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THE WHITE HOUSE

WASHINGTON

May 25, 1994

MEETING WITH REP. JACK BROOKS

DATE: Thursday, May 26
LOCATION: Oval Office Dining Room
TIME: 8:30 a.m.
From: Karen Hancox, Leg. Affairs

I. PURPOSE

To foster better relations with Brooks, and to urge a quick completion to the crime bill.

II. BACKGROUND

Brooks was furious at the way Rep. Schumer conducted himself during the House debates on the crime bill and the assault weapon ban. This anger is somewhat subsiding, but rather than let it impact on the crime bill conference, Leg. Affairs has suggested this get together to foster better relations in general and assuage Brooks' anger.

III. PARTICIPANTS

You and Rep. Brooks.

IV. PRESS PLAN

None

V. SEQUENCE OF EVENTS

Brooks enters the Oval Office, you both move to the Dining Room, you have your meeting.

VI. REMARKS

See next page

Suggested Talking Points
for Meeting with
REP. JACK BROOKS

CRIME

As you know, the conference continues apace, with the House and Senate staffs meeting informally to iron out preliminary differences. The most contentious issues are funding (where is the money coming from, and how much will this bill cost?), racial justice and the assault weapons ban. **You should urge Brooks to have the Members meet as soon as possible after the Memorial Day recess and reach agreement on this bill. Brooks hates deadlines, and has raised the issue of deadlines with the Attorney General. Please let him know it is important to you to have a bill signing before the July 4 recess, but also let him know you will not challenge him publicly to meet this deadline -- this is a private deadline you would like to have the Congress meet.**

MFN

Brooks is concerned that when you announce your China MFN policy there will be a provision banning the importation of Chinese weapons. If there is a complete ban, 22 caliber rim fire pistols and rifles will be covered. Brooks does not think these are semi-automatic weapons nor does he think they should be banned. **(He will not be happy if they are banned and has asked, at the very least, for a heads up if they are going to be covered in any such ban.)**

FDIC

Brooks was <u>very</u> upset about the Wednesday <u>Washington Post</u> article on thrifts (SEE ATTACHED.) He was particularly upset at the statement made by Alice Goodman, FDIC's Congressional Liaison. The Judiciary staff never said they would not meet with Goodman, they merely asked to delay the meeting until after the crime conference. I explained to Brooks' staff that Goodman was a Bush holdover and until we have a majority of Democratic commissioners we could not replace her. The committee understands, and Brooks is no longer angry at us about the quote, but you should be aware of this situation.

SPACE STATION

The situation on this bill is very fluid. Chairman George Brown is not happy with the 602b allocation and if he can not get $14.5 billion for the space station, he will oppose it. There are many competing interests for the space station money -- including housing and VA -- a lot of Members want to see more money spent in these areas in an election year. The first whip meeting was held Wednesday, May 25 on this issue with Reps. Gephardt, Gingrich and Walker taking the lead (whether or not Brown is involved will depend on the allocation.) Fifteen Members attended the whip meeting and by all reports, it went very well.

Brooks has not yet started to work this bill, but we assume he would like to hear that you will make calls on this bill, and meet with a select group of undecided Members in an effort to gain their vote.

TELECOMMUNICATIONS

This is two bills, packaged as one. One would allow regional Bells and the cable industry to compete for each other's business; the second would allow Bells to offer long distance services, design and make telecommunications equipment, and offer electronic information services.

Brooks and Dingell have worked closely on this issue and hope to bring a bill to the Floor soon. The Administration is more supportive of the House position, than the Senate's position.

Federa S& ., Bank Claims Endangered

Regulators Exasperated by Texas, Virginia Statutes of Limitation

By Sharon Walsh and Susan Schmidt
Washington Post Staff Writers

A1

In the mid-1980s, John Henderson Jr. had his Texas thrifts buy two airplanes for more than $1 million each so he could fly between his offices and his ranch. The thrifts also bought a $30,000 Mercedes and a $75,000 BMW for his use—and a van for his maid, according to court testimony.

This April, a Tyler, Tex., jury said Henderson was guilty of gross negligence and breach of his duties as the president and chairman of both Southland and Home savings and loan associations, and that he should pay the U.S. Treasury $7 million in damages. The 1988 failure of the two S&Ls cost taxpayers more than $100 million.

But Henderson got a reprieve. He doesn't have to pay the $7 million because the state deadline for gross negligence claims expired even before federal regulators took over the thrift. The courts rejected the government's argument that the statute of limitations should be waived because when the board of directors is handpicked by the thrift's chairman—as in the case of Southland and Home—it is unlikely to sue him.

