C. outside of White House

8. Financing non White House activities

Whitewater / Ap. 4/94

Gergen

Vince matter

Contracts w RTC

Investments in WW
NOT covered in campaign

↓ the suspicion level

Documents
1 - Clinton
2 - McDougal
3 - Campaign

Madison
less vs. politics

Cutler -
release of embarrassment for Klein

2 strategies
① Podesta step by step
② Gergen/HI get it all out there

2

DPC
welfare - Clean -

Indians →

Crime issue
School to work

Whitewater / Patterson
McDougal documents - N.Y. Observer

Culture
RTC - 8000 documents ** paper [illegible]

V-Pres
political [illegible] - } [illegible] Beat away from [illegible]
NH [illegible]

} 3+5 [illegible] - T-7
USA -
Br13
pax

Congressional pax

MEMORANDUM

~~CONFIDENTIAL~~
ATTORNEY-CLIENT
COMMUNICATION

To: Vince Foster
Webb Hubbell
Bruce Lindsey
Bernie Nussbaum
Jack Quinn
John Tisdale

From: James M. Lyons

Re: Pending matters

Date: January 26, 1992

My notes and recollection indicate several items which we have previously discussed that are still pending. In no particular order, these are:

1. Establishment of a Clinton document depository. This entails the formation of an Arkansas not-for-profit corporation to serve as the document depository for Clinton records. It is my understanding that we agreed this foundation would be separate and apart from the "Arkansas Partnership" and would be funded by private contributions which would in turn pay for office space and staff. I believe John Tisdale is ready to implement what needs to be done to accomplish this, and I am prepared to work with him if so requested. (A more detailed description of this project is set forth in my memorandum of December 21, 1992.)

2. Arkansas presidential retreat. (Vince was handling this and may or may not want or need help at this time.)

3. Retrieval of records and work product of attorney investigator Jack Palladino. (I am advised that all records formerly in the possession of Betsey Wright have been retrieved and are in safekeeping in Little Rock.) I can attend to this if so directed.

4. Wind down and closing of the Offices of Transition Counsel in Little Rock and Washington, D.C. I understand that this task has been assigned to Tim Fry (telephone (501) 399-7036) and that it is underway. I understand that he will transmit legal files and materials to the Office of White House Counsel.

I assume that matters associated with executive orders and federal judicial vacancies are now within the Office of White House Counsel. To the extent any previous memoranda or work that was done by transition counsel would now be helpful, please advise and these materials can be promptly forwarded to the appropriate person(s).

I would request Vince Foster to advise Jack Quinn or me what further work, if any, he wishes to be done at this time by transition counsel.

JML:dm

HARITON, MANCUSO & JONES, P.C.
Certified Public Accountants

Of Counsel:
Morris B. Hariton
Richard A. Bacas
Benedict C. Cosimano

July 14, 1994

Mr. David E. Kendall, Esq.
Williams & Connolly
725 Twelfth Street, N.W.
Washington, DC 20005

~~CONFIDENTIAL~~

Dear David:

As per our telephone conversation, I am enclosing a copy of the notice of audit that I received today regarding the 1993 federal income tax return that we prepared for the President and Mrs. Clinton. The audit is scheduled to take place in our office at 8:30 am on Tuesday, August 16. The auditor will be Mr. Douglas O'Donnell who, you may recall, is the same person that was assigned to last year's return.

I am not troubled by any of his requests for information. The first page is strictly "boiler-plate." The second page (Form 4564 Information Document Request) has the specific requests for this examination.

1) The first item on page two should be easily assembled by Carolyn Huber from the clients' monthly bank statements.

2) I have in my possession the complete documentation for the second item (moving expenses) including the form 1099 from the Transition Planning Foundation and a copy of the bill that was rendered by United Van Lines.

3) Cancelled checks for the charitable contributions are all in the possession of Carolyn Huber. I think she will have no difficulty at all assembling them for me.

4) All of the capital gains were from the "Grantor Letter" that was issued by Boston Harbor as Trustee of the blind trust. I have the original in my file and he should not need anything else.

5) Finally, the pension distribution to which he refers comes directly from the forms 1099 that were issued by the payors. As indicated on the return, all of the amounts were rolled-over into IRA accounts managed by Boston Harbor and the Forms 1099 confirm this. Therefore, none of the distributions were taxable. Again, I have all of the documentation that should be necessary.

