

8/21/70

EXECUTIVE ORDER _____

PREScribing STANDARDS OF CONDUCT
FOR THE POSTAL RATE COMMISSION

WHEREAS, pursuant to the Postal Reorganization Act (Public Law 91-375), the Postal Rate Commission is charged with critical responsibilities in the establishment and adjustment of fair and equitable rates of postage, fees for postal services, and classifications of mail; and

WHEREAS, it is essential to public confidence in the United States Postal Service that fairness and equity be manifest in the determination of postal rates, fees, and classifications, and

WHEREAS, the public interest demands that the activities, procedures, decisions, and recommendations of the Postal Rate Commission be irreproachably impartial and disinterested and unquestionably free from taint or suspicion of favoritism of any kind whatsoever, both in fact and in appearance,

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by Section 301 of Title 3 and Section 7301 of Title 5, of the United States Code, it is hereby ordered as follows:

Part I - Standards of Conduct

Section 101, (a) No Commissioner or employee of the Postal Rate Commission, shall solicit or accept, directly or indirectly, any gift, gratuity, favor, honorarium, travel or hotel accommodation or the like, loan, or any other thing of monetary or intrinsic value, from any person,

corporation, group, or other entity, except strictly as provided in subsection (b) of this section.

(b) Subsection (a) of this section does not prohibit --

(1) Compensation as provided by law for the proper discharge of official duties, including salaries, authorized reimbursement by the Government for necessary travel expenses, and the like;

(2) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities or undertakings, such as home mortgage loans,

(3) Acceptance of gifts, ^{travel, accomodation,} food, or refreshment that are obviously motivated by family relationships, such as those normally existing between spouses or parents and children, or by personal relationships that clearly are not derived from or associated with the business or economic interests of the donor;

(4) Acceptance of payments in discharge of lawful obligations or debts (but see subsection (c) of this section and section 105).

(c) The Commission is authorized to issue regulations, coordinated and approved by the Civil Service Commission, governing the conditions and circumstances in which outside employment may be permitted Commission employees; but neither any Commissioner nor any Commission employee whose salary is at a rate in excess of \$12,000 per annum may engage in private practice or other outside employment of any kind other than teaching, lecturing or writing as provided in section 103, and no Commission

employment with any person, corporation, group, or other entity whose business is substantially dependent on or ^{substantially} affected by the mails or postal rates, fees or classifications.

(d) The Commissioners and employees of the Commission shall avoid any action, whether or not specifically prohibited by subsections (a) or (c) or permitted by subsection (b), which might result in or create the appearance of --

- (1) using public office for private gain;
- (2) giving preferential treatment to any organization or person;
- (3) impeding Commission efficiency or economy;
- (4) losing complete independence or impartiality of action;
- (5) making a decision outside official channels; or
- (6) affecting adversely the confidence of the public in

the integrity of the Commission.

Section 102(a) The Commissioners and the Commission's employees, in an official or an unofficial capacity, shall not participate in any hearing or discussion, or ~~communication~~ communicate in any form with any person, corporation, or other entity in connection with matters that are pending before the Commission, without affording an opportunity to every other interested party to observe or otherwise participate in such hearing or discussion, or to have full knowledge of such communication.

(b) The Commissioners and the Commission's employees, whether in an official or an unofficial capacity, shall avoid, insofar as is

^{reasonably}
^

practicable, any discussion or communication, whether oral or written,

by any person who ^{is likely} ~~may be expected~~ to be a party or to represent a party

before the Commission, in connection with matters that are not ^{then} pending

before the Commission but that are ^{apt to come before it.} ~~or may come within the Commission's~~
~~recognizance.~~

(c) A full written report shall be made by the Commissioner or employee affected of any hearing, discussion or communication had or attempted to be had by any person contrary to subsection (a) of this section or of any discussion or communication of the type described in subsection (b) attempted to be had by a person therein described. The report shall be filed with the Commission, and in the case of reports filed by Commissioners, with the Chairman of the Civil Service Commission as well, and shall become public records.

Section 103 The Commissioners and Commission employees are not prohibited from ^{accepting compensation for} teaching, lecturing, or writing, provided such activity does not create or tend toward a conflict or appearance of conflict of interest, and provided that any such teaching or lecturing is performed under the auspices of an accredited educational institution. ~~If the subject matter of the teaching, lecturing or writing is based in whole or in part on information obtained as a result of employment with the Commission, any remuneration, honorarium or other consideration received therefor, shall be paid into the Treasury of the United States. If the subject matter is not based on such information, the remuneration, honorarium or other consideration may be retained by the individual.~~

Section 104(a) Each Commissioner shall, [[]prior to the date of his appointment as Commissioner, ⁷submit to the Chairman of the Civil Service Commission [[]and to the other four Commissioners^{er}[^]], a statement disclosing the following:

(1) The names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions or entities --

(A) with which he is connected as an employee, officer, owner, director, trustee, partner, adviser, or consultant; or

(B) in which he has any continuing financial interest, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association, ^{estimated}
[including the dollar amount or value thereof and the date the interest was acquired and the duration thereof; or

(C) in which he has any financial interest through the ownership of stocks, bonds or other securities or otherwise, including the number of shares of stock, dollar value, term and maturity dates of bonds or other securities, dates and means of acquisition of such financial interests, and monetary value of any and all such ownership interests.

