

Lance, Bert, 1977

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memo	Bob Lipshutz to JC <i>sanitized 8/28/97</i>	9-12-77	C
report	"Investigation of the Office of the Comptroller of the Currency's Activities Relating to the Calhoun 1st National Bank and the National Bank of Georgia."	9-7-77	C

FILE LOCATION

Chief of Staff (Jordan)/~~Box 2 of 3 (org.)~~/Bert Lance (1977)
Confidential File

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COMMITTEE EFFORTS TO DATE

There are a number of matters concerning Mr. Lance which were not resolved by the report of the Comptroller of the Currency either because they were outside the Comptroller's jurisdiction, the Comptroller hasn't furnished his investigation of them, or because they came to public attention since the report was issued. Senator Percy and I felt it was our responsibility to schedule hearings on this matter for September 7 and 8.

In connection with the hearings, we directed our staffs to become thoroughly familiar with the Comptroller's report, and follow up the major unanswered questions which appeared in the press and elsewhere.

In the course of this preparation, our staff members talked with officials of the U. S. Attorney's office in Atlanta, officials of the Comptroller's office in Washington and Atlanta, and others. Transcripts of conversations and other backup material are available.

WHAT WE HAVE LEARNED

- A. Information has been brought to our attention which would appear to substantiate allegations that the Justice Department acted improperly in failing to fully investigate potential criminal violations of Federal banking law growing out of the Lance for Governor campaign and Mr. Lance's personal affairs during that time. Specifically, John Stokes, the U. S. Attorney in Atlanta at that time, may have acted improperly in closing the case on December 2, 1976. Under the circumstances, we believe that there is good cause to refer this matter to the Justice Department for investigation of the U. S. Attorney's action and the possible need to reopen the case.
- B. As a result of routine bank examinations of the Calhoun Bank in 1975, five bank examiners were highly critical of the bank's operations including large overdrafts to the Lance family and other insiders. Consequently, the Comptroller entered into an agreement with the bank to correct unsound banking practices and referred an apparent violation of campaign law in connection with the Lance campaign to the Justice Department for investigation.

The agreement between the Comptroller and the Calhoun Bank was subsequently rescinded by Donald Tarleton, Regional Administrator of National Banks, on the same day (November 22, 1976) that he met with Mr. Lance. According to Tarleton, the meeting was initiated by Lance.

- C. The Comptroller of the Currency, Mr. Heimann, verbally briefed Senator Ribicoff on the probable results of his office's ongoing investigations. With respect to the use of the National Bank of Georgia airplane, records are faulty to nonexistent. The plane appears to have been used on numerous occasions for nonbusiness purposes and Mr. Heimann expects this to be a matter for review by the Federal Election Commission and the Internal Revenue Service. As a result of the investigation of the use of the airplane, it is also a strong possibility that the Comptroller will be referring these matters to the Department of Justice for investigation and possible prosecution of Mr. Lance for misapplication of bank funds.
- D. Mr. Heimann has not yet received a full report from the IRS on the internal investigation of his office's handling of this matter. However, it appears that individuals in that office did not follow proper procedures and that Mr. Lance's contacts with employees of the Office of the Comptroller in November and December of 1976 were far greater in number than would normally be justified.
- E. Serious allegations of criminal wrong-doing have been made by Billy Campbell who was convicted last October of embezzling \$994,000 from the First National Bank of Calhoun during the period 1971 and 1975. The embezzlement scheme involved a series of fraudulent and fictitious loans from the Bank. The proceeds of these loans were used to purchase a large tract of land just outside of Calhoun, Georgia, and to improve that land. Mr. Campbell is presently serving a term of 8 years in the Federal Penitentiary in Atlanta. Mr. Campbell has alleged that from the beginning he was directed and supervised in the entire embezzlement scheme by Bert Lance and he provided details of Lance's alleged involvement. (To our knowledge this is the first time he has ever made this allegation to anyone.) In addition, Campbell offered to provide evidence about other potentially criminal conduct of Mr. Lance in exchange for immunity from further prosecution.

ACTION TO BE TAKEN

Several of the allegations brought to our attention--the Stokes matter, the Tarleton matter, the Campbell matter, and the improper use of the bank plane--involve potentially serious violations of federal criminal law. We believe we are under an immediate obligation to refer all of these allegations and whatever information we have to the Attorney General for appropriate action. The Attorney General, in his judgment, may well conclude that a special prosecutor is called for.

Hearings would explore all of the allegations concerning Mr. Lance. To fully explore these allegations, additional staff preparation and two to three weeks of hearings involving up to 50 witnesses would be necessary. It is likely that at the end of such hearings there will be unresolved questions which will have to be referred to the appropriate government agencies and Congressional committees, and that it will not be possible to reach a conclusion that Mr. Lance did nothing criminally wrong or that he did nothing improper or unethical. Such hearings will require the calling as witnesses of transition team and Administration officials involved in the confirmation.

Some thoughts on what you should say to Mr. Clifford:

1. From your discussion yesterday afternoon with Bert, it was clear to you that Bert wanted to resign. You agreed with him that that was the best course.
2. That same feeling was expressed this morning, with your thinking that Bert was prepared to submit a letter of resignation.
3. That after Clifford's call for a delay in the press conference, you realized that Labelle was probably upset with the decision that you and Bert had made. Consequently, you invited them down to your office and had a good, frank discussion with Labelle agreeing reluctantly to the decision you and Bert had made.

What you need now is:

- A letter or resignation dated today by 4:30 which can be read to the newsconference by you and/or which Bert can read or present publicly in his own way.

- Either way, you will need to be able to say that Bert is resigning today at your 5:00 conference. You will need a document in some form by that time.
- Jody and Hamilton are available to review the letter and/or offer advice. Be better if we are kept out of it, though.
- You need help with Clifford to reaffirm with Bert and Labelle the fact that it was Bert's decision made with your concurrence. That this is important to you, but even more important to Bert in terms of his own future and reputation.
- Bert needs advice on format for his releasing letter to the press or making statement or whatever it is he does. If he goes underground and appears bitter, it will tend to reinforce stories that he was forced out of office by you. He needs to continue to be "bigger" than his opponents.

EYES ONLY/CONFIDENTIAL

DETERMINED TO BE AN ADMINISTRATIVE
MARKING BY

DATE 12-8-82

TO: PRESIDENT CARTER
FROM: HAMILTON JORDAN *HJ*
RE: BERT LANCE SITUATION

I typed this memorandum myself and when you have read it, you should either return it to me to place in my safe or for placement in your own confidential files.

I must admit that after I left your office today I was shocked and ~~frightened~~ ^{FRIGHTENED} at the possibility that Bert might have serious problems that would damage him personally and leave you without his valuable services.

I share your great admiration and affection for this good and decent man.

Yet, upon reflection, I realized that from the time

the Secretary of the Treasury informed you of the possible criminal and/or civil violations of the law by Bert's bank (for which he is responsible) that you had best begin to examine this entire situation as President of the United States and not as Bert Lance's friend.

Setting aside our personal feelings for Bert, we had best take a thorough and hard look at the situation and the facts. These are some of the things that you should think about and/or consider.

1. We should presume that the very worst will happen and be sure that every single action you take can be defended six months from now and is completely legal and ethical. You are not a lawyer and neither am I. I think that you need the immediate involvement of someone in this situation who can advise you so that your knowledge of Bert's situation and your actions do not influence, interfere or give the appearance of interfering with the judicial process.

2. For that reason, I would recommend that you get Bob Lipshutz involved immediately and make some decision on Kirbo's involvement and its propriety. Lipshutz is completely ethical, cautious and mature in his outlook and actions. He lacks Kirbo's wisdom, but can certainly provide you sound legal advice along the way.

The question of Kirbo's involvement is more difficult. There are two factors. First, as you know, he is planning to leave soon for a two week vacation. I doubt if the Treasury Department investigation can be kept quiet for very long. Kirbo's advice will not be of much help if he is not immediately involved in the thing. My own guess is that things will be popping in the next couple of weeks.

The first question which needs to be raised and answered is whether or not Kirbo should be involved. If the worst happens, the information developed in the case will be turned over to Justice Department. At that

4. A difficult thing we will all have to accept is that there is very little we can do to help Bert. If he has done nothing wrong, he will be eventually cleared and we can ~~make~~ do what we can to minimize the damage done to him personally. If he is responsible personally for any illegal action taken by his bank, there is nothing we can do to help him.

5. You should be continually sensitive to the appearance of your own actions until this situation is resolved. This raises a number of questions/problems. Knowing what you now know about the Treasury Department investigation, it might be improper for you to discuss any of these things with Bert. If so, you need to know this and make a conscious effort not to discuss this with Bert. It might even require that you take notes of all contacts you have with Bert, what was discussed, etc. This might seem extreme, but six months from now if the worst happens, you do not want it to appear that you were counseling Bert on these matters while the investigation was underway. It might

point, the situation will involve you as President, Bert as your appointee and Griffin Bell as Attorney General. The introduction of Kirbo - who is a close friend of all persons involved and has no official responsibility or title - might give the appearance of impropriety. I would trust Kirbo's judgment as to how he should be involved, if at all. My point here is that this should be resolved immediately before he either leaves on his trip or cancels it. You should have no hesitation about asking Kirbo to delay his vacation as he would never want to leave if he knew the whole situation.

3. If you decide to involve Kirbo, however, he can not be in the position of advising both you and Bert as long as there is the possibility of criminal violation of the law. Because of Kirbo's public identification with you, there is no way that he can be your advisor/lawyer and Bert's as well.

even be a good idea for there to be a third person with you when you meet with Bert to confirm that ~~these~~ other matters were not disuccssed.

6. Until this matter is over, you will be under conflicting pressures to do what is best and right for the country and what is best for Bert. The controlling factor in your every action obviously has to be the former.

Your election and actions have done much to restore the faith of the American people in the political processes of our country. This unfortunate incident - which ironically involves Georgians and close personal friends - could do great damage to your Presidency if not handled properly. You pledged in your campaign that you would not tolerate wrongdoing or even the appearance of wrongdoing. We cannot allow this or any other incident erode the moral authority of your Presidency.

Recommendations: In line with the thoughts presented here, let me make a number of recommendations:

- 1) Make some judgement about the involvement of Kirbo. If you decide he should be involved, you should get him up here Sunday to see you. I trust his own judgement enough that he will probably know whether or not he should be involved.
- 2) Brief Bob Lipshutz soon so he can be involved and helpful.
- 3) Consider your own personal involvement with Bert and determine what things you can do (notes on meetings, not talking to him about his own affairs, etc.) to protect yourself from the appearance of impropriety.

Upon reflection, you might get Bob, Kirbo and myself together tomorrow afternoon to go over this.

David Broden wrote recently that we had been spared any major crisis. This, unfortunately, could be our first.

On Saturday, July 23rd, I called Charles Kirbo at the request of the President. I told him that the President wanted him to know that Mike Blumenthal had called to say that in their response to the Senate Committee's inquiry in Bert Lance's financial records, the Treasury Department had uncovered some new information that could prove to be serious. President wanted Mr. Kirbo to know.

Mr. Kirbo said that someone maybe should sit down and talk with Bert, but I told him the President did not intend or want him to do that as the Treasury Department would present this information to Bert in hopes of obtaining satisfactory answers to the questions they had raised. Mr. Kirbo said that he would just , "Sit tight".

TO: BERT LANCE

FROM: HAMILTON JORDAN *HJ*

RE: ADVICE/FREE

You did so well in your testimony yesterday that you need to give the Senate Committee some small victories today. They are not going to allow it to be as one-sided as it was yesterday (if they can help it), and I believe that you can improve your situation immeasurably if you can admit to a couple of things.

Overdrafts

Of all the things being discussed, this is the only thing that the average person can relate to. Consequently, to the extent the Senators have received complaints from their constituents about anything specific, it has usually been the overdrafts.

I actually thought that Senator Jackson yesterday was

trying to ask you a friendly question ~~yesterday~~ in hopes that you could clarify the "overdrafts" allegation in a way that was understandable to the man on the street. I don't think you dealt as effectively with that allegation as you did most of the others.

I would suggest that you go in this morning, ask Senator Ribicoff if he would allow you 45 seconds to make a statement in response to a question asked yesterday and then say this:

Senator Jackson, after I left this hearing yesterday, I realized that you had raised the same question that is in the minds of a lot of people in this country who don't know me and had never dealt with a bank whose policy permits customers to overdraft their personal account.

And while my personal overdrafts were never illegal and not even improper, I realize that it has raised a legitimate question in the minds of a lot of folks who don't understand complex bank policy. Since January of this year, I have been honored to serve in this Administration as Director of the Office of Management and Budget.

One of the major responsibilities of the Director of OMB is to see that the Federal government is run more efficiently and effectively. For that reason, it is important that the American people see in me a man who has handled his own business affairs successfully and proper manner.

Because I am now a public official who should set an example, and because the whole matter of "overdrafts" is misunderstood, I would agree with you and others who have said that it was a mistake for me in my present position to overdraft my personal account. I will make a pledge to you, Senator Jackson, and to the members of this Committee and the American people that as long as I am Director of OMB, I will not overdraft my personal checking account.

THIS LAST PART IS PROBABLY TOO STRONG
AND TOO MUCH - BUT I THINK YOU GET
THE IDEA.

NS.

~~CONFIDENTIAL~~

DETERMINED TO BE AN ADMINISTRATIVE
MARKING BY BB

DATE 12-8-82

TO: PRESIDENT CARTER
FROM: HAMILTON JORDAN

Bert did so well today that he might have changed the political realities facing him and you.

He was superb - his testimony, presentation and demeanor were perfect!

Percy apologized for the charges made against Bert, and the Committee itself began to show partisan divisions. Eagleton and Nunn had strong differences with Percy and Ribicoff, and suddenly the spectacle was the Committee squabbling among themselves about how to proceed.

At the end of Bert's written testimony - which was eloquent - he got about a minute of spontaneous applause from the audience which is quite unheard of in hearings

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of this sort.

Did Bert or can Bert change the political realities of his situation? Probably not. But he did well enough today that it will probably be impossible to convince him this weekend that he should resign. After another day or so, we might want to make our own evaluation and reassessment of the situation. His stellar performance today might have bought him and you a little more time in which to make a final judgement.

My gut feeling is that because of his magnificent performance today, he can leave now with his head high. For his sake and ours, that would probably be best. He did well today because he did challenge the Committee; but in challenging them, he made it more difficult for him to have a positive political relationship with them in the future.

Who knows.

EYES ONLY/CONFIDENTIAL

DETERMINED TO BE AN ADMINISTRATIVE
MARKING BY AB

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147.
RE: WEDNESDAY PRESS CONFERENCE

The reasons for having your press conference Wednesday are:

- it is scheduled;
- it might give you the opportunity to say something about Bert's situation that puts the thing in perspective prior to his hearings on Thursday;
- if we cancel it, some will say that Carter didn't want to face the press on this "embarrassing problem";

The reasons for not having it are:

- it will be a "Bert Lance" conference; I doubt that you will be asked about anything else;
- if and when Bert resigns, you are going to have to face the press anyway; if Bert resigns Friday at his hearings, that means you will have to face the press either Friday or Monday for a reaction; that will be a less difficult confrontation than the Wednesday press conference;

**IT IS A QUESTION OF HAVING 2 CONFERENCES
INSTEAD OF ONE AS JODY SAYS.**

much did you know when he was appointed?"; "if you had known then what you know now, would you still have appointed him?"; etc.; the questions you would have after Bert's resignation would have a different and more philosophical thrust; to respond strongly and positively to the questions you will be asked at a Wednesday press conference, you will have to devote more time than you have to understanding the details of Bert's situation, your involvement, etc., ~~than I think you have,~~

-Clarke Clifford has talked to me about the advantage of building up suspense as relates to Bert's Thursday press conference - the cancellation of your Wednesday press conference pointing toward the Thursday testimony would help;

In summary, I believe that Jody could make a statement today that acknowledged the interest of the press and the American people in the Lance situation and ^{SAY} ~~said~~ that the President has decided to reschedule his regular news conference for Monday or Tuesday in order to give Mr. Lance an ample opportunity to respond to the allegations made against him. I strongly recommend this for your sake and Bert's. Bert agrees.

P.S. Given the nature of the various inquiries, it will be improper - for example - for you to comment on many of the things without appearing to either be evasive or trying to influence the investigations.

~~CONFIDENTIAL~~

DETERMINED TO BE AN ADMINISTRATIVE
MARKING BY LB

DATE 12-8-82

TO: PRESIDENT CARTER
FROM: HAMILTON JORDAN *H.J.*
RE: BERT LANCE SITUATION

I have attempted here to sort out my own thoughts and feelings about Bert's situation and present you some specific recommendations for your meeting with Bert today and later with Ribicoff and Percy. I have gone into some detail in describing the conversations and discussions that I had with Bert and his family as I think it is important that you understand their mood and attitude.

At the outset, let me say that it is impossible to be with Bert and his family as they face this crisis without having even greater respect for their strength and character. I found Bert serene and philosophical about

his situation and the tough times ahead. There was very little talk about what was best for Bert personally. Most of Bert's comments focused on the "system" and what he could do or say now that would prevent a similar injustice from being repeated in the future.

Having said that, let me describe the situation as I found it. Bert and his family felt strongly that Bert could and would survive with your continued strong support. I told them I had thought that myself until Friday and Saturday, but a series of events had led me to conclude that there was no way Bert could survive and be an effective OMB Director. I told them that these new circumstances were:

- 1) Comptroller's Report II. I told them that we had learned Friday that there would be an additional Comptroller's Report and that while I did not know the specific details or conclusions, it was fair to assume that the report would be generally unfavorable and possibly very negative.

2) Ribicoff's new attitude. I told them that I understood that Ribicoff had returned to Washington and had been briefed by his Committee staff and by the Comptroller; and that his attitude now was that "Bert cannot survive and should resign". I also said that my strong hunch was that Ribicoff would soon go public with this request. And that this dramatic change in Ribicoff's position would be big news and would free other Democrats to make public statements calling for Bert's resignation and would certainly result in a growing Republican chorus of Congressional leaders calling for Lance's resignation.

3) Key Congressional leaders say that this is beginning to undermine support for our programs on the Hill. Without mentioning names, (as you know, Byrd said this publicly Saturday as his press conference) I told Bert that "key people in the Congress" had contacted you Friday with the message that "Lance will have to go" as this is having a serious and detrimental effect on our ability

to pass our programs in the Congress. I told Bert that in my opinion some of these key Democrats would soon begin to publicly call for his resignation.

I told Bert that the cumulative effect of these things - in my own judgment - was that he could no longer survive as OMB Director. I told him that even if we could develop some strategy that would get him through the weeks and possibly months of Congressional hearings, he would be rendered politically ineffective in the process and could not function effectively as OMB Director with the Chairman of his own Committee (Ribicoff) publicly against him as well as the Congressional leaders of both parties. Also, that the President had to make a judgement in terms of what was best for the country and that protracted hearings and inquiries would undermine Congressional and public support for many of the things we have all been working on together. Consequently, I told Bert that it was only a matter of time before you would have to ask for his resignation and that you would much prefer never to have to do that.

I concluded by saying that in my strong opinion his (Bert's) resignation was inevitable and that the main decision that he and the President had to make was how to handle it in a way that was most beneficial to Bert.

As you might expect, the entire Lance family - particularly LaBelle - resisted my interpretation of the situation and the obstacles facing Bert. We spent the next 12-14 hours arguing about the conclusions I had drawn and the best course of action for Bert to take. They discussed numerous schemes and tactics with me playing the role of the pessimist, pointing out why none of them would work to change the basic situation. Their suggestions ranged from Bert requesting that you have a "fireside chat" on his situation in which you asked the Congress to investigate the way the "Lance case" has been handled to LaBelle's idea that they get 500 friends to send telegrams to the White House on Tuesday asking the President to "keep Lance on".

I talked with Bert and his family from midday Saturday until late that night . By that night, I believe that

I had convinced Bert - and to a lesser extent his family - that his resignation was inevitable. I believe that I also made them understand that it was only a matter of time before the President would have to request his resignation if it were not tendered.

The idea of a leave of absence was initially appealing to them, but, as we talked, it was agreed that a leave of absence was possibly the worst of both worlds. It would leave Bert in an official posture which would require him to appear before the committee hearings and would be perceived by the press as an action just short of resignation. I believe the attitude would probably be, "we have just about got him - let's redouble our efforts".

I argued strongly for Bert to resign early in the week on the basis that it was better for him to take the initiative in leaving as opposed to going through very tough and harsh hearings and then leaving. I also told him that if he resigned early in the week there was a

good chance that he would not have hearings or that if they were held, the tone of the hearings would be less harsh if Bert was a private citizen instead of a government official. I told Bert that by going through the Senate hearings as a public official he further jeopardized his good name and reputation. That the process had not been fair to date and there was no reason to think it would start being fair this week. That the committee hearing would not be a good forum for presenting his case to the American people given the new attitude of Ribicoff's.

They feel strongly that the Senate Committee hearing is their only forum for responding to the numerous charges and after looking at the "embezzlement charge" (which will be discussed later), I ~~lean~~^{lean} more toward Bert going through the hearing and making a resignation statement at that time.

Whether their judgment is correct or not, their strong feeling as a family is that they should go through the Senate Committee hearing. If you deny Bert that by

asking him to resign now, you will jeopardize your friendship and future relationship with him.

Your meeting with Bert. When I left Bert and LaBelle, their only request was that you "stick with them through the hearing". Bert realizes that resignation will have to come - LaBelle thinks unrealistically that there is a chance for a dramatic shift in public opinion following the hearings. I think you merely need to say to Bert that he has been mistreated grossly, but that you do not see a way for him to survive and be an effective OMB Director. And that although you think it would be better for him to get out as soon as possible, you can certainly respect his desire to be heard and respond to these charges. And that while you will publicly support him through the hearings this week, you cannot and will not let it go on much beyond that as it is beginning to inflict unacceptable damage on your ability to lead the country. *and on Bert's personal reputation which is painful to you.*

I think you realize that Bert's admiration for you borders on hero-worship. He will need all the support and

strength he can muster for the tough weeks and months ahead. You should say several things to him: 1) that you know he has done nothing wrong and that he will be finally vindicated; 2) that you appreciate the sacrifices he has made to come and help you here; 3) and that while you will miss having him here as OMB Director, you will look forward to having his ~~private~~ help and advice on a number of issues in the private sector. You might mention the Arthur Burns' idea to him or talk about the way that Kirbo is able to help you.

He has got some tough times ahead, and I am afraid that it will be unbearable for him if he feels that any of this has changed or damaged the relationship that you both have.

CONVERSATION WITH RIBICOFF AND PERCY

It obviously is very important what you say this afternoon to Percy and Ribicoff. We might start by looking at their motivations and interests as contrasted to our own.

Ribbicoff. Having attacked the press for "smearing Bert Lance" and having emerged as the chief defender of Lance, Ribicoff now has made a judgment based on his staff's work that Lance cannot survive and that he should be the chief prosecutor. In this way, he compensates for his earlier role and maintains his integrity as Chairman and the integrity of his committee. He is a very vain man with a huge ego and I suspect that he would like very much to be cast in the role of "the man who convinced the President that Lance had to go". This is, I suspect, what he hopes to persuade you of this afternoon. And I think you can expect him to overstate and

exaggerate the facts and the case against Bert. No-one on the committee benefits politically from having these hearings so his hope will be that you will ask Bert to resign in advance of these hearings.

Percy. He prides himself on being a former successful businessman who understands better than anyone else the complexities of Bert's financial situation. There is considerable pressure on him from his Republican colleagues on the committee and in the Senate to turn this into a partisan issue which will damage you in the Congress and with the American people. Still, he - like Ribicoff - sees no advantage to having long, protracted hearings.

Carter and Lance. You and Bert have mutual interests which should be recognized:

1. Early hearings. The sooner the better for both you and Bert. Long, protracted hearings will make it more difficult for Bert to change public

perception of him as a sleazy, disreputable character. A delay in the hearing by Ribicoff will keep the story in the papers for a longer period of time and rob Bert of the forum he needs and deserves to defend himself.

2. Forum for responding to charges. It is in Bert's interest to have a forum for responding to the untrue things said about him. To the extent that he is able to vindicate himself with the American people, your original trust in him is vindicated. In this regard, if the Senate Committee postpones its hearings for a week or so, I doubt if you will be able to wait that long without asking Bert to resign. As a private citizen, this will be - in Bert's opinion and in the opinion of Clark Clifford - a less satisfactory forum for Bert to answer these charges.

3. Early resolution of Bert's posture. The sooner you and Bert agree on a time for his departure the better it will be for you both. He can begin to

spend fulltime working on his defense and making plans for the future.

If you agree with this analysis, then some careful thought should be given to your conversation with Ribicoff and Percy. Since they requested meeting, I would let them do the talking. Instead of making a lot of specific suggestions, I would think your response should be something like this:

"First, I appreciate your concern and willingness to give me the benefit of your views on Bert's situation. This is not an easy thing for me or you, but we both have responsibilities that go beyond political considerations and personal friendships. I think you both have acted properly and have shown leadership in this situation.

It is obvious to me from your comments today and from the memorandum that I was sent that you and your committee staff have made some final judgments about Bert Lance. You have both reviewed the information collected by your

committee staff and have the benefit of having had a briefing by the Comptroller. I have had neither, and although I greatly respect you both and respect your judgement, I don't think it is fair to expect me to make a final decision about Bert Lance until I have had the opportunity to review the allegations and he has had a chance to respond to them.

I think that the Committee also has a public responsibility to Bert to allow him to respond to these charges, particularly to the embezzlement charge which I understand was developed by the Committee staff. Previous allegations dealt with overdrafts, failure to file bank reports and questions of propriety; this is a more serious charge that has been leaked to the papers and that Bert should be able to respond to. If he were to resign before your committee hearings, most of the American people would assume he is guilty of this charge.

It is certainly not my decision to make, but my strong preference would be for you to proceed with your hearings Thursday. In the meanwhile, I will study the allegations

*Ham -
Wait for
Kibo to come
J*

~~CONFIDENTIAL~~

TO: PRESIDENT CARTER
FROM: HAMILTON JORDAN 749
RE: BERT LANCIP SITUATION

Following up on our discussion of yesterday afternoon, let me present the arguments for Bert's resignation at the time of the hearings later this week. As mentioned, my great fear is that Bert will want or request a period of time after his hearing to gauge public reaction. While that might be a legitimate request, there are compelling arguments for you to proceed to make a final decision in advance of his hearing.

Conceding at the outset that Bert has been treated unfairly by the institutions responsible for the investigations and the media responsible for interpreting it to the American people, these are the hard facts:

RECEIVED
CANCELED
ARCHIVED

TO: DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
FROM: HAMILTON JORDAN 749
DATE: MARCH 16, 1977

COPIES OF THIS DOCUMENT ARE FOR
THE USE OF THE DIRECTOR ONLY

1. A final judgment on Bert Lance has been made by the media, by key political leaders and by the American people. As long as Bert remains in office, the focus of future stories will be on you - questioning your original judgment in selecting him, how much you knew about his bank problems, etc. Up to this point, Bert personally has absorbed most of the damage, the mean stories and editorials in the press. As long as he continues in office, the stories will begin to focus on you at tremendous political cost. And as unfair as the judgment is that has been made, it will not change much. A poll was released today that showed 67% of the American people think that Bert Lance should resign. Ribicoff and Byrd are not going to change their judgment regardless of how well Bert does at his hearings.

2. As long as Bert continues in office, his story will dominate the news at the expense of other things we are trying to do. If he stays in office, there will be a new charge or revelation each day at the hearings, a new political leader calling for his resignation, and reports on his legal battle to fight the charges referred to the Justice Department. Once Bert leaves, the press interest

will diminish considerably; and he will be in a stronger position to fight the charges against him as a private citizen than as a public official. It is now the dominate news story. On the Saturday night NBC News, 13 or 14 minutes were on the "Lance case". The time devoted to your trip to New Jersey focused on the questions that you were asked Lance - only peripheral mention was made of the fact that you were campaigning for Byrne. I don't think that there is any question that our Panama Canal activities this week were undermined publicly by the new charges against Bert. It stands to reason that there can only be one main story every day and that story this week was Lance not the treaty signing.

RE. ~~WATKINS~~

3. Although they profess to be unconcerned about it, Bert's slovenly continues to be a real problem and a legitimate area for inquiry by the media and the Congress. Some of Bert's closest friends contend that Bert would not be solvent even if he were able to sell his stock. There continues to be difficulty selling the stock with all of the public furor which presently surround Bert.

The prospective Indonesian buyer announced publicly yesterday that he was no longer interested in buying the stock because he could not afford to have it look that he was, "trying to buy American political influence".

4. To clear his name and successfully defend himself against potential Justice Department indictments, Bert is going to have to be able to spend a large amount of time with his lawyers working on his defense. If he resigns, the Senate Committee hearings will be over. If he continues in office, there will be hearings in the House and the Proxmire hearings as well. With the FY 79 budget being prepared, it is difficult to see how Bert can function effectively as OMB Director and perform his many other duties. He will either have to neglect his own defense or his OMB duties. It is not fair to us or to him for him to neglect either.

Summary

It is in your best interests and in the long-term interests

of Bert for him to resign at his hearings this week. It should be presented to him in this way though, not that you have made a narrow political decision for him to resign, but that you have made a decision which you genuinely believe is in the best interests of the Administration, the country and Bert personally.

I would be glad to write Bert a personal memorandum which present these facts to him in a different light and in a way that he will understand. Someone has to tell him the facts.

WHERE IT IS STATED THAT HE
PERSONALLY DO IT UP AS
TO HAVE SOMETHING THAT

~~CONFIDENTIAL~~

DETERMINED TO BE AN ADMINISTRATIVE
MATTER BY _____ DATE _____

TO: PRESIDENT CARTER
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~~BERT + LANCE~~

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WHEN YOU ARE THROUGH WITH THIS, LET ME
PERSONALLY PICK IT UP AS I DON'T CARE
TO HAVE IT FLOATING AROUND.

THE WHITE HOUSE

WASHINGTON

September 12, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Bob Lipshutz *BL*
SUBJECT: Bert Lance Matter

In addition to the information submitted to you in another memorandum of this date, with various attachments, I wish to advise of the following.

One of the major on-going investigations of Bert Lance relates to his use of the National Bank of Georgia airplane. The Justice Department has permitted Senate staff members to read the Comptroller's report, which had been referred to the Justice Department, on September 10, 1977.

It appears that this use of the airplane is being investigated very thoroughly by the following departments and agencies:

1. Justice Department apparently is reviewing it to determine if there is a criminal law violation by the bank and/or Bert Lance for "misapplication of bank funds" by using the plane for non-business purposes, including both personal uses and political uses.
2. Internal Revenue Service might very well assess substantial additional income tax against Bert Lance. Furthermore, they certainly will analyze it thoroughly to ascertain if there should be fraud penalties and/or criminal prosecution. Because of the very large number of trips involved, we should not minimize the seriousness of this.
3. Securities and Exchange Commission is investigating recent sale of stock by the National Bank of Georgia, presumably to ascertain if there were any misrepresentation or significant omissions by the bank in its stock offering. We previously were aware of the question being raised concerning alleged personal use of the airplane by Bert Lance as one

possible problem. However, I have just been advised on a very confidential basis that there is another much more serious question being looked in to quite diligently relative to the stock offering and sale!

4. Federal Election Commission is very likely to find that both Lance and the Committee for Jimmy Carter violated the campaign law in regard to the four trips about which you already are aware. I do not know if there are any other trips involving the campaign, but we are conducting a very thorough review to try and ascertain if there still are any outstanding private airplane trips, National Bank of Georgia or otherwise, for which we have not properly accounted.

Concerning the use of the airplane, these additional factors seem to be significant. The records kept regarding the use of this airplane and other entertainment expenses apparently are quite sloppy and incomplete. Regarding the authorization by the bank to Bert Lance for the use of this plane: (a) for the first three or four months after Bert went to the National Bank of Georgia, the bank leased the plane from Lancelot and paid for its use; (b) the bank purchased the plane pursuant to a Board resolution which appears to be proper; (c) no formal or written action was taken by the Board of the bank to define Lance's authorized uses of the plane, nor did his earlier employment agreement with the bank make any reference to this usage; (d) the "after the fact" letter of authorization from four officers-directors of the bank relating to his almost unlimited right to use the plane is not completely consistent with depositions of the pilot and of the bank officer, Bill Green.

BECAUSE OF THE POSSIBLE SERIOUSNESS OF THIS ENTIRE MATTER, I URGE THAT YOU AND OTHER MEMBERS OF THE WHITE HOUSE STAFF REFRAIN FROM COMMENTING ON THE MATTER WHILE IT IS STILL UNDER INVESTIGATION BY THE JUSTICE DEPARTMENT AND IRS AND OTHER GOVERNMENT AGENCIES.

Some additional, embarrassing documents have been shown by the Comptroller to the staff of the Senate Committee relating to examiner's reports in 1972, 1973 and 1974 of the Calhoun National Bank. In addition to the usual bank examination reports, which go into a great deal of detail about loans, policies, etc., there is a very derogatory "confidential" memorandum from the examiner as to Bert Lance's competence as a banker; it has been described to me as being "intemperate". It does not, however, question his integrity.

The law allows the Comptroller to publish such reports only "in the public interest", but it also authorizes Congress to see these examination reports. The law is silent as to the right of the President to see such reports, it apparently never having been attempted in the past.

Another new matter which has come into question relates to the three checks written by Bert dated December 31, 1976, but which follow in sequence two other checks on the same account dated January 7, 1977. These three checks were for payment of interest and principal on bank loans and did not actually clear the bank until about mid-January; the bank account apparently did not have sufficient funds to have covered them if they had been presented earlier. The purpose of these checks has not yet been explained, but I assume that Bert will do so at the hearing on Thursday of this week. Senator Percy has alluded to the possible improper attempt to use them as deductions on a 1976 income tax return.

I have preliminary information on another item which has not yet been fully investigated and reported. This relates to a sale by Bert Lance on about December 30, 1976, of some of his Calhoun bank stock to [REDACTED]

[REDACTED] Problems which might arise relating to this transaction are: (a) a portion of this sale was financed by a loan made to the purchaser by the National Bank of Georgia, and there may not be any evidence of the bank's having been advised that Lance himself was a "beneficiary" of that loan, it having been used as part of the purchase price of this stock from him; (b) the other portion of the purchase price apparently was financed by a loan at the Citizens and Southern National Bank, but there was a four day delay in getting the funds from C&S to be deposited in the purchaser's checking account at the National Bank of Georgia, and in the meantime the check from the purchaser to Lance was deposited by Lance and apparently cleared by the National Bank of Georgia even though it created a four-day overdraft in the purchaser's checking account.

You are aware of the news reports concerning Billy Lee Campbell. After the initial visit to Campbell and his new attorney by some of the Senate staff members, some other staff members (who presumably were most skeptical about the allegations) went down and visited with the attorney, although not with Campbell himself, and came

away from that meeting presumably feeling that there may be something to this matter even though they still apparently have no specific allegations of criminal or illegal actions concerning Lance.

You are familiar with the charge of Bert's having pledged the same stock on two different loans at the same time. This relates to a stock dividend which had not actually been delivered when the agreement was made by Lance with the Manufacturers Hanover to pledge this stock dividend. In fact he did not ever deliver the stock dividend shares to Manufacturers Hanover, but about seven months after making the loan used these shares as collateral at another bank. This matter has proved embarrassing to both Lance and Manufacturers Hanover, but presumably no action will be taken -- this loan, as you are aware, was paid in full in January, 1977, with proceeds of the loan from the Chicago bank.

reputation in the general community and the business community of the State of Georgia, and perhaps even more, this judgement was based upon the President's personal experience over a period of 27 months of working closely with Lance when the President was Governor of Georgia and Bert Lance was the director of the Department of Transportation.

The President's judgement has been questioned because of his purported knowledge of certain banking practices at the Calhoun National Bank in 1974 and 1975, when Bert Lance was the bank's Chief Executive Officer. The first information about problems at the Calhoun National Bank was brought to the attention of the President by Bert Lance in mid-November, 1976, who discussed it with him personally at his home in Plains. On December 1, 1976, John Moore, who was representing the President-elect relative to conflicts and ethics matters, and Bert Lance telephoned the President from Atlanta and outlined this matter, both the problem and the resolution of it by the Comptroller, per the attached Press Release, which had been drafted by the Acting Comptroller of the Currency Bloom and approved by Mr. Lance and his attorney. The President had no reason to question the facts given to him concerning this situation, nor the determination of the appropriate action which was taken by the Comptroller to remedy the problems (by the agreement between the Comptroller and the bank), nor the determination by the Comptroller's office that the bank had done whatever seemed necessary to fulfill the agreement and thus resulted in its rescission by the Comptroller's office.

The President does not recall any mention having been made in this phone call regarding a criminal referral of the matter.

At about 1 PM on December 3, 1976, after having seen speculation in the press concerning the pending appointment of Bert Lance, the Federal Bureau of Investigation telephoned Mr. Matt Coffey, in the Personnel Office of the Transition Office, and advised him both that there had been a criminal referral from the Office of the Comptroller to the Department of Justice relating to the Calhoun National Bank and Mr. Lance, and that the Department of Justice had concluded its investigation and as of December 2, 1976, had closed its files without prosecution. This oral advice was confirmed on the same day in a written memorandum delivered to the Transition Office. Mr. Coffey gave this information to Mr. Jack Watson, the head of the Transition Team, and they promptly requested the FBI to institute a full field investigation of Mr. Lance, in the customary manner for Presidential appointees. Since the criminal referral matter had been terminated by the Department of Justice without prosecution, neither Mr. Coffey nor Mr. Watson advised the President, or anyone else, concerning the matter.

advised by the President-elect determined that information in this report did not adversely affect the suitability of Mr. Lance for appointment, and, as in most cases, did not consult with the President-elect concerning this aspect of the nomination.

Although in somewhat more detail, the information contained in the FBI report relative to the Calhoun National Bank overdraft situation, the action taken by the Comptroller relative to this matter, and the criminal referral and termination, is substantially the same information as the Senate Committee received from the Comptroller and Mr. Lance in their testimony. The FBI report did include consistent and uncontradicted statements, resulting from more than 80 interviews, lauding the competence, integrity, and character of Mr. Lance.

With reference to the FBI reports generally, it has been the consistent policy of this Administration (as we understand it to have been the policy of previous Administrations) to forward FBI reports to committees only when requested by the Chairman. When so requested, we have been, and continue to be, willing to permit the Chairman of the committee and the Minority Leader of the committee to read the complete reports to assist them in resolving any questions which arise. Several hundred nominations have been submitted to date by this Administration, and there have been four or five such instances in which the Chairman of the committee has requested access to the report, and such requests have been honored in this manner.

September 8, 1977

MEMORANDUM

TO: Jody Powell

FROM: Bob Lipshutz

SUBJECT: Facts Relating to Bert Lance Affairs Prior to
Nomination and Confirmation Proceedings

I believe that you should have the following information, much of which you perhaps already have, concerning this matter.

First of all I am attaching a memorandum which I sent you recently relating to John Moore and to the termination of the agreement between the Calhoun National Bank and the Comptroller on November 22, 1976. This includes my memorandum and the proposed press release which was to be used when necessary in connection with the matter.