If you have no objection, I will call Carolyn and ask her to assemble the information for items 1 and 3 above. All of the other documentation is already in my files. My hope is that this will be a "short and sweet" process.

Sincerely,

Bob

Robert L. Jones

RLJ/me
Enclosures

bcc: William Kennedy III
Stephen Neuwirth

November 12, 1993

MEMORANDUM TO WILLIAM H. KENNEDY, III

FROM: Carolyn Huber

Here's the information you requested for the 1993 Taxes:

1. See attached sheet for salary and withholding information year to date.

2. Salary is paid on a 12-month basis.

3. No taxes have been paid since April 15, 1993.

4. Income:

Worthen Bank Interest (checking account)		$ 3,492.27
Worthen/Union CD Interest		681.97
Twin City Bank Interest		831.36
Chemical Bank of New York Interest (bond)		365.00
First Fidelity Bank/Philadelphia		10,000.00
Entertainment Partners Talent		2,472.50
New York Times Syndication		237.50

5.	Charitable Contributions		$1,600.00
6.	Rose Law Firm	fees	1,500.00
		expenses	683.61
	Yoly Redden		3,000.00
7.	First Commerical Mortgage		5,000.00 (approx.)

THE WHITE HOUSE

WASHINGTON

Arkansas tax refund. Total of $2046.

Which assets gave rise to the short term and long term capital gains listed on the return under Boston Harbor Trust Co?

We don't know. It is a blind trust.

The White House has stated that the Clintons lost money in Value Partners in the first half of 1993. Why does their return fail to show any losses for this investment?

The K-1 for the entire year showed the capital gain in the blind trust. We do not know the amount of gains or losses for any particular assets in the trust, including Value Partners.

Please explain the $142,528 pension and annuity amount included on line 17a. Does this include all pension and annuity interests placed in the blind trust?

The amount in 17a represents the amount rolled over from the Rose Law Firm retirement plans into an IRA that is now in the blind trust -- $136,161, as well as two KEOUGH accounts of Mrs. Clinton, totalling $6,367.

Other pension and annuity interests were placed in the blind trust, including certain IRA and SEPIRA accounts. The custody of those accounts was transferred to the trustee, but there was no distribution of the assets in those accounts, and thus no requirement to report the transfer.

What is royalty income paid by the New York Times?

Residuals from an oped article written sometime in the past.

What is the investment interest expense reported on the return?
Reported by the blind trust. We do not know the particular liability that gave rise to that.

Which is the property held for investment reported on Form 4952?

All of the interest and dividend income, plus the $3 royalty in line 18.

Explain the information in Part II of Form 4952, covering net investment income.
This form is required to demonstrate that the interest payments deducted do not exceed net investment income.

THE WHITE HOUSE
WASHINGTON

Can you break down the wages and salaries reported on the 1993 return?
President: 189,167; EP Talent (residuals): 427(FL), 2046(P)

To whom did the Clintons pay state and local taxes in 1992?

Almost all of it paid to Arkansas. $288 paid to California, again for EP Talent. Remainder was to Arkansas, $15,641.

What is the $66 personal property tax the Clintons deducted?

Arkansas tax on their automobile.

What is the $4659 in home mortgage interest?
Has interest for this loan been deducted before?

The interest that the Clintons paid on their half of the mortgage on the residence in Little Rock, Arkansas, that is lived in year round by Mrs. Clinton's mother and used as the Clintons' residence when they are in Arkansas. This residence is the Clintons' place of residence for purposes of voter registration and for determining residence for purposes of state taxes.

Has been deducted consistently in prior years.

What is the investment interest deducted?

Reported by the blind trust on its K-1. It means that the interest expense was incurred on one or more of the investments placed in the blind trust.

Which provision of the tax code allows the Clinton to deduct moving expenses they never paid?

Section 217 of the Internal Revenue Code and the regulations promulgated thereunder.

The Clintons did not establish their blind trust until July 1993. How come their return does not show any interest or dividend income for assets placed in the blind trust, such as Value Partners?

The only interest and dividend income for the first part of the year which was not reported separately is the income from Value Partners. All other interest and dividend income for the period prior to July 1993, when the blind trust was established, is reflected in the amounts of interest and dividend income shown for Stephens Inc. and Liz Claiborne. Partnership interest and

THE WHITE HOUSE
WASHINGTON

dividends for Value Partners were reported for the entire calendar year to the blind trustee.

