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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

Withdrawer

File Folder

CHRON FILE (04/07/1983 - 04/12/1983)

IGP 8/30/2005

FOIA

F05-139/01

Box Number

COOK

10IGP

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
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Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

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E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE
WASHINGTON

April 7, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS.

SUBJECT: Request of Holy Family

A. Morgan Hickenlooper has written the Photo Office, seeking an autographed photograph of the President to be auctioned off to raise funds for Holy Family School in Independence, Missouri. Mr. Hickenlooper plans to include the photograph in an album with signed photographs of Presidents Nixon, Ford, and Carter, which he is seeking concurrently. It is my understanding that we generally do not approve such requests, and I have accordingly drafted a letter for your signature, turning down the Holy Family.

THE WHITE HOUSE

WASHINGTON

April 7, 1983

Dear Mr. Hickenlooper:

This is written in response to your letter of March 31, 1983, to Mrs. Montieth of the White House Photography Office. In that letter you requested an autographed photograph of the President, to be auctioned off to raise funds for Holy Family School in Independence, Missouri.

Please be advised that in response to the large number of requests, and out of concern for the Office of the Presidency, we have found it necessary to adopt a policy of not approving the use of autographed photographs of the President in connection with private fundraising activities. It is particularly difficult to adhere to this policy when the request is made on behalf of such a good cause, but I trust you will understand why we must do so.

I am sorry that our response could not be more positive. Best of luck with the auction.

Sincerely

Fred F. Fielding
Counsel to the President

A. Morgan Hickenlooper, Esq.
2546 Holmes
Kansas City, Missouri 64108

FFF/JGR:sts
FFFfielding
JGRoberts
Subj.
Chron.

THE WHITE HOUSE

WASHINGTON

April 7, 1983

APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD

DATE OF INTERVIEW: Numerous telephone conversations during
March

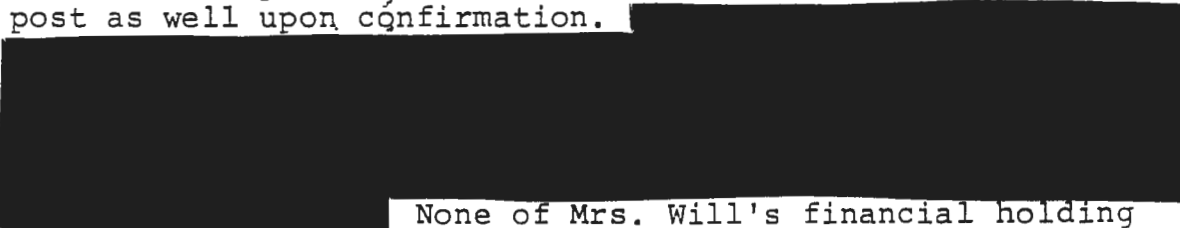
CANDIDATE: Madeleine C. Will

POSITION: Assistant Secretary for Special
Education, Department of Education

INTERVIEWER: John G. Roberts

COMMENTS:

Madeleine C. Will is to be nominated for the position of Assistant Secretary for Special Education and Rehabilitative Services, pursuant to 20 U.S.C. § 3412 (b) (1) (D). Mrs. Will plays an active role in four groups concerned about mentally retarded and handicapped individuals. She will resign her positions with these groups upon confirmation. Mrs. Will is also a paid employee - Secretary/Treasurer - of GFW, Inc., the corporation through which her spouse, George Will, conducts his professional activities. She will resign that post as well upon confirmation.



None of Mrs. Will's financial holding present an apparent conflict of interest with respect to the discharge of her contemplated duties.

JOHN L. L. L.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 8, 1983

FOR: FRED F. FIELDING
FROM: JOHN G. ROBERTS *gjr*
SUBJECT: FOIA Request of Deborah Hoey

Deborah Hoey, staff attorney for the Food Law Project of Community Action for Legal Services, Inc., has submitted an FOIA request to the Executive Office of the President. She has demanded any report or document used as the basis for the President's reference in his State of the Union Address to "over a billion dollars of fraud known to exist in the food stamp program." I have prepared our standard reply, advising Hoey that some offices within the Executive Office of the President are subject to the FOIA and some are not, and that she should focus her request.