Next are important excerpts from the FBI report dated January 6, 1977, setting out the various conclusions of key persons in the Comptroller's office and in the Department of Justice relating to both the Calhoun Bank-Comptroller agreement and the referrals made by the Office of the Comptroller to the Justice Department:

1. Jeffrey Bogart, Assistant United States Attorney who handled the Billy Lee Cammel case for the Department of Justice: "...the matter concerning the overdrawn checking accounts was assigned to John W. Stokes, Jr., United States Attorney, Atlanta, Georgia. He said, as he recalls, Mr. Stokes conferred with Mark Richard, Chief of the Fraud Section, Criminal Division, Department of Justice, Washington, D.C., concerning the matter. He said that he believes that an opinion was obtained from the Department of Justice concerning a possible violation of Title 18, United States Code, Section 610, (Contributions or Expenditures by

National Banks, Corporations, or Other Organizations). He said concerning possible violations of Title 18, Section 656 (Theft, Embezzlement, or Misapplication by Bank Officers or Employees) and Section 1005 (Bank Entries, Reports and Transactions) that Mr. Stokes declined prosecution of these matters. . . . Mr. Bogart stated he is not sufficiently well-acquainted with Mr. Lance to furnish any comments concerning him. "

2. John W. Stokes, Jr., United States Attorney, Northern District of Georgia, Atlanta, Georgia: ". . . the matter was brought to the attention of his office in September, 1975, by the Comptroller of the Currency, Washington, D. C., and Atlanta, Georgia. . . . He said that under Department of Justice regulations such a matter must be referred to the Department of Justice, Washington, D. C., for consideration and that in this case such action was taken. He said, as he recalls, Mr. Mark Richard, Chief of the Fraud Section, Criminal Division, Department of Justice, Washington, D. C., took the matter under consideration and subsequently declined prosecution on the basis that there was no intent and that the bank had sustained no losses. -- Mr. Stokes said that concerning the remaining two violations, that based on information contained in his file which had been obtained from the Comptroller of the Currency and the bank examinations, he declined prosecution of any of the bank officers involved on the basis he could ascertain no intent to violate either Title 18, United States Code, Section 656 or Section 1005, plus the fact that the bank in the ultimate has sustained no losses. Mr. Stokes said concerning his declination of prosecution he was not concerned with any prosecution of Mr. Lance, which was handled by the Department of Justice, but rather with possible violations by other bank officers. "

3. Mark Richard, Chief, Fraud Section, Criminal Division, Department of Justice, Washington, D. C.: ". . . There was no violation of Title 18, United States Code, Section 610, and accordingly he declined prosecution concerning that aspect of the case. . . . After the Department's declination concerning a possible violation of Section 610, the entire file concerning the matter was forwarded to the United States Attorney, Atlanta, Georgia, for his determination as to whether other violations of the law may be present. He said it is his

understanding that on December 2, 1975, United States Attorney, Atlanta, Georgia, decided that there were no violations of Title 18, United States Code, Section 656 or 1005. . . . He considers this matter to be in a closed status."

4. Robert Bloom, Acting Comptroller of the Currency, Department of Treasury, Washington, D. C.: ". . . . He would not hesitate to recommend him (Mr. Lance) as being a loyal citizen of excellent character and associates. He said he knows nothing unfavorable concerning Mr. Lance and would recommend him for appointment to the position of Director, Office of Management and Budget. . . . As he recalled the accounts of the individual overdrafts were not significant amounts and the overdrafts did not appear to be anything that was intentional. He said in his opinion the matter did not reflect adversely upon Mr. Lance in any manner. . . . The agreement which was drawn up was utilized as a method in which to remedy the poor banking practices which existed in the bank. . . . such practices involved 'no willfulness' and did not constitute practices in violation of any criminal law. . . . The bank had made sufficient progress in its bank practice that it was no longer necessary that the agreement be continued and that it was rescinded effective November 22, 1976, in accordance with the provisions of the 'Financial Institution Supervisory Act of 1966'."

5. David A. Schaub, Attorney, Division of Enforcement and Compliance, Office of the Comptroller of the Currency, Department of Treasury: ". . . . His review of records concerning Mr. Lance did not reflect adversely on Mr. Lance's personal or professional qualifications."

6. Donald L. Tarleton, Regional Administrator of National Banks, Sixth Regional District, Comptroller of the Currency, Department of Treasury, Atlanta, Georgia: ". . . . Reviewed the examination of the report and it was his opinion, which was concurred with by Mr. Robert Serino, who is Director of Enforcement and Compliance, Office of the Comptroller of the Currency, Washington, D. C., that there was no lawful wrongdoing on behalf of Mr. Lance or any of the bank's officers concerning the irregularities. He said there was no loss sustained by the bank and that Mr. Lance

had a personal guarantee on file with the bank which would cover any expenses incurred by the bank on his behalf. In his opinion the irregularities were caused by poor bookkeeping without ill intent. In certain states, such as Georgia, where unit banking is required as a general rule, bank audits uncovered 'sloppy bookkeeping'. It is not at all uncommon for such examinations to uncover overdrafts in checking accounts that are maintained by bank officers and that this type of thing is generally found in small rural banks, particularly in Georgia. In his opinion, any number of small rural banks would have permitted the same type overdraft situation to exist, particularly if an officer of a bank was running for a political office. It simply boils down to rural banks 'lacking prosecuted sophistication'. He does not believe Mr. Lance was fully aware of what was going on concerning the extent of payments that the bank was making on behalf of campaign accounts. . . . (H's) opinion that the irregularities that occurred at the CFNB would not have been prosecuted because no intent to violate the law was found and no losses were sustained by the bank."

IN ADDITION TO THE FOREGOING DETAILED REPORT CONCERNING THE ALLEGATIONS AGAINST MR. BERT LANCE, THE SAME FBI REPORT INCLUDED THE FOLLOWING INFORMATION AS A RESULT OF APPROXIMATELY 83 OTHER INTERVIEWS MADE BY THE FBI:

1. Unqualified and consistent high recommendations of him for a position of trust and responsibility.
2. Without contradiction, Mr. Lance was described as a loyal American whose character, reputation and associates are above reproach, as well as being intelligent, straight-forward, civic-minded, hard-working, dedicated, and trustworthy.
3. His close relatives were described by those who knew them as being reputable individuals.
4. Among those who were interviewed, and whose names and comments appear in the report, are the following: Senator Sam Nunn; Senator Herman Talmadge; the First Vice President

of the Citizens and Southern National Bank of Atlanta, Georgia; the Executive Vice President of the Georgia Bankers' Association; the President of the Federal Reserve Bank, Atlanta, Georgia; and others.

The January 31, 1977, FBI report gave additional details concerning these same matters, including the September 22, 1975, report from John P. Sherry, attorney for the Enforcement and Compliance Section, which set out many of the details leading up to the agreement entered into by the office of the Comptroller and the Calhoun Bank (the agreement which was terminated November 22, 1976). Although it elaborates in much more detail the background of the Calhoun Bank operation which led up to this agreement, it does not introduce any contradictory facts or opinions.

September 21, 1977

My Dear Mr. President:

There is no need for me to go into the events of the last few weeks. You know them well as do the American people.

You also know that previously I had said three things to you about the importance of the so-called "Lance affair." I will recall those for you:

First, it was and is important that my name and reputation be cleared for me, my wife, children, grandchildren, and those who have trust and faith in me; and, I believe that this has been done. As I said at the Senate hearings, my conscience is clear.

Second, it was and is important for me to be able to say that people should be willing to make the necessary sacrifices and be willing to serve their government and country. This I can still say, and say proudly.

Third, I believe in the absolute need for government to be able to attract good people from the private sector. We must find ways to encourage these people.

As to my position as Director of the Office of Management and Budget: I hope the American people feel that during my eight months in office I have met well my responsibilities and performed well my tasks. This has been an important aspect of the entire matter.

However, I have to ask the question at what price do I remain? My only intention in coming to Washington in the first place was to make a contribution to this country and to you.

I am convinced that I can continue to be an effective Director of the Office of Management and Budget. However, because of the amount of controversy and the continuing nature of it, I have decided to submit my resignation as Director of OMB. I desire to return to my native State of Georgia.

page 2

It has been a high privilege and honor to be a part of your administration. Hopefully, I have made a contribution which will be of lasting value.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "Dwight D. Eisenhower", written in a cursive style.

THE WHITE HOUSE

WASHINGTON

September 1, 1977

MEMORANDUM FOR: JODY POWELL

FROM: MICHAEL CARDOZO *MC*

SUBJECT: Chicago Sun Times - John Moore/Bert Lance
article which appeared in Washington Post,
September 1, 1977

John Moore called me this morning. He thought that you should be reminded that the Sun Times failed to uncover one other apparent conflict involving Alston, Miller and Gaines.

Harvy Hill represented not only Bert Lance but also Jimmy Carter. Hill represented Lance in the preparation of his response to the conflicts of interest questionnaire submitted to all Presidential nominees. He has represented Jim / Carter periodically from 1970 to the present on such matters as tax planning and the transfer of President-elect Carter's assets to his new Trustee, Charles Kirbo. In connection with the transfer of assets to Charles Kirbo, Mr. Hill worked closely with Mr. Kirbo.

Also, the Sun Times article refers to a Griffin Bell comment to the effect Bell could not believe that Sid Smith "had acted on behalf of Lance in helping Moore review Lance's financial affairs in relation to the comptroller's report."

1. John Moore had no contact with the Comptroller, except for his previously reported participation in the telephone conversation with Acting Comptroller Bloom on December 1.
2. John Moore did not have access to the Comptroller's reports on the Calhoun National Bank.
3. John Moore had no contact with the U. S. Attorney's office regarding Bert Lance.

You may want to clarify with the Attorney General exactly what he meant.

cc: Bob Lipschutz ✓

In 1975 Calhoun First National Bank, of which Mr. Bert Lance is Chairman of the Board, as did many other banks in the country, encountered loan portfolio difficulties associated with the decline of the construction industry and related businesses. A former officer of the bank was also discovered to have committed a substantial defalcation by means of fictitious loans and excessive loans to his own interests. As a result, the bank suffered a significant loss in earnings in 1975 requiring an injection of additional capital funds.

During the bank's regular examination, questions also were raised by the National Bank Examiners concerning overdrafts in the accounts maintained by the Lance for Governor Campaign Committee during 1974 and certain other accounts. These overdrafts did not cause any losses to the bank, but may have constituted technical violations of restrictions on national banks or deviations from standard banking practices.

In December 1975 the Board of Directors of the bank entered into a voluntary agreement with the Office of the Comptroller of the Currency to effect appropriate corrective measures. Additional capital was raised, classified loan totals were lowered, a well qualified senior loan officer was hired, earnings were improved significantly and the questioned practices were halted. The agreement of the bank directors was voluntary and no proceedings or charges were brought against the bank or its present officers in connection with the matter.

In view of the progress reflected in the most recent visitation to the bank by National Bank Examiners in October of 1976, the Regional Administrator of National Banks in Atlanta advised the bank in November that the agreement between the Board of Directors and the Comptroller's

(More)

office was no longer necessary and could be considered rescinded.

Mr. Lance on behalf of the Calhoun First National Bank has consented to the release of the above information from the examination report files of the subject bank.

###

EDWARD M. BRENNAN, WASH.
EDMUND S. MUSKIE, MAINE
LEE M. MITCHELL, MONT.
THOMAS P. SETON, MD.
LESLIE M. S. PEA.
SAM. YOUNG
JOHN T. COLE, OHIO
JIM SASS, ENN

JACOB K. JAVITS, N.Y.
WILLIAM V. ROY, JR., DEL.
TED STEVENS, ALASKA
CHARLES MCC. MATHIAS, JR., MD.
JOHN C. DANFORTH, MO.
H. JOHN BENZIE, PA.

United States Senate

RICHARD A. WESMAN
CHIEF COUNSEL AND STAFF DIRECTOR

COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, D.C. 20540

September 3, 1977

The President
The White House

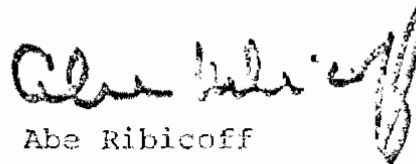
Dear Mr. President:

Following our telephone conversation,
you will find enclosed a memorandum concerning
Bert Lance.

Senator Percy and I feel it is essential
that we consult with you immediately. I am in
Washington and Senator Percy is in Illinois. He
will come to Washington immediately at such time
that would suit your personal convenience.

I can be reached at my home, 333-1999.

Respectfully,


Abe Ribicoff

(aired at 10:00 p.m. Chicago on WBBM-10)

Hours in advance of that Labor Day meeting which Sen. Percy said he wanted kept secret from the press, a spokesman for the Senator was calling specific reporters at their homes to tip them. The Percy aide reached me and apparently at least one other Washington-based reporter giving the place of the meeting (White House), the time of the meeting (4:30), the general subject (new information on Bert Lance) and the participants (Percy, Ribicoff and the President). Further, the aide said in advance that the Senators probably would be available for interviews afterwards. This morning also in the hearing Sen. Percy pointed out that the Senators had gone into that meeting by the back Southwest gate which is not covered by reporters. What Percy did not point out is that apparently he had planned to enter the White House by the front gate nearest the pressroom. It was the White House, not the Senators, who made the decision to use the more secluded entrance. As for Sen. Percy's statement that they talked to waiting reporters at the encouragement of the White House, Presidential advisor Hamilton Jordan told us today that the Senators were neither encouraged nor discouraged from talking to the press. Today Percy's aide said that the Senator had no knowledge that newsmen were being tipped by his own office. The Senator himself had no comment on the matter.

Philip Walters - Channel 2 News - The White House

THE WHITE HOUSE

WASHINGTON

September 21, 1971

Dear Bert:

In response to your letter of September 21 to me, I accept your resignation as Director of the Office of Management and Budget. As I said at my Press Conference on September 21, I take this action with the greatest sense of regret and sorrow.

I wish to reiterate my stated conviction that you have been as fine a Director as OMB possibly could have had. The results of your efforts to reorganize the Federal Government and to realign the Federal Budget demonstrate the significant impact which you have had on our Administration and on the Federal Government.

I always will be grateful to you for your personal counsel and advice and for the superb performance of your duties at OMB, and I am confident that the other members of my Administration and the American people share that appreciation.

Rosalynn and I hope to continue our frequent visits with you and LaBelle, and you know that you always are welcome in our home.

Sincerely,



The Honorable Bert Lance
Director
Office of Management and Budget
Executive Office Building
Washington, D.C. 20500

*p.s. I've enclosed a transcript of
the press conference for your files.
pps. Maybe we'll find time to get
revenge - for our tennis match, next week.*



EDITED

**U.S. DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OFFICE OF ASSISTANT COMMISSIONER (INSPECTION)**

**INVESTIGATION OF THE
OFFICE OF THE
COMPTROLLER OF THE
CURRENCY'S ACTIVITIES
RELATING TO THE
CALHOUN 1st NATIONAL
BANK AND THE
NATIONAL BANK OF
GEORGIA**

Comptroller of the Currency
Administrator of National Banks

Washington, D. C. 20219

September 7, 1977

Mr. Warren A. Bates
Assistant Commissioner (Inspection)
Internal Revenue Service
Washington, D. C.

Re: Printing run for edited version of internal inquiry

Dear Mr. Bates:

Enclosed is an edited copy of the report prepared by the IRS on the Office of the Comptroller of the Currency's activities relating to Calhoun First National Bank and National Bank of Georgia. Deletions are as follows:

Tab A -- No deletions.

Tab B (Background Information) -- Pages 1 through 20 in their entirety, explanation of deletions inserted in brackets.

Tab C (Section 1) -- Pages 2, 3, 4, 5, 6, 7, 11, 12, 13, 17, 19, 21, 22, 23, 24, 25, 26, 27, 32, 33, 34, 39, 40, 41, 43, 53, 55, 56, deletions of examination report material and a personal characterization.

Tab D (Section 2) -- Pages 11 through 15, and 17 in their entirety. Pages 10, 16, 18, 49, 50, deletions of examination report material.

Tab E (Section 3) -- List of people interviewed, pages 1 through 17 in their entirety. Section deleted because it pertains to the Justice Department's investigation of aircraft, explanation of deletion included.

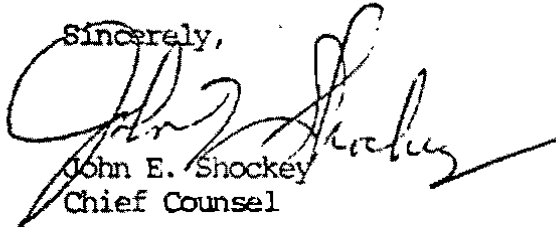
Tab F (Section 4) -- Pages 2, 4, deletions of examination report material.

Tab G (Section 5) -- None.

Tab H (Section 6) -- Pages 1, 2, 3, 4, 5, 7, deletions of examination report material.

Tab I (Appendix) -- None.

Sincerely,


John E. Shockey
Chief Counsel

REPORT OF INVESTIGATION

(Assistant Commissioner (Inspection) - Washington, D. C. 20221)

TITLE (Name and address)

INVESTIGATION OF THE OFFICE OF THE COMPTROLLER OF THE CURRENCY'S
ACTIVITIES RELATING TO THE CALHOUN FIRST NATIONAL BANK
AND THE NATIONAL BANK OF GEORGIA

This report contains the results of an investigation into activities by officials of the Office of the Comptroller of the Currency (OCC) in matters relating to T. BERTRAM LANCE, the Calhoun First National Bank and the National Bank of Georgia. The scope of this investigation concerns actions taken by OCC officials from approximately November 1976 through April 1977. The investigation encompasses a series of incidents which occurred during this time period. For the reader's clarity and to avoid duplication, these incidents are reported separately; however, information obtained from documents and interviews may pertain to sections other than the section in which the information appears.

SIGNATURE OF INSPECTOR MAKING REPORT <i>Stephen N. Marica</i> Stephen N. Marica		SIGNATURE OF INSPECTOR MAKING REPORT <i>John E. Janczyk</i> John E. Janczyk	
SIGNATURE OF PERSON EXAMINING AND FORWARDING REPORT <i>James Quinn</i> James Quinn		DATE EXAMINED AND FORWARDED September 7, 1977	
TITLE Chief, Investigations Branch		OFFICE (City) Washington, D.C.	
		DATE OF THIS REPORT September 7, 1977	

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BASIS FOR INVESTIGATION

On July 21, 1977, Comptroller of the Currency JOHN HEIMANN contacted Deputy Secretary of the Treasury ROBERT CARSWELL and requested that the Department of the Treasury provide assistance in conducting an investigation as to the propriety of actions by officers and employees of the Comptroller of the Currency in connection with matters relating to T. BERTRAM LANCE, LABELLE LANCE, The National Bank of Georgia and The Calhoun First National Bank.

On July 23, 1977, Inspectors of the Internal Security Division, Internal Revenue Service met with ROBERT CARSWELL, Deputy Secretary of the Treasury; JOHN HEIMANN, Comptroller of the Currency (OCC) and members of HEIMANN's staff to discuss the undertaking of an investigation of certain OCC employees and their activities in matters concerning THOMAS BERTRAM LANCE, Director, Office of Management and Budget (OMB). Mr. CARSWELL advised that he desired that the Inspection Service review the report and materials which Mr. HEIMANN's staff had discovered during their investigation of Mr. LANCE's banking practices and to pursue any allegations of employee misconduct which might be disclosed during such an investigation.

Mr. CARSWELL stated that the IRS should limit the scope of its investigation to matters relating to the conduct of OCC employees, while the Comptroller's office would conduct the investigation into the banking aspects.

In addition, Mr. HEIMANN authorized the Inspectors to interview all OCC employees and obtain and review any documents available in the files of the OCC which would be needed to facilitate the investigation.

BACKGROUND INFORMATION

(Background Information consisting of examination report material deleted.)

SECTION 1

Investigation into the removal of a formal agreement between the Board of Directors, Calhoun First National Bank, Calhoun, Georgia, and the Office of the Comptroller of the Currency.

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
DONALD TARLETON Regional Administrator Atlanta, Georgia	8/22/77 & 8/23/77	Affidavit
BETTY LOU JARRETT Secretary to the Regional Counsel Atlanta, Georgia	8/11/77	Affidavit
NELL PROCTOR Secretary to Deputy Regional Administrator for Examinations Atlanta, Georgia	8/10/77	Affidavit
ANN H. GORDON Secretary to the Regional Administrator of National Banks Atlanta, Georgia	8/9/77 & 8/10/77	Affidavit
GLORIA P. FLIAKAS Administrative Assistant to the Comptroller of the Currency Washington, D. C.	7/27/77	Affidavit
RICHARD T. NEWELL Executive Assistant to the Regional Administrator of National Banks Atlanta, Georgia	8/10/77 & 8/11/77	Affidavit
CHARLES W. MURPHY Deputy Comptroller of the Currency for Administration Washington, D. C.	8/3/77	Affidavit

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
BEVERLY J. BURNETT Secretary to the Executive Assistant to the First Deputy Comptroller for Operations Washington, D. C.	7/29/77	Affidavit
ALLEN HERLANDS Executive Assistant to the First Deputy Comptroller of the Currency	8/4/77	Affidavit
JOHN L. MOORE, JR. President and Chairman of the Export-Import Bank of the United States Washington, D. C.	8/30/77	Affidavit
ROBERT B. SERINO Director, Enforcement and Compliance Division Washington, D. C.	8/27/77	Affidavit
JOHN WANLESS, JR. National Bank Examiner Atlanta, Georgia	8/10/77	Oral-Under Oath
MARIA I. RICHMOND Regional Director of Corporate Activities Atlanta, Georgia	8/12/77	Affidavit
ROBERT BLOOM First Deputy Comptroller Washington, D. C.	8/31/77 & 9/1/77	Affidavit
ALEX W. SMITH Attorney Atlanta, Georgia	9/2/77	Oral

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
RICHARD S. BEATTY Attorney Washington, D. C.	8/31/77	Oral-Under Oath
BILLY C. WOOD Regional Administrator of National Banks Chicago, Illinois	8/29/77	Oral-Under Oath
M. B. ADAMS Regional Administrator of National Banks Portland, Oregon	8/30/77	Oral-Under Oath
CHARLES M. VAN HORN Regional Administrator of National Banks New York, New York	8/3/77	Oral-Under Oath

Details of Investigation

Mr. JOHN HEIMANN, Comptroller of the Currency, advised that on November 22, 1976 Regional Administrator DONALD L. TARLETON removed the Agreement on the Calhoun First National Bank, Calhoun, Georgia without obtaining the concurrence of Acting Comptroller ROBERT BLOOM. Mr. HEIMANN further advised that Deputy Comptroller H. JOE SELBY apparently approved Mr. TARLETON's removal of the Agreement.

Mr. JOHN PETER SHERRY, Regional Counsel, Chicago, Illinois, advised:

Sometime in late April or early May, 1975, he was assigned by ROBERT SERINO, Director Enforcement & Compliance, to investigate certain matters at the Calhoun First National Bank involving possible illegal campaign contributions, false record keeping, and misapplication of funds. Information had been developed during an April, 1975 examination of the bank which suggested these potential violations.

His first contact with the case was a telephone conversation with Mr. BILLY C. WOOD, then Regional Administrator, Region Six. A general discussion of the examiner's findings took place. Subsequently, he traveled to Atlanta and reviewed with Examiner NEWELL his examination and the bank records obtained during the 1975 examination. He requested that he (NEWELL) secure further information and this was transmitted to him in Washington in May, 1975.

Subsequent to this initial inquiry and document review, and upon discussion of these facts with Mr. SERINO, it was decided that the Enforcement & Compliance Division would seek the Comptroller's approval to conduct a formal private investigation into these matters, including the use of subpoena power and sworn depositions. This course of investigation was selected - which, he added, is an unusually thorough choice - because of: (1) the potential gravity of the offense (criminal political campaign contributions); (2) the need to resolve the appropriate enforcement avenue; criminal referral, Cease and Desist Proceedings, Agreement, removal proceeding; (3) interest in ascertaining those responsible parties; (4) collection of all pertinent records; and (5) the parties involved, a candidate for the State Democratic gubernatorial nomination. The Comptroller (JAMES E. SMITH) approved this course of action.

Following the Comptroller's execution of authorization, subpoenas were prepared and issued for production of documents and testimony. His preparation for the depositions, i.e. the outlining of the substance and parameters of inquiry, were discussed with Examiner NEWELL and Mr. SERINO. At no time did any individual in the Office of the Comptroller of the Currency instruct, request, suggest or otherwise recommend the narrowing of the scope of inquiry.

The parties were deposed and records were produced with full cooperation. Individuals deposed were: Mr. LANCE, Mr. Y.A. HENDERSON, Mr. HUGH HAMILTON.

With the record assimilation and testimonial aspects of the investigation completed, he then set about the preparation of a recommendation of enforcement action. After conversation with Mr. SERINO, he prepared a memorandum setting forth the facts in the case, an analysis of potential criminal violations, a description of mitigating factors and recommendation. As a result of the inquiry, he had reached two opinions concerning available procedural moves. These were: (1) that his office should take formal action, his preference being an Agreement, and (2) the possible criminal matters should be discussed with the Department of Justice, and formally referred to that agency.

He had resolved that while elements of various criminal statutes had been transgressed (misapplication, false entries, campaign contributions), in view of the mitigating circumstances, the actions had not been willful. However, in drafting the memorandum, he took pains to describe the possible criminal violations and the mitigating factors. He had resolved that only the Justice Department could answer the question of criminal conduct as that department possessed both jurisdiction and expertise. The mitigating circumstances were described to provide all facts relevant to reaching a determination of enforcement action both for the benefit of his office and Justice.

While Mr. SERINO may have suggested expansion of certain parts, no person in the Office of Comptroller of the Currency instructed, requested, suggested, hinted, or otherwise recommended a narrowing of the content, nor were any changes made to the memorandum as finally written.

As can be observed from a review of his September, 1975 memorandum, many officials within the Office read the document and came to different conclusions regarding the appropriate method of proceeding such as, Board resolutions, Agreement, etc. Approval to contact the Justice Department, Criminal Fraud Section, was obtained, and he mailed (late September, early October 1975) Mr. ROBERT HICKEY of that office a copy of the memorandum. Subsequently, Mr. HICKEY and he discussed by telephone the memorandum, the record support, and mutually agreed, as he recalled, that formal referral was appropriate. His official report occurred after he moved to Chicago.

Regarding the choice of enforcement action, he had indicated his preference for an Agreement. He presented this to Mr. SERINO, Mr. BLOOM, and Regional Administrator TARLETON; all were receptive to this approach. At least one meeting with Mr. BLOOM occurred wherein he reviewed the facts obtained during the investigation (testimonial and documentary), and he recommended an Agreement be placed upon the bank. He felt an Agreement was an appropriate avenue in view of

and because of the campaign contributions, i.e. the overdrafts, non-payment of interest until the commencement of the investigation, exposure of the bank to loss and so forth. His position prevailed.

He drafted the Agreement, and that document executed with the Board of Directors in December 1975, materially conforms to his selection of areas to cover. The Agreement was reviewed with many officials in Washington, D.C. and the Region. However, no one instructed, requested, suggested, or otherwise recommended that a specific matter be deleted. He added that the Article treating the bank's future participation in campaigns was included to insure that the bank never again became so involved.

At the meeting with the Board of Directors, where the Board signed the Agreement, he discussed at length his findings concerning campaign contributions and that such activity was unsafe and unsound. The overdrafts exposed the bank to losses, checks were paid on uncollected funds, and officers in the bank knew or should have known, the failure to impose service charges or interest, the improper book entries, and the potential criminal violations.

An Article in the Agreement, as he recalled, dealt with the overdrafts to insiders' relatives (a different area than campaign OD's). While OD's can of course potentially involve criminal violations, the exclusion of these particular OD's in the criminal referral to Justice was principally his decision (no doubt discussed with Mr. SERINO). As he recalled, the decision was reached because no officer, director, or employee of the bank, received, as far as they (OCC) knew, either directly or indirectly, the funds involved.

Mr. DAVID SCHAUB, Staff Attorney advised:

His responsibilities include analysis of information pertaining to banks under Agreements and reviewing of recommendations to lift Agreements. His office maintains a file on all banks which are under Agreement. During September of 1976, Regional Administrator DONALD L. TARLETON had, without apparent authority, lifted an Agreement with the Bank X */ ✓
When Mr. ROBERT SERINO, Director of Enforcement and Compliance,

✓ */ Throughout this section a bank unrelated to NBG or Calhoun will be referred to as Bank X.

learned of this, he instructed him (SCHAUB) to draft a memorandum for his (SERINO's) signature. The memorandum noted that the lifting of any Agreements had to first be approved by Enforcement and Compliance, and by the Comptroller himself. Specifically, the memorandum dated September 30, 1976, and addressed to H. JOE SELBY, Deputy Comptroller for Operations, instructed, "it is appropriate to tell all Regional Administrators that formal Agreements or Cease and Desist Orders should not be taken or removed without the approval of D.C."

Concerning the Calhoun bank, he inherited the file from JOHN SHERRY, who is now Regional Counsel in the Chicago office.

He was unaware that the Agreement with the Calhoun First National Bank had been rescinded, until several days after the fact when a copy of the letter releasing the Agreement came to his attention. He was disturbed because he had had no prior knowledge of that action, and it occurred shortly before the formal announcement of Mr. BERT LANCE's appointment as Director of the Office of Management and Budget. He felt the timing of this was poor due to the fact it would inescapably appear that the OCC took the action to curry favor with Mr. LANCE. He brought this to Mr. SERINO's attention, and subsequently was called to advise Mr. BLOOM on the matter.

Mr. BLOOM was upset, probably for the same reasons he was. Mr. BLOOM wanted to know if Enforcement and Compliance had been consulted and also if the lifting was justified. In his (SCHAUB's) opinion, which he related to Mr. BLOOM, as his (SCHAUB's) best advice, the lifting was wrong, because there was no assurance that all the overdrafts had been paid with interest, and the fact that this abuse had gone on for so long prior to the placing of the Agreement that there was no assurance it would not start again. Mr. BLOOM and he discussed reinstating the Agreement. He advised Mr. BLOOM that, since the lifting was unauthorized, the Agreement was still in effect and that he (BLOOM) himself should personally so notify the bank. He also advised Mr. BLOOM that Mr. TARLETON and Mr. SELBY should be fired immediately, because (1) they had acted contrary to the instructions of the September 30, 1976 memorandum, (2) the political implications of their action were so bad as to impugn their judgment, and (3) Mr. SELBY did not have the authority to approve the release because Mr. BLOOM was present as Acting Comptroller at the time the Agreement was lifted. He repeated this advice to Mr. WESTBROOK MURPHY, Deputy Comptroller for Administration, and later to Mr. SERINO. However, Mr. BLOOM did not follow that advice.

A memorandum, dated September 30, 1976, from Mr. ROBERT SERINO, Director of Enforcement and Compliance, to Mr. H. JOE SELBY, Deputy Comptroller for Operations, disclosed:

Regional Administrator TARLETON terminated a formal Agreement between Bank X and the Office of the Comptroller entered into on June 17, 1974. Mr. SERINO advised that no action such as this should be taken until

Washington, D.C. particularly the Special Projects/Bank Review, and the Enforcement and Compliance Division, had first been consulted, and provided with facts justifying such a termination. Independent evaluation of such action should be made in Washington, and final approval should rest there.

In the Bank X case, the first notice of this action was a copy of a letter, dated September 23, 1976, to the Board of Directors, Bank X noting that the authority relied upon was a letter authorizing Mr. BILLY WOOD (TARLETON's predecessor) to enter the Agreement in 1974. Mr. SERINO pointed out that he believed it was appropriate to inform all Regional Administrators that formal Agreements or cease and desist orders should not be taken or removed without the approval of the Washington, D.C. OCC office.

A memorandum, dated November 3, 1976, to Mr. H. JOE SELBY, First Deputy Comptroller for Operations, from Mr. ROBERT B. SERINO, Director, Enforcement and Compliance Division, disclosed:

Mr. SERINO stated that Mr. H. JOE SELBY was going to discuss with the Regional Administrators the procedures for instituting and removing Agreements and Orders. A review of the memorandum disclosed the following information:

"(2) Removal of formal administrative Agreements or Orders.

The initial decision for removing the formal papers rests with the Regional Administrator. Where a decision is made to remove the papers, it is requested that a memorandum be submitted to the First Deputy Comptroller for Operations through the Special Projects or Bank Review Division. The Special Projects, Bank Review Division will notify the Enforcement Division and an appropriate document will be submitted to enable the Regional Administrator to remove or modify the cease and desist order."

Mr. ROBERT B. SERINO, Director of the Enforcement and Compliance Division, advised:

On November 26, 1976, he first learned of the lifting of the formal Agreement entered into with the Calhoun First National Bank, Calhoun, Georgia pursuant to the Financial Institution Supervisory Act of 1966. On that date National Bank Examiner JIM GARTNER came to him and showed him a copy of a letter dated November 22, 1976, addressed to the Calhoun First National Bank. He (SERINO) was preparing for testimony, concerning another matter, to be given in San Antonio, Texas, on December 2, 1976, to a congressional committee. He indicated to Mr. GARTNER that he would review the situation when he returned from Texas.

On November 26, 1976, he was in Acting Comptroller ROBERT BLOOM's office when Deputy Comptroller WESTBROOK MURPHY entered and suggested that he inform Mr. BLOOM of the history of the Calhoun First National Bank and the enforcement actions taken against the bank. He (SERINO) generally briefed Mr. BLOOM about the history of the bank, the Agreement, and the criminal referral made to the Department of Justice in December of 1975. He also informed him that he had learned on that date, November 26, 1976, that Regional Administrator DONALD TARLETON had lifted the Agreement without prior approval.

Based on Mr. BLOOM's reaction, there was no question in his (SERINO's) mind that this was the first time that Mr. BLOOM was aware that the Agreement had been lifted. He was to subsequently see the letter that removed the Agreement. Mr. MURPHY, Mr. BLOOM and he all expressed disbelief that Regional Administrator TARLETON would have lifted the Agreement without discussing this matter with Mr. BLOOM. Mr. BLOOM indicated that he would handle the situation. He (SERINO) indicated to Mr. BLOOM at that time that he thought it was absolutely inappropriate for the Regional Administrator to lift an Agreement without following the normal procedure of requesting a review by the Enforcement and Compliance Division and the Special Projects Division.

Subsequently, his associate, Mr. DAVID SCHAUB, indicated that he had told Mr. BLOOM that if it was up to him (SCHAUB) he would fire both Mr. TARLETON and Mr. H. JOE SELBY, First Deputy Comptroller for Operations, who apparently had approved the lifting of the Agreement, and withdraw the letter, reinstating the Agreement. He (SERINO) indicated to Mr. SCHAUB at that time that he fully agreed with his statement.

The ordinary procedure for removing Agreements was that a recommendation would be submitted from the Regional Administrator through the Enforcement and Compliance Division and the Special Projects/Bank Review Division. A recommendation would be made by the Enforcement and Compliance Division and the Special Projects Division to Mr. H. JOE SELBY, the First Deputy Comptroller for Operations. The recommendation would then go to the Comptroller for his final decision which would then be relayed to the Regional Administrator for his disposition.

On September 22, 1976, Regional Administrator TARLETON terminated an Agreement on the Bank X without prior discussions with the Enforcement and Compliance Division or the Special Projects Division.

Upon learning of that termination after the fact, he (SERINO) prepared a memorandum, dated September 30, 1976, to Mr. SELBY complaining that the action was taken without the review of the Special Projects Division and the Enforcement Division and advising Mr. SELBY that Mr. TARLETON had no authority to rescind the Agreement. He has no specific knowledge that Mr. SELBY discussed this memorandum with Regional Administrator TARLETON.

He believes that at a regularly scheduled Regional Counsel meeting, held on October 18, 1976, in Washington, D.C., Mr. SCHAUB, who was participating in his (SERINO's) absence since he was out of town on business, mentioned to the Regional Counsels at that time that it was inappropriate for Agreements to be lifted without prior approval from the Washington Office and without letting the Enforcement and Compliance Division and the Special Projects Division review the matter first.

There was to be a Regional Administrators' Conference in Dallas, Texas, in November of 1976 and First Deputy Comptroller SELBY requested that he give him certain items for discussion at the conference. He (SERINO) prepared a memorandum to Mr. SELBY dated November 3, 1976, titled, "Matters to be Discussed or Considered by the Regional Administrators". Item No. 2 of the memorandum concerning the removal of formal administrative agreements or orders is quoted verbatim as follows:

"The initial decision for removing the formal papers rests (with) the Regional Administrator. When a decision is made to remove the papers, it is requested that a memorandum be submitted to the First Deputy Comptroller for Operations through the Special Projects or Bank Review Divisions. The Special Projects, Bank Review Divisions will notify the Enforcement Division and an appropriate document will be submitted to enable the Regional Administrator to remove or modify the cease and desist order."

He was not present at the Regional Administrators' Conference held in Dallas, Texas, but he believes that Mr. SELBY may have given a copy of the memorandum to each Regional Administrator in attendance and may have discussed the matter at that time.

To his knowledge, prior to the September 1976 lifting of the Agreement at the Bank X there were no formal written procedures for the termination of Agreements. It is his belief that there was general knowledge throughout the Regions and the Washington office that Regional Administrators should obtain approval of the Washington office before terminating agreements.

Sometime subsequent to September 1976 and prior to December 1976 the Enforcement Division prepared a draft examining circular which established specific written procedures for termination or modification of Agreements. The procedures as set forth in that bulletin were as follows:

"Termination or Modification of Formal Agreements and Orders
The initial decision relative to termination or modification of existing Agreements and Orders rests with the Regional Administrator. When the Regional Administrator determines that such restraints on a bank should be removed or modified, a memorandum to that effect, accompanied by a copy of the completed form attached, should be directed to the First Deputy Comptroller for Operations via the Special Projects or

Bank Review Division. Special Projects or Bank Review personnel will notify the Enforcement Division and together the two Divisions will evaluate the propriety of the proposed modification or termination. Based on this evaluation, a joint recommendation will thereafter be made to the Comptroller, through the First Deputy Comptroller for Operations, as to the appropriate disposition of the matter. At the direction of the Comptroller, the Enforcement and Compliance Division will prepare the documents necessary to terminate or modify the existing Agreement or Order."

On December 6, 1976, a draft of that Circular was routed to appropriate personnel in the Washington Office. That Circular was never finalized and no written procedures were put into effect until August 24, 1977, when the Washington Office issued an Examining Bulletin detailing the method to be followed in terminating formal administrative actions (Agreements).

In reviewing the files concerning this bank at the request of Comptroller JOHN HEIMANN subsequent to July 17, 1977, he has concluded that if a request had been made in the normal course and the procedures were followed for the lifting of the Agreement, as Director of Enforcement and Compliance he probably would have concurred with the Regional Administrator that since substantial compliance had been made the Agreement itself could be lifted.

Subsequent to his discussion with Mr. BLOOM on November 26, 1976, concerning the lifting of the Agreement, he had very little contact with the matter as Mr. BLOOM requested that all communications concerning the matter be handled through him and requested all of the files on the matter. In his original meeting with Mr. BLOOM on November 26, 1976, at his request he delivered to him all the files concerning this matter maintained in the Enforcement Division and at Mr. BLOOM's request obtained from Bank Examiner GARTNER the files maintained by him concerning the bank. These files were delivered to Mr. BLOOM on November 26, and to the best of his knowledge, he retained them. He (SERINO) was subsequently informed that Mr. BLOOM later contacted Mr. DAVID SCHAUB, Attorney, Enforcement and Compliance Division, and directed Mr. SCHAUB to gather all the records pertaining to the Calhoun First National Bank and to maintain them under lock and not to release them to anyone without Mr. BLOOM's prior approval. He does not know the date when Mr. SCHAUB was directed to gather all the files. He learned later that Mr. SCHAUB subsequently was directed by Mr. BLOOM to deliver the records to Mr. BLOOM. Mr. SCHAUB has indicated that at some time the records were again returned by Mr. BLOOM to Mr. SCHAUB; he believes this was some time after Mr. HEIMANN was nominated. Mr. SCHAUB informed him that subsequent to Mr. HEIMANN's assuming his position as Comptroller (July 1977) he (SCHAUB) was requested to deliver the records to Mr. HEIMANN. Since Mr. SCHAUB had been previously under the direction of Mr. BLOOM not to disclose the records to anyone else, he (Mr. SCHAUB) questioned Mr. BLOOM as to whether he had any objection to Mr. SCHAUB disclosing the files to the Comptroller. Mr. BLOOM indicated he had no objection and his (SERINO's) understanding is that Mr. SCHAUB delivered the files to the Comptroller.

Mr. ROYAL B. DUNHAM, Jr., Manager, Examination Analysis, Consumer Affairs Division, advised:

He was formerly Director of the Bank Review Group. Not long after the establishment of the group, the Calhoun First National Bank (CFNB), Calhoun, Georgia was discovered to be engaged in unsafe and unsound practices which warranted the immediate attention of the group. National Bank Examiner JAMES GARTNER, Review Examiner for banks in the Sixth National Bank Region, was assigned to review the Report of Examination which disclosed the improper practices. He (GARTNER) was also assigned to work with an attorney in the Enforcement and Compliance Division, probably Mr. DAVID SCHAUB, to draft the necessary administrative documents addressing the specific unsafe and unsound practices involved and calling for appropriate corrective action. These administrative documents were drafted to the satisfaction of the Bank Review Group, Enforcement and Compliance Division, and the Regional Administrator.

Following approval by senior management, an Agreement was executed with the bank. Monitoring of the bank's efforts to comply with the Agreement was one of the functions of the Bank Review Group. This monitoring indicated that management was cooperative and was taking necessary steps to achieve compliance with the Agreement.