But the capital gains and losses for the period prior to the creation of the blind trust are not shown?

The only capital gains were reported by the trustee of the blind trust. It is conceivable that some portion of those gains were earned in Value Partners prior to July 1993, although the only performance reports received from Value Partners during that period showed that Mrs. Clinton's investment suffered a loss.

Why haven't you obtained information on gains and losses on investments for the period prior to July 1993?

The K-1 reflects the year's transactions and provided all the information the accountant needed to prepare the return.

Which assets created the interest and dividend income in the trust? Which assets created the capital gains?

We do not know. This is, as the name says, a blind trust.

What is the $3 income reported from Midlife?

Reported on the partnership K-1 as royalty income.

What are the assets at Stephens Inc? Is this in the blind trust? If no, why not?

Stock in TCBY, Walmart; Automated Government Money Trust; Interest bearing account; Federated Government Cash Series; and Arkansas municipal bonds. All in trust.

What is the Liz Claiborne asset? Is it in the blind trust?

Stock held directly by Mrs. Clinton. Now in blind trust.

What are the accounts at Twin City Bank and Worthen Bank?

Bank accounts.

What is the tax-exempt interest income reported on the return?

Primarily Arkansas bonds. Also $588 from Cortland Municipal Money Market Fund; $41 from Schwabb tax exempt money fund.

What is the source of the taxable refund of state and local taxes? How was this number calculated?

THE WHITE HOUSE
WASHINGTON

This is the investment interest expense reported on the Form K-1 earning statement supplied to the Clintons by the Trustee of their blind trust. Interest expense was incurred on one or more of the investments placed in the blind trust, but because the trust is blind, we do not know the particular investment or investments.

To whom did the Clintons make charitable contributions?

Were those contributions all in cash?

Yes.

How do the Clintons charitable contributions compare with prior years?

The Clintons list charitable contributions of $17,000 for 1993. In 1992, the Clintons made Charitable contributions of $19,452.

In prior years, the Clintons always deducted contributions of clothing and books. Why are there no such deductions on this years return?

The only deductions claimed by the Clintons this year are the cash contributions to charitable organizations.

Why did the Presidential Transition pay the Clintons' moving expenses?

The Transition Foundation considered the payment of the moving expenses to be an appropriate part of its mission. These expenses were not paid from funds provided by the federal government. They were paid wholly from funds raised by individuals.

Is there any precedent for such payments?

We have no information about whether previous Transition organization paid this kind of expense.

Who authorized the payment?

The Board of Directors of the transition foundation.

Who were the members of the Board?

Mickey Kantor, Vernon Jordan, Madeline Kunin, Mack McLarty, Henry Cisneros, Warren Christopher [and Doris Matsui].

Did the Clintons' have to lay out any money?
No.

Is this legal?

Yes. The tax law requires the Clintons to include the amount reimbursed as income, and then allows the Clintons to include the same amount as an itemized deduction for moving expenses.

Was it legal for the transition to provide the money?

[Act from Cheryl]

Which provision of the tax code allows the Clinton to deduct moving expenses they never paid?

Section 217 of the Internal Revenue Code and the regulations promulgated thereunder.

Given that David Kendall represents the Clintons, how can it be that the Clintons have failed to report any legal expenses on their list of itemized deductions?

The Clintons did not establish their blind trust until July 1993. How come their return does not show any interest or dividend income for any of the assets placed in the blind trust, such as Value Partners?

With one exception, any interest or dividend income earned during the first half of 1993, before the Clintons' assets were placed in the blind trust, is included in the Stephens, Inc. and Liz Claiborne items on Schedule B. The sole exception is interest and dividend income that may have been earned during the first half of the year in the partnership Value Partners. That partnership reported the entire year's income to Boston Harbor Trust Co., the Trustee of the Blind Trust, and thus any interest or dividend income for the period January-July 1993 would have been included in the amounts reported by the trustee.

THE WHITE HOUSE
WASHINGTON

What about capital gains and losses for the period before assets were placed in the blind trust?

The only capital gains for 1993 were reported by the Trustee of the blind trust. If Mrs. Clintons' investment in Value Partners produced any capital gains or losses during the first half of 1993, those would have been included in the capital gains reported by the trustee.

Why haven't you taken steps to obtain this information on gains and losses on investments for the period prior to July 1993?

