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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name ROBERTS, JOHN: FILES

Withdrawer

IGP 8/4/2005

File Folder CHRON FILE (08/01/1983 - 08/08/1983)

FOIA

F05-139/01

Box Number

COOK

25IGP

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO FIELDING RE FBI UNDERCOVER INVESTIGATION	2	8/1/1983	B6	540
		<i>Released in Mar + 4/21/06</i>				
2	MEMO	FIELDING TO SCHMULTS RE FBI UNDERCOVER INVESTIGATION	1	8/1/1983	B6	541
3	MEMO	ROBERTS TO FIELDING RE ALLEGED CIVIL RIGHTS VIOLATION	1	8/5/1983	B6	542
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8	LETTER	FROM FIELDING RE NORMAN COOLEY	1	8/8/1983	B6	549

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]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

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

E.O. 13233

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

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 1, 1983

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS

SUBJECT: Letter from Eugene H. Methvin to
Ed Meese Concerning Jackie Presser

Immediately prior to your departure en vacances you asked that I prepare a response to the above-referenced letter. In his letter Methvin criticizes the White House for inviting Presser to a State Dinner, and encloses evidence of Presser's alleged involvement with organized crime: a search warrant affidavit alleging Presser embezzled union funds, and several newspaper articles containing similar allegations.

You will recall that Presser was in fact invited to the State Dinner, but declined the invitation. There's not much we can say in response, other than to thank Methvin for his concern and note the importance of maintaining some contact with officials such as Presser. In light of Methvin's sincere interest in organized crime, we can also applaud his recent appointment to the Organized Crime Commission.

A draft reply for Meese's signature is attached for your review. It makes no mention of the President's recent speech to the Longshoremen, which also must have riled Methvin.

Attachment

THE WHITE HOUSE

WASHINGTON

August 1, 1983

Dear Gene:

Thank you for the letter concerning the Teamsters Union and its new president, Jackie Presser. In that letter you detailed the allegations concerning Mr. Presser's involvement with organized crime, and questioned the appropriateness of inviting him to a state dinner.

Mr. Presser was in fact invited to a state dinner, but did not attend. The speculations by columnist Lou Cannon concerning the basis for the invitation, quoted in your letter, are Mr. Cannon's own, and I do not think it would serve any purpose for me to comment on them. I am certain you will appreciate that many factors -- including the need to maintain contact with the leadership selected by an important organization -- go into the decisions of whom to invite to White House functions.

We are, however, grateful for the benefit of your views on this matter, and will certainly give them the serious consideration warranted by their source. The depth of your concern about the evil of organized crime is shared by this Administration. In that regard I am delighted that you have agreed to accept the President's call and serve on his Commission on Organized Crime. As the President said in announcing the Commission, its purpose is "to do all in our power to break apart and cripple the organized criminal syndicates that for too long have been tolerated in America," and I know you will make an invaluable contribution to that goal.

Thank you again for your letter, your concern about the serious problem of organized crime, and above all your willingness to help us do something about it.

-2-

With best wishes,

Sincerely,

Edwin Meese III
Counsellor to the President

Mr. Eugene H. Methvin
Senior Editor
Reader's Digest
1730 Rhode Island Avenue, NW
Washington, D.C. 20036

THE WHITE HOUSE

WASHINGTON

August 1, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Correspondence from [REDACTED] **BC**
Concerning his Alleged Undercover
Role for FBI

[REDACTED] has written the President to detail his exasperating involvement in an FBI undercover investigation. According to [REDACTED] he became aware of fraud and conspiracy to commit fraud in the course of examining a company he intended to acquire. [REDACTED] contacted a contractor involved in the project, and then the contractor's customer, [REDACTED] called in the FBI, and -- all this according to [REDACTED] -- the FBI recruited [REDACTED] to continue in the guise of acquiring the company in order to help the FBI develop evidence. [REDACTED] has been doing so since January 1983, with the result that he has been financially and professionally ruined. His letter details numerous abuses by the FBI agents handling his case. He has, for example, been sued by the company in question, and the FBI agents have allegedly prevented him from explaining his conduct. **BC**