At some point Mr. GARTNER showed him a copy of a letter from Regional Administrator DONALD L. TARLETON to the bank, dated November 22, 1976, removing the Agreement. He does not recall the specific date he first saw the letter. He was not aware of any prior formal decision by OCC to take this action, but observed that the distribution listing on the letter indicated "Per H. JOE SELBY", which he assumed meant that Mr. SELBY had approved removal of the Agreement. Mr. GARTNER also indicated that Mr. ROBERT SERINO, Director, Enforcement and Compliance, had brought the removal of the Agreement to the attention of Acting Comptroller ROBERT BLOOM and that Mr. BLOOM was furious. He further understood that Mr. SERINO had obtained the file on the bank from the Bank Review Group to take with him when he discussed the matter with Mr. BLOOM.

He (DUNHAM) discussed this matter in general with Mr. SERINO and Mr. GARTNER and they were all amazed about the removal of the Agreement without it having been processed through the normal channels, especially since Mr. BERT LANCE, who represented the controlling interest in the bank, was at the time being considered for a cabinet position in the incoming administration.

To the best of his recollection, within a day or two after learning of the removal of the Agreement, Mr. BLOOM called him to ask for the file on the CFNB. He believes that the file was in Mr. SELBY's office at the time and that Mr. SELBY was out of town. He secured the file and does not recall being asked by anyone to review it, but did so on his own to bring himself up to date. Following a brief review of the file he then took it to Mr. BLOOM.

Mr. BLOOM inquired about the status and condition of the bank. He (DUNHAM) provided a general briefing of the activities of the bank which had led to execution of the formal Agreement. The latest available data indicated that management of the bank was cooperative and that they were complying with all the terms of the Agreement except the capital provision, which the Regional Office had deferred pending the settlement of a claim filed with the bank's bonding company. Mr. BLOOM seemed interested in the specific activities of Mr. LANCE as concerned the bank and he read some of the pertinent file memoranda outlining these activities. He does not recall whether Mr. BLOOM asked him if lifting the Agreement was justified, although he may have. However, he thought that while it might have been removed without much actual risk in view of the cooperation and compliance achieved it would be premature. He would not have recommended it until final resolution of the capital needs of the bank and a longer period of compliance and problem free banking had been achieved. He believes that he made these points to Mr. BLOOM.

To the best of his recollection the possibility of reinstating the Agreement was not brought up during his conversation with Mr. BLOOM. Mr. BLOOM thanked him for the briefing and indicated that he would study the file further alone. He (DUNHAM) believes it is true to say that no decisions were made at this meeting, which was basically a fact finding and assessment effort by Mr. BLOOM. Mr. BLOOM seemed upset and concerned about the handling of the matter. He (DUNHAM) assumed Mr. BLOOM felt that the timing of the removal of the Agreement was bad because of the speculations about Mr. LANCE's possible appointment to a cabinet position. To the best of his knowledge, he had no other discussions with Mr. BLOOM concerning this matter and does not recall any subsequent review by him of the file in connection with this matter. He has never removed anything from the CFNB file.

Upon Mr. SELBY's return Mr. SELBY called him to his office to ask why he had brought the removal of the Agreement with CFNB to Mr. BLOOM's attention and to inquire about his meeting with Mr. BLOOM. He told Mr. SELBY that he had not mentioned the matter to Mr. BLOOM, but that Mr. SERINO had received a copy of the removal letter and had discussed it with Mr. BLOOM. Mr. SELBY asked for the file and it was brought to him.

A day or so after his (BLOOM's) first review of the bank file, Mr. BLOOM telephoned him asking for the file once again. He told Mr. BLOOM that Mr. SELBY had the file and that he would get it for him. As he recalls, he did obtain the file and delivered it to Mr. BLOOM or arranged to have it delivered. He later learned from Mr. ALAN HERLANDS, Executive Assistant to Mr. BLOOM, or Mr. SCHAUB, or both, that Mr. BLOOM had placed the file with Mr. SCHAUB for safe keeping.

Mr. JAMES J. GARTNER, National Bank Examiner - Special Projects, advised:

The Calhoun First National Bank, Calhoun, Georgia
(CALHOUN),

problems were severely criticized during the April 28, 1975 examination conducted by National Bank Examiner (NBE) RICHARD T. NEWELL. A review of the problems and ongoing actions were conducted initially by NBE THOMAS C. BROWN under the Victor Program.

Following his assignment to the Bank Review Group, a meeting was held on October 8, 1975 concerning the Calhoun First National Bank. Attending that meeting were Mr. ROYAL B. DUNHAM, Jr. (Director of Bank Review), Mr. JOHN B. SHERRY (Attorney Enforcement and Compliance Section), and himself. Following that meeting, in a memorandum, dated October 8, 1975, to Mr. JOHN SHERRY, he summarized the problems in the bank and recommended that at a minimum a Resolution (of the Board) or an Agreement be prepared for presentation to the Board outlining the necessary corrective action. An Agreement was then drawn up and presented to the Board of Directors of the Calhoun bank at a meeting in the Atlanta Regional Office on December 2, 1975. At that meeting the Directors entered into a formal Agreement with the OCC pursuant to 12 U.S.C. 1818. At or about this time, Attorney SHERRY forwarded to the Criminal Fraud Section of the Justice Department a referral for possible violations of 18 U.S.C. Sections 610, 656 and 1005 involving Calhoun and Mr. T. BERTRAM LANCE.

A visitation to the bank on December 11, 1975 by NBE NEWELL and review by him on January 26, 1976, showed no improvement in the bank's condition. Another examination of the bank was commenced on April 5, 1976. It was noted in a memorandum to the file, dated May 27, 1976, that substantial improvement was noted in the condition of the bank and that should this improvement continue at its present pace the Agreement could be lifted at an early date. His intention in making this remark was only to note that improvement had taken place and in no way meant that the Agreement could be lifted at that time. If he had intended such, it would have been so stated. Deputy Regional Administrator VERNON FASBENDER indicated in a memorandum by him to the file, dated June 28, 1976 that he had informed the Board on June 28, 1976, in answer to a question from Board Director JAMES B. LANGFORD, that in his opinion it would be premature to request release from the Agreement at that time.

Another visitation of Calhoun was commenced on October 21, 1976, by NBE R. ASHLEY LEE. That visitation was commented on by Regional Administrator DONALD TARLETON in a memorandum to the File on November 16, 1976. In that memorandum Mr. TARLETON made no mention of lifting the Agreement. The visitation report along with Mr. TARLETON's comments were received in the Washington office on November 19, 1976. Also, on November 16, 1976, Regional Administrator TARLETON forwarded a letter to the Board of Directors of Calhoun indicating certain problems remained with the bank, but that the OCC would hold in abeyance OCC's request for full compliance with Article II of the Agreement. The report was reviewed by him on November 22, 1976, and the results of that review were reported by him in a memorandum to the file that same date.

Because of this, and the fact that what improvements were noted were not the result of a regular examination, he did not recommend removal of the Agreement. Additionally, because of the political sensitivity and questions that could have arose from lifting the Agreement (especially after the U.S. Attorney had just dropped its investigation into the criminal referral), and in view of the condition of the bank, had he been asked for his professional opinion whether the Agreement could be lifted, his answer would have been no.

Subsequently, on November 26, 1976, he received a copy of a letter, dated November 22, 1976, which Regional Administrator TARLETON had sent to the Board of Directors of Calhoun, rescinding and revoking the Agreement. He took the copy of the letter to Mr. ROBERT SERINO, Director, Enforcement and Compliance Division, and asked if he was aware that the Agreement had been lifted. He replied in the negative, and after reading the letter, he took it to Acting Comptroller ROBERT BLOOM. Shortly thereafter, Mr. BOB SERINO came to his office and asked for the complete file on Calhoun. While pulling the documents from the file, Mr. SERINO commented that he had never seen Mr. BLOOM so mad as he was about the Agreement being rescinded without his (BLOOM's) knowledge and that he (BLOOM) was "beside himself". At that time Mr. SERINO removed all Calhoun files in his possession and took them to the Comptroller's office. At some later point in time during that same week he was told by Mr. SERINO that Mr. BLOOM would retain the files in his office. That was the last time he saw the files until approximately May 31, 1977. On or about that date he was asked by Mr. BLOOM's secretary to come to the Comptroller's office. When he arrived there, Mr. DAVID SCHAUB, Attorney, Enforcement and Compliance, was also there. Mr. BLOOM indicated that he was going to return all files on both the National Bank of Georgia, Atlanta, Georgia and the Calhoun bank. At that time, he received all bank files on those banks, and Mr. DAVID SCHAUB received all legal documents concerning those banks and Mr. BERT LANCE.

Mr. LOU FRANK, Deputy Regional Administrator for Examinations, Sixth National Bank Region, Atlanta, Georgia, indicated to him that just prior to the Agreement being lifted from the Calhoun Bank, Mr. BERT LANCE had been in and out of the Regional Office in Atlanta on several occasions. He (FRANK) did not know exactly how often Mr. LANCE had been in the office because his information was told to him by other office personnel. He (FRANK) was out of the office during the time period involved.

Mr. ALAN HERLANDS, Executive Assistant to the First Deputy Comptroller of the Currency, advised:

On approximately November 26, 1976, Mr. BLOOM told him that an Agreement with the Calhoun National Bank had been rescinded. Mr. BLOOM was angry because this had been apparently carried out by Mr. JOE SELBY, First Deputy Comptroller for Operations, and Regional Administrator DONALD TARLETON on November 22, 1976, without his (BLOOM's) knowledge or approval.

Mr. BLOOM and he discussed the possible ramifications of the act, because Mr. BERT LANCE, Chairman of the Board of the Calhoun bank was about to be, or just had been, nominated by President CARTER as Director of the Office of Management and Budget. Mr. BLOOM speculated on reasons why Mr. SELBY would have authorized the lifting of the Agreement. Mr. BLOOM advised that perhaps Mr. SELBY was trying to gain favor with Mr. LANCE.

They may have discussed reinstating the Agreement, but Mr. BLOOM decided against such action because he felt if reasonable basis existed to lift the Agreement, it would be impractical to reinstate the Agreement.

He believes Mr. BLOOM reviewed the file on the Calhoun bank, however, he does not know Mr. BLOOM's reaction after reading the file. In any event, the Agreement was not reinstated upon the bank.

He (HERLANDS) learned from Mr. BLOOM or Regional Counsel PANNELL that Mr. SELBY and Mr. TARLETON were in communication prior to the lifting of the Agreement, but he does not know what was discussed.

Mr. BLOOM and he did not discuss any disciplinary action against Mr. SELBY or Mr. TARLETON. At a later date, however, Mr. BLOOM told him, in a confidential conversation about Mr. BLOOM's future, that if he (BLOOM) became Comptroller he would fire Mr. SELBY because he doubted Mr. SELBY's judgment and loyalty, and used this action as one example.

At no time in his discussions with Mr. BLOOM did Mr. BLOOM mention that he did not reissue the Agreement on the Calhoun bank in order to gain favor with Mr. LANCE. Mr. BLOOM wanted to be appointed Comptroller and did a little "quiet campaigning" with representatives from Alston, Miller and Gaines, an Atlanta law firm involved in the transition team. Mr. BLOOM also told him that he hoped Mr. LANCE would support him (BLOOM) in his efforts to be appointed Comptroller.

He knew that Mr. BLOOM kept a file on public figures such as Mr. LANCE who have dealings with the Comptroller of the Currency. However, he did not know what the files included. These files are locked in Mr. BLOOM's office.

Mr. CHARLES W. MURPHY, Deputy Comptroller of the Currency for Administration, advised:

In late November of 1976, he learned from Acting Comptroller ROBERT BLOOM and/or Mr. ROBERT SERINO, Director of the Enforcement and Compliance Division, and/or Mr. DAVID SCHAUB, Staff Attorney in Enforcement and Compliance, that Regional Administrator DONALD TARLETON had lifted an Agreement with the Calhoun First National Bank. Mr. BLOOM said he had just learned of the rescission of the Agreement and was angry because the Agreement had been terminated without his knowledge. Mr. BLOOM was angry because Mr. T. BERTRAM LANCE was about to be named to a high government position.

He was informed that Mr. H. JOE SELBY, First Deputy Comptroller for Operations, had approved Mr. TARLETON's action. Mr. BLOOM, Mr. SERINO, Mr. SCHAUB, and he discussed whether or not Mr. SELBY and Mr. TARLETON had authority to lift the agreement and whether Mr. TARLETON, and possibly Mr. SELBY, should be disciplined.

After he reviewed the appropriate bank files, he expressed the following opinions to Mr. BLOOM. First Mr. TARLETON's authority was unclear, and it appeared that Mr. TARLETON had done what was reasonable by obtaining the concurrence of Mr. SELBY. Second, the termination was not unreasonable, and he did not feel that the condition of the bank warranted reimposing Agreement. He believed he suggested the possibility of Mr. BLOOM writing a letter of reprimand to Mr. SELBY and possibly Mr. TARLETON. This was not done. Instead, Mr. BLOOM wrote a memorandum to Mr. SELBY instructing him that no cease and desist Agreements were to be terminated without the Comptroller's personal concurrence.

Mrs. LINDA M. HOLLAND, Secretary to the Comptroller of the Currency, advised:

On November 26, 1976 Mr. ROBERT BLOOM, Acting Comptroller asked her to come into his office and take a short note. Mr. BLOOM dictated a memorandum to H. JOE SELBY regarding the lifting of an agreement. Mr. BLOOM appeared to be quite annoyed and angry that such action was taken without his knowledge or approval. She did not recall if Mr. BLOOM was notified by Mr. BOB SERINO that the lifting of the Agreement had taken place. Mr. BLOOM instructed her to type the note and deliver it to Mr. SELBY and that no one else should see it.

To the best of her knowledge the Reports of Examination and correspondence files for Calhoun First National Bank were delivered to Mr. BLOOM, Acting Comptroller, by attorney DAVID SCHAUB in the fall of 1976. Mr. BLOOM kept the files in his safe, located in the Comptroller's bathroom closet. Access to the files was not prohibited and on occasion Mrs. GLORIA FLLAKAS or she would be requested by an attorney or examiner to secure the examination or correspondence files. Mr. BLOOM kept the files for several months. She did not recall the exact length of time. She did not recall the files being returned to anyone before Mr. BLOOM moved from the Comptroller's office back to his own office in June, 1977.

Mr. ROBERT R. DINCE, Associate Deputy Comptroller for Economic Research and Operational Analysis, advised:

In approximately December 1975 he was told by Mr. GARY PANNELL, a friend in the Atlanta office, that the Calhoun bank was having problems. Mr. PANNELL said that the bank had overdrafts attributable to Mr. LANCE's gubernatorial campaign. Mr. PANNELL did not elaborate and did not mention the Agreement. He (DINCE) has never read the examiner's report on the Calhoun bank because it is his policy not to become involved in OCC business involving personal friends.

In September 1976, he met Mr. BERT LANCE in Atlanta at his (LANCE's) request. They discussed the consolidation of bank agencies and political figures such as Mr. ARTHUR BURNS. He (DINCE) also furnished Mr. LANCE a list of possible candidates for the Office of the Comptroller of the Currency, but they did not discuss the Calhoun bank. This meeting had received informal approval from his (DINCE's) office.

Sometime after the Presidential election, Mr. GARY PANNELL telephoned him. Mr. PANNELL was concerned about the OCC's relationship with Mr. LANCE and believed controls were needed in the relationship. He also suggested that "improprieties" existed between Mr. TARLETON and Mr. SELBY in relation to Mr. LANCE. Mr. PANNELL did not elaborate, and he told him (PANNELL) to take the matter up with SHOCKEY of Chief Counsel.

Within three days Mr. PANNELL called again and implied that Mr. TARLETON and Mr. SELBY had lifted an Agreement from the Calhoun bank without telling Mr. BLOOM, Acting Comptroller of the Currency. Since Mr. PANNELL did not want to tell Mr. BLOOM, he (DINCE) met with Mr. BLOOM in the Comptroller's office late in the day. Nobody else was present. He told Mr. BLOOM of Mr. PANNELL's statement concerning the Calhoun bank. He (DINCE) believed that Mr. BLOOM was unaware of Mr. LANCE's connection to the bank, the existence of the Agreement, and the lifting of the Agreement. Mr. BLOOM was angry because only he, as Acting Comptroller, had the authority to rescind any Agreement. From a computer in the office, Mr. BLOOM reviewed the bank's financial records which showed that the bank was improving.

Since neither Mr. BLOOM nor he knew the specifics of the Agreement, they did not discuss it in detail. He had never seen the Agreement and knew only what Mr. PANNELL had told him. He disagreed with the timing of the lifting because Mr. LANCE was designated Director of the Office of Management and Budget shortly after the Agreement was rescinded.

At some time prior to these events, he, at Mr. BLOOM's request, had arranged a meeting between Mr. BLOOM and Mr. LANCE. Mr. BLOOM wanted to meet Mr. LANCE to discuss consolidation of bank agencies and because Mr. LANCE was an incoming official. Due to Mr. LANCE's busy schedule, the meeting never took place. However, Mr. LANCE did meet Mr. SELBY in the fall of 1976 at a Regional Advisors' meeting at Hilton Head, South Carolina. The content of their discussion was unknown.

HENRY GARY PANNELL, Regional Counsel, advised:

On September 23, 1976, at the direction of Regional Administrator DONALD L. TARLETON, he prepared a letter to the Board of Directors of the Bank X the substance of which was to lift the Agreement in effect between the Board of Directors of the Bank and Office of the Comptroller of the Currency. Mr. TARLETON and he had earlier discussed this matter and he (PANNELL) had advised that in his opinion he (TARLETON) had implied authority to modify the terms and provisions of the Agreement, as well as to lift the Agreement under the Letter of Authority previously issued by the Comptroller.

Apparently there were differences of opinion because in late October, 1976, at a Regional Counsel Conference, Mr. ROBERT SERINO, Director, Enforcement and Compliance Division, during his presentation to the Regional Counsels, advised differently. His comments, which were apparently precipitated as a result of the lifting of the Agreement, were to the effect that only the Comptroller could lift an Agreement and that the Regional Offices should file recommendations with Washington D.C., if it was deemed that an Agreement was no longer needed.

Upon his return from the Regional Counsel Conference, he advised Mr. TARLETON in a routine fashion of all the matters covered at the Conference. Specifically, he mentioned the comments made by Mr. SERINO concerning the lifting of Agreements.

On November 22, 1976 Mr. TARLETON asked him to come to his office. He (TARLETON) said that Mr. BERT LANCE had stopped by a few minutes earlier and related that he would be leaving the National Bank of Georgia to take a job at President-elect Carter's invitation as Director of the Office of Management and Budget (OMB). Mr. TARLETON asked what OMB was all about and he (PANNELL) told him. Mr. TARLETON indicated an announcement regarding the appointment would be made in the next couple of days. Mr. TARLETON then advised him that he wanted to lift the Agreement in effect between the Board of Directors of the Calhoun First National Bank and the Comptroller's Office. Mr. TARLETON did not provide any explanation of why he wanted to lift the Agreement.

He reminded Mr. TARLETON of the comments of Mr. SERINO at the Regional Counsel Conference to the effect that only Washington had the authority to lift Agreements. Mr. TARLETON indicated that he still wanted to lift the Agreement. He (PANNELL) then indicated that in the absence of any written instructions from Washington, Mr. TARLETON probably still had the legal authority to lift the Agreement. However, he did mention that Mr. SERINO would not agree. He made this statement to Mr. TARLETON because he (TARLETON) kept insisting that he wanted to lift the Agreement, even though he (PANNELL) knew, as a practical matter, that Mr. TARLETON should have gotten approval from the Comptroller.

Mr. TARLETON then directed him to prepare a letter for his signature to lift the Agreement on the Calhoun Bank. At no time did Mr. TARLETON mention that he had discussed the matter with anyone in the Washington, D.C. office. Mr. TARLETON did affirmatively state that Mr. LANCE had not brought the subject up during their earlier discussion that day. He (PANNELL) cannot recall if anything was said regarding the current condition of the bank.

Over the preceding six-eight months, he (PANNELL) had been informally advised by examiners and other office personnel that the primary reasons for the Agreement, the overdrafts, etc. had been corrected and the bank essentially remained under Agreement because of the condition of its loan portfolio.

After preparing the letter, it was sent over to Mr. TARLETON to be signed. He signed it and brought it back saying add to the bottom of the copies "Per conversation with H. JOE SELBY." Prior to the comment, Mr. TARLETON had made no reference at all to the fact that he had recently discussed this matter with anyone in the Washington office. The letter was then mailed.

During the next several days after the letter was mailed, he (PANNELL) was upset and made several phone calls to various people in the Washington Office and elsewhere. He was upset for several reasons: 1) in his judgment Mr. TARLETON should not have proceeded on his own; he should have forwarded a recommendation to Washington. 2) Mr. TARLETON had used him to prepare the letter and he was mad because he should not have permitted himself to be used in this way. Furthermore, he feared that his action was taken by Mr. TARLETON in an attempt to preclude Mr. LANCE from recommending Mr. ROBERT BLOOM for the position of Comptroller of the Currency.

When he (PANNELL) voiced this whole matter to Mr. ROBERT DINCE several days later Mr. DINCE told him that if he could not document any such allegations to drop the whole matter. He (PANNELL) had already called JOHN SHERRY in the Chicago Office and possibly one or two others, in the Washington, D.C. Office. Being unable to document his concern, he backed off in his allegations.

Several weeks later Mr. TARLETON told him that he (TARLETON) had received a memo from Mr. BLOOM advising Mr. TARLETON that he (TARLETON) had no authority to lift the Agreements. Mr. TARLETON also told him that Mr. SELBY had received a similar letter. He (PANNELL) also heard that the Agreement had been reinstituted on the Calhoun Bank. He cannot recall where he heard this comment.

Sometime after that conversation, Mr. SELBY advised him that he had a memo in his file dating back to September, 1976 regarding a conversation with Mr. TARLETON on the matter. Mr. SELBY disclosed no further details.

To the best of his knowledge and judgment, the lifting of the Agreement on November 22, 1976 was handled in an improper manner. Mr. TARLETON was aware of the reaction in the Washington Office to the lifting of the Agreement in Bank X. He was aware that Mr. SERINO had issued new instructions to the Regional Counsels and knew the substance of those instructions.

Ms. BETTY LOU JARRETT, Secretary to the Regional Counsel, advised:

On November 22, 1976, sometime between 11:30 a.m. and 12:30 p.m., Mr. BERT LANCE came into the Regional Office and met with Mr. DONALD TARLETON, the Regional Administrator. They met in Mr. TARLETON's office for approximately fifteen minutes. She did not believe that anyone else was in Mr. TARLETON's office at that time. She had no knowledge of what was discussed. Mr. LANCE left the office after the meeting ended.

Sometime later that afternoon, Mr. GARY PANNELL, Regional Counsel, was called into Mr. TARLETON's office. After meeting with Mr. TARLETON, Mr. PANNELL dictated to her a letter releasing the Agreement on the Calhoun First National Bank. She identified a copy of a letter dated November 22, 1976 to the Board of Directors, Calhoun First National Bank, as the letter Mr. PANNELL dictated to her and which she subsequently typed.

She was concerned because at that time it was well known that Mr. LANCE was going to be appointed Director of the Office of Management and Budget, and it was to be an announcement on television in the next day or two. She spoke to Mr. PANNELL about the timing of the action, and they discussed the fact that they did not believe this letter should come from the Regional Office, but should more appropriately be sent from the Washington Office.

She typed the letter, which included the phrase "Per conversation with H. JOE SELBY" on the carbons. Mr. PANNELL told her to put that statement on the carbons, but she did not know anything about the conversation with Mr. SELBY.

She did not recall whether or not the mailing or typing of the letter was delayed pending a call from Washington. She recalled that she personally mailed the letter late on that day (approximately 4:30).

She believed there was something significant between Mr. LANCE's visit and the rush to get the letter out. Mr. PANNELL had told her that he had to get the letter out that day. She made a note of Mr. LANCE's meeting with Mr. TARLETON and of Mr. PANNELL's dictation of the letter in her 1976 Weekly Appointment Book. She normally did not make a record of Mr. LANCE's visits, as he attended several meetings with Mr. TARLETON and members of the staff in regard to other banking matters.

Her notes in shorthand for that day are transcribed below:

"BL came in to see DLT
later that afternoon HGP dictated letter to CNB
re Agreement"

Ms. NELL PROCTOR, Secretary to the Deputy Regional Administrator for Examinations, advised:

She was aware of a letter dated November 22, 1976 from Regional Administrator DONALD L. TARLETON to the Board of Directors of the Calhoun bank. The letter rescinded the cease and desist order on that bank.

She believed that the letter was typed by Mrs. BETTY JARRETT, Secretary to Regional Counsel GARY PANNELL, and she was not aware of any additions to the letter prior to mailing.

Prior to mailing she believes the letter was held in abeyance pending instructions telephoned from the Washington office. She did not know who in Washington was giving instructions. However, since the letter was mailed, she assumed instructions were received.

She did not see the original letter nor was she aware of when it was mailed.

The matter was never discussed with her. She gleaned the above information from personal observations as Mrs. JARRETT and she are located only a few feet apart in the office.

Mr. LOU FRANK, Deputy Regional Administrator for Examinations, advised:

In approximately August of 1976, the Atlanta office rescinded an Agreement with the Bank X. In the latter part of September or probably the first part of October, 1976, he was told, perhaps at a staff conference, that Agreements were not to be released without approval from the Washington, D.C. office. He did not recall seeing any written instructions to that effect, but he understood that Mr. ROBERT SERINO, Director of Enforcement and Compliance, had instructed that his (SERINO's) approval was required prior to any lifting.

While on vacation in November of 1976, he telephoned his secretary, Mrs. NELL PROCTOR. To his recollection, she said that Mr. BETT LANCE had been in the office. Either in that conversation or the following week, he learned that the Agreement with the Calhoun First National Bank had been lifted. From the reading file or office conversation, he learned that Mr. JOE SELBY, First Deputy Comptroller, had approved the action.

He (FRANK) was surprised that the Agreement had been rescinded. He had no prior knowledge of the lifting and had not discussed lifting the Agreement with either Regional Administrator DONALD TARLETON, Mr. LANCE, or bank officials.

Sometime after the Agreement was lifted, he telephonically advised Mr. TARLETON that the Agreement should not have been lifted. He also told Mr. TARLETON that if he (TARLETON) or Mr. SELBY were ever promoted, people would say that they were promoted because they had released the Agreement to help Mr. LANCE. Mr. TARLETON made no response.

On October 7, 1976, he (FRANK) instructed National Bank Examiner ASHLEY LEE to "visit" the Calhoun Bank to check its progress. Prior to this date, Mr. TARLETON and he, along with Mr. VERNON E. FASBENDER, Deputy Regional Administrator for Operations and Planning, had supervised the bank, but then Mr. TARLETON alone assumed supervision of that bank.

Mr. LEE's visitation report of October 1976 revealed that the overdrafts had ceased and the bank was showing a profit. He (FRANK) believed that Mr. LEE did not make any recommendations in his visitation report.

Although the bank was showing progress, he believed that removal of the Agreement was premature.

Mr. VERNON E. FASBENDER, Deputy Regional Administrator for Planning and Operations, advised:

The last examination of the Calhoun First National Bank, Calhoun, Georgia, was on April 5, 1976. In June, 1976, National Bank Examiner RICHARD T. NEWELL and he met with the bank's Board of Directors to discuss the results of the examination. During the meeting Director JAMES B. LANGFORD asked if he (FASBENDER) felt that sufficient progress had been made in correcting past deficiencies so that the Board could ask the Office of Comptroller of the Currency to lift the Agreement between the bank and that office. He (FASBENDER) informed the Board that in his opinion such a request would be premature. This is reflected in his memorandum and in the minutes of the meeting.

Following his attendance at the Board meeting, the supervision of the subject bank was handled entirely by Regional Administrator DONALD TARLETON, and later by his Executive Assistant, Mr. RICHARD T. NEWELL. Mr. TARLETON, as Regional Administrator, makes all decisions as to who in the Regional office should supervise the activities of each bank. He (FASBENDER) first heard that the Agreement had been lifted when it was announced by Mr. TARLETON on the Tuesday following the lifting of the Agreement at their regional office staff meeting. He did not recall any discussion on the lifting of the Agreement at that meeting. At the time he knew of no formal policy within the Comptroller's office regarding the handling of such Agreements. However, it was about this time that he was informed by Regional Counsel GARY PANNELL that instructions had been given at a recent Regional Counsel meeting that all recommendations with regard to the lifting of formal Agreements were to be forwarded to Washington for final action. Mr. PANNELL told him that when this message was given to Mr. TARLETON, he (TARLETON) stated that the Calhoun Agreement had been discussed with Mr. H. JOE SELBY, First Deputy Comptroller for Operations, in the Washington office. He did not recall any visits to this office by Chairman of the Board EERT LANCE on or about November 22, 1976.

Although the bank was making progress and its condition was thought to be much better than at the time of the last examination, he felt that the lifting of the Agreement was premature. He felt this way because the bank had not been examined in some time and some of the problems, such as the overdraft abuses, had gone on for many years. He also felt the timing of the recision was bad because of the political implications involving Chairman of the Board LANCE. He knew of the improvement in the bank's condition because of memoranda on the bank that had circulated throughout the office in various reading files.

Mr. RICHARD T. NEWELL, Executive Assistant to the Regional Administrator of National Banks, Sixth National Bank Region, advised:

During April 1975 he was assigned to examine the Calhoun First National Bank, Calhoun, Georgia. Before starting the examination he reviewed the prior examination report dated July 8, 1974, written by Examiner MARIA RICHMOND. This was a "clean" report reflecting the bank to be in good condition with the only apparent problem being a low liquidity position. Classified assets represented only of the bank's capital. On the front of this report was a historical analysis sheet which showed that the two examinations conducted prior to July 8, 1974 were performed by Examiner WANLESS. These two earlier examinations also reflect the bank to be in relatively good condition; however, classified assets did reach of capital during this period. He did not physically review the WANLESS examination report prior to entering the bank. The information from the RICHMOND report coupled with favorable remarks made by various assistant examiners who were to assist him led him to believe that his examination would be a breeze, in that this was a clean and enjoyable bank to examine.

Several assistant examiners had indicated that the only problem he could anticipate would be a liberal overdraft policy. This statement coincided with the fact that while reviewing the previous examination report of Examiner RICHMOND he noted an overdraft account of over . Nothing was mentioned within the report concerning this large amount of overdrafts either as to their size or character. The size of the overdraft account, accompanied by a lack of any criticism in the report, led him to believe there were no problems in the account. Normally, a bank this size with such a large volume of overdrafts indicates a potential problem area.

Shortly after the commencement of his examination, dated April 28, 1975, he discovered serious problems in the bank,

Once he realized the extent of the problem with the bank, he telephoned then Regional Administrator BILLY WOOD to advise him. He told Mr. WOOD that in his opinion the underlying cause for many of the problems was

In separate and subsequent written communication with his (NEWELL's) office he stated that in his opinion

His opinion, of course, was based solely on his observations during the course of his examination and the facts developed therein. Management's response to his various areas of criticism was that they could not share his opinion

The initial reaction of senior management to his remarks were very defensive and almost in complete disagreement. It should be noted, however, that a certain amount of argument or active discussion by bank management on areas of criticism is almost routine in the examination process.

He visited the bank again on August 7, 1975 to monitor its progress in eliminating the problem areas outlined in his April 28, 1975 examination. Very little progress was noted. Subsequent to the close of his earlier examination, and as a result of the bank enforcing new collection procedures, an internal defalcation surfaced involving a junior officer. The extent of this defalcation approximated \$850,000. No new overdrafts abuse were noted during this visit.

Another visit was conducted by him on October 20, 1975, and again, little progress was noted in reducing the level of

Several new overdrafts were noted on the accounts of some directors, including Mr. LANCE.

A third visitation was conducted on December 11, 1975

As a result of the and other problems outlined in his April 28, 1975 examination report, the bank was placed under a formal written Agreement with his office during December 1975.

On April 5, 1976, he commenced another full examination of the bank.

He felt the condition of the bank was much improved

The reason being was that the Board and top management finally realized that the bank had real problems and was working hard to get them corrected. The improvement in their attitude was very evident.

The bank continued to operate under a formal written Agreement with his office. Based on the information developed during the April 5, 1976 examination it was his opinion that the Agreement should remain in place for at least 6-12 months longer.

The Agreement was lifted during November 1976. He did not visit the bank again after the April 5, 1976 examination, so the basis on which the Agreement was lifted was not known to him.

During his initial examination, dated April 28, 1975, certain information was developed concerning possible violations of

His initial findings were set forth in a memorandum to Regional Administrator BILLY WOOD for possible referral to the United States Attorney's Office. The matter was then picked up by the Office of the Comptroller of the Currency's legal department in Washington and investigated further. It would have been up to them to make the final decision as to whether the matter should be referred or not. At the time he did not know whether or not the matter was referred but assumed that it had been after reading in the Atlanta newspapers that the United States Attorney's Office in Atlanta had chosen not to prosecute the matter.

Ms. JOYCE MARIE SAXON, Consumer Examination Review Assistant, advised:

She was formerly an Assistant National Bank Examiner, Atlanta, Georgia. In June, 1976, Mr. GARY PANNELL, Regional Counsel asked her to review the file of Calhoun First National Bank, Calhoun, Georgia. He stated that the bank had requested that the formal agreement which had been in force since December 1975 with OCC be

rescinded and asked her to review the agreement and summarize her findings to determine if the bank had complied with any or all of the articles of the agreement to determine if the rescinding of the agreement was warranted. Her findings were to be in the form of a memorandum to Mr. Tarleton, Regional Administrator of National Banks, Atlanta, Georgia. She pulled the file on the Calhoun First National Bank and reviewed the last two reports of examination, the actual agreement, and all correspondence between the bank and OCC since the inception of the agreement. Based on her review, she reported in her memorandum dated June 18, 1976 that Articles IV and VIII could be deleted and that Article VII could be amended, but recommended that the remaining Articles of the agreement be kept in force. In essence she recommended that the agreement be kept in force.

Mr. ROBERT ASHLEY LEE, National Bank Examiner, advised:

During October 1976, he received a memorandum, dated October 7, 1976, from Mr. LOU FRANK, Deputy Regional Administrator of National Banks, Sixth National Bank Region, Atlanta, Georgia, which instructed him to perform a visitation during that month to the Calhoun First National Bank, Calhoun, Georgia. Mr. FRANK's memorandum listed ten points to be covered during the visitation.

Mr. LEE stated that, not having any prior exposure or knowledge of the Calhoun Bank, he reviewed prior examination reports dated April 8, 1976 and April 28, 1975. During his review he noted there were excessive overdraft privileges, a high criticized asset a written Agreement dated December 2, 1975.

He visited the bank on October 21, 1976. He was alone during this visit, which lasted two days. At the conclusion of his visit he prepared a memorandum, dated October 28, 1976 which responded to Mr. FRANK's ten point memorandum and reflected some improvement in the condition of the bank since the prior examination of April 8, 1976. He was not asked to evaluate the need to continue the written Agreement; however, had he been asked, he would have recommended that the Agreement be continued because he was uncertain of the ability of the new Vice President to restructure the existing problem loan portfolio. His report did not give the bank a "clean bill of health".

During November 1976 he received a copy of a memorandum dated November 16, 1976, from Regional Administrator DONALD L. TARLETON, which was addressed to the bank file. This memorandum accurately reflected his findings of October 21, 1976 and said the bank would continue to be monitored through monthly reporting and a bank examination would be scheduled in early 1977.

At the present time monitoring is still in existence at the bank by the requirement of submission of monthly reports.

In late 1976 or early 1977, he learned that the Agreement had been removed. The actual letter lifting the Agreement was not personally read by him until he joined the Regional Office Staff in March 1977. He does not know who initiated the removal of the Agreement. He stated that it is possible that during the time period subsequent to his visitation in October 1976, other factors unknown to him and/or substantial improvement were achieved by the bank to warrant removal of the Agreement.

Mr. JOHN WANLESS, Jr., National Bank Examiner (NBE), advised:

He is presently a National Bank Examiner (NBE) assigned to the Office of the Regional Administrator of National Banks, 6th National Bank Region, Office of the Comptroller of the Currency (OCC), Atlanta, Georgia. He stated that he has been employed with the OCC since 1948, first as an Assistant NBE and then as a commissioned NBE since 1959. He advised that he has been in Atlanta with OCC since 1966.

He has been shown the 1973 Examination Report of the Calhoun First National Bank (CFNB), Calhoun, Georgia, which commenced on August 6, 1973.

He cannot recall the number of times he has examined CFNB but recalls at least two occasions, 1972 and 1973.

During the 1973 examination, he found that the bank was making generous loans to friends and relatives and that it was very lenient and liberal on overdrafts to bank officials and members of their families. He also found violations of law which he felt were purely technical in nature.

As an examiner, he did not approve of their banking methods and criticized them in his report, although not being severely critical of them. He was hopeful that the bank would clean up their problems after seeing his criticism in the examination report.

Despite his findings, he was not too concerned about the safety of the bank as concerns their ability to operate, nor did he feel that the manner in which they operated the bank was risky.

He found the overall management of the bank to be good. Despite the fact that he found Bank President BERT LANCE to be quite liberal in his banking policies, he gave him credit for the good condition he found the bank to be in.

He is well acquainted with Mr. LANCE in an official capacity. He does not consider him to be a skilled banker, but feels he is a good politician.

Ms. MARIA I. RICHMOND, Regional Director of Corporate Activities, Sixth National Bank Region, advised:

She conducted the examination of the Calhoun First National Bank (CFNB) and identified the Report of Examination dated July 26, 1974 as her report. In reference to the omission of criticism of the overdraft policy she was surprised to find that there was no Page 2 comment sheet concerning this matter. To the best of her recollection, there was such a comment, but it appeared that her memory was colored by the discussion and publicity which surrounded the subsequent examination. Since the 1975 examination, there has been much conversation as to historical criticism of the bank's overdraft policy and she assumed that she had made similar comments.

It was apparent from her report that she reviewed the overdraft list in some detail as evidenced by the Page 4 charge-off of 42 small accounts. She was unable to remember such things as the trend of the account throughout the examination or the composition of the list as to amounts of individual accounts. There may have been mitigating factors against criticism of the overall policy; however, she does not remember any.

She does remember that she was not requested by President HENDERSON, Mr. LANCE or any other person to omit any comment or criticism on this matter, nor did she offer to do so for any present or future considerations. She was not influenced by the fact that Mr. LANCE was running for Governor of the State of Georgia.

If the policy was subject to comment, the failure to do so must be attributed to immaturity or inadvertence on her part.

The 1975 and 1976 Appointment Calendars of Regional Administrator DONALD L. TARLETON disclosed the following pertinent information:

- September 3, 1975 - DONALD TARLETON (RA) met with BERT LANCE and KING CLEVELAND
- September 22, 1975 - DONALD TARLETON (RA) met with BERT LANCE, Y.A. HENDERSON and VERNON FASBENDER, regarding the Calhoun First National Bank
- October 24, 1975 - DONALD TARLETON (RA) met with BERT LANCE and KING CLEVELAND regarding the National Bank of Georgia
- December 1, 1975 - Notation: "4:00 hold for BERT LANCE if he calls"
- December 2, 1975 - 10:00 DONALD TARLETON (RA) met with the Board of Directors of the Calhoun First National Bank
- March 1, 1976 - DONALD TARLETON had lunch with BERT LANCE and GARY PANNELL in a restaurant on the top floor of the First National Bank building in Atlanta, Georgia
- April 16, 1976 - DONALD TARLETON had lunch with BERT LANCE and JACK DUNN at the Commerce Club
- May 13, 1976 - DONALD TARLETON met with BERT LANCE
- July 6, 1976 - DONALD TARLETON had lunch with BERT LANCE, KING CLEVELAND, BILL GREEN and GARY PANNELL
- September 23, 1976 - DONALD TARLETON had lunch with BERT LANCE at the Midnight Sun Restaurant
- November 22, 1976 - DONALD TARLETON met with BERT LANCE
- November 25 - 30, 1976 - DONALD TARLETON was on annual leave

Mrs. ANN H. GORDON, Secretary to the Regional Administrator (RA) of National Banks, advised:

Part of her duties involve maintaining an appointment calendar for the RA. The entries in the calendar reflect scheduled appointments only and do not show any unannounced visitations to the RA's office. She has retained all of the appointment calendars since assuming her position as secretary to the RA. She does not maintain any telephone logs of any kind regarding either outgoing calls or incoming calls to the RA's office.