(2) The names of his creditors, including the amount of the debts, terms of the loan agreements and the reason for incurring the debts, regardless of whether the debt was incurred for business or personal needs.

(3) His interests in real property or rights in lands, including property which he occupies as a personal residence, and including the fair market value thereof, acquisition cost, if any, the amount and terms of any mortgages, the date and means of acquisition.

(4) Other sources of income, whether or not income is actually received therefrom, including but not limited to, patents and copyrights, government securities, savings accounts, insurance and annuities, contracts, private trusts, and the like, stating as to each, its nature and value, his interest and the interest of others in it, and such other information as may be needed for a fair understanding of his relation to it.

(b) The interest of a spouse, minor child, or other member of the Commissioners' or other employees' household, living under the same roof, whether or not related by blood, shall be considered to be an interest of the person required to make a disclosure under this section 104.

(c) Each Commissioner shall resign from any position that he may hold in any of the entities disclosed pursuant to (a)(1)(A) of this section, or relinquish any contract he may have with any such entity prior to appointment, except that for good cause, the Chairman of the Civil Service Commission may authorize the effective date of such resignation or divestment of contract to be delayed for no more than 30 days following the date of appointment. Further, each Commissioner shall divest himself within such time as prescribed by the Chairman of the Civil Service Commission

of all financial interests, in any entity whose interests may be significantly affected by postal rates, fees, or classification, other than vested interests under a pension or retirement plan disclosed pursuant to subsection (a) above, but no later than 90 days subsequent to the date of his appointment.

(d) The Commission shall issue regulations, coordinated and approved by the Civil Service Commission, governing requirements for disclosure and divestiture of financial interests by Commission employees. Such regulations shall be consistent with subsections (a) through (c) of this section 104.

(e) The disclosures to be made by the Commissioners and Commission employees shall be kept up to date by submission of subsequent statements of disclosures setting forth all changes in or additions to the original disclosures, as amended from time to time. In addition to the information required to be disclosed by subsection (a) hereof, each Commissioner and Commission employee shall include in the statements required to be submitted by this subsection (e):

(1) a statement of all income received by him from whatever source during the reporting period, and by every member of the person's household as described in subsection (b), except that income of any persons other than the one reporting ~~amounting to not over \$100 for the reporting period~~ need not be disclosed, if the total amount from all sources for the reporting period does not exceed \$100, and

(2) a statement of any extraordinary receipts or expenditures of any kind during the reporting period by the person reporting or a member of his household as described in subsection (b).. The up-dating

shall be at such intervals as may be directed by the Chairman of the Civil Service Commission in respect to the Commissioners; in respect to Commission employees, they shall be at such intervals as may be required by the regulations issued by the Commission pursuant to subsection (d), but no less than twice each year.

(f) The Chairman of the Civil Service Commission shall prescribe the form of the disclosure statements to be used by the Commissioners. The Commission shall prescribe the form of the disclosure statements to be used by the Commission employees.

(g) Nothing in this Executive Order shall preclude the Commission, or the Chairman of the Civil Service Commission in case of a Commissioner, from requiring such additional information from an individual as may be deemed necessary to complete the process of disclosure established by this section.

Section 105 Neither any commissioner nor any Commission employee may have direct or indirect financial interests that conflict or appear to conflict with his responsibilities and duties or those of the Commission or engage in, either directly or indirectly, any financial transaction as a result of, or relying upon, information obtained through his employment.

Section 106 (a) The Commissioners and Commission employees shall not use Federal property of any kind for other than official Commission activities.

(b) The Commissioners and Commission employees shall not directly or indirectly use or permit others to use official information not made available to the general public for any reason whatsoever.

Section 107 The Commissioners and Commission employees are prohibited from engaging in any partisan political activities proscribed by Subchapter III of Chapter 73 of Title 5 United States Code or other related laws.

Section 108 (a) The Commissioners shall immediately report to the Chairman of the Civil Service Commission or to the Attorney General of the United States, any offer of a bribe, use of undue influence or coercion to have them act or not to act as may be required to fulfill their responsibilities. Likewise, such report is to be made in respect to the violation of any other law, this Executive Order or implementing regulations thereof, of which they may jointly or severally become aware.

(b) The provisions of subsection (a) of this section are also applicable to Commission employees, except that they will report such matters to the Commissioners.

Part II - General Provisions

Section 201 The Civil Service Commission is authorized and directed to review the Postal Rate Commission's regulations issued under this Executive Order from time to time for conformance with this Executive Order; and to recommend to the President from time to time such revisions in this Executive Order as may appear necessary to ensure the main-

tenance of the very highest standards of conduct for the Rate Commission and its employees.

Section 202 The Postal Rate Commission is hereby directed to supplement the standards provided by law and by this Executive Order with regulations of special applicability to the particular functions and activities of the Postal Rate Commission. The Postal Rate Commission is also directed to assure:

- (1) the widest possible distribution of regulation issued pursuant to this section, and
- (2) the availability of counseling for those employees who request advice or interpretation.

