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# WITHDRAWAL SHEET

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| DOC NO | Doc Type | Document Description | No of Pages | Doc Date | Restrictions | |
|---|---|---|---|---|---|---|
| 1 | MEMO | ROBERTS TO FIELDING RE LEO WANTA | 1 | 5/30/1984 | B6 | 785 |
| 2 | NOTE | TO ROBERTS RE LEO WANTA | 1 | 5/29/1984 | B6 | 786 |
| 3 | MEMO | ROBERTS TO HAUSER RE INTERNATIONAL COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY AT THE DEPARTMENT OF STATE (PARTIAL) | 2 | 5/31/1984 | B6 | 787 |

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

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# WITHDRAWAL SHEET

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THE WHITE HOUSE

WASHINGTON

May 30, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Kansas City Chiefs' Crime Prevention Promotion

Kip Hawley has asked for our views on a request by the Kansas City Chiefs to publicize the President's support for their crime prevention program. The Chiefs participate in a program, sponsored by Frito Lay and television station KCTV, under which cards with a football player on one side and a crime prevention tip on the other are distributed to youths by neighborhood policemen. During the National Crime Prevention Week ceremony on February 15, 1984, the President cited the Chiefs' crime prevention card program as one example of a successful crime prevention initiative. The Chiefs are preparing to launch their 1984 crime prevention card program, and would like to make use of the President's recognition. The Chiefs Director of Promotions would like to explore the possibility of (1) using footage from the February 15 ceremony in public service announcements concerning the program, (2) using "some sort of Presidential logo" on the cards, and (3) using a photograph of the President on promotional posters.

The Chiefs' crime prevention card program has been very successful, and there is no indication of any ulterior motive in this effort to publicize the program by making use of the President's recognition. Nonetheless, I am compelled to recommend against approval of any of the suggestions submitted by the Chiefs. Any active role by the President in publicizing this program would inevitably precipitate requests that he actively publicize other equally worthy crime prevention programs. As you noted, other professional sports teams have programs similar to that of the Chiefs, and I do not see how the President could turn down requests to promote those if he promoted that of the Chiefs. While the President certainly can and should single out and praise successful private sector initiatives on appropriate occasions -- as he did at the February 15 ceremony -- he should not become a hawker for particular programs, however laudable.

Other problems are presented by the Chiefs' specific suggestions. The only "Presidential logo" is the Seal, and its use on cards neither produced nor distributed by the White House would be inconsistent with limitations we have enforced in the past. The appearance of the Seal on cards bearing the Frito Lay and KCTV corporate logos would also present commercial endorsement problems. The Presidential poster suggestion evokes images of the Jerry Lewis posters staring out from every 7-11 counter.

Attached is a memorandum for Hawley noting that we cannot approve any of the Chiefs' suggestions.

Attachment

THE WHITE HOUSE

WASHINGTON

May 30, 1984

MEMORANDUM FOR KIP HAWLEY
SPECIAL ASSISTANT TO THE PRESIDENT
FOR INTERGOVERNMENTAL AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Kansas City Chiefs' Crime Prevention Promotion

You have asked this office for guidance in responding to an inquiry from the Kansas City Chiefs, concerning possible use they might make of the President's recognition of their crime prevention card program during the National Crime Prevention Week ceremony on February 15, 1984. The Chiefs would like to explore the possibility of using footage from the event in public service announcements promoting the program, using a "Presidential logo" on the cards themselves, and using a photograph of the President on posters promoting the program.

I must advise you that we cannot approve any of the suggestions for Presidential involvement in promoting the Chiefs' program. In light of the huge volume of requests he receives, the President has found it necessary generally not to participate in the promotion of particular charitable endeavors. I am certain you will recognize that if the President were to participate in the promotion of the Chiefs' program, he would immediately receive numerous requests to promote the many similar worthy programs sponsored by other professional sports teams. The President does recognize worthy private sector initiatives on appropriate occasions, as he recognized the Chiefs' program at the February 15 ceremony, but such recognition is far different from the active promotion envisioned by the Chiefs.

The Chiefs' program is sponsored by businesses that receive publicity because of their participation, and a promotional role by the President would present the additional problem of perceived endorsement of those businesses. With respect to the suggested use of a "Presidential logo" on the cards, the only such "logo" is the Seal of the President, and its use in this fashion is not permitted.

For all of the foregoing reasons, we cannot approve the suggested involvement of the President in promoting the Chiefs' program. Our decision, of course, is in no sense an adverse reflection on the highly successful and laudable program itself.

Thank you for raising this matter with us.