During the period of time that she has been secretary to the RA, Mr. BERT LANCE has been an occasional visitor to the office. Mr. LANCE has been associated with the National Bank of Georgia (NBG), Atlanta, Georgia, and the Calhoun First National Bank, Calhoun, Georgia. She cannot estimate the frequency of his visits, but she did not believe that his visits were any more or less frequent than any other banker having business with the RA. To the best of her recollection the last time she recalls seeing Mr. LANCE visit the office was the fall or winter of 1976. She does not recall at this time the purpose of this visit nor the length or time that he was in the office. She has reviewed her appointment calendars and notes which disclosed that his last scheduled visit was on November 22, 1976.

She is aware that an Agreement had been placed on the Calhoun First National Bank. She was not aware of any of the particulars regarding this Agreement. She was also aware that this Agreement was lifted.

Mrs. Gordon was shown a copy of a memorandum to the file from Mr. TARLETON dated November 22, 1976 which pertains to the lifting of the Agreement for the Calhoun First National Bank and was asked to comment on this memorandum. Mrs. GORDON advised as follows:

Her initials appear on this memorandum which indicates to her that she typed the memorandum. She assumed that a letter would have been sent to Calhoun First National Bank informing them that the Agreement was being lifted. This would conform with Mr. TARLETON's memorandum to the file dated November 22, 1976. She does not recall typing this letter. It was probably done by someone else in the office. In all likelihood she would have surely seen or handled the letter inasmuch as it would have required Mr. TARLETON's signature.

Mr. DONALD TARLETON, Regional Administrator, Sixth Region, advised:

Shortly after assuming his present duties as Regional Administrator of National Banks, Sixth National Bank Region, headquartered in Atlanta, Georgia, he became aware of certain deficiencies in the Calhoun First National Bank, Calhoun, Georgia. These came to him from two sources: (1) an investigation, including depositions, into the accounting for campaign contributions involving Mr. T. BERTRAM LANCE and his race for the gubernatorial election for Georgia. This investigation had been essentially completed and had included members from the Enforcement and Compliance Division, Washington, D.C. office. Because of timing he had no involvement other than review of some documentation. (2) the report of examination which commenced on April 28, 1975 and was conducted by NBE RICHARD T. NEWELL, which to his recollection contained several large protracted overdrafts to insiders, a large volume of loans that were not properly structured with definitive repayment programs or known sources of income, and as he remembers, it also contained criticism in other areas of internal control and procedure. This was his first encounter with insider problems in this magnitude and he entered into discussions with the Enforcement and Compliance Section over appropriate administrative action. The result was a formal Agreement pursuant to the Financial Institutions Supervisory Act of 1966 which was entered into on December 2, 1975, between the Board of Directors of the subject bank and the OCC through authority vested in him by then Comptroller of the Currency JAMES E. SMITH. This was accomplished at a "called" board meeting held in his office. The board was receptive to the corrective measures and indicated an intent to comply fully with the provisions of the Agreement.

As he recalled, there was substantial compliance with the Agreement to the end that insider overdrafts were eventually stopped and an experienced lending officer was hired from one of the Atlanta banks to begin a proper structuring of loans. The end result of this administrative action was a turnaround in the affairs of the bank and although only \$400 M of the requested \$625 M was successfully sold, adequate capital protection was achieved. Classified loans began a clear trend of descent. These matters were conveyed to him through monthly reports by the bank and by telephone calls from Mr. Y.A. HENDERSON of the subject bank, and by September, 1976, it was his criticized areas, negating the need to continue with the Agreement.

This was the subject of a telephone conversation, probably initiated on some other subject, with First Deputy Comptroller of the Currency H. JOE SELBY in September, 1976. They discussed the bank's progress and both felt the Agreement had served its purpose. A visitation at the bank had already been scheduled to take place in October, 1976 and he suggested they wait its results, and if the banking factors were justified, they would release the Agreement. He (SELBY) agreed with this suggestion. He (TARLETON) did not

recall any other details of the conversation. The bank was his assigned responsibility and he did not recall having consulted with anyone.

The visitation report was received on November 2, 1976 and reflected improvement in criticized areas with no hint of reverting back to their old ways of doing business.

When placing any form of administrative action upon any bank, one question invariably asked is, how long will this action remain in place? Directors are always told by him that it must remain in place until they (OCC) are convinced they have both the ability and desire to operate their bank soundly and properly. Once this is demonstrated, the document serves no purpose.

On November 2, 1976, he received the visitation report of the Calhoun bank by NBE A. LEE. He reviewed it and determined that the bank had met substantial compliance with the articles with the exception of the injection of \$625 M in capital. He did not recall when he reviewed this visitation report. Based on this report and his prior knowledge of the bank's conditions explained above, he believed the Agreement had served its purpose and it should be removed.

On November 16, 1976 he drafted a memorandum to the file and a letter to the Board, the contents of which were to compliment them for their progress, urge correction of the violation of 12 U.S.C. 29, mention the remaining unsold capital stock (pursuit of which appeared unnecessary because of adequate ratios) and the likelihood of bonding claim settlement, and request a continuation of monthly reporting as is customary on all banks with classified assets in excess of of gross capital funds. As he recalled, the 12 U.S.C. 29 violation involved the retention beyond the permissible statutory period of a former bank building. These are historically difficult to dispose of, particularly in small towns, and is not considered to be of a serious nature.

The question was raised as to why no mention was made of the decision to release the Agreement in his November 16, 1976 memorandum to the file and letter to the Board. He had no explanation with regard to the memorandum and didn't believe the letter to the Board should have contained a reference to it.

To the best of his recollection, nothing significant occurred with regard to the Calhoun bank between November 18, 1976 and November 22, 1976 to lead to the release of the Agreement.

He did not know why and can only speculate on the reason for not releasing the Agreement on November 16, 1976. This period was one of the most hectic of his career and probably for the OCC. The Sixth Region

is visibly understaffed.

On November 22, 1976, National Bank of Georgia President LANCE had arranged with his secretary for an appointment after lunch. He (LANCE) arrived after having attended some civic club luncheon across the street from their office. The purpose of his (LANCE's) visit was to advise confidentially that President-elect CARTER had selected him (LANCE) to be OMB Director in the new administration and to advise of the plans for management succession at NBG. He said that Mr. KING CLEVELAND, who had recently retired and become a consultant with Coopers and Lybrand, had agreed to return as head of NBG until a permanent replacement could be found. He further stated that he would probably have to dispose of his shares in NBG or place them in some kind of trust arrangement. There was some conversation about the role of the OMB Director and similarities between that position and head of the Department of Transportation of Georgia, a post he had held earlier. He (LANCE) then left the office.

Mr. LANCE did not on that or any other date request release of the Calhoun Agreement. In fact, he (TARLETON) did not recall Mr. LANCE ever discussing anything relating to Calhoun subsequent to the execution of the Agreement. To the best of his recollection, no one from the Calhoun bank, the OCC, or any representative of Mr. LANCE, verbally or in writing to him personally, requested release of the Agreement.

He could not recall the reasons why he then decided to take action on the Calhoun bank. He did not recall if the papers were on top of the work pile on his desk or if Mr. LANCE's visit served as a reminder. Nevertheless, he decided to take action to remove the Agreement on November 22, 1976.

Later that day he had a conversation with Regional Counsel H GARY PANNELL regarding the release of the Calhoun Agreement to be sure of his authority to do so. He (PANNELL) advised that he (TARLETON) did have that authority.

He vaguely recalled a discussion with Mr. PANNELL concerning an earlier release of an Agreement on the Bank X

Allegedly, Mr. SERINO, Director of Enforcement and Compliance, instructed Mr. PANNELL that only the Comptroller had the authority to remove Agreements. He did not recall Mr. PANNELL informing him of these instructions. Whatever discussion he had with Mr. PANNELL and whenever it occurred, had no bearing on his actions regarding the Agreement. Nevertheless, he again discussed this matter with Mr. SELBY who is his immediate superior in Washington, D.C., to orally relay to him the results of the visitation and seek his concurrence in the release of the Agreement. He (SELBY) again concurred in the Agreement having served its purpose and to its release. He did not recall which of the conversations (PANNELL or SELBY) took place first. These discussions were made to reinforce his judgment and gain concurrence in the legal and banking factors involved.

His decision to release the Agreement was based upon the improvements noted in the ASHLEY LEE visitation report and monthly reports from the bank.

He did not remember discussing the possible release of the Agreement with anyone other than Mr. SELBY and Mr. PANNELL.

He asked Mr. PANNELL to draft the letter effecting the release of the Agreement, which he did. It was executed and mailed with copies to the Washington, D.C. office. He requested a notation on the copies making reference to his telephone conversation with Mr. SELBY. This was for the purpose of documenting his concurrence. He did not recall that there was any special urgency to get the letter out that day (November 22, 1976).

The Bank X problems occurred prior to his arrival in Atlanta and the Agreement was executed prior to his arrival. File documentation indicates that by early in 1976 sufficient control had been acquired by Holding Co. to remove an individual

from whom the Agreement was apparently designed to protect. The holding company placed new management in charge and improved the condition of the bank. In a memorandum to the file dated April 14, 1976, DRA FRANK referred to the change in ownership and improved condition citing a need to review the Agreement in order to determine whether the bank could be released. In a subsequent memorandum of August 24, 1976 DRA FASBENDER alluded to the same factors and indicated the Agreement served its purpose and was no longer necessary. He recommended termination. In a brief note, he instructed Regional Counsel PANNELL to draft an appropriate document to release the Agreement. He did so on September 23, 1976, and he (TARLETON) signed it.

The difference between the Bank X case and the Calhoun case in handling seems to be in the case of Bank X the lack of telephone concurrence from Washington, D.C. and recommendations from the DRA's.

He could not swear that there was no telephone contact with Washington, D.C. either by himself or anyone else, but he did not recall it. DRA opinions emanate from routine handling of incoming correspondence on a bank that, if his memory serves him correctly, was charged to DRA FRANK, not himself. The banking factors in each case are very different because the Bank X case was more a case of protecting the bank against something that no longer existed.

These differences are in his view minor and may be attributed either to his inexperience in such matters or to lack of a definitive OCC policy or both.

At that time, written instructions pertaining to the procedures for lifting of Agreements did not exist and he did not recall being aware of the instructions which had allegedly been transmitted to Mr. PANNELL from Mr. SERINO. He believed his method was right and his judgment was reinforced by his Regional Counsel and his immediate superior, First Deputy Comptroller for Operations, H. JOE SELBY.

Mr. LANCE's new position had nothing to do with his decision to release the Agreement. He (TARLETON) would have nothing to gain since he has never aspired, and in fact would prefer to avoid, any position in Washington, D.C., OCC office or otherwise, nor to becoming RA in any "money center" region (which would normally be considered a promotion). Neither would there be monetary incentives since he is already a GS-16 and such a change would not likely improve that. Relocating would only be costly and lower his present standard of living by going to a higher cost city.

Mr. LANCE never offered him a position in OMB. He did not recall suggesting the names of anyone to Mr. LANCE for any position in the Federal Government.

He does not recall ever having had a conversation with Judge SIDNEY SMITH or having ever heard of him.

He never received instructions from or had any discussions with anyone in the OCC regarding any actions taken in this matter as a result of Mr. LANCE's appointment.

This action was not taken in any way to preclude embarrassment to Mr. LANCE or preclude any public disclosure of the fact the Agreement existed. This is supported by his disclosure of it to an agent of the Federal Bureau of Investigation who was conducting an investigation for purposes of the upcoming confirmation hearings on Mr. LANCE.

He has had the following meetings with LANCE:

On September 3, 1975 Messrs. T. BERTRAM LANCE and KING CLEVELAND introduced themselves to him at his (TARLETON's) office.

On September 22, 1975 Messrs. LANCE and Y.A. HENDERSON met with he and DRA FASBENDER. This was at their request and he could only assume it dealt with the Calhoun bank in some way. He does recall taking the opportunity to chastise them for the overdraft abuses revealed in the examination report and he recalled questioning the 'integrity' of persons who would use their bank in such a manner.

On October 24, 1975 Messrs. LANCE and CLEVELAND, (he did not recall anyone else from his office nor the subject matter.) This may have dealt with general conversation over their plans to increase capital in NBG and apply to the Federal Reserve Board for permission to establish a holding company. It was their intent to gradually achieve statewide expansion through the holding company vehicle pursuant to a recently enacted state statute making this possible beginning July 1, 1976.

On December 1, 1975 he scheduled a meeting or made a telephone call to advise Mr. LANCE of OCC's intention to enter into an Agreement the following day with the Calhoun Board. This course, which was concurred in by the Enforcement and Compliance Division, was believed to be, and turned out to be, "good strategy to the execution" of the Agreement.

On December 2, 1975 a meeting was scheduled with the Board of Directors of Calhoun First National Bank for purposes of entering into an Agreement for correction of existing deficiencies in the bank.

On March 1, 1976, a luncheon meeting was scheduled at Davis Bros. Restaurant with Mr. LANCE and Regional Counsel PANNELL. He did not recall the specific subject matter.

On April 16, 1976 a luncheon was scheduled at Commerce Club and Messrs. LANCE and CLEVELAND, NBG; Mr. JACK DUNN, Georgia State Commissioner of Banking; Mr. MONROE KIMBRELL, President, Federal Reserve Bank of Atlanta; and he and perhaps Mr. LEWIS BEAZLEY, Regional Director of FDIC attended.

On May 13, 1976 a meeting between him and Mr. LANCE. He did not recall if anyone else from his office attended nor did he recall the subject matter. It could have been the faltering Mercantile National Bank, Atlanta, Georgia, who had contacted NBG along with others as a possible purchaser.

On July 6, 1976 Messrs. LANCE, CLEVELAND and GREEN of NBG and PANNELL and he from his office met. He believes this was probably a summation discussion of their rescue of Mercantile including customer effect, findings of problem assets, public reaction, plans for the newly acquired branches, etc.

On September 23, 1976 a luncheon with Mr. LANCE and Mr. PANNELL of his office was held. As he recalled here was general discussion on the economic problems as they have affected Atlanta and he recalled specifically Mr. LANCE advising them of the serious difficulties and likely coming failure of the state chartered Hamilton Bank and Trust Company, Atlanta, Georgia.

He did not recall having any conversation with NBE ASHLEY LEE either prior to or following his October 28, 1976 visitation. There was no attempt on his part to in any way influence the results of his visitation.

He did not know the names of anyone who served on the CARTER Transition Team and did not receive any communication from anyone purporting to be on said team.

A memorandum to the file, dated September 20, 1976, from Mr. H. JOE SELBY, First Deputy Comptroller for Operations, disclosed:

Regional Administrator TARLETON telephoned him (SELBY) on September 20, 1976 to discuss the possibility of removing the Agreement which had been imposed upon the Calhoun bank. Regional Administrator TARLETON was of the opinion that the bank had made substantial strides in effecting correction, and that the management and directors had been cooperative in their efforts. He (TARLETON) felt that the Agreement was no longer needed in light of these facts.

He (SELBY) indicated to Mr. TARLETON that the decision was primarily his (TARLETON'S), to be based upon his assessment of the bank, since he (TARLETON) had primary supervisory responsibilities, and that he (SELBY) would rely on his (TARLETON'S) judgment. It was suggested that the results of a forthcoming visitation would substantiate the progress made by the bank.

Ms. MILDRED V. GRIFFIN, Administrative Assistant to the First Deputy Comptroller for Operations, advised:

She was on annual leave on September 20, 1976, and subsequent days of that week. She is reasonably certain that she did not type the September 20, 1976 memorandum to the Files from Mr. H. JOE SELBY concerning the Calhoun First National Bank. She normally uses the same type but uses the 10 pitch instead of the 12, she normally capitalizes the letter "f" on Files and normally puts a dash instead of a comma between Mr. SELBY's name and his title.

Ms. KAREN ANN KING, Administrative Assistant to First Deputy Comptroller ROBERT BLOOM, advised:

She reviewed a copy of the memorandum dated September 20, 1976 from H. JOE SELBY to the files on the Calhoun National Bank. She never saw it before and did not type it.

Ms. CAROLYN S. HAMMEL, Secretary to Deputy Comptroller for Operations Review, advised:

She did not type the memorandum, dated September 20, 1976 to the file from Mr. H. JOE SELBY, and was not aware of its existence. She has never served as Mr. SELBY's secretary and has never done any typing for him.

Mrs. HILDA O. LEUVER, Secretary, OCC, reviewed a memorandum to the file dated September 20, 1976 from Mr. H. JOE SELBY concerning the Calhoun First National Bank and advised:

She did not type this memorandum nor does she recall ever seeing it. The type is one of the elements known as 'letter gothic' from an IBM Selectric Corrective typewriter. Mr. SELBY's secretary has one of these typewriters, which is a very common typewriter in OCC.

She did not recall ever seeing a typewriter in Mr. SELBY's office. Mr. SELBY is the type of person that would not do any typing himself. She believes that if he had any typing, he would have his secretary or someone else do it.

Ms. BEVERLY JEAN BURNETTE, Secretary to the Executive Assistant to the First Deputy Comptroller for Operations, advised:

She sometimes sits in for Ms. MILDRED GRIFFIN who is the Administrative Assistant to the First Deputy Comptroller for Operations. She reviewed her (GRIFFINS) daily log for March 1976 through December 1976 and determined that on September 20, 1976 she did act as Mr. SELBY's secretary in Mildred's absence. She is aware of this fact because she has seen her telephone notes dated September 20, stapled in her (GRIFFINS) log. She was shown a memorandum dated September 20, 1976 to the files from Mr. H. JOE SELBY concerning the Calhoun First National Bank. She is positive she did not type this letter for Mr. SELBY because he just recently started dictating to her.

A review of the daily calendars by MILDRED GRIFFIN for H. JOE SELBY, First Deputy Comptroller for Operations, revealed the following pertinent information:

9/20/76	"Mr. TARLETON 9:45"
10/1/76	"9:00 TARLETON in"
10/15/76	"In Hilton Head 6th RAC & Staff"
10/18/76	"In Hilton Head"
11/22/76	"TARLETON"

12/10/76 "TARLETON"
12/15/76 "talked to TARLETON"

Mr. HARRY JOE SELBY, First Deputy Comptroller for Operations, advised:

In his position as First Deputy Comptroller for Operations all paper work and placing Agreements on banks go through his office. He has no specific recollection of the Agreement being placed on the Calhoun Bank. He is aware that such an Agreement was in effect, however, because in September 1976 Regional Administrator DON TARLETON called him for the purpose of discussing the Calhoun Bank. RA TARLETON advised that he wanted to lift the Agreement because the conditions of the Agreement had been satisfied, the Directors of the bank had been cooperative and the Agreement had served its purpose. He advised RA TARLETON that he (TARLETON) was the principal authority and that if he believed the Agreement should be lifted it was his responsibility. RA TARLETON informed him that there was a visitation scheduled and he (SELBY) suggested that Mr. TARLETON wait until the results of the visitation were in before Mr. TARLETON released the Agreement. Mr. TARLETON agreed with his suggestion. To his best recollection, Mr. TARLETON called him because he had previously removed the Agreement on another bank without obtaining concurrence from Washington.

His (SELBY's) memory of the bank in question and the action taken was only a fleeting memory, and he was unsure of the time frame, but he knew it was a bank in Region Six, he believed a bank

Mr. TARLETON's action caused Mr. ROBERT SERINO to have a discussion with him (SELBY) concerning procedures for removing Agreements. It was Mr. SERINO's contention that all Agreements should be lifted only with the concurrence of the Enforcement and Compliance Division. Mr. TARLETON was making this phone call concerning the Calhoun Bank because he (TARLETON) was aware of Mr. SERINO's concern. He (SELBY) did not believe Mr. SERINO had written anything concerning the procedures for removing Agreements. He (SELBY) dictated a memorandum concerning Mr. TARLETON's discussion, which was to have been placed in the Calhoun files in Washington, D.C. and Atlanta. He identified a copy of his memorandum dated September 20, 1976. The date shown on the memorandum is the date he received the phone call and dictated the memorandum.

He has been informed by the Inspectors that the agreement on the other bank in question, the Bank X was not lifted until September 23, 1976. He could not explain this discrepancy except that his memory of the events and time frames was confused. He believed that TARLETON knew Washington was upset over what he had done by releasing the Bank X Agreement and that is why he called him on the Calhoun Bank. He was also advised by the Inspectors that Mr. SERINO prepared two documents to him concerning the discussion of implementation of some of the procedures for removing Agreements. He reviewed those documents, and he is quite sure that he was aware of them at one time. However, he did not specifically recall their

existence until they were shown to him by the Inspectors. The fact that these memorandums existed did not represent a written policy concerning the removal of the Agreements. These documents were merely Mr. SERINO's suggestions. However, he has no knowledge that they were officially implemented.

He was advised by the Inspectors that the procedures outlined in Mr. SERINO's memorandum were discussed at a Regional Counsels' meeting prior to November 22, 1976. However, he has no knowledge that this occurred. He was also advised that neither his secretary nor any of the other secretaries, who occasionally do work for him, could recall typing the September 20, 1976 memorandum and that these same secretaries have also stated that they could not have typed this memorandum for various reasons. He was also advised that the only copy of this memorandum was located in his chronological file and was not found in any of the Calhoun Bank files in Atlanta or Washington, D.C. He had no explanation for these discrepancies in his statement. In his oral statement he advised to the best of his knowledge that he did not type the September 20 memorandum. However, in light of the information related to him and further contemplation, he has concluded that he did, in fact, type the memorandum. He did this because the secretaries were out and it was late in the day. This is not an unusual practice for him. To the best of his knowledge, the date shown on the memorandum is the date of the phone call from Mr. TARLETON. The purpose of the September 20, 1976 memorandum was to document the files because it involved a problem bank. In his mind this memorandum also represented his approval for the removal of the Agreement.

Sometime subsequent to the September 20 conversation with Mr. TARLETON, but prior to November 22 the Regional Administrator in San Francisco sent him a memorandum requesting the approval for releasing an Agreement on a bank in Bank Y */. He sent this request to the Bank Review Division which forwarded it to the Enforcement and Compliance Division. He believes the Enforcement and Compliance Division drafted a memorandum for the Comptroller's signature releasing the Agreement. It is possible that he signed this memorandum as Acting Comptroller, but he does not recall. This action was taken in this manner because Regional Administrator HENSEL sent the request and information into Washington by letter. It has always been his opinion that the Regional Administrator's had the authority to remove Agreements and that it was not necessary for it to be approved by the Enforcement and Compliance Division. At this time, there were no written procedures concerning the removal of the Agreements and no one had formulated any written policy to that effect. This would explain why various Agreements were removed in different ways.

He was shown a copy of a memorandum to him by Mr. ROBERT SERINO, dated November 3, 1976. This memorandum deals with suggested procedures for the removal of formal administrative Agreements. He received this memorandum and to the best of his knowledge was holding it for discussion at a Regional Administrators' meeting. He attended a Regional Administrators' meeting in Dallas, Texas in November 1976, however, due to scheduling of the agenda items he did not recall Mr. SERINO's memorandum being discussed, nor did he

*/ Bank Y unrelated to NBG, Calhoun, or Region 6

recall if copies were provided to the Regional Administrators.

On November 22, 1976 Mr. TARLETON called him and told him that he (TARLETON) had removed the Agreement from the Calhoun Bank. Mr. TARLETON said that the visitation had been conducted and that all the conditions had been met. Mr. TARLETON said

satisfactory progress was being made. Mr. TARLETON advised that the Agreement had served its purpose and that it had been lifted. He (SELBY) believes his comment to Mr. TARLETON was merely, "That's fine." Mr. TARLETON did not request that he be allowed to remove the Agreement. His call was merely to inform him (SELBY) of the reasons for removing the Agreement. Mr. TARLETON advised that a copy of a letter lifting the Agreement would be sent to him.

Sometime during this period, Mr. TARLETON mentioned to him that Mr. BERT LANCE would be nominated to be the next CMB Director. From his memory, he believes that this occurred during the phone call on November 22. He does not believe there was any significance between the two, that is, LANCE's appointment and the removal of the Agreement. He did not make a memorandum to the file as he had done on September 20 because a copy of the letter removing the Agreement was being forwarded to him. He did not review any files pertaining to the Calhoun Bank at any time between September and November 22. He relied fully on Mr. TARLETON's judgment from his review of the situation. Mr. TARLETON did not tell him what files or reports he had reviewed in order to make his decision other than the visitation report of October 1976.

On November 26 he received a memorandum from Mr. ROBERT BLOOM, Acting Comptroller, which instructed him not to consent to the removal or remove any future Cease and Desist Agreements. At the time of receipt, he did not know if this memorandum referred to the Y Bank or the Calhoun Bank. He attempted to contact Mr. BLOOM on November 26, 1976, however, he had already left for the day. On November 29, Mr. BLOOM called him into his office and said that he (SELBY) had better fill him in on the details of the Calhoun Agreement. He perceived Mr. BLOOM's only concern to be the timing of the removal, and that it was a "political firecracker". Mr. BLOOM was not very happy with the action that had been taken. He explained to Mr. BLOOM that this decision had been discussed in September with Mr. TARLETON. He did not show Mr. BLOOM a copy of his September 20 memorandum. Prompted by Mr. BLOOM's memo and to satisfy his own curiosity, he had reviewed the visitation report prior to his meeting with Mr. BLOOM. The report agreed with the information Mr. TARLETON had furnished him over the phone on November 22.

He did, in answer to the Inspectors' direct question, affirm that he asked Mr. ROYAL DUNHAM how Mr. BLOOM was informed about the Agreement being lifted. He did this just to determine how it came to Mr. BLOOM's attention. He was upset because he had not been included in the original discussion when Mr. BLOOM was informed. He was not upset because Mr. DUNHAM had told Mr. BLOOM. As a result of his being reprimanded by Mr. BLOOM he chose not to have any further involvement with the Calhoun Bank or the National Bank of Georgia.

He did not concur in the removal of the Agreement for any purpose other than his reliance on Mr. TARLETON's capabilities as a Regional Administrator. He (SELBY) did not hope to be named Comptroller. He did not agree in this action, with the hopes of forwarding anyone else's career, specifically Mr. TARLETON's. He did not take this action in an attempt to embarrass Mr. BLOOM or in an attempt to discredit him in any consideration for the Comptroller's office.

He has met Mr. LANCE on approximately three occasions, the first time at their meeting being in October 1976 at Hilton Head, South Carolina, at a Regional Advisory Committee meeting. Mr. LANCE as a National Banker, was interested in implementation of new policies and procedures in the OCC that was progressing at that time and of which he (SELBY) was in charge. Mr. LANCE also asked his opinion as to whether the Comptroller of the Currency should be a career employee of the OCC or an outside professional. He indicated he was firmly in the belief that the latter was the desirable one from his point, in that an outsider would be attuned to national policies with the administration and would be more dynamic in leading the organization. At no time at this meeting or at two other occasions of meeting Mr. LANCE or in telephone conversations did the subject of Calhoun First National Bank or National Bank of Georgia nor any banking matter concerning the two come up or were discussed.

The Inspectors showed him a letter dated November 4 to Mr. LANCE concerning their recent meeting at Hilton Head and the benefits derived from the meeting. In addition, He (SELBY) pledged his full cooperation and offered any background information on the office of the Comptroller of the Currency. He did this because Mr. LANCE had expressed interest in the recent changes in the organization and he wanted to let him know that he could have access to any information relative to the OCC's recent reorganization. He did not write this letter with the intention of gaining favor with Mr. LANCE. He has always contended that the Comptroller's office should be held by a political appointee and not an insider. He was told, as well as other executives of the OCC, at a reception of the North Carolina Bankers that Mr. LANCE had indicated to them the four current candidates for Comptroller of the Currency, the list containing the names of three OCC executives, namely BLOOM, HALL, and DeSHAZO. His name was not on the list. He, therefore, knew he was not being considered, confirming his position of not being a candidate.

Mr. ROBERT BLOOM, First Deputy Comptroller of the Currency, advised:

He became aware sometime in 1976, prior to November, that an enforcement Agreement pursuant to the Financial Institutions Supervisory Act of 1966, had been entered into with the Calhoun First National Bank. He could not recall the exact date, or who told him. He did not participate in the negotiations leading up to the enforcement Agreement. He would assume that Mr. SERENO, Director of the Enforcement

and Compliance Division, or someone else from the Enforcement Division made him aware of the Agreement. He had no prior knowledge, or prior discussions with anyone concerning the lifting of this Agreement.

He first learned that the Agreement had been lifted when he saw a copy of the letter from Regional Administrator TARLETON to the Board of Directors of Calhoun, dated November 22, 1976. Mr. TARLETON did not send him a copy of the letter directly. However, a copy was furnished to him by someone in the Washington OCC office on November 26, 1976. He did not recall who in the Washington office furnished him the copy other than his secretary.

He was quite annoyed that Regional Administrator TARLETON and Deputy Comptroller SELBY had lifted an enforcement Agreement without his consent, as Acting Comptroller. He had never heard of an enforcement Agreement being lifted without the Comptroller's consent. He has since learned that there was a prior instance in Mr. TARLETON's Region in Bank X Florida. He was not consulted on the Bank X action either. It has always been his position that only the Comptroller has authority to lift an Agreement entered into under the Supervisory Act.

It is possible that there may have been some confusion among Regional Administrators and others in the office on the question of authority to lift Agreements. Mr. SERINO, the head of the Enforcement Division, in early November 1976 worked up a draft set of procedures to be followed, before Agreements were lifted, and this draft may have been on the agenda of a Regional Administrators' meeting which was held in Dallas, Texas on November 8 and 9, 1976.

He was quite annoyed with Mr. TARLETON and Mr. SELBY when he saw the November 22 letter to Calhoun. He informed Mr. SELBY both orally and in writing that this was never to be done again. He did this either on November 26, which was a Friday, or the following Monday. He also believes he spoke to Mr. TARLETON and informed him of his (BLOOM's) feelings about the matter and advised him not to repeat such action.

His reasons for being upset were first, that it appeared to him as a challenge to his authority as Acting Comptroller and in this connection he was probably more upset with Mr. SELBY than Mr. TARLETON since he believed that no Regional Administrator would have taken such an action without the approval of someone in Washington. Second, he also was concerned about the timing of the lifting of the Agreement in relation to Mr. LANCE's probable appointment as a high official in the new administration. He knew that this could be the subject of possible misinterpretation by the press.

He considered sending a letter to the Calhoun Bank rescinding Mr. TARLETON's letter. He first had to determine whether or not the lifting of the Agreement was justified on the merits. He recalled discussing the matter with Mr. WES MURPHY, the Deputy Comptroller for Administration. He also discussed it with Mr. DAVID SCHAUB, of the Enforcement Division, and he (BLOOM) obtained the most recent files on the bank from Mr. ROY DUNHAM, of the Special Projects Division. After reviewing the progress made by Calhoun since the Agreement was entered into, it was his conclusion that the bank was in substantial compliance with the Agreement and had improved its condition significantly. He could not recall whether his review of the files took place on November 26, 1976 or the following week. He recalled that Mr. SCHAUB advocated (he does not know how seriously) his (BLOOM's) taking rather drastic action such as firing Messrs. SELBY and TARLETON as well as advising Calhoun that the Agreement was lifted without authority. With respect to the action of restoring the Agreement, he (BLOOM) actually gave that possibility serious consideration, but after reviewing the files of the bank and the progress made, he concluded that the lifting of the Agreement was defensible on the merits. To restore it would be, in effect, to penalize the bank for what was essentially a matter that had to be resolved internally within the Comptroller's office. He believes that he reviewed Mr. DUNHAM's file which should have contained all correspondence to the bank. He also believes he asked the Enforcement Division to inform him as to the latest situation as far as compliance with the Agreement. He believes he discussed the matter with Mr. SCHAUB and with Mr. TARLETON.

The question as to whether the Agreement could have been reinstituted after November 26, 1976 must be distinguished from the question whether the record of the bank's performance supported the lifting of the Agreement on November 22, 1976. He based his decision not to reimpose the Agreement basically on the information concerning Calhoun's progress supplied to him by Mr. TARLETON, Mr. DUNHAM and Mr. SCHAUB. He did not have available at that time all of the Examiner's memoranda contained in the Atlanta Office. He was shown copies of these memoranda contained in the files by the IRS Inspectors. These memoranda show that the bank had made substantial progress in response to the major articles of the Agreement, however they also mentioned a number of other areas that still were in need of correction and improvement. He could not say that these memoranda would have changed his decision not to reimpose the Agreement. He could say with certainty, however, that with the details of the progress of the Calhoun Bank as reflected in the June 18, 1976 memorandum by Assistant National Bank Examiner JOYCE SAXON, and also considering the sensitivity

of the timing problem, he would never have consented to the lifting of the Agreement at that time. His decision not to impose the Agreement was based strictly on the information available to him in Washington, D.C. as well as verbal assurances from Mr. TARLETON and others that the bank's condition had improved significantly since the signing of the Agreement.

He also had some doubts as to OCC's legal position on reimposing an Agreement which had been "terminated" by a Regional Administrator. He also considered whether any disciplinary action was possible or appropriate in connection with Messrs. TARLETON and SELBY. Mr. SCHAUUB was of the opinion that they both should be fired. He discussed the legal possibilities with Mr. MURPHY. He did not think Mr. SCHAUUB's suggestion could practically be followed considering the nature of the problem. The other possibility of some sort of official reprimand also did not appear in order because of the doubt whether the standing instructions on lifting enforcement Agreements were clear.

The question was raised whether his decision not to impose the enforcement Agreement was colored by any hope of his being named permanent Comptroller by the incoming Administration. The answer is negative, and this applies to any of his other actions in connection with Mr. LANCE as well. He regarded the LANCE problem as essentially a "no win" proposition as far as his chances for being appointed Comptroller. Any actions beneficial to Mr. LANCE would do damage to his chances because of the connections inevitably to be made by a suspicious press. Mr. LANCE as an ex-banker had also publicly announced on a number of occasions that he would not participate in any matters affecting bank regulations. He understood that LANCE entered into an express Agreement to that effect with the Senate Committee which confirmed him. On the other hand, any actions detrimental to Mr. LANCE could hardly be expected to help his chances.

He thought that his (BLOOM's) attitude towards that appointment was that he (BLOOM) never really entertained much serious hope of getting it. He never "campaigned" in the usual sense for the job--visited or called any Congressmen or political types. He told Mr. LANCE he had written a letter to Secretary-designate BLUMENTHAL asking to be considered for the Office of Comptroller of the Currency.

Financially he had very mixed feelings about signing on for a five year term as Comptroller since his future plans should include saving some money for the education of two young children, something he had been unable to do while working for the government. He had no official or actual knowledge of his name being on any list of possible candidates for the Comptroller's position, but as the Acting Comptroller it would not have been surprising if such were the case. He was not aware and never has been that Mr. LANCE asked for the submission of names in that regard.

Sometime either Friday, November 26, 1976, or the following Monday or Tuesday, he confronted Mr. SELBY with Mr. TARLETON's November 22, 1976 letter lifting the Agreement and advised him in no uncertain terms of his (BLOOM's) displeasure. His conversation with Mr. SELBY was pointed, but brief. He made it clear that he could not understand his action and that it was not to be repeated in any future cases. Mr. SELBY made some attempt to justify his actions by referring to a previous case in which an order had been lifted by a Regional Administrator without control or approval. Mr. SELBY stated he believes, that he (SELBY) had been in discussion with Mr. TARLETON earlier in the year about lifting the Agreement at Calhoun. He was shown by the IRS Inspectors a file memorandum from Mr. SELBY dated September 20, 1976, which relates to a telephone conversation between Mr. TARLETON and Mr. SELBY on that date concerning the possibility of removing the Agreement. He has no recollection of having seen this memorandum before, although it is possible that he may have. If he had read the September 20, 1976 SELBY file memorandum at the time, he does not believe he would have taken any particular action. There was nothing unusual about a Regional Administrator and Mr. SELBY discussing the progress of a bank under Agreement and he would have assumed that no final action would be taken with respect to the Agreement without his approval.

His secretary's calendar indicates a call from him to Mr. TARLETON on November 16, 1976. He could not recall the subject of this telephone conversation but he definitely knows that it did not relate to the lifting of the Agreement at Calhoun. He telephoned Mr. TARLETON last week (week of August 21, 1977) to see if TARLETON remembered the subject of the November 16, conversation. TARLETON did not, but he agreed that definitely it did not touch on the Calhoun Agreement. In the course of discussing the matter, Mr. TARLETON mentioned that he (BLOOM) had spoken to him after the Agreement was lifted, expressing his (BLOOM's) displeasure. He had not previously recalled calling Mr. TARLETON for this purpose and he (BLOOM) assumed that his remarks may have been made in a call from Mr. TARLETON to him on December 1, 1976. He has been

asked whether Mr. TARLETON, in his conversation with him on December 1, 1976 referred to conversations between Mr. TARLETON and Mr. SELBY in September of 1976 on the possible lifting of the Agreement. He did not recall Mr. TARLETON referring to such conversations, but it is possible that he did so.

Sometime in December 1976 he asked that all files pertaining to Calhoun and NBG in the Washington office be placed in a combination lock safe located in a closet adjoining the Comptroller's Office. He did this solely for security reasons. There was considerable press interest occasioned by Mr. LANCE's nomination to be OMB Director and he did not want any information concerning the banks with which LANCE was associated to be the subject of unauthorized leaks. OCC's experience with leaks of information from their files had not been particularly good during the past two years as is well known. Employees in the Enforcement Division or the Bank Review Division knew at all times where the files were and were allowed access to them by asking his secretary or him. He had no special interest in protecting Mr. LANCE in this regard, but recognized the probability of high press interest and he believed that the files of banks with which Mr. LANCE was associated were entitled to as much protection as the law or regulations required.

In addition to the information Mr. BLOOM furnished in his original affidavit, he provided responses to the following questions:

- Q. Identify members of the transition team you discussed your desire to be considered as Comptroller.
- A. I did not discuss the Comptrollership with any members of the transition team, I was aware that Mr. DICK BEATTY, a friend of mine, had written a letter to Mr. NICK ARUNDEL, head of the Washington transition office, on my behalf.
- Q. Did you ever discuss your desire to be considered as Comptroller with LANCE at any time?
- A. I don't believe so. I did tell him that I had written to Secretary BLUMENTHAL asking to be considered for the job.

- Q. Did you see ASHLEY LEE's October 28, 1976 visitation report at the time the Agreement was lifted and did the contents influence your decision to not reimpose the Agreement? If you did see it, would the information contained therein have influenced your decision, had you seen it?
- A. I think I did see it. The contents weighed for a decision to reimpose, but were not sufficient to overcome the factors against reimposition; namely, (1) the recapitalization of the bank, (2) cessation of most bad practices, (3) new loan officer, (4) unfairness to the bank and Mr. LANCE of the confusing publicity, which probably would result, (5) penalizing the bank because of lack of control within the Comptroller's Office, (6) legal doubts over whether we could reimpose after termination.

JOHN L. MOORE, Jr., President and Chairman of the Import-Export Bank of the United States, advised:

From July 1976 until January 20, 1977 he was Special Counsel to the CARTER-MONDALE Transition Group on Ethics and Conflicts-of-Interest. After President-elect JIMMY CARTER's Inauguration on January 20, 1977 he assisted the White House Counsel in the review of financial papers for presidential appointees. He was involved in this particular line of work until April 1977. Prior to that time he was a partner in the Atlanta, Georgia law firm of Alston, Miller and Gaines.

Sometime in November 1976, Mr. PHILIP ALSTON, a partner in the law firm, called him into his office. at approximately 5 or 6 p.m. When he arrived in Mr. ALSTON's office he noted that Mr. T. BERTRAM LANCE, President, National Bank of Georgia (NBG), Atlanta, Georgia, was there. Also present was National Bank of Georgia Attorney ALEX SMITH. Mr. SMITH is with an Atlanta based law firm.

Mr. LANCE stated that the reason he had come to the firm was because he had a telephone call from President-elect CARTER from Plains, Georgia asking him (LANCE) to come to see him in Plains the following day. Mr. LANCE surmised that the President-elect was going to offer him either the position of Secretary of the Treasury or the position of Director, Office of Management and Budget (OMB). Mr. LANCE indicated that he thought it would be the OMB position. Mr. LANCE stated that he wanted the firm of Alston, Miller and Gaines to represent him in his personal financial matters in connection with his confirmation hearings.