Section 203 Any Commissioner or other Commission employee who violates any provision of this Executive Order or any applicable law or implementing regulation issued by the Postal Rate Commission shall be subject to immediate dismissal and to other appropriate civil and criminal sanctions.

The White House

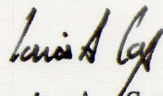
THE GENERAL COUNSEL
POST OFFICE DEPARTMENT
WASHINGTON, D. C. 20260

August 18, 1970

MEMORANDUM FOR: JOHN DEAN
COUNSEL TO THE PRESIDENT

FROM: LOUIS A. COX
DEPUTY GENERAL COUNSEL

In keeping with our telephone conversation of yesterday, I enclose three copies of a draft Executive Order prescribing standards of conduct for the new Postal Rate Commission. For reasons that you fully understand, we have tried to make this a strict "Puritans in a goldfish bowl" set of rules. If we can be of any further help, please let me know.


Louis A. Cox

cc: Mr. Blount
Mr. Klassen
Mr. Hargrove
Mr. Nelson
Mr. Carlin

August 17, 1970

EXECUTIVE ORDER _____

PREScribing STANDARDS OF CONDUCT
FOR THE POSTAL RATE COMMISSION

WHEREAS, pursuant to the Postal Reorganization Act (Public Law 91-375), the Postal Rate Commission is charged with critical responsibilities in the establishment and adjustment of fair and equitable rates of postage, fees for postal services, and classifications of mail, and

WHEREAS, it is essential to public confidence in the United States Postal Service that fairness and equity be manifest in the determination of postal rates, fees, and classifications, and

WHEREAS, the public interest demands that the activities, procedures, decisions, and recommendations of the Postal Rate Commission be irreproachably impartial and disinterested and unquestionably free from taint or suspicion of favoritism of any kind whatsoever, both in fact and in appearance,

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by Section 301 of Title 3 and Section 7301 of Title 5, of the United States Code, it is hereby ordered as follows:

Part I - Standards of Conduct

Section 101, (a) No Commissioner or employee of the Postal Rate Commission, shall solicit or accept, directly or indirectly, any gift, gratuity, favor, honorarium, travel or hotel accommodation or the like, loan or any other thing of monetary or intrinsic value, from any person,

corporation, group, or other entity, except strictly as provided in subsection (b) of this section.

(b) Subsection (a) of this section does not prohibit --

(1) Compensation as provided by law for the proper discharge of official duties, including salaries, authorized reimbursement by the Government for necessary travel expenses, and the like,

(2) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities or undertakings, such as home mortgage loans,

(3) Acceptance of gifts, food, or refreshment that are obviously motivated by family relationships, such as those normally existing between spouses or parents and children, or by personal relationships that clearly are not derived from or associated with the business or economic interests of the donor,

except to the

(4) Acceptance of payments in discharge of lawful obligations or debts *[but see subsection (c) of this section and section 105].*

(c) The Commission is authorized to issue regulations, coordinated and approved by the Civil Service Commission, governing the conditions and circumstances in which outside employment may be permitted Commission employees, but neither any Commissioner nor any Commission employee whose salary is at a rate in excess of \$12,000 per annum may engage in private practice or other outside employment of any kind other than teaching, lecturing or writing as provided in section 103, and no Commission employee, regardless of salary, may be permitted to engage in outside

employment with any person, corporation, group, or other entity whose business is substantially dependent on or affected by the mails or postal rates, fees, or classifications.

(d) The Commissioners and employees of the Commission shall avoid any action, whether or not specifically prohibited by subsections (a) or (c) or permitted by subsection (b), which might result in or create the appearance of --

- (1) using public office for private gain,
- (2) giving preferential treatment to any organization or person,
- (3) impeding Commission efficiency or economy,
- (4) losing complete independence or impartiality of action,
- (5) making a decision outside official channels, or
- (6) affecting adversely the confidence of the public in the integrity

of the Commission.

Section 102(a) The Commissioners and the Commission's employees shall not participate in any hearing, discussion, or communication with any person, corporation, or other entity in connection with matters that are pending before the Commission, without affording an opportunity to every other interested party to observe or otherwise participate in such hearing or discussion, or to have full knowledge of such communication.

(b) The Commissioners and the Commission's employees, whether in an official or an unofficial capacity, shall avoid, insofar as is

...ticable, any discussion or communication, whether oral or written, by ~~any~~ person who may be expected to be a party or to represent a party before the Commission, in connection with matters that are not pending before the Commission but that are or may come within the Commission's cognizance.

(c) A full written report shall be made by the Commissioner or employee affected of any hearing, discussion or communication had or attempted to be had by any person contrary to subsection (a) of this section or of any discussion or communication of the type described in subsection (b) attempted to be had by a person therein described. The report shall be filed with the Commission, and in the case of reports filed by Commissioners, with the Chairman of the Civil Service Commission as well, and shall become public records.

Section 103 The Commissioners and Commission employees are not prohibited from teaching, lecturing, or writing, provided such activity does not create or tend toward a conflict or appearance of conflict of interest, and provided that any such teaching or lecturing is performed under the auspices of an accredited educational institution. If the subject matter of the teaching, lecturing or writing is based in whole or in part on information obtained as a result of employment with the Commission, any remuneration, honorarium or other consideration received therefor, shall be paid into the Treasury of the United States. If the subject matter is not based on such information, the remuneration, honorarium or other consideration may be retained by the individual.