FFF:JGR:aea 5/30/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 30, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Draft Department of Justice Report on H.R. 5452, a Bill to Amend the FTC Act Concerning Acquisitions of Substantial Energy Reserve Holders

The Office of Management and Budget has requested our views by noon today on a draft Department of Justice report on the above-referenced legislation. H.R. 5452 amends the Federal Trade Commission Act to impose new requirements with respect to the acquisition of "substantial energy reserve holders," defined as holders of at least 100 million barrels of oil or natural gas reserves. Specifically, the bill provides that consent decrees or orders requiring divestiture of assets of substantial energy reserve holders, issued by the FTC or a court, may not become final until the required divestiture has been approved by the FTC or a court. This curiously-worded provision would have the effect of extending indefinitely the time available to the FTC or a court to review proposed acquisitions. (Current law specifies time limits within which the FTC must object to mergers submitted for approval.) The bill also provides that, until 60 days after approval of a proposed divestiture, the acquired party must be maintained as a separate business entity and the acquiring party cannot elect more than 20 percent of the directors of the acquired party.

In its draft report, Justice opposes H.R. 5452. The report notes that it is unclear from the legislation whether the new procedures for reviewing the acquisition of substantial energy reserve holders apply to Justice, since H.R. 5452 amends only the FTC Act, not the Tunney Act. Even without these ambiguities, however, Justice opposes the bill because it singles out the acquisitions of energy firms, when "there is no persuasive indication that acquisitions in this industry pose unique competitive problems."

In addition, the draft report points out that the bill is unnecessary, since enforcement agencies and courts are already able to review and raise timely objections to proposed divestitures. Finally, the draft report objects that the bill would eliminate much of the discretion of the FTC and the courts by requiring them to issue "hold separate orders" in all acquisitions of substantial energy reserve holders, even if a court determined that such an order would be inequitable in a particular case.

Attached for your approval and signature is a memorandum for Branden Blum of OMB indicating that this office has no objections to the draft report.

Attachment

THE WHITE HOUSE

WASHINGTON

May 30, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Department of Justice Report on H.R. 5452, a Bill to Amend the FTC Act Concerning Acquisitions of Substantial Energy Reserve Holders

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

FFF:JGR:aea 5/30/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Proposed Letter to Committee on Appropriations From Stockman Regarding H.R. 5712

I received this letter at 9:00 a.m., and Stockman needed clearance to send it before a 10:00 a.m. hearing on the subject. In the letter Stockman expresses opposition to a rider to the Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Bill, that would preclude use of appropriated funds for any antitrust action against a municipality or other unit of local government. The FTC recently filed antitrust complaints against two municipalities for their regulation of the taxicab industry, prompting the rider.

In his letter Stockman notes that the FTC complaints seek remedial relief, not damages; that the rider goes far beyond the pending FTC proceedings, and has not been adequately debated or considered; and that the FTC action is consistent with that agency's statutory mandate as well as other Congressional and Executive efforts to deregulate transportation. At the suggestion of Jack Svahn and Lee Verstandig, a sentence is being added to the letter, noting that the Administration has supported legislative efforts to restore some degree of antitrust immunity to municipalities.

I have no objection to the letter or the suggested addition. The Supreme Court's misguided opinion sweeping away antitrust immunity for municipalities has created problems in this area, but they should not be addressed by broad appropriations riders. In light of the need for an immediate response, I discussed the letter with Mr. Hauser and, with his concurrence, advised OMB and Darman that we had no objection.

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS JGR

SUBJECT: Prospective Nomination of Diana Lady Dougan to be the Coordinator for International Communications and Information Policy at the Department of State With the Rank of Ambassador

I have reviewed the Financial Disclosure Report and related materials submitted by Diana Lady Dougan in connection with her prospective nomination to be Coordinator for International Communications and Information Policy at the Department of State, with rank of Ambassador. Ms. Dougan is currently occupying this position without ambassadorial rank. I contacted Ms. Dougan on May 30 to obtain needed information not present on her forms. [redacted]

b6

[redacted]

I have no objection to proceeding with this nomination.

b6

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Draft CIA and Justice Reports on H.R. 4826, a Bill Concerning Nonconsensual Recordings of Telephone Conversations

OMB has asked for our views by June 6 on proposed Justice and CIA reports on H.R. 4826, the bill that would make it a Federal crime for Federal employees to record a telephone conversation without the prior consent of all parties to the conversation. The Justice report vigorously opposes the legislation, arguing that the conduct is inappropriate for treatment under Federal criminal law and that criminalizing the conduct would be a poor use of limited Federal law enforcement resources. The report characterizes the bill as "an over-reaction to the understandable public outcry which followed disclosure that a high government official had secretly recorded telephone conversations in situations having nothing to do with law enforcement." The report criticizes a supposed law enforcement exception in the bill as inadequate, and objects to the fact that the bill has no scienter requirement. The conduct made criminal by the bill, according to the report, is objectionable, but is hardly on the same level as secret interception of a telephone conversation without the consent of either party. The report notes that "an administrative approach would provide proper punishment for the occasional federal employee who secretly records his own conversations."