Such information was included in the amounts reported by the Trustee, and it was not necessary to obtain any further information in order to complete the tax return.

What assets are in the blind trust?

The list of assets placed in the blind trust is publicly available from the Office of Government Ethics. It is an attachment to the blind trust agreement.

Which assets created the interest and dividend income in the trust?

We do not know. This is a blind trust.

Which assets created the capital gains?

Again, we do not know. This is a blind trust.

What is the interest and dividend income from Fidelity Trust?

How did Mrs. Bush and other First Ladies treat this money they received?

What is Midlife Investments?

As has been previously reported, Hillary Clinton was a co-investor with other Rose Law Firm partners in an investment-only partnership named Midlife Investments. Midlife had only one source of income -- an investment in a limited partnership that invested several years ago in the production of a television movie, which netted $2 in royalties to Mrs. Clinton in 1992 and $3 in royalties in 1993.

Why wasn't this placed in the blind trust?

This was considered an asset with no value, as is reflected in the total of $5 in royalties earned during 1992 and 1993.

What is the $3 income reported from Midlife?

This was reported on the partnership K-1 as royalty income.

What are the assets at Stephens Inc?

The assets held by Stephens Inc. -- all of which were placed in the Clintons' blind trust -- were stock in TCBY and Walmart; investments in an Automated Government Money Trust fund and a Federated Government Cash Series; an interest bearing account; and Arkansas municipal bonds.

What is the Liz Claiborne asset? Is it in the blind trust?

This was Liz Claiborne stock held directly by Mrs. Clinton. This stock was placed in the blind trust.

What are the accounts at Twin City Bank and Worthen Bank?
These were personal bank accounts of the Clintons.

What is the tax-exempt interest income reported on the return?
This is interest earned principally from Arkansas state bonds. It also includes $588 in interest from Cortland Municipal Money Market Fund, and $41 from a Schwabb tax exempt money fund.

What is the source of the taxable refund of state and local taxes?

An Arkansas tax refund of $2046.

THE WHITE HOUSE

WASHINGTON

Please explain the $142,528 pension and annuity amount included on line 17a. Does this include all pension and annuity interests placed in the blind trust?

The amount on line 17a represents the amount rolled over from Mrs. Clintons' interest in Rose Law Firm retirement plans into an IRA that is now in the blind trust. It also includes amounts rolled over to IRAs now in the blind trust from two KEOUGH accounts of Mrs. Clinton. [The amount from Rose retirement plan was $136,161; the amount from the KEOUGH accounts was $6367.]

The Clintons' other pension and annuity interests were also placed in the blind trust, including certain IRA and SEPIRA accounts. When the custody of those accounts was transferred to the trustee, there was no distribution of assets, and thus no requirement to report the transfer on line 17a of the return.

What is royalty income paid by the New York Times?

This represents residuals from an op-ed article written by President Clinton [WHEN?]

The President and First Lady have talked about the importance of savings. Why did they choose not to put money into an IRA account?

What is the investment interest expense reported on the return?

This is investment interest expense reported by the blind trust. We do not know the particular liability within the blind trust that gave rise to that expense.

Which is the property held for investment reported on Form 4952?

This amount is all of the interest and dividend income reported, plus the $3 royalty included on line 18 of the return.

Explain the information in Part II of Form 4952, covering net investment income.

This form is required to demonstrate that the interest payments deducted do not exceed net investment income reported on the return.

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001(a). fax	Fax copy of memorandum from Michael Kantor to John Quinn. Subject: Lotus v. Borland. (1 page)	12/06/1995	P5 994✓
001(b). fax	Fax copy of memorandum for Ambassador Michael Kantor from Tom Robertson. (3 pages)	12/06/1995	P5 995✓
002. fax	Fax copy of memorandum for Jack Quinn from Kathleen Wallman. Subject: Lotus v. Borland (1 page)	12/06/1995	P5 996✓
003(a). fax	Fax copy of letter from Kathleen Ambrose to Drew S. Days. Re: Lotus Development v. Borland International (3 pages)	12/06/1995	P5 997✓
003(b). fax	Fax copy of draft. (2 pages)	12/06/1995	P5 998✓

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8293

FOLDER TITLE:

Lotus v. Borland [1]

Van Zbinden
2009-1006-F
vz134

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 UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

MEMORANDUM

TO: **JOHN M. QUINN, Counsel to the President**

FROM: **AMBASSADOR MICHAEL KANTOR, United States Trade Representative**

SUBJECT: **LOTUS v. BORLAND**

Jack,

I have reviewed again the issue of whether the Administration should file an amicus brief in the Lotus v. Borland case now before the Supreme Court. This is a complex issue, and I believe that on balance the United States' interests would be better served if the brief were not filed. I am attaching for your information an internal memorandum reviewing the issue from a trade perspective.

