

FOIA Marker

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Counsel's Office, White House

Painter, Richard

Stack:	Row:	Sect.:	Shelf:	Pos.:	FRC ID:	Location or Hollinger ID:	NARA Number:	OA Number:
W	20	21	1	3	10487	23350	7046	7137

Folder Title:

Cruz, Heidi, NSC

Withdrawn/Redacted Material

The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Handwritten Note	[POTUS Summit - Monterrey]	3	01/12/2013	P1/b1; P5;
002	Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	2	03/02/2004	P6/b6;
003	Handwritten Note	[Handwritten Notes] - From: Heidi Cruz	2	nd	P1/b1; P5; P6/b6;
004	Email	[FW: Information] - To: Daniel Sullivan, Michael Dempsey, Charmin David - From: Elaine Mitsler	5	03/29/2004	P1/b1;
005	Email	RE: A must read! - To: Cathy Taylor, Faryar Shirzad - From: Heidi Cruz	5	02/25/2004	P1/b1; P5;
006	Email	[new info] - To: Thomas Shannon, Michael Dempsey, Faryar Shirzad, Cathy Taylor - From: Heidi Cruz	1	02/25/2004	P1/b1; P5;

COLLECTION TITLE:
Counsel's Office, White House

SERIES:
Painter, Richard - Staff Files

FOLDER TITLE:
Cruz, Heidi, NSC

FRC ID:
10487

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

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008	Email	[Request for meeting] - To: Wendy Gray - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;
009	Email	[Request for meeting] - To: Michael Dempsey - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;
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012	Email	[FW: ...Request] - To: @SDO-WHSR Senior Duty Officers; @Records Management - From: Heidi Cruz	1	02/27/2004	P1/b1;

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014	Email	[Recused] - To: Cathy Taylor - From: Heidi Cruz	1	02/27/2004	P1/b1; P6/b6;
015	Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	1	nd	P6/b6;
016	Fax Cover Sheet	[Fax Cover Sheet] [with attachments] - To: Holly Moore - From: Heidi Cruz	3	02/10/2004	P6/b6;
017	Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	2	03/02/2004	P6/b6;
018	Handwritten Note	[Handwritten Notes] - From: Heidi Cruz	2	nd	P1/b1; P5; P6/b6;

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030	Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	1	nd	P6/b6;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Handwritten Note	[Handwritten Notes] - From: Heidi Cruz	2	nd	P1/b1; P5; P6/b6;

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COLLECTION:
Counsel's Office, White House

SERIES:
Painter, Richard - Staff Files

FOLDER TITLE:
Cruz, Heidi, NSC

FRC ID:
10487

OA Num.:
7137

NARA Num.:
7046

FOIA IDs and Segments:
2015-0309-F
2015-0093-F

RESTRICTION CODES

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[FW: Information] - To: Daniel Sullivan, Michael Dempsey, Charmin David - From: Elaine Mitsler	5	03/29/2004	P1/b1;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	RE: A must read! - To: Cathy Taylor, Faryar Shirzad - From: Heidi Cruz	5	02/25/2004	P1/b1; P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[new info] - To: Thomas Shannon, Michael Dempsey, Faryar Shirzad, Cathy Taylor - From: Heidi Cruz	1	02/25/2004	P1/b1; P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Request for meeting] - To: Wendy Gray - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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Email	[Request for meeting] - To: Wendy Gray - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Request for meeting] - To: Michael Dempsey - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	Update Arg - To: @SHIRZAD, @Shannon, Cathy Taylor, Michael Dempsey - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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Cruz, Heidi S. (WHA)

From: Cruz, Heidi S. (WHA)
Sent: Thursday, February 26, 2004 9:40 PM
To: Shirzad, Faryar (INTL ECON)
Subject: Tried to reach you this evening [~~CONFIDENTIAL~~, Record]

We should touch base in the AM.