Section 104(a) Each Commissioner shall, [prior to the date of his appointment as Commissioner,] submit to the Chairman of the Civil Service Commission and to the other four Commissions, a statement disclosing the following:

(1) The names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions or entities --

(A) with which he is connected as an employee, officer, owner, director, trustee, partner, adviser, or consultant, or

(B) in which he has any continuing financial interest, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association, including the dollar amount or value thereof and the date the interest was acquired and the duration thereof, or

(C) in which he has any financial interest through the ownership of stocks, bonds or other securities or otherwise, including the number of shares of stock, dollar value, term and maturity dates of bonds or other securities, dates and means of acquisition of such financial interests, and monetary value of any and all such ownership interests.

(2) The names of his creditors, including the amount of the debts, terms of the loan agreements and the reason for incurring the debts, regardless of whether the debt was incurred for business or personal needs.

(3) His interests in real property or rights in lands, including property which he occupies as a personal residence, and including the fair market value thereof, acquisition cost, if any, the amount and terms of any mortgages, the date and means of acquisition.

(4) Other sources of income, whether or not income is actually received therefrom, including but not limited to, patents and copyrights, government securities, savings accounts, insurance and annuities, contracts, private trusts, and the like, stating as to each, its nature and value, his interest and the interest of others in it, and such other information as may be needed for a fair understanding of his relation to it.

(b) The interest of a spouse, minor child, or other member of the Commissioners' or other employees' household, living under the same roof, whether or not related by blood, shall be considered to be an interest of the person required to make a disclosure under this section 104.

(c) Each Commissioner shall resign from any position that he may hold in any of the entities disclosed pursuant to (a)(1)(A) of this section, or relinquish any contract he may have with any such entity prior to appointment, except that for good cause, the Chairman of the Civil Service Commission may authorize the effective date of such resignation or divestment of contract to be delayed for no more than 30 days following the date of appointment. Further, each Commissioner shall divest himself within such time as prescribed by the Chairman of the Civil Service Commission

of all financial interests, in any entity whose interests may be significantly affected by postal rates, fees, or classification, other than vested interests under a pension or retirement plan disclosed pursuant to subsection (a) above, but no later than 90 days subsequent to the date of his appointment.

(d) The Commission shall issue regulations, coordinated and approved by the Civil Service Commission, governing requirements for disclosure and divestiture of financial interests by Commission employees. Such regulations shall be consistent with subsection (a) through (c) of this section 104.

(e) The disclosures to be made by the Commissioners and Commission employees shall be kept up to date by submission of subsequent statements of disclosures setting forth all changes in or additions to the original disclosures, as amended from time to time. In addition to the information required to be disclosed by subsection (a) hereof, each Commissioner and Commission employee shall include in the statements required to be submitted by this subsection (e):

(1) a statement of all income received by him from whatever source during the reporting period, and by every member of the person's household as described in subsection (b), except that income of persons other than the one reporting amounting to not over \$100 for the reporting period need not be disclosed, and

(2) a statement of any extraordinary receipts or expenditures of any kind during the reporting period by the person reporting or a member of his household as described in subsection (b). The up-dating

shall be at such intervals as may be directed by the Chairman of the Civil Service Commission in respect to the Commissioners; in respect to Commission employees, they shall be at such intervals as may be required by the regulations issued by the Commission pursuant to subsection (d), but no less than twice each year.

(f) The Chairman of the Civil Service Commission shall prescribe the form of the disclosure statements to be used by the Commissioners. The Commission shall prescribe the form of the disclosure statements to be used by the Commission employees.

(g) Nothing in this Executive Order shall preclude the Commission, or the Chairman of the Civil Service Commission in case of a Commissioner, from requiring such additional information from an individual as may be deemed necessary to complete the process of disclosure established by this section.

Section 105 Neither any commissioner nor any Commission employee may have direct or indirect financial interests that conflict or appear to conflict with his responsibilities and duties or those of the Commission or engage in, either directly or indirectly, any financial transaction as a result of, or relying upon, information obtained through his employment.

Section 106 (a) The Commissioners and Commission employees shall not use Federal property of any kind for other than official Commission activities.

(b) The Commissioners and Commission employees shall not directly or indirectly use or permit others to use official information not made available to the general public for any reason whatsoever.

6 on other than official purposes
1

Section 107 The Commissioners and Commission employees are prohibited from engaging in any partisan political activities proscribed by Subchapter III of Chapter 73 of Title 5 United States Code or other related laws.

Section 108 (a) The Commissioners shall immediately report to the Chairman of the Civil Service Commission or to the Attorney General of the United States, any offer of a bribe, use of undue influence or coercion to have them act or not to act as may be required to fulfill their responsibilities. Likewise, such report is to be made in respect to the violation of any other law, this Executive Order or implementing regulations thereof, of which they may jointly or severally become aware.

(b) The provisions of subsection (a) of this section are also applicable to Commission employees, except that they will report such matters to the Commissioners.