I would delete "the scheduled May 23 mark-up of" in the first line of the Justice report; the report was obviously prepared some time ago and has not been updated. I also think the penultimate sentence of the second paragraph -- quoted above -- is needlessly critical of Mr. Wick. I would change it to read "In short, we believe H.R. 4826 is an over-reaction to the incident in which a government official was found to have recorded his own telephone conversations without the consent of the other party, in situations having nothing to do with law enforcement." Similarly, I would change "one well-publicized incident of secret telephone recording by a high government official" in the first full paragraph on page 2 to simply "one well-publicized incident;" the reference will be quite clear. Finally, I would delete the carryover sentence between pages 2 and 3.

It is redundant of the immediately preceding clause, and stressing that "proper punishment" can be provided for the employee who engages in the subject practice simply highlights the fact that the one employee who did so has not been "punished" in any way.

The draft CIA report, as edited by OMB, is brief. It simply notes that the Intelligence Community opposes the bill because the supposed exception for intelligence activities is inadequate.

Attachment

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft CIA and Justice Reports on H.R. 4826, a Bill Concerning Nonconsensual Recordings of Telephone Conversations

Counsel's Office has reviewed the above-referenced draft reports. We have no objection from a legal perspective to the draft CIA report. With respect to the draft Justice report, we offer the following recommendations:

In the first line, "the scheduled May 23 mark-up of" should be deleted; the referenced date has of course already passed.

The penultimate sentence of the second paragraph strikes us as needlessly strong; we recommend changing it to "In short, we believe H.R. 4826 is an over-reaction to the incident in which a government official was found to have recorded his own telephone conversations without the consent of the other party, in situations having nothing to do with law enforcement." For the same reason, we would delete "of secret telephone recording by a high government official" in the last sentence of the first full paragraph on page 2.

We also recommend deleting the carryover sentence between pages 2 and 3. The sentence is redundant of the immediately preceding clause, and may raise questions about "proper punishment" in the incident that gave rise to this bill.

FFF:JGR:aea 5/31/84
cc: FFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Enrolled Bill H.R. 5308 -- Increase in Authorization for Federal Payment to the District of Columbia

Richard Darman has asked for comments on the above-referenced enrolled bill by close of business Monday, June 4. This bill would increase the authorized Federal payment to the District to $425 million for 1985 and each succeeding year, up from $386 million. This increase is consistent with the Administration's 1985 budget request. The bill passed both Houses by voice vote; OMB and the District both recommend approval. I have reviewed the memorandum for the President prepared by OMB Assistant Director for Legislative Reference James M. Frey, and the bill itself, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5308 -- Increase in Authorization for Federal Payment to the District of Columbia

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

FFF:JGR:aea 5/31/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Enrolled Bill H.R. 3547 -- Extend District of Columbia Borrowing Authority

Richard Darman has asked for comments on the above-referenced enrolled bill by close of business Monday, June 4. This bill would extend for an additional year the authority of the Mayor of the District of Columbia to borrow from the U.S. Treasury to finance capital improvements, and similarly extend the authority of the Secretary of the Treasury to make such loans. Both the District and the Administration had hoped that the District would be financing capital projects through the private bond market by this time, rather than continuing to rely on Treasury loans. The District's plans to float bonds were scotched, however, by the Supreme Court's decision in INS v. Chadha, which cast a cloud over the legality of District Government actions and precluded a favorable bond counsel opinion. At least until the D.C. Chadha issue is resolved, the District will have to continue to rely on Treasury loans.

According to the memorandum from James M. Frey, the Administration has supported this one-year extension, but has made clear that this authority will not be extended any further. The extension eases some of the pressure on the District to accept our proposal for resolving the D.C. Chadha dispute, but since the extension is for one year only and will not be further extended it is perhaps tolerable. We should, however, insist that Justice be afforded an opportunity to review the bill, because of that Department's involvement in the D.C. Chadha issue. OMB and the District recommend approval; Treasury has no objection.

Attachment

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 3547 -- Extend District of Columbia Borrowing Authority

Counsel's Office has reviewed the above-referenced enrolled bill, and finds no objection to it from a legal perspective. The question of the District's authority to borrow from the Treasury for capital improvements, however, is closely related to the ongoing dispute over how to remove the cloud cast on the District's governmental authority by the Supreme Court decision in Immigration and Naturalization Service v. Chadha. The Department of Justice has taken the lead for the Administration in that dispute, and that Department's recommendations should be solicited with respect to this bill.

FFF:JGR:aea 5/31/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Senator Orrin Hatch/Proposed Legislation Regarding Moving Expenses

At the request of Senator Hatch, Nancy Kennedy is seeking informal Administration views on legislation to reimburse Cabinet officers and White House senior staff for moving expenses to Washington. Senator Hatch is considering introducing such legislation, in the form of an amendment to Chapter 57 of Title 5, United States Code.

