

REIMBURSEMENT OF FORMER WHITE HOUSE TRAVEL
OFFICE EMPLOYEES

MARCH 18, 1996.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2937]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2937) for the reimbursement of legal expenses and related fees incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. REIMBURSEMENT OF CERTAIN ATTORNEY FEES AND COSTS.

(a) **IN GENERAL.**—The Secretary of the Treasury shall pay, from amounts in the Treasury not otherwise appropriated, such sums as are necessary to reimburse former employees of the White House Travel Office whose employment in that Office was terminated on May 19, 1993, for any attorney fees and costs they incurred with respect to that termination.

(b) **VERIFICATION REQUIRED.**—The Secretary shall pay an individual in full under subsection (a) upon submission by the individual of documentation verifying the attorney fees and costs.

(c) **NO INFERENCE OF LIABILITY.**—Liability of the United States shall not be inferred from enactment of or payment under this section.

SEC. 2. LIMITATION ON FILING OF CLAIMS.

The Secretary of the Treasury shall not pay any claim filed under this Act that is filed later than 120 days after the date of the enactment of this Act.

SEC. 3. REDUCTION.

The amount paid pursuant to this Act to an individual for attorney fees and costs described in section 1 shall be reduced by any amount received before the date of

the enactment of this Act, without obligation for repayment by the individual, for payment of such attorney fees and costs (including any amount received from the funds appropriated for the individual in the matter relating to the "Office of the General Counsel" under the heading "Office of the Secretary" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1994).

SEC. 4. PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.

Payment under this Act, when accepted by an individual described in section 1, shall be in full satisfaction of all claims of, or on behalf of, the individual against the United States that arose out of the termination of the White House Travel Office employment of that individual on May 19, 1993.

Amend the title so as to read:

A bill for the reimbursement of attorney fees and costs incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993.

PURPOSE AND SUMMARY

H.R. 2937 would reimburse the attorney fees and costs incurred by the former employees of the White House Travel Office whose employment in that office was terminated on May 19, 1993. Upon submission of documentation verifying the former employees attorney fees and costs incurred as a result of that termination, the Secretary of the Treasury shall reimburse such fees and costs out of funds not otherwise appropriated.

BACKGROUND

On May 19, 1993, all seven White House Travel Office employees were fired (two of these employees were later permitted to retire and five of these employees were later transferred to other positions within the Executive Branch). The White House Travel Office provides travel and communication services for the Executive Office of the President (EOP), travel arrangements for members of the press corps who accompany the President on trips, and ticketing and travel services for EOP staff traveling on official business. The White House indicated that the firings were predicated by an audit performed pursuant to the Vice President's National Performance Review. According to the White House, the audit revealed mismanagement and unacceptable accounting practices within the Travel Office. At that time, the White House also stated that the Federal Bureau of Investigation (F.B.I.) was looking into possible criminal violations by the seven employees.

After the May 19, 1993, firings, several months of independent review and oversight hearings uncovered the actual motivation for this action. Certain individuals, wishing to advance their own personal agendas and financial self-interest, attempted to destroy the reputations of these employees by accusations of kickbacks and wrongdoing. White House staff and volunteers apparently misused their authority and initiated an F.B.I. investigation using unorthodox methods. The investigation was based on accusations made by persons with a direct interest in Travel Office employment or Travel Office business.

The following is a chronology of events leading to the firing of the White House Travel Office employees. It appears the firings were driven by the statements and actions of four people: Catherine Cornelius, a distant cousin of the President employed at the White House; Harry Thomason, a close personal friend of the President

and First Lady, seeking business opportunities for his aviation consulting firm; Darnell Martens, Mr. Thomason's business partner, seeking a major aviation consulting contract with the Federal Government through his White House contacts; and David Watkins, the Assistant to the President for Management and Administration.

As early as December 1992, discussions were taking place between Catherine Cornelius and World Wide Travel, the travel agency which served the Clinton/Gore '92 campaign, over a possible takeover of the White House travel business.