Please feel free to call me or Peter Scher if you would like to discuss this further.

cc: Drew S. Days, III, Solicitor General

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

December 6, 1995

MEMORANDUM FOR AMBASSADOR MICHAEL KANTOR

THROUGH: Peter Scher and Irving Williamson

FROM: Tom Robertson TR

ISSUE: Should USTR support the filing of a U.S. government amicus brief with the Supreme Court in the Lotus v. Borland case, and if so, should it express its concerns with the approach suggested by the Justice Department.

BACKGROUND:

The First Circuit's Decision

In its March 9, 1995 decision in Lotus v. Borland, the First Circuit decided that because the menu command hierarchy in the Lotus 1-2-3 program is used to operate the program by the user, it falls within the prohibition on copyright protection for "method of operation" in section 102(b) of the Copyright Act. The court found that once defined as a "method of operation," the Lotus command hierarchy is per se ineligible for copyright protection regardless of whether original expression and creativity went into the selection and arrangement of its elements.

This decision has been criticized by U.S. government copyright experts on two grounds. First, it turns the distinction in the Copyright Act between ideas and the expression of ideas on its head. Courts have long held, and the Copyright Law provides, that although one cannot copyright ideas, one can copyright the expression of those ideas; rather than follow this path, the First Circuit states that once an original expression is found to relate to a type of idea (in this case a "method of operation"), it cannot be protected. Under this analysis, certain forms of original expression are not copyrightable.

The second point of criticism follows from the first. Experts fear that if a command hierarchy is found to be per se unprotectable because it is used to operate the Lotus program, then it is possible to find that the Lotus program is per se unprotectable because it is used to operate the operating system of the computer, and the operating system is per se unprotectable because it is used to operate the computer. Defining something that is used to operate another thing as per se unprotectable threatens to swallow the whole of copyright protection for computer programs. This would of course directly conflict with our international obligations to protect computer programs as literary works, and our efforts to ensure a high level of protection for computer software in our trading partners.

The Justice Department Brief

The Supreme Court has granted cert. to hear the Lotus v. Borland case on the question of whether the command hierarchy is protectable subject matter. The Justice Department wants to file an amicus brief in opposition to the First Circuit's analysis, but in support of its finding that the command hierarchy is unprotectable subject matter. Rather than defining it as a "method of operation," the Justice Department would like to urge the Court to define it as a "programming language" in light of the fact that users can write "macros" (which are commonly used lists of commands that are given a name and invoked merely by typing in the name) to operate the Lotus program. Justice's draft brief states that as a programming language, the command hierarchy is per se unprotectable subject matter, even though it may contain original expression. Justice's goal apparently is to enhance competition in this industry by providing a bright line rule as to when competitors of companies like Lotus can use existing command hierarchies.

Copyright experts at the Patent and Trademark Office and the Copyright Office support the filing of a brief criticizing the First Circuit's analysis, but oppose Justice's attempt to define the hierarchy as a programming language that is per se unprotectable. They oppose any such bright line rules and believe that the established practice of addressing scope of protection issues on a case-by-case basis should be maintained. They acknowledge that some elements of a particular command hierarchy could be unprotectable ideas, but believe that this decision should be made after an examination of the particular facts of each case. In any event, they believe that the bright line rule conceived by Justice is illusory because it simply redefines the idea/expression analysis courts usually undertake into an analysis of whether something should be defined as a programming language.

Although the Justice Department's proposal improves on the approach of the First Circuit, it is fundamentally similar. It would deny protection to original expression if that expression relates to a defined class of ideas -- the First Circuit picks the broad category of "methods of operation" and the Justice Department picks the much more narrow class of "programming languages". The Justice Department's approach is unlikely to call into question or compliance with our international obligations, but would restrict copyright in computer programs and make our efforts to ensure high levels of protection in our trading partners more difficult. Our trading partners could either establish similar exceptions to protection, or could, under the guise of consistency with the U.S. approach, adopt policies that are much more damaging to U.S. interests.