It appears that Hatch and his staff may be unaware of Section 118 of Public Law 98-151, signed by the President on November 14, 1983. That bill amended 5 U.S.C. § 5723 to permit reimbursement of certain moving expenses for "any person appointed by the President, by and with the advice and consent of the Senate, to a position the rate of pay for which is equal to or higher than the minimum rate of pay prescribed for GS-16." Thus, Cabinet officers are already covered by the Government moving expenses provision.

It would not seem wise to support extending coverage to White House senior staff, at least at this time. Quite apart from perception problems, Congress, as noted, amended this statute a scant six months ago and is not likely to be receptive to more changes so soon. Further, it appears that Hatch is motivated in part by the difficulties experienced by Mr. Meese in moving to Washington, and the proposed legislation will only serve to highlight those difficulties. The attached memorandum for Kennedy alerts her to the existence of Public Law 98-151, and recommends against encouraging Hatch to proceed with his bill.

Attachment

THE WHITE HOUSE

WASHINGTON

May 31, 1984

MEMORANDUM FOR NANCY KENNEDY
SPECIAL ASSISTANT TO THE PRESIDENT
FOR LEGISLATIVE AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Senator Orrin Hatch/Proposed Legislation Regarding Moving Expenses

You have asked for our views on a proposal from Senator Hatch to introduce legislation authorizing limited reimbursement of moving expenses to Washington for Cabinet level officials and White House senior staff. The question of moving expenses for individuals appointed by the President with the advice and consent of the Senate was recently addressed by Congress. Public Law 98-151, signed by the President on November 14, 1983, amended 5 U.S.C. § 5723 to permit reimbursement of certain moving expenses for such individuals. This new provision, of course, covers Cabinet level officers.

The only aspect of Senator Hatch's proposal not already addressed by Congress, therefore, concerns reimbursement of moving expenses for White House senior staff. I do not think it advisable to consider legislation on this subject at this time. Not only would the possible merits of such legislation be lost in an election year, but Congress is not likely to be receptive to further amendments to 5 U.S.C. § 5723 so soon after passage of Public Law 98-151.

FFF:JGR:aea 5/31/84
cc: FFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 31, 1984

Dear Commodore Skinner:

This is written in response to your letter of May 3, received in this office on May 15. (I assume that by now you have received my letter of May 3, written in response to yours of April 27.)

I appreciate your expressed willingness to include a disclaimer on future revisions of your brochure, noting that your company is not in any way associated with or endorsed by any government entity. Assuming that such a disclaimer appears on your company's materials, I have no objection to the name of the company, "Presidential Yacht Charters, Inc." The problems otherwise presented by this name and description can be cured by an appropriate disclaimer.

I must advise you that I am not persuaded by your efforts to distinguish the seal appearing on your "Presidential Yacht memorabilia" from the statutorily protected Seal of the President. It is not true that the eagle on your seal is the eagle from the Great Seal of the United States. There are several discernible differences between the eagle on the Seal of the President and that on the Great Seal; the eagle on your seal is rather clearly taken from the former. The other differences you cite are rather trivial given the substantial similarity of the seal on your memorabilia to the Seal of the President. The assertion that "the only real part of the Presidential Seal that I used is the cluster of white 'puff balls' specifically without the flag poles" strains credulity. The design and placement of the eagle, olive branch and arrows, shield, banner in the eagle's beak, and circle of stars, in addition to what you refer to as the "puff balls," are taken directly from the Seal of the President. Given this use of substantial parts of the Seal, the fact that you omitted the background rays and a few of the internal stars can hardly be considered significant. I would remind you, as I noted in my original letter, that the pertinent statute applies to use of "any substantial part" of the Seal of the President. 18 U.S.C. § 713.

You have asked me to identify specifically which parts of your seal are objectionable. As noted, your seal as presently designed is almost an exact replica of the Seal of the President. Obviously, there may be options for changing your seal so that it might not run afoul of 18 U.S.C. § 713 by incorporating substantial parts of the Seal of the President. Indeed, a seal could be designed that includes none of the elements of the Seal of the President. But this office is not going to be in the position of designing your seal; my concern is that you may now be violating the law.

In response to your request, I cannot authorize you to use up your supply of items violating 18 U.S.C. § 713. That statute is a criminal statute and it would be inappropriate for me to authorize its continued violation. With respect to your report of misuse of the Seal by other individuals, please be assured that this office will review the matter and take whatever action may be appropriate.

Sincerely,

Fred F. Fielding
Counsel to the President

Commodore Ed Skinner
Presidential Yacht Charters, Inc.
Box 32241
Washington, D.C. 20007

FFF:JGR:aea 5/31/84
bcc: FFFielding/JGRoberts/Subj/Chron