The fraud [REDACTED] uncovered is apparently now pending before a grand jury in Seattle. What [REDACTED] wants at this point is a loan from the government, to help restore the position he lost when he endeavored to assist the FBI. [REDACTED] notes on page 9 of his letter that he has "recorded all telephone conversations between myself and any member of the FBI or Attorney Generals [sic] office." [REDACTED] states that the recorded conversations will substantiate his allegations concerning the FBI agents who used him in an undercover capacity. **BC**

At this stage we have only [REDACTED] side of the story, but his allegations cannot be dismissed out of hand. While I do not know of any way to provide [REDACTED] with the financial assistance he has requested, his account of his experiences as an amateur undercover agent for the FBI raises serious concerns that should be addressed at an **BC**

appropriate level of the Justice Department. The White House should not become directly involved. In light of the sensitivity of the matter, I do not think we should respond directly to [REDACTED] at all; rather we should leave the question of a direct response up to Justice.

136

Attachment

THE WHITE HOUSE

WASHINGTON

August 1, 1983

MEMORANDUM FOR EDWARD C. SCHMULTS
DEPUTY ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Allegations of FBI Abuses in
Connection with Undercover Investigation

I am transmitting herewith a letter to the President from [REDACTED] In his letter [REDACTED] raises serious allegations concerning the conduct of specified FBI agents and other Department of Justice officials during an undercover investigation. According to the letter, the agents enlisted [REDACTED] in an undercover capacity to facilitate the investigation, resulting in [REDACTED] financial ruin. [REDACTED] indicates that he recorded telephone conversations with the agents and other officials, and that these recordings substantiate his allegations. b6

Since [REDACTED] allegations concern the FBI and Department of Justice, I am forwarding his letter for whatever action you deem appropriate. We have not responded to [REDACTED] who has indicated that his problems require prompt attention. b6

Thank you.

Attachment

FFF:JGR:aw 8/1/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

August 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Reverend Michael Esses

On May 25 Reverend Esses of Clovis, New Mexico sent the President a letter that began "Herb Ellingwood had asked me to keep in touch with you" Along with the letter Esses sent a collection of four cassette tapes (audio, not video). On June 2 Betty DeBlase wrote the President that she was writing a book on Esses, and wanted confirmation of Esses' statement (also submitted on tape) that he has been a counselor to President Reagan.

I called Mr. Ellingwood, who advised that he knew Esses but that to his knowledge Esses had never had any direct contact with the President. A search of Central Files revealed no additional correspondence. Our intern, Demmy Economos, reviewed the tapes submitted by Esses, and according to her they simply contain general theological discourse.

Attached is a draft letter to Esses, thanking him for the tapes but advising him that the President cannot listen to them (this may temper Esses' assertions that he has been a counselor to the President). Attached is also a draft letter to DeBlase, noting that the only evidence we have of Esses "counseling" the President is the unsolicited and unheard tapes.

Attachments

THE WHITE HOUSE

WASHINGTON

August 8, 1983

Dear Reverend Esses:

Thank you for your letter of May 25 to the President. Along with that letter you submitted four cassette tape recordings entitled "The Signs of the End Times."

We appreciate your taking the time to share your views with us. I hope you will understand that due to the demands of his schedule the President will not be able to listen to the recordings himself in the foreseeable future.

Sincerely,

Fred F. Fielding
Counsel to the President

Reverend Michael Esses
P.O. Box 1163
Clovis, New Mexico 88101

FFF:JGR:aw 8/8/83

cc: FFFielding/JGRoberts/Subj./Chron

THE WHITE HOUSE

WASHINGTON

August 8, 1983

Dear Mrs. DeBlase:

Thank you for your letter of June 2 to the President. In that letter you noted that you were writing a book on Reverend Michael Esses, and requested verification of his assertion that he had been a counselor to President Reagan.

We have been unable to verify Reverend Esses' assertion. Reverend Esses did send the President a letter dated May 25, 1983, which was received at the White House on June 20. Along with that letter, Reverend Esses submitted four cassette recordings of his teachings. Due to the demands of his schedule, the President has not and will not be able to listen to the tapes himself in the foreseeable future. We have so advised Reverend Esses.

Aside from these unsolicited tapes, we have no record of any contact between the President and Reverend Esses. While the President is grateful to have the benefit of the views of any citizen, it would be inaccurate to refer to Reverend Esses as a counselor to the President solely on the basis of the unsolicited tapes.

Thank you for your concern.