DECLASSIFIED
White House Guidelines
E.O. 13526, SEC 3.4(B), Sept. 11, 2006
By btc NARA, Date 3/15/16

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[FW: ...Request] - To: @SDO-WHSR Senior Duty Officers; @Records Management - From: Heidi Cruz	1	02/27/2004	P1/b1;

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Cruz, Heidi S. (WHA)

From: Cruz, Heidi S. (WHA)
Sent: Friday, February 27, 2004 8:41 AM
To: Dempsey, Michael P. (WHA)
Subject: Let's chat! [UNCLASSIFIED, Record]

Hey - you were w/ Tom, but when you get a min, give me a shout if you can.

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	Recusal - To: Gary Edson, Wendy Gray - From: Heidi Cruz	1	02/27/2004	P1/b1; P6/b6;

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Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Recused] - To: Cathy Taylor - From: Heidi Cruz	1	02/27/2004	P1/b1; P6/b6;

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COLLECTION:
Counsel's Office, White House

SERIES:
Painter, Richard - Staff Files

FOLDER TITLE:
Cruz, Heidi, NSC

FRC ID:
10487

OA Num.:
7137

NARA Num.:
7046

FOIA IDs and Segments:

2015-0309-F

2015-0093-F

RESTRICTION CODES

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

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

Deed of Gift Restrictions

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- B. Closed by statute or by the agency which originated the document.
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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	1	nd	P6/b6;

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FOLDER TITLE:
Cruz, Heidi, NSC

FRC ID: 10487	FOIA IDs and Segments: 2015-0309-F
OA Num.: 7137	2015-0093-F
NARA Num.: 7046	

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2/27

To: Heidi Cruz

Worth
reading

H

re receives a response from the recipients indicating an employment discussions, the employee has begun seeking employment at that time.

Special Government employee of the Social Insurance Corporation advisory committee formed for reviewing rules applicable to banks. She mails an unsolicited letter to a bank offering her services as a consultant. She has begun employment with the bank and receives some response indicating in discussing her employment. The letter merely acknowledges the proposal is not an indication in employment discussions.

Geologist employed by the company has been working as an employee preparing the Government contract brought by the Government to an oil company. The geologist is seeking employment and will be seeking employment within the next few months from the date of the contract. However, if she is notified within the next few months that her resume has been accepted by the oil company as of the date of the contract, she will withdraw or receives

Employer means any person for whom the employee is working. Where contacts are made for seeking employment by an agent or other person on behalf of a prospective employer, the employer means any person for whom the employee is working.

Uses that agent or other person for the purpose of seeking employment by an employee if the employee is the prospective employer; and

Employer means any person for whom the employee is working. Where contacts are made for seeking employment by an agent or other person on behalf of a prospective employer, the employer means any person for whom the employee is working.

of the Federal Government's overall responsibility for the management of the Federal Government's resources in a particular area. An employee who is found to be in violation of the Federal Government's policies shall be subject to disciplinary action. The employee who is found to be in violation of the Federal Government's policies shall be subject to disciplinary action.

with two airport authorities within her jurisdiction. Even though the employee has not personally had employment discussions with either, each airport authority is her prospective employer. She began seeking employment with each upon learning its identity and that it has been given her resume.

(d) *Direct and predictable effect, particular matter, and personal and substantial* have the respective meanings set forth in § 2635.402(b)(1), (3), and (4).

[57 FR 35042, Aug. 7, 1992, as amended at 64 FR 13064, Mar. 17, 1999]

§ 2635.604 Disqualification while seeking employment.

(a) *Obligation to disqualify.* Unless the employee's participation is authorized in accordance with § 2635.605, the employee shall not participate personally and substantially in a particular matter that, to his knowledge, has a direct and predictable effect on the financial interests of a prospective employer with whom he is seeking employment within the meaning of § 2635.603(b). Disqualification is accomplished by not participating in the particular matter.

(b) *Notification.* An employee who becomes aware of the need to disqualify himself from participation in a particular matter to which he has been assigned should notify the person responsible for his assignment. An employee who is responsible for his own assignment should take whatever steps are necessary to ensure that he does not participate in the matter from which he is disqualified. Appropriate oral or written notification of the employee's disqualification may be made to coworkers by the employee or a supervisor to ensure that the employee is not involved in a matter from which he is disqualified.