Mr. ALSTON had called him (MOORE) into his office because he wanted technical advice regarding conflict-of-interest, knowing that he (MOORE) was with the Transition Group. He (MOORE) was careful not to involve himself in that meeting as a member of the law firm from the standpoint of conflict-of-interest.

One of the matters discussed was the divesting of NBG stock owned by Mr. LANCE. He informed Mr. LANCE of the statutory requirements and guidelines beyond the requirements of the statute dealing with conflict-of-interest (18 USC, Section 208, Chapter 2) and what the administration was going to require. He indicated the Mr. LANCE should talk to Mr. CARTER in Plains the following day. He subsequently learned that Mr. CARTER informed Mr. LANCE that he would have to sell all his NBG stock.

The following additional topics were also discussed:

The possible arrangements for termination payments for LANCE's services by NBG at the time of severance.

Life insurance, health insurance, and pension plans as concerned Mr. LANCE and the bank.

A need to get together a complete financial statement; however, at that point in time this area was not discussed in full detail.

He does not recall any further matters that were discussed during this meeting, which lasted approximately 30 minutes. They did not discuss the Calhoun First National Bank overdrafts, of which he believes he was aware of approximately a year earlier because of mention of these overdrafts in the Atlanta newspapers. To his best recollection and belief the Agreement on the Calhoun First National Bank was not discussed at this meeting. According to his best recollection and belief, a matter pending with the Office of the United States Attorney, was not discussed either at the November meeting.

Mr. ALEXANDER W. SMITH, Attorney-at-Law, advised:

He is General Counsel for the National Bank of Georgia (NBG), Atlanta, Georgia.

One day he was invited by Mr. BERT LANCE to LANCE's home for lunch. Mr. PHILIP ALSTON of Alston, Miller and Gaines, Atlanta, Georgia, was also there.

That same afternoon the three of them talked and Mr. LANCE told them he thought that he would be part of JIMMY CARTER's administration and wanted some advice about the disposition of his securities in the event that he was named by Mr. CARTER. They met as friends to talk over the situation. He was not there as Mr. LANCE's lawyer; only as a friend that Mr. LANCE wanted to counsel with. He (SMITH) felt that Mr. ALSTON was there under the same circumstances.

Mr. ALSTON knew that JOHN MOORE, a partner in his (ALSTON's) law firm was Chief Counsel with Mr. CARTER's transition team and dealt with ethical questions regarding the prospects of the Carter Administration. They felt that they should talk with Mr. MOORE and seek the benefit of his knowledge in this area.

They subsequently drove to the law firm, and called Mr. MOORE into Mr. ALSTON's office. They discussed with him the requirements of the Carter Administration as concerned Mr. LANCE's securities. This conversation was in generalities, and dealt primarily with Mr. LANCE's assets as to whether or not they could be retained, put in trust or disposed of.

Mr. MOORE cited sections of legal documents, which he indicated the Administration would require to be followed in addition to other nonstatute requirements. Mr. MOORE was concerned about Mr. LANCE's bank stock holdings and the possibility of conflict of interest.

He (SMITH) and LANCE both felt the requirements of the Carter Administration regarding the disposition of securities was unfair and too stringent; that the divesting of Mr. LANCE's NBG stock would be difficult to achieve and not fair to him or the other stockholders. Mr. LANCE talked about wanting to go see Mr. CARTER in Plains, Georgia about the matter and to see what he (CARTER) required of him. They discussed it and they all felt it was a good idea.

He (SMITH) thinks there was a call to Mr. CARTER's home in Plains by Mr. LANCE for an appointment to see him but he does not recall if it was made then.

There was no conversation at this meeting regarding an Agreement on the Calhoun First National Bank (CFNB) or pending matters at the Office of the U.S. Attorney Atlanta, Georgia. He stated no one from the Office of the Comptroller of the Currency (OCC) was at Mr. LANCE's home or Mr. ALSTON's office, nor was any thought given to contact anyone from OCC regarding the matters that were discussed. The only person present other than the four of them was Mr. NEIL WILLIAMS, an attorney with Alston, Miller and Gaines. Mr. WILLIAMS was in and out of Mr. ALSTON's office doing legal research and bringing in statutes and law citations. Mr. WILLIAMS did not participate in the discussion.

He thought that the meeting took place on November 23, 1976, but after reviewing his calendar he believed it might have been November 17, 1976. His calendar did not contain an entry of the meeting but his feeling was that it took place on the 17th of November because that is the only day that the calendar shows cancellation of afternoon appointments. The significance of the cancelled appointments is important in recalling the exact date of the meeting because he remembers that the meeting took place late in the afternoon in Mr. ALSTON's office around five or six p.m.

Mr. RICHARD S. BEATTY, Attorney in the law firm of Alston, Miller and Gaines, advised:

In late 1976, he was in a conversation with Mr. ROBERT BLOOM, an old friend and then Acting Comptroller of the Currency. He did not recall where it took place or the circumstances surrounding the conversation. During the conversation, Mr. BLOOM indicated that he was interested in becoming the permanent Comptroller of the Currency. Mr. BLOOM did not elaborate. Mr. BEATTY advised that he later passed this information on to a senior member of the firm. Mr. BEATTY further stated that Mr. BLOOM sent him a resume of his qualifications, which Mr. BEATTY forwarded to Mr. ARTHUR ARUNDEL, a member of President-elect CARTER's transition team. Mr. BEATTY added that he included a cover letter with each of the resumes he received, making appropriate comments if he knew the person.

Mr. BEATTY further stated that he knew of no improper activity or statement or any other action taken by Mr. BLOOM in his quest to become Comptroller of the Currency, nor of any connection between Mr. BLOOM and other members of the law firm of Alston, Miller and Gaines.

The cover letter which accompanied Mr. BLOOM's resume noted that Mr. BLOOM was a Democrat and a former co-worker of his (BEATTY's). He did not recall any other specifics concerning the cover letter.

A letter, dated January 5, 1977, from Mr. ROBERT BLOOM, Acting Comptroller of the Currency, to Secretary of the Treasury W. M. BLUMENTHAL, disclosed:

"As you know, I have been Acting Comptroller of the Currency since the resignation of James E. Smith on July 30, 1976. Previous to that date I served as First Deputy Comptroller for one year and Chief Counsel of the Office for 13 years.

I would appreciate being considered as a candidate for the permanent appointment as Comptroller, and would like to meet with you briefly so that you could personally assess my qualifications.

I originally came to work for the Office in April of 1961 during the Presidency of the late John F. Kennedy. I was hired "off the street" as an attorney in the legal division based on my experience as a corporation lawyer in New York City.

During my 15 years with the Office, I have been in a top staff capacity to four different Comptrollers, Ray M. Gidney, James J. Saxon, William B. Camp, and James E. Smith. These men, while having very different personalities and approaches, all were moderate to conservative in their political philosophies. I considered my role to be one of carrying out the policies they wished to pursue.

My own personal political philosophy always has been liberal Democratic and I am frankly excited at the possibility of serving in a policy making capacity in an area in which I possess considerable expertise, under an Administration whose expressed goals and philosophies parallel my own.

I have submitted my background to Mr. Arthur W. ARUNDEL of the Transition Planning Group and a copy of that resume is attached hereto. I am well-known to many national bankers and bank regulatory officials who could supply external evaluations of my abilities. Some who come to mind are Steve Gardner, Vice-Chairman of the Federal Reserve Board, Walter Wriston of Citibank, New York, and Lee Frussia of the Bank of America.

I hope that you will be able to find time for a brief meeting."

Mr. BILLY C. WOOD, Regional Administrator of National Banks, Chicago, Illinois, advised:

He came to Chicago, Illinois, from Atlanta, Georgia, as Regional Administrator in September 1975. He had held a similar position in Atlanta, the Sixth National Bank Region, from September 1974 to September 1975. Prior to that, he had been Deputy Regional Administrator, Eleventh National Bank Region, Dallas, Texas.

During the year that he was in Atlanta, he was aware of the Calhoun First National Bank (CFNB), Calhoun, Georgia, and the problems they had encountered. The bank had a history of sloppy operations, but it had not been a "problem bank" and was not on the problem bank list.

During the spring or summer of 1975, there was an examination of the bank by National Bank Examiner (NBE) RICK NEWELL, which identified the problem areas. The Examination Report in addition to other things, disclosed

possible campaign fund violations and overdrafts concerning Bank President BERT LANCE and his family, which were of some concern to him.

His knowledge of the bank was very limited prior to the 1975 examination in that he had only been in his position six or eight months. He did not feel the problems discovered during NBE NEWELL's examination were of such severity to warrant an Agreement being placed on the bank; however, what did concern him were the excessive overdrafts and the possible campaign violations by the bank.

At that time there were campaign violations found at the National Bank of Georgia (NBG), Atlanta, Georgia. Mr. LANCE, by this time (spring-summer, 1975) had left CFNB to become President of NBG; however, these violations had occurred prior to Mr. LANCE's arrival.

Because of this concern he made a referral of the matter to the Enforcement and Compliance Division, OCC, Washington, D.C. In connection with this referral, Mr. JOHN SHERRY, an Attorney with Enforcement and Compliance, came to Atlanta in July or August 1975 to investigate the matter. Mr. SHERRY talked with Mr. LANCE concerning the overdrafts and the campaign violations which were the principle areas of concern.

Prior to departing Atlanta in 1975 for Chicago, he (WOOD) did not take any steps or make any recommendations to have an Agreement placed on CFNB because the Enforcement and Compliance investigation was still pending.

At the time he got the 1975 NBE NEWELL report on CFNB, he recalled that NBE NEWELL brought to his attention the fact that the 1974 report of CFNB by NBE MARIA RICHMOND disclosed considerable overdrafts. He cannot explain why this fact was not mentioned by NBE RICHMOND on page 2 of the report as an item for the attention of the Board of Directors of the bank. He also found it unusual that it was not written up in the confidential report to the Comptroller.

He cannot remember for sure but thinks that he probably talked to NBE RICHMOND about her report. He does not recall at this time the gist of their conversation. He was mainly concerned about the immediate problems stemming from the April 1975 examination.

During the year that he was in Atlanta, he probably saw Mr. LANCE approximately five or six times in the Regional office in connection with official matters.

He (WOOD) attended a Regional Administrators' meeting in Dallas, Texas, from November 7 through November 9, 1976. He does not recall everyone who was at the meeting; however, he does recall that none of the Regional Administrators were absent. Also, he recalls the following persons in attendance at the meeting: Mr. ROBERT BLOOM, Acting Comptroller of the Currency; Mr. CHARLIE HALL, Deputy Comptroller for Banking Operations; Mr. JOHN SHOCKEY, Chief Counsel; Mr. H. JOE SELBY, First Deputy Comptroller for Operations; Mr. GAIL POHN, Deputy Comptroller for Corporate Activities; and Mr. BOBBY BENCH, Acting Director of Human Resources.

While at the meeting, he made handwritten notes of items discussed. He placed these notes along with any handouts received in a folder which was later filed in his office in Chicago.

In reviewing his files, he found that it did not contain any handouts regarding procedures for removal of Agreements, nor did his handwritten notes show any reference to Agreements having been discussed at the meeting. Further, he does not recall any discussion concerning Agreements or the procedures for the removal of an Agreement at that conference.

On March 14, 1977, he attended a Regional Administrators' meeting in Washington, D.C. At that meeting, he recalled some discussion of Agreements and his handwritten notes show, "order lifting order of Agreement must come from Comptroller."

He does not recall receiving any handouts concerning the removal of Agreements, nor does his file of that meeting contain any handouts. The discussion at the March 14, 1977 meeting regarding Agreements only stated policy that he was already following, which he believed to be proper.

Although there was apparently no formal written policy for the removal of Agreements, he felt that since he needed the Comptroller's authorization to place an Agreement, it would follow that the Comptroller's authorization was necessary to remove an Agreement. This is his own personal idea of what the procedure would be.

The only written document he can recall seeing regarding the removal of agreements is a memorandum dated November 3, 1976, from ROBERT B. SERINO, Director, Enforcement and Compliance, to H. JOE SELBY, First Deputy Comptroller for Operations, which was shown to him by Mr. JOHN SHERRY, Regional Counsel, upon his (SHERRY's) return from a Regional Counsel's meeting where it had been handed out. He could not recall when this occurred, but believes it was after the lifting of the Agreement with CFNB.

Mr. M.B. ADAMS, Regional Administrator of National Banks, Portland Oregon, advised:

He was Deputy Regional Administrator in the 6th National Bank Region, Atlanta, Georgia, from 1967 to 1974. Mr. JOSEPH M. REAM was the Regional Administrator at the time he left Atlanta for Portland, Oregon.

As a Deputy Regional Administrator, one of his many functions included the review and sign off of Examination Reports on National Banks in the 6th National Bank Region.

He remembers the Calhoun First National Bank (CFNB) and can recall one Examination Report on the bank

He does not have any recollection of overdrafts.

The Regional Office sent letters to the bank along with the Examination Report pointing out the critical areas found during the examination that required their attention. The bank definitely had some problems, but he does not recall that they required any supervision or monitoring by the Regional Office. He does not recall any Agreement being placed on the bank while he was there.

Mr. ADAMS was shown the August 1973 Examination Report by National Bank Examiner (NBE) JOHN WANLESS on CFNB. After reviewing the report, Mr. ADAMS related the following:

He believes this is the Examination Report to which he was previously referring and one which he signed off. The findings in the report indicate that it was the type of bank that required some supervision, but it was not a problem bank. The back of the report shows that there was a letter to the bank on September 26, 1973, pointing out the problems and a follow-up letter on November 26, 1973. The findings in this report did not warrant an Agreement on the bank.

Mr. ADAMS was shown the July 1974 Examination Report by NBE MARIA RICHMOND on CFNB. After reviewing the report, he related the following:

He does not recall this report even though he had signed off on it. The high overdraft figure should have been written up by RICHMOND on page 2 of the report as an item to the attention of the Board of Directors. It should also have been written up in the Confidential Report to the Comptroller.

He could not explain why it was not written up and cannot recall confronting Ms. RICHMOND about the report. It is a "fairly clean" report. The overdrafts definitely should have been written up and his (ADAMS') failure to note this at the time he signed off on it is obviously an oversight on his part. He did not direct or instruct Ms. RICHMOND to furnish a "clean report" on CFNB, nor did he receive such a request himself from anyone to see that a "clean report" was furnished.

Mr. ADAMS was shown the April 1975 Examination Report by NBE RICK NEWELL on CFNB. After reviewing the report, Mr. ADAMS related the following:

He had already left Atlanta when this examination was conducted. He noted that the problems found by NEWELL were similar to the 1973 report, even more so. The problems were there in 1973 and 1975 and he could not explain why RICHMOND wrote a "clean" report in 1974. the overdrafts in her report should have been written up. He later heard that an Agreement had been placed on the bank and that it had subsequently been lifted.

Mr. ADAMS was questioned regarding the November 7-9, 1976 Regional Administrators' Conference held in Dallas, Texas, and he furnished the following information:

He is sure that he attended this conference. He does not recall at this time any discussion at the conference which covered Agreements and/or the policy of lifting Agreements, not to say that it was not covered. He cannot recall at this time any subsequent Regional Administrators' Conference where such a topic was discussed.

Sometime after the lifting of the Agreement on the CFNB, he recalls that there was some sort of letter or instruction from Acting Comptroller BLOOM outlining procedures to be followed in the lifting of Agreements. These procedures indicated that all such actions would go through OCC in Washington, D.C.

Prior to this time, he was not aware of any formal written procedures regarding this matter. Mr. BLOOM's letter or instructions differed slightly with his own policy concerning the lifting of Agreements. His general policy is that as Regional Administrator he felt he had implied power to lift an Agreement depending on the sensitivity of the situation. If he felt that he did not want to assume the responsibility of lifting an Agreement, he would go through Washington, D.C.

As a Regional Administrator in the 13th National Bank Region, he has lifted only one Agreement. Prior to the lifting of this Agreement, he had conferred with the Enforcement and Compliance Division, OCC, Washington, D.C., for some clarification in the matter and getting this clarification he told them that he was going to lift the Agreement. They went along with his decision.

Mr. CHARLES M. VAN HORN, Regional Administrator of National Banks, Region 2, Office of the Comptroller of the Currency, New York New York, advised:

He had no direct knowledge how other Regional Administrators handled removals of formal agreements which had been entered into between the Office of the Comptroller of the Currency and banks. He would handle the removal of a formal agreement by first having a Bank Examiner do an up-to-date evaluation of the affairs of a bank. The Examiner would do a point by point assessment of the bank's compliance to the formal agreement. Based on the Examiner's findings, he would make a recommendation for removal in writing to the Comptroller of the Currency, through the Special Projects Division, Washington, D.C. It was his understanding that the Special Projects Division would coordinate with the Enforcement and Compliance Division.

Then the Comptroller or Acting Comptroller of the Currency would either write a letter to the bank directly informing them of the removal of the agreement with a copy of the letter going to him for his information, or the Comptroller or Acting Comptroller of the Currency would, in writing, authorize and direct him to rescind the agreement. In the later example, he would, in writing, inform the bank of the removal. The reason he said that it could be done both ways was because he had been associated with only two removals in his region and both of the preceding ways which were discussed were used. With either way the authority for removal came from the Comptroller of the Currency. He didn't feel that he had the authority to approve any removals of agreements with banks. Since the Comptroller of the Currency approved these agreements, he should be the one to authorize the removal of the agreement.

To his knowledge there had never been a written established procedure for removal of formal agreements and the only procedure per se that he followed was the one described above. To his knowledge there had never been any changes. He did not know if the procedure he followed was followed by other Regional Administrators.

He attended a Regional Administrators' conference in Dallas, Texas during the period November 7-9, 1976. He was provided a copy of a memorandum dated November 3, 1976 from Mr. ROBERT SERINO, Director of Enforcement and Compliance

to Mr. H. JOE SELBY, First Deputy Comptroller for Operations, regarding matters to be discussed or considered by the Regional Administrators along with numerous other material to be considered during the conference. At this point in time, he did not recall if the contents of that memorandum dated November 3, 1976 from Mr. SERINO to Mr. SELBY were actually discussed.

SECTION 2

Investigation into the furnishing of information concerning T.
BERTRAM LANCE to the Federal Bureau of Investigation and the Senate
Committee on Governmental Operations.

The following individuals were interviewed in connection with this Section:

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
DAVID SCHAUB Staff Attorney Enforcement and Compliance Division Washington, D.C.	8/4/77	Affidavit
LOU FRANK Deputy Regional Administrator of National Banks Atlanta, Georgia	8/10/77 8/27/77	Affidavit Oral-Under Oath
ROBERT A. BAER, Jr. Special Assistant to the Comptroller of the Currency Washington, D.C.	7/27/77	Affidavit
JOHN H. MacMILLAN Special Agent, FBI Washington, D.C.	8/30/77	Oral
LINDA HOLLAND Secretary to the Comptroller of the Currency Washington, D.C.	8/22/77 8/27/77	Affidavit Oral
DAVID R. SCHAEFER Special Assistant to Senator RIBICOFF Washington, D.C.	8/19/77	Oral
JOHN B. CHILDERS Minority Staff Director Senate Committee on Governmental Affairs Washington, D.C.	8/28/77	Oral
DONALD L. TARLETON Regional Administrator Atlanta, Georgia	8/25/77	Affidavit

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
ROBERT B. SERINO Director, Enforcement and Compliance Division Washington, D.C.	8/27/77	Affidavit
JOHN P. SHERRY Regional Counsel Chicago, Illinois	8/19/77	Affidavit
C. WESTEROOK MURPHY First Deputy Comptroller for Administration Washington, D.C.	8/3/77	Affidavit
OWEN CARNEY Director, Investment Securities Washington, D.C.	9/1/77	Oral
JOHN HEIMANN Comptroller of the Currency Washington, D.C.	8/22/77	Affidavit
ALAN HERLANDS Executive Assistant to the First Deputy Comptroller Washington, D.C.	8/4/77	Oral-Under Oath
JOHN T. MOORE, Jr. President, Export-Import Bank of United States Washington, D.C.	8/30/77	Affidavit
SIDNEY SMITH Attorney, Alston, Miller and Gaines Atlanta, Georgia	9/2/77	Oral-Under Oath
ROBERT BLOOM First Deputy Comptroller Washington, D.C.	8/23/77	Affidavit

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
URBAN C. LEHNER Staff Reporter The Wall Street Journal Washington, D.C.	9/7/77	Affidavit

DETAILS OF INVESTIGATION

CHARLES W. MURPHY, Deputy Comptroller of the Currency for Administration, advised:

In late November or early December 1976, Mr. BLOOM and he discussed that Mr. CARTER should be made aware of the information relating to the Calhoun Bank situation. He believed that Mr. BLOOM shared his view that the committee which would confirm Mr. LANCE should also be made aware of the situation. Mr. BLOOM communicated with Mr. LANCE through Mr. LANCE's attorney, Mr. SIDNEY SMITH, that Mr. LANCE should disclose to Mr. CARTER the Calhoun situation.

A draft press release prepared by Mr. BLOOM concerning Mr. LANCE and the Calhoun Bank was transmitted to Mr. SMITH by telecopier. According to Mr. SMITH, Mr. LANCE received the press release. This draft press release was never released.

Mr. ALAN HERLANDS, Executive Assistant to the First Deputy Comptroller of the Currency, advised:

Subsequent to the lifting of the Calhoun Agreement, Mr. BLOOM discussed the matter with Mr. LANCE and Mr. LANCE's counsel. Mr. BLOOM was preparing a press release relating to the Calhoun Bank and Mr. LANCE was consulted to ensure that the statement was fair and accurate. He (HERLANDS) did not know if the statement was ever released.

Mrs. LINDA HOLLAND, Secretary to the Comptroller of the Currency, advised:

A review of her stenographic note file revealed her shorthand notes of a press release concerning BERT LANCE and the Calhoun First National Bank. From her notes preceding and following the press release, she concluded that she took the dictation after November 25 and before December 6, 1976. She knew that Mr. ROBERT BLOOM, then Acting Comptroller, worked on the release and that either Mr. BLOOM or Mr. C. WESTBROOK MURPHY, Deputy Comptroller for Administration, dictated the release to her. She did not know if

anyone other than Mr. BLOOM worked on the release. She stated that since her office didn't have a copy of the release, it was never actually released to the press. She quoted the shorthand as follows:

'Mr. BERT LANCE, Chairman of the board of Calhoun First National Bank, Calhoun, Georgia issued the following statement today:

In 1975 Calhoun First National Bank, as did many other banks in the country, encountered loan portfolio difficulties associated with the decline of the construction industry and related businesses. A former officer of the bank was also discovered to be committing substantial defalcation by means of fictitious loans and excessive loans to his own interest. As a result, the bank suffered a significant loss in earnings in 1975 requiring an injection of additional capital funds.

Questions were also raised by the national bank examiners concerning overdrafts in accounts maintained by the LANCE for Governor Campaign Committee during 1974 and certain other accounts maintained by persons related to Mr. LANCE. These overdrafts did not cause any loss to the bank, but may have constituted technical violations to the law or deviance from standard banking practices.

In December 1975 the Board of Directors of the bank entered into a voluntary agreement with the Office of the Comptroller of the Currency to effect appropriate corrective measures. Additional capital was raised, classified loan totals were lowered, two qualified senior loan officers also hired, earnings were improved significantly and the questioned practices were halted. The agreement of bank directors was voluntary and no proceedings or charges were brought in connection with the matter.

In view of the progress reflected in the most recent visit to the bank by national bank examiners in October of 1976, the Regional Administrator of National Banks in Atlanta advised the bank in November that the agreement between the Board of Directors and the Comptroller's Office was no longer necessary and could be considered rescinded."

JOHN MOORE, President, Export-Import Bank, advised:

On December 1, 1976, he was in a management meeting of the law firm with which he was associated. Approximately ten days before this meeting Mr. LANCE retained the firm to represent him during upcoming confirmation hearings. At the conclusion of the meeting

he happened to be in the lobby with Judge SIDNEY SMITH, a member of the law firm, when Mr. LANCE got off the elevator.

Mr. LANCE pulled both Mr. SMITH and him aside and told them that he had received a telephone call from Mr. ROBERT BLOOM, Acting Comptroller of the Currency (OCC), Washington, D.C., wherein Mr. BLOOM had told him (LANCE) that a reporter had been by his office asking for information concerning the OCC's 1975 examination of the Calhoun Bank.

According to Mr. LANCE, Mr. BLOOM did not give the reporter any information. Mr. LANCE stated that Mr. BLOOM's call to him was for advice in this matter as OCC regulations require confidentiality in the absence of the consent of the examined bank.

Mr. LANCE, Mr. SMITH and he all believed that some sort of release should be made inasmuch as they did not want to make it appear they were hiding anything. Their concern was that the release should be brief, but accurate and complete. During the course of the same day, there were several calls between Mr. LANCE, Mr. SMITH and Mr. BLOOM regarding the contents of the press release that was to be prepared. He (MOORE) participated in one conversation with Mr. BLOOM that day. The purpose of his conversation with Mr. BLOOM was to determine the proper technical wording to be used in the release.

During the conversations that took place that day all the calls in which he (MOORE) participated were on a conference speaker telephone wherein each of them was able to hear what was said. Some of the matters discussed during these conference calls between the involved parties concerned loan portfolio difficulties, defalcation by a former bank officer, overdrafts in accounts maintained by the Lance for Governor Campaign Committee during 1974, and the overdrafts of certain other accounts by persons related to Mr. LANCE. They also discussed the facts and circumstances surrounding the issuance of the Agreement on the Calhoun First National Bank, and the subsequent progress by the bank to effect corrective measures set forth in the Agreement which resulted in the rescission of the Agreement.

Until this meeting, he had not been aware of the Agreement or the referral of information to the Department of Justice.

They prepared a press release for Mr. LANCE's use and Mr. LANCE called President-elect CARTER and briefed him on the contents of the press release. They all spoke with Mr. CARTER on the conference speaker phone and he (MOORE) inferred that Mr. CARTER was knowledgeable of the matters discussed. He does not recall whether Mr. CARTER was made aware of the referral to the Justice Department, but it is possible.

A copy of this same release was prepared by Mr. BLOOM to be released simultaneously with Mr. LANCE's release. As far as he (MOORE) knows this press release was never made because the reporter making the inquiry to Mr. BLOOM never returned for the information.

During the time that he was a member of the Transition Group, he was never contacted by Mr. BLOOM wherein he expressed an interest to be Comptroller of the Currency. His conversation with Mr. BLOOM on December 1, 1976 was the first and only one that he ever had with him.

He does not remember the exact date, but one day when he was in Washington, D.C. a partner in the Washington office of Alston, Miller and Gaines mentioned to him that rumors had it that Mr. BLOOM had a desire to be the Comptroller of the Currency. The individual who told him this was either Mr. DICK BEATTY or Mr. BREBBIA, both of whom are still with the firm in Washington, D.C. This is the only time that he ever heard any reference to Mr. BLOOM wanting to be Comptroller of the Currency.

He is not aware of the applicants who were considered for the position of Comptroller of the Currency and he does not know if Mr. BLOOM was among those being considered for the position.

He reviewed a typewritten transcript of stenographic notes belonging to the secretary to the Comptroller of the Currency and found that it is substantially the same as the copy of a press release that was telefaxed to him at his request with Mr. LANCE's approval on August 26, 1977 from the Atlanta office of Alston, Miller and Gaines.

Judge SIDNEY O. SMITH, Jr., Attorney, Alston, Miller and Gaines, advised:

On December 1, 1976, he and Mr. JOHN MOORE attended an Alston, Miller and Gaines management meeting in a conference room opposite the elevators in their office area. After the meeting, he and Mr. MOORE were walking out of the door of the conference room as Mr. LANCE came off of the elevator. Mr. LANCE said Mr. ROBERT BLOOM, Office of the Comptroller of the Currency (OCC), had called him earlier in the day. According to Mr. LANCE, Mr. BLOOM had prepared a press release and had called him (LANCE) to clear it because he (BLOOM) felt the matters in the release were confidential. Mr. LANCE said he told Mr. BLOOM that he saw no problem, that everything was already out. Mr. LANCE said he wanted advice and judgment and he wanted him (SMITH) present when he telephoned Mr. BLOOM. As they walked into the conference room, Mr. LANCE said to Mr. MOORE, "You might want to hear this."

A telephone call was placed to Mr. BLOOM with the three of them (LANCE, SMITH and MOORE) listening on the speaker phone. Mr. BLOOM said either a reporter had been at the OCC or called OCC a day or two before and inquired whether there had been a critical examination of the Calhoun First National Bank (CFNB) and that the reporter had indicated that he/she did not know whether there had been such an examination. Mr. BLOOM said he called Mr. LANCE and told him of the reporter's inquiry, and informed him (LANCE) that the reporter would be calling back on December 1, 1976, around 2 p.m. Mr. BLOOM advised he felt a statement should be made and that he had already prepared a release. Mr. LANCE said, "Go ahead and tell them". Mr. BLOOM read the release over the telephone and said he would telex a copy to him (SMITH).

After this telephone conversation with Mr. BLOOM, Mr. MOORE and Mr. LANCE left. The telex of the release was received in his office and he had several telephone conversations with Mr. BLOOM regarding the contents of the release and suggested two or three word changes to Mr. BLOOM. He telexed the release back to Mr. BLOOM and then Mr. BLOOM again sent it back to him. He and Mr. BLOOM finalized a release which they agreed upon. The finalization of the release was made over a period of two days. During the subsequent two or three days, he called Mr. BLOOM several times to see if the reporter had called back. The reporter apparently had not called back.

During their conversation, Mr. BLOOM mentioned that OCC had placed an Agreement on CFNB. They discussed the Agreement because he did not understand what an Agreement was. He did not know when the Agreement between OCC and CFNB had been rescinded. The date of the rescinding of the Agreement was not important, only that it had been rescinded. He never saw the Agreement and there is no copy in his file.

In his discussions regarding the information in the release, Mr. BLOOM said that an investigation was conducted at the CFNB; that there was no prosecutive offense; however, the matter was referred to the Department of Justice because OCC did not have jurisdiction to make a prosecution determination.

Mr. BLOOM said he had called the Department of Justice, Washington, D.C. and was told that the case was closed in their office and sent to the U.S. Attorney, in Atlanta, Georgia. He told Mr. BLOOM that he had known the U.S. Attorney, Mr. STOKES for 25 years and that he would call him to determine the status of the case. He telephoned Mr. STOKES who told him he thought that the case was closed, but that he would check into it to make sure and let him (SMITH) know. Mr. STOKES called back and said that the case had not been closed, that the Assistant U.S. Attorney who prosecuted Mr. WILLIAM CAMPBELL, CFNB, (on a defalcation) closed the case on CAMPBELL in September 1976 and had intended to close the

CFNB case. Mr. STOKES said the case had been reassigned from one assistant to another; that there was nothing to the case; and that he intended to close the case. Mr. STOKES advised that they just had not gotten around to closing the case.

Mr. STOKES told him that it would be "dirty pool" to sit on the case for nine months and then reactivate the case when a man is being nominated to a post in the new administration. He asked Mr. STOKES if there was any reason the case could not be closed before "BERT'S" nomination.

In a subsequent telephone conversation, Mr. STOKES told him that he had officially closed the case. This had reaffirmed the closing from Washington's point of view.

From his recollection, Mr. STOKES told him that Mr. RICHARD L. THORNBURGH, Department of Justice, Washington, D.C., cleared the case on campaign contributions, but referred the case regarding banking aspects to the U.S. Attorney in Atlanta. The closing of the case in Atlanta confirmed Mr. THORNBURGH's opinion that there was no intent to defraud and that there was no chance for a case.

His conversations with Mr. STOKES took place on December 1, and 2, 1976. He recalled that in his initial contact with Mr. STOKES he related to him (STOKES) that Mr. BLOOM had called regarding this matter and indicated to him (SMITH) that the case appeared to be open.

Mr. BLOOM did not ask him to call Mr. STOKES and to his knowledge Mr. BLOOM did not call Mr. STOKES. He subsequently called Mr. BLOOM sometime between December 1 and December 3, 1976, and told him that the case was closed.

The reason the information regarding the referral of the case to Justice was not included in the press release was because at the time the press release was prepared, the case was not closed.

Around the time of the preparation of the statement, Mr. LANCE's aide came to Atlanta and picked up a copy of the press release for Mr. LANCE. Mr. LANCE had a copy of the release with him for the confirmation hearings.

His office files showed that the press release was given out on January 8 or 9, 1977. A memorandum in his files showed that Mr. BLOOM released a copy of the statement and that Mr. BLOOM had tried to contact Mr. LANCE with negative results. Mr. BLOOM then called him (SMITH) and told him that he had released a copy. He (SMITH) assumed that the copy was given to the press. His files do not show any details, however, Mr. BLOOM said he had already given out the release so he told Mr. BLOOM that it was alright.

Mr. BLOOM was very circumspect because of the disclosure statute and the confidential nature of the information. There was a lot of discussion regarding the release of the statement because of the statute on disclosure. The reason Mr. BLOOM was so guarded in this respect was because he did not want to be accused by the bank or Mr. LANCE for breach of confidentiality. Mr. BLOOM also wanted to be kind to Mr LANCE.

During the conversation with Mr. BLOOM, he had some attorney small talk with him, at which time Mr. BLOOM said he was at a "dead end" unless he could be Comptroller. He asked Mr. BLOOM if he was being considered and Mr. BLOOM responded he did not know, but he would like to be considered. Sometime later, he learned that Mr. BLOOM had called MR. RICHARD S. BEATTY at their Washington-based law firm and told Mr. BEATTY that he was very much interested in the position of Comptroller of the Currency and asked him (BEATTY) to say a word for him. Mr. BLOOM and Mr. BEATTY have known each other for a period of time.

He had no knowledge of Mr. LANCE's meeting with any other persons in his law firm. The first time he had any involvement with Mr. LANCE's matters was on December 1, 1976. This was when he (SMITH) was retained as counsel for Mr. LANCE.

Mr. LANCE apparently knew he was going to be nominated and wanted to clean up matters. Mr. LANCE retained them to help him get ready for confirmation hearings. Mr. LANCE was completely open about the contents of the Agreement. In reference to the Agreement, Mr. BLOOM was the one who informed him that there was an Agreement, that all conditions were met, and that the Agreement was removed.

He does not think that Mr. BLOOM suggested he get a copy of the Agreement. Mr. BLOOM did not give him a copy. Mr. LANCE could have outlined to him (SMITH) what was included in the Agreement. Mr. BLOOM was leaving it up to Mr. LANCE as to whether the Agreement would be given to him (SMITH).

He thinks that either Mr. BLOOM or Mr. LANCE told him that the Agreement included figures and amounts involved in overdrafts and the names of the persons involved. He does not recall stating that if anyone insisted that they get the Agreement that it should be provided. He may have said, "If you have to give the Agreement to them, give it to them." Obviously, he (LANCE) did not want to release the Agreement. His feeling could have been, "Don't buy trouble if you can avoid it."

During their discussions concerning the press release, Mr. BLOOM was adamant about the information regarding the LANCE campaign violations remaining in the release. Their (his and LANCE's) concern in this matter was to keep other bank officials from being hurt or embarrassed. For this reason they asked Mr. BLOOM if the release could just read that some of the accounts were overdrawn. Mr. BLOOM disagreed with this and insisted that the campaign overdrafts be in the release. Their efforts were a cooperative thing and there was never any antagonism.

He talked to Mr. BLOOM many times over that two-day period. The nature of these discussions related to the contents of the statement to the press, whether the reporter returned the call, and what was learned from Mr. STOKES.

Mr. BLOOM told him he would keep the statement in his office and that he would have it available if they came to get it.

During the initial conversation, when Mr. MOORE was present, Mr. MOORE did talk to Mr. BLOOM over the speaker phone. He (MOORE) asked questions of Mr. BLOOM just as he had. He (SMITH) feels Mr. MOORE was called in by Mr. LANCE to participate because Mr. LANCE knew that Mr. MOORE was on Mr. CARTER's Transition Team and involved in the area of ethics and conflict of interest.

His only involvement in the LANCE/CFNB matter was to give advice and to assist in the preparation of the press release.

He (SMITH) has never been involved in any discussions with Mr. BLOOM relating to the information supplied in a letter to the Senate Committee on Governmental Operations, and he had no knowledge of such a letter until recently when he received a telephone call from a news reporter who questioned him about this.

He does not know Regional Administrator DONALD TARLETON and has never had any contacts with Mr. TARLETON.

On December 1, 1976, when Mr. LANCE came to see him at Alston, Miller and Gaines, he was aware that Mr. LANCE had previously been to the firm and his secretary advised him that the LANCE file had been opened on November 19, 1976; that the services rendered to Mr. LANCE at that time concerned the preparation of financial files; and that Mr. HARVEY HILL, a Tax Attorney with the firm, handled this matter for Mr. LANCE.

Recent newspaper accounts refer to a telephone call to President-elect CARTER in Plains, Georgia, during their (LANCE, MOORE, and SMITH's) meeting at Alston, Miller and Gaines on December 1, 1976. It is reported in the newspapers that the purpose of the telephone call was to brief Mr. CARTER about the proposed press release. He does not remember such a call, but he does not rule out that a call could have been made. There was a lot going on that day and he was in and out of the room. If he was present when the call was made, he surely would have remembered.

Concerning the alleged press release given out by Mr. BLOOM on January 8-9, 1977, he remembers that his secretary found a press release in the LANCE file, dated January 9, 1977, which was half as long as the original release but contained essentially the same information. He had no knowledge of, or explanation for, the abbreviated version of the release.

He had no first-hand knowledge about OCC withholding information from the Department of Justice during their (Justice's) investigation of OCC's referral of the CFNB matter for investigation. His only knowledge concerning this was what he had read in the newspapers, as asserted by U.S. Attorney STOKES.

He recalls that during the meeting with Mr. LANCE in their office, and prior to telephoning Mr. BLOOM, he asked Mr. LANCE to brief him about anything that he thought might be critical in the examination reports the reporter asked Mr. BLOOM about. Mr. LANCE told him about the condition of the bank capital resulting from the embezzlement by a former bank officer; campaign overdrafts and overdrafts by bank officials and their relatives to include Mrs. LANCE and her father; and the referral of a case to the Department of Justice by OCC concerning CFNB.