In January 1993, David Watkins hired Catherine Cornelius and Clarissa Cerda as special assistants in the Office of Management and Administration. The day following President Clinton's Inauguration, the White House Travel Office began receiving calls asking for Catherine Cornelius, the "new head of the White House Travel Office." Darnell Martens wrote a memo to Harry Thomason, a personal friend of the President and his partner in the aviation consulting firm of Thomason, Richland and Martens (TRM), suggesting that TRM be hired as a consultant on several government projects including the White House Travel Office.

In February 1993, Catherine Cornelius and Clarissa Cerda provided David Watkins with a memo and "Briefing Book and Proposal" on the White House Travel Office. Under this proposal Cornelius and Cerda would be co-directors of travel and World Wide Travel would be the outside travel agency. During this period, Mr. Martens contacted Billy Dale, head of the White House Travel Office, about bidding on White House charter business and was told no outside company would get the business.

In March 1993, Mr. Martens sent another memo to Mr. Thomason indicating that TRM should seek White House Travel Office business. During a trip to Los Angeles, Mr. Martens told Mr. Thomason about his conversation with Mr. Dale and said he heard a rumor that there was corruption in the Travel Office. Shortly thereafter, Mr. Thomason allegedly told the President that he had heard there was trouble in the White House Travel Office.

In April 1993, Mr. Watkins assigned Ms. Cornelius to the White House Travel Office to make commercial arrangements for the White House staff and to "keep her eyes open" on Travel Office operations and report back to him by May 15. Harry Thomason called Mr. Watkins about the Travel Office employees and, according to Mr. Watkins' notes, told him "(T)hose guys are a bunch of crooks. They have been on the take for years". At this point, Ms. Cornelius began removing Travel Office files to make copies and then took them home. In the meantime, Mr. Martens and Mr. Thomason continued to promote their proposal that the White House hire TRM to perform an audit of government aircraft.

In early May 1993, Mr. Martens, through Mr. Thomason, continued discussions with White House staff about TRM's conducting an audit of government aircraft. According to notes of one White House official, on May 7, Ms. Cornelius and Ms. Cerda met with Mr. Thomason. Then on May 10, David Watkins asked Ms. Cornelius if her memo reporting on the activities in the Travel Office was complete and told her to speak with Mr. Thomason for further information to place in that memo. That same day, Mr.

Thomason met with Mr. Watkins and inquired as to what was being done about the White House Travel Office. At that meeting, Mr. Watkins indicated that he had placed Ms. Cornelius in that office to evaluate the situation.

On May 12, Mr. Thomason met with Ms. Cornelius about the alleged wrongdoing in the White House Travel Office. At that time, she showed Mr. Thomason materials concerning the Travel Office and indicated that money seemed to be missing. Later that morning, in a meeting involving Mr. Watkins, Mr. Thomason and Deputy Director of the Office of Management and Administration Jennifer O'Connor, Mr. Thomason complained that the employees in the Travel Office were "ripping us off" and indicated that getting rid of the employees would make a great press story. At another meeting involving Mr. Thomason, Ms. Cornelius, and Mr. Watkins, Mr. Martens again discussed his conversation with Mr. Dale. According to notes taken by David Watkins, Mr. Thomason met that day with the First Lady who encouraged him to stay on top of the Travel Office situation. At lunch, Mr. Watkins told Ms. O'Connor that Mr. Thomason had dealings with a travel company, and that the Travel Office had solicited kickbacks. (That allegation was found to be baseless when the President of Miami Air, the company that supposedly made it, denied ever having done so. Furthermore, no evidence of any kickbacks whatsoever was ever found in the course of the Public Integrity investigation.) Later that day at a meeting including William Kennedy, Associate Counsel to the President; Vince Foster, Deputy Counsel to the President; Mr. Watkins; Ms. Cornelius; and Mr. Thomason; both Mr. Foster and Mr. Kennedy recommended that an internal audit be performed at the Travel Office. Mr. Watkins, however, indicated the White House had no audit capability. It was then decided that Mr. Kennedy, who handled internal security matters, should determine a course of action. That evening Mr. Kennedy called F.B.I. Headquarters to discuss what he called a problem in the White House that he did not know how to handle. In the meantime, Ms. Cornelius contacted World Wide Travel and told the firm to prepare to come to the White House.