(c) *Documentation.* An employee need not file a written disqualification statement unless he is required by part 2634 of this chapter to file written evidence of compliance with an ethics agreement with the Office of Government Ethics or is specifically asked by an agency ethics official or the person responsible for his assignment to file a written disqualification statement. However, an employee may elect to create a record of his actions by providing written notice to a supervisor or other appropriate official.

Example 1: An employee of the Department of Veterans Affairs is participating in the audit of a contract for laboratory support services. Before sending his resume to a lab which is a subcontractor under the VA contract, the employee should disqualify himself from participation in the audit. Since he cannot withdraw from participation in the contract audit without the approval of his supervisor, he should disclose his intentions to his supervisor in order that appropriate adjustments in his work assignments can be made.

Example 2: An employee of the Food and Drug Administration is contacted in writing by a pharmaceutical company concerning possible employment with the company. The employee is involved in testing a drug for which the company is seeking FDA approval. Before making a response that is not a rejection, the employee should disqualify himself from further participation in the testing. Where he has authority to ask his colleague to assume his testing responsibilities, he may accomplish his disqualification by transferring the work to that coworker. However, to ensure that his colleague and others with whom he had been working on the recommendations do not seek his advice regarding testing or otherwise involve him in the matter, it may be necessary for him to advise those individuals of his disqualification.

Example 3: The General Counsel of a regulatory agency wishes to engage in discussions regarding possible employment as corporate counsel of a regulated entity. Matters directly affecting the financial interests of the regulated entity are pending within the Office of General Counsel, but the General Counsel will not be called upon to act in any such matter because signature authority for that particular class of matters has been delegated to an Assistant General Counsel. Because the General Counsel is responsible for assigning work within the Office of General Counsel, he can in fact accomplish his disqualification by simply avoiding any involvement in matters affecting the regulated entity. However, because it is likely to be assumed by others that the General Counsel is involved in all matters within the cognizance of the Office of General Counsel, he would be wise to file a written disqualification statement with the Commissioners of the regulatory agency and provide his subordinates with written notification of his disqualification, or he may be specifically asked by an agency ethics official or the Commissioners to file a written disqualification statement.

Example 4: A scientist is employed by the National Science Foundation as a special Government employee to serve on a panel that reviews grant applications to fund research relating to deterioration of the ozone layer. She is discussing possible employment

as a member of the faculty of a university that several years earlier received an NSF grant to study the effect of fluorocarbons, but has no grant application pending. As long as the university does not submit a new application for the panel's review, the employee would not have to take any action to effect disqualification.

(d) *Agency determination of substantial conflict.* Where the agency determines that the employee's action in seeking employment with a particular person will require his disqualification from matters so central or critical to the performance of his official duties that the employee's ability to perform the duties of his position would be materially impaired, the agency may allow the employee to take annual leave or leave without pay while seeking employment, or may take other appropriate administrative action.

[57 FR 35042, Aug. 7, 1992, as amended at 64 FR 13064, Mar. 17, 1999]

§ 2635.605 Waiver or authorization permitting participation while seeking employment.

(a) *Waiver.* Where, as defined in § 2635.603(b)(1)(i), an employee is engaged in discussions that constitute employment negotiations for purposes of 18 U.S.C. 208(a), the employee may participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of a prospective employer only after receiving a written waiver issued under the authority of 18 U.S.C. 208(b)(1) or (b)(3). These waivers are described in § 2635.402(d). See also subpart C of part 2640 of this chapter. For certain employees, a regulatory exemption under the authority of 18 U.S.C. 208(b)(2) may also apply (see subpart B of part 2640 of this chapter).

Example 1: An employee of the Department of Agriculture has had two telephone conversations with an orange grower regarding possible employment. They have discussed the employee's qualifications for a particular position with the grower, but have not yet discussed salary or other specific terms of employment. The employee is negotiating for employment within the meaning of 18 U.S.C. 208(a) and § 2635.603(b)(1)(i). In the absence of a written waiver issued under 18 U.S.C. 208(b)(1), she may not take official action on a complaint filed by a competitor alleging that the grower has shipped oranges in violation of applicable quotas.