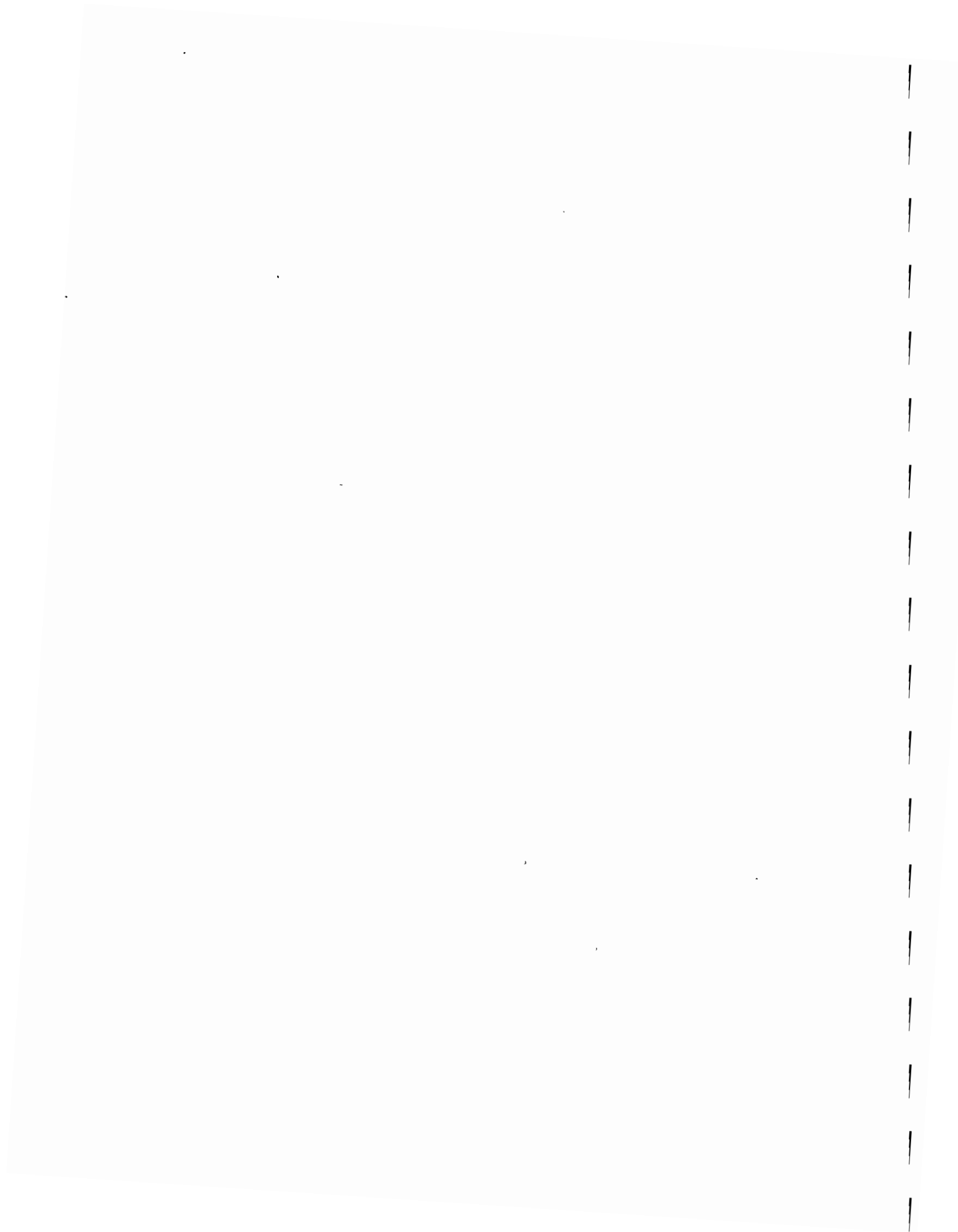
C. WESTBROOK MURPHY, Deputy Comptroller of the Currency for Administration, advised:

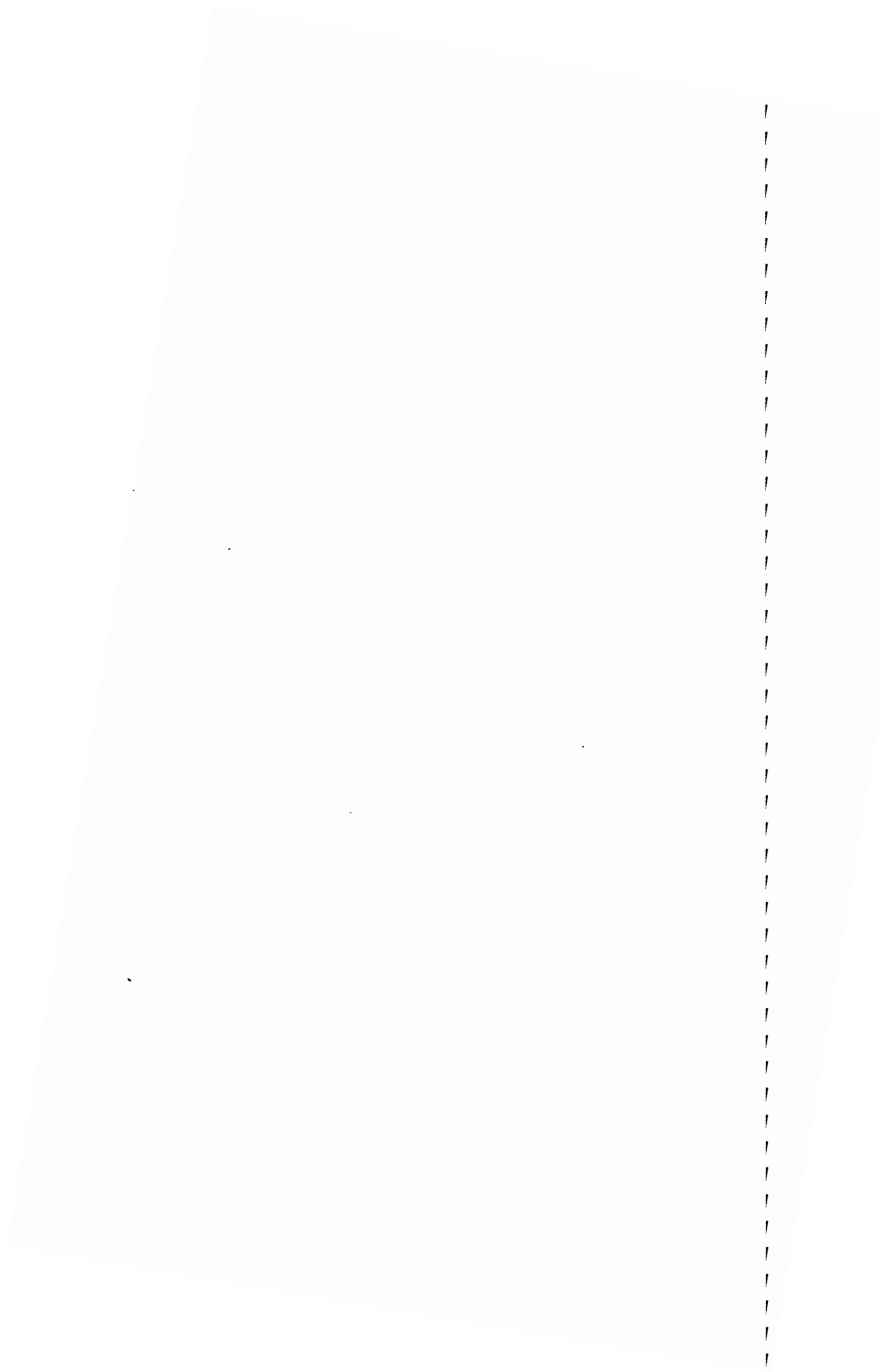
It was his opinion, which he believed was shared by Acting Comptroller ROBERT BLOOM, that all facts including the existence of the Agreement, should be made known to President-designate CARTER and to the staff of the Senate Committee which would confirm Mr. LANCE. Mr. BLOOM and he assumed, incorrectly he has now learned, that the reports of the FBI background check would be made available to the Committee, and the Committee would learn through those reports of the existence of the Agreement.

He was aware at the time that an agent of the FBI visited the Comptroller's Office to inquire about Mr. LANCE prior to his confirmation. He believed that Mr. BLOOM arranged for Mr. DAVID SCHAUB to make those files available to the FBI agent and that the agent interviewed Mr. BLOOM personally. He (MURPHY) personally had no communication with anyone from the FBI concerning Mr. LANCE.

He now understands that the OOC's entire files except for the Agreement were made available for review by the FBI agent. He further was told that the FBI agent was informed of the Agreement, but responded that it would not be necessary for the agent to see a copy of the Agreement. He (MURPHY) personally did not participate in any such conversations or decisions, and he does not recall whether or not he was aware of them at the time.

(Extract from FBI Summary Report Dated January 6, 1977,
Deleted. This Report has been provided to the Senate
Government Operations Committee for review.)





JOHN H. MacMILLAN, Special Agent, Federal Bureau of Investigation,
advised:

(FBI Agent's statement deleted; statement of
FBI Agent refers to portions of FBI report
above deleted.)



Mr. DAVID SCHAUB, Staff Attorney, advised:

During the FBI investigation, he wanted the FBI to see everything relating to Mr. LANCE because, in his opinion, much of the material was relevant in judging Mr. LANCE's competency for the position of Director of the Office of Management and Budget. He dealt with FBI Agent MacMILLAN, who conducted the investigation. At Mr. BLOOM's instruction, he could only disclose overdraft information dealing directly with Mr. LANCE, his wife, and his children. From the Bank Examiner's report, MacMILLAN received two pages showing overdrafts of only Mr. LANCE and his wife, as all other names were deleted. When Agent MacMILLAN asked to see the Agreement, he (SCHAUB) called BLOOM with the request. Mr. BLOOM called back within several minutes and told him that the request was denied. There was no discussion of the possibility of a subpoena to obtain the reports.

He believed that, during this investigation, Mr. BLOOM called Mr. TARLETON in reference to the overdrafts and was told that the overdrafts had been paid with interest. Based on Mr. TARLETON's statements, he told Agent MacMILLAN that the overdrafts had been paid with interest. During the investigation, Mr. BLOOM said that he had called Mr. LANCE or

Mr. LANCE's representative, but did not divulge what was said. Also, the Agent asked him for his opinion of Mr. LANCE's qualifications. He told Agent MacMILLAN that he could not furnish an opinion. At no time did he ever tell Agent MacMILLAN that the information in the files did not reflect adversely on Mr. LANCE's personal or professional qualifications. The information which he was showing Agent MacMILLAN, in his opinion, did reflect adversely on Mr. LANCE's qualifications.

Mr. DONALD L. TARLETON, Regional Administrator, advised:

Sometime during the week of December 26, 1976, while he was on annual leave, he received a telephone call from Deputy Regional Administrator LOU FRANK indicating that an FBI agent desired to meet with him as a part of the FBI investigation of Mr. LANCE. Mr. FRANK and he met with the agent that afternoon in Mr. FRANK's office and responded to his questions. The agent was advised of the nature and magnitude of the problems at the Calhoun First National Bank and of the remedial action taken by the OCC in securing an agreement. To the best of his (TARLETON's) recollection, the agent asked about whether such practices were usual or unusual to which he responded that insider overdrafts and illiquid loans seemed to be fairly common in rural Georgia, but that the OCC did not condone such practices and takes whatever action is deemed necessary to effect correction whenever the OCC becomes aware of such practices.

He asked for an opinion as to Mr. LANCE's qualifications to serve as Director of the Office of Management and Budget. As he (TARLETON) remembered, he told the agent that he knew very little about the requirements of that office and something to the effect that Mr. LANCE appears to have strengths in conceptualizing and communicating and to the best of his knowledge served well as head of the Georgia Department of Transportation, although he (TARLETON) was not here during that administration. Mr. LANCE was also active in reorganizing the Georgia State Government. He believed that he indicated Mr. LANCE was not a sophisticated lender or banker and was not a "detail man."

He was quite sure he offered the agent an opportunity to view the documents and the agent declined, indicating that he was very pressed for time and had

to turn in his report that day.

He had a vague recollection of a telephone call from the OCC in Washington, D.C., possibly from Mr. BLOOM, at least several days prior to the above described meeting. The caller indicated that an FBI agent would visit him (TARLETON) for the above expressed purpose, and instructed him to disclose whatever information was sought.

Mr. LOU FRANK, Deputy Regional Administrator of National Banks, Sixth National Bank Region, advised:

Sometime prior to or during the confirmation hearings, an FBI Agent, whose name he did not recall, telephoned and asked to speak to Mr. DONALD TARLETON, Regional Administrator. When told that Mr. TARLETON was out of the office, the agent asked to speak to him (FRANK). The agent stated that the FBI was investigating Mr. LANCE. He (FRANK) explained that Mr. TARLETON handled both of Mr. LANCE's banks, and since Mr. TARLETON was the Regional Administrator, it was only proper that Mr. TARLETON should be the one to discuss Mr. LANCE with him. For this reason, he called Mr. TARLETON who was on leave at the time. Mr. TARLETON came to the office to speak to the agent. He (FRANK) probably asked Ms PROCTOR or Ms JARRETT for the files relating to the National Bank of Georgia and the Calhoun First National Bank.

Mr. TARLETON, the agent, and he met in his (FRANK's) office where Mr. TARLETON responded to the agent's questions. Most, if not all, the agent's questions were addressed to Mr. TARLETON, who responded to each question. Concerning the Calhoun bank Agreement, Mr. TARLETON explained the loans and overdrafts and provided the agent with examination dates. Mr. TARLETON explained that he removed (terminated) the Agreement because he believed that the condition of the bank revealed definite improvement. With his (FRANK's) concurrence, Mr. TARLETON added that officer and director overdrafts were a problem shared in other rural Georgia banks.

Hearings before the Committee on Governmental Affairs, United States Senate, concerning T.B. LANCE, disclosed:

1) January 17 & 18, 1977, pages 63 and 64:

Chairman RIBICOFF: 'Mr. LANCE, I have asked you a series of substantive questions to which you have responded, and the questions and your responses have been placed in the record. To save time, I will not repeat those questions, but as I said, they are available to the press in the committee offices.

I would like to ask a number of questions based upon newspaper reports which have appeared over the last few months so that you have an opportunity for the record to explain allegations made concerning you.

It has been reported that you were the subject of a Federal criminal investigation concerning the finances of your 1974 campaign for Governor of Georgia, and specifically with respect to overdrafts honored by the Calhoun National Bank.

To your knowledge, was there such an investigation, and if so, could you explain the circumstances relating to the conduct, which was under investigation?

Mr. LANCE: Yes, sir, there was such an investigation.

I had a BERT LANCE for Governor Campaign Committee. It was charged with the responsibility of looking after the finances of the 1974 campaign.

They maintained an account at the Calhoun First National Bank. During that period of time it was being decided as to whether or not I was going to run for Governor of Georgia in 1974.

I wanted to make sure there was no question about any sort of transactions that might be involved between me and the bank, in regard to our campaign. Early in October, I believe it was, of 1973, I wrote a check in the amount of \$5,000 to the Calhoun First National Bank, told them that was a deposit against any expenses that might be incurred by my campaign, it would probably be charged against me.

At the same time I signed a guarantee form that would relate to any possible credit risk involved by the bank, because knowing full well as all of you gentlemen do in running for office, a candidate does not have an opportunity to know what is going on on a day-to-day basis, and I wanted to make sure there was no question about what the intent was during the campaign.

There were overdrafts, they were covered. The bank suffered no loss, the investigation was made by the Comptroller of Currency office,

and there appeared to be no cause that there was anything that was wrong with regard to the overdrafts and the accounts of themselves.

Chairman RIBICOFF: We have been informed by the U.S. Attorney's office in Atlanta, that it has terminated its investigation, and that no grounds for prosecution were found.

The press has reported that the decision to close your case was made the day before your nomination to the position of Director of Office of Management and Budget was announced by President-elect Carter.

Did you have any part whatsoever in the timing of the U.S. Attorney's decision to close your case?

Mr. LANCE: Absolutely not."

2) January 17 & 18, 1977; pages 111 to 113.

AFTER RECESS

Chairman RIBICOFF. "The committee will come to order.

Senator Javits has another question that he wishes to ask.

Senator JAVITS. I note that you have an outstanding liability in regard to your campaign and those involved in the campaign, do you know what their situation is?

Mr. LANCE. No; I could not say that I do.

The basic members of the campaign committee, as you well know, they sort of dissipate after a campaign. They are sort of hard to find as to what is originally involved, so basically, we have two or three folks involved in the campaign committee itself, so I could not say what their net worth situation would be.

Senator JAVITS. The only thing we are trying to get a reflection on is why you feel it is not a liability that you are likely to be held for.

Mr. LANCE. At the point I am held for it, then it becomes a direct liability, but until that point, it is a committee liability, and I think the normal practice would be not to change that to personal liability statement.

Senator JAVITS. How much are you actually liable for?

Mr. LANCE. \$200,000.

Senator JAVITS. Is there any time by which it has to be repaid?

Mr. LANCE. I would hope we would have some time to try to make some money, from the standpoint of the committee function, and to pay the debt itself.

Senator JAVITS. And who holds the debt, is there any secret about that, who is it owed to?

Mr. LANCE. The National Bank in Atlanta.

Senator JAVITS. Would you be participating in fund-raising activities in connection with trying to raise that money?

Mr. LANCE. No, sir, I would not.

Senator JAVITS. The committee would do that?

Mr. LANCE. Yes.

Senator JAVITS. The reason you have not listed it, you have every confidence, and you have reason that it will be repaid by normal political means, that is, contributions of individuals?

Mr. LANCE. I hope it will be repaid by that means. If not, I simply will have to pay it.

Senator JAVITS. And that you are well able to do, in terms of your net worth, are you not?

Mr. LANCE. Yes sir.

Senator JAVITS. Well, I think it would be an important point for us to consider, and maybe in some members' minds this is decisive, I do not know, but in any case we should have a record of just what is the situation.

Now, there are other allegations, aside from the one which Senator RIBICOFF has already questioned you about, respecting overdrafts, and other alleged banking practices, which are alleged not to be what they ought to be, in connection with the members of your family and others.

I have asked you about that, and as I understand it, they have all been repaid, is that right, to the bank?

Mr. LANCE. Yes; that is correct.

Senator JAVITS. With interest?

Mr. LANCE. Yes, sir.

Senator JAVITS. And they are the subject of reports by the Comptroller of the Currency?

Mr. LANCE. As you know, I have a problem in responding to any question about an examination report issued by the Comptroller of the Currency.

Those are confidential.

Senator JAVITS. And, therefore, you feel you cannot make that response?

Mr. LANCE. No, sir.

Chairman RIBICOFF. Senator Javits, my understanding is that there is a report on its way over now from the Comptroller of the Currency covering that examination.

Senator JAVITS. I understand that too, we have a letter coming from the Comptroller, which we understand states that it has no complaints to make about you in this connection, and indeed, in any of these connections, which you have been questioned.

I consider that letter a very important element in this hearing, and assuming it says what we are informed it says, I would have no further questions, but I reserve therefore the right, Mr. Chairman, one, I ask unanimous consent that the letter may go in the record.

Chairman RIBICOFF. Without objection, so ordered.

Senator JAVITS. That is all I have."

3) January 17 & 18; page 115:

Senator Percy. 'Mr. LANCE, I appreciate your appearing a second time to accommodate my schedule, so I could be at my son-in-law's inauguration yesterday.

I have gone over very carefully the material you have presented and have reviewed the perplexing problems that your position causes in trying to handle in an orderly way not only disposition of assets that might prove a conflict of interest, but also as you so happily expressed to me, remove any appearance of conflict of interest. I think great progress has been made in that regard.

I believe that with respect to any indirect liabilities that may be involved, it would be well, Mr. Chairman, for us

to pursue this in executive session or in conversations with Mr. LANCE, so that we fully understand that. Taking into account the financial statements that he has confidentially filed with us, I would like to have some more detail directly from Mr. LANCE on indirect liabilities, and to see their relationship to total net worth.

I understand the investigation of the alleged campaign fund violations has now been totally and completely cleared up fully to the satisfaction of the Comptroller and the Justice Department, that certainly totally satisfies me on that.

I have no further questions on that question.

With respect to a family bank, and the way family matters are handled in a family bank, again, I think in executive session it might be well if we could have some conversations about that, and any other aspects of the Calhoun Bank that you would like to inform us about. But in general, Mr. Chairman, I think Mr. LANCE has made a commendable effort to dispose of assets that would be in conflict. I have felt in other prominent cases that you cannot dump a block of stock like this on the market, and have it absorbed. But so long as it is clear in your directions to the trust that the trustees are directed to dispose of that stock at the earliest practical reasonable time, without undue injury to you, and you have a deadline established for that, I am quite satisfied, and I think the public should be satisfied as well."

4) January 17 & 18, 1977; pages 124 to 127:

Chairman RIBICOFF. "Mr. LANCE, a number of questions have been raised involving your associations with various banks, and I have just received a letter from the Comptroller of the Currency, and I think in all fairness, this is a letter that should be read.

Comptroller of the Currency
Administrator of National Banks

Washington, D.C. 20219

January 18, 1977

Honorable Abraham Ribicoff
Chairman
Committee on Government Operations
3308 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

I have been requested by Mr. David Schaefer of the committee staff to give you my opinion of the qualifications of Mr. Thomas B. Lance for the office of Director of the Office of Management and Budget.

My knowledge of Mr. Lance's qualifications is based primarily upon the records of this Office concerning the Calhoun First National Bank, Calhoun, Georgia, and the National Bank of Georgia, Atlanta. Mr. Lance has been for a number of years the Chairman of the Board of Directors of the Calhoun bank and President of the National Bank of Georgia.

As has been recently reported in the press, during a regularly scheduled examination of the Calhoun bank in 1975, it was discovered that the bank had permitted accounts maintained by the Lance for Governor Campaign Committee in 1974 to become overdrawn. A full investigation into the facts of this matter was made by this Office, and it was our conclusion that no violations of 18 U.S.C. 610 had occurred. However, since such determinations can only be made officially by the Department of Justice, the facts were referred to that Department and we understand that after consideration, the file was closed as not warranting further action.

It has also been correctly reported in the press that the Calhoun bank allowed directors related to Mrs. Lance to overdraw their accounts for varying lengths of time in violation of good banking practice. However, in response to criticism of this practice by our examiners, the amounts of all overdrafts were paid at standard rates of interest and the bank suffered no losses in connection therewith.

Mr. Lance along with some associates acquired controlling stock interest in the National Bank of Georgia early in 1975 and he has served as President of the bank since that date. Under his leadership the bank has grown in deposit size from \$224 million to \$334 million and has emerged as an aggressive competitor in the Atlanta market.

Mr. Lance enjoys a very good reputation in the banking community and it is my opinion based upon all the facts available to me that Mr. Lance is well qualified to serve as the Director of the Office of Management and Budget.

Sincerely,

Robert Bloom
Acting Comptroller of the Currency

Chairman RIBICOFF. Did you have anymore questions?

Senator LUGAR. No questions."

5) July 25, 1977; pages 19 & 20:

Mr. LANCE. "The question of counting overdrafts, again, I went into that in my confirmation hearing and I see no need to really try to go back and delineate that one, two, three. Again, I think that that is something as I said at that time that happened as a result of circumstances when I guess you would say were not beyond my control. I think that they were when you consider the fact that I was out campaigning 20 hours a day and I had made arrangements with the bank to guarantee everything and I had a certificate of deposit that was pledged to the bank to take care of that. So I think that is a subject that ought to be disposed of also."

Mr. DAVID SCHAUB, Staff Attorney, advised:

He and ROBERT SERINO, Director, Enforcement and Compliance Division, were present when Mr. BLOOM called Mr. JOHN SHERRY, Regional Counsel. This call took place when Mr. BLOOM was preparing a letter to the Senate Committee. Mr. SHERRY told Mr. BLOOM that the referral to the Department of Justice contained a violation of law; however, he doubted the Justice Department would prosecute. Mr. SHERRY also went on to describe the unsafe and unsound practices of the bank and shortcomings of Mr. LANCE as an administrator. At this point Mr. BLOOM cut Mr. SHERRY off and told Mr. SHERRY he did not want to hear anything more.

He first saw Mr. BLOOM's letter to the Committee when Mr. HEIMANN requested the Calhoun files from Mr. BLOOM's office. Mr. BLOOM showed him (SCHAUB) the letter and stated, in effect, that he (SCHAUB) would probably have advised differently in reference to its contents. He agreed as he believed the letter was distorted in LANCE's favor, contained inaccurate statements, and believed the last paragraph of the letter to be false on the basis of documents available in the office. He related his opinion to Mr. BLOOM, but he does not recall Mr. BLOOM's response.

Mr. ROBERT B. SERINO, Director of the Enforcement and Compliance Division advised:

He believed that he was in Acting Comptroller ROBERT BLOOM's office sometime subsequent to November 26, 1976 when Mr. BLOOM contacted Regional Counsel JOHN SHERRY to discuss with Mr. SHERRY his (SHERRY's) investigation into the activities of Mr. BERT LANCE and the campaign committee. He did not know who else was present but Mr. DAVID SCHAUB could have been there. He believed the reason for Mr. BLOOM's call was to determine whether interest was paid on the campaign committee overdrafts. He did not recall Mr. SHERRY's response to that question, but he did recall that Mr. SHERRY commented to Mr. BLOOM on how poorly the bank had been run under Mr. LANCE's control. He believed Mr. BLOOM cut Mr. SHERRY short.

He became aware of Mr. BLOOM's letter to the Ribicoff Committee sometime after July 17, 1977. He did not believe he was ever consulted concerning this letter. Upon reviewing the letter, he believed it was somewhat misleading by stating that there were no violations. He believed it should have said, "there were no prosecutable violations". He also believed that reference to the formal Agreement relating to the problems uncovered in the bank should have been made in the letter.

Mr. JOHN PETER SHERRY, Regional Counsel, advised:

During December 1976 and January 1977, prior to the Senate hearings on Mr. LANCE's nomination as Budget Director, he had several telephone conversations with Mr. ROBERT SERINO and Mr. DAVID SCHAUB (Attorneys, Enforcement & Compliance Division) concerning his investigation into the campaign overdrafts at the Calhoun First National Bank. The points he repeatedly emphasized during these conversations were that the handling of the campaign accounts at the bank - the overdrafts, non-interest bearing, management handling - were from a regulator's perspective unsafe and unsound, imprudent and irresponsible. His observation as to the possible criminality of these actions was that while the elements of the offense (principally campaign contributions) appeared to be violated, he did not perceive a grand jury or a prosecutor recommending or taking the case to trial.

This belief stemmed from the fact that the bank suffered no loss, interest was paid, no attempt was made to conceal activities, and efforts were made at the outset of the campaign to avoid problems. However, he emphasized that this was a personal observation and that only the U.S. Justice Department or a U.S. Attorney had authority to decline prosecution. He informed Mr. SERINO that their files should be made available to the Senate Committee in order that they, the people charged with responsibility for reviewing and approving such a nomination, could reach their decision fully informed.

He discussed the matters as stated above with Acting Comptroller BLOOM. He knew Mr. BLOOM was going to communicate with the Senate Committee in some fashion. Among other things, he told Mr. BLOOM that while in his opinion the actions of Mr. LANCE (concerning the campaign contributions) may have technically violated 18 USC 610, he did not foresee a grand jury or prosecutor pushing for an indictment or a conviction. However, he added this was a prosecutor's decision. He told Mr. BLOOM that the mere fact that campaign expenses were paid with bank funds, without interest charges, and therefore allowing a candidate to campaign without financial worries (merely because of his affiliation with a bank) in his opinion demonstrated irresponsible conduct. He told Mr. BLOOM this raised serious questions in his mind as to Mr. LANCE's qualifications for a high government position.

He has had no further involvement in this matter since his telephone conversation with Mr. BLOOM. It is his recollection that both Mr. SERINO and Mr. SCHAUB were present in the room. His voice communication was carried on a speaker during this conversation.

C. WESTBROOK MURPHY, Deputy Comptroller of the Currency for Administration, advised:

He was aware at the time of Mr. BLOOM's letter to the Senate Committee on Governmental Affairs chaired by Senator RIBICOFF. He remembers distinctly that Mr. BLOOM showed him the letter and asked his advice before sending it to the Committee on the morning of January 18, 1977.

Mr. BLOOM and he must have discussed that morning the same question that they had begun to discuss as early as the first week in December 1976, i.e., whether specific mention should be made of the cease and desist Agreement. He cannot actually recall such a discussion on January 18 and thus cannot state what either one of them said. He cannot imagine having reviewed the January 18, 1977 letter, however, without mentioning the subject of the Agreement. His opinion would have been that the Committee was entitled to know of the Agreement, but that specifically mentioning the Agreement in a letter which was to be a part of the public record would raise problems associated with public disclosure. There were drawbacks to mentioning and to not mentioning specifically the Agreement in the January 18 letter, and he does not remember which, if either, of the two bad choices he advised Mr. BLOOM to make.

He did suggest changes in the last paragraph of the January 18, 1977, letter which stated:

Mr. LANCE enjoys a very good reputation in the banking community and it is my opinion based on all the facts available to me that Mr. LANCE is well qualified to serve as the Director of the Office of Management and Budget.

He suggested that the last paragraph be omitted entirely on the grounds: (a) that it probably stated more than they knew; and (b) that it was the responsibility of the Senate Committee and not of the Comptroller to determine whether Mr. LANCE was well qualified.

Given the Committee's insistence on a statement, he (MURPHY) advised Mr. BLOOM at least to hedge a little more. He suggested that the last paragraph in the January 18 letter be changed to read in its entirety somewhat as follows:

The facts available to me from our files show no reason why Mr. LANCE would not be qualified to serve as Director of the Office of Management and Budget.

He thinks he remembers Mr. BLOOM saying (a) that this more qualified language would not be acceptable to the Committee, and (b) that Mr. BLOOM believed himself to be more familiar than he (MURPHY) was with Mr. LANCE's reputation in the banking community, and that Mr. BLOOM in fact thought that Mr. LANCE's reputation was very good.

Mr. DAVID R. SCHAEFER, Special Assistant to Senator RIBICOFF, advised:

He was formerly Counsel to the Committee on Governmental Affairs. During the time that the Committee was getting ready to hold confirmation hearings for Mr. BERT LANCE, to be Director of the Office of Management and Budget, he learned from newspaper articles and anonymous telephone calls of possible problems involving overdrafts by Mr. LANCE and his family at the Calhoun First National Bank, and possible campaign violations.

On January 14, 1977, he telephoned Mr. ROBERT BLOOM, Acting Comptroller of the Currency, and stated that allegations have come to light concerning the Calhoun bank and Mr. LANCE, and asked Mr. BLOOM what did he (BLOOM) know about the allegations. Mr. BLOOM advised that the overdrafts had been paid. He also stated that the matter concerning Mr. LANCE's campaign overdrafts had been referred to the Department of Justice. He (SCHAEFER) did not recall if Mr. BLOOM mentioned the Calhoun bank agreement. He told Mr. BLOOM that the information was needed in order to determine if Mr. LANCE was qualified to be Director of the Office of Management and Budget. He did not recall if Mr. BLOOM stated definitely if Mr. LANCE was qualified to be Director of the Office of Management and Budget. He asked Mr. BLOOM if he would furnish the Senate committee a letter containing the points they had discussed. However, Mr. BLOOM was "non-committal".

On January 17, 1977, he told Senator PERCY and Senator RIBICOFF about the conversation with Mr. BLOOM. The Senators stated that a letter from Mr. BLOOM was necessary. Consequently, he (SCHAEFER) telephoned Mr. BLOOM on the same day and asked him for the letter.

He asked MR. BLOOM to include in the letter a statement about Mr. LANCE's qualifications as a potential Director of OMB. Mr. BLOOM agreed, and on Tuesday, January 18, 1977, a messenger picked up the letter at OCC. At no time did he (SCHAEFER) ask him for a "favorable" letter.

Mr. BLOOM's letter, dated January 18, 1977, reiterated portions of the discussion between MR. BLOOM and him (SCHAEFER). Without the letter, Senators PERCY and RIBICOFF would not have felt "comfortable" confirming Mr. LANCE, and additional witnesses would have been called to the confirmation hearing. Mr. BLOOM's letter was the most significant document in the confirmation of Mr. LANCE, and it was read into the record verbatim.

Mr. JOHN B. CHILDERS, Minority Staff Director, Senate Committee on Governmental Affairs, advised:

On the morning of January 17, 1977, the Committee had received a telephone call from Atlanta, Georgia. The caller, who asked that his name not be divulged, advised that Mr. BERT LANCE, his campaign, and members of his family had had overdrafts at the Calhoun First National Bank, Calhoun, Georgia. The caller also advised them of the BILL CAMPBELL defalcation. On the same day as the call from Atlanta, the Committee was to begin confirmation hearings concerning Mr. LANCE's appointment as Director of the Office of Management and Budget. Therefore, the Committee wanted to know if the caller's allegations were true and, if so, what had been done.

Consequently, on January 17 and 18, 1977, he had one or two telephone conversations with Mr. ROBERT BLOOM, then Acting Comptroller of the Currency. A "speaker-phone" was used by both parties and Committee member DAVID SCHAEFER was also party to the conversation. He (CHILDERS) knew Mr. BLOOM was using a "speaker-phone" because Mr. BLOOM's voice had a distinctive "hollow ring." He (CHILDERS) did not know if anybody was present with Mr. BLOOM.

He asked Mr. BLOOM about the campaign and personal overdrafts of Mr. LANCE and his family. Mr. BLOOM was very "reticent and unforthcoming with information." When asked if the overdrafts were in the \$100 M to \$200 M range, Mr. BLOOM said that the figures were 'in the ball park' but would not furnish exact amounts. Mr. BLOOM said the campaign overdrafts were referred to the

Department of Justice, and Justice declined prosecution. Mr. BLOOM advised that personal overdrafts of the LANCE, DAVID and CHANCE families had been handled internally and administratively, and had been paid with interest, Mr. BLOOM added that there had been "bad bookkeeping at the Calhoun Bank." Mr. BLOOM's answers satisfied their questions.

At that time, the Committee did not know of the agreement and Mr. BLOOM did not mention it. He (CHILDERS) assumed that since Mr. BLOOM was asked an "open-ended" question about the overdrafts, he (BLOOM) would furnish all related information.

Mr. SCHAEFER asked Mr. BLOOM if he would give the Committee a letter covering the points they had discussed and Mr. BLOOM agreed. They did not ask for a favorable letter. The letter was received a day or two later.

Mr. BLOOM was not asked whether or not Mr. LANCE was qualified to be Director of OMB. The Committee did not expect Mr. BLOOM to write that Mr. LANCE was qualified and respected; the Committee just wanted an explanation of the overdrafts. He (CHILDERS) had no reason to think Mr. BLOOM felt "pressured."

To his knowledge, nobody else at the Committee talked to Mr. BLOOM, and he (CHILDERS) did not talk to any other person at the Office of the Comptroller of the Currency.

The daily calendar logs of Mr. ROBERT BLOOM, First Deputy Comptroller, substantially disclosed the following phone conversations and meetings:

<u>Date</u>	<u>Time</u>	<u>Description</u>
11/16/76	10:45 a.m.	phoned DON TARLETON
12/1/76	9:30 a.m.	phoned BERT LANCE in Atlanta
12/1/76	9:45 a.m.	phoned Y. A. HENDERSON at Calhoun, Georgia
12/1/76	12:30 p.m.	DON TARLETON phoned
12/1/76	3:15 p.m.	phoned Judge SIDNEY SMITH, Atlanta 404/588-0300

12/2/76	9:45 a.m.	phoned BERT LANCE
12/2/76	11:15 a.m.	Judge SIDNEY SMITH phoned
12/15/76	2:45 p.m.	DON TARLETON phoned - we returned
12/17/76	2:00 p.m.	BERT LANCE
12/29/76	12:15 p.m.	SIDNEY SMITH phoned from Atlanta
12/29/76	4:45 p.m.	phoned Judge SIDNEY SMITH
12/30/76	11:45 a.m.	phoned D. TARLETON at home - web
1/3/77	9:30 a.m.	SIDNEY SMITH phoned
1/4/77	10:15 a.m.	phoned Judge SMITH
1/4/77	3:00 p.m.	phoned Judge SMITH
1/5/77	11:00 a.m.	Judge SMITH phoned
1/10/77	12:15 p.m.	Sheraton - Carlton Lobby-BERT LANCE
1/10/77	2:00 p.m.	phoned SID SMITH
1/14/77	1:30 p.m.	DAVID SCHAEFER Senate Gov't Operations Com. phoned
1/14/77	2:45 p.m.	B. LANCE phoned
1/14/77	3:15 p.m.	returned DAVID SCHAEFER's call.
1/17/77	3:15 p.m.	ED LOMBARD, House Appropriations Com. Staff phoned
1/17/77	4:00 p.m.	DAVID SCHAEFER phoned
1/17/77	4:45 p.m.	phoned B. LANCE 566-2033

1/18/77	9:15 a.m.	JOHN CHILDERS Senate Gov't Operations Com. phoned - we returned
1/18/77	10:00 a.m.	phoned DON TARLETON, talked to LOU FRANK

Mr. ROBERT BLOOM, First Deputy Comptroller, advised:

On either November 30 or December 1, 1976, he was advised that there had been some press inquiries to OCC staff members asking about the possible existence of an enforcement Agreement in the bank with which Mr. LANCE had been an officer. Anticipating that these press inquiries would continue, he called both Y. A. HENDERSON, the President of the Calhoun bank, and Mr. LANCE, the Chairman of the Board of Directors of the Calhoun bank to ask if they wished the Office to depart from its usual no comment position with respect to press inquiries concerning bank examination matters. In view of Mr. LANCE's pending appointment as a high official in the CARTER administration, he thought it possible that they might wish him to make some public comment or response on the matter of the existence of the Agreement at Calhoun.

Mr. HENDERSON's reply was to essentially refer him (BLOOM) to Mr. LANCE on the question. Mr. LANCE's reply was that he was willing to disclose anything about himself, but did not wish him (BLOOM) to say anything that might have the effect of hurting the bank or third parties. Mr. LANCE said that he wished him (BLOOM) to discuss the matter with Judge SIDNEY SMITH, an attorney in Atlanta.

Later in the afternoon, at approximately 3:30 p.m., he attempted to contact Judge SMITH in Atlanta and finally did contact him at 4:45 p.m. They discussed a statement which he could make in answer to the press inquiries concerning the campaign overdrafts referred to the Department of Justice, the existence of the enforcement Agreement, and the family overdrafts. It was agreed that if the press inquiries persisted, the Office could release the following: (1) during an examination in 1975 the examiners found overdrafts in the Lance for Governor Campaign accounts (a violation of 18 USC 610); that the facts had been referred by OCC to the Department of Justice and prosecution had been declined; (2) that the examiners

discovered overdrafts in the personal accounts of family members of the LANCE and DAVID families and that the directors of the bank entered into a voluntary Agreement with OCC to cease the overdrafts. The statement would further state that the bank in 1976 had corrected some of the deficiencies and complied with the Agreement which was later terminated by the Regional Administrator on November 22, 1976. During the telephone conversation he (BLOOM) called in his secretary and dictated a rough draft of the statement. He also telexed a copy to Judge SMITH's office.

He did not recall if Mr. JOHN MOORE of the White House staff was on the telephone during his conversation with Judge SMITH. He did recall that Mr. MOORE did not say anything. He (BLOOM) believed it was appropriate to contact officials of the Calhoun bank concerning the press inquiries. He (BLOOM) believed that Mr. LANCE was entitled to make known to OCC his feelings on how he desired to have these matters referred to, if at all, by OCC.

Concerning the inquiry by the FBI regarding Mr. LANCE and his banking activities, the December 15 telephone call from Agent DONEGAN revealed in his (BLOOM's) log, did not reach him. He did not recall ever talking to Agent DONEGAN. About that time Mr. DAVID SCHAUB, an attorney in the Enforcement and Compliance Division, informed him that an FBI Agent had called him and stated that he (the agent) was making a background check on Mr. T. BERTRAM LANCE in connection with his appointment and that he wished access to the examination reports and other files on the Calhoun First National Bank and the National Bank of Georgia. Mr. SCHAUB asked him for advice in this regard since normal practice is not to show bank examination reports to other agencies except in connection with criminal referrals or other investigatory matters affecting the bank itself. He (BLOOM) thought that the bank would probably want OCC to waive their usual rules in connection with Mr. LANCE's background check, and he called Judge SMITH. Judge SMITH returned his call on December 29, and they discussed the problem of confidentiality of bank records in connection with the background check. Judge SMITH said that he had to talk to Mr. LANCE and that he would get back to him (BLOOM).

Meanwhile, on December 29 and 30, 1976, FBI Agent MacMILLAN phoned to set up an appointment to interview Mr. SCHAUB and him.

Sometime during this period Mr. SCHAUB had one or more meetings with Agent MacMILLAN and Mr. SCHAUB related to him (BLOOM) that Agent MacMILLAN was aware of the existence of the Agreement and wished to see a copy of same. He also

wanted to see the bank examination reports of the Calhoun bank which referred to the campaign overdrafts and family overdrafts.

One of the subjects he (BLOOM) discussed with Judge SMITH was whether or not Mr. LANCE wished the OCC to waive the usual statutory rule on privacy on Agreements entered into pursuant to the Financial Institution Supervisory Act of 1966 and also what his (LANCE's) feelings were about disclosing the bank deposit records of himself and his relatives as requested by the FBI. The answer he (BLOOM) got back, relayed by Judge SMITH, was that Mr. LANCE had no objection to disclosing any deposit records relating to himself and his immediate family, but that he did think that his wife's family was entitled to its privacy in regards to bank accounts.

On the matter of the Agreement he (LANCE) said that he did not have any objection to the FBI seeing it, but he thought that the FBI report would become part of the confirmation hearing record and made public. He (LANCE) was concerned about possible negative effects on the Calhoun bank if the existence of the Agreement became public record. He (LANCE) preferred, therefore, that the enforcement Agreement not be disclosed to the FBI, unless they insisted on seeing it.