Federal bank and thrift regulators say that $1.6 billion in claims brought against directors, officers, lawyers, accountants and other fessionals who served failed and S&Ls in Texas and Virginia at risk because of recent court rulings on the deadline for bringing lawsuits. And they fear billions of dollars more in claims could be in jeopardy if other states set time limits on such cases.

Both the Federal Deposit ance Corp. and the Resolution 1 Corp. have asked Congress to legislation to cure what they as

See SUITS, A17, Col. 1

Thrift Regulators Fear Loss of Billions As Courts Back State Deadlines on Suits

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SUITS, From A1

flaws in state laws. The legislation would allow the government to base claims on activities as far back as five years prior to the takeover of an institution, which would revive some claims that had expired under state laws.

But Rep. Jack Brooks (D-Tex.), powerful head of the House Judiciary Committee, is opposed to the measure. The legislative change, contained in an amendment to the interstate banking bill that passed both houses in April, is headed to a conference committee. Brooks and other members of the Judiciary Committee are among the conferees.

FDIC congressional liaison Alice Goodman said Brooks's aides on the Judiciary Committee told her that they knew his position on the amendment and that she should not bother to brief them on the issue. "They indicated he probably would not be supporting this," Goodman said.

"Offhand, I'd say it's a very dangerous amendment, and [the conferees] ought to take a very hard look at it," Brooks said. "It's a retroactive law. It might be unconstitutional."

Brooks, who in the past owned substantial stock in Texas S&Ls that later failed, is now a director and shareholder of three Texas banks.

In response to inquiries to his office, Brooks said he may decide to recuse himself from the conference because of his bank directorships.

Many of the most egregious examples of negligence at savings and loans were seen in Texas, according to the National Commission on Financial Institution Reform, a panel of experts appointed by Congress to study the thrift debacle. It said "40 percent of all taxpayer losses came from Texas S&Ls."

If the Texas court decisions regarding statutes of limitation stand, government lawyers will have to focus their efforts in other states to recover taxpayer losses, according to the regulators.

"In other jurisdictions, directors could be [successfully] sued for the same things, while directors in Virginia and Texas would walk away," said John V. Thomas, head of the FDIC's professional liability section. "It seems unreasonable and unfair."

"We might as well shut down the professional liability section if other states adopt the Texas or Virginia rules," said Jack D. Smith, the FDIC's deputy general counsel.

Untold millions of dollars from cases not yet brought are in jeopardy. Among the potential claims that could be affected are those that may arise from the investigation of Madison Guaranty Savings and Loan in Arkansas. Counsel Robert Fiske is examining Madison's activities for civil claims as well as criminal violations. Fiske is gating President Clinton's and Hillary Rodham Clinton's ties to the S&L. Neither was a director of the bank, Hillary Clinton was an attorney for the thrift.

Sen. Howard M. Metzenbaum (D-Ohio) proposed the amendment that would give federal regulators more to file cases, regardless of state statutes.

"For us to sit by and do nothing while the courts are wiping out millions of dollars in decisions would be an absurdity," Metzenbaum said.

On the other side of the argument are those who say it is unfair to paint all S&L directors with the same

"You reach a point where the equities say that guilty people are going to slip through the net," said J. Jonathan Schraub, a lawyer for some directors of failed Trustbank Savings FSB of Virginia. "Overall, this industry wasn't populated by fools and crooks. . . . There were a lot of innocent, honest people in that business."

The issue comes at a crucial time for such recoveries, according to federal officials. The six month period ended March 31 was the most productive in the 4½ years of the RTC's professional liability section, with $406 million in claims recovered, according to an agency report.

But courts in Virginia and Texas have dismissed 12 cases with claims of $93 million because of recent appeals court decisions in the two states.

One of those was a $20 million negligence brought by the RTC against Northern Virginia savings loan executive William L. Walde and other former directors of Trustbank. The case was not tried on its merits because the judge said Virginia's one-year statute of tions had expired.

If the legislation to overcome the state statutes t pass, "we'll have a situation where multimillionaires like Mr. Henderson and Mr. Walde go around and don't pay a penny, but the money comes out of the pockets of the taxpayers," said the FDIC's Smith.

"I think the amendment is unfair, and it's especially unfair to use this case as an example," said Thomas H. Walston, an attorney for Henderson. "Mr. Henderson had given his entire life to Home Savings."

Henderson, who helped found the S&L in 1955 and a majority shareholder, lost much of his wealth when the thrift failed in 1988, Walston said. Henderson denied at trial that the planes and cars purchased by the S&Ls for his use alone and said that they were necessary to do business—a contention that the jury rejected.