Sincerely,

Fred F. Fielding
Counsel to the President

Mrs. Robert DeBlase
146 South Trevor Avenue
Anaheim, California 92806

FFF:JGR:aw 8/8/83

cc: FFFielding/JGRoberts/Subj./Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Options for Federal Initiative
in the Southwest Border Region

A memorandum revised pursuant to your marginalia is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

August 3, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Options for Federal Initiative
in the Southwest Border Region

Counsel's Office has reviewed the above-referenced options paper, and has no legal objections to consideration of the various questions presented for decision. With respect to the merits, we are not convinced of the wisdom of singling out one area of the country for special treatment. Every region of our diverse country has peculiar economic dependencies, and while the southwest border region is now suffering disproportionately due to peso devaluation, the region appears to have benefitted disproportionately from the strong peso between 1978 and 1981.

We would also note that discussion of the fourth question to be decided contains only a "pro" paragraph -- no "con." The establishment of an Office of Border Assistance does not strike us as so obviously desirable that it is impossible to formulate any arguments against it. For example, in addition to the general objection to special treatment noted above, establishment of an additional federal bureaucratic structure does not seem consistent with our general approach, and may engender expectations in the southwest border region that we will not be in a position to fulfill.

FFF:JGR:aw 8/3/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

August 2, 1983

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS

SUBJECT: Appointment of Don MacGillivray to the
National Highway Safety Advisory Committee

I have reviewed the personal data statement submitted by Don MacGillivray in connection with his prospective appointment to the National Highway Safety Advisory Committee (NHSAC). Pursuant to 23 U.S.C. § 404(a)(1), the President may appoint 35 members of NHSAC. The statute provides that the appointed members "shall be selected from among representatives of various State and local governments, . . . of public and private interests contributing to, affected by, or concerned with highway safety, . . . and of other public and private agencies, organizations, or groups demonstrating an active interest in highway safety, as well as research scientists and other individuals who are expert in this field."

Mr. MacGillivray is a retired general building contractor who also served in state and local government for some 30 years. In light of the fact that he no longer holds office, however, he should not be considered representative of state and local government. Barbara McQuown advised me that during his government service MacGillivray was very active in considering and proposing highway safety measures. He can, therefore, be considered representative of private interests concerned with highway safety, or of groups demonstrating an active interest in highway safety, or an individual expert in the field.

Mr. MacGillivray's financial holdings consist primarily of investment properties, and none of the holdings he has disclosed present any conflict of interest with respect to his prospective service on NHSAC.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Levitas Proposal Concerning Legislative Veto

Ken Duberstein has referred to us a letter from Congressman Levitas to the President, and has so advised Levitas. In his letter Levitas proposes a "Conference on Power Sharing" to determine "the manner of power sharing and accountability within the federal government" in the wake of the Chadha decision. The Conference would be composed of executive branch representatives, Congressional leaders, academics, business and labor representatives, and so on. Levitas suggests that such a Conference would be better than years of uncertainty and wasteful confrontation.

There already has, of course, been a "Conference on Power Sharing" to determine "the manner of power sharing and accountability within the federal government." It took place in Philadelphia's Constitution Hall in 1787, and someone should tell Levitas about it and the "report" it issued. After Chadha the Administration has been proceeding in a very low-key fashion, and thus far Congress has generally avoided any precipitous action. I do not think Levitas can back up his veiled threats broadly to revoke executive or agency power or impose myriad appropriations restrictions if we do not agree to his conference proposal. Those alternatives are simply unworkable. It is not in our interest to convene or participate in a grandiose convocation on power sharing. At the very least we should wait to see if we do face any serious Congressional reaction.

Since the legislative veto problem has been broadly staffed, however, I recommend consulting with Justice before issuing a response. Justice representatives chair both the working group convened immediately after Chadha and the Cabinet Council task force looking at long range responses. A draft memorandum to Schmuts, asking for Justice's views, is attached for your review.

Attachment

THE WHITE HOUSE

WASHINGTON

August 4, 1983

MEMORANDUM FOR EDWARD C. SCHMULTS
DEPUTY ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Levitas Proposal Concerning Legislative Veto

Congressman Levitas has written the President, suggesting that a "Conference on Power Sharing" be convened to assess power sharing and accountability in the wake of the Chadha decision. We would like the views of the Justice Department on this proposal. In light of the importance of the issue, I think we should respond to Levitas promptly.