He (BLOOM) then advised Mr. SCHAUB to disclose to Agent MacMILLAN any references in the examination to overdrafts by Mr. or Mrs. LANCE or any of the LANCE children but not in reference to any other accounts. He also instructed Mr. SCHAUB to relate to Agent MacMILLAN that the OCC preferred not to disclose the contents of the Agreement. It should be remembered, however, that Agent MacMILLAN was already aware of the existence of the Agreement. He believed Agent MacMILLAN became aware of it through earlier interviews of personnel at the Atlanta office. He was advised that Regional Administrator TARLETON said that he (TARLETON) had offered to show an FBI Agent the Agreement and the Agent said that it was not necessary and that he did not have time. He did expect that Agent MacMILLAN would report back to his superiors the OCC's initial position not to disclose the contents of the Agreement. If he had come back and said that it was essential to their assignment to see the Agreement, he (BLOOM) was prepared to show it to them.

He remembered being interviewed by Agent MacMILLAN. Agent MacMILLAN asked about the overdrafts, the campaign law referral, and the Agreement, as well as Mr. LANCE's general reputation. He had no specific recollection of his answers. He thought he told the agent about the Agreement and the subsequent progress of the bank in compliance and the termination

of the Agreement. He told the agent that he thought Mr. LANCE was qualified for the job of OMB Director.

He was aware of his authority as Acting Comptroller to disclose the Agreement or the contents of bank examination reports where he found it in the public interest to do so. He was also aware of the public interest to be served in making thorough background checks on presidential appointees.

Since one of the primary reasons for the confidentiality afforded bank records is the maintenance of public confidence in the banks involved, he had to weigh the possible negative effects on the Calhoun bank from disclosure of the Agreement against the advantages to the public interest to be gained by disclosure of the Agreement to the FBI. The FBI already had had access to the SHERRY memorandum which fully described the facts of the campaign overdrafts and the facts of the Campbell prosecution in which he thought that both official and public attention had been drawn to the LANCE family overdraft practices. He also knew that the FBI was aware that the OCC had found it necessary to require an Agreement from the Calhoun Bank because of the overdraft practices and other weaknesses in the running of that bank. He knew that the FBI was aware of the Agreement because the FBI had asked to see it specifically. He did not see where much could be gained as far as the thoroughness of the FBI background check was concerned by giving them a copy of the Agreement. He did recognize the very real possibility of loss of public confidence in the Calhoun Bank if the existence of the Agreement was made public.

While he did not desire to afford Mr. LANCE any extra privileges because of his impending high position, neither did he think that Mr. LANCE and his relatives were entitled to any less protection than afforded National Bank records in regard to the privacy of banking matters.

When Judge SMITH relayed to him Mr. LANCE's feelings, as Chairman of the Board of Directors of Calhoun, that the text of the Agreement should not be given to the FBI, unless they (FBI) insisted on it, he had a difficult decision to make. Under the provisions of the Supervisory Act, the bank had the right to keep the Agreement private unless the Comptroller deemed it "in the public interest" to disclose it.

The FBI already had the Sherry memorandum which fully disclosed the Campaign Committee overdraft problem, and they knew of the existence of the Agreement and the family overdraft problems. He did not think that the Agreement

itself would add significantly to the FBI's knowledge concerning the appointee.

Against those considerations, the exposure of the details of the Calhoun Bank's problems in an Agreement no longer in effect because the bank had corrected the problems, seemed not in the public interest as far as the bank was concerned. His primary concern was for the bank. It was the FBI function to evaluate Mr. LANCE.

He, therefore, exercised his authority, as Acting Comptroller of the Currency under the Supervisory Act, to maintain the privacy of the Agreement. Although some might question his judgment, there is no question concerning his legal authority to exercise that judgment.

A factor in his decision was his feeling that the difficulties which the Calhoun Bank had experienced could easily be blown out of proportion in the press coverage of the LANCE confirmation. He did not and does not consider those difficulties to have involved any criminal acts or moral turpitude. However, the press and public could easily misinterpret the legal word used in the agreement, "unsafe and unsound banking practices" as involving such conduct. Avoiding such public misinterpretation was one of the reasons for the privacy provisions of the Supervisory Act (which he had a hand in drafting) and he thought that observance of the rule of privacy in this instance was, therefore, appropriate.

On December 30 he apparently phoned Regional Administrator TARLETON at home and his phone log notes "WCB" meaning will call back. The next phone record for Mr. TARLETON shows a call from Mr. TARLETON to him on January 3. He did not remember the conversation. He (BLOOM) was told by IRS Inspectors interviewing him that Mr. TARLETON stated that sometime during this period He (BLOOM) told TARLETON that the FBI would be visiting TARLETON on the LANCE background check and that TARLETON was to "disclose whatever information they request". He had no reason to dispute Mr. TARLETON's recollection in this regard. And he believed that this instruction to Mr. TARLETON confirms that he was not trying to conceal anything from the FBI.

On Friday, January 14, 1977, at 1:30 p.m., Mr. DAVID SCHAEFER, a staff member of the Senate Committee on Government Operations, telephoned him. He was apparently not able to take the call. At 2:45 p.m., Mr. LANCE telephoned, probably to let him know that he would be receiving a call from the Committee, although he has no clear recollection of this conversation with Mr. LANCE. At 3:15 p.m.,

he returned Mr. SCHAEFER's call. He (SCHAEFER) told him that the Committee hearings on LANCE's confirmation would begin on Monday and that the Chairman wanted a letter from him commenting on the matters affecting the Calhoun bank which had appeared in the press and also containing a statement of opinion concerning the fitness of Mr. LANCE for the office for which he had been nominated. He replied that he did not know much about the requirements for CMB Directors and that as a career employee he had some difficulty with the last part of Mr. SCHAEFER's request. Mr. SCHAEFER did not seem too interested in his problems.

On the following Monday, Mr. SCHAEFER called again at 4:15. Mr. SCHAEFER was quite insistent about getting the letter that they had discussed on Friday. In fact, Mr. SCHAEFER wanted him to deliver the letter that afternoon or the next morning at the latest. They discussed the contents of the letter a little bit, but Mr. SCHAEFER was, in fact, leaving the matter up to him. He told Mr. SCHAEFER he would do the best he could in the extremely short time Mr. SCHAEFER was giving him. After his discussion with Mr. SCHAEFER he called Mr. LANCE and told him he would probably be sending a letter up to the Committee the following morning. Mr. LANCE did not try to influence him on the contents of the letter.

On, January 18, 1977, Mr. CHILDERS of the Committee telephoned at 9:15 inquiring when the letter would be delivered. He was working on the draft of the letter which he had dictated either the night before or that morning. In the course of working on the draft, the question came up as to whether it was correct to say that all the overdrafts had been repaid with interest. He called Mr. SCHAUB into his office to ask about that point. He thought that they had, but he wasn't sure. In his (SCHAUB's) presence he phoned the Atlanta office. Mr. TARLETON apparently was not in and he spoke to Examiner LOU FRANK. Mr. FRANK informed him that the overdrafts had in fact been repaid with interest and he relied on that information in commenting on the matter in his letter to the Committee. The letter was hand delivered to the Committee about 11:30 a.m. that day.

Given the extremely short time that the Committee had given him for the writing of the letter, it was apparent to him that they were not expecting him to conduct any in-depth investigation or an in-house survey concerning Mr. LANCE's activities as a bank officer. It must also be remembered that at that time he had no knowledge of many of the transactions detailed in the recent Report of the Comptroller, assembled after five weeks of intensive investigation by 30 bank examiners and six attorneys. For instance, at that time, he did not have a complete record of the family overdrafts; he only had the amounts as they existed on the dates of two or three examinations. He had no knowledge of the possible compensating balance transactions. Neither did he have the full story on the CAMPBELL affair. He, therefore, commented in his letter to the committee on the two most serious matters involving Mr. LANCE that he knew about at that time. These were the referral of the possible political contribution violation to the Justice Department and the subsequent closing of the file by that Department. The other derogatory matter referred to in the letter was the family overdraft situation mitigated by the response of the bank to OCC's request for corrections.

Since he did not have the full record, for example, of Mrs. LANCE's personal overdrafts, he did not single out her account, but instead referred to the David family overdrafts as written up in the examination reports available at that time. This information indicated that the David family overdrafts were much higher than Mrs. LANCE's.

The remainder of the letter dealt with the positive aspects of Mr. LANCE's banking experience, and stated his personal opinion that Mr. LANCE was well qualified to serve in the position to which he had been nominated by the President.

In addition to the extremely short time frame in which he was given to write the letter, it is important to remember the background of existing information about Mr. LANCE's background which he (BLOOM) had every reason to assume the Senate Committee

already knew. He was under the impression that a confirming Senate Committee would surely have access to the FBI background check. The FBI knew all the facts about the referral to the Department of Justice of the campaign committee overdrafts; the FBI knew about the existence of the enforcement Agreement between the OCC and the Calhoun Bank; the FBI knew about the Lance family overdrafts.

He did not see how anybody could reasonably expect that a letter requested on one business day's notice would add significantly to the facts already looked into, presumably thoroughly, by the FBI. He regards the checking into an appointee's background as primarily the responsibility of the FBI and not the Comptroller's office. He regarded the Committee's short notice as indicating that they were principally interested in his conclusions about Mr. LANCE's fitness and not details of transactions. He responded to the best of his ability and with his honest opinion.

The specific reasons he did not refer to the formality of the Agreement with the Directors of the Calhoun bank in his letter were the following: First, he thought the letter was sufficient in that it mentioned that the Directors had agreed to discontinue the criticized practices. He thought this was adequate disclosure of what was, after all, a closed episode in the affairs of the subject bank. Secondly, he was under the impression that the Committee already knew about the existence of the Agreement and what they were talking about was, in fact, a letter for the public record rather than the supplying of new information to the Committee. He assumed that the Committee already knew about the Agreement because he knew the FBI knew of the existence of the Agreement. It was his assumption that significant information in the FBI background check would be brought to the attention of the confirming Committee. A third reason for not referring to the Agreement was to be consistent with the position he took on the matter in connection with disclosing the text of the Agreement to Agent MacMILLAN. Since the reasoning was to prevent the Agreement from getting into the Committee's published proceedings, to the detriment of the Calhoun Bank, inclusion of a reference to the Agreement in a letter which would

undoubtedly appear in the published hearings, obviously would be inconsistent with that intention.

Before sending the letter to the Committee, he showed a draft to Mr. WESTBROOK MURPHY, although Mr. MURPHY was in no way responsible for its contents or its mailing. He recalled that Mr. MURPHY suggested that it would be safer and more precise to include the word "prosecutable" before the reference to "violations of 18 USC 610". He did not take his (MURPHY's) suggestion primarily because he regarded the use of the adjective "prosecutable" by law enforcement officers as something of a "cop out". He thought that Mr. LANCE and the committee in this instance were entitled to a firm opinion from him as Acting Comptroller on whether the campaign committee overdrafts constituted violations of Section 610 or not. In this regard he did not consider the opinions of Staff Attorney SHERRY or Mr. MURPHY or other lawyers in the office as binding upon him. He had, after all, served as Chief Counsel to the office for fourteen years, and thought that he was as capable, or more capable, than any other attorney of assessing whether or not a set of facts constituted a violation of Section 610. It was his opinion, and still is his opinion, that the overdrafts, primarily because there was no attempt to conceal them on the books of the bank, could not be held to violate any provisions of the criminal code.

Mr. MURPHY also suggested that he change the wording about Mr. LANCE's qualifications to a double negative form rather than the forthright way in which he had dictated it. He thought Mr. MURPHY suggested that he should delete the word "well" from in front of qualified. Since the draft represented his personal opinions on the matter, he elected not to make the changes suggested, although he recognized the prudence of Mr. MURPHY's suggestions.

In addition to the information Mr. BLOOM furnished in his original affidavit, he provided responses to the following questions:

- Q. You prepared the release in December 1976 with the intention of releasing information concerning the Agreement to the press. Your statement does not reflect any concern over the public loss of confidence

in the Calhoun Bank due to the disclosure of the existence of the Agreement. There is no indication that the press was aware of such an Agreement; only the possibility of an Agreement. Why, since this concern was not shown in any anticipated press release, was it a consideration in not releasing this information to the FBI and the Senate Committee?

- A. The facts as you state them in your question are essentially correct. I was ready at any time after December 1, 1976 to disclose the existence of the Agreement to any member of the press who asked about it and indeed had a release all prepared for that purpose.

The problem with the FBI and the Committee, however, wasn't over knowledge of the existence of the Agreement; they already had that. The problem was public mis-interpretation of some of the language of the Agreement.

- Q. Please explain your reasons for the statement that if the FBI Agent had come back and said that the Agreement was essential you would have shown it to him, when you declined to show it to him when he originally requested it.

- A. My statement means just what it says. If the agent had come back and said that he deemed a copy of the Agreement essential to his investigation, I would have given it to him. My lack of desire to keep anything from the FBI is evidenced by my earlier instruction to our Atlanta Office to show the FBI "anything they request", knowing full well that the Atlanta files contained copies of the Agreement.

- Q. How many drafts of the press release were prepared and telexed to SMITH? If more than one, explain the reasons for the numerous copies.

- A. I only recall telexing one draft press release to SIDNEY SMITH.

- Q. Re your statement that it was the FBI function to evaluate LANCE. How did you expect the FBI to complete a thorough investigation and evaluation of LANCE when you failed to provide them with information which had a direct bearing on LANCE's capabilities and history of LANCE's ability as a Bank Administrator?

- A. I did not "fail to provide" the FBI with information bearing on LANCE's ability as a Bank Administrator. On the contrary, I instructed our Regional Administrator in Atlanta, the official with the most complete records and intimate knowledge of Mr. LANCE's service with the two Georgia banks, to show or tell the FBI "anything they requested".
- Q. Did SHERRY and others tell you to furnish the Agreement to the FBI and/or Committee?
- A. No.
- Q. You mentioned another reason you did not allow the FBI to see the Agreement was due to the fact that they had access to the SHERRY memorandum. The SHERRY memorandum only deals with campaign expenses and only suggested that an Agreement be placed. How then could you assume that the FBI was made aware of LANCE's personal overdraft practices?
- A. I did not rely on any assumptions that the FBI knew of the family overdrafts, even though there had been reference to them in news stories and in the Campbell case files. To make sure that the FBI would know, I had Mr. SCHAUB show the FBI agent the data we had on the overdrafts of Mr. and Mrs. LANCE and their children.
- Q. Why did you contact LANCE and/or SMITH before you made a decision to not release the Agreement to the FBI?
- A. For two reasons. First, the Agreement was originally entered into pursuant to the Financial Institutions Supervisory Act of 1966, and parties have a right to have proceedings under that Act kept private, unless the Comptroller decides it in the public interest for them to be public. Before making a decision which might result in the publication, I wanted to get the views of the parties affected. Secondly, I thought that Mr. LANCE, as a subject of a background check, had a right to know what the Bureau was interested in.
- Q. Can you explain your apparent discrepant instructions to TARLETON and SCHAUB. Specifically, why did you tell TARLETON to furnish the FBI with anything they asked for, but you told SCHAUB that the FBI could not get a copy

of the Agreement after you spoke to SMITH?

- A. The TARLETON instructions came first, before I knew that there was a problem with public misinterpretation of the language of the Agreement or that the bank objected to its release.
- Q. Why did you not think the knowledge of the Agreement would add significantly to the FBI knowledge of LANCE?
- A. The question assumes an incorrect fact. The FBI had knowledge of the Agreement. Assuming that the intent of the question is to ask why I thought knowledge of the language of the Agreement would not add significantly to the FBI knowledge of LANCE, the answer is that the Agreement deals almost wholly with banking matters at Calhoun First National Bank, not relatable to Mr. LANCE personally. There are three paragraphs which do relate to Mr. LANCE, however, and I suppose as to them, one could argue about "significance".
- Q. How could your letter to the Committee reflect such favorable recommendation in light of your knowledge or LANCE's activities re: the campaign contributions by Calhoun, his overdraft policies as shown in the examination reports, comments by the NBE's who were familiar with the Calhoun Bank, and the articles of the Agreement directed against LANCE and the management of the Bank. Also, please furnish your substantiation for the use of the words "good reputation in the banking community and well qualified for the Office of Director, CMB." Provide more information about how you arrived at the specific statements in your letter to the Committee.
- A. This is a question which is hard to keep in perspective in light of the avalanche of publicity now under way. As of January 18, 1977, the only derogatory information known to me concerning Mr. LANCE, personally, had to do with (1) alleged technical violations of the political contributions law and (2) overdrafts in his family bank accounts. There was also evidence that the Calhoun bank was not too well managed. These are matters which are understandably of more serious concern to bank examiners than to others.

My feelings as to Mr. LANCE's reputation among bankers was based on what I had heard from bankers who knew him and did business with him. As I said at the close of my affidavit, if I knew of all the matters contained in the Comptroller's Report of August 17, 1977, I would have declined to make any public judgments as to Mr. LANCE's qualifications.

- Q. Clarify the chronology of your discussions with SMITH in relation to a request by the FBI.
- A. According to my secretary's log, Mr. SMITH phoned on December 29, and I returned the call, later in the day. I think it was the reverse, but I wouldn't swear to it. I had another call from Mr. SMITH on January 3, 1977 and I spoke to him either once or twice on January 4, 1977. I believe the foregoing calls were the only ones referring to the FBI check.
- Q. Have you ever made statements to the effect (1) that you could not get before a Senate Subcommittee and swear to the validity of the information shown in the letter to the Committee; (2) that you stated your comments on the letter were a result of your wanting to get 'brownie points' from LANCE; and (3) that the information in the Agreement showed that LANCE was not competent enough to pay his own salary?
- A. I don't recall making such statements, if I did, it was in jest.
- Q. Why did you contact LANCE after Committee insisted upon a letter?
- A. I thought he should know about it. As I said before, Mr. LANCE in no way attempted to influence the contents of my letter.
- Q. On December 30, 1976, when you spoke to FBI Agent MacMILLAN, did you know at that time that the FBI had been offered access to the Agreement by the Regional Administrator, Atlanta, and that they had refused to look at the Agreement?

A. I don't believe so.

Q. During your interview with FBI Agent MacMILLAN, did MacMILLAN ask you for a copy of the Agreement? If so, what was your answer and why?

A. I think he did and I think I told him that Mr. LANCE, as Chairman of the Board of Directors at Calhoun First National Bank, had requested that I not show it to him because Mr. LANCE did not want it referred to in the public hearing records of the confirmation proceedings, to the possible detriment of the bank.

Q. When you were interviewed by the FBI Agent in Washington, D.C., did the FBI Agent ask for the Agreement and what did you tell him about the Agreement?

A. Please refer to my answer above.

Q. When did you write your letter to Secretary-Designate BLUMENTHAL and what was the content of your letter?

A. Copy of the letter supplied.

Q. What was said in your discussion with SCHAEFER on Monday, January 17, 1977 about the contents of the letter to the Committee?

A. In my discussions with SCHAEFER either on Friday or Monday, we discussed briefly the campaign overdrafts, family overdrafts, I think the Agreement and the necessity of my expressing an opinion as to Mr. LANCE's fitness.

Mr. OWEN CARNEY, Director, Investment Securities, OCC, Washington, D.C. advised:

After an examination of a National Bank is completed the report is sent to the Regional Administrator's office for final typing and review. After it is reviewed and typed in final form, a copy is sent to the Office of the Comptroller of the Currency in Washington, D.C. A copy remains in the Region and a copy, minus the confidential section, is sent to the bank that was examined. The copy which is sent to Washington, D.C. is filed in a central file room where it is readily accessible to employees who need to review it. The charge out system that is

used is a system by which a card, showing who has the file, is placed on the shelf when the report is taken out. The card is removed when the report is returned and used again for other files. It would be virtually impossible from file room records to determine who had a specific file on a specific date. No individual log is maintained for each bank report.

Files of the Office of the Comptroller of the Currency disclosed:

Between September 15, 1975 and October 21, 1975, National Bank Examiner EMDRY W. RUSHION conducted a regular examination of the National Bank of Georgia, Atlanta, Georgia. The report was stamped "Received Mail Room Comptroller of the Currency, 11/28/75." That examination disclosed the following:

Mr. LOU FRANK, Deputy Regional Administrator of National Banks, Sixth National Bank Region, advised:

He had a telephone conversation with Mr. ROBERT BLOOM Acting Comptroller of the Currency, on January 17, 1977. He could not specifically recall what he discussed with Mr. BLOOM on January 17, 1977. However, this was about the time Mr. BLOOM contacted him and asked him about the quarterly deposits at the National Bank of Georgia (NBG). Mr. BLOOM appeared to be aware that the quarterly deposits at NBG had been improving, and Mr. BLOOM wanted him to obtain the quarterly deposit figures in order to verify them.

He obtained the quarterly figures from Mr. BILL GREEN of NBG and then called Mr. BLOOM back and furnished him the information. He advised that Mr. BLOOM stated that he (BLOOM) was happy with the information. He advised that he could not recall if Mr. BLOOM mentioned Mr. LANCE or any investigation of Mr. LANCE during this conversation. He did recall that at the end of the conversation he wished Mr. BLOOM luck in the Comptroller's job. This was a spontaneous comment on his (FRANK's) part, and he could not recall that anything was said in the conversation that related to Mr. BLOOM's getting the Comptroller's job. He advised that Mr. BLOOM thanked him for his comment, and the telephone call was terminated.

Mr. ROBERT A. BAER, Jr., Special Assistant to the Comptroller of the Currency, advised:

To his best recollection, on Saturday, July 23, 1977, Mr. JOHN HEIMANN, Comptroller of the Currency, received a memorandum from Mr. DONALD MELBYE, Special Assistant to the Comptroller for Congressional Affairs, indicating he had received a call from Mr. DAVID SCHAEFER (legislative assistant to Senator RIBICOFF) inquiring what steps the OCC was taking concerning Mr. LANCE and the allegations which were raised in the press. He also made reference to the fact that the Committee had inquired at the time of Mr. LANCE's confirmation hearings of the OCC that they (OCC) make a statement concerning the nominee for assurance that there was no substance to the allegations raised, and asked if that statement was still factual. The statement referred to a letter sent by Mr. ROBERT BLOOM, Acting Comptroller of the Currency to Senator RIBICOFF on January 18, 1977.

Mr. HEIMANN and he (BAER) immediately spoke with Mr. BLOOM in his office reviewing Mr. BLOOM's letter of January 18. Mr. HEIMANN was present for some, but not necessarily all of the conversation.

Mr. BLOOM advised that in a telephone conversation with Regional Administrator DONALD TARLETON, Mr. BLOOM received verification from Mr. TARLETON that all overdrafts by Mr. LANCE, his relatives, and his campaign fund had been repaid in full to the Calhoun First National Bank, including appropriate interest. Mr. BLOOM said he based his statements in the letter to Senator RIBICOFF on the information which Mr. TARLETON provided him.

Mr. BLOOM also said that in a telephone conversation initiated by Mr. SCHAEFER, prior to Mr. BLOOM's letter of January 18, Mr. SCHAEFER urged Mr. BLOOM to include in his letter a statement assessing Mr. LANCE's competency. Mr. BLOOM reluctantly complied in his letter to Senator RIBICOFF indicating that Mr. LANCE was competent and qualified for the position as Director of Office of Management and Budget (OMB).

Mr. BLOOM stated that while he did not entirely agree with his summary of Mr. LANCE's competency he felt pressured to include a positive assessment in his letter to Senator RIBICOFF.

Mr. BLOOM further related when the FBI requested from Mr. DAVID SCHAUB, Attorney, Enforcement & Compliance Division, a copy of the Agreement placed on the Calhoun National Bank, that Mr. SCHAUB went to Mr. BLOOM for direction. Mr. BLOOM indicated that he had attempted to call Mr. LANCE and, unable to reach him, spoke with Mr. LANCE's attorney. After Mr. LANCE's attorney had spoken with Mr. LANCE, he spoke with Mr. BLOOM indicating that they would like Mr. BLOOM to resist giving the Agreement to the FBI. Mr. BLOOM indicated that the FBI had the right to subpoena and could obtain the document if they desired. He was told by Mr. LANCE's

attorney to resist giving the FBI the document, but, if they insisted, to turn the document over to the FBI. Mr. BLOOM said that he instructed Mr. SCHAUB to resist giving the FBI the Agreement, however, if they insisted, to turn the document over to them. Mr. SCHAUB did this and the FBI said that they would not take possession of it.

Mr. JOHN HEIMANN, Comptroller of the Currency, advised:

He took the oath of office as Comptroller of the Currency on July 12, 1977. For approximately two or three weeks prior to being installed as the Comptroller he was a consultant for the Comptroller of the Currency.

The possible problems surrounding the BERT LANCE/Calhoun First National Bank (CFNB) affair were first brought to his attention by Mr. ROBERT BAER, Special Assistant, Office of the Comptroller of the Currency.

He read the CFNB and the National Bank of Georgia (NBG) files and noted that an Agreement on CFNB, which was lifted on November 22, 1976, was lifted under strange circumstances. He saw nothing in the file to indicate that the Agreement should have been lifted.

He was also aware of Mr. ROBERT BLOOM's letter of January 18, 1977 to the Senate Committee on Governmental Operations concerning Mr. LANCE which Mr. BLOOM had written while he was Acting Comptroller of the Currency. All of these items together raised some questions in his mind that practices and procedures in the Office of the Comptroller of the Currency might be improper.

He thought that an independent investigation into this matter might be warranted and requested such an investigation after meeting with Treasury Secretary MICHAEL BLUMENTHAL.

Shortly after this Mr. BAER and him met with Mr. BLOOM to discuss his January 18, 1977 letter to the Senate Committee regarding Mr. LANCE and the reasons for his comments in the letter. During the course of this meeting he was in and out of the room to take care of business and consequently missed some of the conversation.

Mr. BLOOM indicated that he did not want to put his evaluation of Mr. LANCE in the letter and stated that it was his feeling that the committee would have nothing less than that. He (BLOOM) indicated that he felt he was under pressure by Mr. DAVID SCHAEFER of the Committee to make a statement in the letter regarding Mr. LANCE's competency as Director, Office of Management and Budget.

He asked Mr. BLOOM if he had it to do again what would he do. Mr. BLOOM's response was that he would not do it again.

Mr. BLOOM stated that he had a telephone conversation with Mr. DONALD TARLETON, Regional Administrator of National Banks, Sixth National Bank Region, prior to writing the letter. Mr. Bloom had asked Mr. TARLETON whether or not the articles of the Agreement on the CFNB had been met and that TARLETON had told him that they had. Mr. BLOOM indicated that he had based his comments in the letter on a lot of what Mr. TARLETON had told him.

Mr. BLOOM indicated that he purposely left out any reference to the lifting of the Calhoun Agreement from the letter. He did not have a specific recollection at that time as to why BLOOM said he left this out of the letter.

Mr. BLOOM advised that he had contacted Mr. LANCE's attorney, Judge SIDNEY SMITH, regarding the FBI's request to see the Calhoun files during their (FBI's) inquiry into Mr. LANCE's background in connection with the confirmation hearings. According to Mr. BLOOM, Mr. SMITH said something to the effect that the (FBI) could have it if they wanted but it would serve no purpose; that it contained inflammatory remarks. This was his (HEIMANN's) impression of what Mr. BLOOM related regarding the FBI.

The meeting with Mr. BLOOM regarding this matter was not necessarily a question and answer meeting. He and BAER listened while Mr. BLOOM talked. He (BLOOM) was very upset and was chastising himself for what he had done. At one point he heard Mr. BLOOM say something to the effect that when he thought back as to why he did it, he guessed he did it to win some "brownie points". The statement was more a rumination; an after-the-fact recognition.

URBAN C. LEHNER, Staff Reporter, The Wall Street Journal, advised:

In late November or early December 1976 he received a tip that BERT LANCE, who had either just been nominated for a cabinet-level position or was under consideration for one by President-elect CARTER, was or had been in some sort of trouble with the Comptroller of the Currency in connection with unspecified activities of him (LANCE) as a banker. The tip was general in nature and did not refer to a Cease and Desist Order. He preceeded to telephone a number of OCC officials to check out this tip.

He first called FORD BARRETT, Jr., an OCC lawyer with whom he had talked previously on other matters for advice on which OCC officials he (LEHNER) should call. BARRETT suggested

JOHN SHOCKEY, who was then the Agency's Chief Counsel. He also decided to call others, however, he can't recall whether he picked them at the suggestion of BARRETT or SHOCKEY or if he did this on his own.

He is also not 100% sure who he called. He believes they were First Deputy Comptroller MULLIN and SELBY. He also tried to reach Acting Comptroller BLOOM. His best recollection is that he was unsuccessful in contacting BLOOM.

He did not recall the specific questions he asked or the specific answers he was given by any official. In general, he asked whether LANCE or his bank (he didn't know at the time that there was more than one LANCE bank) had been disciplined by the Comptroller.

He is sure that he asked the same questions repeatedly using a number of formulations of it. He is fairly sure that he asked about a possible Cease and Desist Order. He asked about the possible Cease and Desist Order because he was aware that this was a disciplinary tool at the Comptroller's disposal.

He could not have used the word agreement during these calls because it was only well after these calls that he learned that the Comptroller's disciplinary tools included such agreements as the Calhoun Bank entered into. He recalls being told repeatedly in response to his questions that all OCC disciplinary cases were confidential. He recalls that SHOCKEY was quite categorical about that, offering no assistance whatever. Another official, he thinks MULLIN, was more sympathetic, but also offered no information.

He came away from that evening of calls with the feeling that he struck out -- that either the tip was unfounded or that if there was anything to it the Comptroller's office was not about to tell him about it. Nothing he had been told by OCC officials led him to believe that further calls would be productive. He made no further calls to OCC officials about this matter.

Because he had no knowledge that there had been an agreement he did not ask whether an agreement had been lifted. These calls were placed from his home on a weekday evening to the homes of the OCC officials.

(Section 3 -- Investigation into OCC inquiry with respect to possible misuse of funds by NBG deleted pursuant to Justice Department request because contains information relevant to referral.)

SECTION 4

Investigation into allegations that Regional Administrator DONALD TARLETON was a passenger on an aircraft owned by a National Bank that was under the supervision of his office, and improperly utilized a Government Travel Request to travel to Washington, D.C. for other than official government business.

The following individuals were interviewed in connection with this section:

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Interview</u>
JOHN HEIMANN Comptroller of the Currency Washington, D.C.	7/23/77	Oral
THOMAS G. DeSHAZO Deputy Comptroller Operations Review Washington, D.C.	7/26/77	Oral Under Oath
ANN H. GORDON Secretary to the Regional Administrator, Sixth National Bank Region, Atlanta, Georgia	8/9-10/77	Affidavit
EMORY WAYNE RUSHTON National Bank Examiner Sixth National Bank Region Atlanta, Georgia	8/12/77	Affidavit
LINDA HOLLAND Secretary to the Comptroller of the Currency Washington, D.C.	7/28/77	Affidavit
DONALD TARLETON Regional Administrator Sixth National Bank Region Atlanta, Georgia	8/22-23/77	Affidavit
HARRY JOE SELBY First Deputy Comptroller for Operations Washington, D.C.	8/27/77	Affidavit
MARTHA B. STEPHENS Personnel Officer, Deputy Director of Human Resources Washington, D.C.	8/30/77	Affidavit

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
ROBERT BLOOM First Deputy Comptroller Washington, D.C.	8/27/77	Affidavit
JON E. HARTMAN Attorney, Anti-Trust Division Washington, D.C.	8/30/77	Oral Under Oath

Details of Investigation

JOHN HEIMANN, Comptroller of the Currency, advised that during a recent investigation into the financial affairs of Mr. T. BERTRAM LANCE information was relayed to him that Regional Administrator DONALD TARLETON, Sixth National Region, and Mr. LANCE, were passengers aboard an aircraft belonging to the National Bank of Georgia on December 17, 1976.

Mr. THOMAS G. DeSHAZO, Deputy Comptroller Operations Review, advised:

On July 27, 1977 at the request of Mr. JOHN HEIMANN, he contacted Mr. TARLETON to discuss matters concerning an ongoing OCC investigation into the financial affairs of Mr. BERT LANCE.

During the conversation Mr. TARLETON told him that he had flown on a NBG plane with Mr. LANCE on December 17, 1976 on a flight from Washington, D.C. to Atlanta, Georgia.

Mr. TARLETON told him that he had flown on a commercial flight from Atlanta to Washington, D.C. for the purpose of introducing Mr. LANCE around the OCC office; Mr. LANCE had asked him (TARLETON) to come to D.C. and introduce him to the people in the office. Mr. TARLETON told him that he also visited the Personnel section at OCC and met with Ms. Marty Stevens. Mr. TARLETON advised that Mr. LANCE asked him to fly back with him and he did.

Mr. TARLETON said that Mr. HAL GULLIVER, an editor with the Atlanta Constitution and a Director of a National Bank (Name unknown) were also on the flight. Mr. TARLETON advised that no banking matters were discussed during the flight.

Regional Administrator DONALD L. TARLETON's Monthly Expense Vouchers disclosed the following information:

The expense voucher for the inclusive period December 1-31, 1976 indicates Mr. TARLETON traveled to Washington, D.C. on December 17, 1976. Entries on the voucher for that date show that Mr. TARLETON introduced CMB Director designate T. BERTRAM LANCE around the Office of the Comptroller of the Currency (OCC) and that he had free return transportation to Atlanta, Georgia. Information from the travel request on the voucher shows an expense of \$67 for one-way travel from Atlanta to Washington, D.C. on December 17, 1976.

Mrs. ANN H. GORDON, Secretary to the Regional Administrator advised:

She recalls one occasion when Mr. TARLETON had need to go to Washington, D.C. At the time she made his travel arrangements he indicated to her that she need only make arrangements for him from Atlanta, Georgia to Washington, D.C. and that he would not need any return reservations because he had a way back. After reviewing her appointment calendars she noted that this travel occurred on December 17, 1976. She does not know how he returned to Atlanta or with whom he returned. Having reviewed Mr. TARLETON's travel expense voucher for the month of December 1976, she notes that the travel request was for one-way from Atlanta to Washington, D.C. She further noted that his voucher indicated that he had free transportation back to Atlanta. These entries support her previous statement regarding her recollection of this travel.

She is aware that NBG owns an airplane. She does not know if Mr. TARLETON has ever flown on this airplane. She has heard a rumor from an individual in the office whose name she cannot recall at this time, that Mr. TARLETON had flown on the NBG plane with Mr. LANCE.

The flight logs for the National Bank of Georgia, Atlanta, Georgia, owned aircraft #N47BL, piloted by Vann WARREN, during the period June 1, 1975 to March 31, 1977, disclosed the following information:

The log for December 17, 1976 shows that WARREN flew Mr. BERT LANCE and an unidentified passenger from DeKalb-Peachtree Airport, Atlanta, Georgia to Washington National Airport, Washington, D.C. The log shows that the flight departed Atlanta at 6:23 a.m., arriving in Washington, D.C. at 8:15 a.m.

The log further shows that Mr. WARREN flew Mr. LANCE and five unidentified persons back to DeKalb-Peachtree Airport, leaving Washington, D.C. at 3:48 p.m. and arriving in Atlanta at 5:55 p.m. that same day.

Mr. EMDRY WAYNE RUSHTON, National Bank Examiner, advised:

A general examination of NBG was started under his supervision on December 6, 1976. Sometime prior to that, in October or November, 1976, he heard a rumor that NBG had purchased a jet airplane.

Shortly thereafter, in approximately January 1977, he was asked to see Mr. TARLETON. Mr. TARLETON initiated the discussion by acknowledging his awareness of the NBG airplane. Mr. TARLETON assured him, as he recalled, that the NBG airplane was not a jet. Mr. TARLETON did not then, nor has he subsequently, informed him that he was a passenger on the NBG airplane.

Mrs. LINDA HOLLAND, Secretary to the Comptroller of the Currency, advised:

On December 17, 1976, Mr. BERT LANCE and three associates (names unknown) visited the Comptroller's Office for a scheduled 2:00 p.m. meeting with Mr. BLOOM. Mr. TARLETON was in Washington, D.C. that day and went to the lobby of the L'Enfant Hotel to meet Mr. LANCE and escorted him to the Comptroller's suite of the OCC. Mr. LANCE entered the Comptroller's suite. Mr. TARLETON did the introductions. Mr. LANCE's associates were not in the meeting, they waited out in the Comptroller's reception area until the meeting was over. She believes that Mr. BLOOM invited Mr. TARLETON to sit in the meeting but she is not sure. She estimates that Mr. LANCE was in the Comptroller's office for approximately 20 to 30 minutes at the most.

Mr. DONALD TARLETON, Regional Administrator, Sixth National Bank Region, advised:

In the first part of December 1976, the exact date of which he could not recall, Mr. T. BERTRAM LANCE requested that when his (TARLETON's) schedule allowed he introduce him around the OCC office in Washington, D.C. as he had never met many of the senior staff. He did not indicate a reason for wanting to meet officials of the OCC. He (TARLETON) indicated his willingness and telephonically advised his supervisor, First Deputy Comptroller for Operations H. JOE SELBY, who as he recalls indicated he would advise the Acting Comptroller of the Currency ROBERT BLOOM. The date that was originally scheduled had to be changed because of Mr. LANCE's schedule and he (LANCE) suggested December 17, 1976, a date he was addressing the National Press Club in Washington, D.C. Mr. LANCE further suggested since he would be returning directly to Atlanta from the OCC, that he (TARLETON) return with him. He (TARLETON) assented to his suggestion and telephonically advised Mr. BLOOM of the pending visit. He does not recall advising Mr. BLOOM of his plans to return to Atlanta with Mr. LANCE. He (BLOOM) indicated that they should accommodate MR. LANCE in the visit. Since this was considered official business, he instructed his secretary to purchase a one-way commercial airline ticket on a GTR for use on December 17, 1976. On that date, he traveled to Washington, D.C. to the OCC where he had a luncheon meeting with staff attorney JON D. HARTMAN and Deputy Director of Human Resources MARTHA B. STEPHENS over a union organizing effort in Region Six and some related staff problems. Following lunch, he waited the arrival of Mr. LANCE. Upon his arrival, they went directly to Mr. BLOOM's office. The conversation after pleasantries, centered primarily around the new NBSS system and a monitor that Mr. BLOOM had in his office. They all went to Mr. SELBY's office for a brief period, then to another office

(whose office he did not know) where Mr. LANCE was introduced to Deputy Comptroller of the Currency of Economics DAVID C. MOTTER and the Director of Banking Research Division ROBERT R. DINCE. Mr. LANCE and Mr. DINCE were previously acquainted and as he recalled there was a general affable conversation and some discussion of a statistical project that Mr. DINCE was currently working on. Mr. BLOOM, Mr. LANCE and he (TARLETON) then moved towards the entrance and when near the office of Deputy Comptroller of the Currency for Administration, Mr. BLOOM went in and brought MR. WESTBROOK MURPHY out to meet Mr. LANCE. There was a general conversation about the career of Mr. MURPHY's father. During all this time (commencing prior to Mr. LANCE's arrival) he was suffering from a migraine headache which caused visibility problems, preoccupation and an inability to give much attention to the proceedings. He and Mr. LANCE then left the building, and accompanied by a man he believes to be Mr. LANCE's bodyguard and a man he believes to be Mr. THOMAS MITCHELL, left to go to National Airport. They waited the arrival of Mr. HAL GULLIVER, who is with the Atlanta Constitution newspaper, at which time they boarded a twin engine prop plane and left to Peachtree-Dekalb Airport in northeast Atlanta. On board, in addition to the pilot Mr. VANN WARREN, was Mr. LANCE, Mr. MITCHELL, Mr. GULLIVER, the bodyguard and himself. Except for Mr. LANCE, he had never before or since met any of these individuals. Upon arrival at the airport, Mr. LANCE departed in a limousine and all others went their various ways. He (TARLETON) was planning to take a taxi the four to five miles to his residence but the pilot insisted on driving him as soon as he got the plane secured. During this drive he (TARLETON) questioned him about the aircraft and learned for the first time that it was owned by the National Bank of Georgia. Since the activities of President-elect CARTER and those close to him were well publicized, it was common knowledge that Mr. CARTER was utilizing U.S. Government aircraft, limousines and bodyguards. It was also known that Mr. LANCE was receiving bodyguard protection and limousine usage. He made the assumption that Mr. LANCE would be utilizing U.S. Government aircraft as well.

The idea that the National Bank of Georgia aircraft was being utilized did not occur because he was not even aware that the bank owned any aircraft.

The question has been raised whether any bank business was conducted on the flight. There was none. Most of the conversation was between Messrs. GULLIVER and LANCE over the press club luncheon just attended and about various Georgia personages, nearly all of whom he has never heard of.