U.S. Industry Views

Significant portions of the U.S. industry oppose the filing of the Justice Department brief. Intel, Digital Equipment Corporation and Xerox have filed an amicus brief that supports Lotus in this case. IBM has indicated that it believes that filing the brief would be "very troublesome" in light of our international goals, and expects to make those views known to the NEC and the White House General Counsel's Office today. Lotus of course opposes the filing of the Justice Department brief. The Intellectual Property Owners association, which is includes a cross section of corporate America, including many Fortune 500 companies, filed a brief in support of the grant of cert (i.e., in support of Lotus), but did not file an amicus brief once cert was granted.

It is perhaps most telling that Novell, which now owns the Borland Quattro Pro program that is at the heart of this case, is taking no position on it. The Business Software Alliance also takes no formal position on the issue because Novell is one of its members, but will say that the overwhelming majority of its members would support a neutral brief or a brief in support of Lotus. Microsoft has states that because there is not industry consensus on this point, they will not take a position, but "if pushed for a position, [they] would not encourage the filing of a brief."

Ideal USTR Brief

The ideal outcome of this case from our point of view would be for the Justice Department to file an amicus brief that indicates why the First Circuit's analysis is incorrect, and which leaves it up to the courts to apply the traditional idea/expression analysis. However, the time for filing such a brief has long passed, and we are faced with the decision of either filing the brief that both criticizes the First Circuit and support Borland or not filing a brief at all. The risks of not filing a brief have been lessened by the filing of a neutral brief critical of the First Circuit opinion by the American Intellectual Property Lawyers Association, which includes most of the intellectual property attorneys in the United States. The hope is that the AIPLA brief will be persuasive to the Court in light of the neutral approach it takes and the nature of AIPLA's membership.

Distribution: J.Lang
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DEC-06 95 17:22 FROM:COUNSEL OFFICE 202-456-2632 TO:61647 PAGE:01

MEMORANDUM FOR JACK QUINN

FROM: KATHLEEN WALLMAN

SUBJECT: LOTUS V. BORLAND

DATE: DECEMBER 6, 1995

COPY: ELENA KAGAN

1. Peter Scher spoke late this afternoon with Ambassador Kantor, who says that he believes that no brief should be filed in this case if it cannot be a "neutral" brief that does no more than straighten out the erroneous reasoning of the First Circuit without saying Borland should prevail. This puts an end to hopes that the existing draft could be massaged to win USTR's support. Peter told me he would take steps to make the SG aware of Ambassador Kantor's views.

2. John Schmidt, who was unaware, as was I, of USTR's final position when I spoke with him, told me that the possibility of filing a neutral brief was thoroughly explored by the SG and rejected. I asked him about several different ways that the edge could be taken off the brief's pronouncement that Borland should prevail; none of these persuaded him.

3. I told John that there was mounting consensus among the interested agencies that no brief should be filed, and that these agencies, together, likely could make a persuasive case. He observed that the decision was in the SG's hands at the moment and that the SG was continuing to receive input. He opined that the SG would listen closely to international negotiation concerns raised by USTR and that such concerns might even cause the SG to decide not to file the brief.

KW

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE
Washington, D.C. 20230

December 6, 1995

Honorable Drew S. Days
Solicitor General
U.S. Department of Justice
Washington, D.C. 20530

Re: Lotus Development v. Borland International

Dear Mr. Days:

As requested at the NEC meeting that Deputy Assistant to the President Bowman Cutter convened on December 4th concerning this case, we have reconsidered our recommendations regarding the position the U.S. Department of Justice should take in an amicus brief. Our reconsideration takes account of Justice's clarification at that meeting of the procedural options available, and a review of the December 5th draft of the brief in support of respondent Borland.

We strongly oppose filing a brief on behalf of respondent Borland. It is our considered view that the Department of Justice should refrain from filing any amicus brief in this case. I believe you have also received the same recommendation from Lawrence J. Goffney, Acting Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks, in which he stated that PTO "vehemently" opposes the filing of this or any amicus brief on behalf of Borland.