At the same time, however, the Speechwriters' Office directed me to the source of the reference, which was to "almost [\$] 1.1 billion in overpayments" -- not necessarily all from fraud. The source is a GAO Report, with the \$1.1 billion figure for FY 1981. Although we are under no FOIA obligation to send this to Hoey, I recommend doing so as a "courtesy." Providing the Food Law Project with the basis for the President's statement may help foreclose a critical statement or report. My draft letter clearly indicates that we are not providing the report pursuant to the FOIA.

THE WHITE HOUSE

WASHINGTON

April 8, 1983

Dear Ms. Hoey:

Thank you for your letter of February 24, 1983, addressed to "The Executive Office of the President." In that letter you made a request under the Freedom of Information Act for documents relating to what you described as the President's reference in his State of the Union Address to "over a billion dollars of fraud known to exist in the food stamp program."

Please be advised that the "Executive Office of the President" is a designation used to describe a group of separate offices or units which, in a number of respects, function independently of each other. Some of the offices or units within the Executive Office of the President are "agencies" within the meaning of the Freedom of Information Act, but others, particularly the White House Office, "whose sole function is to advise and assist the President," are not. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). Accordingly, if you are interested in filing a Freedom of Information Act request, I recommend that you contact directly those offices within the Executive Office of the President which are subject to the Act.

As a courtesy, however, and not in response to your Freedom of Information Act request, I am transmitting a copy of a recent Report to the Congress from the Comptroller General. You will notice that the report indicates that during the latest year for which information is available there were \$1.1 billion in overpayments in the food stamp program. The President referred to such overpayments in his address.

Sincerely,

Fred F. Fielding
Counsel to the President

Ms. Deborah Hoey
Staff Attorney
The Food Law Project
Community Action for Legal Services, Inc.
335 Broadway
New York, New York 10013-9990

gon unow

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 8, 1983

FOR: DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Appointment of Clement V. Tillion
to be U.S. Commissioner on the
North Pacific Fur Seal Commission

Clement V. Tillion is to be appointed U.S. Commissioner on the North Pacific Fur Seal Commission, an entity established by Article V of the Convention on Conservation of North Pacific Fur Seals signed on behalf of the United States, Canada, Japan, and the USSR. The authority to appoint a Commissioner is found at § 106 of Public Law 89-702, 80 stat. 1092. The Commissioner receives no compensation. Mr. Tillion owns land and a boat service in Alaska; he has extensive experience in fisheries issues and has been involved with the North Pacific Fur Seal Commission in the past. I have reviewed his PDS and see no objection to his prospective appointment.

JGR Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 8, 1983

FOR: FRED F. FIELDING
FROM: JOHN G. ROBERTS~~✓~~
SUBJECT: Draft Presidential Remarks for
Holocaust Remembrance Gathering

Richard Darman has requested that comments on the above-referenced draft remarks, to be delivered Monday, April 11, be sent directly to Aram Bakshian by 4:30 today. I have reviewed the remarks, which are quite inspirational, and see no legal objection. To let everyone know we do review these things with care, I have identified three minor errors and pointed them out in the draft memorandum to Bakshian.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 8, 1983

FOR: ARAM BAKSHIAN
DEPUTY ASSISTANT TO THE PRESIDENT
AND DIRECTOR OF SPEECHWRITING

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Remarks for
Holocaust Remembrance Gathering

Counsel's Office has reviewed the above-referenced draft remarks, and finds no objection to them from a legal perspective. We would point out three minor errors:

1. The name of the President of the gathering is rendered "Meed" on page 1 but "Meade" on page 5.
2. "insuring" on page 4 should be "ensuring."
3. "Raul Wallenberg" on pages 6 and 7 should be "Raoul Wallenberg."

THE WHITE HOUSE
WASHINGTON

April 7, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: James Coyne Campaign Debt

Attached is the memorandum we discussed this morning. Once a decision is made to change Coyne's employment status, we will need to send him an appropriately revised memorandum with guidance on conflicts, which I have ready and waiting.