Part II - General Provisions

Section 201 The Civil Service Commission is authorized and directed to review the Postal Rate Commission's regulations issued under this Executive Order from time to time for conformance with this Executive Order, and to recommend to the President from time to time such revisions in this Executive Order as may appear necessary to ensure the main-

tenance of the very highest standards of conduct for the Rate Commission and its employees.

Section 202 The Postal Rate Commission is hereby directed to supplement the standards provided by law and by this Executive Order with regulations of special applicability to the particular functions and activities of the Postal Rate Commission. The Postal Rate Commission is also directed to assure:

- (1) the widest possible distribution of regulation issued pursuant to this section, and
- (2) the availability of counseling for those employees who request advice or interpretation.

Section 203 Any Commissioner or other Commission employee who violates any provision of this Executive Order or any applicable law or implementing regulation issued by the Postal Rate Commission shall be subject to immediate dismissal and to other appropriate civil and criminal sanctions

The White House

Dep GC _____
Other _____

DAN:rg

7/28/70

Conflict of Interest Considerations in Appointment of
Members of the Board of Governors of the Postal Service

Holman Head
Executive Assistant to the
Postmaster General

This is in response to your request for information on the conflict of interest considerations that should be borne in mind in the selection of the Presidentially appointed members of the governing body of the new Postal Service that will be established under H. R. 17070, as the legislation is being drafted by the conference committee.

Unlike such organizations as the Communications Satellite Corporation (Comsat) and the newly^{re}organized Federal National Mortgage Association, the Postal Service will be an integral part of the United States Government and not a private corporation. The members of the governing body of the Postal Service will, therefore, be subject to the criminal conflict of interest statutes codified in Chapter 11 of Title 18 of the United States Code, and - unless exempted by a new executive order issued by the President - will be subject to Executive Order No. 11222, prescribing standards of ethical conduct for government officers and employees and establishing a system for reporting relevant financial interests and outside employment. The pertinent statutory provisions, the Executive Order, and the related regulations promulgated by the Civil Service Commission are set forth in P. O. D. Publication No. 74, a copy of which is attached.

Aside from 18 U. S. C. 440, which prohibits a person employed in the Postal Service from becoming interested in any contract for carrying the mail or from acting as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Postal Service, the two statutory provisions that probably have the greatest significance as far as the present inquiry is concerned are 18 U. S. C. 205 and 18 U. S. C. 208.

The latter statute makes it a criminal offense for any full time or part time officer of an independent agency of the United States to participate

personally and substantially, as a government employee, in any "particular matter" in which he, his spouse or minor child, or any organization in which he is serving as officer, director, trustee, partner or employee, has a financial interest. The statute goes on to permit such participation, however, if the individual concerned first advises the government official responsible for his appointment (i. e., the President in our situation) of the nature of the particular matter; makes full disclosure of the financial interest; and receives, in advance, a written determination by the President that the interest is not so substantial as to be likely to affect the integrity of the services which the government may expect the individual to provide. The statute also provides that the prohibition shall not apply if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the reporting requirement as being too remote or too inconsequential to affect the integrity of government employees' services.

18 U. S. C. 205 makes it a criminal offense for a government employee, except in the discharge of his official duties, to act as agent or attorney for prosecuting any claim against the United States, or to act as agent or attorney before any department, agency, or court in connection with any proceeding, application, request for ruling, contract, claim, controversy, etc., in which the United States is a party or has a direct and substantial interest. The restrictions imposed by this statute are less stringent in the case of a "special government employee." (As defined in 18 U. S. C. 202, a special government employee includes officers of independent agencies who are "employed to perform, with or without compensation, for not to exceed one hundred thirty days during any period of 365 consecutive days, temporary duties either on a full-time or interim basis") A special government employee is subject to the prohibitions of §205 only in relation to a particular matter involving a specific party or parties in which he has participated personally and substantially as a government employee, or which is pending in the agency in which he is serving. This limitation is one that can be particularly important for lawyers who serve as special Government employees.

Attached as a matter of possible interest is a copy of a 1963 memorandum of the Attorney General outlining the provisions of Public Law 87-849, which recodified the conflict of interest sections of title 18 and added the "special government employee" category.

It is my understanding that the Postal Reorganization law on which the Conference Committee is currently working would establish the compensation of the Presidentially appointed Governors at \$10,000 a year, plus \$300 a day for not more than 30 days of meetings a year (or 60 days a year during the first two years.) The conference bill expressly provides that the limitation on per diem pay shall not be construed to limit the number of days of meetings per year, and it would therefore be straining the language of the bill to read it as making the Governors "special government employees." The bill does expressly provide, however, that "the Governors may hold any other office or employment not inconsistent or in conflict with their duties, responsibilities, and powers as officers of the Government of the United States in the Postal Service," and the legislative history makes it abundantly clear that the Presidentially appointed members are not expected to be full time employees. Under these circumstances it would seem appropriate to specify in the legislation that the Governors shall be deemed to be "special Government employees." We have suggested such an amendment to a member of the committee staff, who will attempt to see that the change is made.