During conversations with the F.B.I. on May 13 and May 14, Mr. Kennedy stated several times that the request for any F.B.I. evaluation came from the "highest levels" of the White House. He also indicated that if the F.B.I. failed to respond quickly, he would call another government agency, such as the I.R.S. The F.B.I. originally indicated to the White House counsel's office that there was not enough evidence on which to go forward with a criminal investigation. After meeting with Ms. Cornelius, the F.B.I. concluded that there was a possibility of criminal wrongdoing that warranted an investigation. During that meeting, Ms. Cornelius informed the F.B.I. representatives that Mr. Martens told her of "kickback" allegations made by Miami Air Charter. The F.B.I. suggested bringing in outside auditors, and several discussions were held to determine whether the F.B.I. should be present at the audit. It was decided that KPMG Peat Marwick would conduct a review and that that review would be identified as part of the Vice President's National Performance Review. Vincent Foster then informed the F.B.I. that

it should not attend the review because of the potential for bad press. The F.B.I. acquiesced.

The morning of the 14th, at a high-level meeting including Mr. Foster; White House Chief of Staff Mack McLarty; and the Deputy Assistant to the President and Director of Media Affairs Jeff Eller; the immediate firing of the White House Travel Office employees was discussed. That same day, Ms. Cornelius called World Wide Travel and informed the firm that the firings were imminent, and it should be prepared to send agents to Washington. Mr. Watkins noted that he talked to Foster—"who says he's getting more pressure from First Lady to *act*." (emphasis in original). Mr. Dale told Mr. Watkins's staff that he had already put in his retirement papers and wanted to retire.

Ms. Cornelius showed documents she had taken from the White House Travel Office to KPMG Peat Marwick representatives and specifically pointed to checks made out to cash. That evening, at the urging of Vincent Foster, Mr. Watkins called the First Lady and according to his notes was told that "Harry says 'We can do the job with his assistance.'" The First Lady indicated that Mr. Thomason had told her that he could put a more efficient structure in place in an hour's time to handle Travel Office business. That evening Patsy Thomasson ordered the locks to be changed on the White House Travel Office.

On May 14, the KPMG Peat Marwick's management consultants came to the White House. On the morning of May 15, Ms. Cornelius informed World Wide Travel that the First Lady wanted the Travel Office employees out. Also, Patsy Thomasson, Special Assistant to the President for Management and Administration, called Brian Foucart, an assistant to Mr. Watkins, and told him to talk to the Travel Office employees about the scope of their work because they might be fired soon.

On the afternoon of May 17, Mr. Watkins and Mr. McLarty decided to fire the employees. That evening, Mr. Dale informed Mr. Watkins that he wanted to retire. Mr. Watkins refused to accept Mr. Dale's resignation and told Mr. Dale to wait until after a meeting on May 19th at 10:00 a.m.

On May 18, Mr. Watkins informed Mr. Foucart of the plan to fire the Travel Office employees and asked that he attend the firings as a witness.

On the morning of May 19, Patsy Thomasson informed Mr. Kennedy that a decision had been made to dismiss the Travel Office employees. Mr. Watkins told the White House Press Secretary, Dee Dee Myers, about the firings and provided her with talking points. Mr. Kennedy called the F.B.I. about the imminent firings, and the F.B.I. warned him about the problems the firings could cause with the F.B.I. investigation. Later, he called the F.B.I. back to say the firings would go forward anyway.