Thank you.

Attachment

FFF:JGR:aw 8/4/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

August 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Justice Draft Bill --
Immigration Emergency Act

OMB has asked for our views by noon today on the above-referenced proposed bill and an accompanying section-by-section analysis and transmittal letter. The bill was prepared in response to the inadequacies in executive power made apparent during the Mariel boatlift crisis. The bill would authorize the President to declare an immigration emergency if certain criteria were met. Once such an emergency was declared, and for its duration, the President would be empowered to prohibit vessels from traveling to designated areas and carrying specified groups of aliens, as boats from Florida shuttled Marielitoes from Cuba to Key West. The President could also bar certain vessels from U.S. waters, flexibly detain illegal aliens and transport them between detention facilities, and issue exemptions from environmental restrictions for certain facilities used in responding to the emergency. The last power is a response to the decision in Puerto Rico v. Muskie, 507 F. Supp. 1035 (D.P.R. 1981), in which efforts to transfer Marielitoes were blocked by the requirement of an environmental impact statement.

Federal agencies would also be authorized to stop, board, and inspect vessels believed to be subject to the foregoing provisions, without a warrant. The discussion of the constitutionality of this provision at pages 12-13 of the section-by-section analysis omits the leading case, United States v. Villamonte-Marquez, No. 81-1350, decided by the Supreme Court on June 17, 1983. I assume the case is not cited or discussed because the analysis, which accompanied the previous submission of this bill to the 97th Congress, was prepared before the decision was announced. In Villamonte-Marquez the Supreme Court upheld the constitutionality of 19 U.S.C. § 1581(a), cited in the analysis, and ruled that Customs officials could stop, board, and inspect a vessel without any suspicion of criminal activity.

The bill is a broad grant of emergency powers to the executive, but I cannot conclude that it is too broad in light of the Mariel experience. As noted, the bill was previously cleared and submitted to Congress. I have prepared a memorandum to OMB, recommending that discussion or at least citation of Villamonte-Marquez be added to the section-by-section analysis, but noting no other legal objections.

Attachment

THE WHITE HOUSE

WASHINGTON

August 4, 1983

MEMORANDUM FOR BRANDEN BLUM
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Justice Draft Bill --
Immigration Emergency Act

Counsel's Office has reviewed the above-referenced proposed bill and the accompanying transmittal letter and section-by-section analysis. We have no objection to the first two items. There is, however, a serious omission in the discussion of search and seizure law at pages 12-13 of the section-by-section analysis. In discussing the constitutionality of stopping and boarding vessels without a warrant and in the absence of suspicion of criminal activity, no mention is made of United States v. Villamonte-Marquez, No. 81-1350 (U.S. Supreme Court, June 17, 1983).

Villamonte-Marquez sustained such activity under 19 U.S.C. § 1581(a), resolving a conflict among the circuit courts of appeals. As the first definitive Supreme Court decision on the question discussed in the section-by-section analysis, and a highly favorable one at that, Villamonte-Marquez should at least be cited in the analysis, and probably merits more extended discussion. We assume it was omitted because the analysis was originally prepared prior to announcement of the decision.

FFF:JGR:aw 8/4/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

August 4, 1983

MEMORANDUM FOR EDWIN MEESE III
COUNSELLOR TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Correspondence from Eugene Methvin

Attached is a suggested response for your signature to the letter sent to you by Mr. Methvin concerning Jackie Presser.

Attachment

FFF:JGR:aw 8/4/83

cc: FFFielding
JGRoberts
Subj.
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Remarks: Luncheon with Hispanic Leaders

Richard Darman has asked that any comments on the above-referenced proposed remarks be sent directly to Aram Bakshian by noon today. The brief remarks discuss the economy, citing the statistics of the recovery, and move on to Central American policy. They conclude with mention of Hispanics in the Administration. In that connection, the sentence beginning at line 5 on page 4 makes no sense. I assume the "not" should be deleted.