THE WHITE HOUSE

WASHINGTON

April 7, 1983

MEMORANDUM FOR JAMES A. BAKER, III
MICHAEL K. DEEVER

FROM: FRED F. FIELDING Orig. signed by FFF

SUBJECT: Retirement of James Coyne Campaign Debt

James Coyne has advised my office that he would like to hold a fundraiser to help retire the outstanding campaign debt owed to him by his campaign committee. We are prepared to give him appropriate guidance concerning conflict of interest and other matters in connection with such activity. Coyne is, however, presently paid as an SES employee of the Department of Commerce and accordingly is subject to the restrictions of the Hatch Act, 5 U.S.C. § 7324. That Act, and implementing regulations, 5 C.F.R. § 733.122(b), prohibit political fundraising activities on the part of covered federal employees. While Coyne's situation is unusual in that the contemplated fundraising is to retire a debt from a past campaign, neither the Act nor the regulations draw a temporal distinction, and I cannot confidently advise that Coyne would not run afoul of the Hatch Act's prohibitions.

The pertinent provisions of the Hatch Act do not apply to "an employee paid from the appropriation for the office of the President." 5 U.S.C. § 7324(d)(1). Accordingly, if Coyne were so paid, he could hold a fundraiser, subject to our standard advice on conflict of interest and related matters. To ensure that we encounter no Hatch Act problems, I recommend that Coyne's employment status be adjusted, if possible, so that he is "paid from the appropriation for the office of the President," at least until his fundraising activity is completed.

cc: John F.W. Rogers

FFF/JGR:sts FFFielding JGRoberts Subj. Chron.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 8, 1983

FOR: DIANNA G. HOLLAND
FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Presidential Appointments

There follow answers to the questions raised in your memorandum of April 7 on the above-referenced topic:

1. No; forms sent 3/30.
2. Mesdames Burns, Monks, and Montgomery have submitted their PDS forms. I have a call in to Presidential Personnel to ensure that statutorily-mandated procedures with respect to appointments to the JFK Center Advisory Board were followed, see Public Law 85-874 § 2(c). A minor, technical matter; I would hope to have these three done today.
3. No; on 4/1 Mr. Domencich advised us the forms would be sent "next week."
4. Yes; PDS just received on 4/4. I am working on Enns now.
5. Have received 278 but not PDS. I am working with ITC General Counsel and OGE on obtaining necessary opinions on Mr. Lodwick's holdings and, as you might suspect, am in constant communication with Mr. Lodwick himself.
6. No; forms sent 4/5.
7. See # 2.
8. See # 2.
9. PDS received 3/24; awaiting 278.
10. Yes. I was awaiting the PDS from Carmen Blondin for same Commission, but will send Tillion in today, if you wish.

Many thanks.

JGR Ehan

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 11, 1983

FOR: FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Proclamation Designating
May 1, 1983, as "Law Day, U.S.A."

Dodie Livingston has requested comments by noon tomorrow on the draft Law Day proclamation. As might be expected in view of the fact that the proclamation -- originally prepared by the ABA -- was edited in this office, I have neither legal nor stylistic objections to it. OMB has indicated its approval. I have advised Livingston's office that the proclamation must be ready for the signing ceremony Thursday, April 14, at 4:30.

Attachment

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 11, 1983

FOR: DODIE LIVINGSTON
DIRECTOR, SPECIAL PRESIDENTIAL MESSAGES

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Proclamation Designating
May 1, 1983, as "Law Day, U.S.A."

Counsel's Office has reviewed the above-referenced draft proclamation and finds no objection to it from a legal perspective.

S&R Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 11, 1983

FOR: FRED F. FIELDING
FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Holdover Status of Federal Reserve Board Chairman

The attached memorandum has been revised, per your instructions.

Attachment

WASHINGTON

April 11, 1983

MEMORANDUM FOR HELENE VON DAMM

FROM: FRED F. FIELDING

SUBJECT: Holdover Status of Federal
Reserve Board Chairman

INTRODUCTION:

You have inquired of this office concerning the consequences of the expiration of the term of the Chairman of the Federal Reserve Board, and in particular whether the incumbent could hold over as Chairman until qualification of a successor. The pertinent statute provides that the Chairman of the Federal Reserve Board shall serve "for a term of four years." 12 U.S.C. § 242. Paul Volcker's term as Chairman expires August 5, 1983; his term as a member of the Board does not expire until January 31, 1992.