H. R. 17070 will provide that no officer or employee of the United States may serve concurrently as a Governor. It will also state that "The Governors shall be chosen to represent the public interest generally, and shall not be representatives of specific interests using the Postal Service" Assuming that the Governors will be special Government employees, the latter provision should be read in conjunction with Part III of Executive Order 11222, which provides among other things that a special Government employee "must refrain from any use of his public office which is motivated by, or gives the appearance of being motivated by, the desire for private gain for himself or other persons, including particularly those with whom he has family, business, or financial ties." (To the same effect, see also 5 C.F.R. 735.302.)

Part II of Executive Order 11222, which is applicable to Government employees generally, prohibits such employees from engaging in any outside employment which might result in a conflict, or apparent conflict, between the employee's private interests and his official duties and responsibilities. This part also prohibits employees from having direct or indirect financial interests that conflict substantially, or appears to conflict substantially, with their responsibilities and duties

as Federal employees. (To the same effect, see also 5 C. F. R. 735.203 and 735.204.) While these provisions would not be directly applicable if the Governors were deemed to be Special Government employees, the policy that they embody is obviously one that merits respect and should be given careful consideration in selecting candidates for the Board of Governors.

Turning now to the specific application of the foregoing principles, I believe that the President would be well advised to avoid nominating as Governor any individual who is affiliated with, or has a significant financial interest in, any of the following types of organization:

- major mail users (i. e., those for whom postal rates and fees represent a major operating expense);
- manufacturers of materials the use of which is directly dependent upon the manner in which the Postal Service conducts its business (e. g., manufacturers of envelopes, greeting cards, postage meters, stamp vending machines, etc.);
- companies that transport or may transport mail for the Postal Service (e. g., railroads, trucking concerns, airlines);
- companies that compete or may compete with the Postal Service for the business of transmitting messages or delivering packages, unaddressed circulars and other materials that are outside the postal monopoly;
- concerns that can be expected to solicit contracts with the Postal Service for furnishing equipment, vehicles, uniforms or supplies, or selling, leasing or constructing facilities;
- concerns that can be expected to seek to participate in underwriting securities issued by the Postal Service, or to furnish services in other areas (e. g., market research, architect-engineer, management consultant, etc.); and
- postal employee organizations, or the organizations with which they are affiliated.

The foregoing list is merely illustrative, and is not intended to be exhaustive; the status of each individual candidate will obviously have to be examined separately. Moreover, depending on the individual circumstances, affiliation with an organization of the type listed may not necessarily be fatal if the potential conflict is relatively slight and if the prospective Governor intends to disqualify himself from acting wherever it is indicated that he should do so. In general, however, I believe it would be unwise to select a Governor who is likely to have to disqualify himself from participating to any significant extent in the work of the Board.

Please let me know if we can be of any further help.

David A. Nelson

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Government personnel bear a special responsibility to be fair and impartial in their dealings with those who have business with the government. We cannot tolerate conflicts of interest or favoritism --- or even conduct which gives the appearance that such actions are occurring -- and it is our intention to see that this does not take place in the Federal Government.

I have, therefore, today signed an executive order which codifies, clarifies, and strengthens the standards of ethical conduct for Executive Branch personnel.

The unusually high standards of honesty, integrity, and impartiality of United States government employees are cause for pride on the part of all Americans, -- for unquestionably they are among the highest ever attained by any government -- national or local -- that has ever existed. Although the overwhelming majority of Federal employees experience absolutely no problem in this regard, there are some whose duties on occasion place them in difficult or awkward situations, and thus the order issued today lays down general guidelines and standards of conduct as clearly as possible. In large measure, the special problems faced by Federal employees lie in the area of judgment, propriety and good taste. Obviously, these cannot be legislated or prescribed by order or regulation. I am confident, however, that the executive order will direct the attention of both Federal employees and those who do business with the Federal Government to this sometimes difficult area. In drafting the order, every effort has been made to take into account the rights and privileges of Federal employees and, on the other hand, the right of the public to have confidence in the fairness and integrity of government personnel.

One of the main purposes of the executive order is to encourage individuals faced with questions involving subjective judgment to seek counsel and guidance. Thus, the Chairman of the Civil Service Commission has been instructed to work with each department and agency head to establish within his organization designated individuals who can provide the guidance and interpretation necessary to relate general principles to specific situations.

The order requires all officials appointed by the President and reporting directly to him and certain other federal officials and employees to file statements of their financial interests. It also imposes strict limitations on the acceptance of gifts, entertainment, and favors by Executive Branch personnel.

The order assigns central responsibility to the Civil Service Commission for issuing government-wide regulations implementing the order and for reviewing supplementary agency regulations covering their special situations. This should insure consistency and individual agency flexibility.

The order emphasizes the strong intention of the Administration that the affairs of government be conducted openly, honorably, honestly and impartially.

PART I states the general government policy regarding the ethical conduct expected of all officials and employees.

PART II sets forth standards governing the conduct of Executive Branch personnel with specific attention given to the acceptance of gifts, entertainment and favors; outside employment, teaching, and writing; and the use of government information for private personal gain.

MORE

PART III provides standards of conduct for temporary part-time or intermittent advisers and consultants to the government.

PART IV spells out the requirement that top officials file statements listing their outside financial interests.