Attachment

THE WHITE HOUSE

WASHINGTON

August 4, 1983

MEMORANDUM FOR ARAM BAKSHIAN, JR.
DEPUTY ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Remarks: Luncheon with Hispanic Leaders

Counsel's Office has reviewed the above-referenced remarks. We assume that the word "not" should be deleted from the sentence beginning at line 5 on page 4.

cc: Richard G. Darman

FFF:JGR:aw 8/3/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

August 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Statement Re: Announcing the
Establishment of the President's
Commission on Industrial Competitiveness

Richard Darman has asked that comments on the above-referenced proposed remarks be sent directly to Aram Bakshian by 10:00 a.m. tomorrow. The remarks review the purpose of the Commission, established by an executive order signed June 28, and stress the dynamic role of technological development in promoting American industrial competitiveness. The remarks are scheduled for tomorrow to accompany announcement of the Commission's members.

Attachment

THE WHITE HOUSE

WASHINGTON

August 3, 1983

MEMORANDUM FOR ARAM BAKSHIAN, JR.
DEPUTY ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement Re: Announcing the
Establishment of the President's
Commission on Industrial Competitiveness

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

cc: Richard G. Darman

FFF:JGR:aw 8/3/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

August 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Statement of Lowell Jensen Re:
Proposed Office of Drug
Enforcement on August 4, 1983

Lowell Jensen proposes to deliver the attached statement before the Subcommittee on Crime of the House Judiciary Committee tomorrow. The proposed testimony reviews Administration objections to the various pending "drug czar" proposals. The testimony begins by discussing current efforts to improve coordination of the anti-drug effort, including the law enforcement coordinating committees, the cabinet council, and the task forces. It then criticizes the "drug czar" approach as a deviation from historic cabinet government, duplicative of existing coordination mechanisms, and ill-suited to the need to distribute resources among drug enforcement and other, unrelated areas. The testimony concludes by urging Congress to give the Administration coordination initiatives time to work.

I see no objections, and, in light of the short turn-around, will so advise Greg Jones orally if you concur.

Attachment

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Use of White House Stationery
for Mailing to Student Groups

Jonathon Vipond has sent us a copy of a draft letter from White House Fellow Adis Vila to student organizations, concerning Central American policy. Vila proposes to send the letter, along with recent editions of the White House Digest, to Young Americans Freedom, the American Student Association, and The Young Republicans. Vipond seeks our guidance on the use of White House Stationery and the content of the letter.

I see no objection to using official stationery for letters to non-partisan organizations. The second paragraph of the draft letter should, however, be deleted, since it goes beyond providing information or explaining Administration policy and basically urges partisan political activity.

I also have no objection to sending copies of the White House Digest to non-partisan groups. Vila advises that the Digest is prepared for dissemination beyond the White House and is intended to be used as an outreach vehicle.

Official stationery should not be used for letters to political organizations such as The Young Republicans. For that matter, I do not think White House Fellows should send letters to such groups. You are in a better position than I to judge, but I do not think a purpose of the fellows program is to enlist the fellows in partisan politicking. There is also a question as to whether the White House Digest should be distributed to political groups. The Digest is, of course, prepared with appropriated funds, and sending it to political organizations might be considered a misuse of those funds. On the other hand, the Digest will be sent to any group requesting it, and this is not a case of providing hundreds of copies for blanket distribution to a political group's members. On balance I do not consider the mailing of what are essentially widely-circulated press releases to political groups to present a problem.

Attachment

THE WHITE HOUSE

WASHINGTON

August 8, 1983

MEMORANDUM FOR JONATHAN VIPOND, III
DEPUTY ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Use of White House Stationery
for Mailing to Student Groups

You have asked for our views on a proposed letter from White House Fellow Adis Vila to various student organizations, concerning Central American policy. Official White House stationery may be used for, and Ms. Vila may be identified as a White House Fellow on, letters sent to non-partisan organizations, assuming that communication with such groups falls within Ms. Vila's official duties. Ms. Vila has advised our office that the copies of the White House Digest she proposes to send with the letters are produced for public dissemination, and accordingly we have no objection to enclosing copies of the Digest with the letters.

With respect to the content of the draft letter, the second paragraph should be deleted. That paragraph appears designed to enlist the student organizations in partisan activity, and crosses the line between permissible provision of information and politicking.

Letters to political groups such as The Young Republicans should not be on official stationery. I also question whether it is advisable for White House Fellows to be directly involved in such communications. The purpose of the fellows program is not to enlist the participants in partisan activity.