CONCLUSION:

In our opinion and that of the Department of Justice, the Chairman of the Federal Reserve Board cannot hold over; in the event of a vacancy, the President must designate an Acting Chairman. According to case law, such an acting official can only be appointed for a short period and in an "emergency" situation. The combined effect of these authorities is that, upon expiration of Chairman Volcker's term, the President may appoint any member of the Board Acting Chairman (including Volcker), but only if a nomination for Chairman is pending or soon to be submitted.

DISCUSSION:

In an opinion dated January 31, 1978, the Office of Legal Counsel of the Department of Justice considered the status of the Chairmanship of the Federal Reserve Board in the event the President's nominee was not confirmed by the time the incumbent's term expired. That opinion concluded that the statutory holdover provision applicable to members of the Board did not apply to the office of Chairman. The Chairman cannot hold over; his term expires when the statutory period has run. The opinion further concluded that the

Vice Chairman should not assume the responsibilities of the Chairman upon expiration of the Chairman's term. The statute provides that the Vice Chairman shall preside at Board meetings in the "absence" of the Chairman, 12 U.S.C. § 244, but the opinion concluded that the term "absence" referred to a temporary condition, not a vacancy.

The opinion determined that, when a vacancy arises in the office of Chairman while the President's nominee is awaiting Senate confirmation, the President should designate a member of the Board to serve as Acting Chairman. This was in fact done by President Carter on February 2, 1978, when he designated Arthur F. Burns, the previous Chairman, to serve as "Acting Chairman" until designation of a successor. Mr. Burns served as Acting Chairman until March 8, 1978, when G. William Miller was designated Chairman. (The need to have an Acting Chairman was occasioned by the fact that Mr. Miller was not confirmed as a member of the Board until March 3, 1978; at the time the office of Chairman did not require separate Senate confirmation, as it now does.)

The option of designating an Acting Chairman, however, would not seem to be available in the absence of a pending nomination or other circumstance indicating that the designation was only to cover a short-term, emergency situation. There is pertinent case law to the effect that the President cannot appoint "acting" officers in the face of statutes requiring Senate confirmation, in the absence of an emergency situation.

The leading case is Williams v. Phillips, 360 F. Supp. 1363 (D.D.C.), motion for stay pending appeal denied, 482 F. 2d 669 (D.C. Cir. 1973). President Nixon appointed Howard Phillips Acting Director of the Office of Economic Opportunity; the post of Director required Senate confirmation. The district court enjoined Phillips from taking any action as Acting Director of OEO, ruling that "in the absence of . . . legislation [providing for an acting director] or legislation vesting a temporary power of appointment in the President, the constitutional process of nomination and confirmation must be followed." 360 F. Supp., at 1371. The Court of Appeals noted that even if the power existed "to appoint an acting director for a reasonable period of time before submitting the nomination of a new director to the Senate," such a power would not justify the situation before it, in which Phillips had served as Acting Director for four months with no nomination having been submitted to the Senate. 482 F. 2d, at 670-671. The previously cited O.L.C. opinion specifically distinguished the Phillips case on the ground that in Phillips no name had been submitted to the Senate, while in the case considered in that opinion a nomination was pending.

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ROBERTS, JOHN: FILES

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FOIA

F05-139/01

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No of Doc Date Restric-
pages tions

NO Document Description

2 MEMO

1 4/11/1983 B6

442

ROBERTS TO RICHARD HAUSER RE LAURO NERI

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

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E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

JGR mnter

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 11, 1983

FOR: FRED F. FIELDING
FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Correspondence from Ray Minter

Michael Deaver has asked for a response to a note from Ray E. Minter of Grand Prairie, Texas. According to a letter from the President to Minter, Deaver passed along a framed print from Minter to the President earlier this year. Minter has now sent a copy of the note to Deaver, advising him that he is "trying to make a buck, like you guys," and listing his prices for quantity orders for similar artwork to be placed in every Federal building. Minter also enclosed seven postcard-sized western prints, noting "Nancy might like to have these framed..."

I have drafted a brief reply for your signature, advising Minter that the White House is not in a position to consider his business proposal, and returning the postcards. I have also drafted a memorandum to Deaver advising him of this disposition.

Attachments

THE WHITE HOUSE

WASHINGTON

April 11, 1983

Dear Mr. Minter:

Michael Deaver has forwarded your note of March 21 to me for appropriate handling. That note contained a price list for orders to place art work in Federal buildings. Please be advised that no one in the White House is in a position to consider your business proposal.