It is our position that the draft opinion is flawed with respect to copyright law interpretation. We concur with the view expressed in PTO's letter to the Deputy Solicitor General of November 22, 1995, stating disagreement with the Antitrust Division's conclusion that the "Lotus 1-2-3" menu command hierarchy is a computer programming language and therefore not subject to copyright protection. We believe Lotus's hierarchy is protectible original expression. Given the disagreements that became clear in the inter-agency meetings held in November concerning this case, however, the Department of Commerce, including PTO, was willing to accept the filing of a "neutral" amicus brief that addressed the improper standard the First Circuit articulated, which we understood the Department of Justice to be considering. Our comments over the past few weeks have been based on that (erroneous) understanding. If filing a "neutral" brief is no longer an option, then the Department of Commerce opposes filing any amicus brief, especially one that supports respondent Borland.

Page Two

As we stated in our letter of December 1, 1995, we are also particularly concerned about the signal the United States Government will send to the industry and to our international trading partners if we take the position that the menu command hierarchy in question is unprotectible subject matter. The United States has been a key driving force for requiring high levels of protection for computer programs in the negotiations on the World Trade Organization's "Agreement on Trade Related Aspects of Intellectual Property Rights" ("TRIPS"), and in the ongoing discussions in the World Intellectual Property Organization on the Protocol to the Berne Convention. The brief as currently drafted could undermine our position in those negotiations.

We believe the Library of Congress Copyright Office has clearly expressed the interest of the United States in this case in the draft brief Acting General Counsel Marilyn Kretsinger submitted to Deputy Solicitor Wallace on November 28th. (Copy of applicable pages attached.) In sum, those interests include: 1. the need to clarify the meaning and structural relationship of the provisions of the Copyright Act determining the copyrightability of computer programs, including the need to consider the balance between private ownership of expression in works already created and the free use of the basic building blocks needed for future creation; 2. the need to afford the appropriate level of protection to encourage innovation and development; and 3. the need to negotiate and comply with international treaty obligations to make the incentives for creation meaningful in a global marketplace.

We strongly disagree with the Department of Justice's statement in the draft brief that: "The United States' interests in ensuring the proper preservation of that balance also reflect the fact that it has primary responsibility for enforcing the antitrust laws, which establish a national policy favoring economic competition as a means to advance the public interest." By urging the Court to interpret the Copyright laws in a way that in essence amends those laws to achieve the goals of antitrust policy, the draft brief would

Page Three

have the Court usurp Congress's exclusive prerogative, which it has chosen to utilize only in certain, clearly identified and delineated circumstances, such as compulsory licensing regimes established under the Copyright Act. As stated in our letter of December 1, we are troubled by the signal to the U.S. industry of a new hostility to the protection of intellectual property rights in the context of enforcement of the antitrust laws. Moreover, nowhere does the draft brief acknowledge the international trade policy concerns that we think are important in this case.

I would be happy to talk with you further concerning our position should you desire.

Sincerely,

Kathleen Ambrose

for Ginger Lew

cc: The Honorable Jack Quinn
Counsel to the President

The Honorable W. Bowman Cutter
Deputy Assistant to the President for
Economic Policy

DRAFT 11/28/95
Lotus v. Borland

INTEREST OF THE UNITED STATES

The United States' interest in this case is based on the need to clarify the meaning and structural relationship of the provisions of the Copyright Act determining the copyrightability of computer programs. The federal government grants, administers, and assists in enforcing copyrights in this country, with the ultimate goal of benefiting the public. Congress grants copyrights in works of authorship in order to provide incentives for their creation, so as to further the fundamental Constitutional purpose of promoting the progress of science and useful arts. The Copyright Office registers copyrights in all varieties of works, including computer software.

The standards for copyrightability embody a delicate balance struck between private ownership of expression in works already created and the free use of the basic building blocks needed for future creation. This balance is carefully calibrated to encourage the maximum creation of new works. If it is disturbed by an improper interpretation of which elements of a work are subject to protection, the result may be a detrimental impact on the industry involved, ultimately depriving the public of the widest possible selection of future works.

This concern is particularly acute in the case of computer programs. Computer software represents a substantial and flourishing sector of the American economy, both nationally and internationally. Ensuring that adequate incentives are in place for the creation of programs, and that the level of protection afforded is appropriate to encourage innovation and development, is therefore of great importance to the United States.

As a corollary to its domestic policy concerns, the United States also has an interest in negotiating and complying with international treaty obligations, so as to make the incentives for creation meaningful in a global marketplace. In the international arena, we have consistently and forcefully advocated for protection for the original expression in computer programs, and are currently party to or in the process of negotiating numerous bilateral and multilateral treaties which adopt this approach.