FFF:JGR:aw 8/8/83

cc: FFFielding
JGRoberts
Subj.
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Request for Tape of President
Discussing Bing Crosby

Ted LeVan, President of the radio production company Narwood Productions, has written Jim Jenkins to request that the President provide a tape of remembrances concerning Bing Crosby. Narwood is producing a three-hour tribute to Crosby, to be aired Thanksgiving weekend on a network of 250 radio stations, and would like to include the President's recollections. Per Mr. Deaver's instructions, Bill Sittmann has asked for our recommendation.

The radio program is of course a commercial enterprise, and our standard policy is to avoid involving the President in such activity. I see no reason to depart from that policy in this instance. I have prepared a reply to LeVan for your signature, and an appropriate memorandum to Sittmann seeking his office's concurrence.

Attachment

THE WHITE HOUSE

WASHINGTON

August 5, 1983

Dear Mr. LeVan:

This is written in response to your letter of July 26 to James E. Jenkins, Deputy Counsellor to the President. In that letter you advised that your company, Narwood Productions, was producing a radio program honoring Bing Crosby, and you requested that the President tape some remembrances of Mr. Crosby to be used in the program.

The White House adheres to a policy of avoiding any activity that suggests or could be construed as endorsement by the President of any commercial product or enterprise. I am certain you will appreciate the need for this policy. Since your production is a commercial endeavor, we must decline your request that the President participate.

I am sorry that our response could not be more favorable. Thank you for writing, and best of luck with the production.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Ted LeVan
President
Narwood Productions, Inc.
40 East 49th Street
New York, New York 10017

FFF:JGR:aw 8/5/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

August 5, 1983

MEMORANDUM FOR WILLIAM F. SITTMANN
SPECIAL ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request for Tape of President
Discussing Bing Crosby

Attached is a proposed response to the correspondence requesting the President to participate in a commercial radio program honoring Bing Crosby. If you concur, I will send the letter.

Attachment

FFF:JGR:aw 8/5/83

cc: FFFielding
JGRoberts
Subj.
Chron

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

ROBERTS, JOHN: FILES

Withdrawer

IGP 8/4/2005

File Folder

CHRON FILE (08/01/1983 - 08/08/1983)

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F05-139/01

COOK

Box Number

251GP

DOC Document Type

No of Doc Date Restric-

NO Document Description

pages tions

3 MEMO

1 8/5/1983 B6

542

ROBERTS TO FIELDING RE ALLEGED CIVIL
RIGHTS VIOLATION

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]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

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FIELDING TO SCHMULTS RE ALLEGED CIVIL
RIGHTS VIOLATION

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

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THE WHITE HOUSE

WASHINGTON

August 5, 1983

MEMORANDUM FOR FRED F. FIELDING

THROUGH: RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *gjr*SUBJECT: Nicolas Salgo

Nicolas Salgo was Chairman of the Board of Bangor Punta Corporation during the legendary battle between Bangor Punta and Chris-Craft for control of Piper Aircraft. That battle led to extensive litigation and several landmark securities decisions by the Second Circuit and the Supreme Court. See generally Piper v. Chris-Craft, 430 U.S. 1, 9-21 (1977) (history of litigation). Bangor Punta and Salgo were found by the Second Circuit to have violated registration and antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. The Supreme Court eventually decided that Chris-Craft did not have standing to bring the suit. Accordingly, it did not reach the merits.

The saga began when Chris-Craft announced its intent to take over Piper. Piper responded by seeking out a "white knight," Bangor Punta, to make a friendly takeover offer. Bangor Punta acquired Piper family shares and, on May 8, 1969, issued a press release announcing that it planned an exchange offer for other Piper stock. A registration statement for that offer was filed on May 29. While the exchange offer was pending, Bangor Punta continued cash purchases of Piper shares. Bangor Punta eventually secured 51 percent of the Piper shares, leaving Chris-Craft with a very expensive minority interest.

In response to suits by the SEC and Chris-Craft, a divided Second Circuit determined that:

1. Bangor Punta and its officers violated § 5(c) of the 1933 Act when they issued the May 8 press release. According to the court, that release itself constituted an offer, and as such was not properly registered. The SEC sued Bangor Punta on this ground, and Bangor Punta consented to an injunction barring any future press releases. When Chris-Craft raised this ground in its damage suit, however, the court ruled that this violation was not a violation of the antifraud provisions.