I am returning to you the seven prints submitted with your price list.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Ray E. Minter
Post Office Box 2794
Grand Prairie, Texas 75051

THE WHITE HOUSE

WASHINGTON

April 11, 1983

MEMORANDUM FOR MICHAEL K. DEEVER
DEPUTY CHIEF OF STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Correspondence from Ray Minter

I attach for your information a copy of my reply to the correspondence you recently received from Ray Minter.

Attachment

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ROBERTS TO FIELDING RE MISUSE OF WHITE
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ROBERTS TO LINDA FAULKNER RE MISUSE OF
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5 LETTER

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FROM FIELDING RE MISUSE OF WHITE HOUSE
STATIONARY

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

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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 12, 1983

FOR: FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Presentation of a Bronze Sculpture to the President

Senator Abdnor has requested an opportunity for one of his constituents to present the bronze sculpture "Safe and Sound," executed by Harry Jackson, to the President. The sculpture is valued at \$8,000 but may be made available by the artist to the donors -- all "Reagan enthusiasts" -- for \$3,500.

Pam Turner has requested our assistance in preparing and processing the paperwork necessary for this sculpture to be a gift to the U.S. Government for the Ronald Reagan Presidential Library.

Attached at Tab A is a letter from you to Abdnor's constituent, Mr. Charles Lien, requesting that he sign the enclosed donation agreement and return it to this office at his earliest convenience. Lien is further advised that following our receipt of the original donation agreement he will be contacted by Senator Abdnor's office concerning arrangements for a presentation of the sculpture.

Attached at Tab B is a memorandum to Pam Turner forwarding the letter to Lien to her for appropriate cover letter and forwarding to Senator Abdnor.

Upon receipt of the signed donation agreement from Lien, I will prepare for your signature (1) a memorandum to Kerry Moody (GSA Liaison) requesting him to have the donation agreement signed by the Archivist and to assist Pam Turner as necessary for the presentation; (2) a memorandum to Pam Turner advising her of the completion of the necessary paperwork and that the presentation may now proceed at any time; and (3) an acknowledgment letter to Lien indicating receipt of the signed donation agreement and advising him again that Senator Abdnor's office will contact him regarding arrangements for a presentation of the sculpture to the President.

Attachments

THE WHITE HOUSE

WASHINGTON

April 12, 1983

Dear Mr. Lien:

On behalf of the President, I would like to thank you very much for your kind offer to present to the President, for eventual deposit in the Ronald Reagan Presidential Library, the bronze sculpture "Safe and Sound," executed by Harry Jackson.

Prior to the presentation, I would appreciate it if you would sign the enclosed donation agreement and return it to my office at your earliest convenience. Following our receipt of the signed donation agreement, you will be contacted by Senator Abdnor's office concerning arrangements for a presentation of the sculpture.

If you have any questions concerning this letter or the enclosed agreement, please do not hesitate to contact me.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Charles Lien
Post Office Box 440
Rapid City, South Dakota 57709

Enclosure

the Archivist, and all of the foregoing provisions of this instrument of gift shall be applicable to such historical materials. A description of the historical materials so donated and delivered shall be prepared and attached hereto.

Charles Lien

Date: _____

Pursuant to the authority of Chapter 21 of Title 44, United States Code, the foregoing gift of historical materials of the Donor is accepted on behalf of the United States of America, subject to the terms, conditions, and restrictions heretofore set forth.

Archivist of the United States

Date: _____

THE WHITE HOUSE

WASHINGTON

April 12, 1983

MEMORANDUM FOR PAMELA J. TURNER
DEPUTY ASSISTANT TO THE PRESIDENT
FOR LEGISLATIVE AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Presentation of the Bronze
Sculpture "Safe and Sound"

Attached is a letter to the constituent of Senator Abdnor, Charles Lien, who would like to present the bronze sculpture "Safe and Sound" to the President. As is the normal procedure we are requesting Lien to sign a donation agreement prior to any presentation of the sculpture. Please forward this correspondence to Senator Abdnor's office for prompt forwarding to Mr. Lien.

Upon receipt of the signed donation agreement we will advise you of the completion of the necessary paperwork so that you may take the appropriate actions to arrange this presentation.