(b) *Authorization by agency designee.* Where an employee is seeking employment within the meaning of § 2635.603(b)(1)(ii) or (iii), a reasonable person would be likely to question his impartiality if he were to participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of any such prospective employer. The employee may participate in such matters only where the agency designee has authorized his participation in accordance with the standards set forth in § 2635.502(d).

Example 1: Within the past month, an employee of the Education Department mailed her resume to a university. She is thus seeking employment with the university within the meaning of § 2635.603(b)(1)(ii) even though she has received no reply. In the absence of specific authorization by the agency designee in accordance with § 2635.502(d), she may not participate in an assignment to review a grant application submitted by the university.

[57 FR 35042, Aug. 7, 1992, as amended at 62 FR 48748, Sept. 17, 1997; 64 FR 13064, Mar. 17, 1999]

§ 2635.606 Disqualification based on an arrangement concerning prospective employment or otherwise after negotiations.

(a) *Employment or arrangement concerning employment.* An employee shall be disqualified from participating personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of the person by whom he is employed or with whom he has an arrangement concerning future employment, unless authorized to participate in the matter by a written waiver issued under the authority of 18 U.S.C. 208 (b)(1) or (b)(3), or by a regulatory exemption under the authority of 18 U.S.C. 208 (b)(2). These waivers and exemptions are described in § 2635.402(d). See also subparts B and C of part 2640 of this chapter.

Example 1: A military officer has accepted a job with a defense contractor to begin in six months, after his retirement from military service. During the period that he remains with the Government, the officer may not participate in the administration of a contract with that particular defense contractor unless he has received a written

To: Holly Moore

F: 202.456.9110

From: Heidi Cruz

T:

(b)(6)

Total Pgs: 3

Pages 2 through 3 redacted for the following reasons:

(b)(6)

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	2	03/02/2004	P6/b6;

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COLLECTION:

Counsel's Office, White House

SERIES:

Painter, Richard - Staff Files

FOLDER TITLE:

Cruz, Heidi, NSC

FRC ID:

10487

OA Num.:

7137

NARA Num.:

7046

FOIA IDs and Segments:

2015-0309-F

2015-0093-F

RESTRICTION CODES

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

Deed of Gift Restrictions

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Records Not Subject to FOIA

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Handwritten Note	[Handwritten Notes] - From: Heidi Cruz	2	nd	P1/b1; P5; P6/b6;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[FW: Information] - To: Daniel Sullivan, Michael Dempsey, Charmin David - From: Elaine Mitsler	5	03/29/2004	P1/b1;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	RE: A must read! - To: Cathy Taylor, Faryar Shirzad - From: Heidi Cruz	5	02/25/2004	P1/b1; P5;

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Email	[new info] - To: Thomas Shannon, Michael Dempsey, Faryar Shirzad, Cathy Taylor - From: Heidi Cruz	1	02/25/2004	P1/b1; P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Request for meeting] - To: Wendy Gray - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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

Deed of Gift Restrictions

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

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

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Request for meeting] - To: Wendy Gray - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

**This marker identifies the original location of the withdrawn item listed above.
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COLLECTION:

Counsel's Office, White House

SERIES:

Painter, Richard - Staff Files

FOLDER TITLE:

Cruz, Heidi, NSC

FRC ID:

10487

OA Num.:

7137

NARA Num.:

7046

FOIA IDs and Segments:

2015-0309-F

2015-0093-F

RESTRICTION CODES

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

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Request for meeting] - To: Michael Dempsey - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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COLLECTION:

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	Update Arg - To: @SHIRZAD, @Shannon, Cathy Taylor, Michael Dempsey - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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Cruz, Heidi S. (WHA)

From: Cruz, Heidi S. (WHA)
Sent: Thursday, February 26, 2004 9:40 PM
To: Shirzad, Faryar (INTL ECON)
Subject: Tried to reach you this evening [~~CONFIDENTIAL~~, Record]

We should touch base in the AM.