The remaining parts of the order are concerned with certain delegations of authority to the Civil Service Commission and to agency heads under the conflicts-of-interest or other laws and under the order.

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

#11222

**PRESCRIBING STANDARDS OF ETHICAL CONDUCT
FOR GOVERNMENT OFFICERS AND EMPLOYEES**

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Part I - Policy

Sec. 101. Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

Part II - Standards of Conduct

Sec. 201. (a) Except in accordance with regulations issued pursuant to subsection (b) of this section, no employee shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from any person, corporation, or group which --

- (1) has, or is seeking to obtain, contractual or other business or financial relationships with his agency;
- (2) conducts operations or activities which are regulated by his agency; or
- (3) has interests which may be substantially affected by the performance or nonperformance of his official duty.

(b) Agency heads are authorized to issue regulations, coordinated and approved by the Civil Service Commission, implementing the provisions of subsection (a) of this section and to provide for such exceptions therein as may be necessary and appropriate in view of the nature of their agency's work and the duties and responsibilities of their employees. For example, it may be appropriate to provide exceptions (1) governing obvious family or personal relationships where the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors -- the clearest illustration being the parents, children or spouses of federal employees; (2) permitting acceptance of food and refreshments available in the ordinary course of a luncheon or dinner or other meeting or on inspection tours where an employee may properly be in attendance; or (3) permitting acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans. This section shall be effective upon issuance of such regulations.

more

(OVER)

(c) It is the intent of this section that employees avoid any action, whether or not specifically prohibited by subsection (a), which might result in, or create the appearance of --

- (1) using public office for private gain;
- (2) giving preferential treatment to any organization or person;
- (3) impeding government efficiency or economy;
- (4) losing complete independence or impartiality of action;
- (5) making a government decision outside official channels; or
- (6) affecting adversely the confidence of the public in the integrity of the Government.

Sec. 202. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities, although such teaching, lecturing, and writing by employees are generally to be encouraged so long as the laws, the provisions of this order, and Civil Service Commission and agency regulations covering conflict of interest and outside employment are observed.

Sec. 203. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Federal employees, or (b) engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizens. Agencies may, however, further restrict such transactions in the light of the special circumstances of their individual missions.

Sec. 204. An employee shall not use Federal property of any kind for other than officially approved activities. He must protect and conserve all Federal property, including equipment and supplies, entrusted or issued to him.

Sec. 205. An employee shall not directly or indirectly make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

Sec. 206. An employee is expected to meet all just financial obligations, especially those -- such as Federal, State, or local taxes -- which are imposed by law.

Part III - Standards of Ethical Conduct for Special Government Employees

Sec. 301. This part applies to all "special Government employees" as defined in Section 202 of Title 18 of the United States Code, who are employed in the Executive Branch.

more

Sec. 302. A consultant, adviser or other special Government employee must refrain from any use of his public office which is motivated by, or gives the appearance of being motivated by, the desire for private gain for himself or other persons, including particularly those with whom he has family, business, or financial ties.

Sec. 303. A consultant, adviser, or other special Government employee shall not use any inside information obtained as a result of his government service for private personal gain, either by direct action on his part or by counsel, recommendations or suggestions to others, including particularly those with whom he has family, business, or financial ties.

Sec. 304. An adviser, consultant, or other special Government employee shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business, or financial ties.

Sec. 305. An adviser, consultant, or other special Government employee shall not receive or solicit from persons having business with his agency anything of value as a gift, gratuity, loan or favor for himself or persons with whom he has family, business, or financial ties while employed by the government or in connection with his work with the government.

Sec. 306. Each agency shall, at the time of employment of a consultant, adviser, or other special Government employee require him to supply it with a statement of all other employment. The statement shall list the names of all the corporations, companies, firms, State or local government organizations, research organizations and educational or other institutions in which he is serving as employee, officer, member, owner, director, trustee, adviser, or consultant. In addition, it shall list such other financial information as the appointing department or agency shall decide is relevant in the light of the duties the appointee is to perform. The appointee may, but need not, be required to reveal precise amounts of investments. The statement shall be kept current throughout the period during which the employee is on the Government rolls.

Part IV - Reporting of Financial Interests

Sec. 401. (a) Not later than ninety days after the date of this order, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and each full time member of a committee, board, or commission appointed by the President, shall submit to the Chairman of the Civil Service Commission a statement containing the following:

- (1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions --

more

(OVER)

(A) with which he is connected as an employee, officer, owner, director, trustee, partner, adviser, or consultant; or

(B) in which he has any continuing financial interests, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association; or

(C) in which he has any financial interest through the ownership of stocks, bonds, or other securities.

(2) A list of the names of his creditors, other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses.

(3) A list of his interests in real property or rights in lands, other than property which he occupies as a personal residence.

(b) Each person who enters upon duty after the date of this order in an office or position as to which a statement is required by this section shall submit such statement not later than thirty days after the date of his entrance on duty.

(c) Each statement required by this section shall be kept up to date by submission of amended statements of any changes in, or additions to, the information required to be included in the original statement, on a quarterly basis.

Sec. 402. The Civil Service Commission shall prescribe regulations, not inconsistent with this part, to require the submission of statements of financial interests by such employees, subordinate to the heads of agencies, as the Commission may designate. The Commission shall prescribe the form and content of such statements and the time or times and places for such submission.