Also that morning, Mr. Martens called his friend Penny Sample of Air Advantage to come to the Travel Office on a volunteer basis to arrange Presidential press charters. After Mr. Foster held a meeting concerning the firings, he and Mr. Kennedy instructed Mr. Watkins to delete any reference to the F.B.I. investigation from talking points on the firings.

At approximately 10:00 a.m. that morning, Mr. Watkins and Mr. Foucart informed the Travel Office employees that they were being dismissed because of a review that revealed gross mismanagement within their office. They were told they had two hours to clean out their desks and leave. That directive was later extended to the end of the day. Afterwards, Mr. Watkins spoke again with Ms. Myers and was informed that she had disclosed the F.B.I. investigation to the media. Later that afternoon, Ms. Myers gave a press briefing about the firings, referred to a KPMG Peat Marwick report as the basis for those firings, and denied that there was an F.B.I. investigation.

It should be noted that KPMG Peat Marwick's first draft report, while dated May 17, 1993, was not presented to Mr. Kennedy in final form until late on May 21, 1993 (two days after the firings). It was accompanied by with a cover letter indicating that the procedures did not constitute an audit, and that KPMG was giving no assurances on the accuracy or completeness of the information in the report. The report was not given to the F.B.I. until late on the evening of May 21, 1993. It was not provided to the F.B.I. Washington Metropolitan Field Office until May 24, 1993.

In October 1993, a provision was placed in the Transportation Appropriations bill to pay \$150,000 for the legal bills of the five White House Travel Office employees who were subsequently placed on administrative leave and transferred to other positions within the Federal government. However, the \$150,000 was not enough to completely cover the five employees' legal expenses, and no provision was made for the two other employees' legal expenses, because they were still under investigation.

In May 1994, the General Accounting Office (GAO) sent their report to Congress on White House Travel Office operations. In that report, GAO indicated that while senior White House officials said the terminations were based on "findings of serious financial management weaknesses, we noted that individuals who had personal and business interests in the Travel Office created the momentum that ultimately led to the examination of the Travel Office operations." GAO also cited the White House Management Review's recognition that "the public acknowledgment of the criminal investigation had the effect of tarnishing the employees' reputations, and the existence of the criminal investigation caused the employees to retain legal counsel, reportedly at considerable expense."

An investigation by the Public Integrity Section of the Criminal Division at the Department of Justice continued over the next two and a half years. After being indicted in December 1994, Billy Dale was tried in October and November 1995. Mr. Dale was acquitted of all charges after a 13-day trial by a jury that deliberated only two hours.

According to documents submitted by six of the seven former Travel Office employees with remaining legal expenses, their total attorney fees and costs are as follows:

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|--------------------------|--------------|
| Billy Dale | \$425,991.76 |
| John McSweeney | 30,234.23 |
| Ralph T. Maughan | 11,476.06 |
| Gary Wright | 6,838.70 |
| Barney Brasseux | 6,298.82 |
| John P. Dreylinger | 5,837.02 |

NEED FOR THE LEGISLATION

Since May 19, 1993, several separate investigations have uncovered a concerted effort by former associates and friends of the President and First Lady to pursue travel and aviation business controlled within the White House. As a result of the accusations put forward by these associates and the subsequent F.B.I. investigation, these seven employees suffered public and private humiliation and incurred extensive legal expenses in their attempt to defend themselves.

On the basis of these facts, the Committee feels in the interest of equity, these particular individuals' attorneys fees should be reimbursed by the United States.

There has been discussion as to what type of precedent is being set by the payment of attorney fees in this bill. It is not the Committee's intent that this legislation set a precedent that the attorney fees of any individual fired for cause and later exonerated should be paid. This is a unique case and the Committee believes each monetary claim against the United States should be judged on a case-by-case basis.