DECLASSIFIED
White House Guidelines
E.O. 13526, SEC 3.4(B), Sept. 11, 2006
By ble NARA, Date 3/15/12

Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[FW:...Request] - To: @SDO-WHSR Senior Duty Officers, @Records Management - From: Heidi Cruz	1	02/27/2004	P1/b1;

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FOLDER TITLE:

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Cruz, Heidi S. (WHA)

From: Cruz, Heidi S. (WHA)
Sent: Friday, February 27, 2004 8:41 AM
To: Dempsey, Michael P. (WHA)
Subject: Let's chat! [UNCLASSIFIED, Record]

Hey - you were w/ Tom, but when you get a min, give me a shout if you can.

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	Recusal - To: Gary Edson - From: Heidi Cruz	1	02/27/2004	P1/b1; P6/b6;

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COLLECTION:
Counsel's Office, White House

SERIES:
Painter, Richard - Staff Files

FOLDER TITLE:
Cruz, Heidi, NSC

FRC ID: 10487	FOIA IDs and Segments: 2015-0309-F
OA Num.: 7137	2015-0093-F
NARA Num.: 7046	

RESTRICTION CODES

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Recused] - To: Cathy Taylor - From: Heidi Cruz	1	02/27/2004	P1/b1; P6/b6;

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SERIES:
Painter, Richard - Staff Files

FOLDER TITLE:
Cruz, Heidi, NSC

FRC ID:
10487

OA Num.:
7137

NARA Num.:
7046

FOIA IDs and Segments:

2015-0309-F

2015-0093-F

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	1	nd	P6/b6;

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SERIES:
Painter, Richard - Staff Files

FOLDER TITLE:
Cruz, Heidi, NSC

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2015-0093-F

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2/27
To: Heidi Cruz

Worth
reading

H

receives a response from recipients indicating an employment discussions, the employee has begun seeking employment at that time.

Special Government employee of the Social Security Corporation formed an advisory committee formed reviewing rules applicable to the bank offering her contract consultant. She has begun employment with the company and receives some response indicating in discussing her employment letter merely acknowledging the proposal is not an indication in employment discussions.

Geologist employed by the company has been working as an employee preparing the Government brought by the Government oil companies. The geologist came to an oil company as a consultant in the action. The employee is seeking employment with the company and will be seeking employment within 60 months from the date of the contract. However, if she withdraws or is notified within 60 days that her resume has been withdrawn or receives a response from the company.

Employer means any person who the employee is seeking employment with. Where contacts are made by the employee or an agent or other person on behalf of the employee from prospective employer.

Uses that agent or other person for the purpose of seeking employment from prospective employer if the employee is the prospective employer; and

Established by the employee or other intermediary for the purpose of establishing a relationship with the prospective employer.

Of the Federal Government's overall responsibilities in a particular area, the employee has retained an employee to perform the job and has just reported to the employee that she has given her instructions.

with two airport authorities within her jurisdiction. Even though the employee has not personally had employment discussions with either, each airport authority is her prospective employer. She began seeking employment with each upon learning its identity and that it has been given her resume.

(d) *Direct and predictable effect, particular matter, and personal and substantial* have the respective meanings set forth in § 2635.402(b)(1), (3), and (4).

[57 FR 35042, Aug. 7, 1992, as amended at 64 FR 13064, Mar. 17, 1999]

§ 2635.604 Disqualification while seeking employment.

(a) *Obligation to disqualify.* Unless the employee's participation is authorized in accordance with § 2635.605, the employee shall not participate personally and substantially in a particular matter that, to his knowledge, has a direct and predictable effect on the financial interests of a prospective employer with whom he is seeking employment within the meaning of § 2635.603(b). Disqualification is accomplished by not participating in the particular matter.

(b) *Notification.* An employee who becomes aware of the need to disqualify himself from participation in a particular matter to which he has been assigned should notify the person responsible for his assignment. An employee who is responsible for his own assignment should take whatever steps are necessary to ensure that he does not participate in the matter from which he is disqualified. Appropriate oral or written notification of the employee's disqualification may be made to coworkers by the employee or a supervisor to ensure that the employee is not involved in a matter from which he is disqualified.