2. Bangor Punta and its officers violated § 14(e) of the 1934 Act, the tender offer antifraud provision, because the May 29 registration statement listed the worth of an asset -- the Bangor and Aroostook Railroad -- at \$18 million, the value at which it was carried on the books. The directors knew the railroad to be worth only \$5 million, since they were engaged in negotiations to sell it for that amount. The \$18 million figure was arrived at through "dubious accounting procedure." The § 14(e) violation was not based on intent to defraud but "reckless disregard" for the accuracy of the reported figure, which the court considered sufficient to satisfy the scienter requirement. Both the SEC and Chris-Craft raised these allegations. Although agreeing with the SEC that a violation occurred, the court denied the SEC's request for an injunction against future violations.

3. Bangor Punta and its officers violated Rule 10b-6 issued under the 1934 Act, an antifraud rule, by engaging in cash purchases while the exchange offer was outstanding. The court reasoned this inflated the price of the Piper stock at a time when it would appear that the increase was due to the exchange offer, making the exchange offer appear more attractive.

The Supreme Court reversed the eventual award of damages and injunctive relief to Chris-Craft. The Court reasoned that the securities laws did not create a private cause of action for the benefit of rival tender offerors such as Chris-Craft. In light of its holding, the Court noted that it had "no occasion to pass on the Court of Appeals' underlying determination that petitioners actually violated the securities laws . . ." 430 U.S., at 37 n.24.

With respect to the Second Circuit's determination that such violations did occur, it is significant to note that the court itself recognized that it was deciding issues of first impression, see 480 F.2d at 379, and that a majority rebuffed the SEC's request for a permanent injunction against Bangor Punta and its officers, agreeing with the district court that there was no basis to assume any danger of future violations by Bangor Punta or its officers. The court opinions broke new ground, and Bangor Punta's activities were hardly egregious. Indeed, the opinions continue to be widely-read in securities law classes, and have provided ample fodder for commentators, precisely because of the closeness of the issues presented. I do not think the episode should preclude Salgo's nomination.

THE WHITE HOUSE

WASHINGTON

August 8, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: State Department Objections to OPM
Proposal to Amend 5 U.S.C. § 8312

Back in June OMB circulated for comments a proposal by OPM to amend 5 U.S.C. § 8312 to withhold federal retirement pay from employees convicted of a felony arising out of the performance of their official duties. I submitted a memorandum on this proposal on June 17, and that same day you signed a memorandum to OMB noting no legal objection to the proposal. Copies of both are attached.

The State Department has now raised several concerns about the bill:

1. State considers the language "occurred in connection with the individual's employment" too broad, suggesting it might cover a government chauffeur who negligently runs someone down and commits a felony while doing so. I cannot conceive of a felony based on negligence in such a circumstance, however, and accordingly do not share State's concern.
2. State contends that the bill would complicate plea bargaining. It probably would, but this is true of the existing statute, and such complication is probably not too high a price to pay to cut off federal retirement pay for those who used their federal jobs to engage in felonious conduct.
3. State contends employees view their pension as an earned right rather than a reward that can be taken away, but of course the pension is whatever the law, within constitutional limits, says it is, and I consider the bill to be within constitutional limits.
4. State argues that the bill would penalize possibly innocent spouses and children of the offending employee.

So long as the family remains together after the felony conviction, however, I see no way around this, and it is simply reflective of the fact that the families of felons suffer when the felons are caught.

5. State suggests the Social Security bill should also be amended, but I see no reason to single out (new) federal employees with respect to such a generally applicable program.

I do not think we should enter the dispute between OPM and State, and least not until we have specifically been asked to resolve irreconcilable differences. We should wait to see what the other agencies think and whether the differences can be worked out.