Sec. 403. (a) The interest of a spouse, minor child, or other member of his immediate household shall be considered to be an interest of a person required to submit a statement by or pursuant to this part.

(b) In the event any information required to be included in a statement required by or pursuant to this part is not known to the person required to submit such statement but is known to other persons, the person concerned shall request such other persons to submit the required information on his behalf.

(c) This part shall not be construed to require the submission of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise.

more

Sec. 404. The Chairman of the Civil Service Commission shall report to the President any information contained in statements required by Section 401 of this part which may indicate a conflict between the financial interests of the official concerned and the performance of his services for the Government. The Commission shall report, or by regulation require reporting, to the head of the agency concerned any information contained in statements submitted pursuant to regulations issued under Section 402 of this part which may indicate a conflict between the financial interests of the officer or employee concerned and the performance of his services for the Government.

Sec. 405. The statements and amended statements required by or pursuant to this part shall be held in confidence, and no information as to the contents thereof shall be disclosed except as the Chairman of the Civil Service Commission or the head of the agency concerned may determine for good cause shown.

Sec. 406. The statements and amended statements required by or pursuant to this part shall be in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, regulation, or order. The submission of a statement or amended statements required by or pursuant to this part shall not be deemed to permit any person to participate in any matter in which his participation is prohibited by law, regulation, or order.

Part V - Delegating Authority of the President Under Sections 205 and 208 of Title 18 of the United States Code Relating to Conflicts of Interest

Sec. 501. As used in this part, "department" means an executive department, "agency" means an independent agency or establishment or a Government corporation, and "head of an agency" means, in the case of an agency headed by more than one person, the chairman or comparable member of such agency.

Sec. 502. There is delegated, in accordance with and to the extent prescribed in Sections 503 and 504 of this part, the authority of the President under Sections 205 and 208 (b) of Title 18, United States Code, to permit certain actions by an officer or employee of the Government, including a special Government employee, for appointment to whose position the President is responsible.

Sec. 503. Insofar as the authority of the President referred to in Section 502 extends to any appointee of the President subordinate to or subject to the chairmanship of the head of a department or agency, it is delegated to such department or agency head.

more

Sec. 504. Insofar as the authority of the President referred to in Section 502 extends to an appointee of the President who is within or attached to a department or agency for purposes of administration, it is delegated to the head of such department or agency.

Sec. 505. Notwithstanding any provision of the preceding sections of this part to the contrary, this part does not include a delegation of the authority of the President referred to in Section 502 insofar as it extends to:

- (a) The head of any department or agency in the Executive Branch;
- (b) Presidential appointees in the Executive Office of the President who are not subordinate to the head of an agency in that Office; and
- (c) Presidential appointees to committees, boards, commissions, or similar groups established by the President.

Part VI - Providing for the Performance by the
Civil Service Commission of Certain
Authority Vested in the President by
Section 1753 of the Revised Statutes

Sec. 601. The Civil Service Commission is designated and empowered to perform, without the approval, ratification, or other action of the President, so much of the authority vested in the President by Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) as relates to establishing regulations for the conduct of persons in the civil service.

Sec. 602. Regulations issued under the authority of Section 601 shall be consistent with the standards of ethical conduct provided elsewhere in this order.

Part VII - General Provisions

Sec. 701. The Civil Service Commission is authorized and directed, in addition to responsibilities assigned elsewhere in this order:

- (a) To issue appropriate regulations and instructions implementing Parts II, III, and IV of this order;
- (b) To review agency regulations from time to time for conformance with this order; and
- (c) To recommend to the President from time to time such revisions in this order as may appear necessary to ensure the maintenance of high ethical standards within the Executive Branch.

Sec. 702. Each agency head is hereby directed to supplement the standards provided by law, by this order, and by regulations of the Civil Service Commission with regulations of special applicability to the particular functions and activities of his agency. Each agency head is also directed to assure (1) the widest possible distribution of regulations issued pursuant to this section, and (2) the availability of counseling for those employees who request advice or interpretation.

more

Sec. 703. The following are hereby revoked:

(a) Executive Order No. 10939 of May 5, 1961.

(b) Executive Order No. 11125 of October 29, 1963.

(c) Section 2(a) of Executive Order No. 10530 of May 10, 1954.

(d) White House memorandum of July 20, 1961, on "Standards of Conduct for Civilian Employees."

(e) The President's Memorandum of May 2, 1963, "Preventing Conflicts of Interest on the Part of Special Government Employees." The effective date of this revocation shall be the date of issuance by the Civil Service Commission of regulations under Section 701(a) of this order.

Sec. 704. All actions heretofore taken by the President or by his delegates in respect of the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved by the President or by his delegates in respect of such matters, shall, except as they may be inconsistent with the provisions of this order or terminate by operation of law, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

Sec. 705. As used in this order, and except as otherwise specifically provided herein, the term "agency" means any executive department, or any independent agency or any Government corporation; and the term "employee" means any officer or employee of an agency.

LYNDON B. JOHNSON

THE WHITE HOUSE,

May 8, 1965.

#####