(c) *Documentation.* An employee need not file a written disqualification statement unless he is required by part 2634 of this chapter to file written evidence of compliance with an ethics agreement with the Office of Government Ethics or is specifically asked by an agency ethics official or the person responsible for his assignment to file a written disqualification statement. However, an employee may elect to create a record of his actions by providing written notice to a supervisor or other appropriate official.

Example 1: An employee of the Department of Veterans Affairs is participating in the audit of a contract for laboratory support services. Before sending his resume to a lab which is a subcontractor under the VA contract, the employee should disqualify himself from participation in the audit. Since he cannot withdraw from participation in the contract audit without the approval of his supervisor, he should disclose his intentions to his supervisor in order that appropriate adjustments in his work assignments can be made.

Example 2: An employee of the Food and Drug Administration is contacted in writing by a pharmaceutical company concerning possible employment with the company. The employee is involved in testing a drug for which the company is seeking FDA approval. Before making a response that is not a rejection, the employee should disqualify himself from further participation in the testing. Where he has authority to ask his colleague to assume his testing responsibilities, he may accomplish his disqualification by transferring the work to that coworker. However, to ensure that his colleague and others with whom he had been working on the recommendations do not seek his advice regarding testing or otherwise involve him in the matter, it may be necessary for him to advise those individuals of his disqualification.

Example 3: The General Counsel of a regulatory agency wishes to engage in discussions regarding possible employment as corporate counsel of a regulated entity. Matters directly affecting the financial interests of the regulated entity are pending within the Office of General Counsel, but the General Counsel will not be called upon to act in any such matter because signature authority for that particular class of matters has been delegated to an Assistant General Counsel. Because the General Counsel is responsible for assigning work within the Office of General Counsel, he can in fact accomplish his disqualification by simply avoiding any involvement in matters affecting the regulated entity. However, because it is likely to be assumed by others that the General Counsel is involved in all matters within the cognizance of the Office of General Counsel, he would be wise to file a written disqualification statement with the Commissioners of the regulatory agency and provide his subordinates with written notification of his disqualification, or he may be specifically asked by an agency ethics official or the Commissioners to file a written disqualification statement.

Example 4: A scientist is employed by the National Science Foundation as a special Government employee to serve on a panel that reviews grant applications to fund research relating to deterioration of the ozone layer. She is discussing possible employment

as a member of the faculty of a university that several years earlier received an NSF grant to study the effect of fluorocarbons, but has no grant application pending. As long as the university does not submit a new application for the panel's review, the employee would not have to take any action to effect disqualification.

(d) *Agency determination of substantial conflict.* Where the agency determines that the employee's action in seeking employment with a particular person will require his disqualification from matters so central or critical to the performance of his official duties that the employee's ability to perform the duties of his position would be materially impaired, the agency may allow the employee to take annual leave or leave without pay while seeking employment, or may take other appropriate administrative action.

[57 FR 35042, Aug. 7, 1992, as amended at 64 FR 13064, Mar. 17, 1999]

§ 2635.605 Waiver or authorization permitting participation while seeking employment.

(a) *Waiver.* Where, as defined in § 2635.603(b)(1)(i), an employee is engaged in discussions that constitute employment negotiations for purposes of 18 U.S.C. 208(a), the employee may participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of a prospective employer only after receiving a written waiver issued under the authority of 18 U.S.C. 208(b)(1) or (b)(3). These waivers are described in § 2635.402(d). See also subpart C of part 2640 of this chapter. For certain employees, a regulatory exemption under the authority of 18 U.S.C. 208(b)(2) may also apply (see subpart B of part 2640 of this chapter).

Example 1: An employee of the Department of Agriculture has had two telephone conversations with an orange grower regarding possible employment. They have discussed the employee's qualifications for a particular position with the grower, but have not yet discussed salary or other specific terms of employment. The employee is negotiating for employment within the meaning of 18 U.S.C. 208(a) and § 2635.603(b)(1)(i). In the absence of a written waiver issued under 18 U.S.C. 208(b)(1), she may not take official action on a complaint filed by a competitor alleging that the grower has shipped oranges in violation of applicable quotas.