THE WHITE HOUSE

WASHINGTON

August 8, 1983

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS

SUBJECT: Milton Karchin

I am not certain that this item was meant for me; it is continuing correspondence and the notation on the first page of the letter suggests it was meant for Sherrie. In any event, I mentioned it to Sherrie who advised me that she and Mr. Fielding had agreed not to answer Mr. Karchin's correspondence, and had so advised Mr. Baker's office. Accordingly, I am returning the letter without a draft response.

cc: Sherrie M. Cooksey

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 8, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JSR*

SUBJECT: Proposed Proclamation:
Decade of Disabled Persons

At Richard Darman's request Dodie Livingston has circulated the attached memorandum, which proposes that the President issue a proclamation designating 1983 through 1992 the "National Decade of the Disabled." Livingston recognizes that such a proclamation is neither traditional nor has it been requested in a joint resolution, but she notes that:

- the United Nations has declared the period the U.N. Decade of Disabled Persons, following the International Year of Disabled Persons in 1981 and the National Year of Disabled Persons in 1982;
- Congress recently passed a Concurrent Resolution expressing its view that the President should implement the objectives of the U.N. Decade of Disabled Persons, and should report annually to Congress on what he has done;
- a proclamation would provide a springboard for a valuable political initiative.

In our response we should note that the Concurrent Resolution has no legal effect. We should also make certain that those concerned with the policy question have adequately explored why Congress decided not to go the normal route of a joint resolution requesting a proclamation. There may be significant sentiment in Congress opposed to a proclamation, for a variety of reasons, including the fact that we have just completed two "years" for the disabled, and that the issuance of such a proclamation will invite a deluge of requests for other "years" or "decades." Finally, we should reiterate our usual opposition to such gratuitous proclamations, although we should note that there is no legal bar and leave the ultimate decision to other offices more familiar with the policy and politics of the matter.

Attachment

THE WHITE HOUSE

WASHINGTON

August 8, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Proclamation:
Decade of Disabled Persons

You have asked for our views on a proposed Presidential proclamation designating the period 1983 through 1992 as the "National Decade of the Disabled." The memorandum on this subject recognized that issuance of such a proclamation would not be consistent with established policy, since such a proclamation is neither traditional nor has it been requested by a joint resolution. In recommending a departure from these requirements, the memorandum noted that the United Nations has called for such an observance, and that Congress has passed a concurrent resolution calling upon the President to implement the objectives of the UN resolution and to report annually to Congress on the steps he has taken to do so.

A concurrent resolution, of course, has no legal effect. We find it curious that Congress did not follow the normal route of passing a joint resolution specifically requesting a Presidential proclamation in this instance, and recommend that some effort be made to determine if there is significant sentiment in Congress opposed to a proclamation. Such opposition could be based on the fact that we have just completed two annual observances for the disabled, or the valid fear that a proclamation in this instance could precipitate a deluge of requests for proclamations by other groups. The latter concern, of course, underlies our usual policy of limiting proclamations to those that are traditional, fulfill a commitment or requested by joint resolution.

FFF:JGR:aw 8/8/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE
WASHINGTON

August 8, 1983

MEMORANDUM FOR DIANNA G. HOLLAND

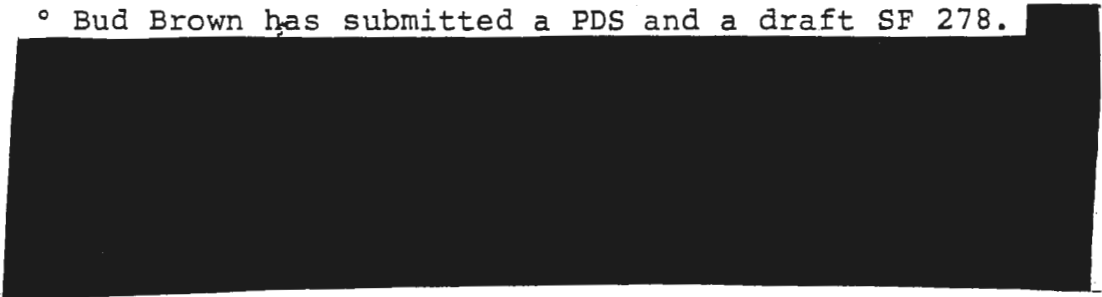
FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Pending Presidential Appointments

This responds to your memoranda of August 5, inquiring into the status of two prospective appointees.

° On August 2 Irving Margulies delivered the SF 278 he filed on May 16 in compliance with the annual reporting requirement for his current position. I have advised Margulies the form must be updated for his nomination, and am awaiting receipt of an appropriately updated form.

° Bud Brown has submitted a PDS and a draft SF 278.



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ROBERTS TO FIELDING RE NORMAN COOLEY

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