It is significant to note that the OCC has never had a policy regarding its employees utilizing bank provided transportation, be it ground or air, and it is known to have occurred with some regularity throughout his career by employees all the way to and including the Comptroller. He knows of no such instances where any personal gain was realized and in this instance, he certainly received no personal benefit. He also knows of no instance where acceptance of transportation for official business resulted in a decrease of that employee's ability to function effectively.

Mr. HARRY JOE SELBY, First Deputy Comptroller for Operations, advised:

He met with Mr. T. BERTRAM LANCE sometime during December of 1976. At that time, Mr. LANCE visited his office and was introduced to Mr. BLOOM, the Acting Comptroller.

Regional Administrator TARLETON had previously called and informed him that Mr. LANCE wanted to visit the office. He told Mr. TARLETON that this would have to be cleared through Mr. BLOOM, which it was.

Mr. ROBERT BLOOM, First Deputy Comptroller, advised:

He believes on Wednesday, December 15, 1976, that Regional Administrator DONALD TARLETON, Sixth Region, called him to tell him that Mr. T. B. LANCE might visit the Washington, D.C. OCC office that week. He does not recall Mr. TARLETON telling him that he would be accompanying Mr. LANCE although he might have. He does not recall Mr. TARLETON asking him for permission to make the trip from Atlanta, Georgia to Washington, D.C. at office expense for the purpose of introducing Mr. LANCE. However, it is possible that Mr. TARLETON had other business to attend to in the Washington, D.C. OCC office, such as union organization problems. He did not give Mr. TARLETON permission to come to Washington, D.C. for the purpose of showing Mr. LANCE the OCC.

Sometime prior to December 15, 1976 Mr. TARLETON advised Mr. SELBY, that Mr. LANCE would like to visit the office on one of his get-acquainted visits to Washington, D.C. He recalled that Mr. SELBY told him (BLOOM) that Mr. LANCE would be visiting the office on a certain afternoon in early December, 1976, but that the visit was cancelled by Mr. LANCE.

On Friday, December 17, 1976, at 2:00 p.m., Mr. LANCE accompanied Mr. TARLETON to the office. Mr. LANCE was at the office approximately 30 minutes. He (BLOOM) spent most of the time showing him the new electronic NBSS system. Mr. LANCE met various other OCC employees that day also.

In addition to the information Mr. BLOOM furnished in his original affidavit, he provided a response to the following question:

Q: Did you authorize DONALD TARLETON to fly to Washington to introduce LANCE at OCC?

A: No.

Mrs. MARTHA B. STEPHENS, Personnel Officer, advised:

In December, 1976, she was Acting Director, Personnel Management Division. On December 17, 1976, Mr. DONALD TARLETON, Regional Administrator, Region Six, Atlanta, Georgia, came to Washington, D.C. and had lunch with her and Mr. JON HARTMAN, an OCC attorney. The three of them discussed disciplinary problems and union organization efforts in Region Six. They had no meeting in the office either before or after lunch. She does not recall if Mr. TARLETON or his secretary made the appointment for lunch. The business conducted during this lunch could have been accomplished during a conference call. It is her personal opinion that this luncheon meeting was not Mr. TARLETON's primary reason for coming to Washington, D.C. He came to show Mr. BERT LANCE around and to introduce him to OCC personnel.

Mr. JON D. HARTMAN, Attorney with the Anti-Trust Division of the Office of the Comptroller of the Currency (OCC) advised:

He recalled that Regional Administrator DONALD TARLETON's secretary telephonically set up a luncheon meeting between him and Mr. TARLETON sometime prior to December 17, 1976.

On December 17, 1976, Mr. TARLETON, Acting Personnel Officer MARTHA STEPHENS, and he met for lunch. They discussed some union organization and staff related problems. During lunch, Mr. TARLETON provided him with some documents concerning staff problems. Also during lunch, Mr. TARLETON mentioned that he was going to introduce Mr. T. B. LANCE to OCC officials later that day.

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Their luncheon meeting lasted approximately one hour. In his opinion, Mr. TARLETON's visit to the Washington, D.C. OCC office served a dual purpose. First, Mr. TARLETON's visit allowed him to show Mr. LANCE the Comptroller's office and secondly, Mr. TARLETON's visit allowed him to conduct some business with him (HARTMAN). Mr. TARLETON might have conducted his business with him by mail and telephonically; however, Mr. TARLETON's conducting business with him (HARTMAN) in person allowed for an immediate response, which Mr. TARLETON said he needed.

A letter dated September 1, 1977, to JOHN HEIMANN, Comptroller of the Currency, from ALEX W. SMITH, Attorney for BERT LANCE, disclosed:

"Dear Mr. Comptroller:

As you know, the responses to the Interrogatories propounded to Mr. Lance were compiled on a crash basis subject to extreme time constrictions. Robert A. Baer, Jr., called me today to ask my help in ascertaining what flights, if any, Mr. Don Tarleton, Regional Administrator of National Banks, may have flown on the NBG airplane. We regret that no reference was made to Mr. Tarleton in our responses gotten up over last weekend. His name did not appear on the pilot's logs and thus there was no written reference to him to jog Mr. Lance's memory. We have now been able to ascertain the following:

On the early morning flight to Washington on December 17, 1976, were Bert Lance and either Stock Coleman, bank employee, or Spec Landrum, bank officer. On the return flight that afternoon were the following: Mr. Lance, Mr. Hal Gulliver, Editor of The Atlanta Constitution, Mr. Tom Mitchell, Mr. Stock Coleman, Mr. Spec Landrum, and Mr. Don Tarleton.

The purpose of the trip was for Mr. Lance to make a speech to the Washington Press Club and to conduct some business at the office of the Comptroller of the Currency.

Mr. Lance accidentally met Mr. Tarleton at the office of the Comptroller. Neither knew the other was to be there, and it was entirely accidental that they both happened to be in your office on that time. Mr. Lance had other business with the Comptroller and in the afternoon, prior to departure, on seeing Mr. Tarleton Mr. Lance inquired

if he were returning to Atlanta that afternoon. If so, Mr. Lance would be pleased to have him fly on the NBG plane back to Atlanta. It was Mr. Lance's feeling this could save another plane ticket against the expense account of the Comptroller, without any cost to The National Bank of Georgia, and was a courtesy to the Comptroller's office. Mr. Tarleton accepted and did, in fact, fly back to Atlanta on the NBG plane. The discussions and conversations that took place on the way back were of an innocuous and generalized nature, totally unrelated to specific banking affairs.

Time does not permit my having Mr. Lance personally sign a statement to the foregoing effect, but to the best of my knowledge, this is correct and true information obtained from Mr. Lance. I am sure he would be glad to testify in connection with this when he appears before Senator Ribicoff's committee."

SECTION 5

Investigation to determine why the Acting Comptroller of the Currency stored all OCC files re Calhoun First National Bank in his personal safe, and why OCC files were void of any memorandums of contact with T. BERTRAM LANCE.

The following individuals were interviewed in connection with this section:

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
JAMES KEEFE Special Assistant to the Comptroller of the Currency Washington, D.C.	8/2/77	Affidavit
LINDA HOLLAND Secretary to the Comptroller of the Currency Washington, D.C.	7/29/77	Affidavit
GLORIA P. FLIAKAS Administrative Assistant to the Comptroller of the Currency Washington, D.C.	7/27/77	Affidavit
ROBERT SERINO Director, Enforcement and Compliance Division Washington, D.C.	8/27/77	Affidavit
DAVID SCHAUB Staff Attorney Enforcement and Compliance Division Washington, D.C.	8/4/77	Affidavit
ROYAL DUNHAM Manager, Consumer Affairs Division Washington, D.C.	8/24/77	Affidavit
ALAN HERLANDS Executive Assistant to the First Deputy Comptroller Washington, D.C.	8/4/77	Oral-Under Oath
ROBERT BLOOM Deputy Comptroller Washington, D.C.	8/21/77	Affidavit

DETAILS OF INVESTIGATION

Mr. JOHN HEIMANN, Comptroller of the Currency, advised that during a recent investigation into the financial affairs of Mr. T. BERTRAM LANCE, members of his staff reviewed OCC files relating to the Calhoun First National Bank. These files did not contain any memoranda of contacts with Mr. LANCE or any of Mr. LANCE's representatives. He had become aware of rumors that there had been meetings and telephone calls between Mr. LANCE and officials of the OCC, and he thought that perhaps in light of recent disclosures concerning the Calhoun Bank that documents might have been removed from the OCC files. He requested that during the internal investigation that an attempt be made to determine if any documents had been removed from the OCC files.

Mr. JAMES KEEFE, Special Assistant to the Comptroller of the Currency, advised:

On approximately July 25 or 26, 1977, Mr. HEIMANN called a meeting consisting, as he recalled, of himself, Mr. ROBERT BAER, Mr. DONALD MELBYE, Mr. THOMAS DeSHAZO, Mr. ROBERT SERENO and possibly Mr. JAMES GARTNER. Also present were, as he recalled, Mr. ROBERT BLOOM, Mr. H. JOE SELBY and Mr. WESTBROOK MURPHY. The latter persons were not ordinarily in attendance at the daily morning meetings regarding the LANCE inquiry but frequently were included in other 8:30 a.m., daily "limited-staff" meetings at which the LANCE matter was not usually discussed.

On this occasion, Mr. HEIMANN alluded to the LANCE matter and noted his intent to conduct a thorough and fair inquiry. As he recalls, Mr. HEIMANN stated that he did not want to discover after the inquiry had been completed that relevant material had not been considered because it was missing from their files, or had been "purged" from the files.

Mr. BLOOM responded that some material ordinarily kept in the OCC files had been kept, instead, in his office but was recently returned to the files. Mr. BLOOM did not identify the material. No further discussion ensued.

Mrs. LINDA M. HOLLAND, Secretary to the Comptroller of the Currency, advised:

To the best of her knowledge, the reports of examination and correspondence files for the Calhoun First National Bank were delivered to Mr. BLOOM, Acting Comptroller of the Currency, by Attorney David SCHAUB in the fall of 1976. Mr. BLOOM retained the files in his safe, located in the Comptroller's bathroom closet. Access to the files was not prohibited and on occasion Ms. Gloria FLIAKAS, another office secretary, and she would be requested by an

1
attorney or examiner to secure the reports of examination or correspondence files. Mr. BLOOM kept the files for several months (she did not recall the exact length of time). She did not recall the files being returned to anyone prior to Mr. BLOOM moving from the Comptroller's Office back to his former office in June, 1977.

Ms. GLORIA P. FLIAKAS, Administrative Assistant to the Comptroller of the Currency, advised:

From September 20, 1976 to July 15, 1977, Mr. ROBERT BLOOM occupied the Comptroller's Office in the capacity of Acting Comptroller of the Currency. During this time, Mrs. Linda HOLLAND and she were Mr. BLOOM's secretarial assistants. To the best of her recollection, and on referring to her calendar-record, during the latter part of 1976 and early 1977 there were telephone calls (incoming and outgoing) which involved Mr. BERT LANCE and Mr. SIDNEY SMITH, Mr. LANCE's attorney. These calls are accurately reflected on her daily record sheets.

Her daily record sheets indicate that Mr. BLOOM was in the office the weeks of November 15, 1976 and November 22, 1976, except for the morning of November 24 on which day Mr. Bloom had a doctor's appointment. On November 26, 1976, she was on annual leave and does not know whether Mr. BLOOM was in or out of the office.

The files for the Calhoun First National Bank, Calhoun, Georgia, had been requested by Mr. Bloom to be brought to his office either in October or November, 1976. She did not recall who he asked. The files of the Calhoun First National Bank were stored in a safe located in the closet of the Comptroller's bathroom. They were available upon request to staff members who had an occasion to refer to them in the performance of their duties.

The files remained in the Comptroller's bathroom closet safe until the time Mr. BLOOM returned to his former office, sometime during the week of July 11, 1977. To the best of her recollection, Mr. BOB SERINO and Mr. DAVID SCHAUB picked up the files from Mr. BLOOM. She never had occasion or reason to review the files, and is not aware that anyone reviewed them or removed any parts thereof, including Mr. BLOOM.

The daily calendars for the Comptroller's office for the period of July 31, 1976 to July 11, 1977, disclosed:

<u>Date</u>	<u>Time</u>	<u>Description</u>
9/20/76		Mr. BLOOM in Compt. Off.
10/6/76	1:45 p.m.	DON TARLETON phoned
10/6/76	3:00 p.m.	DON TARLETON phoned

<u>Date</u>	<u>Time</u>	<u>Description</u>
11/16/76	10:45 a.m.	phoned DON TARLETON
12/1/76	9:30 a.m.	phoned BERT LANCE in Atlanta
12/1/76	9:45 a.m.	phoned Y.A. HENDERSON at Calhoun, Georgia
12/1/76	12:30 p.m.	DON TARLETON phoned
12/1/76	3:15 p.m.	phoned Judge SIDNEY SMITH Atlanta 404/588-0300
12/1/76	4:45 p.m.	phoned Judge SIDNEY SMITH in Atlanta
12/2/76	9:45 a.m.	phoned BERT LANCE
12/2/76	11:15 a.m.	Judge SIDNEY SMITH phoned
12/15/76	2:45 p.m.	DON TARLETON phoned - we returned.
12/17/76	2:00 p.m.	BERT LANCE
12/29/76	12:15 p.m.	SIDNEY SMITH phoned from Atlanta
12/29/76	4:45 p.m.	phoned Judge SIDNEY SMITH
12/30/76	10:15 a.m.	Agent MacMILLIAN, FBI, phoned - returned
12/30/76	11:45 a.m.	phoned D. TARLETON at home-wcb
1/3/77	9:30 a.m.	SIDNEY SMITH phoned
1/3/77	10:15 a.m.	DON TARLETON phoned
1/4/77	10:15 a.m.	phoned Judge SMITH
1/4/77	3:00 p.m.	phoned Judge SMITH
1/5/77	11:00 a.m.	Judge SMITH phoned
1/10/77	12:15 p.m.	Sheraton - Carlton Lobby - BERT LANCE

<u>Date</u>	<u>Time</u>	<u>Description</u>
1/10/77	2:00 p.m.	phoned SID SMITH
1/14/77	1:30 a.m.	DAVID SCHAEFER, Senate Com. on Govt. Operations phoned
1/14/77	2:45 p.m.	BERT LANCE phoned
1/14/77	3:15 p.m.	Retd. DAVID SCHAEFER's call
1/17/77	3:15 p.m.	ED LOMBARD, House Appropriations Com. Staff phoned
1/17/77	4:15 p.m.	DAVID SCHAEFER, Senate Gov't Operations Com. phoned
1/17/77	4:45 p.m.	phoned B. LANCE 566-2033
1/18/77	9:15 a.m.	JOHN CHILDERS, Senate Gov't Operations Com. phoned - we returned
1/18/77	10:00 a.m.	phoned DON TARLETON, talked to LOU FRANK
2/10/77	9:15 a.m.	phoned DON TARLETON, talked to VERNON FASBENDER
2/28/77	3:30 p.m.	phoned BERT LANCE - LW
3/18/77	10:00 a.m.	BERT LANCE phoned

A review of the OCC files pertaining to the Calhoun First National Bank disclosed no record of any telephone call or meeting between Mr. ROBERT BLOOM and Mr. BERT LANCE and/or Judge SIDNEY SMITH.

Mr. ROBERT SERINO, Director of Enforcement and Compliance Division, advised:

On November 26, 1976, at the request of Mr. ROBERT BLOOM, he delivered to Mr. BLOOM all the files from the Enforcement Division concerning the Calhoun First National Bank. He also obtained the Calhoun files from Bank Examiner JIM GARTNER. He believes Mr. BLOOM retained these files after November 26, 1976.

He was subsequently informed that Mr. BLOOM later contacted Mr. DAVID SCHAUB and directed Mr. SCHAUB to gather all records pertaining to the Calhoun First National Bank and to maintain them under lock and not to release them to anyone without Mr. BLOOM's prior approval. He does not know the date when Mr. SCHAUB was directed to gather all the files. He later learned that Mr. SCHAUB was directed by Mr. BLOOM to deliver the records to him (BLOOM).

Mr. SCHAUB told him that these records were subsequently returned by Mr. BLOOM to Mr. SCHAUB (he could not recall when). He believes that this was some time after Mr. JOHN HEIMANN was nominated as Comptroller.

Mr. DAVID SCHAUB, Staff Attorney, advised:

Shortly after it became known in Washington that the Agreement with the Calhoun Bank had been lifted Acting Comptroller ROBERT BLOOM instructed him (SCHAUB) and Mr. ROYAL DUNHAM to "pool" all the information concerning the Calhoun Bank and lock them in his (SCHAUB's) office. During the FBI investigation, Mr. BLOOM asked that all the files concerning Calhoun be brought to his (BLOOM's) office and placed in the safe there, and this was done.

He never fully reviewed the files while they were in BLOOM's office, nor did he ever remove any of the files, except Reports of Examination of Calhoun First National Bank, for the purpose of providing BLOOM an abstract of LANCE and DAVID family overdrafts revealed in the reports.

Mr. ROYAL DUNHAM, Manager, Consumer Affairs Division, advised:

Sometime after the Agreement with the Calhoun First National Bank had been removed, Acting Comptroller ROBERT BLOOM called him and asked for the file on the Calhoun Bank. He believes that the file was in Mr. SELBY's office and that Mr. SELBY was out of town. He obtained the file and took it to Mr. BLOOM. He recalled that he did review the file to bring himself up to date.

Approximately one or two days later Mr. BLOOM again telephoned him and requested that he bring the

Calhoun file to his (BLOOM's) office. He again had to obtain the file from Mr. SELBY and deliver it to Mr. BLOOM. He later heard from Mr. ALAN HERLANDS or Mr. DAVID SCHAUB that Mr. BLOOM had placed the file with Mr. SCHAUB for safe keeping.

Mr. ALAN HERLANDS, Executive Assistant to the First Deputy Comptroller advised:

He is aware that the files of the Calhoun First National Bank were kept locked in a safe adjoining the bathroom in the Comptroller's office. He has no knowledge how the files got there. He believes the files were in the safe for a considerable length of time and perhaps during the month of July they were removed from the safe. He never reviewed any of the Calhoun files while they were in the Comptroller's safe. He never removed any documents from the files in the safe. He has no knowledge that anyone else removed any documents from the Calhoun files.

He did recall that he did see Mr. BLOOM with the files spread out on his desk. He believes the file that Mr. BLOOM reviewed contained examination reports, a copy of the Agreement and various correspondence pertaining to the bank. It appeared to him that Mr. BLOOM was obviously reviewing the file. He does not recall when he saw Mr. BLOOM reviewing the Calhoun file.

Mr. ROBERT BLOOM, Deputy Comptroller, advised:

Sometime either on November 26, 1976 or during the following week he (BLOOM) obtained the files pertaining to the Calhoun First National Bank from Mr. ROYAL DUNHAM for the purpose of reviewing the progress made by Calhoun since they entered into an Agreement with OCC. Sometime in December 1976 he asked that all files pertaining to Calhoun and the National Bank of Georgia in the Washington office be placed in the combination lock safe in the closet adjoining the Comptroller's office. He did this solely for security reasons. There was considerable press interest in Mr. LANCE's nomination to be OMB Director, and he did not want any information concerning the banks which Mr. LANCE was associated with to be the subject of any unauthorized leaks. The OCC experience with leaks of information had not been particularly good during the previous two years.

Employees of the Enforcement Division or the Bank Review Division knew at all times where the files were and could have access to them by asking his secretary or him. He had no special interest in protecting Mr. LANCE in this matter but recognized the probability of high press interest and he felt that the files of the banks with which Mr. LANCE was associated with were entitled to as much protection as the law or regulations allowed.

During the period in which the files were in his safe he did not tamper with them or remove any documents without returning them. Nor did he instruct any employee to remove any documents or to tamper with them or purge them in any way.

Sometime in April or May 1977 it occurred to him that he still had these files in the office safe. He thought that the problem of unauthorized leaks to the press in connection with Mr. LANCE was no longer an issue, and had the files returned to the Enforcement Division and the Bank Review Division. He never removed any documents from the Calhoun or National Bank of Georgia files and returned them after he heard an inquiry was being conducted (July - August 1977).

His telephone conversations and meetings with Mr. LANCE and Judge SIDNEY SMITH are not documented anywhere beside his secretary's telephone logs. He is adverse to filing memorandums of telephone conversations. He does not know of any written regulation in the office which requires him to put a memorandum in the file every time he has a telephone conversation. He believes it is probably a good practice. If he were teaching an orientation group he would probably advise new examiners to do it.

In addition to the information Mr. BLOOM furnished in his original affidavit, he provided responses to the following questions:

Q: Did you ever remove any documents from the Calhoun or National Bank of Georgia files and return them after you heard an inquiry was being conducted (July - August 1977)?

A: No.

Q: Why were leaks pertaining to LANCE an issue in December, 1976, but not an issue in March - April, 1977?

A: I had frankly forgotten that the files were in my safe and would have had them brought back to their normal cabinets earlier. As far as my original purpose in having them placed in my Office, by March of 1977, I thought that the press interest in Mr. LANCE was over with, a judgment that will probably go down in history as one of the worst ever made.

Q: Why were meetings with LANCE not documented?

A: I did not have any "meetings" with Mr. LANCE at which any bank matters or other matters of importance were discussed. My sole physical contacts with Mr. LANCE numbered four.

- (1) His visit to our offices on December 17, 1976, at 2:00 p.m. following a speech at the National Press Club. As I stated in my principal affidavit, he was in our office a total of about one-half hour accompanied by a Secret Service Agent or two, and Mr. TARLETON. Most of the time was spent in showing him our new electronic CRT tube, showing him around the offices, saying hello to some previous acquaintances. I was not with him more than two or three minutes alone at that time and no business was discussed.
- (2) A lunch at the Sheraton Carleton Hotel on January 10, 1977, which I discussed in my affidavit-in-chief. There were no bank matters or other matters pertaining to files of our Office discussed at that luncheon.
- (3) An accidental encounter at Washington National Airport on my way to a meeting in Palm Beach, Florida.
- (4) An accidental encounter at a Georgia Bankers' Reception on a date shortly before the Inauguration.

We did not talk about any matters pertaining to files maintained in our Office at either of these to chance encounters.

The Washington Post article of September 1, 1977, relating my telephone conversation with Mr. Sidney Smith of December 1, 1976, and which according to the article Mr. Moore has said he was a participant, has jogged my memory on a point. During my conversation with Mr. Smith when we began to discuss the description of the enforcement agreement in the press release, I remember suggesting that it would be useful for Mr. Smith to get a copy of the agreement. It was my distinct understanding during my subsequent conversations with Mr. Smith that he had obtained a copy of the agreement from Mr. Lance or from the bank. Since Mr. Moore who was evidently a party to the conversation and a law partner of Mr. Smith was a member of the Carter transition team, it is my assumption that the contents of the agreement were known to the President-elect or his immediate staff at least from that time, if not before.

SECTION 6

Investigation into alleged improper approval of a Branch Bank application for the National Bank of Georgia by OCC Officials.

The following individuals were interviewed in connection with this section:

<u>Subject</u>	<u>Date of Interview</u>	<u>Type of Statement</u>
VERNON E. FASBENDER Deputy Regional Administrator for Planning and Operations 6th National Bank Region Atlanta, Georgia	8/12/77	Affidavit
MARIA I. RICHMOND Regional Director of Corporate Activities 6th National Bank Region Atlanta, Georgia	8/12/77	Affidavit
DONALD TARLETON Regional Administrator 6th National Bank Region Atlanta, Georgia	8/25/77	Affidavit
H. JOE SELBY First Deputy Comptroller for Operations Washington, D.C.	8/27/77	Affidavit
EDMUND G. ZITO Executive Assistant to First Deputy Comptroller for Operations Washington, D.C.	8/30/77	Affidavit
WILLIAM J. SUMAN Deputy Regional Administrator for Examinations Minneapolis, Minnesota	9/2/77	Oral- Under Oath

Details of Investigation

Mr. VERNON E. FASBENDER, Deputy Regional Administrator for Planning and Operations, advised:

On January 27, 1977, his office, the Atlanta regional office, accepted for filing an application from the National Bank of Georgia (NBG), Atlanta, Georgia, for permission to establish a branch to be located at the intersection of Oliver Street and Stanton Way, Decatur, Georgia. After processing by the Corporate Division, Ms. MARIA I. RICHMOND, Regional Director for Corporate Activities, sent to him the application together with her analysis for review. This is standard procedure for all corporate applications. The application was marginal, and after review, he sent a note back to Ms. RICHMOND recommending denial.

Ms. RICHMOND later told him that Mr. DONALD TARLETON, Regional Administrator, had asked her to write a "weak approval" recommendation. The application was forwarded to Washington on April 21, 1977 with a recommendation by Ms. RICHMOND and Mr. TARLETON for approval. It is standard procedure in his region, and to the best of his knowledge in all regions, for the Regional Director's recommendation to be the same as that of the Regional Administrator. If the Regional Administrator does not agree with the Regional Director's recommendation, the Regional Director will change her/his recommendation. NBG's application was subsequently approved by the Washington, D.C. Office.

A review of the OCC files pertaining to the National Bank of Georgia disclosed a branch application for a branch bank located at the intersection of Oliver Street and Stanton Way, Decatur, Georgia. Included in the file is an OCC report detailing the proposed location of the branch and summarizing the bank's condition. Page 1 of the report contained the following handwritten notation:

"Recommend disapproval

3/18/77

A review of Confidential Memorandum Branch Application, Application No. 06-07-77-022, Charter No. 15541, revealed the following:

On January 27, 1977, the National Bank of Georgia applied for permission to establish a branch bank in Decatur, Georgia.

Under "Summary and Recommendation of Regional Director for Corporate Activities", Ms. MARIA I. RICHMOND, Regional Director for Corporate Activities, noted as follows: "Applicant proposes to establish a full-service branch in Decatur, Georgia, approximately nine miles east of the main office of the bank, in an area in which it is conspicuously absent among major Atlanta banks. Although it is not considered that the expenses incident to the branch will have a material effect on the bank. The problems in the bank have been isolated; new management appears to have the ability and attitude necessary to run the bank in a sound and profitable manner. It is concluded that the public need and convenience will be better served, that the bank is economically feasible, and that no serious damage or harm will come to any other competing financial institution. Approval of this application is, therefore, recommended."

Under the heading "Further Comments", Ms. RICHMOND noted as follows:

- "1. The bank has recently hired Mr. ROBERT GUYTON to assume the presidency of the bank. Mr. GUYTON was previously President of National Bank of Georgia and, as such, is familiar with its operations. In addition, a number of new officers have been hired, many of whom are known to this office as capable experienced bankers.
2. Earnings of the bank have been strained by a number of factors.

The bank's earnings have been impacted by the recent acquisition of three small Atlanta banks which were merged under the emergency provisions of the Bank Merger Act. One of the banks was, in fact, purchased out of receivership from the Federal Deposit Insurance Corporation. While there was minimal resulting loan loss from these acquisitions, the hours expended by existing staff and the costs of additional employees which were continued by National Bank of Georgia, certainly had a detrimental effect on profits.

Earnings for the first quarter of 1977 actually reflected a loss; however, this was due to a heavy loss sustained in trading account activities. The bank recently entered into this type of activity on a trial basis, and understandably, has discontinued the operation.

The bank has entered into a severe cost-cutting program designed to fully utilize available resources and eliminate waste. The prospects for future earnings are considered to be good, particularly in view of the anticipated performance of new management.

3. A liberal dividend policy resulted in a need to augment the capital through the sale of additional stock. In 1976, 65% of the bank's net income was paid out in dividends, compared with a 75% payout for the previous period.
4. Although equity capital was increased, \$8,000,000 in 1976
- 5.

The National Bank of Georgia is not without problems. It has, however, emerged from the recession relatively unscathed; problem assets have been isolated and no further deterioration is anticipated.

The bank has evidenced a strong sense of social responsibility in its acquisition of failing banks, only one of which represented any new market penetration. There is no doubt that the burden of merging these three banks has been heavy.

The future prospects for the bank are good especially considering the employment of capable management. The marginal impact of the branch is not expected to unduly strain financial and managerial resources, and should, in fact, provide new and profitable business for the bank."

On the first page of the Confidential Memorandum under Ms. RICHMOND's recommendation appear the signatures of Ms. RICHMOND and Regional Administrator Mr. DONALD TARLETON and the date of April 21, 1977. On page three of the memorandum is the approval signature of H. JOE SELBY, First Deputy Comptroller for Operations, with the date of April 27, 1977. Also on page three appears "noted W. SUMAN 4/26/77."

Ms. MARIA I. RICHMOND, Regional Director of Corporate Activities, advised:

In January of 1977, an application of the National Bank of Georgia to establish a branch in Decatur, Georgia was accepted for filing. Her staff prepared the initial work draft, and she believed it recommended approval. Mr. VERNON FASBENDER, Deputy Regional Administrator for Operations and Planning, reviewed the file and recommended disapproval of the branch.

On several occasions, she discussed the application with Mr. FASBENDER and Regional Administrator Mr. DONALD TARLETON, although she did not recall discussing it in the presence of both of them. At some time, she may have told Mr. FASBENDER that the application should be denied. However, to her recollection, she was rather pleased that she did not have to make an independent decision on the application's outcome.

After waivering for several weeks, Mr. TARLETON instructed her to approve the application. Since the decision was a "close call", she could not say that his decision was counter to her opinion. For the same reason, they forwarded the entire file to Washington under procedures outlined in the Corporate Procedures Manual. Since the bank was effectively owned by Mr. BERT LANCE, it was obvious to her that the application was likely to receive special scrutiny; however, she did not recall discussing the matter in detail with Mr. TARLETON.

Although Washington's decision for approval was "marginal" she believed the criteria was clearly outlined in the Confidential Memorandum, dated April 21, 1977, and that an independent appraisal of the application would justify the decision.

Mr. DONALD TARLETON, Regional Administrator, advised:

On January 27, 1977, a branch application was routinely submitted by the National Bank of Georgia for a site in Decatur, Georgia, a suburb of Atlanta, Georgia. This application was processed in normal fashion by the Regional Corporate Activities Division.

Documents indicate that this application was submitted to the Deputy Regional Administrator for Planning and Operations, Mr. VERNON FASBENDER, in keeping with established practice and that on March 18, 1977 he recommended disapproval.

As he (TARLETON) recalls, the application was then brought to him for consideration. He also recalls the Corporate Division Director, Ms. MARIA RICHMOND, expressing her thoughts on this being

a marginal application and being undecided in which way to recommend. They decided that the adverse factors were not of sufficient magnitude to create an exception to the OCC's basic branching policy and would recommend approval, although admittedly it was a marginal application that could go either way.

Negating the above three adverse factors are the following:
1) by their usual measuring standards, capital protection was light but certainly not grossly inadequate. In fact, management had successfully issued \$8 million in capital stock during 1976 to bolster the capital position. Corporate staff in answering the question on capital adequacy rated it 'good' and there appears a marginal notation "appears fair in all respects". 2) asset problems were greater than they like to see

New expansion, modestly done as this was planned, can in a relatively short period of time enhance earnings if properly managed and controlled.

Because of this being a marginal application, they followed established procedure and forwarded the entire file to the Washington office in order that the final decision could be based upon all the information available at the regional level.

Approval of the OCC was granted by First Deputy Comptroller of the Currency H. JOE SELBY on April 2, 1977 and a letter of notification was probably routinely forwarded to the bank advising of the approval.

During interview Mr. TARLETON advised that at no time did he have any discussion with bank officers, Mr. SELBY or Mr. ELOOM regarding the NBG application for a branch bank in Decatur, Georgia.

H. JOE SELBY, First Deputy Comptroller for Operations, advised:

All branch applications come through his office for his signature. He does not recall ever seeing the National Bank of Georgia application for a branch bank in Decatur, Georgia. These applications are reviewed by WILLIAM SUMAN and EDMUND ZITO prior to his receipt of the application. He receives these applications and merely looks to see if the Regional authority and SUMAN have approved it. If it has been approved by the Regional authority and SUMAN he almost "automatically" signs the approval of the application and would not even look at the name of the bank. This would have been the case with the Decatur branch application.

Mr. EDMUND GERARD ZITO, Executive Assistant to First Deputy Comptroller for Operations, advised:

Concerning applications for branch banks, he receives all such applications from the Bank Organization and Structure Division (BOSD) of the Washington office. The applications he receives consist of a Confidential Memorandum and transmittal sheet; on rare occasions he may receive the entire bank file. He did not know under what circumstances the entire file is forwarded from the Regional Office to the Washington office and what the file consists of. He receives a voluminous number of applications, but he would not hazard a guess as to the exact number without checking the records.

Before he receives an application, BOSD reviews it, and the reviewer in that division usually writes "noted" and initials or signs the Confidential Memorandum. In the normal course of business a transmittal sheet is attached to the Confidential Memorandum and initialed by another BOSD staff member prior to forwarding the branch application to him. Any comments by BOSD are noted on the Confidential Memorandum or on a "buck slip". The application is then forwarded to him.

Upon receipt of an application, he reviews the recommendation of the regional authorities who would be the Regional Director of Corporate Activities and the Regional Administrator or his designee. If he considers anything unusual or irregular, such as non-compliance with OCC policies, he attaches a note to the application for Mr. SELBY's attention. If the reviewer in BOSD did not sign or initial the Confidential Memorandum he would return the application to BOSD. Before giving an application to Mr. SELBY, he writes "ZITO" in the upper right hand corner of the transmittal sheet.

When he gives Mr. SELBY an application, he (SELBY) briefly reviews it before signing his name and noting the date on the Confidential Memorandum. If anyone has recommended disapproval of the application Mr. SELBY may or may not discuss it with him. After Mr. SELBY signs an application, normally his secretary sends it back to BOSD.

It should be noted that the revised and newly implemented (11/76) OCC policy is that it is a bank management decision to establish a branch and unless unusual circumstances, such as a legal objection or the viability of the institution is threatened, these applications are normally approved. It is an exception rather than the rule for OCC to deny an application to establish a branch bank.

He has reviewed a copy of a Confidential Memorandum, application number 06-07-77-022, and charter number 15541. It concerns an application by the National Bank of Georgia for a branch bank in

Decatur, Georgia. He did not recall specifically seeing the application or discussing it with Mr. SELBY. It appears to be a normal application which would be routinely processed by himself and Mr. SELBY. If he pointed out anything for Mr. SELBY's attention, it would be the length of Further Comments in the Confidential Memorandum.

Mr. WILLIAM J. SUMAN, Deputy Regional Administrator for Examinations, Ninth National Bank Region, advised:

From November of 1975 to May of 1977, he was Deputy Director, Bank Organization and Structure Division, Washington, D.C. In that position, he reviewed all applications for branch banks to ensure that the applications conformed to Office of the Comptroller of the Currency (OCC) policy. He received the applications, approximately 600 to 1000 a year, directly from the regional offices where the Regional Administrators and Directors of Corporate Activities would indicate their recommendations. The applications normally consisted of a Confidential Memorandum and a transmittal sheet which was added in the Washington office. If the region felt that a bank was weak in, for example, earnings or management, it might forward the entire file to Washington; however, this was a subjective decision. The entire file would consist of a transcript of public hearing, a newspaper notice of the bank's application, any protest to the application and the OCC's response to such a protest. The region would not forward examination reports since these reports would already be in the Washington office. After reviewing the Confidential Memorandum, he would write "noted" and his signature on the Confidential Memorandum. He would then forward the application to H. JOE SELBY, First Deputy Comptroller for Operations.

The application by the National Bank of Georgia (NBG) for a branch in Decatur, Georgia was a normal application that was handled in a routine manner.

The report in which Regional Administrator for Planning and Operations VERNON FASBENDER noted his disapproval of the application was not seen by him as it was an internal report of the region. It was not "out of character" for Regional Administrator DONALD TARLETON and Director of Corporate Activities MARIA RICHMOND to recommend approval of the application.

It should be noted that as a matter of policy the OCC approves such applications unless there is a glaring reason for disapproval. The establishment of a branch bank is a decision to be made by the bank itself.

Concerning the NRG application he did not give it preferential treatment and has no reason to believe anybody else gave it preferential treatment. He received no special instructions in regard to the application.

APPENDIX

SECTIONS OF UNITED STATES CODE CITED IN THIS REPORT

Title 18, USC 610 Contributions or Expenditures by National Banks, Corporations or Labor Organizations

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than \$5,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

Title 18, USC 656 Theft, Embezzlement, or Misapplication by Bank Officer or Employee

Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, national bank or insured bank, or a receiver of a national bank, or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank or any moneys, funds, assets or securities intrusted to the custody or care of such bank, or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Title 18, USC 1005 Bank Entries, Reports and Transactions

Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, national bank or insured bank, without authority from the directors of such bank, issues or puts in circulation any notes of such bank; or

Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or

Whoever makes any false entry in any book, report, or statement of such bank with intent to injure or defraud such bank, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, or the Board of Governors of the Federal Reserve System ---

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

Title 18, USC 1905 Disclosure of Confidential Information Generally

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment.

Title 18, USC 1906 Disclosure of Information by Bank Examiner

Whoever, being an examiner, public or private, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, or bank insured by the Federal Deposit Insurance Corporation, examined by him, to other than the proper officers of such bank, without first having obtained the express permission in writing from the Comptroller of the Currency as to a national bank, the Board of Governors of the Federal Reserve System as to a State member bank, or the Federal Deposit Insurance Corporation as to any other insured bank, or from competent jurisdiction, or by direction of the Congress of the United States or either House thereof, or any committee of Congress or either House duly authorized, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

Title 12, USC 29 Power to Hold Real Property

A national banking association may purchase, hold, and convey real estate for the following purposes, and for no others:

First. Such as shall be necessary for its accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it.

But no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years.

Title 12, USC 375a Loans to Executive Officers of Banks - General
Prohibition; Authorization for Extension of
Credit; Conditions for Credit

(1) Except as authorized under this section, no member bank may extend credit in any manner to any of its own executive officers. No executive officer of any member bank may become indebted to that member bank except by means of an extension of credit which the bank is authorized to make under this section. Any extension of credit under this section shall be promptly reported to the board of directors of the bank, and may be made only if -

(A) the bank would be authorized to make it to borrowers other than its officers;

(B) it is on terms not more favorable than those afforded other borrowers;

(C) the officer has submitted a detailed current financial statement; and

(D) it is on condition that it shall become due and payable on demand of the bank at any time when the officer is indebted to any other bank or banks on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) in an aggregate amount greater than the amount of credit of the same category that could be extended to him by the bank of which he is an officer.

Mortgage loans

(2) With the specific prior approval of its board of directors, a member bank may make a loan not exceeding \$30,000 to any executive officer of the bank, if, at the time the loan is made -

(A) it is secured by a first lien on a dwelling which is expected after the making of the loan, to be owned by the officer and used by him as his residence, and

(B) no other loan by the bank to the officer under authority of this paragraph is outstanding.

Educational loans

(3) A member bank may make extensions of credit to any executive officer of the bank, not exceeding the aggregate amount of \$10,000 outstanding at any one time, to finance the education of the children of the officer.

General limitation on amount of credit

(4) A member bank may make extensions of credit not otherwise specifically authorized under this section to any executive officer of the bank, not exceeding the aggregate amount of \$5,000 outstanding at any one time.

Partnership loans

(5) Except to the extent permitted under paragraph (4), a member bank may not extend credit to a partnership in which one or more of its executive officers are partners having either individually or together a majority interest. For the purpose of paragraph (4), the full amount of any credit so extended shall be considered to have been extended to each officer of the bank who is a member of the partnership.

Report of date and amount of credit extensions, security, and use of proceeds upon excessive extensions of credit

(6) Whenever an executive officer of a member bank becomes indebted to any bank or banks (other than the one of which he is an officer) on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) in an aggregate amount greater than the aggregate amount of credit of the same category that could lawfully be extended to him by the bank, he shall make a written report to the board of directors of the bank, stating the date and amount of each such extension of credit, the security therefor, and the purpose for which the proceeds have been or are to be used.

Endorsement of guarantee of loans or assets; protective indebtedness

(7) This section does not prohibit any executive officer of a member bank from endorsing or guaranteeing for the protection of the bank any loan or other asset previously acquired by the bank in good faith or from incurring any indebtedness to the bank for the purpose of protecting the bank against loss or giving financial assistance to it.

Continuation of violation

(8) Each day that any extension of credit in violation of this section exists is a continuation of the violation for the purpose of section 1818 of this title.

Report of loan activity since previous report of condition

(9) Each member bank shall include with (but not as part of) each report of condition and copy thereof filed under section 1817(a) (3) of this title a report of all loans under authority of this section made by the bank since its previous report of condition.