Another point of discussion has been the definition of attorneys fees. It is the Committee's intent that the guidelines for appropriate attorneys fees set out by Judge George MacKinnon, Presiding Judge of the U.S. Court of Appeals for the District of Columbia Circuit, Division for the purpose of Appointing Independent Counsels, in several independent counsel attorneys fees decisions should be applied to this situation. Therefore, the legislation uses the term "attorney fees and costs", the term that Judge MacKinnon was called upon to interpret in the independent counsel cases. This also conforms with the standards used by the Department of Transportation General Counsel in determining appropriate attorney fees when disbursing the previously appropriated \$150,000 to five of the employees.

COMMITTEE CONSIDERATION

On February 29, 1996, the Subcommittee on Immigration and Claims met in open session and ordered reported the bill, H.R. 2937, by a voice vote, a quorum being present. On March 12, 1996, the Committee met in open session and order reported the bill H.R. 2937 with amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

Four amendments were offered en bloc by Congressman Frank and adopted by voice vote. The first amendment restricted the time to file a claim under this bill to 120 days. The second amendment added a provision that payment of a claim under this Act would be in full satisfaction of all claims against the United States concerning this series of events. The third amendment clarified that any money previously disbursed by the United States to any of the claimants to pay their attorney fees are to be deducted from their total expenses, and the fourth amendment deleted the phrase "legal expenses and related fees" and inserted instead "attorney fees and costs", the term that Judge MacKinnon interpreted in the independent counsel cases.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the cost incurred in carrying out H.R. 2937 would be \$486,676.59.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(C)(3) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2973, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 18, 1996.

Hon. HENRY J. HYDE,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2937, a bill for the reimbursement of legal expenses and related fees incurred by former employees of the White House Travel Office with respect to the termination of their employment in that office on May 19, 1993. H.R. 2937 was ordered reported by the House Committee on the Judiciary on March 12, 1996. Based on documents submitted by the attorneys for the former employees of the White House Travel Office to the House Committee on Government Reform and Oversight, CBO estimates that the bill would require the Secretary of the Treasury to pay about \$500,000 in legal expenses and fees. Assuming enactment of the bill by June 1, 1996, we estimate that this outlay would occur in fiscal year 1996. (If the bill is enacted late in fiscal year 1996, some of the reimbursement could occur in fiscal year 1997.) These payments would be direct spending, and pay-as-you-go procedures would apply.

The bill contains no intergovernmental or private sector mandates as defined in Public Law 104-4 and would impose no direct costs on state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

JUNE E. O'NEILL, *Director*.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 2937 will have no significant inflationary impact on prices and costs in the national economy.

SECTION-BY-SECTION ANALYSIS

Section 1. Reimbursement of certain attorney fees and costs

Subsection (a) directs the Secretary of the Treasury to pay, out of funds not otherwise appropriated, to former employees of the White House Travel Office whose employment was terminated on May 19, 1993, reimbursement of attorney fees and costs they incurred with respect to that termination. Subsection (b) directs that the Secretary of the Treasury shall pay the individual upon submission of documentation verifying the attorney fees and costs. Subsection (c) states that there is no inference of liability of the United States by enactment of this legislation or payment under this legislation.

Section 2. Limitation on filing of claims

This section directs that the Secretary of the Treasury will not pay any claim filed under this Act later than 120 days after its enactment.

Section 3. Reduction

This section directs that any monies previously disbursed by the United States to any of the individuals to pay their attorney fees are to be deducted from their total attorney fees and costs.

Section 4. Payment in full settlement of claims against the United States

This section states that payment made to any individual under this Act shall be in full satisfaction of all claims of, or on behalf of, the individual against the United States with respect to the termination of their employment in the White House Travel Office on May 19, 1993.

AGENCY VIEWS

At a January 30, 1996, press briefing, Press Secretary McCurry indicated that the President would sign legislation to reimburse Mr. Dale for his legal expenses. The Committee had asked the White House for confirmation that the President would sign legislation which also includes the other employees' legal expenses. At this time, the Committee has received no response from the Administration on this question.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Clause 3 of rule XIII of the Rules of the House of Representatives requires that changes in existing law made by the bill, as reported, be included in the report.

This bill makes no direct amendments to any Act.