(b) *Authorization by agency designee.* Where an employee is seeking employment within the meaning of § 2635.603(b)(1)(ii) or (iii), a reasonable person would be likely to question his impartiality if he were to participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of any such prospective employer. The employee may participate in such matters only where the agency designee has authorized his participation in accordance with the standards set forth in § 2635.502(d).

Example 1: Within the past month, an employee of the Education Department mailed her resume to a university. She is thus seeking employment with the university within the meaning of § 2635.603(b)(1)(ii) even though she has received no reply. In the absence of specific authorization by the agency designee in accordance with § 2635.502(d), she may not participate in an assignment to review a grant application submitted by the university.

[57 FR 35042, Aug. 7, 1992, as amended at 62 FR 48748, Sept. 17, 1997; 64 FR 13064, Mar. 17, 1999]

§ 2635.606 Disqualification based on an arrangement concerning prospective employment or otherwise after negotiations.

(a) *Employment or arrangement concerning employment.* An employee shall be disqualified from participating personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of the person by whom he is employed or with whom he has an arrangement concerning future employment, unless authorized to participate in the matter by a written waiver issued under the authority of 18 U.S.C. 208 (b)(1) or (b)(3), or by a regulatory exemption under the authority of 18 U.S.C. 208 (b)(2). These waivers and exemptions are described in § 2635.402(d). See also subparts B and C of part 2640 of this chapter.

Example 1: A military officer has accepted a job with a defense contractor to begin in six months, after his retirement from military service. During the period that he remains with the Government, the officer may not participate in the administration of a contract with that particular defense contractor unless he has received a written



To: Holly Moore

F: 202. 456. 9110

From: Heidi Cruz

T:

(b)(6)

Total Pgs: 3

Pages 2 through 3 redacted for the following reasons:

(b)(6)

Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Handwritten Note	[Handwritten Notes] - From: Heidi Cruz	2	nd	P1/b1; P5; P6/b6;

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COLLECTION:
Counsel's Office, White House

SERIES:
Painter, Richard - Staff Files

FOLDER TITLE:
Cruz, Heidi, NSC

FRC ID:
10487

OA Num.:
7137

NARA Num.:
7046

FOIA IDs and Segments:

2015-0309-F

2015-0093-F

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

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Records Not Subject to FOIA

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[FW: Information] - To: Daniel Sullivan, Michael Dempsey, Charmin David - From: Elaine Mitsler	5	03/29/2004	P1/b1;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	RE; A must read! - To: Cathy Taylor, Faryar Shirzad - From: Heidi Cruz	5	02/25/2004	P1/b1; P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[new info] - To: Thomas Shannon, Michael Dempsey, Faryar Shirzad, Cathy Taylor - From: Heidi Cruz	1	02/25/2004	P1/b1; P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Request for meeting] - To: Wendy Gray - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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Email	[Request for meeting] - To: Michael Dempsey - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	Update Arg - To: @SHIRZAD, @Shannon, Cathy Taylor, Michael Dempsey - From: Heidi Cruz	1	02/26/2004	P1/b1; P5;

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Cruz, Heidi S. (WHA)

From: Cruz, Heidi S. (WHA)
Sent: Thursday, February 26, 2004 9:40 PM
To: Shirzad, Faryar (INTL ECON)
Subject: Tried to reach you this evening [~~CONFIDENTIAL~~, Record]

We should touch base in the AM.

DECLASSIFIED
White House Guidelines
E.O. 13526, SEC 3.4(B), Sept. 11, 2006
By bcc NARA, Date 3/15/16

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[FW:...Request] - To: @SDO-WHSR Senior Duty Officers, @Records Management - From: Heidi Cruz	1	02/27/2004	P1/b1;

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Cruz, Heidi S. (WHA)

From: Cruz, Heidi S. (WHA)
Sent: Friday, February 27, 2004 8:41 AM
To: Dempsey, Michael P. (WHA)
Subject: Let's chat! [UNCLASSIFIED, Record]

Hey - you were w/ Tom, but when you get a min, give me a shout if you can.

Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	Recusal - To: Gary Edson, Wendy Gray - From: Heidi Cruz	1	02/27/2004	P1/b1; P6/b6;

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

Deed of Gift Restrictions

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Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	1	nd	P6/b6;

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COLLECTION:
Counsel's Office, White House

SERIES:
Painter, Richard - Staff Files

FOLDER TITLE:
Cruz, Heidi, NSC

FRC ID:
10487

OA Num.:
7137

NARA Num.:
7046

FOIA IDs and Segments:

2015-0309-F

2015-0093-F

RESTRICTION CODES

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2/27

To: Heidi Cruz

Worth
reading

H

as a member of the faculty of a university that several years earlier received an NSF grant to study the effect of fluorocarbons, but has no grant application pending. As long as the university does not submit a new application for the panel's review, the employee would not have to take any action to effect disqualification.

(d) *Agency determination of substantial conflict.* Where the agency determines that the employee's action in seeking employment with a particular person will require his disqualification from matters so central or critical to the performance of his official duties that the employee's ability to perform the duties of his position would be materially impaired, the agency may allow the employee to take annual leave or leave without pay while seeking employment, or may take other appropriate administrative action.

[57 FR 35042, Aug. 7, 1992, as amended at 64 FR 13064, Mar. 17, 1999]

§ 2635.605 Waiver or authorization permitting participation while seeking employment.

(a) *Waiver.* Where, as defined in § 2635.603(b)(1)(i), an employee is engaged in discussions that constitute employment negotiations for purposes of 18 U.S.C. 208(a), the employee may participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of a prospective employer only after receiving a written waiver issued under the authority of 18 U.S.C. 208(b)(1) or (b)(3). These waivers are described in § 2635.402(d). See also subpart C of part 2640 of this chapter. For certain employees, a regulatory exemption under the authority of 18 U.S.C. 208(b)(2) may also apply (see subpart B of part 2640 of this chapter).

Example 1: An employee of the Department of Agriculture has had two telephone conversations with an orange grower regarding possible employment. They have discussed the employee's qualifications for a particular position with the grower, but have not yet discussed salary or other specific terms of employment. The employee is negotiating for employment within the meaning of 18 U.S.C. 208(a) and § 2635.603(b)(1)(i). In the absence of a written waiver issued under 18 U.S.C. 208(b)(1), she may not take official action on a complaint filed by a competitor alleging that the grower has shipped oranges in violation of applicable quotas.

(b) *Authorization by agency designee.* Where an employee is seeking employment within the meaning of § 2635.603(b)(1)(ii) or (iii), a reasonable person would be likely to question his impartiality if he were to participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of any such prospective employer. The employee may participate in such matters only where the agency designee has authorized his participation in accordance with the standards set forth in § 2635.502(d).

Example 1: Within the past month, an employee of the Education Department mailed her resume to a university. She is thus seeking employment with the university within the meaning of § 2635.603(b)(1)(ii) even though she has received no reply. In the absence of specific authorization by the agency designee in accordance with § 2635.502(d), she may not participate in an assignment to review a grant application submitted by the university.

[57 FR 35042, Aug. 7, 1992, as amended at 62 FR 48748, Sept. 17, 1997; 64 FR 13064, Mar. 17, 1999]

§ 2635.606 Disqualification based on an arrangement concerning prospective employment or otherwise after negotiations.

(a) *Employment or arrangement concerning employment.* An employee shall be disqualified from participating personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of the person by whom he is employed or with whom he has an arrangement concerning future employment, unless authorized to participate in the matter by a written waiver issued under the authority of 18 U.S.C. 208 (b)(1) or (b)(3), or by a regulatory exemption under the authority of 18 U.S.C. 208 (b)(2). These waivers and exemptions are described in § 2635.402(d). See also subparts B and C of part 2640 of this chapter.

Example 1: A military officer has accepted a job with a defense contractor to begin in six months, after his retirement from military service. During the period that he remains with the Government, the officer may not participate in the administration of a contract with that particular defense contractor unless he has received a written

To: Holly Moore

F: 202.456.9110

From: Heidi Cruz

T:

(b)(6)

Total Pgs: 3

Pages 2 through 3 redacted for the following reasons:

(b)(6)

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Conflict of Interest] - To: John B. Bellinger - From: Heidi S. Cruz	2	03/02/2004	P6/b6;

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